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# frESH Law Horizons

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## UK

**Healthcare company is convicted of corporate manslaughter and fined £1 million.** The company was [fined £1 million](#), and its directors handed suspended prison sentences, after a resident of one of its care homes died after being placed into a scalding bath. Thames Valley police, which conducted a joint investigation with the Health and Safety Executive (HSE), [reported](#) on the case and the fine. The investigation found that there was no proper bathing policy in place and the staff at the home were not adequately trained to provide a sufficient level of care for the residents. The company admitted to falsifying water temperature records, falsifying a record of the servicing of the thermostatic mixing valves and falsifying a contract of the servicing to be provided to the Care Quality Commission and HSE. The significant fine was imposed following comments by the judge on “cost cutting”, “falling short on standards” and “trying to mislead investigators”, reported by the [national press](#). Such matters are, of course, aggravating factors for corporate manslaughter under the [definitive sentencing guideline](#) for this offence, which must be taken into account following a determination of the seriousness of the offence and identification of the starting point and category range based on the organisation’s turnover.

**Legislation for extending the period for accepting CE product markings.** We reported in frESH’s [August 2021 edition](#) that the government had announced a one-year extension to the grace period for the mandatory use of the UKCA mark, until 1 January 2023. Legislation to implement this has now been laid before Parliament. The legislation also allows the UKCA marking to be affixed on a label or accompanying document until 31 December 2023 (meaning the mark will not have to be affixed to the product itself until 1 January 2024). The regulations (the Product Safety and Metrology etc. (Amendment) Regulations 2021) and an explanatory memorandum can be accessed through the government’s [October announcement](#) on the new regulations.

**School trust is fined after failing to control the disease risk from animals.** The Spencer Academies Trust was [fined after failing to control the risk to humans from infectious diseases carried by animals](#). Southern Derbyshire Magistrates’ Court heard how the trust, which operates 12 schools, failed to properly control the risk from zoonotic diseases to employees, pupils and visitors at one of its academies. This is a fairly unusual case, but is potentially relevant to leisure and visitor attractions that keep animals, as well as educational facilities. There is an industry [Code of Practice](#) available.

**Bank is found guilty of money laundering offences for the first time.** For the first time, the Financial Conduct Authority successfully brought a [criminal prosecution against a bank for criminal offences under the Money Laundering Regulations 2007 \(SI 2007/2157\) \(MLR 2007\)](#). The bank entered guilty pleas at Westminster Magistrates’ Court and the case has been referred to Southwark Crown Court for sentencing. The charges related to requirements in regulations 8(1), 8(3) and 14(1) of the MLR 2007, requiring organisations to determine, conduct and demonstrate risk-sensitive due diligence and ongoing monitoring of relationships with customers for the purposes of preventing money laundering.



**Company is fined £47 million following a conviction for failure to prevent bribery.** The Serious Fraud Office (SFO) secured the [conviction](#) of a company for seven separate counts of failure to prevent bribery, contrary to section 7 of the Bribery Act 2010, between 2011 and 2017. The company pleaded guilty to failing to prevent former senior executives of its subsidiaries from using agents to systematically bribe officials, to win oil contracts. Significantly, the company did have some anticorruption procedures in place. However, the sentencing remarks in the case indicated that they were easily bypassed and were, therefore, inadequate (although there is still no judicial guidance or contested case on the extent to which procedures can be considered adequate). This is only the second conviction of a company for offences under section 7 of the Bribery Act 2010, following a [conviction in 2016](#). Since that initial conviction, four other companies have received deferred prosecution agreements for the same offence.

**Estate management partnership and tenant are fined for gas safety breaches in a holiday cottage.** The prosecution, reported by the HSE, related to breaches of the Gas Safety (Installation and Use) Regulations 1998, and the Health and Safety at Work etc. Act 1974. The [press release](#) reminds landlords of their duties to maintain gas heaters in a safe condition, which in the context of moveable gas appliances includes maintaining an “appropriate operating environment”. Although the fines in this case were not particularly significant, the case is a reminder to all landlords and businesses of the obligations under gas safety regulations.

