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*Plenary sitting*

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**B8-0363/2018**

10.9.2018

## **MOTION FOR A RESOLUTION**

further to Questions for Oral Answer B8-0036/2018 and B8-0037/2018

pursuant to Rule 128(5) of the Rules of Procedure

on implementation of the circular economy package: options to address the interface between chemical, product and waste legislation (2018/2589(RSP))

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on behalf of the Committee on the Environment, Public Health and Food Safety

**European Parliament resolution on implementation of the circular economy package: options to address the interface between chemical, product and waste legislation (2018/2589(RSP))**

*The European Parliament,*

- having regard to Articles 191 and 192 of the Treaty on the Functioning of the European Union, relating to protecting human health and to preserving, protecting and improving the quality of the environment,
- having regard to Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste<sup>1</sup>,
- having regard to Directive (EU) 2018/849 of the European Parliament and of the Council of 30 May 2018 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment<sup>2</sup>,
- having regard to Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 1999/31/EC on the landfill of waste<sup>3</sup>,
- having regard to Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste<sup>4</sup>,
- having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency<sup>5</sup>,
- having regard to Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006<sup>6</sup>,
- having regard to Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC<sup>7</sup>,
- having regard to Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements

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<sup>1</sup> OJ L 150, 14.6.2018, p. 109.

<sup>2</sup> OJ L 150, 14.6.2018, p. 93.

<sup>3</sup> OJ L 150, 14.6.2018, p. 100.

<sup>4</sup> OJ L 150, 14.6.2018, p. 141.

<sup>5</sup> OJ L 396, 30.12.2006, p. 1.

<sup>6</sup> OJ L 353, 31.12.2008, p. 1.

<sup>7</sup> OJ L 158, 30.4.2004, p. 7.

- for energy-related products<sup>1</sup>,
- having regard to Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 ‘Living well, within the limits of our planet’<sup>2</sup>,
  - having regard to the Commission communication of 16 January 2018 on the implementation of the circular economy package: options to address the interface between chemical, product and waste legislation (COM(2018)0032),
  - having regard to the Commission staff working document accompanying the Commission communication of 16 January 2018 on the implementation of the circular economy package: options to address the interface between chemical, product and waste legislation (SWD(2018)0020),
  - having regard to the Commission communication of 16 January 2018 on a European Strategy for Plastics in a Circular Economy (COM(2018)0028),
  - having regard to the Commission communication of 5 March 2018 entitled ‘Commission General Report on the operation of REACH and review of certain elements – Conclusions and Actions (COM(2018)0116),
  - having regard to the Commission communication of 30 November 2016 entitled ‘Ecodesign Working Plan 2016-2019’ (COM(2016)0773),
  - having regard to the Commission communication of 2 December 2015 entitled ‘Closing the loop – An EU action plan for the Circular Economy’ (COM(2015)0614),
  - having regard to the Commission communication of 20 September 2011 entitled ‘Roadmap to a Resource Efficient Europe’ (COM(2011)0571),
  - having regard to its resolution of 4 July 2017 on a longer lifetime for products: benefits for consumers and companies<sup>3</sup>,
  - having regard to its resolution of 25 November 2015 on draft Commission Implementing Decision XXX granting an authorisation for uses of bis(2-ethylhexyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>4</sup>,
  - having regard to its resolution of 9 July 2015 on resource efficiency: moving towards a circular economy<sup>5</sup>,
  - having regard to its resolution of 17 April 2018 on the implementation of the 7th Environment Action Programme<sup>6</sup>,

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<sup>1</sup> OJ L 285, 31.10.2009, p. 10.

<sup>2</sup> OJ L 354, 28.12.2013, p. 171.

<sup>3</sup> Texts adopted, P8\_TA(2017)0287.

<sup>4</sup> OJ C 366, 27.10.2017, p. 96.

<sup>5</sup> OJ C 265, 11.8.2017, p. 65.

<sup>6</sup> Texts adopted, P8\_TA(2018)0100.

- having regard to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,
  - having regard to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,
  - having regard to the Stockholm Convention on Persistent Organic Pollutants,
  - having regard to the questions to the Council and to the Commission on implementation of the circular economy package: options to address the interface between chemical, product and waste legislation (O-000063/2018 – B8-0036/2018 and O-000064/2018 – B8-0037/2018),
  - having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,
  - having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas the 7th Environment Action Programme (EAP) provides for the development of a Union strategy for a non-toxic environment, to ensure the minimisation of exposure to chemicals in products, including imported products, with a view to promoting non-toxic material cycles, so that recycled waste can be used as a major, reliable source of raw material for the Union;
- B. whereas Article 9 of Directive (EU) 2018/851 stipulates that the measures taken by Member States to prevent waste generation must reduce the generation of waste, in particular waste that is not suitable for preparing for reuse or recycling;
- C. whereas Article 9 of Directive (EU) 2018/851 also stipulates that these measures must promote the reduction of the content of hazardous substances in materials and products, and ensure that any supplier of an article as defined in Article 3(33) of REACH provides information pursuant to Article 33(1) of the regulation to the European Chemicals Agency (ECHA), and that ECHA must establish and maintain a database for data to be submitted to it in this context, and provide access to this database to waste treatment operators and, upon request, to consumers;
- D. whereas Article 10(5) of Directive (EU) 2018/851 stipulates that, where necessary to comply with the obligation of preparing for reuse, recycling and other recovery operations and to facilitate or improve recovery, Member States must take the necessary measures, before or during recovery, to remove hazardous substances, mixtures and components from hazardous waste with a view to their treatment in accordance with Articles 4 and 13;
- E. whereas Article 7(3) of Regulation (EC) No 850/2004 stipulates that disposal or recovery operations that may lead to recovery, recycling, reclamation or reuse of the substances listed in Annex IV (persistent organic pollutants (POPs)) must be prohibited;

