



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Bundesrat for its Reasoned Opinion on the Commission's proposal for a Directive amending Directive 2008/98/EC on waste {COM(2015) 595 final}.

The Commission welcomes the overall support of the Bundesrat for the Circular Economy package which establishes a concrete programme of measures to help European businesses and consumers make the transition to a stronger, more competitive and circular economy where resources are used in a more sustainable way.

The Commission would like to stress that the opinion of the Bundesrat on the previous waste legislative proposal – presented in 2014 and withdrawn in 2015 – provided an important contribution and was duly taken into account when elaborating the new proposals. These proposals include ambitious yet realistic recycling and landfill reduction targets calculated on a clearly defined and consistent basis.

The Circular Economy package is accompanied with a range of support measures made available to Member States involving Horizon 2020, the European Investment Bank, the European Fund for Strategic Investments, and the Structural Funds. Austria, having one of the highest recycling rates in the Union, may provide good practice examples to other countries in their efforts to ensure full implementation of existing EU waste legislation and achieve the proposed new recycling and landfill reduction targets.

The Commission notes the Bundesrat's concerns that the proposal's conferral of powers upon the Commission to adopt implementing and delegated acts is excessive and that the proposal is therefore not compatible with the principle of subsidiarity.

The Commission's approach to the delegation of power is based on the principle that acts adopted through a legislative procedure best ensure the democratic legitimacy foreseen by the Treaty. However, properly used, delegated and implementing powers are an integral tool of better law-making, contributing to simple and up-to-date legislation and its efficient and swift implementation. Therefore, the Commission will further reinforce its Treaty-based

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practice of proposing empowerments for delegated acts only where they concern non-essential elements and are justified, i.e. when it is not possible or less efficient or effective to include the relevant elements directly in the basic legislative act.

As regards the present proposal, the Commission has proposed that it should be empowered to adopt delegated acts where there is a need to establish technical rules to implement the provisions of the Directive so that the framework legislation can remain relatively simple and stable. This applies, for example, to the adoption of a common methodology for the calculation of the weight of metals that have been recycled in conjunction with incineration, measuring food waste, or the rules on data collection, verification and reporting by preparation for re-use operators.

In response to the more technical questions in the Reasoned Opinion the Commission would like to refer the Bundesrat to the attached annex.

The points made above and in the annex are based on the proposals presented by the Commission which are currently in the legislative process involving both the European Parliament and the Council in which your government is represented.

The Commission hopes that these clarifications address the issues raised by the Bundesrat and is looking forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Karmenu Vella
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Bundesrat in its Reasoned Opinion and is pleased to offer the following clarifications.

On the definition of municipal waste:

Based on wide consultation, the Commission has proposed a definition of municipal waste that can help ensure common interpretation, facilitate compliance and enable more effective monitoring of the progress on achieving the recycling and landfill reduction targets. The proposed definition in Directive 2008/98/EC is therefore based on the definition used for statistical purposes by the European Statistical Office and the Organisation for Economic Co-operation and Development (OECD), on the basis of which Member States have been reporting data for several years. The new definition of municipal waste is also linked to both the introduction of a single, uniform calculation method for reporting progress on the new targets, substituting the four calculation methods currently allowed, and to the proposed simplification of reporting obligations.

On reporting obligations:

Concerning reporting, it is proposed to repeal the provisions obliging Member States to prepare implementation reports every three years, as these reports have not proved to be an effective tool for verifying compliance and ensuring a proper implementation of EU rules, thereby creating unnecessary administrative burden. Instead, compliance monitoring should be based on the statistical data which Member States already report to the Commission every year.

On the prevention of waste generation:

As the Bundesrat rightly points out, provisions on waste prevention are essential to improve resource efficiency and reduce the environmental impacts of waste. The proposed provisions provide a great deal of flexibility to Member States to take appropriate measures to prevent waste generation as well as to monitor and assess progress in the implementation of such measures. In addition, and in order to ensure uniform measuring of the overall progress on waste prevention, it is envisaged that common indicators should be established, in particular on food waste.

On the submission of explanatory documents and transposition:

As complete and correct transposition of the new legislation is essential to guarantee that its objectives are achieved, the Commission considers that it is justified for Member States to provide information on the relationship between the new provisions in the Directive and the corresponding parts of national transposition instruments. Such explanatory documents can actually contribute to reducing the administrative burden of compliance monitoring as otherwise considerable resources and numerous contacts with national authorities would be required.