



**REPORT ON THE CONSULTATION OF
THE SUBSIDIARITY EXPERT GROUP AND
THE SUBSIDIARITY MONITORING NETWORK:
REVIEW OF EU WASTE LEGISLATION**



<http://subsidiarity.cor.europa.eu>

Disclaimer:

This report does not seek to reproduce all the contributions to the consultation, but rather to synthesise the main points. The report is not binding on the Committee of the Regions and does not prejudice the final content of its relevant opinions.

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1. Main findings of the consultation

The contributions to the consultation show that most respondents oppose the reinforcement of several existing EU waste targets, but favour the introduction of new requirements concerning waste prevention, industrial and commercial waste, bio-waste management and landfill.

- The majority of respondents are opposed to reinforced targets in the context of the Waste Framework Directive¹ as well as the Packaging and Packaging Waste Directive². They refer mainly to the different levels of transposition of the relevant provisions in the various EU Member States and argue that there should first be compliance with the existing targets throughout the EU before considering such reinforcement.
- However, the majority of respondents see a need for EU waste prevention objectives, several believing that this is the most important issue in the framework of waste management and related legislation.
- New recycling targets concerning industrial and commercial waste are also supported by a majority of respondents replying to this question.
- Most respondents providing an answer to the question are in favour of EU minimum requirements for bio-waste management as well as of quality criteria for compost and digestate.
- Finally, the majority of respondents replying to the relevant question opt for landfill bans or reinforced/new landfill diversion targets.

Only **one respondent rejects EU action in relation to all issues raised by the consultation**, on the grounds that such action is unnecessary and that, even if there were a need for reinforced/new targets in the future, national legislation would be sufficient.

¹ Concerning household and similar waste as well as non-hazardous construction and demolition waste.

² Recovery and recycling targets concerning packaging waste.

2. Introduction

The work programme of the European Commission for 2013³ includes a review of EU waste policy and legislation. The results of this process will be presented in 2014 and will include an examination of key targets in EU waste legislation, in line with the review clauses in the Waste Framework Directive⁴, the Landfill Directive⁵ and the Packaging and Packaging Waste Directive⁶. Furthermore, in its "Roadmap to a Resource-Efficient Europe"⁷ the Commission committed itself to examining the *"existing prevention, re-use, recycling, recovery and landfill diversion targets to move towards an economy based on re-use and recycling, with residual waste close to zero (in 2014)."*⁸

As the review of EU waste legislation is on the Committee of the Regions' (CoR) Subsidiarity Work Programme for 2013, the **Subsidiarity Expert Group**⁹ has been consulted in order to provide a subsidiarity analysis concerning the potential reinforcement of current waste targets and the potential introduction of new ones¹⁰. The consultation was also open to members of the **Subsidiarity Monitoring Network (SMN)**. The consultation was launched on 12 March and ran until 3rd May 2013.

This focused consultation provides technical input into the **CoR outlook opinion on the review of EU waste key targets** that the European Commission has asked the CoR to prepare and which will be submitted for adoption to the Plenary in July 2013. All contributions to this consultation have thus been forwarded to the rapporteur, Michel Lebrun (BE/EPP) and have also been sent to Linda Gillham (UK/EA), rapporteur for the CoR opinion "Green Paper for Plastic Waste".

The present report on the consultation will be shared with the rapporteurs as well as the **European Commission** in the framework of its pre-legislative work concerning the review of EU waste legislation. In the first phase of the review process, the European Commission carried out a "scoping exercise" including a stakeholder consultation. A second phase (from June to October 2013) will focus on a more substantial analysis and an assessment of the impact of proposed solutions. Legislative proposals are scheduled for mid-2014.

³ COM(2012) 629 final, Vol. 2/2

⁴ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, Art. 11 (4)

⁵ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, Art. 5 (2) c

⁶ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, Art. 6 (5)

⁷ COM (2011) 571

⁸ The CoR issued an opinion on this dossier in October 2011: "A resource-efficient Europe – flagship initiative under the Europe 2020 Strategy", CdR 140/2011 fin

⁹ The CoR Subsidiarity Expert Group includes 15 members drawn up from institutions that are members of the Subsidiarity Monitoring Network.

See <http://portal.cor.europa.eu/subsidiarity/whatis/Pages/Subsidiarity-Expert-Group.aspx>

¹⁰ See **Appendix I** for the **questionnaire** for this consultation.

In total, the consultation received **16 contributions**¹¹.

Eight replies were submitted by members of the Subsidiarity Expert Group¹². Six further contributions were received from SMN partners together with two from other regional stakeholders.

In terms of administrative level, 13 replies were submitted by/on behalf of regional authorities (regional governments/parliaments, subsidiarity experts nominated by REGLEG and by the CoR interregional group "Regions with legislative power", and one regional agency for waste management) with further two from associations of local authorities and one from a local authority.

In terms of geographical source, three replies were received from Austria, three each from Italy and Spain, two from the United Kingdom and one each from Belgium, Germany¹³, Lithuania and Sweden.

¹¹ See **the list of respondents in Appendix II**; the **contributions** themselves can be found in **Appendix III**.

¹² Four contributions to the consultation's questionnaire, one contribution summarising the expert's point of view on subsidiarity issues included in the questionnaire, one contribution commenting preliminarily on some aspects and one contribution containing only factual information. As the two latter do not directly respond to the questionnaire they have been taken only partially into account for the drafting of this report. However, they have been forwarded to the rapporteurs and can be found as contributions No 1 and 4 in Appendix III.

¹³ Contribution of the German expert nominated by the CoR interregional group "Regions with Legislative Power".

3. Synthesis of contributions

3.1 Implementation of EU waste legislation by local and regional authorities (question 1)¹⁴

All the local and regional authorities represented by respondents replying to this question are involved in the implementation of EU waste legislation.

11 respondents (from Austria, Belgium, Germany, Italy, Spain, Sweden and the United Kingdom) indicate that their local/regional authority is involved in the transposition of EU waste legislation into national law, three respondents (from Italy, Lithuania and Spain) answer the question in the negative, and two respondents do not provide an answer.

14 respondents (from Austria, Belgium, Germany, Italy, Lithuania, Sweden and the United Kingdom) report that their local/regional authority is involved in the application of transposed EU waste legislation¹⁵, and two do not answer this question.

Finally, 10 respondents (from Austria, Belgium, Germany, Italy, Spain, and Sweden) reply that their relevant authority is involved in the enforcement of transposed EU waste legislation¹⁶, the answer of three respondents (from Austria, Italy and Lithuania) is in the negative, and three respondents do not reply to the question.

3.2 Subsidiarity

3.2.1 Reinforced targets in the context of the Waste Framework Directive - art. 11 (4) (question 2)

According to the prevailing opinion of respondents, there is no need to reinforce these targets. Respondents stress, inter alia, that there should first be compliance with the existing provisions throughout the EU before assessing the need for new legislation. However, few respondents consider such reinforcement to be necessary and one respondent suggests intermediate targets and transitional periods.

Ten respondents (from Austria, Germany, Italy, Lithuania and Spain as well as the expert nominated by REGLEG)¹⁷ do not see any need to reinforce these EU targets, mainly for reasons relating to the different levels of transposition of EU waste legislation in the various EU Member States:

¹⁴ See **Appendix I for the questionnaire**.

¹⁵ E.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures.

¹⁶ E.g. surveillance, inspections.

¹⁷ Out of 15 respondents replying to this question.

- The EU should only consider the reinforcement of targets once there is compliance with the existing provisions throughout the EU. As the European Commission has to regularly evaluate the stage of transposition of EU waste legislation and thus compliance with the current targets in each Member State the results of such evaluations should be assessed first.
- Furthermore, two respondents from Austria and Germany believe that there is no need to reinforce the current EU targets because of their high national/regional recycling rates.
- In contrast, a respondent from Spain¹⁸ and the respondent from Lithuania stress that there should be no strengthening, as the current targets are not being met by their respective region/local authorities in particular and by the "majority"¹⁹ of Member States in general. *"The new EU Member States have a lot of problems in implementing existing targets and reinforcement of these targets would be in many countries unrealisable."* (respondent from Lithuania).

A respondent from Austria highlights that it would be useful to first clarify what the current EU waste legislation means, with for example, precise definition of the criteria on which percentage rates calculations are based, before proposing new targets.

In addition, a respondent from Italy believes that the targets should only be reinforced if the actual waste recovery options are increased and if there are long-term markets for products derived from waste recycling.

Four respondents (from Belgium, Italy, Spain and Sweden) however believe that there is a need for reinforced targets in the context of the Waste Framework Directive.

They highlight the following key aspects:

- More ambitious recycling targets are essential in order to move towards a resource efficient Europe.
- A reinforced overall target concerning household and similar waste would ensure more effective recovery of materials and reduce the use made of disposal systems, thereby retaining the available disposal plants for a longer period.
- Efficient management of waste yields materials making it possible to save on new materials and providing alternative forms of energy which can reduce Member States' import bills and dependence on external sources.

Finally, a respondent from the United Kingdom²⁰ suggests a differentiated approach in this context by considering that, *"given the large diversity of situations across the EU and the serious problems of*

¹⁸ Basque Government

¹⁹ Idem

²⁰ Convention of Scottish Local Authorities (COSLA)

implementation of the existing rules in many Member States", the European Commission should "focus its efforts in those clearly non and underperforming countries." With those Member States showing "a clear direction of travel towards the overall EU target" the Commission should negotiate "intermediate targets, roadmaps and transitional periods."

3.2.2 Reinforced targets in the context of the Packaging and Packaging Waste Directive - art. 6 (5) (question 3)

Most respondents replying to this question are against reinforced targets in this context, several stressing that there should first be compliance with the existing targets before considering new EU legislation in this framework. However, some respondents see a need for such reinforcement. One respondent suggests intermediate targets and transitional periods in this context too. Furthermore, some respondents, be they for or against reinforcement, highlight the responsibility of packaging producers.

Eight respondents (from Austria, Germany, Spain and Italy as well as the expert nominated by REGLEG)²¹ are opposed to reinforced targets in this framework, mainly for the following reasons:

- Before considering reinforcing targets there should be compliance with the existing ones throughout the EU. Results of evaluations in this regard should thus be assessed first in order to find out if there is a need for reinforcement.
- Furthermore, the German respondent considers that there is no need to reinforce the EU target for packaging waste as national measures are sufficient to achieve recovery of the vast majority of packaging.
- A respondent from Italy however believes that there should be no reinforcement because the region concerned²² already has problems achieving the current targets.
- Reinforced targets could result in more "down-cycling".

By contrast, respondents from Belgium and Spain see a need for reinforced targets, mainly highlighting the added value of more ambitious targets and the particular potential for plastic packaging waste in this context.

The respondent from Spain believes that consideration should be given to consistency between the objectives of the Waste Framework Directive and those of the Packaging Waste Directive as well as to criteria for harmonised statistical information on waste in order to allow for comparisons between Member States.

The respondent from Sweden sees a potential for reinforced targets, but stresses, like the respondents who are clearly against the strengthening, that there should first be compliance with the existing targets.

²¹ Out of 14 respondents replying to this question.

²² Sicily

The suggestion of the respondent from the United Kingdom concerning intermediate targets and transitional periods (see point 2.2.1) also applies in this context.

Some respondents stress the necessity of increasing the responsibility of packaging producers in this framework. Three of them (from Lithuania and Sweden as well as the expert nominated by REGLEG) consider new EU legislation as an option to achieve progress in this field.

Finally, two respondents (from Austria and Spain) believe that concerning packaging, priority should be given to waste prevention (see also the following point).

3.2.3 Waste prevention – art. 9 Waste Framework Directive (question 4)

The majority of respondents assess EU waste prevention objectives as necessary, with several also stressing the need for appropriate indicators at EU level allowing for quantitative evaluation of national waste prevention measures. However, a few respondents are not in favour of such EU objectives considering them to be unnecessary.

Eleven respondents (from Austria, Belgium, Italy, Spain and Sweden as well as the respondent nominated by REGLEG)²³ consider that the EU should set waste prevention objectives, some of them believing that waste prevention is the most important aspect from an environmental perspective.

As added value resulting from such EU action, they mainly highlight the following aspects:

- Specific quantitative and qualitative objectives would make it possible to promote specific policies for achieving these objectives and defining the responsibilities of all relevant players (industry, citizens, administration...).
- Binding objectives at EU level, backed up with penalties (for example a mandatory re-use ratio for drink packaging) would be useful way to give waste prevention the push it needs.
- Such objectives would allow for altering current consumption models and drawing up policies on the ecological design of products.

Some respondents (from Austria and Spain) stress the following requirements for such objectives:

- In order to be effective, individual prevention targets should be set for each waste stream (e. g. for packaging waste and waste electrical and electronic equipment - WEEE).
- The success of waste prevention measures requires the active cooperation of industry and commerce as well as the involvement of consumers.

Several respondents (from Austria, Belgium, Italy and Spain) believe that appropriate indicators set at EU

²³ Out of 14 respondents replying to this question.

level are essential as they would allow for uniform quantitative evaluation of waste prevention measures within Member States and thus for monitoring to ascertain whether the EU objective is met.

However, three respondents (from Germany, Italy and Lithuania) consider that EU waste prevention objectives/indicators are not necessary.

A respondent from the United Kingdom does not directly answer the question but highlights that the relevant authority²⁴ has the overarching ambition to become "*a zero waste nation by 2050*" which implies the establishing of waste prevention targets. The respondent leaves it open whether this means establishing these as EU targets or as national targets only.

