



**Organising for EU Enlargement**

A challenge for member states and candidate countries

**MULTILEVEL GOVERNANCE**  
EU Landfill Directive in Greece

OEUE PHASE II  
Occasional Paper 4.5 – 09.04

George Andreou

National and Kapodistrian University of Athens



FIFTH FRAMEWORK PROGRAMME



Dublin European Institute

A Jean Monnet Centre of Excellence



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## **ORGANISING FOR EU ENLARGEMENT:**

### **Challenge for the Member States and the Candidate Countries**

The Dublin European Institute, University College Dublin,<sup>1</sup> was awarded, in 2001, a research contract under the EU's Fifth Framework Programme<sup>2</sup> to carry out a comparative study of the impact of the EU on the structures and processes of public policy in six small countries: **Ireland, Greece, Finland, Estonia, Hungary** and **Slovenia**. The Project's partnership, under the direction of Professor Brigid Laffan, Dublin European Institute, University College Dublin<sup>3</sup>, includes: Professor Dr. Wolfgang Drechsler, University of Tartu; Professor Teija Tiilkainen, University of Helsinki; Professor Calliope Spanou, University of Athens; Professor Attila Ágh, Budapest University of Economic Sciences and Public Administration; and Professor Danica Fink-Hafner, University of Ljubljana.

The aim of the research project was to deepen our understanding of the processes of Europeanisation in a number of the existing member states and some of the candidate states.

The research project encompassed the following three objectives:

- The conduct of research which offers immediate policy relevance to key stakeholders in the enlarging Union;
- The conduct comparative, theoretical and empirical research on the management of EU public policy making in three existing member states – Ireland, Greece and Finland – and three candidate states – Estonia, Hungary and Slovenia;
- The shedding light on the capacity of smaller states to adjust and to adapt to the increasing demands of Europeanisation on their systems of public policy-making and thus to identify the barriers to effective, efficient and accountable management of EU business.

### **Research Strategy**

The research design consisted of two phases and within each phase, two levels of analysis. **Phase I** analysed the management of EU business at the macro level of the core executive and was complemented by a micro case study of a recent policy negotiation using decision analysis. **Phase II** of the research broadened the analytical focus to encompass other levels of government – the EU and sub-state – through multi-levelled governance. Here attention was centred upon the emergence of policy networks and the interaction between public actors and the wider civil society in specific, discrete policy sectors.

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<sup>1</sup> National University of Ireland, Dublin (University College Dublin).

<sup>2</sup> European Commission, Community Research Fifth Framework Programme (Socio-Economic Research).

<sup>3</sup> This project forms part of the Governance Research Programme, Institute for the Study of Social Change, University College Dublin, [www.ucd.ie/issc/](http://www.ucd.ie/issc/) and [www.ucd.ie/govern/intex.htm](http://www.ucd.ie/govern/intex.htm).

## **Methodology**

The study employed two specific methodologies: historical institutionalism and rational institutionalism in a new and innovative fashion. The use of combined perspectives provided a theoretically innovative and new approach to the study of the Europeanisation process. Both approaches could be used as they were applied to different elements of the empirical research.

## **Academic and Policy Implications**

This study's findings provide insight into the manner in which diverse state traditions, institutions and political and administrative cultures influence national adaptation to EU governance and how the interface between national policy processes and the Brussels arena is managed. It is expected that these findings will assist those making and managing policy, thus facilitating adjustments to the changing European Union while also contributing to the growing academic debate on Europeanisation.

At various stages during the course of this project the research findings and analysis were presented to a range of stakeholders and academics to facilitate feedback and enhance the analytical process. Further details about the Organising for EU Enlargement (OEUE) project are available on the project web site [www.oeue.net](http://www.oeue.net), along with i) the Project Report, ii) the OEUE Occasional Papers and iii) a selection of papers by the research partners which draw on various aspects their project research.

## **ABSTRACT**

This paper studies the impact of the requirements associated with the transposition and application of the Landfills Directive on Greek policies, structures and politics. However, before engaging in details a caveat is in order; it is impossible to examine the transposition and implementation of the said Directive in isolation from the broader policy context, at both the EU level and the domestic level. On the one hand, the Landfills Directive was meant to complement the Waste Framework Directive; as a consequence, since the enactment of the Landfills Directive, the issues that were originally covered by the Framework Directive became the subject matter of the Landfill Directive (and, in some cases, of both Directives). On the other hand, the landfill of waste is Greece's waste disposal method of choice; in other words, in Greece "waste management" is practically synonymous with "landfill management". For these reasons, the subsequent analysis will largely focus on issues that fall outside the scope of the Landfill Directive, but are nevertheless crucial for understanding the key policy questions related to this particular policy area. More precisely, emphasis will be placed on explaining the legacy of the past, on outlining the main parameters of the present situation and on identifying the most important prospects and challenges.