**The Security Industry Authority (SIA) published its interim update to the Manchester Arena Inquiry.** The SIA published its [interim update to the Manchester Arena Inquiry](#), which outlines the SIA’s progress on two of the inquiry’s monitored recommendations. The two recommendations are matters relating to the regulatory regime the SIA supervises: Monitored Recommendation 7 (MR7) “The requirement that only those monitoring CCTV under a contract for services need to hold an SIA licence, should be reviewed”; and Monitored Recommendation 8 (MR8) “Consideration should be given to whether contractors who carried out security services should be required to be licensed.” The SIA stated that it has reviewed the requirement and agrees, in principle, with the recommendation that the requirement that only those monitoring CCTV under a contract for services need to hold an SIA licence should change. It has informed the Home Office of this. This would require legislative change. The SIA also stated that it understands and supports the underlying drive and assurance on public safety that MR8 is seeking to address. It continued that the SIA and Home Office have been working through how this recommendation would work in practice, its consequences, and how it might be affected by the Protect Duty being developed and finalised by the Home Office. In the SIA’s view, it is necessary to have further certainty and clarity on what the emerging Protect Duty will include and expect of security arrangements.

**Three individuals are banned from acting as company directors for five years following an Environment Agency (EA) investigation into waste offences.** Three North East men have been [banned from acting as company directors for five years](#) after they allowed unpermitted and mis-described shredded mixed waste as soil, in order for it to be deposited on their firm’s land at Bishop Auckland to avoid the costs of legal disposal. They were also fined a total of more than £2,500 and ordered to pay costs amounting to £16,000. EA officers visited the site and saw attempts by a vehicle to deposit shredded mixed waste next to an area designated as the soil manufacturing facility. Paperwork from the driver described the waste as soil, which would attract a lower rate of landfill tax. Officers stopped the mis-described waste from being tipped and noted that a large amount of shredded waste products – around 17,000 cubic metres – rather than soil was on the site, which was a breach of the company’s permit. The case is a reminder that environmental and other regulatory offences can impact on the ability of individuals to hold company directorships.



**Northumbrian Water pays more than £680,000 for a sewage spill.** Northumbrian Water has been [fined £540,000](#) with costs of £142,000 after a blocked sewer led to sewage escaping into a watercourse near Durham for two or three days in May 2017. The water and sewerage undertaker pleaded guilty to making an unpermitted discharge, contrary to the Environmental Permitting (England and Wales) Regulations 2016. The judge's comments, reported in the [environmental press](#), indicate that the company was aware of issues, and made only "a makeshift response to an active pollution threat" (using chicken wire and bales near the manhole to hold back sewage debris), which the judge described as proving "totally inadequate" when the pollution incident took place. The case highlights the importance of appropriate and proportionate action, when there is a known risk. It also demonstrates that costs awards can significantly impact on the amounts to be paid by defendants on conviction, in this case representing more than a quarter of the fine itself.

**Managing director is fined and sentenced to suspended imprisonment for health and safety breaches.**

Leicester magistrates' court imposed the sentence in connection with the death of an employee and the alleged poor management of risks arising from the use of a counterbalance forklift truck in a state of disrepair. In addition to the sentence of imprisonment, this was another case where costs imposed were significant – more than six times the fine itself (the director was ordered to pay a fine of £7,000 and costs of £45,000), according to the [HSE press release](#).

**Waste management company is fined £760,000 for safety breaches after an employee and an agency worker both fell from height.**

The waste management company was [convicted](#) of breaching Sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974 in Leeds Crown Court, which heard that one of its employees was walking across a first-floor gantry at the company's premises in Morley, Leeds, when one of the metal mesh panels gave way beneath his feet. This is another example of a prosecution for a fall from height, which [HSE statistics](#) indicate are the third-highest cause of fatal injury and result in 80 major injuries each year.

**Changes to rules relating to food allergens and a new allergens knowledge hub is launched.** Natasha's law came into force on 1 October 2021, requiring businesses to label all food that is pre-packaged for direct sale with a full list of ingredients, with the 14 major allergens emphasised in the list. They were introduced following the death of Natasha Ednan-Laperouse, who died after eating a pre-packaged baguette, which, at the time, did not require ingredients labelling. See our commentary on this and more [here](#). In addition, the Institute of Food Science Technology has launched a new [Food Allergens Knowledge Hub](#) to help consumers, food businesses and educators source best practice advice. The hub aims to provide free access to reliable resources for all those needing clear and trusted, scientifically evidence-based information on this important topic.