3.2.4 New EU recycling targets – article 11 (4) Waste Framework Directive (question 5)

The majority of respondents replying to this question are in favour of such new targets concerning industrial and commercial waste. Some of them also see a need to address other waste streams. By contrast, some respondents consider new recycling targets to be unnecessary.

In the view of ten respondents (from Austria, Belgium, Italy, Lithuania, Spain, Sweden as well as the expert nominated by REGLEG)²⁵ there is a need for new EU recycling targets concerning industrial and commercial waste.

A respondent from Austria considers that it is not logical that private households have to sort their waste so that EU recycling targets can be met, whereas there are no such targets and resulting requirements concerning waste from industry and commerce.

The expert nominated by REGLEG stresses nevertheless that such European provisions "*should only be suggested after close evaluation procedures with regional and local authorities (...) in charge of waste management.*"

A respondent from Italy considers that EU targets should concentrate on the use and production of recyclable products, which would mean that EU recycling targets were no longer strictly necessary.

According to several respondents (from Belgium, Spain and Sweden), other waste streams which should be covered by EU targets are: plastic waste, used oils, hazardous waste, textile residues, medical waste, metallic and voluminous waste.

However, four respondents (from Austria, Germany and Spain) believe that new EU recycling targets are not necessary, either for industrial and commercial waste, or for other waste streams.

In the view of the German respondent, such targets are not necessary, nor would they even be helpful;

²⁴ Wales

²⁵ Out of 14 respondents replying to this question.

should recycling targets become necessary in future for waste management purposes, their setting at national level would be sufficient.

The Spanish respondent shares this national approach for specific waste streams and stresses the importance of the regional level in this context.

A respondent from Austria highlights that there should first be compliance with existing requirements, as new provisions applied by only a few Member States would disadvantage these states economically.

In addition, the respondent from Lithuania considers new targets for other waste streams to be unnecessary as the new EU Member States will have problems implementing them.

Finally, a respondent from the United Kingdom indicates that the relevant authority²⁶ aims at being a *"high recycling society by 2025 with 70 per cent of waste (...) being recycled"* which implies the establishing of recycling targets. The respondent leaves it open whether this means establishing these as EU targets or as national targets only.

3.2.5 Minimum EU requirements for bio-waste management/quality criteria for compost and digestate from bio-waste – art. 22 Waste Framework Directive (question 6)

Most of the replies to this question are in favour of such EU requirements and quality criteria stressing, among other things, the necessity of the latter for the functioning of a European compost market. However, some respondents do not see any need for such EU action.

Eight respondents (from Austria, Belgium, Italy, Spain and Sweden)²⁷ see the need for EU minimum requirements for bio-waste management as well as for quality criteria concerning compost and digestate.

They mainly highlight the following aspects in this context:

- Such EU provisions are necessary in order to ensure appropriate treatment of bio-waste and use of compost and digestate.
- There is a need for the setting of quality criteria for compost (as a product) and used input-materials at EU level in order to promote the development of a European compost market.
- It is necessary to establish quantitative and qualitative targets for the selective collection of organic material.
- Such requirements should prevent mixed refuse compost from being given the same status as sorted, organic compost.
- The EU should establish different rules for the possible end-uses (setting of collection targets and of recovery performance levels).

However, five respondents (from Austria, Germany, Italy and Lithuania) are against such EU action.

²⁶ Wales

²⁷ Out of 13 respondents replying to this question.

The main reasons they put forward reflect the different situations of bio-waste management in different Member States:

- The German and an Austrian respondent consider that existing national provisions in this context are sufficient as bio-waste is properly managed at national level. Should further steps be needed, action at national level would also be sufficient in the view of the German respondent.
- By contrast, according to the Lithuanian respondent, there is a need for such requirements; however, as they have to take into consideration the specific local and regional conditions, particularly in the new Member States, they should not be set at EU-, but at national level.

The last argument concerning the necessity to take account of local/regional conditions is shared by another Austrian respondent, who also believes that overly restrictive requirements tend not to be implemented throughout the EU.

3.2.6 Reinforced/new landfill diversion targets and/or landfill bans – art. 5 (2) Landfill Directive/"Roadmap to a Resource-Efficient Europe" (question 7)

The majority of respondents replying to this question see a need for new EU legislation in this context, most of them opting for landfill bans. By contrast, some respondents are against such EU action, referring mainly to the relevant national situation concerning landfill.

Nine respondents (from Austria, Belgium, Italy, Spain, Sweden as well as the expert nominated by REGLEG)²⁸ consider new EU legislation in this context to be necessary.

According to five respondents, there should be EU-wide landfill bans, particularly concerning the following waste streams: organic waste, un-treated mixed, partly organic waste, food waste, recyclable waste and waste with calorific value.

They see landfill bans as necessary on climate protection grounds and since they could encourage recycling of certain waste types.

A respondent from Spain²⁹ stresses that landfill bans should however allow for "*exceptions in particular technically and economically justified cases*", on regional or central level.

In addition, the expert nominated by REGLEG considers that before introducing landfill bans "*close evaluation procedures*" should be carried out first, in partnership with local and regional authorities.

Another respondent from Spain sees the need for a new EU landfill diversion target for all recyclable materials with a calorific value higher than 10 MJ/kg.

²⁸ Out of 14 respondents replying to this question.

²⁹ Basque Government

Finally, a respondent from Italy³⁰ considers it necessary that the EU set out "*specific control activities and ensuing penalties against unauthorised landfilling.*"

In contrast, five respondents (from Austria, Germany, Italy and Lithuania) do not see any need for new EU legislation concerning landfill diversion targets/landfill bans.

The reasons put forward show that the different situations concerning waste management in various Member States are relevant in this context too:

- An Austrian respondent considers that EU action is not necessary as no unprocessed waste has been landfilled in the region concerned³¹ since 2008.
- The German respondent stresses that, thanks to existing and planned national waste management targets, the amount of waste to be landfilled is decreasing in Germany, which proves that national legislation is sufficient. Should further landfill targets be needed, national action would also be sufficient.
- The respondent from Lithuania believes that such EU action is not necessary because the situation is very different in the various EU Member States; the new Member States in particular, "*have a lot of problems implementing existing targets.*"
- According to another Austrian respondent, there should first be compliance with existing targets concerning landfill before considering the introduction of new ones/ bans. The implementation of these existing targets takes a certain amount of time during which the latter may become obsolete due to technological developments.

Furthermore, in the view of an Italian respondent, Member States should retain their prerogatives concerning the choice of specific techniques (e.g. incineration with energy recovery or recyclable waste with calorific value).

³⁰ Sicilian Regional Assembly

³¹ Tyrol

Appendix I: Questionnaire

COMMITTEE OF THE REGIONS – DIRECTORATE E – Horizontal Policies and Networks



Questionnaire

"Review of EU waste legislation"

Consultation of the Committee of the Regions' Subsidiarity Expert Group within the Subsidiarity Monitoring Network (SMN)

The work programme of the European Commission for 2013³² indicates that EU waste policy and legislation will be reviewed. The results will be presented in 2014 and will include an examination of key targets in EU waste legislation, in line with the review clauses in the Waste Framework Directive³³, the Landfill Directive³⁴ and the Packaging and Packaging Waste Directive³⁵. Furthermore, in its "Roadmap to a Resource-Efficient Europe"³⁶ the Commission committed itself to examining the "existing prevention, re-use, recycling, recovery and landfill diversion targets to move towards an economy based on re-use and recycling, with residual waste close to zero (in 2014)."³⁷

As the waste dossier is on the Committee of the Regions' (CoR) Subsidiarity Work Programme for 2013, the **Subsidiarity Expert Group** is being consulted in order to provide a subsidiarity analysis concerning the potential reinforcement of current waste targets and the potential introduction of new ones. This consultation is also open to members of the SMN.

The outcome of this consultation is to be taken into account in the preparation of the CoR outlook opinion on the review of EU waste key targets to be adopted by the plenary in July 2013 (rapporteur: Michel Lebrun, BE/EPP) and will be shared with the European Commission. In the first phase of the review process, the latter currently carries out a "scoping exercise" including a stakeholder consultation. A

³² COM(2012) 629 final, Vol. 2/2

³³ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, Art. 11 (4)

³⁴ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, Art. 5 (2) c

³⁵ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, Art. 6 (5)

³⁶ COM (2011) 571

³⁷ The CoR issued an opinion on this dossier in October 2011: "A resource-efficient Europe – flagship initiative under the Europe 2020 Strategy", CdR 140/2011 fin

second phase (from June to October 2013) will focus on a more substantial analysis and an assessment of the impact of proposed solutions. Legislative proposals are scheduled for the end of 2014.

Please complete and submit by email to subsidiarity@cor.europa.eu by 3rd May 2013.

Name of Authority:	
Contact person:	
Contact details (phone, email):	

Please answer the following questions:

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

- a) the transposition of EU waste legislation into national law?*
- b) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- c) its enforcement (e.g. surveillance, inspections)?*

- a) Yes/No*
- b) Yes/No*
- c) Yes/No*

SUBSIDIARITY³⁸
<i>Reinforced targets in the context of the Waste Framework Directive</i>
<i>Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2)³⁹ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."</i>
2a. Do you see a need to reinforce these EU targets?
Yes/No
2b. If yes, please specify the need for and the added value resulting from EU action in this context. (max. 350 words)
2c. If no, please specify the reasons why EU action in this context is not necessary. (max. 350 words)

³⁸ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis.**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art.5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**. You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action necessary

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a clear benefit, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

³⁹ a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 % by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁴⁰ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

Yes/No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

⁴⁰ Art. 6 (1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

(a) no later than 30 June 2001 between 50 % as a minimum and 65 % as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(b) no later than 31 December 2008 60 % as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(c) no later than 30 June 2001 between 25 % as a minimum and 45 % as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15 % by weight for each packaging material;

(d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;

(e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:

(i) 60 % by weight for glass;

(ii) 60 % by weight for paper and board;

(iii) 50 % by weight for metals;

(iv) 22.5 % by weight for plastics, counting exclusively material that is recycled back into plastics;

(v) 15 % by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes. This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?*

Yes/No

4b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

4c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

aa) industrial and commercial waste?

bb) other waste streams?

Yes/No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁴¹ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?⁴²*

Yes/No

6b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

6c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

⁴¹ Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

⁴² See a study commissioned by the European Commission on the "Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects":

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf

Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive⁴³ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. *Do you see a need to*

- aa) reinforce the existing EU target*
- bb) set new EU targets*
- and/or*
- cc) introduce EU landfill bans?*

Yes/No

7b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 400 words)

7c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

⁴³ Art. 5 (1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

Privacy Statement: *The follow-up to your contribution requires that your personal data (name, contact details, etc.) be processed in a file. All the answers to the questions are voluntary. Your replies will be kept for a period of 5 years after the reception of the questionnaire. Should you require further information or wish to exercise your rights under Regulation (EC) No. 45/2001 (e.g. to access, rectify, or delete your data), please contact the data controller (Head of Unit E2) at subsidiarity@cor.europa.eu. If necessary, you may also contact the CoR Data Protection Officer (data.protection@cor.europa.eu). You have the right of recourse to the European Data Protection Supervisor at any time (www.edps.europa.eu).*

Please note that the questionnaire with your contribution and your contact details will be published online. Your questionnaire may be transmitted to CoR rapporteurs and other EU institutions for information purposes. If you do not wish your questionnaire to be made available for this purpose, please notify us accordingly.

Appendix II: List of respondents

REVIEW OF EU WASTE LEGISLATION

#	Name	Category	Subsidiarity Expert Group (SEG) / Subsidiarity Monitoring Network (SMN)	Administrative level	Country
1.	Welsh National Assembly	Regional Parliament	SEG	Regional	United Kingdom
2.	Lower Austria State Government	Regional Government	SMN	Regional	Austria
3.	Bavarian State Government (Ministry for the Environment)	Regional Government	SEG (CoR Interreg. Group Regions with Legislative Powers)	Regional	Germany
4.	Convention of Scottish Local Authorities (COSLA)	Association of Local Authorities	SMN	Local	United Kingdom
5.	Association of Local Authorities in Lithuania	Association of Local Authorities	SEG	Local	Lithuania
6.	Johannes Maier – Head of Unit "Internal EU-Affairs", Carinthia State Government (nominated by REGLEG)	Association of Regional Authorities	SEG (REGLEG)	Regional	Austria
7.	Vienna City Municipal Executive	Regional Government	SMN	Regional	Austria

8.	Catalan Agency for Waste Management	Regional Agency	Other stakeholder	Regional	Spain
9.	Tyrol State Government (Department for the Environment and Waste Management)	Regional Government	Other stakeholder	Regional	Austria
10.	Basque Government (Department of the Environment and Territorial Policy)	Regional Government	SEG	Regional	Spain
11.	Flemish Parliament (Committee on Environment)	Regional Parliament	SEG	Regional	Belgium
12.	Extremadura Regional Assembly	Regional Parliament	SMN	Regional	Spain
13.	Marche Regional Assembly	Regional Parliament	SEG	Regional	Italy
14.	Sicilian Regional Assembly	Regional Parliament	SEG	Regional	Italy
15.	Bozen/Bolzano - South Tyrol Provincial Government (Office for Waste Management)	Regional Government	SMN	Regional	Italy
16.	City of Gothenburg	Local Authority	SMN	Local	Sweden

Appendix III: Contributions

1. Welsh National Assembly (Subsidiarity Expert Group)

Response to Committee of the Regions Directorate questionnaire ‘Review of EU waste legislation’

This is a response by the National Assembly for Wales to the consultation of the Committee of the Regions’ Subsidiarity Expert Group within the Subsidiarity Monitoring Network on the ‘Review of EU waste legislation’.

