

Decision (EU) 2018/853 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) No 1257/2013 and Directives 94/63/EC and 2009/31/EC of the European Parliament and of the Council and Council Directives 86/278/EEC and 87/217/EEC as regards procedural rules in the field of environmental reporting and repealing Council Directive 91/692/EEC

DECISION (EU) 2018/853 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

of 30 May 2018

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure⁽²⁾,

Whereas:

- (1) Council Directives 86/278/EEC⁽³⁾ and 87/217/EEC⁽⁴⁾ are based on Articles 100 and 235 of the Treaty establishing the European Economic Community, now Articles 115 and 352 of the Treaty on the Functioning of the European Union (TFEU). Amendments to those Directives in this Decision are related to Union policy on the environment and are a direct consequence of the repeal of Council Directive 91/692/EEC⁽⁵⁾ on the basis of Article 192(1) TFEU. It is therefore appropriate to base those amendments on Article 192(1) TFEU.
- (2) European Parliament and Council Directive 94/63/EC⁽⁶⁾ is based on Article 100a of the Treaty establishing the European Community, now Article 114 TFEU. Amendments to that Directive in this Decision are related to Union policy on the environment and are a direct consequence of the repeal of Directive 91/692/EEC on the basis of Article 192(1) TFEU. It is therefore appropriate to base those amendments on Article 192(1) TFEU.
- (3) Directive 91/692/EEC was adopted to rationalise and improve, on a sectoral basis, the provisions on the transmission of information and the publication of reports concerning certain directives on the protection of the environment. To achieve that objective,

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Directive 91/692/EEC amended several directives by introducing uniform reporting requirements.

- (4) The implementation of the reporting requirements introduced by Directive 91/692/EEC has become burdensome and ineffective. Moreover, many of the Union acts amended by Directive 91/692/EEC have been replaced and no longer contain the reporting requirements as introduced by that Directive. For example, Directive 2000/60/EC of the European Parliament and of the Council⁽⁷⁾ repealed seven Union acts in the field of water policy and did not take over the reporting system introduced by Directive 91/692/EEC. In addition, Directive 2010/75/EU of the European Parliament and of the Council⁽⁸⁾ contains no reference to Directive 91/692/EEC and instead provides for a separate system of reporting.
- (5) Directive 91/692/EEC does not provide for use of electronic tools. With the successful development of the European Environmental Agency's Reportnet and sectoral initiatives on streamlining of reporting, such as the Water Information System for Europe, the need for and effectiveness of a horizontal instrument on reporting has increasingly been called into question. Finally, the adoption of Directive 2007/2/EC of the European Parliament and of the Council⁽⁹⁾ and the related development of the Shared Environment Information System, introduced a more modern and effective horizontal approach to information management and reporting related to Union environmental policy.
- (6) Directive 91/692/EEC should therefore be repealed.
- (7) Most of the Directives amended by Directive 91/692/EEC are no longer in force. However, Directives 86/278/EEC and 87/217/EEC are still in force.
- (8) Directive 86/278/EEC requires Member States to provide a report on the implementation of that Directive on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Directive 91/692/EEC. In order to avoid a legal vacuum due to the repeal of Directive 91/692/EEC, it is necessary to replace the reference to Directive 91/692/EEC with a reference to the procedure referred to in Directive 86/278/EEC.
- (9) Reporting by Member States under Directive 87/217/EEC is no longer necessary following the adoption of Regulation (EC) No 1907/2006 of the European Parliament and of the Council⁽¹⁰⁾, which provides for the phasing out of the production and use of raw asbestos and products containing asbestos in the Union. It is therefore appropriate to delete those reporting requirements set out in that Directive.
- (10) After the entry into force of Directive 91/692/EEC, the following Regulations and Directives included a reference to that Directive: European Parliament and Council Directive 94/62/EC⁽¹¹⁾, Directive 94/63/EC, Council Directive 1999/31/EC⁽¹²⁾, Directive 2000/53/EC of the European Parliament and of the Council⁽¹³⁾, Directive 2003/87/EC of the European Parliament and of the Council⁽¹⁴⁾, Directive 2008/98/EC of the European Parliament and of the Council⁽¹⁵⁾, Directive 2009/31/EC of the European Parliament and of the Council⁽¹⁶⁾ and Regulation (EU) No 1257/2013 of the European Parliament and of the Council⁽¹⁷⁾.