**Government announces a delay to the application date for the start of new import controls for products coming into Great Britain from the EU.**

Import controls had initially been pushed back to 1 October 2021. This [further delay](#) extends the period of application by three months. This means that, as of 1 January 2022, there will be full customs declarations and controls and pre-notification of Sanitary and Phytosanitary (SPS) goods (extended from 1 October 2021). Also, from 1 July 2022, the new requirements for Export Health Certificates (extended from 1 October 2021) will come into effect, as well as requirements for Phytosanitary Certificates and physical checks on SPS goods at Border Control Posts (extended from 1 January 2022), in addition to safety and security declarations on imports (extended from 1 January 2022). However, new controls on safety and security declarations will now not be required until 1 July 2022.



**The Office for Product Safety and Standards (OPSS) has issued guidance on making cosmetic products available to consumers in Great Britain.**

The [guidance](#) has been issued to support understanding of how EU legislative requirements for cosmetic products now apply in Great Britain following Brexit, including requirements for the UK-established Responsible Person. The guidance does not cover Northern Ireland, where the requirements remain broadly in line with the EU, because of the effect of the Northern Ireland protocol (within Northern Ireland, the Responsible Person must be established in either Northern Ireland or the EU).

**No convictions after 45,000 fish deaths in the River Llynfi, Wales.** An [investigation into pollution of the River Llynfi](#) has ended with no realistic prospect of a conviction, Natural Resources Wales (NRW) has said. An NRW assessment estimated more than 45,000 fish and other river life died in the incident. An NRW official said, “Our officers have been appalled by the damage caused to the River Llynfi” and “We are very disappointed that we have not been able to bring those responsible to justice.” NRW said it had exhausted every lead and done everything it could to be able to prove what happened but said it would consider reopening the investigation if compelling new evidence came to light.

**UK government issues climate policy announcements ahead of COP26.** Following 2020’s [10-point plan for a green industrial revolution](#), the government issued its [Net Zero Strategy](#), including decarbonisation pathways to net-zero by 2050, policies and proposals to reduce emissions for each sector and cross-cutting action to support the transition. The Net Zero Strategy will be submitted to the United Nations Framework Convention on Climate Change as the UK’s second [Long-Term Low Greenhouse Gas Emission Development Strategy](#) under the Paris Agreement. Alongside the strategy, the [government response to the 2021 Committee on Climate Change \(CCC\) progress report](#) was also published. The government’s response sets out areas where significant progress has been made to adapt to climate risks over the last two years, and provides responses to each of the CCC’s 51 recommendations. Overall, the government concludes that significant progress has been made, but that the next decade will be crucial. Another key document published this month is [Greening Finance: A Roadmap to Sustainable Investing](#). This sets out the government’s long-term ambition to green the financial system and align it with net-zero, mapped out into three phases (informing, acting and shifting). This document focuses on the first phase, which will be delivered through new economy-wide Sustainability Disclosure Requirements (SDR). SDR requirements will streamline existing requirements, such as the UK’s commitment to make reporting aligned with the Task Force on Climate-Related Financial Disclosures (TCFD) mandatory, with new requirements, including on reporting environmental impact. There are also proposals to develop a consumer-facing label so that consumers can make informed investment decisions that take sustainability into account. The SDR will include reporting under the UK Green Taxonomy, which will provide a robust list of economic activities that count as environmentally sustainable.

**Government responds to consultation on mandatory climate-related financial disclosures by publicly quoted companies, large private companies and LLPs.** Earlier this year, the Department for Business, Energy and Industrial Strategy (BEIS) consulted on proposals to introduce such disclosures. Overall, the proposals consulted on received widespread support, and the government has, therefore, [announced](#) legislation setting out mandatory disclosure requirements, coming into effect from April 2022. Draft regulations for companies have been published – [The Companies \(Strategic Report\) \(Climate-related Financial Disclosure\) Regulations 2021](#), and equivalent legislation for LLPs will follow once the company rules have been finalised. As a result of the consultation process, two policy changes have been made: the introduction of a qualitative scenario analysis requirement, and closer alignment to the language used in the TCFD recommendations. Under these new rules, the UK will become the first G20 country to make it mandatory for its largest businesses to disclose their climate-related risks and opportunities, in line with TCFD recommendations.