This paper has been prepared by officials in the Assembly’s Research Service. As it has not been possible to seek the views of Assembly Members in response to the consultation questionnaire, we have not provided specific ‘yes’ or ‘no’ answers to the questions asked. **Only a narrative response therefore is included below which provides a factual account of the current approach by the Welsh Government to waste management in Wales.**

Context and key statistics (Questions 1, 2a, 2b and 2c)

Waste policy and legislation is high on the agenda of the National Assembly for Wales. In particular, the Assembly’s *Environment and Sustainability Committee* has identified the review of EU waste legislation currently being undertaken by the European Commission during 2013-2014 as a priority area for future work by the Committee.

The Welsh Government’s current overarching waste strategy for Wales is *Towards Zero Waste (2010)*.⁴⁴ Spanning the period 2010 to 2050, it sets out a long term framework for resource efficiency and waste management, identifying outcomes, setting targets and laying out the general approach to delivering targets and other key actions.

There are two key milestones in terms of the Welsh Government’s waste policy for Wales:

- **By 2025 for Wales to be a ‘high recycling society’**, with 70 per cent of waste in Wales being recycled (and the remaining 30 per cent of waste being treated through high-efficiency energy from waste treatment facilities); and
- An overarching ambition for Wales to be a **‘zero waste’⁴⁵ nation by 2050**.

Within *Towards Zero Waste*, sector specific plans and targets are being developed, outlining how each of the sectors (municipal waste; construction and demolition; food manufacture and retail; collections, infrastructure and markets; commercial and industrial; public sector; agriculture) will be expected to meet the 2025 and 2050 targets set out in the overarching strategy.

⁴⁴ Welsh Government, [Towards Zero Waste: The overarching waste strategy for Wales](#), June 2010

⁴⁵ ‘Zero waste’ refers to the amount of waste produced in Wales being minimised, and that any waste that is produced will be re-used, recycled, composted or anaerobically digested.

Key Wales waste statistics

- The total amount of **local authority municipal waste**⁴⁶ generated in Wales was 1.57 million tonnes in 2011-12⁴⁷.
- In terms of the **ecological footprint of waste in Wales**, municipal waste accounts for 35 per cent, construction and demolition waste for 14 per cent, and commercial and industrial waste 51 per cent.
- Within the overall ecological footprint of Wales, **waste contributes 15 per cent of the total**, with municipal waste comprising 5 per cent⁴⁸.
- The amount of **waste disposed of in landfill in 2011-12 was 0.7 million tonnes, accounting for 46 per cent of all waste**. The amount sent to landfill was less than the amount of waste sent for reuse, recycling or composting (0.8 million tonnes)⁴⁹.
- The percentage of local authority municipal waste that was reused, recycled or composted has seen a **continued increase since 2000-01 to reach 50 per cent in 2011-12**⁵⁰.
- Of the 1.6 million tonnes of local authority municipal waste produced in Wales, **77 per cent is material that is potentially recyclable, compostable or digestible**⁵¹.

Packaging and Packaging Waste (Questions 3a, 3b and 3c)

In March 2013, the Welsh Government issued a consultation on a draft *Waste Prevention Programme*⁵² for Wales. The programme aims to address packaging and packaging waste and aims to transpose the key requirements of the *EU Packaging and Packaging Waste Directive (94/62/EC)* in Wales. It aims in particular to address product packaging and waste through a number of methods including:

- Optimisation through supply chain actions for example, using the minimum quantity of material possible, whilst maintaining the integrity of the product it contains.
- Implementation of the Courtauld Commitment (a voluntary agreement between the UK Government and the British retail, grocery and manufacturing sectors) aimed at preventing food and packaging waste. Courtauld targets are revised at regular intervals – phase 1 spanned 2005 to 2009, phase 2 2010-2012, with phase 3 due to be launched in spring 2013.

⁴⁶ Since April 1 2012 there has been a change in the definitions relating to local authority municipal waste. Further detail on these changes and their implications can be found in the Welsh Government statistical article [Local Authority Municipal Waste Management Change in definition](#).

As a result, from 2012-13 figures published within this quarterly statistical release will be directly comparable for the first time with those in the annual statistical bulletin 'Local Authority Municipal Waste Management Report for Wales' and the National Strategic Indicator which is used to monitor progress towards Welsh Government targets.

⁴⁷ Welsh Government, [Local Authority Municipal Waste Management Report for Wales 2011-12](#) *Statistical Bulletin*, 8 November 2012 [accessed 13 February 2013]

⁴⁸ SEI (2008) [Wales Ecological Footprint – Scenarios to 2020](#) [accessed 20 February 2013]

⁴⁹ Welsh Government, [Local Authority Municipal Waste Management Report for Wales 2011-12](#) *Statistical Bulletin*, 8 November 2012 [accessed 13 February 2013]

⁵⁰ Ibid

⁵¹ Welsh Government, [Collections, Infrastructure and Markets Sector Plan](#), July 2012 [accessed 1 February 2013]

⁵² Welsh Government, [Consultation on a Waste Prevention Programme for Wales](#)

Waste Prevention (Questions 4a, 4b and 4c)

In *Towards Zero Waste*, waste prevention is outlined as the best way of reducing the ecological footprint of waste in Wales, and in order to achieve the 2050 targets total waste arising needs to be reduced by 1.5 per cent each year. Targets are broken down by sector as follows:

Waste type	Targets ⁵³	Priority areas
Household	1.2 per cent reduction ⁵⁴	Food waste, plastic, paper.
Commercial and Industrial	1.2 per cent reduction (commercial) 1.4 per cent reduction (industrial)	Food waste, paper and card, chemical waste
Construction and Demolition	1.4 per cent reduction	Wood, plastic, metal, insulation and gypsum, hazardous waste

A key objective of the Welsh Government's draft *Waste Prevention Programme* is the decoupling of economic growth from the environmental impacts of waste generation. The approach that the Welsh Government has adopted is to use the absolute reduction targets for each waste stream. They state within the consultation document that by doing so, it is virtually inevitable that decoupling, or relative decoupling, will occur.

Waste Sector Plans

As set out above the Welsh Government through *Towards Zero Waste* is developing a number of sector plans to set out in detail how different sectors will contribute to waste prevention. The sector plans include:

- **What the plan will cover** and what and who is included in that sector;
- The **current performance in the sector**, including details of the types, quantities and sources of waste;
- A description of how the **principles, outcomes, policies and targets** laid out in *Towards Zero Waste* apply to the sector;
- Details of the **general technical requirements for the management of wastes** produced by the sector (including waste legislation covering that sector);
- Sector specific objectives and the **mechanisms, targets and policies** to achieve them;
- Details of any **special arrangements for particular wastes**;
- A detailed action plan, defining the **roles and responsibilities of the sector**, the Welsh Government and others;
- Indicators and information on **how progress will be monitored**; and

An explanation of where the actions of one sector may affect those of another and how these linkages will be managed. Progress on the development of sector plans is outlined below:

⁵³ In each case as an annual percentage reduction on the 2006-7 baseline.

⁵⁴ The Municipal Sector Plan Part 1 (Welsh Government, [Municipal Sector Plan Part 1](#), March 2011 [accessed 1 February 2013]) states that the 1.2% target is aspirational (page 40).

Sector Plan	Date published	Progress measured
<u>Municipal Waste (Part 1)</u> ⁵⁵	March 2011	<u>WasteDataFlow</u>
		<u>WasteDataFlow</u> (for local authority municipal waste)
<u>Collection, Infrastructure and Markets</u> ⁵⁶	July 2012	Surveys (for industrial and commercial, and C&D wastes) Environment Agency Wales
<u>Food, Manufacture, Service and Retail</u> ⁵⁷	Due Spring 2013	Not specified in draft plan
<u>Construction and Demolition</u> ⁵⁸	November 2012	Not specified in plan
Commercial and Industrial	<u>Consultation underway</u>	n/a
Public Sector	Consultation due Summer 2013	n/a
Agricultural Sector	Position paper due late 2013	n/a

Recycling targets (Questions 5a, 5b and 5c)

One of the Welsh Government's main aims in relation to waste is for Wales to be a 'high recycling society' by 2025, with 70 per cent of waste in Wales being recycled (and the remaining 30 per cent of waste being treated through high-efficiency energy from waste treatment facilities).

Towards Zero Waste states that by 2050 Wales aims to reuse or recycle all waste, without the need for any landfill or energy recovery or, as a minimum, reduce the impact of waste in Wales to within environmental limits – defined in the Welsh Government's sustainable development scheme, *One Wales: One Planet (2009)*,⁵⁹ as roughly 65 per cent less waste than Wales currently produces.

Bio-waste management and landfill (Questions 6a, 6b, 6c, 7a and 7b)

The European Commission defines bio-waste as "biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail premises and comparable waste from food processing plants". The Landfill Directive sets challenging targets for Member States to reduce the amount of biodegradable municipal waste sent to landfill.

The UK's targets are to reduce the 1995 amount of biodegradable municipal waste sent to landfill to 75% by 2010, 50% by 2013 and 35% by 2020. The *Landfill Allowances Scheme (LAS)* for Wales started in October 2004. Local Authorities have been set targets that progressively reduce the amount of

⁵⁵ Welsh Government, [Municipal Sector Plan Part 1](#), March 2011 [accessed 1 February 2013]

⁵⁶ Welsh Government, [Collections, Infrastructure and Markets Sector Plan](#), July 2012 [accessed 1 February 2013]

⁵⁷ Welsh Government, [Draft Food Manufacture, Service and Retail Plan](#), March 2011 [accessed 4 February 2013]

⁵⁸ Welsh Government, [Construction and Demolition Sector Plan](#), November 2012 [accessed 1 February 2013]

⁵⁹ Welsh Government, [One Wales: One Planet The Sustainable Development Scheme of the Welsh Assembly Government](#)

biodegradable municipal waste sent to landfill. Up to 2008-09, all Local Authorities had met all their targets in each year of the scheme, and all authorities had also met individually their 2009-10 allowances in 2008-09. As set out in *Wise About Waste (2002)* [The Welsh Government's previous waste strategy], it has been the Welsh Government's policy that Wales' share of the UK's EU Landfill Directive targets to reduce the landfilling of biodegradable municipal waste should be met through a significant increase in recycling and composting/AD rates without a major reliance on energy from waste (EfW).

In relation to landfill, the *Environment Strategy for Wales (2006)*⁶⁰ sets out the Welsh Government's 20 year vision for the environment in Wales. It includes an aspiration that there would be 'no additional landfill for municipal waste in Wales by 2026.

⁶⁰ Welsh Government, [Environment Strategy for Wales](#), 2006 [accessed 11 February 2013]

2. Lower Austria State Government

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

*1. How is the implementation of EU waste legislation organised in your Member State?
Is your local/regional authority involved in:*

- d) the transposition of EU waste legislation into national law?*
- e) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- f) its enforcement (e.g. surveillance, inspections)?*

- a) Can draw up opinions on federal legislative proposals*
- b) Yes, at regional level.*
- c) No (this task does not fall within our remit*

SUBSIDIARITY⁶¹

Reinforced targets in the context of the Waste Framework Directive

Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2)⁶² – concerning household and

⁶¹ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysisikit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis.**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art.5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**. You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action necessary

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

⁶² a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 %

similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets?

No

2b. If yes, please specify the need for and the added value resulting from EU action in this context.
(max. 350 words)

2c. If no, please specify the reasons why EU action in this context is not necessary.
(max. 350 words)

It would first be useful to clarify what the current legislation means, with e.g. precise definitions

of the criteria on which percentage rates calculations are based.

In addition, there should be compliance with existing provisions throughout the EU, before they are stepped up. Details should be left to the Member States.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁶³ every five years (in 2014

by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.

⁶³ Art. 6 (1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

(a) no later than 30 June 2001 between 50 % as a minimum and 65 % as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(b) no later than 31 December 2008 60 % as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(c) no later than 30 June 2001 between 25 % as a minimum and 45 % as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15 % by weight for each packaging material;

(d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;

(e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:

(i) 60 % by weight for glass;

(ii) 60 % by weight for paper and board;

(iii) 50 % by weight for metals;

(iv) 22.5 % by weight for plastics, counting exclusively material that is recycled back into plastics;

(v) 15 % by weight for wood.

.../...

for the next time), on the basis of practical experiences gained in the Member States.

3a. *Do you see a need to reinforce these EU targets?*

No

3b. *If yes, please specify the need for and the added value resulting from EU action in this context.
(max. 350 words)*

3c. *If no, please specify the reasons why EU action in this context is not necessary.
(max. 350 words)*

The Packaging Directive was introduced in order to make packaging manufacturers and distributors responsible for recovering and disposing of their products. In practice, this responsibility is passed onto the system, whereas consumers end up footing the bill. The aim of making manufacturers responsible has not therefore been achieved. At the same time, separate waste collection is already very widespread in Austria, and other collection systems, e.g. collecting waste types of similar materials together, could make more economic and environmental sense than simply collecting packaging.

In addition, there should be compliance with existing provisions throughout the EU, before they are stepped up.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?*

Yes

4b. *If yes, please specify the need for and the added value resulting from such EU action.
(max. 350 words)*

Now that we have European waste management directives, we should not neglect waste prevention, which is the most important aspect from an environmental perspective. As measurement values, uniform coordinated indicators are useful policy instruments when working towards targets and taking measures.

4c. *If no, please specify the reasons why EU action in this context is not necessary.
(max. 350 words)*

New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

- aa) industrial and commercial waste?*
- bb) other waste streams?*

No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

To start with, existing requirements should be actually enforced. Rules applied by only a few countries will disadvantage them economically.

