

17.12.21**Decision**
of the Bundesrat

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – ‘Fit for 55’: moving towards climate neutrality – delivering the EU’s 2030 climate target**COM(2021) 550 final; Council doc. 10849/21**

At its 1014th session on 17th December 2021, the Bundesrat adopted the following Opinion pursuant to §§ 3 and 5, Act on Cooperation between the Federation and the Federal States in European Union Affairs (EUZBLG):

General Comments

1. In view of the climate crisis, which is growing increasingly apparent worldwide, the Bundesrat welcomes the presentation of the comprehensive legislative package “Fit for 55” and its important policy signals, objectives and new funding opportunities for climate-friendly restructuring of the business world, the state and society. Europe can embark on the path to climate neutrality by consistently implementing these measures.

The Bundesrat welcomes the climate policy objectives in the proposals presented by the Commission to bring about a fair, competitive and ecological transformation by 2030 and subsequently. The Bundesrat views this as an important step towards implementing the European Green Deal and the European Climate Law.

The Bundesrat considers it appropriate that in the “Fit for 55” package the Commission has presented a set of measures related to the climate, energy, land use, taxes and transport with a view to attaining the goals of the European Green Deal.

The Bundesrat welcomes the important building blocks for achieving the EU’s

climate policy goals presented by the Commission in the “Fit for 55” legislative package. It notes that in order to attain these goals the Commission proposes pricing of greenhouse gas emissions, stipulation of targets for Member States and regulatory requirements for numerous economic sectors.

2. The Bundesrat takes note of the Commission’s Communication and affirms its commitment to the ambitious climate targets of the Paris Climate Agreement. The “Fit for 55” package sets the ball rolling for a fundamental restructuring directed towards a climate-neutral EU by 2050 and forms the benchmark for further action after the UN Climate Change Conference in Glasgow in November 2021.
3. This process will pose enormous challenges for business and society. The Bundesrat considers that it is of central importance to strike an appropriate balance in the “Fit for 55” package between countries and regions, between all areas of business and all realms of daily life, as well as in terms of the package’s social ramifications and the consequences for Europe’s future industrial and technological performance. In the further steps in the process, national legislation and measures must be properly dovetailed with the European level, with all involved presenting a united front on climate change mitigation internationally in the interest of global effectiveness and competitiveness.
4. The Bundesrat emphasises that the considerable financial efforts and structural reforms required to successfully change course and move towards climate neutrality must be initiated resolutely and without delay in order to avoid significantly greater burdens and critical developments in future.
5. The Bundesrat acknowledges that the package is comprehensive and represents an overall concept for addressing the 2030 climate target thanks to the intermeshing of legislation, targets and pricing, combined with support measures. This also entails taking into account that if there is objective substantiation for applying less stringent measures in one area, there will be a need for more stringent measures in another area, in order to avoid jeopardising the overall target. In the interest of sustainability, a judicious political framework must make it possible to achieve environmental and climate goals effectively, along with social and economic goals, such as strengthening the EU’s position as a climate-friendly industrial location. It will therefore be crucial to ensure that the measures are

designed to be competition-neutral, WTO-compliant and socially balanced in order to preserve the foundation of our economic prosperity, social peace and security in Europe. The Bundesrat therefore in principle welcomes the introduction of an effective Carbon Border Adjustment Mechanism that does not further exacerbate existing tendencies towards carbon leakage, while also welcoming the proposal for a Social Climate Fund.

6. Socially acceptable design of the measures is decisive for their acceptance by the Member States during negotiations as well as by the general public. The Bundesrat thus attaches great importance to implementation of the Social Climate Fund proposed by the Commission. The Bundesrat takes the view that national co-financing in Germany, in particular for social transfer payments, must be provided by the Federal Government.
7. The Bundesrat advocates broad-based reflections on energy efficiency that include effective use of materials for energy transmission and storage and of raw materials. This applies in particular to recycling end-of-life energy storage systems in order to return the metals and rare earths contained therein to the materials cycle.
8. The Bundesrat requests the Federal Government to advocate vis-à-vis the Commission that use of energy sources from fossil sources harmful to the climate be discontinued and at the same time to call for measures to enable utilisation of climate-neutral alternatives. In this context, the focus should be on ensuring security of supply, affordability, competitiveness and employment.
9. The Bundesrat further requests the Federal Government to pay particular attention when implementing the European Green Deal to investment incentives and regulatory foundations that enable production and utilisation of renewable energies, climate-friendly synthetic fuels and other climate-friendly hydrocarbon products in their various forms. With appropriate regulation and recognition as climate-neutral products, various sectors such as industry, transport and buildings can use hydrogen and hydrogen-based downstream products, such as synthetically generated hydrocarbon gases and liquids (known as power-to-X products, for example power-to-gas or power-to-liquids) as energy sources and feedstocks.

