

10.10.14**Decision****of the Bundesrat**

**Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions
Towards a circular economy: a zero waste programme for Europe
COM(2014) 398 final; Council document 11592/14**

At its 926th session on 10 October 2014, the Bundesrat adopted the following position pursuant to Sections 3 and 5 EUZBLG (the Act on Cooperation between the Federation and the Länder in European Union Affairs):

1. The Bundesrat welcomes the Commission's acknowledgement of the link between the circular economy and resource efficiency and that it has raised these matters for discussion.

In particular, the Bundesrat welcomes the Commission's efforts to more closely align the circular economy with a recycling society, sending out clear political signals and thereby notably securing investment and innovation. This applies especially to the objective of significantly limiting the amount of recyclable waste entered into landfill and effectively stopping municipal waste from being sent to landfill, notably through a combination of high recovery targets and landfill restrictions.

2. The Bundesrat notes that the projects set up in the light of the Commission's Communication and its ideas on how to implement them still need to be verified and discussed in depth with the Member States. The Communication, as it would then be implemented in EU law, risks taking the second step before the first, insofar as consistent EU-wide transposition of the legislation currently in force still offers

broad scope for action, with considerable challenges.

3. The Bundesrat recognises that waste still has significant resource potential, in particular where existing provisions are not being fulfilled. However, it considers the Commission's Communication to be too optimistic in stating that the EU's energy and raw material problems can be solved with the help of waste management, whilst creating an additional two million new jobs. The Bundesrat instead takes the view that future challenges should be addressed in a balanced and pragmatic way.
4. The Bundesrat would therefore warn against setting objectives which cannot realistically be met ('zero waste', 'virtually eliminate landfill'), or which risk mismanagement. To date, only 6 Member States have managed to reduce their landfill waste to 5 % in the last 20 years. By contrast, in 18 Member States, more than 50 % of waste is sent to landfill, whilst in others, over 90 % of waste is sent to landfill and only 5 % recycled. Careful consideration must be given to whether this rate can really be reversed over the next 16 years across the EU.
5. The Bundesrat considers it absolutely essential for all Member States to meet the existing targets before new, more ambitious targets are set.
6. The Bundesrat is also mindful that the timeframes for meeting the planned objectives, through harmonised application across the EU, may be too ambitious.
7. The Bundesrat also considers it vital that targets and rates are set solely on the basis of sound impact assessments. They must be technically feasible, beneficial for the environment, economically viable and verifiable with a reasonable amount of effort. With more specific quantitative rates (e.g. materials), there is a risk of mismanagement, including from an ecological perspective ('quantity over quality'), which may also stifle innovation. Recycling and reducing the amount of waste sent to landfill must not be an end in itself. In particular, it must be ensured that not just any materials are recovered, but those that can actually ultimately replace primary raw materials. The waste hierarchy requires the most beneficial option for the environment to be chosen, based on a holistic assessment of the entire value chain and all lifecycle stages. Technical feasibility and economic viability must be considered on an equal footing.

The Bundesrat is therefore critical of quantitative recycling rates without a qualitative review of recycling. Flat rates which have been poorly thought through mask a risk of 'downcycling'.

The Bundesrat doubts that all the targets under the zero waste programme would meet these criteria if a sound impact assessment were carried out.

8. As stated above, the Bundesrat welcomes the priority of effectively stopping municipal waste from being sent to landfill, in line with the positive experience in Member States such as Germany, heading 'towards a circular economy' through a combination of high recovery targets and landfill restrictions.
9. Nevertheless, the Bundesrat does not believe this means that landfill can be eliminated altogether. On the contrary, experience from Member States which already largely ban landfill has shown that there are no viable alternatives to the safe storage of contaminated mineral waste (for example from construction, remediation of contaminated sites and certain industries) other than to remove it from the environment and send it to landfill.
10. In order to avoid mismanagement in Member States as a result of the misleading references to fully eliminating landfill, the Bundesrat calls on the Federal Government to press for clear wording which takes into account the aforementioned conditions and prevents the widespread dispersion of pollutants in the environment, over the course of further discussions, for example concerning the proposal for a Directive of 9 July 2014, COM(2014) 397 final, (Bundesrat document 308/14).
11. The Bundesrat takes the view that a landfill ban is unrealistic and does not take into account the need to remove pollutants from reusable material cycles. Furthermore, disposal options must remain available for waste which cannot be reused.
12. The Bundesrat is convinced that an EU resource efficiency target can be useful for raising the profile of resource efficiency and consequently for strengthening efforts to increase it at European level. As part of the review of the Europe 2020 strategy, it should again be discussed whether the proposed resource efficiency indicator (tonnes of material used per generated euro of

gross domestic product) is in fact appropriate for this purpose.

13. Although the Bundesrat recognises that the proposed calculation rules for recycling rates can produce a more accurate picture of the real situation, it is extremely critical of the disproportionate administrative burden that would ensue for Member State statistics offices. Consequently, provisions on recycling rates in the light of the new method should be verified.
14. The Bundesrat is heavily critical of the planned change from rate calculations to output volumes. This will result in stricter provisions on recycling rates and make data collection much more onerous. A detailed understanding of the predominantly multi-stage treatment chains at disposal facilities and as regards the final destination of the waste would be required. Monitoring waste flows or the resulting waste fractions from individual facilities cannot be achieved through reasonable effort. Companies do not have the comprehensive, detailed information needed to do so. Moreover, the waste codes for the different materials change during the process and waste from different sources enters separation plants and other mechanical treatment facilities, however the output is not separately classified according to input criteria. It is therefore not possible in practice to verify the envisaged 'output model'.
15. The Bundesrat regrets the absence of an essential provision to the effect that waste recovery and recycling can be accompanied by the enrichment or diffuse redistribution of harmful substances and that quality requirements should at the very least be viewed with the same importance as quantitative recycling rates.
16. The Bundesrat is sending this opinion directly to the Commission.