### ***General considerations***

1. Welcomes the Commission communication and staff working document of

16 January 2018, as well as the consultation process, but expects swift action in order to tackle the ‘interface’ problems; supports the overarching vision put forward by the Commission, which is in line with the objectives of the 7th EAP;

2. Considers that the primary aim of the Commission should be to prevent hazardous chemicals from entering the material cycle, to achieve full consistency between the laws implementing waste and chemicals policies and to ensure better implementation of current legislation, while addressing those regulatory gaps that could act as barriers to a sustainable EU circular economy including, in particular, with respect to imported articles;
3. Stresses that in a truly circular economy products must be designed for upgradeability, durability, reparability, reusability and recyclability, and with minimal use of substances of concern;
4. Reiterates that moving towards a circular economy requires strict application of the waste hierarchy and, where possible, phasing out of substances of concern, in particular where safer alternatives exist or will be developed, so as to ensure the development of non-toxic material cycles, which will facilitate recycling and are essential for the sound development of a functioning secondary raw materials market;
5. Calls on the Commission to develop, without any further delay, a Union strategy for a non-toxic environment, as laid down in the 7th EAP;
6. Calls on the Commission and the Member States, in close conjunction with ECHA, to step up their regulatory activities to promote the substitution of substances of very high concern and to restrict substances that pose unacceptable risks to human health or the environment in the context of REACH and specific sectoral or product legislation, so that recycled waste can be used as a major, reliable source of raw material within the Union;
7. Stresses the need to find local, national, regional and European solutions by involving all stakeholders, with a view to detecting chemicals of concern in recycling streams and removing them therefrom;
8. Calls on companies to fully embrace a forward-looking holistic approach to progressive chemicals management by seizing the opportunity to substitute toxic substances in products and supply chains, accelerating and leading the innovation of the market;
9. Stresses that the implementation of chemicals, product and waste legislation may present a challenge for small and medium-sized enterprises (SMEs); highlights that their specific case should be taken into account when taking actions, without compromising the level of protection of human health and the environment; points to the need for clear and easily accessible information to ensure that SMEs have the necessary prerequisites to fully comply with all legislation in the area;
10. Considers that, in the event of risk of overlapping legislation, it is imperative to clarify the interlinkages, to ensure coherence and to exploit possible synergies;
11. Underlines that it is of the utmost importance that transparency on the presence of

substances of concern in consumer products be improved in order to establish public trust in the safety of secondary raw materials; points out that improved transparency would further reinforce incentives to phase out the use of substances of concern;

***Insufficient information about substances of concern in products and waste***

12. Considers that substances of concern are those identified under REACH as substances of very high concern, substances prohibited under the Stockholm Convention (POPs), specific substances restricted in articles listed in Annex XVII to REACH and specific substances regulated under specific sectoral and/or product legislation;
13. Reiterates its call on the Commission to fulfil its commitments to protecting citizens' health and the environment from endocrine disrupting chemicals; expects the Commission to deliver, without any further delay, its strategy on endocrine disruptors to minimise exposure of EU citizens to endocrine disruptors beyond pesticides and biocides;
14. Stresses that all substances of concern should be tracked as soon as possible, and that information relating to these substances, including their composition and concentration, should be made fully available to all those involved in the supply chain, to recyclers and to the public, while taking into account existing systems and considering the option of sector-specific tracking solutions; welcomes, as a first step in this direction, the new provisions included in Article 9 of Directive (EU) 2018/851 on waste;
15. Calls, in this context, on the Member States and the Commission, in conjunction with ECHA, to increase their efforts to ensure that, by 2020, all relevant substances of very high concern, including substances that meet the equivalent level of concern criterion, such as endocrine disruptors and sensitisers, are placed on the REACH candidate list, as laid down in the 7th EAP;
16. Believes that, in line with the existing requirements for imports laid down by REACH, the tracking system should also encompass all products imported into the Union that may contain substances of concern; specifies, furthermore, the importance of addressing the issue of non-registered substances in imported articles; stresses that deeper collaboration related to imported articles is needed at international level, with actors such as the United Nations Environment Programme (UNEP), third countries facing similar challenges with imported articles, and exporting countries;
17. Notes that, in line with the conclusions of the Commission's second REACH review, the quality of the data on chemicals hazards, uses and exposure in the REACH registration dossiers should be improved;
18. Considers that, in line with Article 20(2) of REACH (completeness check of registration), ECHA should not grant market access to chemicals with incomplete and inadequate registration dossiers and should make sure that the necessary information is generated as soon as possible; recalls that it is crucial that the information provided for registration dossiers is accurate, adequate, reliable, relevant and trustworthy; calls on ECHA to step up its efforts in the context of Article 41 of REACH (compliance check of registration), so as to end the situation of non-compliant dossiers and to ensure that