10. The Bundesrat endorses the aspiration to ensure that the establishment of a green hydrogen economy can also be leveraged for urgently needed further expansion of renewable energy generation at the EU level. When devising the specific provisions for a self-financing hydrogen economy, a balanced compromise must be found between sustainable hydrogen use and market ramp-up. Cogent phase modelling with clear phase-related, limited incentives is therefore required to reliably describe a transformation path to climate neutrality as a basis for decarbonisation business models.

Comments on the Overall Package

11. The Bundesrat comments on the various specific measures in detail in the context of the various specific legal acts. However, the Bundesrat notes in terms of the overall package:
12. The Bundesrat welcomes the extension of emissions trading to the transport and buildings sectors as a market-based instrument.
13. Increased efforts on energy efficiency constitute a further important basis for achieving the climate and energy policy goals. Every unit of energy that is not generated and consumed eases the burden on companies and households, thus forming the basis for further steps in the transformation process. The Bundesrat therefore welcomes the proposals to leverage further energy efficiency potential, particularly in the areas of heating and cooling.
14. While the Bundesrat supports the goal of avoiding carbon leakage through the Carbon Border Adjustment Mechanism, it calls for this mechanism to be designed and implemented in a WTO-compliant manner with minimum bureaucracy to ensure that trade disputes can be avoided. An international solution should be worked on as a matter of priority, especially with the EU's main trading partners. That could subsequently render a Carbon Border Adjustment Mechanism superfluous.

15. The Bundesrat notes, however, that adjustments to energy taxation should avoid overburdening those affected.
16. The Bundesrat emphasises the importance of species-rich and intact habitats, also and especially in terms of adaptation to the consequences of the climate crisis that are now no longer avoidable. In this context, the Bundesrat welcomes the revision of the Regulation addressing the inclusion of emissions and removals of greenhouse gases from land use, land use change and forestry (LULUCF), while also welcoming the presentation of the EU Forest Strategy. Aiming to ensure that the sink function of intact ecosystems is maintained up to 2025 and significantly augmented in the period up to 2030 is of outstanding importance in achieving the climate change mitigation targets.
17. Forest adaptation, sustainable self-reliant forest management and long-term intelligent and efficient use of wood products are critical to preserving wood as a CO₂ sink and avoiding greenhouse gas emissions.

The Bundesrat once again emphatically draws attention to the particular impact of climate change on forests and agriculture, as well as on forest owners and farmers, with pronounced knock-on effects for politics, business and society. Timely and decisive action with regard to effective climate change mitigation is therefore imperative.

18. The Bundesrat explicitly supports regional production and marketing of high-quality and safe agricultural products in the EU, because these also make a vital contribution to climate change mitigation, as these products generally have a more favourable carbon footprint than imported products. For that reason, highly productive locations should have scope to exploit their potential in future too. This regional production, which operates in accordance with rigorous environmental, climate and socio-political standards, must not be offshored. That would not be expedient from the point of view of maintaining vibrant rural areas, food safety and food security. The international interweaving of trade flows, particularly with regard to logistics and the supply of inputs, highlights dependencies that affect the LULUCF sector and must be considered from a cross-sectoral perspective.