## **INTRODUCTION**

This paper studies the impact of the requirements associated with the transposition and application of the Landfills Directive on Greek policies, structures and politics. However, before engaging in details a caveat is in order; it is impossible to examine the transposition and implementation of the said Directive in isolation from the broader policy context, at both the EU level and the domestic level. On the one hand, the Landfills Directive was meant to complement the Waste Framework Directive; as a consequence, since the enactment of the Landfills Directive, the issues that were originally covered by the Framework Directive became the subject matter of the Landfill Directive (and, in some cases, of both Directives). On the other hand, the landfill of waste is Greece's waste disposal method of choice; in other words, in Greece "waste management" is practically synonymous with "landfill management". For these reasons, the subsequent analysis will largely focus on issues that fall outside the scope of the Landfill Directive, but are nevertheless crucial for understanding the crucial policy questions related to this particular policy area. More precisely, emphasis will be placed on explaining the legacy of the past, on outlining the main parameters of the present situation and on identifying the most important prospects and challenges.

### **Waste management in Greece – the legacy of the past**

Solid waste management in Greece is often considered to be in a state of crisis – and justifiably so. Unsatisfactory practices, lack of public awareness coupled with a strong "not in my backyard" syndrome, and difficulties in complying with legislation and adapting to the policies of the European Union are aggravating problems that contribute to the crisis, but also suggest that changes are inevitable. The problem of waste management in Greece has two dimensions. First, the very nature of the Greek territory and the spatial distribution of the population (two large metropolitan areas, some expanding coastal and island population centers, plus a large number of small and isolated communities) represent a major challenge<sup>4</sup>. Second, both solid and liquid waste collection and treatment are the responsibilities of the municipalities and communities<sup>5</sup>. However, for decades thousands of municipalities and communities have been sending mounds of trash to dumps that lack permits and proper location/ sanitation standards<sup>6</sup>.

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<sup>4</sup> Greece has a population of 10.6 million. Population density varies greatly across the country; nearly 30% lives in Athens, and 10% in Thessaloniki. The Greek population is also concentrated on the coastlines; 33% of the population lives within two kilometers from the coast, and 86% live in prefectures bordering the coast. During the last decade, population density in Greater Athens has not increased much; on the contrary, the concentration of population and buildings in the coastal areas (excluding Athens) has increased, as have pressures associated to population growth, including those from industry, tourism and transport. Tourism and associated activities are especially concentrated in coastal areas and islands. In some tourist areas, the population increases several-fold during the summer (OECD 2000). Finally, one has to take into account the numerous populated islands (>100) and the large mountainous areas (>43% of the land).

<sup>5</sup> Municipalities are mainly responsible for the waste collection, disposal, management and also for some aspects of planning. In many cases, waste disposal comes under the competence of associations of local authorities, the most important being the Association of Attica (ACMAR) -which represents 72 municipalities and 17 communities and is responsible for solid waste management for the greater Athens area- and the association of Greater Thessaloniki

<sup>6</sup> Until recently there existed 5,600 communities and 360 municipalities. With the change in the administrative map of the country, which came into effect with the local government elections in October

This situation has been attributed to the lack of an integrated management and coordination strategy that would link the national, regional and local levels of government, and to the intense conflict concerning the location of the disposal or recycling areas involving social and institutional actors at the regional and local levels. Other important impeding factors are the widespread opposition of local communities to the installation of disposal sites in their territory (grounded on concerns about their impact on land value and on quality of life), conflicting private interests and the possible repercussions for the tourism industry.

Up until the early 1990s, the use of uncontrolled dumps was the “traditional” method of solid waste disposal. Since then, the overall situation has improved, but a lot remains to be done. More precisely, in 2002, 48% of the total amount of solid waste produced in the country was being disposed without previous treatment in sanitary landfills (HYTA)<sup>7</sup>, 44% went to uncontrolled dumps, and only 8% was recycled at source or was subject to composting. The 1.458 uncontrolled dumps were still “serving” 47% of the population (YPEHODE 2003:10-11). Even in Athens and Thessaloniki, the lack of co-ordination and the intense conflict between local actors led to short term political decisions and subsequently to ineffective waste management<sup>8</sup>.

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1998, municipalities and communities were merged to approximately 1,000 and the number of uncontrolled dumps was statistically reduced from 6,500 in 1997 to 2182 in 2001 and 1458 in 2002.

<sup>7</sup> HYTA are massive holes, lined with aluminum and plastic that keep dangerous materials from seeping into the ground and water supply, also preventing toxic gases from escaping. Once filled, they are covered and tended to for 30 years (by EU law).

<sup>8</sup> In 2002, the prefecture of Thessaloniki had no operating sanitary landfill and 48 uncontrolled dumps; in the same year, Attica had one single sanitary landfill –that will cease to be operational in 2005- and 27 uncontrolled dumps.