no market access is granted to chemicals with non-compliant registration dossiers; calls on registrants and the Member States to play their part in ensuring that REACH registration dossiers are compliant and kept up to date;

***Addressing the presence of substances of concern in recycled materials***

19. Stresses that the Union must ensure the same level of protection for human health and the environment, whether products are made of primary or recovered materials;
20. Reiterates that, in accordance with the waste hierarchy, prevention takes priority over recycling and that, accordingly, recycling should not justify the perpetuation of the use of hazardous legacy substances;
21. Considers that all primary and secondary raw materials should in principle be subject to the same rules; points out, however, that it is not always possible to ensure that materials from recycled products are totally identical to primary raw materials;
22. Points out that Union rules should ensure that materials recycling does not perpetuate the use of hazardous substances; notes with concern that legislation preventing the presence of chemicals in products, including imports, is scattered, is neither systematic nor consistent and applies only to very few substances, products and uses, often with many exemptions; regrets the lack of progress on developing a Union strategy for a non-toxic environment with the aim, among other things, of reducing exposure to substances of concern in products;
23. Highlights that the possibility to recycle materials containing substances of concern should only be envisaged when there are no substitute materials without substances of concern; considers that any such recycling should take place in closed or controlled loops without endangering human health, including workers' health, or the environment;
24. Hopes that innovative recycling practices will help to decontaminate waste containing substances of concern;
25. Considers that the issue of products containing legacy substances should be dealt with by means of an efficient registration, tracking and disposal system;
26. Believes, as more than 80 % of the environmental impact of a product is determined at the design stage, that the Ecodesign Directive and other product-specific legislation should be used in addition to REACH to introduce requirements to substitute substances of concern; stresses that the use of substances of a toxic nature or substances of concern, such as POPs and endocrine disruptors, should be specifically considered under the broadened ecodesign criteria, without prejudice to other harmonised legal requirements laid down at Union level concerning those substances;
27. Highlights that it is crucial to ensure a level playing field between EU-produced and imported articles; considers that EU-produced articles must not, under any circumstances, be disadvantaged; asks the Commission, therefore, to ensure the timely use of restrictions in REACH and other product legislation, so that EU-produced and imported products are subject to the same rules; stresses, in particular, that the phase-out

or substitution of substances of very high concern resulting from the authorisation scheme under REACH should be matched by restrictions that apply concurrently; calls on the competent authorities in the Member States to increase controls on imported materials to ensure compliance with REACH and product legislation;

28. Stresses that enforcement of chemicals and product legislation at EU borders should be improved;
29. Takes the view that, in order to address the issue of the presence of substances of concern in recycled materials, it would be advisable to introduce a product passport as a tool to disclose materials and substances used in products;

#### ***Uncertainties about how materials can cease to be waste***

30. Stresses that clear EU rules specifying the conditions that must be met to exit the waste regime are needed, and that harmonised end-of-waste criteria are required; considers that such clear EU rules must be designed so as to be practicable for SMEs as well;
31. Believes that measures should be taken at EU level to bring about more harmonisation in the interpretation and implementation by Member States of end-of-waste provisions laid down in the Waste Framework Directive, with a view to facilitating the use of recovered materials in the EU;
32. Calls on the Member States and the Commission to cooperate fully regarding the end-of-waste criteria;

#### ***Difficulties in the application of EU waste classification methodologies and impacts on the recyclability of materials (secondary raw materials)***

33. Believes that the rules for classifying waste as hazardous or non-hazardous should be consistent with those for the classification of substances and mixtures under the CLP (classification, labelling and packaging) Regulation, taking into account the specifics of waste and the way in which it is handled, and welcomes, furthermore, the new technical guidance on waste classification; emphasises the need to further develop the classification framework for waste and chemicals to include hazard endpoints of high concern, such as high persistence, endocrine disruption, bioaccumulation or neurotoxicity;
34. Calls on the Commission, with respect to the classification of waste streams, to clarify the correct interpretation of the CLP Regulation to prevent misclassification of waste containing substances of concern;
35. Stresses that the lack of enforcement of EU waste legislation is unacceptable and must be addressed as a matter of priority, including through country reports contained within the Environmental Implementation Review, as a more consistent approach between chemicals and waste classification rules is needed;
36. Calls on the Commission to review the European List of Waste without delay;

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37. Instructs its President to forward this resolution to the Council and the Commission.