19. The Bundesrat takes the view that even more information about the strategy's effects must be gathered. Due to the EU-wide significance of the agricultural sector, the Bundesrat calls, as a matter of great urgency, over and above detailed impact assessments, for case studies to be produced on the effects on typical farms in combination with modelling approaches.
20. The Bundesrat welcomes the measures proposed by the Commission to reduce CO₂ emissions in the transport sector. However, nationwide expansion of charging infrastructure and use of electricity from renewable sources are prerequisites for fulfilling emission targets in this context.
21. The Bundesrat emphasises that effective specifications and instruments are presented through the legislative acts for all modes of transport that can make a decisive contribution to climate change mitigation, to transforming drive systems and to the transport transition. The transformation process leading to alternative drive systems and renewable, climate-friendly fuels is indispensable in order to attain climate-neutral mobility in the EU. The Bundesrat therefore also supports the new instruments ReFuelEU Aviation and FuelEU Maritime to promote use of sustainable fuels for modes of transport that are difficult to decarbonise, in addition to supporting a gradual reduction in fleet threshold values for new cars and light commercial vehicles, as well as a clear development framework to expand EU-wide infrastructure for alternative fuels and for interoperable, user-friendly charging and refuelling infrastructure.
22. The Bundesrat welcomes the ambitious plans proposed by the Commission to decarbonise road transport by establishing alternative drive systems across the board and expanding the requisite infrastructure. However, the Bundesrat emphasises that it is imperative to shift transport capacities from road to rail in order to achieve the savings targets for the transport sector. Consequently, the Bundesrat expects the Commission to present equally ambitious plans promptly concerning expansion and digitisation of rail infrastructure.
23. The Bundesrat considers that the Commission must ensure financing to equip railway vehicles for freight with the European Train Control System (ETCS) and Digital Automatic Coupling (DAC) in order to secure the competitiveness of rail transport in the EU through full interoperability on European rail networks in conjunction with the elimination of technical barriers.

24. The Bundesrat requests the Federal Government to advocate vis-à-vis the Commission that intra-European connectivity be improved through further harmonisation of technical standards, implementation of a European high-speed network and reinforced cooperation between the Member States in the spirit of the Single European Railway Area.
25. In addition, the Bundesrat also requests the Federal Government to work towards rapid implementation across the board of provisions on decarbonising the transport sector in all Member States through flanking Europe-wide funding programmes.
26. The Bundesrat views decarbonisation of maritime transport as an important part of the European Green Deal. Coastal regions can make an important contribution in this context, for example by providing an alternative energy supply while ships are in port. The Bundesrat underlines that ambitious and consistent regulations are essential at the EU level so that the Member States and their regional and local sub-divisions can plan and implement the request climate change mitigation measures successfully. In doing so, particular care must be taken to ensure that the individual legislative proposals are examined to identify interactions between them and to ensure that the policy approach aligns in all these proposals. For example, in the proposal for a Regulation on the Deployment of Alternative Fuels Infrastructure, it is vital that any obligation to expand shore-side electricity connections in ports goes hand in hand with an obligation to use shore-side electricity in the proposal for a Regulation on the Use of Renewable and Low-carbon fuels in Maritime Transport. At the same time, it will be important to review the extent to which provisions concerning financing of the measures should be included in the proposal for a Directive Establishing a Scheme for Greenhouse Gas Emission Allowance Trading within the Union. As the content is highly interlinked, close coordination of the individual legislative proposals will be essential.

Competitiveness Issues

27. The Bundesrat welcomes the market-based and pro-investment approach the Commission has also adopted in the package. To achieve the climate targets, it is crucial to remain open to a range of technologies, including bridging technologies. Market-based solutions produce the most cost-efficient ideas that also have the greatest impact on climate change mitigation.

The Bundesrat underlines the global dimension of climate change mitigation and the role of competitiveness. The aim is to drive forward climate change mitigation worldwide and at the same time to keep Europe competitive as a business location.

The Bundesrat considers that rapid establishment of a consistent, technology-neutral and market-based regulatory framework is important. Business and the general public require planning certainty rapidly.

28. The Bundesrat acknowledges the Commission's efforts in the measures presented to reconcile reducing greenhouse gas emissions with preserving European industry's international competitiveness. The next phases of the legislative process must be determined by the need to strike an appropriate balance that takes account of the socio-economic impact with a greater focus on supporting European industry. The Bundesrat requests the Federal Government to ensure that vulnerable households can be protected from energy costs they are unable to afford and that energy-intensive companies can be supported in the transformation process to ensure they remain internationally competitive in future too.
29. The Bundesrat sees a need to introduce suitable compensatory measures to ease the burden on areas of the business world and society particularly affected by price increases.
30. In particular, the Bundesrat is concerned that the proposed Carbon Border Adjustment Mechanism, the recast of the Energy Efficiency Directive and the expanded scope of sustainability reporting will give rise to a high level of bureaucracy for numerous companies in Europe.
31. The Bundesrat points out that the sharp increase in regulatory requirements represents a considerable burden for companies, especially SMEs. The expanded scope of reporting and documentation obligations affects SMEs disproportionately, as they generally have more limited administrative capacity.
32. The Bundesrat welcomes the increase in funding for the Innovation Fund and the Modernisation Fund by drawing on additional revenue from certificate trading. However, the Bundesrat points out that this will not be sufficient. Over and above

this, further support measures are needed, such as easing of state aid law provisions for measures to promote innovations for climate change mitigation and modernisation. Support measures in this regard should be degressive and linked to how much progress the company in question has made on transformation, which must be scrutinised.