## **The EU legal framework on the landfill of waste**

In 1975, the EU adopted what is known as the *Waste Framework Directive*<sup>9</sup>. This Directive lays down basic requirements for Member States with regard to handling waste and defines what is meant by "waste". Member states must ensure that the disposal and recovery of waste does not present a risk to water, air, soil, plants and animals. Furthermore, they must not allow waste disposal to constitute a public nuisance through excessive noise levels or unpleasant odours, or to degrade places of special natural interest. Member states must prohibit the dumping or uncontrolled disposal of waste. They must also establish an integrated and effective network of waste disposal plants, prepare waste management plans, ensure that those who store waste handle it properly, and ensure that waste treatment operations receive a permit (a license). Waste collectors must have special authorisation to operate or be registered. Companies carrying out waste collection or disposal must undergo periodic inspections. They must also keep records of the waste that they handle. The deadline for implementing the original Directive was 1977.

Amendments aimed at strengthening and clarifying the 1977 Directive took effect in 1993, when Directive 91/156 came into force<sup>10</sup>. This Directive modifies the definition of waste found in Directive 75/442. The definitions of "waste producer", "waste owner", "management", "elimination", "recovery" and "collection" are also modified or added. Anything not considered as waste is also specified. In addition, Member states are required to enhance: a) prevention or reduction of waste generation, b) development of clean technologies, c) technical and commercial development to avoid waste generation and contamination risks, d) recycling, reuse or recovery of waste and e) energy recovery from waste, as a second option. To meet the objectives of the Directive, each member state was required to establish as soon as possible a *waste management plan*, which was to include the type, quantities and origin of waste to be recovered or eliminated, general technical prescriptions and adequate elimination sites or facilities<sup>11</sup>. The polluter pays principle is followed; hence the cost of waste elimination should be born by the waste owner and the producer of waste-generating products.

The *Landfill Directive* (Council Directive 1999/31/EC on the landfill of waste) was adopted by the Council on 26 April 1999 and entered into force in 16 June 1999. It is intended to prevent or reduce the adverse effects of the landfill of waste on the environment, in particular on surface water, groundwater, soil, air and human health<sup>12</sup>. It defines the different categories of waste (municipal waste, hazardous waste, non-hazardous waste and inert waste) and applies to all landfills, defined as waste disposal sites for the deposit of waste onto or into land. Directions are given for the authorisation of landfill use, construction, control and surveillance, renovation and

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<sup>9</sup> Council Directive 75/442/EEC on waste

<sup>10</sup> Council Directive 91/156/EEC amending Directive 75/442/EEC.

<sup>11</sup> It could also include the responsible organisation for waste management, cost estimates of elimination and recovery, as well as adequate measures for the rationalisation of waste collection, classification and treatment.

<sup>12</sup> Waste landfills can also have a negative impact on the global environment, for example by producing a greenhouse effect.

closing of landfills. More precisely, landfills are divided into three classes: a) landfills for hazardous waste, b) landfills for non-hazardous waste and c) landfills for inert waste. In addition, the Directive establishes a set of detailed requirements that must be met with regard to waste landfills<sup>13</sup>. Moreover, it sets up a system of operating permits for landfill sites. As a result, each operator should present to the competent authority, for approval by 16 July 2002, a conditioning plan which indicates how the requirements of the Directive will be met within the required timeframe<sup>14</sup>. The objective is to help prevent or attenuate the negative effects that unacceptable landfill sites can have.

Member states must ensure that existing landfill sites may not continue to operate unless they comply with the provisions of the Directive as soon as possible. Finally, The Directive requires member states to reduce the amount of biodegradable waste that they landfill to 35% of 1995 levels. The aim of this measure is to reduce the negative impacts of landfilling and promote the recovery of waste. More precisely:

- within 5 years of the implementation of the directive, biodegradable municipal waste should be reduced to 75% in weight of biodegradable municipal waste produced in 1995;
- within 8 years, biodegradable municipal waste should be reduced to 50%;
- within 15 years, biodegradable municipal waste should be reduced to 35%;
- member states which in 1995 put more than 80% of their municipal waste to landfill were allowed to postpone the attainment of the above targets by a period up to 4 years.

Member states are to report to the Commission every three years on the implementation of the Directive. On the basis of these reports, the Commission must publish a Community report on the implementation of the Directive. For this purpose, in 17 November 2000 the Commission presented a detailed questionnaire on the transposition and the implementation of the Directive in each member state, covering the three-year period from July 2001 to July 2004. The Commission requested detailed information on a host of issues; more specifically:

- concerning transposition the Commission wanted, among others, to be informed about a) the existing national laws and regulations in force to transpose the Directive into national law, b) the use of collected landfill gas to produce energy, c) the measures provided to minimise nuisances and hazards, d) the lists or criteria set for waste to be accepted or refused at each landfill class, e) the collection method for meteorological data.

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<sup>13</sup> For instance, a standard waste acceptance procedure is laid down so as to avoid any risks. Thus, waste must be treated before being landfilled; landfills for non-hazardous waste must be used for municipal waste and for non-hazardous waste; landfill sites for hazardous or inert waste must be assigned exclusively to a hazardous waste landfill or an inert waste landfill respectively. The Directive also bans certain types of waste from landfill sites, for example used tyres,

<sup>14</sup> Applications for permits must contain the following information: the identity of the applicant and, in some cases, of the operator; a description of the types and total quantity of waste to be deposited; the capacity of the disposal site; a description of the site; the proposed methods for pollution prevention and abatement; the proposed operation, monitoring and control plan; the plan for closure and aftercare procedures; the applicant's financial security; an impact assessment study, where required under Directive 85/337 (on the assessment of the effects of certain public and private projects on the environment).