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- (11) As part of an EU action plan for the circular economy, the Commission proposed to amend Directives 94/62/EC, 1999/31/EC, 2000/53/EC and 2008/98/EC in order to replace the reference to Directive 91/692/EEC.
- (12) In order to ensure that certain provisions of the Annexes to Directive 86/278/EEC are up to date, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adaptation of those provisions to technical and scientific progress. Likewise, in order to ensure that the Annexes to Directive 2009/31/EC are up to date, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the adaptation of those Annexes to technical and scientific progress. The adaptation of the Annexes to Directive 2009/31/EC should not result in a lowering of the level of safety, or in a weakening of the monitoring principles, provided by the criteria contained in those Annexes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽¹⁸⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (13) The second subparagraph of Article 21(2) of Regulation (EU) No 1257/2013 refers to Directive 91/692/EEC, which is to be repealed. Pursuant to that provision, the first reporting exercise is due to start on the date of application of Regulation (EU) No 1257/2013. On 19 December 2016, by means of Implementing Decision (EU) 2016/2323⁽¹⁹⁾, the Commission established the first version of the European List of ship recycling facilities ('the European List'). In accordance with Article 26 of Regulation (EU) No 1257/2013, Member States may authorise the recycling of ships in ship recycling facilities included in the European List prior to the date of application of that Regulation. In such circumstances, Regulation (EC) No 1013/2006 of the European Parliament and of the Council⁽²⁰⁾ does not apply. In order to avoid a gap during which time information is not collected under Regulation (EC) No 1013/2006 or Regulation (EU) No 1257/2013, it is appropriate to introduce a transitional reporting period between the date of the first anticipated authorisation under Article 26 of Regulation (EU) No 1257/2013 in a given Member State and the date of application of that Regulation for each Member State that decides to use the transitional period provided for in that Article. To limit the related administrative burden for each such Member State, it is not necessary that the information collected during that transitional period form the basis of a separate report. Instead, it should be sufficient that such information be incorporated or form part of the first regular report covering the three-year period from the date of application of Regulation (EU) No 1257/2013.
- (14) The reporting requirement set out in Directive 94/63/EC is no longer necessary for the purposes of monitoring implementation of that Directive. The relevant provision should therefore be deleted.

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- (15) Since the objective of this Decision, namely to amend or repeal Union legal acts in the field of environmental reporting that are no longer applicable or relevant, cannot be sufficiently achieved by the Member States but can rather, by reason of its nature, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.
- (16) Regulation (EU) No 1257/2013 and Directives 94/63/EC, 2009/31/EC, 86/278/EEC and 87/217/EEC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

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- (1) [OJ C 173, 31.5.2017, p. 82.](#)
- (2) Position of the European Parliament of 18 April 2018 (not yet published in the Official Journal) and decision of the Council of 14 May 2018.
- (3) Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture ([OJ L 181, 4.7.1986, p. 6.](#))
- (4) Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos ([OJ L 85, 28.3.1987, p. 40.](#))
- (5) Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment ([OJ L 377, 31.12.1991, p. 48.](#))
- (6) European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations ([OJ L 365, 31.12.1994, p. 24.](#))
- (7) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy ([OJ L 327, 22.12.2000, p. 1.](#))
- (8) Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) ([OJ L 334, 17.12.2010, p. 17.](#))
- (9) Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) ([OJ L 108, 25.4.2007, p. 1.](#))
- (10) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ([OJ L 396, 30.12.2006, p. 1.](#))
- (11) European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste ([OJ L 365, 31.12.1994, p. 10.](#))
- (12) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ([OJ L 182, 16.7.1999, p. 1.](#))
- (13) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles ([OJ L 269, 21.10.2000, p. 34.](#))
- (14) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC ([OJ L 275, 25.10.2003, p. 32.](#))
- (15) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives ([OJ L 312, 22.11.2008, p. 3.](#))
- (16) Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 ([OJ L 140, 5.6.2009, p. 114.](#))
- (17) Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC ([OJ L 330, 10.12.2013, p. 1.](#))
- (18) [OJ L 123, 12.5.2016, p. 1.](#)
- (19) Commission Implementing Decision (EU) 2016/2323 of 19 December 2016 establishing the European List of ship recycling facilities pursuant to Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling ([OJ L 345, 20.12.2016, p. 119.](#))
- (20) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste ([OJ L 190, 12.7.2006, p. 1.](#))

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