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁶⁴ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. Do you see a need for the setting of such EU minimum requirements?⁶⁵

No

6b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 350 words)

6c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

If minimum requirements are worded too restrictively, they tend not to be implemented throughout the EU, and they cannot take specific regional conditions into account.

Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive⁶⁶ requires the Council to re-examine the target

⁶⁴ Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

⁶⁵ See a study commissioned by the European Commission on the "Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects":

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf

⁶⁶ Art. 5 (1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report

concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. *Do you see a need to*

aa) reinforce the existing EU target

bb) set new EU targets

and/or

cc) introduce EU landfill bans?

No

7b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 400 words)

7c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Existing targets and bans should first be enforced throughout the EU. In addition, implementing EU targets in all Member States takes a certain amount of time, during which targets may become obsolete due to technological developments.

from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

3. Bavarian State Government (Ministry for the Environment)
(Subsidiarity Expert Group – CoR Interregional Group "Regions with Legislative Power")

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State?
Is your local/regional authority involved in:

- g) the transposition of EU waste legislation into national law?
- h) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?
- i) its enforcement (e.g. surveillance, inspections)?

- a) Yes
- b) Yes
- c) Yes

SUBSIDIARITY⁶⁷

Reinforced targets in the context of the Waste Framework Directive

⁶⁷ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis.**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art.5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**. You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2)⁶⁸ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets?

No

2b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

2c. If no, please specify the reasons why EU action in this context is not necessary.

It is not necessary to reinforce EU targets for domestic (municipal) waste, or for building/demolition waste. Targets have only just been transposed into German law with the Lifecycle Act, which came into force on 01.06.2012. This law envisages recovery rates of 65% and 70% respectively for municipal waste and building waste from 2020. Even today we have recovery rates (the total of "preparing for re-use" and "recycling") of over 50% by weight of domestic paper, metal, plastic and glass waste. Building waste also meets the 70% target. We should only talk about reinforced EU targets once other Member States have met these "European" targets.

(max. 350 words)

⁶⁸ a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 % by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁶⁹ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

It is not necessary to raise the EU target for packaging waste recovery. Even without higher EU targets, the vast majority of packaging is already recovered in Germany. National measures are sufficient here. (max. 350 words)

⁶⁹ Art. 6 (1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

(a) no later than 30 June 2001 between 50 % as a minimum and 65 % as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(b) no later than 31 December 2008 60 % as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(c) no later than 30 June 2001 between 25 % as a minimum and 45 % as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15 % by weight for each packaging material;

(d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;

(e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:

(i) 60 % by weight for glass;

(ii) 60 % by weight for paper and board;

(iii) 50 % by weight for metals;

(iv) 22.5 % by weight for plastics, counting exclusively material that is recycled back into plastics;

(v) 15 % by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

4a. Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

No

4b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 350 words)

4c. If no, please specify the reasons why EU action in this context is not necessary.

The German Federal Waste Prevention Strategy, which is to be adopted by the end of 2013 with the involvement of the German *Länder*, proposes and evaluates measures to implement waste prevention projects. Through its involvement in the process of drafting the strategy, Bavaria has suggested that the federal government include indicators enabling quantitative evaluation of waste prevention measures. At Member State level, these indicators are sufficient to ensure that the targets set out in the European Waste Prevention Directive are met. New European targets are not needed.

(max. 350 words)

New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. Do you see a need for new EU recycling targets concerning:

aa) industrial and commercial waste?

bb) other waste streams?

No

5b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 350 words)

5c. If no, please specify the reasons why EU action in this context is not necessary.

EU recycling targets for industrial waste, commercial waste and other waste streams are not necessary, nor would they even be helpful. We are not aware of problems with the disposal of industrial and commercial waste. Commercial waste producers are responsible for lawful and non-harmful management of industrial and commercial waste. Current statistics only cover such waste management in some areas. In view of the need to deregulate and prevent unnecessary red tape, new statistics and/or reporting requirements should not be added. Should it become necessary in future for waste management purposes to set recycling targets for industrial waste, commercial waste and other waste streams, national measures will be appropriate and sufficient.

(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁷⁰ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. Do you see a need for the setting of such EU minimum requirements?⁷¹

No

6b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 350 words)

6c. If no, please specify the reasons why EU action in this context is not necessary.

Minimum EU requirements for bio-waste management and quality criteria for compost and digestate from bio-waste are not needed. Even without such requirements, bio-waste is being properly managed in Germany. Should further steps be needed, it is enough to act at national level.

(max. 350 words)

⁷⁰ Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

⁷¹ See a study commissioned by the European Commission on the "Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects":

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf

Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive⁷² requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

aa) reinforce the existing EU target

bb) set new EU targets

and/or

cc) introduce EU landfill bans?

No (for all subquestions)

7b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 400 words)

⁷² Art. 5 (1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

7c. If no, please specify the reasons why EU action in this context is not necessary.

There is no need for EU action in terms of Europe-wide targets. Thanks to existing and planned waste management targets in Germany (see e.g. substitute building materials ordinance), and to efficient waste management with extensive recovery of post-treatment residues, there is a steady decline in the amount of waste requiring disposal. As a result, the volume of waste sent to landfill is decreasing. However, the ideal of a "zero-landfill society" can never be fully achieved. In the future, we will still have toxic substances in waste for which landfill is the most environmental solution. As pollution sinks for the long-term disposal of toxic substances, environmentally sealed landfill sites will therefore remain an essential part of a functioning waste management system. Should further landfill targets be needed, appropriate and sufficient action can be taken at national level.

(max. 350 words)

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

4. Convention of Scottish Local Authorities (COSLA)

The Convention of Scottish Local Authorities (COSLA) is the national and international representative voice of the 32 Scottish Councils. Waste is one of the most important EU dossiers that our municipalities are responsible for implementing on the ground. Therefore we welcome the possibility of highlighting a number of issues that Mr LEBRUN excellent work is highlighting in terms of the potential impact in local government of the forthcoming review of EU Waste rules.

It is indeed early days to provide a full response to the Questionnaire as we are still looking at the large set of preparatory studies that the Commission is undertaking to prepare the Consultation.

However on the basis of the ideas that are being floated in the preliminary scenarios outlined by the Commission in their preparatory work we can anticipate that our reaction to these proposals would be tentatively along the lines highlighted below:

i. We understand that the Commission is in favour of raising the current mandatory target for the recycling of solid municipal waste to 70% by 2020. We would consider it is more realistic for Scotland any many other countries to achieve that target in 2025.

ii. Should the Commission propose that , by 2020, the quantity of municipal waste generated per person should be reduced by 10% in comparison with the levels recorded in 2010, it is necessary to clarify that if overall waste reduction target of the new directive and the per person target conflict the former, which should be regarded as the prevailing one;

iii. If the Commission were to propose, as we suspect they will want to increase the target for recycling plastic packaging – for plastics of all kinds – to 70% and set the recycling targets for glass, metal, paper, cardboard and wood at 80% we consider essential that within these overall EU average targets , intermediate targets and transitional periods should be negotiated with individual Member States and Devolved administrations , particularly the least performing;

iv. More generally given the large diversity of situations across the EU and the serious problems of implementation of the existing rules in many Member States we would encourage that the Commission would focus its efforts in those clearly non and underperforming countries;

v. For those countries with policies in place that show a clear direction of travel towards achieving the overall EU target, we would support that the Commission negotiates with them, intermediate targets, roadmaps and transitional periods. This would allow the least advanced performers to catch up whilst also supporting the efforts made by the most advanced performers;

vi. If at the end of this consultation the Commission were to propose that by 2020, 100% of waste should be subjected to selective sorting at the point of the sorting centre recognition should be given to the fact that co-mingling might be the most practical solution for household waste, particularly in harder to reach locations;

.../...

vii. COSLA reiterates its earlier call that if the EU were to introduce a new legal framework for recycling targets for **biowaste**, it should be within the revised Waste Framework Directive and not as a separate piece of legislation as it has often been suggested;

viii. We understand that the Commission may be considering restricting further the rules concerning the shipment of waste between Member States. We would urge caution on this issue as in many countries and regions shipment of waste within the current EU framework would need to continue were a local solution does not prove practical. More generally a move to a more circular economy should be expressed in realistic timescales to allow for infrastructure and planning arrangements to develop.

Background of the Scottish Situation

- Local Authorities in Scotland are legally responsible to ensure that waste is collected.
- According to the Waste Framework Directive, we shall recycle at least 50% of household waste by 2020. In Scotland, we have some way to go but we are on track to reduce our landfill and increase recycling.
- Scottish Government and Local Authorities work together to implement **the Scottish Zero Waste Plan**. It sets targets for 70% of all – not just municipal – waste to be recycled and only maximum of 5% sent to landfill by 2025.
- Scottish Councils are responsible for municipal waste management. Over the last decade, the share of locally collected municipal waste that was recycled or composted has increased by about one third (4.5% in 2000/01 to 38.2% in 2010/11).

As you may also find in other Member States, there are already waste management plans being implemented at various levels. It is now important to support existing activities and to give incentives to those who do not have strategies set up in their countries, rather than raising the stake even further.

**5. Association of Local Authorities in Lithuania
(Subsidiarity Expert Group)**

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

**1. How is the implementation of EU waste legislation organised in your Member State?
Is your local/regional authority involved in:**

- j) the transposition of EU waste legislation into national law?*
- k) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- l) its enforcement (e.g. surveillance, inspections)?*

- a) Yes/No*
- b) Yes/No*
- c) Yes/No*

SUBSIDIARITY⁷³

Reinforced targets in the context of the Waste Framework Directive

⁷³ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis.**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art.5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**. You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2)⁷⁴ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. *Do you see a need to reinforce these EU targets?*

Yes/No

2b. *If yes, please specify the need for and the added value resulting from EU action in this context.*

(max. 350 words)

2c. *If no, please specify the reasons why EU action in this context is not necessary. In our opinion existing EU targets are quite strict and it is not necessary to reinforce these targets. The new member states have a lot of problems in implementing existing targets and reinforcement of these targets would be in many countries unrealizable.*
(max. 350 words)

⁷⁴ a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 % by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁷⁵ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

Yes/No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

In our opinion it is necessary to reinforce these EU targets. There are a lot of problems at municipal level with packaging waste, which is impossible to use. Responsibility to manage these waste falls on municipal institution. In our opinion the all responsibility on packaging waste management must have producers. Decision to reinforce these EU target must take member states considering their local situation.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

⁷⁵ Art. 6 (1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50 % as a minimum and 65 % as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60 % as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25 % as a minimum and 45 % as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15 % by weight for each packaging material;
- (d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60 % by weight for glass;
 - (ii) 60 % by weight for paper and board;
 - (iii) 50 % by weight for metals;
 - (iv) 22.5 % by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15 % by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?*

Yes/No

4b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

4c. *If no, please specify the reasons why EU action in this context is not necessary.*

There are no Waste prevention program in Lithuania. Therefore is it difficult to express our opinion regarding waste prevention targets.

(max. 350 words)

New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

aa) industrial and commercial waste?

bb) other waste streams?

Yes/No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*
aa-yes. *In our opinion we see a need to set new EU recycling targets concerning industrial and commercial waste.*
(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*
bb-no. *In our opinion is it not necessary to set new targets for other waste streams, because the new member states will have difficulties in implementing these targets.*
(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁷⁶ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?⁷⁷*

Yes/No

In our opinion we see a need to set minimum requirements for bio waste management, but this decision must take member states considering their local situation. The setting of general targets for all countries will make difficulties for new member state in their implementing process, because the situation in waste management in new member state an in old member state is very different.

6b. *If yes, please specify the need for and the added value resulting from such EU action.*
(max. 350 words)

6c. *If no, please specify the reasons why EU action in this context is not necessary.*
(max. 350 words)

⁷⁶ Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

(a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
(b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
(c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

⁷⁷ See a study commissioned by the European Commission on the "Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects":

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf

Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive⁷⁸ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target
- bb) set new EU targets
- and/or
- cc) introduce EU landfill bans?

Yes/No

7b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 400 words)

⁷⁸ Art. 5 (1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

*7c. If no, please specify the reasons why EU action in this context is not necessary. In our opinion the main reasons why these EU actions are not necessary is that the situation in waste management sector is very different in many countries (especially in the new member states which have a lot of problems in implementation of existing targets).
(max. 350 words)*

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

**6. Johannes Maier, Head of Unit "Internal EU Affairs", Carinthia State Government
Expert nominated by REGLEG (Subsidiarity Expert Group)**

2nd May 2013

Thanks for the invitation to answer the questionnaire on the topic of future EU waste legislation. Unfortunately I did not get enough feedback to draw a comprehensive answer on the questions, which you are interested in. Even the Länder in Austria have different approaches towards the subject in future, as you will see by some answered questionnaires.

From the point of Subsidiarity and Proportionality I want to sum up some arguments/issues in general:

- 1) There is first great concern on the obviously very different transposition as well implementation of the existing EU waste legislation throughout the member states. Consequently experts in this field are arguing that the EU should provide for an equal standard of implementation, particularly regarding packaging and the packaging directive, waste prevention and recycling targets.
- 2) In most cases the European Commission is obliged to evaluate regularly the progress made in each member state, e.g. in 2014, and the implementation standards throughout Europe; from the point of Subsidiarity it is strongly arguable to wait with new regulations at the European level, until the reports are on the desk. If there are still intentions of some member states to strengthen their waste management, they can do that. Though there are no European obligations on it, Austria for instance has achieved a high degree of separately collected and exploited bio-waste.
- 3) Waste management experts do observe lacks in the waste legislation: priority should be given to waste prevention, which will be the most important part in order to step forward to more ecology. Particularly the objectives to increase the responsibility of producers of packaging seem not to be achieved yet. Common new legislation at EU-level may be an option to achieve progress in this field.
- 4) Recycling may be improved only by common obligations in order to identify streams of waste and their potentials of short resources. The same general and overall arguments (saving resources) are plausible for landfill bans for specific kinds of waste (eg. waste of high heating value) ordered by common rules. Nevertheless such European regulations should only be suggested after close evaluation procedures with regional and local authorities, who are in charge of waste management.