- regarding implementation, the Commission wanted information particularly on a) the use of the various options for derogations (provided in Article 3), b) the national strategies for the reduction of biodegradable waste and their notification, c) the wastes classified at national level as biodegradable waste and the wastes classified as biodegradable municipal waste, d) the experiences made with the practical application of the strategy, e) the amount of biodegradable municipal waste produced in 1995, f) the amount of biodegradable municipal waste and other biodegradable waste going to landfills for each year of the reporting period, g) the strategic adaptations envisaged, h) the number of existing landfills (including these landfills complying with the directive, the landfills closed and the landfills re-equipped since July 2001), i) the measures taken to ensure that the costs of landfilling are covered by the price to be charged by the operator, j) the measures provided to avoid adverse environmental effects of the closed landfills and k) the planning procedure for landfills with regard to the location of the landfill.

According to the Directives, member states were obliged to send a detailed reply by April 2004; as a matter of fact, the Commission decided to extend this delay by five more months (30 September 2004)<sup>15</sup>.

### **The transposition of the Landfill Directive in Greece**

The Landfill Directive was to be transposed by 16 July 2001. 11 Member States, including Greece, were late; thus, by the end of 2001, the Commission opened infringement proceedings for non communication of the transposing measures against them (Commission 2002: 31). However, in 16 December 2002 the Directive was transposed into Greek law through a Joint Ministerial Decision (JMD)<sup>16</sup> of the Ministries of Environment (YPEHODE), Economy, Home Affairs, Development and Health and Social Welfare. The choice of this legal instrument is the standard practice for the transposition of EU Directives; however, the issuing of JMDs in such instances has been the object of fierce criticism by legal circles, because in this fashion the government is able to avoid the precautionary legal control exercised by the Council of State<sup>17</sup> (as would have been the case if the Directives had been transposed by a Presidential Decree) (Pikramenos 2004: 101-102). As a matter of fact, the JMD was drafted by a service of YPEHODE<sup>18</sup> -the text of the Directive being reproduced "word by word"- and approved by all

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<sup>15</sup> Interview with an YPEHODE official.

<sup>16</sup> JMD 29407/ 3508/ 18.12.2002.

<sup>17</sup> The Council of the State -Greece's supreme administrative court- has played a crucial role in defining the content of framework environmental legislation and has provided a practical interpretation of the term "sustainable development" in case law. Of equal importance is the Council's contribution in the field of implementation of EU environmental policy. In its decisions pertaining on waste management legislation, the Council attested the lack of national and regional waste management strategies, the complexity of the process for the designation of landfills and the overlapping between the designation process and the procedures for EIAs.

<sup>18</sup> It was the Department of Solid Waste Management of the Directorate of Environmental Planning.

stakeholders without much debate<sup>19</sup>. The only provision of the of the JMD worth mentioning is Greece's commitment to reduce the biodegradable municipal waste to 35% by 2020 and not by 2016 – as the Greek government made use of the four-year "postponement clause" granted to member states relying on landfilling for waste disposal.

### **Complaints and referrals to the ECJ**

The Landfill Directive was intended to clarify the legal framework in which sites employing this method of disposal are authorised in the Member States. In reality, one of the main motives for the adoption of the Landfill Directive was the fact that the most frequent infringements of the EU waste legislation were related to waste dumping<sup>20</sup>. Prior to the enactment of the Landfill Directive, the Commission tended to use individual cases to detect more general problems concerning incorrect application of the Waste Framework Directive, such as the absence or inadequacy of waste management plans, based on the assumption that an illegal dump may provide evidence of an unsatisfied need for waste management. The most notorious and significant of these cases was the one concerning Kouroupitos in the Greek island of Crete. Specifically, in its judgment of 4 July 2000, the Court had declared that, by failing to take the necessary measures to ensure that in the area of Chania waste was disposed of without endangering human health and without harming the environment in conformity with Articles 4 and 6 of the Waste Framework Directive and Article 12 of Directive 78/319 on toxic and dangerous waste, Greece had not taken measures to comply with the judgment of 7 April 1992 (Case C-45/91) and had failed to fulfil its obligations under Article 171 (now 228) of the Treaty<sup>21</sup>. It was the first time that the European Court of Justice took a decision to fine a Member State under Article 228 of the Treaty; this constituted a significant milestone for the EU in terms of enforcement of Community environmental law *vis-à-vis* the Member States. The case concerned the existence and the functioning of an illegal solid waste dump in Kouroupitos in the region of Chania, where domestic waste, limited quantities of dangerous waste and of different kind of commercial and industrial waste were illegally dumped. The Court decided to impose a financial penalty of € 20.000 per day on Greece for non compliance<sup>22</sup>. The Commission sent periodically to the Greek authorities letters requesting the payment of the daily penalty of € 20.000 from July 2000 to February 2001 included. In March 2001, the site was closed and the waste was treated in an appropriate installation. Therefore, the Commission considered that Greece had complied with the judgment and closed the case. Greece had paid all the amounts due within deadlines set, representing a total sum of € 5.400.000 (Commission 2002: 30-31).