33. The Bundesrat also welcomes the Commission's backing for market-based instruments that, like the European Union Emissions Trading System, have been proven to achieve climate policy goals at low economic cost. It points out that the European Union Emissions Trading System – for reasons inherent to the system – has always achieved the planned reductions in greenhouse gas emissions, unlike many other climate policy instruments and targets.
34. The Bundesrat takes the view that price-effective mechanisms such as emissions trading enable climate policy goals to be achieved in an economically efficient manner. Companies respond directly to price signals, while reporting and documentation requirements per se do little to reduce greenhouse gas emissions. They do, however, absorb corporate resources that are consequently no longer available for innovation and investment.
35. The Bundesrat points out that funding instruments intended to compensate for more stringent requirements may also give rise to considerable bureaucracy due to the generally complex application procedures. The bureaucratic burden is an obstacle to obtaining financial relief that often deters SMEs in particular from making use of such instruments.
36. In the negotiations on the individual dossiers, the Bundesrat requests the Federal Government to advocate in particular efficient and low-bureaucracy solutions that take particular account of SMEs' needs and keep bureaucratic burdens to a minimum.
37. Fuel costs account for a significant share of the total costs for cross-border air and maritime transport within the EU. In this context, some companies cite the risk of distorting effects and disadvantages of the economic area of the EU in terms of international competition. The Bundesrat therefore requests that these aspects be examined more closely in order to avoid and/or minimize competitive disadvantages for the European economic area.

Issues Related to Municipalities

38. Cities are aware of their particular responsibility and pursue their own ambitious climate targets consistently and successfully within their sphere of influence. Due to their research and innovation capacities, cities are particularly well suited to developing and testing new technological solutions for CO₂ savings. For example, innovative concepts are already being implemented in areas such as mobility, recycling and efficient energy use, and can be further expanded as part of the “Fit for 55” package of measures. If climate change mitigation is to succeed at this level, a supportive legal framework is also crucial, along with an appropriate funding policy. The “Fit for 55” package therefore also offers an opportunity for cities as pioneers to make even greater progress on climate change mitigation than has been the case to date.

39. In coming years, the climate package will have a significant impact on the energy and mobility sectors in rural regions. Municipalities in rural areas face particular challenges in this context, yet at the same time make an above-average contribution to renewable energy generation. Specific framework and support programmes are therefore needed for rural areas in order to support the efforts made by municipalities, companies and people in these areas and to compensate for additional burdens.

40. The Bundesrat urges the Federal Government to ensure fair distribution of funding, including through the Social Climate Fund, in order to avoid social hardship and ensure equivalent living conditions for urban and rural areas. A reliable combination of funding from the Federal Government and the EU for all “Fit for 55” energy and mobility projects must enable local investment and support innovative products and services in rural areas, with a view to ensuring that they can contribute to climate neutrality, while also securing social acceptance in rural regions. In this context, information must also be provided on ways in which financially weak municipalities can be supported to ensure financing for their own contributions thanks to targeted use of European and national funds.

41. The new Energy Efficiency Directive will also have an impact on rural areas. It contains energy-saving commitments of 1.7 per cent per year and renovation of 3 per cent of public buildings per year, which means tripling the current renovation rate of 1 per cent in the building sector. It is vital in this context to support structurally and financially weak municipalities in rural areas in particular, as well as ensuring climate-friendly and future-oriented development of cities and rural areas alike.

Concluding Remarks

42. The Bundesrat requests the Federal Government to actively support the package by advocating ambitious and socially balanced negotiation and rapid implementation of the package. The Bundesrat takes the view that the Federal Government should also strive in particular at the European level to ensure that the measures for achieving the 2030 climate target are designed to be as extensive and effective as possible. Otherwise, the climate change mitigation measures required to achieve the goal of complete climate neutrality would have to include such pronounced correctives after 2030 that civil rights and liberties – as enshrined in the constitutions of the Member States, the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights – would be subject to disproportionate restrictions.

43. Furthermore, the Bundesrat requests the Federal Government to espouse the spirit of the concerns formulated here in the legislative process for the legislative package at hand.

Direct Transmission to the Commission

44. The Bundesrat shall transmit this Opinion directly to the Commission.