**UK ecodesign regulations align UK ecodesign and energy labelling legislation with the EU.** The [Ecodesign for Energy-Related Products and Energy Information \(Amendment\) Regulations 2021](#) came into force from 1 October 2021 (with some exceptions). They amend the Ecodesign for Energy-Related Products Regulations 2010 and the Energy Information Regulations 2011 in relation to Great Britain (equivalent changes for Northern Ireland will follow later), and various product-specific regulations. The changes reflect changes made at EU level to equivalent product regulations, as regards ecodesign and energy labelling.

**The House of Common’s Environmental Audit Committee published a report on the UK’s footprint on global biodiversity.** Despite various initiatives to improve biodiversity, the report concludes that the UK’s consumption patterns remain unsustainable and performance against sustainable procurement policies has been limited. The report sets out a series of recommendations spanning commerce, international development and environment policy and the UK’s negotiating position for the UN Convention on Biological Diversity COP15 (part 1 of which took place virtually this month). Key recommendations include setting a UK environmental footprint target, sustainability impact assessments on all future trade agreements, reinstating the Greening Government Commitments for mandatory reporting on sustainable procurement by the end of 2021, moving to deforestation-free supply chains by making it illegal for UK businesses and the finance sector to use commodities linked to deforestation, and for the government to support a review mechanism like that under the Paris Agreement, which encourages countries to ratchet their national targets over time to match global goals.

**UN Human Rights Council (UNHRC) recognised that having a safe, clean, healthy and sustainable environment is a human right.** UNHRC [resolution 48/13](#) acknowledges the damage inflicted by climate change and environmental destruction on millions of people across the world. It also underlines that the most vulnerable segments of the population are more acutely impacted. At the same time, resolution 48/14 established a Special Rapporteur dedicated specifically to the human rights impacts of climate change. The issue will now go to the UN General Assembly in New York, for further consideration. The new resolution is likely to be used in support of climate-related litigation, which are increasingly using human rights arguments as part of their cases.

**Environment Bill passes its third reading in the House of Lords, but the majority of amendments were rejected by the House of Commons.** The bill contained numerous amendments made by the Lords, including on air quality targets, sewage discharges, biodiversity, single-use products and various aspects of governance of the Office for Environmental Protection. Ahead of its return to the Commons, the government rejected the majority of the amendments, although did accept an amendment that extended the power to charge for single-use plastic products, to any single-use products. The rejection of an amendment placing duties on water companies to take “all reasonable steps” to stop untreated sewage being discharged into waterways was particularly controversial and the government faced challenges from its own MPs, although ultimately all of the government’s decisions were approved. The bill now enters what is called “ping-pong”, where it will travel between the two Houses until a position is agreed. Shortly after the rejection of the sewage discharge amendments, the government bowed to pressure and [announced](#) that “the Environment Bill will be further strengthened with an amendment that will see a duty enshrined in law to ensure water companies secure a progressive reduction in the adverse impacts of discharges from storm overflows.” The government will bring forward the amendment in the House of Commons, when the bill returns there for the next stage of passage.



**EA published [new sector-specific guidance on completing an “adapting to climate change risk assessment” for your environmental permit](#).** Each industry sector guide contains examples of possible impacts and mitigation measures. The main [guidance on how to complete an adapting to climate change risk assessment for your environmental permit](#) has also been updated to cover the different stages of completing the risk assessment process in more depth, as well as to link to these new sector-specific examples of risks and mitigation measures.

**The Department for Food and Rural Affairs (DEFRA) has published a [UK REACH: grandfathered registration notified substances list](#).** The list contains the names and CAS/EC numbers for substances taken from notifications made by GB registrants under EU REACH who are “grandfathering” their registrations into UK-REACH. The list covers data provided up to and including 1 July 2021. The list is not a verified list of all substances with registrations that were transferred into UK REACH from EU REACH, because substances will not be listed if no initial transitional data has been submitted, or if the initial transitional data was confidential. This list also does not include substances included in the downstream user importer notifications (DUIN), which were due to be submitted by 27 October 2021.