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<sup>19</sup> Interview with an YPEHODE official.

<sup>20</sup> Thus, in its third survey on the implementation of the EU environmental law, the Commission recognised that "most of the implementation difficulties concern the application of Waste Framework Directive to specific installations. This is at the root of the large number of complaints primarily concerned with waste dumping (uncontrolled dumps, controversial siting of planned controlled tips, mismanagement of lawful tips, water pollution caused by directly discharged waste)" (Commission 2002: 30).

<sup>21</sup> It is worth mentioning that a plan for the creation of a sanitary landfill in the area met the stiff opposition of the inhabitants, who had protested against the uncontrolled dumping of waste in Kouroupitos and had addressed a relevant complain to the Commission in the first place (Dousi 2002: 7)!

<sup>22</sup> The Commission had recommended a fine of € 24.600 a day. This amount was calculated on the basis of Greece's gross domestic product as well as on the gravity and duration of the infringement.

After the enactment and the transposition of the Landfill Directive, the Commission adopted a new approach towards Greece in matters concerning waste dumping. Hence, while continuing to pursue several individual cases involving landfills (or waste management plants) and pertaining to the Waste Framework Directive<sup>23</sup>, in 24 July 2003 the Commission decided to refer Greece to the ECJ because of the large number of illegal or uncontrolled waste disposal sites that receive waste in the Greek territory<sup>24</sup>. The Commission recognised that the Greek authorities had started to implement new regional plans to reduce the large number of sites operating illegally, and had stated that they had reduced the number of illegal sites still operating from 2,810 at the end of 2001 to 1,458 in May 2002. However, it was concluded that, in spite of these efforts, up to 44% of domestic waste in Greece was still disposed of at illegal facilities, thereby endangering human health and the environment.

### **The Europeanisation of the Greek Legal and Planning Framework**

The EU Waste framework Directive, as amended by Directive 91/156, was transposed into domestic law in 1996, through the Joint Ministerial Decision 69728/824/1996 on "the general measures and conditions for solid waste management" <sup>25</sup>. Generally speaking, JMD 69728 attempted to integrate and rationalise earlier legislation in the field of waste management<sup>26</sup>. More precisely:

- it defined certain key concepts (such as "solid waste", "solid waste management", "solid waste disposal", "transport" etc.);
- it stipulated that management measures should not put in danger the quality of the water, the air, the soil and the flora and fauna, should not cause any nuisance related to noise or smell and should not upset the aesthetic balance of the landscape;
- it provided for the establishment of a national waste policy framework through the adoption of long-term goals, the introduction of comparative criteria regarding the evaluation and the selection of the disposal and management sites and the institution of common terms and procedures pertaining to the elaboration and the implementation of solid waste management;

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<sup>23</sup> In 2003, following the investigation of a complaint, the Commission sent Greece a final written warning with regard to illegal waste disposal at Paiania, in eastern Attica, and an unauthorised landfill in the village of Maroulas, Crete, operating within a Natura 2000 site. In addition, Greece received a final written warning because of unsatisfactory treatment of sewage sludge from a waste water treatment plant on the island of Psittalia. In 2004, The Commission decided to refer Greece to the ECJ for the cases of Maroulas and Psittalia.

<sup>24</sup> The Commission recognised that the Greek authorities had started to implement new regional plans to reduce the large number of sites operating illegally, and had stated that they had reduced the number of illegal sites still operating from 2,810 at the end of 2001 to 1,458 in May 2002. However, it was concluded that, in spite of these efforts, up to 44% of domestic waste in Greece was still disposed of at illegal facilities, thereby endangering human health and the environment.

<sup>25</sup> It was issued by YPEHODE and the Ministries of Internal Affairs, Public Administration and Decentralisation, National Economy and Finance, Development, Agriculture, Health and Social Welfare, Merchant Marine and Public Order.

<sup>26</sup> Law 1650/86 on "environmental protection", Law 1515/85 on the master plan and for the protection of the environment in Athens and Thessaloniki", and Law 2242/94 on "the protection of natural and built environment"

- it placed the overall responsibility for the formulation of general policy directions in the hands of YPEHODE<sup>27</sup>, affirming that these directions would initially place emphasis on the reduction of the production and the harmfulness of solid waste, and, ultimately, would be concentrated a) in the exploitation of waste through recycling, re-use or recovery and b) in the utilisation of waste as an energy source;
- it stated that the competence for designing and implementing local management strategies would belong to the local councils or local associations for waste management, the prefecture councils and, in case of incapability, the region;
- it introduced a two-stage procedure for the adoption of local waste management plans. At the first stage, the management framework would be established by the Prefecture or their Region, their; at the second stage, the plan itself would be drafted by the local councils, their associations, their Prefecture or their Region, and would be successively approved by the Prefecture or the Region, the Environment Directorate of the Region and YPEHODE itself; and
- it declared that, after the closure of each landfill, the responsible management body would assume the responsibility for its rehabilitation and after-care.