.../...

7. Vienna City Municipal Executive

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

m) the transposition of EU waste legislation into national law?

n) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?

o) its enforcement (e.g. surveillance, inspections)?

a) Yes

b) Yes

c) Yes

<i>SUBSIDIARITY</i> ⁷⁹
<i>Reinforced targets in the context of the Waste Framework Directive</i>
<i>Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2)⁸⁰ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."</i>
<i>2a. Do you see a need to reinforce these EU targets?</i>
<i>No</i>
<i>2b. If yes, please specify the need for and the added value resulting from EU action in this context.</i> <i>(max. 350 words)</i>
<i>2c. If no, please specify the reasons why EU action in this context is not necessary.</i> <i>The results of the review of compliance with existing EU level legislation should be assessed first.</i>

⁷⁹ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysisikit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis.**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art.5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action necessary

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?
and/or
 - because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?
and/or
 - because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?
- 2.2** Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

⁸⁰ a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50 % by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁸¹ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

The results of the review of compliance with existing EU level legislation should be assessed first. In addition, the priority when it comes to packaging and packaging waste should be waste prevention (see answer to 4b).

⁸¹ Art. 6 (1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

(a) no later than 30 June 2001 between 50 % as a minimum and 65 % as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(b) no later than 31 December 2008 60 % as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;

(c) no later than 30 June 2001 between 25 % as a minimum and 45 % as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15 % by weight for each packaging material;

(d) no later than 31 December 2008 between 55 % as a minimum and 80 % as a maximum by weight of packaging waste will be recycled;

(e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:

(i) 60 % by weight for glass;

(ii) 60 % by weight for paper and board;

(iii) 50 % by weight for metals;

(iv) 22.5 % by weight for plastics, counting exclusively material that is recycled back into plastics;

(v) 15 % by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

4a. Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

Yes

4b. If yes, please specify the need for and the added value resulting from such EU action.

Even though waste prevention is given utmost priority under Article 4 of Directive 2008/98/EC, in practice it is given lower priority than recycling and other forms of reprocessing. This is still the least developed area of waste management. Binding targets at European level backed up with penalties (for example, a mandatory reuse ratio for drink packaging) would be a useful way to give waste prevention the push it needs.

4c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. Do you see a need for new EU recycling targets concerning:
aa) industrial and commercial waste?
bb) other waste streams?

No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

The results of the review of compliance with existing EU level legislation should be assessed first.

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁸² asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?⁸³*

Yes

6b. *If yes, please specify the need for and the added value resulting from such EU action.*

The same minimum requirements should apply to all EU Member States, while each Member State should also be free to impose stricter rules in its own market (subsidiarity principle). In any case, efforts should be made at EU level to prevent mixed refuse compost from being given the same status as sorted, organic compost. Allowing mixed waste compost would severely damage the reputation of compost as a product.

⁸² Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:
(a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
(b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
(c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

⁸³ See a study commissioned by the European Commission on the "Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects":
http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf

6c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive⁸⁴ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. *Do you see a need to*

aa) reinforce the existing EU target

bb) set new EU targets

and/or

cc) introduce EU landfill bans?

aa) and bb) No

cc) Yes

7b. *If yes, please specify the need for and the added value resulting from such EU action.*

⁸⁴ Art. 5 (1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

On cc) (introduce EU landfill bans?) – Disposal of untreated, mixed, partly organic waste in landfills should be subject to an EU-wide ban, first and foremost on climate protection grounds.

7c. If no, please specify the reasons why EU action in this context is not necessary.

On aa) and bb) – see answer to cc) (landfill ban)

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

The provisions on subsidiarity in the Lisbon Treaty should be clearly reflected in all EU-level legislation governing waste management.

8. Catalan Agency for Waste Management

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

- p) the transposition of EU waste legislation into national law?*
- q) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- r) its enforcement (e.g. surveillance, inspections)?*

- a) **Yes***
- b) **Yes***
- c) **Yes***

SUBSIDIARITY⁸⁵

Reinforced targets in the context of the Waste Framework Directive

Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)⁸⁶ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets?

Yes

2b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

Given a lack of material and energy resources, efficient management of waste yields materials which make it possible to save on new materials as well as providing alternative forms of energy which can reduce Member States' import bills and dependence on external sources.

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Extract of the CoR's subsidiarity and proportionality assessment grid (<http://portal.subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

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a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

Within the framework of the green economy, waste management based on maximum usage and aiming at reducing landfill to zero is an area which can generate economic activity and jobs, apart from its contribution to combating climate change.

There should be a European proposal within the framework of a common strategy with a common target for the period after 2020 higher than the overall 50% target; this could be close to 90% in specific cases such as non-hazardous construction waste.

The proposals should lay down instruments for harmonising methods of measuring achievement of the targets and promoting and stepping up inspections in order to combat negative phenomena such as fraud or clandestine waste exports.

2c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6(5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁸⁷ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. *Do you see a need to reinforce these EU targets?*

Yes

3b. *If yes, please specify the need for and the added value resulting from EU action in this context.*

(max. 350 words)

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Art. 6(1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60% by weight for glass;
 - (ii) 60% by weight for paper and board;
 - (iii) 50% by weight for metals;
 - (iv) 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15% by weight for wood.

The objectives laid down in the directive should be strengthened, particularly in relation to plastic packaging waste. When establishing objectives, all obligatory options should be considered, i.e. instruments and systems requiring a certain percentage of recovery through reuse and return, in addition to the current integrated management systems.

In this framework, consideration should be given to the necessary consistency between the objectives of the Waste Framework Directive and the Packaging Waste Directive, as well as criteria for statistical information on waste, harmonised between the Member States, which will make comparison possible.

3c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?*

Yes

4b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

Specific quantitative and qualitative prevention objectives would make it possible to promote specific policies for achieving these objectives. Without concrete objectives, policies will be no more than declarations of intent without practical consequences. It is necessary to define the responsibilities of companies, administrations and citizens in terms of commitment to reduce waste generation.

4c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

- aa) industrial and commercial waste?*
- bb) other waste streams?*

Yes

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

The establishment of new objectives for industrial and commercial waste and for other waste streams in line with the approach promoted by the European Union (objectives for packaging waste, WEEE etc) should be continued.

In particular there should be objectives and policies extending producers' responsibility for waste streams such as non-packaging paper, voluminous waste, textile residues and medical waste. New objectives could also be established for metallic and voluminous waste of domestic origin.

The Commission should also lay down standards and calculation methods for the achievement of objectives.

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁸⁸ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. Do you see a need for the setting of such EU minimum requirements?⁸⁹

Yes

6b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 350 words)

Biodegradable waste which goes to landfill has the biggest impact (methane emissions and production of leachates). This is why the Landfill Directive emphasises this aspect, promoting a reduction in biodegradable waste. This could be an aspect to stress if more ambitious targets are proposed.

It is also necessary to establish clear objectives for selective collection of organic material, as advocated by various Member States. Organic material selectively collected and treated, using composting and anaerobic digestion processes can yield fertiliser of exceptional quality. There should be a specific objective for this area. It is therefore essential that the following be promoted at European level:

- extending the requirement on Member States to collect bio-residues selectively,*
- setting quantitative and qualitative targets for this.*

Where quality criteria for compost are concerned, the current development of end of waste status for bio-residues is an essential aspect of the achievement of minimum requirements in this area.

6c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive⁹⁰ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target*
- bb) set new EU targets*
- and/or*
- cc) introduce EU landfill bans?*

Yes

7b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 400 words)

It is necessary to set new targets for reducing landfill for all recyclable materials with a calorific value higher than 10 MJ/kg.

One way of reducing landfill is using uniform methodologies between Member States for calculating the reduction of biodegradable waste going to landfill.

7c. If no, please specify the reasons why EU action in this context is not necessary.

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Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

(max. 350 words)

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

There is a need for common green taxation of waste in the Member States, particularly waste destined for landfill. In this connection, it would be appropriate to set clearly dissuasive rates, with an associated target, to encourage Member States to adapt their legislation and include the necessary provisions for achieving the target in their plans and programmes.

9. Tyrol State Government (Department for the Environment and Waste Management)

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

- s) the transposition of EU waste legislation into national law?*
- t) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- u) its enforcement (e.g. surveillance, inspections)?*

- a) Yes*
- b) Yes*
- c) Yes*

<i>SUBSIDIARITY</i> ⁹¹
<i>Reinforced targets in the context of the Waste Framework Directive</i>
<i>Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)⁹² – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."</i>
<i>2a. Do you see a need to reinforce these EU targets?</i>
<i>No</i>
<i>2b. If yes, please specify the need for and the added value resulting from EU action in this context.</i> <i>(max. 350 words)</i>
<i>2c. If no, please specify the reasons why EU action in this context is not necessary.</i> <i>It is a legal requirement that packaging waste made from glass, cardboard/paper, metal and plastic/composite materials (under the Packaging Regulation), electrical and electronic</i>

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Extract of the CoR's subsidiarity and proportionality assessment grid (<http://portal.subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

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a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

.../...

equipment (under the Electronic Equipment Regulation), biologically recyclable municipal waste (bio-waste), edible fats and oils, waste wood, old tires, textile waste, flat glass and paper or metal (scrap), are to be collected separately. Because of the high recycling rates in Tyrol, any reinforcement of the EU targets is considered to be unnecessary. Tyrol has also worked hard at building up a re-use network to comply with the principle of the AWG for 2002 "preparing for re-use."

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6(5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁹³ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

See reply to point 2c.

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Art. 6(1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60% by weight for glass;
 - (ii) 60% by weight for paper and board;
 - (iii) 50% by weight for metals;
 - (iv) 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15% by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?*

Yes

4b. *If yes, please specify the need for and the added value resulting from such EU action.*

The success of waste prevention measures is very difficult to quantify with actual figures. It requires not only the active cooperation of product manufacturers and the trade, but also active assistance from consumers.

For an example of an EU waste prevention programme: As a reusable cup and crockery hire centre was set up in Tyrol last year, an EU target for the mandatory staging of "Green Events" would serve some purpose (one reusable cup replaces around 500 disposable cups).

4c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*
aa) industrial and commercial waste?
bb) other waste streams?

Yes

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

It is not clear why ordinary people (households) have to sort their waste before collection so that EU recycling targets can be met when there are no recycling targets laid down by the EU for the waste from manufacturing industry, commerce and trade. In addition, such a target could give a new boost to waste prevention in businesses.

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive⁹⁴ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?⁹⁵*

No

6b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

6c. *If no, please specify the reasons why EU action in this context is not necessary.*

In Tyrol, the separate collection of bio-recyclable waste (bio-waste) has been required by law since 1994. This waste is recovered in around 75 officially approved composting, biogas or co-fermentation plants. In accordance with the Compost Regulation the compost produced is carefully examined to determine its quality and then released for a particular application by means of a compost assessment form. Experience in recent years has shown that the quality of the composts produced in Tyrol has been consistently high.

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive⁹⁶ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target*
- bb) set new EU targets*
- and/or*
- cc) introduce EU landfill bans?*

No

7b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 400 words)

7c. If no, please specify the reasons why EU action in this context is not necessary.

In our view it is not necessary to set new targets for the depositing of waste in landfills or reinforce the existing ones because in Tyrol, in accordance with the Landfill Regulation, no unprocessed waste has been deposited in a landfill since 2008.

⁹⁶

Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

**10. Basque Government (Department of the Environment and Territorial policy)
(Subsidiarity Expert Group)**

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. *How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:*

- v) the transposition of EU waste legislation into national law?*
- w) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- x) its enforcement (e.g. surveillance, inspections)?*

- a) No*
- b) Yes*
- c) Yes*

The **Autonomous Regions** are responsible for drawing up regional waste plans and for the authorisation, monitoring and inspection of waste production and management activities. It falls to **local authorities, or *Diputaciones Forales* [provincial councils]** where relevant, to provide the mandatory service of collection, transport and treatment of domestic waste generated in homes, shops and services in accordance with the provisions applicable to them within the legal framework of Law 22/2011, laid down by Autonomous Regions and the sectoral rules concerning the producer's increased responsibility. Municipalities are responsible for providing this service, which they can do independently or in partnership.

SUBSIDIARITY⁹⁷
<i>Reinforced targets in the context of the Waste Framework Directive</i>
<i>Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)⁹⁸ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."</i>
2a. Do you see a need to reinforce these EU targets?
<i>No</i>
2b. If yes, please specify the need for and the added value resulting from EU action in this context.
<i>(max. 350 words)</i>
2c. If no, please specify the reasons why EU action in this context is not necessary.
Some data to justify our conclusion:

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Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?

and/or

- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?

and/or

- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

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a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

- The majority of countries do not meet the targets set for municipal waste⁹⁹ or for construction and demolition waste¹⁰⁰
- Of the recyclable streams, bio-waste is generally one of the largest streams by weight and with the lowest recycling rate.
- In the Basque Country we do not comply with the overall objective of 50% by weight, but rather our figure stands at 31%. To analyse individual streams:
 - WE WOULD comply in relation to paper and cardboard (separation: 53%) and in relation to glass (separation: 55%).
 - WE WOULD NOT comply in relation to metals (separation: 15%), plastics (separation: 22%), bio-waste (separation and recycling: 0%). This is the second largest stream by weight and accounts for 25% of urban waste. Of the recyclable streams it is the one which by weight and recycling rate offers the poorest outlook.
- CDW is one of the largest generating streams in Europe. Although there are many differences (approximately 90% in the Netherlands and Belgium), the majority of countries or regions do not achieve the levels set. In the Basque Country, CDW¹⁰¹ in 2009 represented 1.25 by weight compared to the quantity of municipal waste generated and its recycling rate stood at 48.2%, which is below the target set.
- With regard to other streams, we would highlight batteries (separation: 28%); metals (separation: 15%), although its recycling rate is 80%, and electrical goods (WEEE) (separation: 36%) which has a high rate of disposal (56%) and above all an increasing rate of generation. (we propose the prevention approach for WEEE mentioned under question 4).

