

REASONED OPINION

**of the European Affairs Committee of the Federal Council
of 18 September 2014
pursuant to Article 23g (1) of the Austrian Constitutional Law 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, 94/6/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/EC on waste electrical and electronic equipment

A. Reasoned Opinion

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

B. Grounds for Reasoned Opinion

In principle, the Federal Council welcomes the objectives of higher resource efficiency and improvements of the circular economy in the European Union pursued by the European Commission through the package of measures proposed. Ensuring a level playing field for all EU Member States is a goal to be advocated.

Austria has achieved a high standard of waste management, which is continuously being evaluated and improved, if necessary. The five-step waste hierarchy of the EU provides a clear framework for waste management. Several Member States, including Austria, are implementing this regime efficiently and cost-effectively. Two thirds of the Member States fail to reach the targets specified for household waste, and some Member States fall short of the packaging waste targets. At the same time, numerous Member States over-fulfil the current EU targets. Austria meets the specified recycling rates.

By amending the directives in question and setting higher recycling targets, the European Commission aims at promoting the transition from a linear economy to a circular economy. According to the proposal submitted, the EU's economy currently loses enormous quantities of secondary raw materials, with only 36% recycled and the rest being either landfilled or incinerated.

The draft submitted by the Commission proposes to increase the recycling rates for household waste (to 70% by 2030), packaging waste (to 80% by 2030), organic waste and various metals. Achieving the new targets will require substantial financial and human resources. The justification of such expenditure depends on the extent to which current targets are met and the means employed to reach these targets. The highly optimistic economic assumptions, according to which higher targets would lead to job creation and generate added value for the economy, must be put into question, especially in light of developments in Austria, where jobs have been created through the increase of the recycling rate for household waste to its current level, but the costs of waste management have

more than tripled since 1995. The assumption that a further increase of recycling rates would result in a reduction of costs does not seem plausible.

There is no transnational aspect in favour of an EU regime. The failure of numerous Member States to meet the current targets is due to regional problems, which ought to be solved by the Member States concerned in accordance with the principle of subsidiarity. The recitals do not convincingly outline why the current targets are insufficient and to what extent they are not met by all Member States. This is, however, a crucial issue in respect of any increase of existing targets.

Instead of setting new and/or higher targets, it would be more appropriate to first monitor compliance with the existing targets. As long as the current targets are not reliably met by all Member States, raising the targets is not necessary. New targets should not be set before the current ones are met. Despite the existence of harmonized standards, there are considerable differences in terms of waste management (recycling rates, landfill rates, etc.) within the European Union. Differences in waste management constitute an obstacle to fair competition between the Member States. Higher targets would result in an even wider gap between compliant and non-compliant Member States of the European Union. Hence, the primary goal should be the complete implementation of and compliance with the current rules.

Another critical point to be noted is the simultaneous amendment of four related parameters: definitions in the proposed directives, recycling targets, landfill bans/landfill rates, and calculation methods.

Changes in both the reference base and the calculation method prevent a clear understanding of the implications of the amendment. This point is hardly mentioned, let alone clarified, in the impact assessment. The impact of the new definitions and the new calculation method on the current recycling targets and current compliance by the Member States has not been assessed.

In the opinion of the Federal Council, the draft should therefore be modified as follows:

- producer responsibility should be limited to the achievement of the packaging and packaging waste re-use targets laid down by law;
- the recycling targets should be set at a realistic level, the basis for calculation of these targets should be clearly defined and harmonized;
- achievement of the targets must be feasible for all Member States within the required time frame;
- a realistic target is to be set for the reduction of landfilling based on a meaningful reference volume;
- special emphasis is to be placed on a high-quality collection system.

Moreover, the Federal Council expresses reservations with regard to the scope of delegated powers and implementing acts foreseen for the Commission.

The specific measures proposed for household waste, packaging waste and waste sorting run counter to the principles of subsidiarity and proportionality.