JMD 69728 was accompanied by two other JMDs issued one year later: the JMD113944/1997 on “the general policy directions for solid waste management at national level” and the JMD 114218/1997 on “the establishment of a framework of technical specifications and of general plans of solid waste management”). JMD113944 rearticulated some of the definitions, objectives, procedures and specification laid down by JMD 69728; moreover, it set some additional quantitative objectives and defined the minimum standards for the studies on the selection of disposal sites, also suggesting measures for raising public awareness and ensuring social acceptance. JMD 114218 determined the technical specifications regarding the appropriate systems, means and procedures for each of the available waste treatment methods (like temporary storage, collection and disposal, collection at source, recycling etc.) and also specified the criteria for the selection of landfills, as well as for the planning, design and function of “Sanitary Legal Waste Disposal Sites” (HYTA), mechanical sorting plants and composting facilities (Oikonomou 2004: 68-69).

The new national framework of waste management became the object of serious criticism by legal and policy experts who identified a number of severe shortcomings. First, it was argued that the three JMDs, being essentially technical in nature, were not providing sufficient guidance to the regional and local actors who were expected to do the actual management. Second, it was stressed that national management relied heavily on waste disposal -and landfill in particular-, thus downplaying the objectives of prevention and recycling, reuse and recovery. Third, the provisions on local waste management were deemed too detailed, and the prescribed processes were found to be too complicated and time-consuming, thus undermining the legal

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<sup>27</sup> YPEHODE, however, should act “in cooperation with the other responsible Ministries, the Central Association of Municipalities and Communities (KEDKE) and the Association of the Local Authorities of Greek Prefectures (ENAE)”.

soundness of the relevant administrative acts<sup>28</sup>. Fourth, the possibility of delegating waste management competences to different levels of government on a case-by-case basis was strongly criticised; such an option, it was argued, would generate confusion regarding the vertical allocation of competences, would intensify politico-administrative rivalries and, ultimately, would jeopardise the very approval and viability of local management plans. Finally, it was found that the process of designation and approval of the most suitable sites for the implementation of various management activities was partially overlapping with the approval procedures for specific sites under the legislation on Environmental Impact Assessment (EIA); the lack of clear boundaries between the two procedures could produce legal disputes, especially in the cases of definite site designations under a waste management strategy<sup>29</sup>. The above analysis was soon confirmed by the jurisprudence of the Council of the State during the period 1998-2002<sup>30</sup> (Giannakourou 2004: 48-52).

It took YPEHODE three years to prepare the first National Solid Waste Management Plan, which was translated into law in 2000 by JMD 14312/1302/2000 "filling in JMD 113944/1997". On the other hand, almost no progress was being made at the local level: very simply, the local authorities –essentially the prefectures- were manifestly unable to carry out their –heavy-planning responsibilities<sup>31</sup>, and it was found that the financial cost of implementing the 1996 strategy was exceeding by far the fiscal capabilities of the state (including the projects co-financed by the Structural Funds and the Cohesion Fund).

In the end of 2001, faced with this situation –and with the additional pressures arising from the new European Directives on the landfill of waste and on packaging waste-, the new leadership of YPEHODE<sup>32</sup> chose to abandon the planning procedures established by JMD 69728 and to proceed to a thorough reform of the domestic management system (which however was not translated in law until the end of 2003). The "updated national solid waste management plan" that was presented in the beginning of 2002 included a number of serious policy commitments and brought about significant changes in the pre-existing planning and management procedures. Specifically:

- The primary goal of the updated national plan is the closure of all illegal dumps within 6 years (by the end of 2007); in fact, YPEHODE presented a timetable stating the annual planned reductions in uncontrolled dumps for each region<sup>33</sup>.
- Secondly, local planning was placed under the competence of the 13 administrative regions (i.e each region undertook to prepare and submit a management plan for its

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<sup>28</sup> In particular, the designation of two separate stages of local planning was contested.

<sup>29</sup> Under the current environmental permitting system, an EIA should necessarily contain an examination of alternative solutions.

<sup>30</sup> In its decisions pertaining on waste management legislation, the Council attested the lack of national and regional waste management strategies, the complexity of the process for the designation of landfills and the overlapping between the designation process and the procedures for EIAs.

<sup>31</sup> Characteristically, YPEHODE drew up Master Plans for each Prefecture in order to facilitate the process of the drawing up of their own solid waste management plans and projects.

<sup>32</sup> In 2001 Vaso Papandreou replaced Kostas Laliotis at the head of YPEHODE. This change no doubt contributed to the policy shift under discussion.