The targets set could be achieved (where relevant) by establishing specific actions and programmes on the basis of regional or national legislation.

⁹⁹ Source: “Managing municipal solid waste. A review of achievements in 32 European countries” European Commission. Published on 19 March 2013.

¹⁰⁰ Source: Review of the Thematic Strategy on the prevention and recycling of waste. Published on 16th April 2012.

¹⁰¹ Sources: Inventory of CDW in the Basque Country 2009 and inventory of urban waste in the Basque Country 2009.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6(5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets¹⁰² every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

In Europe, packaging waste generation rates per capita continue to rise slightly despite the economic recession, in 2010 reaching the rate of 157 kg/capita¹⁰³. There is therefore no decoupling for this type of waste, although there is for overall domestic waste (see reply to question 4).

Furthermore, there are big differences with regard to decoupling between the different countries, which appears to relate to the use of recovery systems. Rates for the recycling of packaging waste have met the targets set for 2001 (>25%) and 2008 (>55%) and this trend is expected to continue.

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Art. 6(1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60% by weight for glass;
 - (ii) 60% by weight for paper and board;
 - (iii) 50% by weight for metals;
 - (iv) 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15% by weight for wood.

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Source: Generation and recycling of packaging waste (CSI 017/waste 002) - Assessment published Nov 2012

In the Basque Country, with regard to the recycling targets, neither the total of packaging waste nor any of the separated materials meet the individual recycling objective, and there is still a significant gap for all forms of waste except paper and cardboard, which are very close to the target.

The targets of recovering 60% of the total by weight, adding together recycling and energy recovery, are only met by paper/cardboard packaging.

The total gives a recovery rate of 54.7%, which does not meet the target jointly either.

MATERIALS	% recycling	% energy recovery	% recovery
Glass	52,32%	0,00%	52,32%
Paper/Cardboard	58,31%	12,11%	70,42%
Plastics	15,94%	28,42%	44,36%
Metals	44,68%	0,00%	44,68%
TOTAL	39,66%	15,08%	54,74%

In order to meet the targets for the recycling and recovery of packaging it is going to be necessary to take measures which help to increase recycling rates in this region. For all of these reasons, we do not believe that the solution is to set more ambitious targets, but rather to examine the factors hindering compliance with the current targets, and the exchange of information and the development of incentives or tools to increase that recycling even further.

With regard to this stream, we believe that Europe's role is more important in prevention policies, as we indicate in the reply to question 4.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

Yes

4b. *If yes, please specify the need for and the added value resulting from such EU action.*

In order to be effective, individual prevention targets should be set for each waste stream. Collective targets for re-use and recovery, such as those set for WEEE, hinder the establishment of activities to prepare for re-use.

In this regard, we propose setting an objective of 5% for the re-use of WEEE.

It would therefore be useful to have technical rules on prevention, re-use, recycling, recovery and biodegradation, with a view to establishing monitoring indicators. This is the case with the technical rules arising from the Packaging Directive and they could be used as a reference for other waste streams: WEEE, etc.

Background data:

- There has been decoupling of economic development from the generation of municipal waste in the Europe of 32.¹⁰⁴
- For certain streams, that decoupling does not exist, as mentioned under question 3 in relation to packaging waste. For those streams, the priority should therefore be prevention.
- In the Basque Country, for example, the generation of packaging waste and WEEE increased, both in absolute terms and in per capita terms, between 2005 and 2011, despite the economic recession.
- In addition, one of the factors that has the greatest impact on the generation of the different types of waste (which is key to focussing prevention policies) is consumption¹⁰⁵. Analysis of trends in consumer spending¹⁰⁶ shows that the goods most consumed are: housing (which includes electrical goods), alcohol, drinks, narcotics [sic - *translator*] and food. The waste streams most clearly affected by these consumption patterns are:
 - packaging waste
 - WEEE
 - CDW
 - biodegradable waste

Of these streams, those with the greatest prevention potential are packaging and WEEE, and those are form of consumption that relate to market conditions. Prevention measures should therefore be established at EU level.

¹⁰⁴ Source: Municipal waste generation per capita in Western Europe (EU-15), New Member States (EU-12), EU countries (EU-27) and total in Europe (EU-27 + Turkey, Croatia, Norway, Iceland, Switzerland). Assessment Published Dec.2011

¹⁰⁵ Source: Ambientum

¹⁰⁶ Source: Household expenditure on consumption categories with differing environmental pressure intensities (SCP 013) - Assessment published Apr 2013

In this case, indicators should also be established to assess prevention policies in combination with recycling and separation policies.

For example, the recycling rate for WEEE set at 4kg/person.per year measures the evolution of separate collection, but would not measure, or would penalise, prevention, which leads to fewer kg/person per year being generated and collected. Additional indicators such as Kg of products recovered or re-used, or Kg of products placed on the market, both for packaging and for electrical and electronic goods, could therefore give a better picture of progress for the combination of the two approaches.

Establishing measures at EU level in accordance with the principle of subsidiarity and on the basis of best available practices would contribute to more homogenous application of these principles in a global market, since it is difficult to change production or consumption patterns on a country or regional basis.

Measures should be established aimed at ensuring economic viability both for consumers and for companies:

- less placing on the market of packaging and new electrical and electronic goods, in favour of their repair and subsequent re-use;
- extending the operational life of products (as opposed to built-in obsolescence).

We also consider it important to establish more end-of-life criteria for waste for certain streams, set by the EU as a means to promote the use of secondary materials obtained from waste.

4c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

- aa) industrial and commercial waste?*
- bb) other waste streams?*

aa No
bb No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

In the Basque Country, the generation of industrial and similar commercial waste has fallen slightly and the proportion of separate collection has increased compared to joint collection. The streams generated in the highest quantities are paper, industrial mixtures, glass and pruning waste. The generation of almost all of them is falling over time.

However, there is one stream whose generation has increased considerably: waste glass (mostly from the food and accommodation sector), which has increased 15 times in 5 years. If the problem of glass in this sector found in the Basque Country is a general problem throughout the EU, measures should be established for that sector based on certain types of consumption to promote the consumption of bulk liquids and/or measures to make the use of systems for the re-use of glass packaging viable. These measures could be complemented by limits or tariffs on the generation of glass in this sector. In any event, all of these measures could form part of the packaging prevention measures mentioned under question 4. Furthermore, though they are produced in significantly smaller quantities, we would note the increase in quantities of textiles (probably due its increasing separation), compostable organic material and electrical goods. These latter two streams would be improved by the measures mentioned in other sections.

In addition, there are other streams which must not be overlooked, but the problem may vary considerably in the different regions or countries, and it is therefore important that those countries and regions establish specific recycling rates themselves for those streams.

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹⁰⁷ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

waste, in order to guarantee a high level of protection for human health and the environment."

6a. Do you see a need for the setting of such EU minimum requirements?¹⁰⁸

Yes

6b. If yes, please specify the need for and the added value resulting from such EU action.

We entirely agree that it is necessary to harmonise quality criteria for compost at European level and establish quality assurance systems for output products that guarantee a high level of protection for the environment. We believe that these criteria must be provided for at European level in order to promote the development of a European compost market, in line with the approach taken in the document "Technical Report for End of Waste criteria on Biodegradable Waste Subject to Biological Treatment" Third Working Document. August 2012.

[http://susproc.jrc.ec.europa.eu/activities/waste/documents/IPTS_EoW_Biodegradable_waste_3rd
-
working_document_wo_line_nr.pdf](http://susproc.jrc.ec.europa.eu/activities/waste/documents/IPTS_EoW_Biodegradable_waste_3rd_working_document_wo_line_nr.pdf)

6c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive¹⁰⁹ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target*
- bb) set new EU targets*
- and/or*
- cc) introduce EU landfill bans?*

Yes

7b. If yes, please specify the need for and the added value resulting from such EU action.

In the Spanish State, Article 5 of Royal Decree 1481/2001¹¹⁰, of 27 December, on the disposal of waste by landfill, states that the general administration of the State and the administrations of the autonomous regions shall implement measures to achieve the maximum quantities of this stream permitted for landfilling, in relation to the data obtained for 1995. That Royal Decree also sets

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Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

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Recently amending by means of Royal Decree 1304/2009 and Order 661/2013 of 18 April maintaining the targets set in Royal Decree 1481/2001.

those maximum quantities. On the basis of these requirements, compliance in the Basque Country with the targets set can be analysed¹¹¹.

BIODEGRADABLES FOR DISPOSAL	1995	2011 (t)	Target 2006	Target 2009	Target 2016
Basque Country	714.000	303.509	535.500	357.000	249.900

This shows that in 2011 the general target set for the whole of the Basque Country for 2009, of 357,000 tonnes, was met, since the quantity of biodegradable waste deposited in landfill in 2011 was 303,509 tonnes. However, the target set for 2016, of 249,900 tonnes, has not yet been achieved. Over the coming years measures must continue to be implemented to reduce the quantity of biodegradable waste deposited in landfill. However, following the analysis carried it in drawing up the Basque Country's 2011 inventory of SUW, it is hoped that for 2016 the biodegradable waste landfill targets for the Basque Country and by Historic Territory can be met.

Article 5 and Annex II of Decree 49/2009, of 24 February, on the disposal of waste by landfill in the Basque Country provides for measures to limit the landfilling of waste considered recyclable.

Establishing landfill bans at EU level for certain waste streams, such as recyclable waste, waste with calorific value and others, could be considered; allowing for exceptions in particular technically and economically justified cases, at regional or State level.

7c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

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Article 5 of Royal Decree 1481/2001, of 27 December, on the disposal of waste by landfill lays down the maximum quantities that can go to landfill for each Historic Territory, compared to the data for 1995:

Article 5. Waste and treatments not permitted in a landfill.

1. By 16 July 2003, the General State Administration and the Administrations of the Autonomous Regions shall draw up a joint action plan to reduce biodegradable waste going to landfills. This programme shall include measures to achieve the objectives laid down in paragraph 2 of the present article, in particular by means of recycling, composting and other forms of recovery, such as production of biogas by means of anaerobic digestion.

2. The programme mentioned in the previous paragraph shall ensure that, as a minimum, the following targets are met:

a) not later than 16 July 2006, biodegradable municipal waste going to landfills must be reduced to 75% of the total amount (by weight) of biodegradable municipal waste produced in 1995.

b) not later than 16 July 2009, biodegradable municipal waste going to landfills must be reduced to 50% of the total amount (by weight) of biodegradable municipal waste produced in 1995.

c) not later than 16 July 2016, biodegradable municipal waste going to landfills must be reduced to 35% of the total amount (by weight) of biodegradable municipal waste produced in 1995.

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

**11. Flemish Parliament (Committee on Environment)
(Subsidiarity Expert Group)**

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

- a) the transposition of EU waste legislation into national law: Yes (regional laws)
- b) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures): Yes
- c) its enforcement (e.g. surveillance, inspections) : Yes

SUBSIDIARITY

2. Reinforced targets in the context of the Waste Framework Directive

Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2)8 – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets : Yes

2b. If yes, please specify the need for and the added value resulting from EU action in this context.(max. 350 words)

In order to move towards a resource efficient Europe, more ambitious recycling and reuse targets are key. Flanders has proven that the present targets in the WFD can be easily achieved. Already in 1997 Flanders achieved the target of 50% household waste recycled and reused. Actually, this rate jumped from 20 to 50 % in less than 5 years time. Now the recycling rate is above 70 %.

A target was laid down of 75 % recycling by 2000 in the Flemish Region for construction and demolition waste. This has been achieved in less than 10 years.

Not only should targets be more ambitious in the reviewed Waste Framework Directive, the Commission should also continue to put emphasis on exchange of good practices and the importance of resource efficient waste management plans and good waste infrastructures. This is a clear added value resulting from EU action.

When laying down targets it is also very important to establish clear definitions so that all Member States report on the same basis. Now it is possible to have different outcomes in reaching targets by using different definitions and calculation methods. "Municipal solid waste" has not been clearly defined.

3. Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets⁹ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. *Do you see a need to reinforce these EU targets : Yes*

3b. *If yes, please specify the need for and the added value resulting from EU action in this context.*

Belgium has reached the targets. A higher ambition would be of added value. Especially for plastic waste, there is still a lot of potential. The target of 22,5% recycling laid down in the current Packaging Waste Directive, can definitely be raised. Belgium has a target of 30 % for plastic packaging waste. The green paper plastic waste and its proposed future policies offer opportunities in setting ambitious targets. For other packaging forms, such as for example paper, metal and wood, an evaluation should take place, so that targets can be reviewed.

4. EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes. This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators : Yes*

4b. *If yes, please specify the need for and the added value resulting from such EU action.(max. 350 words)*

Laying down prevention targets on a European level is a difficult task. There is a large variety in the waste quantities produced in the different Member States due to different standards of living. In Flanders, there is a target of 550 kg per person per year for household waste, which is quite high compared to Member States in Eastern Europa. It will be hard to find a target that is acceptable for the large majority and is still ambitious enough to make a difference. It will also be difficult to agree on what should be counted in as waste produced and on how to measure what has been prevented. Measuring prevention and setting targets has proven to be difficult. Still, it is worth further developing indicators and targets for waste prevention.

In Flanders, there are targets for maximum amounts of waste that is landfilled or incinerated. Mostly mixed municipal waste has been targeted over the years. The amount of mixed municipal waste that is landfilled or incinerated, shall not exceed 150kg per inhabitant per year. This target serves both as a way to prevent waste and to stimulate recycling. It is also easy to monitor. This could be an option or alternative for the European prevention targets, not only for household waste but also for industrial and commercial waste that has a similar composition as household waste.

In order to become more resource efficient and have a less negative impact on the environment, less consumption of materials and less waste is key. Smart design of products, with less material, more quality and more reuse and recycling possibilities of material is essential. The Commission plays a vital role in stimulating prevention through eg targets in design of products, eg Eco Design Directive. Encouraging policies to close material loops will also have an impact.

Another important aspect in the discussion on prevention of waste is how to measure growth. The present GDP indicator does not suffice to measure growth. Its narrow view on growth is detrimental to quality of life and does not help to work towards a sustainable and resource efficient future. There should be an absolute decoupling of growth and the amount of products consumed or waste produced. Social and environmental aspects have to be incorporated when measuring growth. GDP is a measure of production and does not measure environmental sustainability and resource efficiency.

5. New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

aa) industrial and commercial waste : yes

bb) other waste streams : yes

5b. *If yes, please specify the need for and the added value resulting from such EU action.(max. 350 words)*

Already, there are different EU recycling targets to be found in different pieces of EU waste legislation, eg targets in the WEEE Directive and the batteries directive. Still, there are remaining waste streams that would benefit from reuse and recycling targets. Plastic waste for example, is a big problem, not only on European level, but on global level. The problems generated by microplastics on aquatic life only now become visible. The impact on human health are still largely unknown. For environmental and health reasons, more efforts should be made to collect and treat plastic waste in order to prevent it from ending up in the environment. Also, from a resource efficient point of view, targets can help to stimulate better design so that plastic can be more easily reused and recycled throughout Europe. This will have both economically and environmentally benefits.

We should also consider recycling targets per material stream, instead of targets per product group, in order to recover waste streams that are now considered to be too hard to recover or the least profitable to recover such as critical metals present in small electronic equipment.

The development of recycling certificates for different materials (eg for plastics) that are traded on a European scale should be considered as it will stimulate the market of recycled content. We should

not only increase the supply of recycled materials via recycling targets. Demand for recycled material has to increase too. The introduction of a target for the use of recycled content per material within new products has to be part of the process as this will increase demand for recycled secondary raw materials. It all helps to prevent waste and prevent pollution of the environment. Starting at the beginning of the pipe instead of focusing on end of pipe solutions helps making Europe a more sustainable and resource efficient society.

6. Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹⁰ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from biowaste, in order to guarantee a high level of protection for human health and the environment."

6a. Do you see a need for the setting of such EU minimum requirements : Yes

6b. If yes, please specify the need for and the added value resulting from such EU action.

In the past, the need for a Biowaste Directive and End of Waste Criteria for compost and digestate has been stressed. In order to assure the appropriate treatment of biowaste and the appropriate use of resulting products (compost and digestate), a European framework that sets minimum requirements for separate collection and treatment is very much needed. Such a framework would guarantee the quality of both the processing of biowaste and the use of the resulting products. Further, biowaste recycling would be promoted by having such a framework. With increasing compost markets and trade there is - on a European level - a need for a clear identification of quality criteria for compost and the used input materials which identifies compost as 'product'.

7. Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive¹² requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection." Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

aa) reinforce the existing EU target: yes

bb) set new EU targets

and/or

cc) introduce EU landfill bans?

7b. If yes, please specify the need for and the added value resulting from such EU action. (max. 400 words)

Regarding the target concerning biowaste: in the end a complete ban on landfilling organics should be achieved by means of source separation and biological treatment via composting and anaerobic digestion. In addition pre-treatment of the organic fraction of the remaining residual waste by means of mechanical biological treatment or incineration guarantees sufficient environmental performance in form of an acceptable material for landfilling. In a second phase beyond 2016/2020, after most of the Member States have met the current Landfill Directive target, a second mandatory step should be considered. In light of greenhouse gas emissions generated from landfilling and the efficient management of our resources a complete organics ban should be achieved.

Flanders is already having little landfilling and will further decrease landfilling in the coming years, thereby respecting the waste hierarchy and developing sustainable materials management. In Flanders, a landfill ban has been established on recyclable and/or combustible waste and unsorted mixed waste. This has worked very well in combination with high landfill taxes for waste that is still allowed to be landfilled. Such a ban should be considered on a European scale.

Any other comments

***8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?
Comment (max. 350 words)***

In order to stimulate the use of recyclable content, European market conditions need to be created. It is on this level that enough supply and demand can be guaranteed. Also, it is on this level that a uniform quality of the recycled material has to be achieved. European recycling certificates that can be traded, product standards and targets for the use of recycled content in products are all instruments that can be developed/ used for a well-functioning market in the use of recycled material and for creating a European level playing field.

12. Extremadura Regional Assembly

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

- y) the transposition of EU waste legislation into national law?*
- z) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?*
- aa) its enforcement (e.g. surveillance, inspections)?*

- a) Yes*
- b) Yes*
- c) Yes*

SUBSIDIARITY¹¹²

Reinforced targets in the context of the Waste Framework Directive

Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)¹¹³ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets?

No

2b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

2c. If no, please specify the reasons why EU action in this context is not necessary.

This paragraph states that by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight, complying with the objectives of the Directive and moving towards a European recycling society which is highly resource-efficient.

¹¹² Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?
and/or
- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?
and/or
- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

¹¹³ a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

(max. 350 words)

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6(5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets¹¹⁴ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

Yes

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

Measures to foster the re-use of products and activities to prepare for re-use, promoting the establishment and support of networks of re-use and repair, the use of economic instruments. Paper, metals, plastic and glass should be collected separately.
(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

¹¹⁴ Art. 6(1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60% by weight for glass;
 - (ii) 60% by weight for paper and board;
 - (iii) 50% by weight for metals;
 - (iv) 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15% by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

Yes

4b. If yes, please specify the need for and the added value resulting from such EU action.

Altering current consumption models, including drawing up a policy on the ecological design of products in order to tackle both the generation of waste and the presence of dangerous substances in it, with a view to promoting technologies focussing on sustainable, reusable and recyclable products.

(max. 350 words)

4c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. Do you see a need for new EU recycling targets concerning:

aa) industrial and commercial waste?

bb) other waste streams?

Yes

5b. *If yes, please specify the need for and the added value resulting from such EU action. It will also be necessary to include special measures for used oils, hazardous waste and waste streams subject to specific EU legislation.*
(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*
(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹¹⁵ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?¹¹⁶*

Yes

6b. *If yes, please specify the need for and the added value resulting from such EU action. The separate collection of bio-waste for composting and digestion and the treatment of bio-waste, with a view to achieving a high degree of environmental protection; and the use of environmentally safe materials produced from bio-waste.*
(max. 350 words)

6c. *If no, please specify the reasons why EU action in this context is not necessary.*
(max. 350 words)

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive¹¹⁷ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target*
- bb) set new EU targets*
- and/or*
- cc) introduce EU landfill bans?*

Yes

7b. If yes, please specify the need for and the added value resulting from such EU action.

(max. 400 words)

7c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

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Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

**13. Marche Regional Assembly
(Subsidiarity Expert Group)**

***IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL
AUTHORITIES***

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

bb) the transposition of EU waste legislation into national law?

cc) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?

dd) its enforcement (e.g. surveillance, inspections)?

a) Yes/No

b) Yes/No

c) Yes/No

SUBSIDIARITY¹¹⁸

Reinforced targets in the context of the Waste Framework Directive

Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)¹¹⁹ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets?

Yes

2b. If yes, please specify the need for and the added value resulting from EU action in this context.

The target of preparing for re-use and recycling of domestic waste such as paper, metal, plastic and glass should be reinforced, as experience shows that some more specific local collection systems (e.g. "door to door") almost always achieve very high levels of purity of material originating from household waste (or similar): well over 50%, in terms of weight (especially in the case of paper, metal and glass). We therefore consider that the target could be raised to at least 70% in terms of weight, as laid down for the materials listed in Article 11(2)(b) of the Waste Directive: this would ensure greater effective recovery of materials and reduce the use

¹¹⁸ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?
and/or
- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?
and/or
- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

¹¹⁹ a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

made of final disposal systems, thereby retaining the available disposal plants for a longer period.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

Yes

4b. If yes, please specify the need for and the added value resulting from such EU action.

Preventing the generation of waste at source is clearly the priority in regulatory terms for the proper management of waste; this is specified by the Framework Directive itself in Article 4(1), which places prevention at the top of the hierarchy. It is therefore essential to establish specific indicators for ascertaining that the parameters attained by each Member State genuinely do meet the common target set at EU level.

It would be unwise to set specific parameters solely for lower priorities such as recycling or energy recovery and not set one for a higher priority such as prevention. It is clear that any qualitative and/or quantitative target regarding prevention should follow an analysis of data on both the generation of waste and the production of goods or merchandise.

Setting targets at EU level means providing uniform goals for Member States' waste-prevention programmes/measures. It also means giving Member States the opportunity to discuss and exchange information, and to pass on successful programmes and schemes.

It is therefore right that appropriate indicators for monitoring and control of waste-prevention programmes and activities should be set at EU level.

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

aa) industrial and commercial waste?

bb) other waste streams?

Yes/No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

See answer to following question.

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹²⁰ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?¹²¹*

Yes

6b. *If yes, please specify the need for and the added value resulting from such EU action.*

We consider that qualitative criteria should be set at EU level, placing organic waste, compost and digestate derived from it on the same footing as other similar products for use in agriculture, especially soil improvers.

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

(a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;

(b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;

(c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Quality standards for compost (both for "high-quality" compost and for the lower quality type which comes under the system of waste used for non-agronomic purposes) should be set at EU level, not least so that it can be sold as a technical material throughout the internal market. To this end, common technical specifications should be laid down for all Member States concerning the processing and quality of "high-quality" compost.

The use of compost/digestate obtained from the processing of biodegradable organic waste should also be regulated at EU level, establishing different rules for the possible end-uses.

Wet waste should therefore be included among the types of waste fraction, and collection targets and recovery performance levels should be laid down: these should be on an increasing scale.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive¹²² requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. *Do you see a need to*

aa) reinforce the existing EU target

bb) set new EU targets

and/or

cc) introduce EU landfill bans?

No

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Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

7c. If no, please specify the reasons why EU action in this context is not necessary.

Joint action at EU level is not necessary because Member States should retain their prerogatives concerning waste management, particularly if this would involve the choice of specific techniques such as incineration with energy recovery of recyclable waste offering high heating power.

14. Sicilian Regional Assembly
(Subsidiarity Expert Group)

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

1. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

ee) the transposition of EU waste legislation into national law?

ff) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?

gg) its enforcement (e.g. surveillance, inspections)?

a) Yes/No

b) Yes/No

c) Yes/No

SUBSIDIARITY ¹²³
<i>Reinforced targets in the context of the Waste Framework Directive</i>
<i>Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)¹²⁴ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."</i>
2a. Do you see a need to reinforce these EU targets?
<i>Yes/No</i>
2b. If yes, please specify the need for and the added value resulting from EU action in this context. <i>(max. 350 words)</i>
2c. If no, please specify the reasons why EU action in this context is not necessary.
EU ACTION IS NOT NEEDED SINCE EU LEGISLATION IN THIS AREA IS PARTICULARLY DETAILED.

123 Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?
and/or
 - because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?
and/or
 - because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?
- 2.2** Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

124 a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6(5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets¹²⁵ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

Yes/No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

EU ACTION IS NOT NEEDED SINCE EU LEGISLATION IN THIS AREA IS ALREADY SUFFICIENTLY DETAILED. IN FACT THE PROGRAMMED TARGETS ARE DIFFICULT FOR THE REGION OF SICILY TO ACHIEVE.

¹²⁵ Art. 6(1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60% by weight for glass;
 - (ii) 60% by weight for paper and board;
 - (iii) 50% by weight for metals;
 - (iv) 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15% by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. *Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?*

Yes/No

4b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

4c. *If no, please specify the reasons why EU action in this context is not necessary.*

EU ACTION IS NOT NEEDED SINCE EU LEGISLATION IN THIS AREA IS PARTICULARLY DETAILED.

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. *Do you see a need for new EU recycling targets concerning:*

aa) industrial and commercial waste?

bb) other waste streams?

Yes/No

5b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

EU ACTION IS NEEDED SINCE EU LEGISLATION IS INADEQUATE. IT WOULD BE APPROPRIATE TO SET NEW RECYCLING TARGETS TO ENSURE BETTER WASTE TRACEABILITY.

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹²⁶ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?¹²⁷*

~~Yes~~/No

6b. *If yes, please specify the need for and the added value resulting from such EU action.*

(max. 350 words)

6c. *If no, please specify the reasons why EU action in this context is not necessary.*

EU ACTION IS NOT NEEDED SINCE THE TARGETS SET OUT IN ARTICLE 22 OF THE WASTE FRAMEWORK DIRECTIVE ARE ALREADY SUFFICIENTLY DETAILED AND COMPLETE.