**Advertising Standards Authority (ASA) upholds a complaint about products claimed to be “good for the planet”.** An advert (on the side of a bus) for Alpro plant-based products such as almond and oat milk included a claim that the products were “good for the planet”. The complainant, who believed commercial almond farming caused environmental damage, challenged whether the claim “good for the planet” was misleading and could be substantiated. Alpro responded with justifications based mainly on plant-based products having a lower environmental impact than alternative dairy-based products. Alpro referred to several studies that they said showed that these plant-based milks had a lower environmental impact than cow’s milk, and provided life cycle analysis for some of the products. The ASA considered there was little context provided in the ad with which to interpret the claim “good for the planet” and, therefore, it could be interpreted in more than one way – for example, that there would be net positive environmental benefit from producing the three products featured in the ad or, alternatively, that the three products were less detrimental to the environment compared to dairy equivalents across their life cycles. The UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) states that the basis of environmental claims must be clear and that unqualified claims could mislead if they omit significant information. ASA concluded that the ad was misleading and breached the code, and told Alpro (UK) Ltd to ensure that the basis of environmental claims was clear. This is a good example of the enhanced focus among both consumers and regulators regarding green claims about products, and the need to make such claims clear and justifiable.

**DEFRA published the [Annual Progress Report April 2020 to March 2021 of its 25 Year Environment Plan](#).** This is the government’s third annual report since the 25 Year Environment Plan was published in 2018. The report includes an outcome indicator progress and summary view of progress by goal, as well as a detailed goal-by-goal report covering the scale of challenge, state of natural environment, action over the last year and long-term approach, including a selection of case studies highlighting implementation, delivery and partnership activity to achieve the 25 Year Environment Plan. There is also an executive summary of key progress points. The colour-coded outcome indicator progress shows a broad mixture of red (mostly undesirable), amber (mixed picture) and green (mostly desirable) ratings for the different goals.



**Government announces technical amendments to plastic packaging tax (PPT) as part of the Finance Bill 2021-22.** The amendments give HM Revenue & Customs (HMRC) powers to make regulations to modify the timing of an import, and the meaning of import and customs formalities, so that the timing of imports for the purposes of the PPT can be amended to conform with changes to other policies, such as customs and freeports. The amendments also make changes to ensure businesses below the *de minimis* threshold, which currently do not have a liability to register, do not have to pay the tax, provide certain reliefs for persons enjoying certain immunities and privileges, such as visiting forces and diplomats, and make amendments to the procedures as responsibilities for PPT corporate group registrations.

**EA updates “Check if your material is waste” guidance.** In September, the EA re-opened its [definition of waste service](#) and briefly published additional guidance, but then promptly removed a number of sections from the pages (“When a material is waste,” “When a material has not become waste” and “When a material meets the end of waste test”), “as these need to be updated.” The updated sections have now been published. The amendments and updates do not appear to significantly alter the guidance on end of waste and by-products, but these have been quite extensively reworded in places, and various parts of the guidance have been expanded.







## EU

**European Commission adopts its Work Programme for 2022.** [Annex I](#) sets out 42 new policy and legislative initiatives; Annex II sets out 26 REFIT initiatives to simplify existing legislation; Annex III sets out 76 priority pending proposals; Annex IV lists the intended withdrawal of six pending proposals; and Annex V mentions one envisaged repeal. One of the initiatives is a “Plastics Package”, containing three initiatives that the Commission has already announced and/or prepared. Besides the policy framework for bio-based, biodegradable and compostable plastics (please see below), the Commission plans to restrict intentionally added microplastics under REACH Regulation 1907/2006 (already under discussion since 2018), and take measures to reduce the release of (so-called unintentional) microplastics in the environment. However, MEP Sven Giegold from the German Green Party [expressed concern](#) that the Commission has not mentioned the vast majority of the initiatives it has foreseen for 2021 or 2022 in its [Chemical Strategy for Sustainability](#) in the Work Programme for 2022, which would imply delays. Following the adoption of the Work Programme, the Commission will initiate discussion with the European Parliament and the Council to establish a list of joint legislative priorities.