<sup>33</sup> See Table 1 in the Annex.

territory). This change represented a serious blow on the autonomy of the local government authorities in the field of solid waste management, given that: a) the responsibility for designating the transfer, landfill and management sites was taken away from the municipalities and the prefectures and b) the focus on regional planning would inevitably result in the establishment of large-scale plants that would be beyond the control of any single municipality (or even any single prefecture).

This “new approach” was formalised in the end of 2003, when Joint Ministerial Decision 50910/2727 (22.12.2003), laying down “the measures and terms for solid waste management” and providing the guidelines for the national and regional management planning, came into force repealing JMD 69728 of 1996. The 2003 JMD followed closely the logic of the 2002 reform and sought to achieve “full conformity” with the Waste Framework Directive<sup>34</sup>, placing particular emphasis on the establishment of functional and effective planning and managing procedures. More precisely:

- A five-year national plan for the management of solid waste was produced<sup>35</sup>; hence, some essential requirements of EU waste legislation that were overlooked in the past -like the establishment of a national network for waste disposal and the creation of national statistics on waste- are finally included in the priorities of national planning.
- In line with the policy directions of 2002, national management plan is to be complemented by 13 five-year regional management plans (each of which is going to integrate and supplement the pre-existing local planning).
- Furthermore, regional planning procedures are being simplified and (to a great extent) de-politicised. While the previous planning process allowed for the active involvement of the municipalities and prefectures in the designation of landfill sites -thus producing a high number of veto players-, the new system places the primary responsibility for site destination in the hands of the technocrats (be it YPEHODE administrators or private experts), who are to submit a comprehensive regional action study to the regional council, the prefecture councils and the local associations of municipalities; once this plan is approved by the regional secretary, all subnational actors are committed to follow its prescriptions – including the identification of the most suitable sites and of the agencies responsible for waste management. The merits of each individual site are examined at a later stage, when the approval procedures under the legislation on Environmental Impact Assessment are applied.
- It is also worth mentioning that the new legislative framework re-introduces centralization (although in an implicit way). Thus, it is the (centrally appointed) regional secretary who approves the regional plan within 45 days from the submission of the technocratic study; on top of this, if the regional secretary does not take a decision

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<sup>34</sup> The inadequacy of the pre-existing domestic framework was thus implicitly acknowledged.

<sup>35</sup> The national management plan was annexed to the text of the JMD and was deemed to constitute “an integral part” of it.

within 90 days, the regional plan can be adopted by YPEHODE in cooperation with the Ministries of Interior, Agriculture and Health. Hence

- Finally, the new JMD repeats the dual commitment of the Greek government to close down all illegal landfills by the end of 2007 and to reduce the biodegradable municipal waste to 35% by 2020.

### **The current situation – problems and prospects**

In terms of waste management, Greece is lagging far behind its most advanced European partners. At a time when many European countries are prohibiting -or planning to prohibit- the dumping of biodegradable waste, the Greek authorities are still struggling to develop a basic infrastructure for landfill in order to meet the most pressing of the EU requirements in this policy area, namely the closing down of all illegal landfills by 2008. In this sense, the question of landfills in Greece is not simply a matter related to the implementation of the Landfill Directive; this particular issue lies at the core of the much broader issue of domestic waste management.

Up to now, the efforts to tackle the problem of uncontrolled landfills were being hampered by the absence of a functional planning framework, the lack of policy initiatives at the regional and local level<sup>36</sup> and the opposition of the most local communities involved. Recent developments in all fronts are arguably encouraging, though it is still too early to reach some definitive conclusions.

The new waste management strategy does represent a first step in the direction of sound and effective planning; all the same, one should be very cautious before the new provisions on planning and management are actually implemented (also taking into account the recent change of government). The recent move towards centralization can be justified in the name of policy effectiveness; in other words, undermining subnational participation in decision making was the price to be paid in order to break policy deadlock. The case of Attica is very illustrative: the creation of new landfills in Greece's capital region was blocked for a decade, owing mainly to the opposition of local politicians -and, it has to be said, from the majority of their voters- in the name of environmental quality (notwithstanding the existence of 27 uncontrolled landfills in this very area). The stalemate was broken only in 2003, when regional planning for the Attica region was completed by a legal amendment (Article 33 of Law 3164/2003) designating the most

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<sup>36</sup> The single notable exception is the performance of DIADYMA S.A., the waste management company of the region of Western Macedonia. DIADYMA S.A was founded in 1996 by the municipalities of the said region in order to serve the needs of waste management in the area. Its major task is to implement the Integrated Waste Management System (IWMS) of the region (61 municipalities, 300.000 residents, 100.000 tones of MSW per year). Since 1998, the company has been developing know-how in fields such as collection and transferring systems, recycling and MSW treatment & processing, landfill design & restoration, hazardous waste management etc. Priority is being given to the areas of environmental engineering, waste management systems analysis & evaluation, environmental impacts minimization etc. During the last two years the company is developing the infrastructure of the IWMS of W. Macedonia, scheduled to operate in early 2005. Moreover, four recycling facilities are to be constructed within the next two years in order to support the local recovery-at-source programs for paper, plastics, glass and metals. A mechanical separation and composting Plant is scheduled to be completed by 2007; recovery is expected to exceed 70% before the year 2010, resulting into local tax reduction and systems optimization. On top of this, the company's improvement in experience and knowhow has resulted into expansion in projects such as the IWMS of Eastern Macedonia & Thrace, Waste Management of Athens Olympics etc.

suitable sites for the construction of landfills and transit hubs<sup>37</sup> (Oikonomou 2004: 70-71) . Thus, the evident failure of decentralised policy-making in the face of pressing EU obligations has led the central government to reinstate centralisation as a solution of last resort. This method may be efficient in the short run, but it certainly does not contribute to raising public awareness and participation.