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive¹²⁸ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target
- bb) set new EU targets
- and/or
- cc) introduce EU landfill bans?

Yes/No

7b. If yes, please specify the need for and the added value resulting from such EU action.

IT IS NECESSARY TO STRENGTHEN THE 2014 TARGET AND THE 2020 OBJECTIVE SETTING OUT SPECIFIC CONTROL ACTIVITIES AND ENSUING PENALTIES AGAINST THE UNAUTHORISED LANDFILLING OF WASTE.

7c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

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Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

THE INVOLVEMENT OF REGIONAL PARLIAMENTS WOULD HAVE TO BE INCREASED THROUGH CONSULTATION ON THE IMPACT ASSESSMENTS AND IN THE WORKING GROUP ON AN ACTION PLAN.

15. Bozen/Bolzano – South Tyrol Provincial Government (Office for Waste Management)

IMPLEMENTATION OF EU WASTE LEGISLATION BY LOCAL AND REGIONAL AUTHORITIES

I. How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

hh) the transposition of EU waste legislation into national law?

ii) the application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?

jj) its enforcement (e.g. surveillance, inspections)?

a) Yes

b) Yes

c) Yes

SUBSIDIARITY¹²⁹

Reinforced targets in the context of the Waste Framework Directive

Art. 11(4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11(2)¹³⁰ – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

2a. Do you see a need to reinforce these EU targets?

No

2b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

2c. If no, please specify the reasons why EU action in this context is not necessary.

We feel that current EU targets are appropriate and realistically achievable. In South Tyrol, we have already achieved, and in some cases exceeded these targets. However, we feel that the current targets should only be further reinforced after the actual waste recovery options for the

¹²⁹ Extract of the CoR's subsidiarity and proportionality assessment grid (<http://corportal/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>) containing the **relevant aspects to be examined in the framework of a subsidiarity analysis:**

SUBSIDIARITY PRINCIPLE - "Should the EU act?"

In areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level (Art. 5 TEU).

The EU should act only if its action is deemed to be **necessary and** to provide a **clear benefit**.

You can assess whether these two **cumulative** conditions are fulfilled by looking into the following questions.

2.1 Is the proposed action **necessary**:

- because the issue being addressed has trans-national aspects that cannot be satisfactorily regulated by Member States and/or local and regional authorities acting alone?
and/or
- because action taken by Member States alone or lack of action at EU level would conflict with the requirements of the Treaties or otherwise significantly damage the other Member States' interests?
and/or
- because existing EU measures and/or targeted assistance provided in this framework are not sufficient to achieve the intended objective(s)?

2.2 Would the proposed action provide a **clear benefit**, by reason of its scale and/or effectiveness, compared with action at national, regional or local levels (e.g. economies of scale, legal clarity, homogeneity in legal approaches, etc.)?

¹³⁰

a) by 2020, the preparing for re-use and the recycling of waste materials such as at least paper, metal, plastic and glass from households and possibly from other origins as far as these waste streams are similar to waste from households, shall be increased to a minimum of overall 50% by weight;

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70% by weight.

waste fractions mentioned are increased, or if there are guaranteed long-term markets for products derived from waste recycling.

Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6(5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets¹³¹ every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

3a. Do you see a need to reinforce these EU targets?

No

3b. If yes, please specify the need for and the added value resulting from EU action in this context.

(max. 350 words)

3c. If no, please specify the reasons why EU action in this context is not necessary.

We feel that current targets already suffice. Higher targets could possibly result in greater downcycling, which is surely not what the EU wants. However, we feel there should be targets for the use of sustainable packaging and waste recovery options, with priority for recycling.

¹³¹ Art. 6(1): In order to comply with the objectives of this Directive, Member States shall take the necessary measures to attain the following targets covering the whole of their territory:

- (a) no later than 30 June 2001 between 50% as a minimum and 65% as a maximum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (b) no later than 31 December 2008 60% as a minimum by weight of packaging waste will be recovered or incinerated at waste incineration plants with energy recovery;
- (c) no later than 30 June 2001 between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste will be recycled with a minimum of 15% by weight for each packaging material;
- (d) no later than 31 December 2008 between 55% as a minimum and 80% as a maximum by weight of packaging waste will be recycled;
- (e) no later than 31 December 2008 the following minimum recycling targets for materials contained in packaging waste will be attained:
 - (i) 60% by weight for glass;
 - (ii) 60% by weight for paper and board;
 - (iii) 50% by weight for metals;
 - (iv) 22.5% by weight for plastics, counting exclusively material that is recycled back into plastics;
 - (v) 15% by weight for wood.

EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes.

This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29(4)."

4a. Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

Yes

4b. If yes, please specify the need for and the added value resulting from such EU action.

We think that introducing and revising waste prevention targets could encourage sustainable habits in the waste management sector. While recycling is certainly important, we feel that preventing waste production in the first place is even more important.

4c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

New EU recycling targets

Article 11(4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

5a. Do you see a need for new EU recycling targets concerning:

- aa) industrial and commercial waste?*
- bb) other waste streams?*

Yes

5b. If yes, please specify the need for and the added value resulting from such EU action.

Targets for the above-mentioned waste streams would definitely make sense. However, we feel that these targets should apply more to the use and production of recyclable products. This would mean that EU recycling targets were no longer strictly necessary.

5c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹³² asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment."

6a. *Do you see a need for the setting of such EU minimum requirements?¹³³*

Yes

6b. *If yes, please specify the need for and the added value resulting from such EU action.*

Uniform bio-waste management and quality criteria for compost and digestate would significantly raise waste-management standards throughout Europe. This would definitely offer health and environmental benefits.

6c. *If no, please specify the reasons why EU action in this context is not necessary.*

(max. 350 words)

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Article 22: Member States shall take measures, as appropriate, and in accordance with Articles 4 and 13, to encourage:

- (a) the separate collection of bio-waste with a view to the composting and digestion of bio-waste;
- (b) the treatment of bio-waste in a way that fulfils a high level of environmental protection;
- (c) the use of environmentally safe materials produced from bio-waste. The Commission shall carry out an assessment on the management of bio-waste with a view to submitting a proposal if appropriate. The assessment shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from bio-waste, in order to guarantee a high level of protection for human health and the environment.

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See a study commissioned by the European Commission on the *Assessment of feasibility of setting bio-waste recycling targets in EU, including subsidiarity aspects*:

http://ec.europa.eu/environment/waste/compost/pdf/Biowaste_recycling_targets_final_final.pdf.

Reinforced/new landfill diversion targets or landfill bans

Art. 5(2) of the Landfill Directive¹³⁴ requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Furthermore, the Commission's "Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

7a. Do you see a need to

- aa) reinforce the existing EU target*
- bb) set new EU targets*
- and/or*
- cc) introduce EU landfill bans?*

Yes

7b. If yes, please specify the need for and the added value resulting from such EU action.

Introducing a landfill ban could encourage the recycling of certain waste types.

7c. If no, please specify the reasons why EU action in this context is not necessary.

(max. 350 words)

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Art. 5(1): Member States shall set up a national strategy for the implementation of the reduction of biodegradable waste going to landfills (...). This strategy should include measures to achieve the targets set out in paragraph 2 by means of in particular, recycling, composting, biogas production or materials/energy recovery (...).

2. This strategy shall ensure that:

(...)

(c) not later than 15 years after the date laid down in Article 18(1), biodegradable municipal waste going to landfills must be reduced to 35 % of the total amount (by weight) of biodegradable municipal waste produced in 1995 or the latest year before 1995 for which standardised Eurostat data is available.

Two years before the date referred to in paragraph (c) the Council shall re-examine the above target, on the basis of a report from the Commission on the practical experience gained by Member States in the pursuance of the targets laid down in paragraphs (a) and (b) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection."

Any other comments

8. Do you have any other comments related to subsidiarity in the context of EU waste legislation?

Comment (max. 350 words)

16. City of Gothenburg

Contribution from the City of Gothenburg to the questionnaire "Review of EU waste legislation"

Consultation of the Committee of the Regions' Subsidiarity Expert Group within the Subsidiarity Monitoring Network (SMN)

1. Implementation of EU waste legislation by local and regional authorities

How is the implementation of EU waste legislation organised in your Member State? Is your local/regional authority involved in:

- a) The transposition of EU waste legislation into national law?

Yes

- b) The application of transposed EU waste legislation (e.g. issuing permits, setting up waste prevention programmes and/or waste management plans; developing and managing waste management infrastructures)?

Yes

- c) Its enforcement (e.g. surveillance, inspections)?

Yes

2. Reinforced targets in the context of the Waste Framework Directive

Art. 11 (4) of the Waste Framework Directive asks the Commission to examine the measures and the two targets as defined in Art. 11 (2) – concerning household and similar waste as well as non-hazardous construction and demolition waste - "with a view to, if necessary, reinforcing the targets."

- a) Do you see a need to reinforce these EU targets?

Yes

- b) If yes, please specify the need for and the added value resulting from EU action in this context.

While targets should be reinforced the increased environmental benefit need to be

.../...

analyzed, e.g. to consider the quality of the recycled material. Textile is a waste fraction that needs new targets, considering the environmental impact of producing new textile.

3. Reinforced targets in the context of the Packaging and Packaging Waste Directive

According to Art. 6 (5) of the Packaging and Packaging Waste Directive, the Commission shall examine the recovery and recycling targets every five years (in 2014 for the next time), on the basis of practical experiences gained in the Member States.

- a) Do you see a need to reinforce these EU targets?
Generally there should be a potential for reinforced targets, it depends on if the current targets have been achieved.
- b) If yes, please specify the need for and the added value resulting from EU action in this context.

Most important for the legislation to provide a producer responsibility that reduces waste and create packaging that is easy to recycle; this was the ambition of producer responsibility. The trend is, unfortunately, that producer responsibility is all about collecting and recycling packaging.

4. EU waste prevention targets

Art. 9 of the Waste Framework Directive gives the Commission a mandate to propose measures required in support of the prevention activities and the implementation of the waste prevention programmes. This includes also the "setting of waste prevention and decoupling objectives for 2020 by the end of 2014, based on best available practices including, if necessary, a revision of indicators for waste prevention measures referred to in Art. 29 (4)."

- a) Do you see a need for the introduction of EU waste prevention targets and the revision of related indicators?

Yes

- b) If yes, please specify the need for and the added value resulting from such EU action.

This is the most important measure from an environmental perspective. City of Gothenburg currently participates in a national project on the development of such indicators. While it is important to have adequate indicators the reduction of waste is not only the concern of the waste sector. The result depends on the efforts of all other segments of society.

5. New EU recycling targets

Article 11 (4) of the Waste Framework Directive asks the Commission to "consider the setting of targets for other waste streams." This mandate was introduced by the European Parliament during the legislative procedure and concerned originally industrial and commercial waste, but the final Directive, and thus the current mandate, do not limit the waste streams which could be addressed.

- a) Do you see a need for new EU recycling targets concerning:
- industrial and commercial waste?
 - other waste streams?

Yes

- b) If yes, please specify the need for and the added value resulting from such EU action.

We believe that fractions such as textile and hazardous waste are important to consider.

6. Minimum EU requirements for bio-waste management

Art. 22 of the Waste Framework Directive¹⁰ asks the Commission to "carry out an assessment on the management of bio-waste which shall examine the opportunity of setting minimum requirements for bio-waste management and quality criteria for compost and digestate from biowaste, in order to guarantee a high level of protection for human health and the environment."

- a) Do you see a need for the setting of such EU minimum requirements?

Yes

- b) If yes, please specify the need for and the added value resulting from such EU action.

It is important for nutrients and energy in food waste is utilized. Several studies in Sweden have found that anaerobic digestion is much more beneficial than composting. Common EU requirements for digestate and compost would be an advantage.

7. Reinforced/new landfill diversion targets or landfill bans

Art. 5 (2) of the Landfill Directive requires the Council to re-examine the target concerning biodegradable municipal waste set out in paragraph c in 2014, "on the basis of a report from the Commission on the practical experience gained by Member States (...) accompanied, if appropriate, by a proposal with a view to confirming or amending this target in order to ensure a high level of environmental protection." Furthermore, the Commission's

"Roadmap to a Resource-Efficient Europe" includes the aspirational objective to "virtually eliminate" landfilling by 2020. This could lead to the introduction of new diversion targets and/or landfill bans for specific waste streams (for example concerning recyclable waste, waste which has calorific value or plastic waste).

- a) Do you see a need to reinforce the existing EU target and/or introduce EU landfill bans?

Yes

- b) If yes, please specify the need for and the added value resulting from such EU action.

One of the greatest environmental benefits one can do is to divert waste streams from landfill, this applies especially to food waste.

8. Any other comments

It is positive that the EU raises the question of how to proceed in respect of waste legislation. We believe that there are great benefits to be gained by improving the sorting out food waste and materials from an economic, ecological and social perspective. Too much waste is sent to landfill despite that EU had a clear objective to reduce this amount. What is needed may not only be to set new targets but creating incentives that govern development in the right direction. Gothenburg has experience of how a weight-based tariff can increase the sorting of waste. We would also like to point out that investment grants for the construction of treatment plants can be an effective instrument to reduce the amounts deposited.

Another important issue concerns the transport of waste. The need for better control of what is transported, how it will be finalized and that this waste can not be reclassified in order to circumvent the rules for waste shipments. Large quantities of waste ends today far from the countries in which it was created and in the hands of people who have little knowledge of its harmfulness and risks. Waste Trading may not occur due to certain countries have a weak environmental and safety legislation.