**European Commission publishes a roadmap on bioplastics.** The Commission referenced a policy framework on bio-based, biodegradable and compostable plastics in its 2018 [European Plastics Strategy](#) and in the 2020 [Circular Economy Action Plan \(CEAP 2.0\)](#). It recently carried out and requested studies on topics such as [biodegradability of plastics in the open environment](#) and [life cycle assessment \(LCA\) of alternative feedstock for plastics production](#). According to the [roadmap](#), the initiative aims to clarify the role of bio-based, biodegradable and compostable plastics in delivering on the Commission’s commitments on carbon neutrality and the circular economy. In order to tackle the widespread confusion between these materials and their properties (e.g. bio-based does not necessarily mean biodegradable and vice versa), as well as other sustainability challenges not yet addressed by EU legislation, the Commission intends to establish clear definitions and principles. The Commission plans to adopt this initiative by means of a (non-legislative) communication in Q2 2022.

**European Commission consults on the revision of EU rules on air quality.** The Commission has [launched](#) an online public consultation on the revision of the Ambient Air Quality Directive 2008/50 and Directive 2004/107 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air. As provided in the Commission’s [inception impact assessment](#) from December 2020, the initiative aims to improve overall EU legislation for clean air, taking into account the latest scientific evidence for the protection of human health and the environment and the fitness check of this legislation carried out in 2019. The review seeks to align the EU air quality standards more closely with the recommendations of the World Health Organization, and to improve legal certainty and the enforceability of the legislative framework (including penalties and access to remedies). Policy options will also explore the strengthening of air quality monitoring, modelling and plans. The public consultation is open until 16 December 2021. The Commission plans to adopt the legislative proposal in Q3 2022.



**EU adopts revised rules on access to justice in environmental matters.** After the adoption by the [European Parliament](#) and the [Council, Regulation 2021/1767](#), amending the Aarhus Regulation 1367/2006 on access to information, public participation in decision-making and access to justice in environmental matters, was published in the Official Journal and entered into force. The Commission proposed the revision of the regulation in 2020 (please see [frESH Law Horizons October 2020](#)). The amended regulation includes the changes that the co-legislators [provisionally agreed](#) on earlier this year (please see [Sustainability Outlook July 2021](#)). Legal standing is broadened beyond NGOs to other members of the public (over certain thresholds); EU institutions and bodies will be required to publish requests for internal review and decisions; and requests for internal review are extended to administrative acts that require implementing measures at the national level or at the EU level, but not to state aid decisions.

**European Commission starts the revision of rules on cosmetics.** The Commission issued an [inception impact assessment](#) (roadmap) for the revision of the Cosmetic Product Regulation 1223/2009. The policy options being considered include the extension of the generic approach to risk management to ensure that cosmetics do not contain chemicals that cause cancers or gene mutations, affect the reproductive or the endocrine system, or are persistent and bio-accumulative, as well as a review of the definition of nanomaterial and changing the way in which specific product label information is provided. It also contemplates the reattribution of tasks regarding cosmetic ingredients from the Scientific Committee on Consumer Safety (SCCS) to the European Chemicals Agency (ECHA). The Commission plans a public consultation in Q4 2021 and to adopt a legislative proposal in Q4 2022.

**European Commission starts the revision of rules on detergents.** The Commission [issued](#) an inception impact assessment on the revision of the Detergents Regulation 648/2004. The revision builds on recent EU evaluations of this regulation and the rules on labels for chemical products, as well as the comprehensive “fitness check” of chemicals legislation other than REACH. It aims to reduce administrative burdens, ensure more consistency with other relevant legislation, and adapt the legislation to technical progress. A key issue was that the concepts and definitions in the Detergents Regulation are not always coherent with the meaning they have gained over time in practice. To address this, policy options include clarifications to the scope and definitions of the regulation and potential additional requirements for detergents (e.g. the expansion of phosphorus limitations or requirements for certain harmful substances that are currently not covered). Another, more radical, option is to repeal the Detergents Regulation and incorporate its provisions into other pieces of EU chemicals legislation. The Commission plans a public consultation for Q3 2021 and to adopt a legislative proposal in Q4 2022.