Last but not least, the number of unmanaged landfills is being steadily reduced, mainly because new landfills are being built. More precisely, 37 HYTA have been created since 1994 and 29 more are in the works. The EU financial assistance has been of capital importance; all projects of restoration of old landfills and creation of new ones are being funded the Cohesion Fund and by the Operational Program "Environment" of the Community Support Framework. According to YPEHODE calculations, when the designed sites become operational, 87% of the nationally produced waste is going to be dealt with, and 73,4% of the population –essentially in the mainland- will be covered (YPEHODE 2003: 20). However, even if this target is met on schedule –that is, even if the performance of the public works system improves significantly-, a lot remains to be done before Greece is endowed with a functional –yet outdated- solid waste management system. The most urgent deficiency has to do with the inexistence of economically viable waste management agencies<sup>38</sup>; in the absence of such entities, restoration costs are still covered by public funding, a situation that cannot be prolonged indefinitely<sup>39</sup>. However, the most serious challenge concerns the second major commitment undertaken in the context of the Landfill Directive, which is the reduction of biodegradable municipal waste to 35% by 2020. In effect, despite some new legislation (Law 2939/2001 on "recycling and alternative packaging management"), waste reduction is still practiced on a very limited basis<sup>40</sup>.

## **CONCLUSIONS**

Only recently have the Greek authorities started to address the country's weaknesses in the realm of solid waste management. The EU contribution has been valuable in two respects. On the one hand, Greece's frequent referrals to the ECJ –and above all, the imposition of a big fine in the case of Kouroupitos-, have acted as a serious motivation for policy activism, even in the face of entrenched opposition. On the other hand, the EU cohesion policy is providing Greece with the necessary financial resources in order to create the necessary infrastructure. One can

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<sup>37</sup> Before the amendment was even presented, residents in proposed sites protested, often alongside regional politicians. However, progress is visible in the last year, the last development being the signing of a programming contract between the Ministry of Home Affairs, the Region of Attica and the local association of municipalities for the construction of a first landfill.

<sup>38</sup> According to Article 10 of the Landfill Directive, the management and restoration costs of all landfills are to be born by the responsible operators.

<sup>39</sup> Interview with an YPEHODE official.

<sup>40</sup> The most significant exceptions are some Northern Athens suburbs, the island of Zakynthos and the city of Patras, which dispose of recycling schemes, and the city of Kalamata, which has a mechanical selection and composting plant – a second, much larger and technologically advanced plant has been constructed in Attica, but it is still non-operational, largely due to the ineffectiveness of the local association of municipalities that is in charge of its management. On the other hand, a joint company run by the Central Union of Municipalities and Communities (KEDKE, 35% ownership) and Federation of Greek Industries (FGI, 65% ownership) has been formed to run a packaging-recycling programme.

thus conclude that the EU has had a defining influence on domestic policy content; nevertheless, as the preceding analysis has demonstrated, pre-existing structures and practices remain largely unaffected, the most notable exception being the aborted institutional experimentation of the 1990s. All in all, centralised and bureaucratic policy-making appears to have gained in credit, at the expense of local democracy and participation. One should not forget, however, that the creation of a network of modern landfills is just the first stage of a much broader strategy that should also involve the development and application of alternative waste management systems. In this context, the existing "command and control" policy model needs to be replaced by more inclusive methods and practices aiming to increase citizens' participation and to involve subnational and private actors more closely in policy formulation and implementation.

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**Table 1 - Official timetable for the closure of illegal dumps**

Region	No. of illegal dumps					
	2003	2004	2005	2006	2007	2008
Eastern Macedonia-Thrace	129	55	55	55	0	0
Central Macedonia	221	118	98	43	0	0
Western Macedonia	68	55	0	0	0	0
Epirus	121	66	50	50	50	0
Thessaly	220	190	82	30	0	0
Ionian Islands	26	21	17	8	0	0
Western Greece	88	64	53	41	8	0
Continental Greece	199	178	129	70	70	0
Attica	27	27	26	23	16	0
Peloponnese	145	98	98	37	37	0
North Aegean	49	36	36	33	0	0
South Aegean	64	58	58	58	0	0
Crete	101	66	41	41	0	0
<b>Total</b>	<b>1458</b>	<b>1032</b>	<b>743</b>	<b>489</b>	<b>181</b>	<b>0</b>