

REASONED OPINION of the Bundesrat EU Committee of 18 September 2014 pursuant to Article 23g(1) of the Federal Constitutional Law (B-VG) in conjunction with Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality

COM (2014) 397 final

Proposal for a Directive of the European Parliament and of the Council amending Directives 2008/98/EC on waste, 94/62/EC on packaging and packaging waste, 1999/31/EC on the landfill of waste, 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment

A. Reasoned Opinion

The Proposal under consideration is incompatible with the principle of subsidiarity.

B. Justification

Overall, we welcome the resource efficiency and the creation of a more circular economy in the European Union which the Commission aims to achieve with this package of measures. It is also desirable for all EU Member States to be brought to the same level.

Austria has reached a high standard of waste management and is, in the process, constantly assessing this and in places improving it. How waste should be dealt with is clearly spelt out in the EU's five-step waste hierarchy. Some Member States, Austria included, implement these obligations efficiently, cost-effectively and effectively. Two-thirds of Member States are falling short of the current municipal waste targets, and some are also failing to meet packaging waste targets. On the other hand, many countries exceed the present EU-wide targets. Austria is, in any event, achieving the recycling rates currently laid down.

In the latest amending Proposal, recycling targets are raised and existing directives revised, the object being, in the Commission's words, to change from a linear to a circular economy. According to the proposal, a significant amount of secondary raw materials are still being lost to the EU economy. Only approximately 36% of these are recycled; the remainder is landfilled or incinerated.

The changes being proposed by the Commission include rules to increase recycling rates for household waste (70% by 2030), packaging waste (80% by 2030) bio-waste and various metals. The new targets will require a significant level of financial and human resources. Whether these are appropriate is highly dependent on the extent to which targets are already being met, and the means by which this level of achievement have been reached. The highly optimistic economic predictions in the recitals, namely that higher targets will create more jobs and add value to the economy, are open to question, especially in view of the fact that, in Austria, while the present municipal waste recycling rate may have generated employment, waste management costs have more than trebled since 1995. It seems unlikely that a further increase in the recycling rates will suddenly reduce the economic cost.

There is no transnational aspect to be regulated at EU level. The fact that many EU countries are failing to reach targets is clearly a regional problem that should be solved by the Member States in line with the principle of subsidiarity. The recitals do not properly explain why the current targets are not adequate, or why not all Member States are achieving them. This is a key point when it comes to raising existing targets.

Rather than set new or higher targets, it is more urgent to monitor compliance with existing targets. While the existing targets are evidently not being reached, there is no need to raise the targets. New targets should not be set until the existing ones are reached. Although the same standards apply across the European Union, there are some major differences between countries with regard to waste management (recycling rates, landfill quotas, etc.). The disparities in waste management obstruct fair competition between Member States. Increasing the targets means there is a risk that the discrepancy between the Member States meeting the targets and those that do not will grow even larger. The priority must therefore be to ensure that the current rules are fully implemented and complied with.

We are also critical of the fact that four related reference points are being changed at once, namely the definitions in the proposed directives, the recycling targets, the landfilling bans/percentages, and the methods of calculation.

This means that the effects cannot be gauged, as both the frame of reference and the calculation method have been changed. This is barely discussed in the impact assessment and the conclusions are unclear. There is no estimate of how the new definitions and the new calculation will affect the current recycling targets and the current achievement in the Member States.

The proposals should be adjusted so that

- the producer responsibility is limited by achievement of the legal packaging and recovery targets - the recycling targets should be set realistically, and the basis for calculating these targets should be clearly defined and consistent
- the targets should be implementable in all Member States within the timeframe set
- realistic targets should be set for the reduction of landfill volumes and with reference to a meaningful basis
- the focus should be on high quality collection

Moreover, we have reservations concerning the scope of delegated powers and implementing acts to be granted to the Commission.

The specific measures proposed for household waste, packaging waste and waste separation conflict with the principles of subsidiarity and proportionality.