**European countries call for consumer protection and circularity of textiles.** Following a Roundtable on Textiles that took place in June, Austria, Belgium, Denmark, Germany, Finland, France, Luxembourg, the Netherlands, Norway, Spain and Sweden wrote a [joint letter to the Commission](#), requesting priority be given to regulatory actions to phase out harmful substances in textiles, with PFAS, polybrominated flame retardants and other persistent organic pollutants (POPs) requiring special attention. Furthermore, they highlighted the importance of minimising emissions of microplastics and reducing the use of unrecyclable textiles. The letter calls for a waste hierarchy to serve as a basis in developing the EU Strategy for Sustainable Textiles and asked for measures to prolong the lifespan of textiles, as well as clear EU targets on collection, reuse and textile-to-textile recycling. It also calls for a mandatory label to inform consumers, in a direct, simple and comprehensive manner, about environmental and social impacts.



**EU court dismisses an appeal against phthalates authorisation.** The European Court of Justice (ECJ) [dismissed](#) an appeal by the NGO ClientEarth against the 2019 General Court's [decision](#) (case T-108/17) not to annul an authorisation of certain uses of phthalate bis(2-ethylhexyl) DEHP in recycled PVC (case C-458/19). ClientEarth had asked for an internal review of the authorisation [granted](#) in 2016 by the Commission under Regulation 1907/2006 (REACH). One of the grounds of appeal raised by ClientEarth was that the General Court had incorrectly ruled on the properties to be considered during the risk assessment of a substance. However, the ECJ ruled that the General Court correctly held that any details on the intrinsic properties of a substance not included in Annex XIV of REACH (the authorisation list) should not be taken into account during the risk assessment. This was because the mere inclusion of a substance in the Candidate List due to certain intrinsic properties does not necessarily or automatically lead to the inclusion of those properties in Annex XIV. The ECJ also found that the General Court had been correct in deeming that the Commission had lawfully granted the authorisation for uses of DEHP as contained in a mixture.

**EU court decides against suspending rules on the marking of single-use plastic beverage cups.** The General Court [dismissed](#) an application for an interim suspension of Implementing Regulation 2020/2151 and Article 7 of the [Single-use Plastics Directive](#) 2019/904, which together provide for the marking of certain single-use plastic products, such as beverage cups and wet wipes. According to the General Court, the applicant failed to establish urgency or demonstrate serious and irreparable harm. It rejected arguments relating to the protection of the environment and of consumers, as an applicant may not, in order to establish urgency, invoke infringement of the rights of third parties or of the general interest. The main proceedings started by the applicant and six other companies to annul the above-mentioned regulation are still pending (case [T-148/21](#); please see [frESH Law Horizons April 2021](#)).

**European Commission published a draft update to Regulation (EU) 2019/1021 on persistent organic pollutants (POPs Regulation).** In addition to the draft regulation, the [consultation](#) includes a [Commission staff working document](#), [executive summary of the impact assessment report](#). The aim is to update, for certain substances and groups of substances, the concentration limits set in Annexes IV and V of the POPs Regulation, which determine how waste that contains POPs is treated, particularly whether it can be recycled or should be destroyed or irreversibly transformed. This update brings Annexes IV and V of the POPs Regulation in line with the Stockholm Convention and with Annex I of the POPs Regulation. The intention is to amend the limit values for a limited number of POPs in waste, in a way that achieves the best possible balance between three general objectives: the transition to high-quality, toxic-free material cycles; increasing recycling and circularity; and reducing greenhouse gas emissions. There are a number of policy options set out in the consultations, with differing levels of ambition.

**European Commission published a roadmap on Food waste – reduction targets.** This initiative, which is part of the EU's farm to fork strategy, aims to propose a directive setting out legally binding targets to reduce food waste. These targets will help limit the food supply chain's impact on the environment and climate, and ensure more food is available for human consumption, thereby creating a more sustainable food system. The roadmap is open for feedback until 29 October 2021 and the proposed directive is likely to be adopted in the Q2 2023.



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