



PPP - Polluter Pays Principle WKO Position Paper

Austrian Federal Economic Chamber (WKÖ)
EU Transparency Register No 10405322962-08

August 2023

PPP - Polluter Pays Principle - WKO Position for EU Public Consultation 2023 ([Link](#)) after the Roadmap 2022

General Comments

- PPP should be implemented in a balanced way by not putting burden on one of more polluters, only (such as littering costs for plastic waste being allocated to the producer, only, whereas the real polluter in such a case is the consumer, mostly - based on the EU Single-Use Plastics Directive)
- all relevant stakeholders are to be included by shared responsibility
- not any pollution is fit for PPP application (e.g. non-intended use of a product by end-user, not respecting disposal recommendations by supplier)
- costs should be calculated in a fair and thorough way with feasible and relevant costs, only, defining system boundaries (versus including “all” costs)

Common Burden Principle

In principle, the Polluter Pays Principle has been the guiding principle in EU environmental policy for the past 50 years and that is being justified by policy practice. However, where its full implementation would not be feasible or would be applied with a clearly unfavourable cost-benefit ratio between the economy and the environment, the Common Burden Principle must and should continue to fill in.

Environmentally harmful subsidies

In connection with the Polluter Pays Principle, the demand for a “step-wise elimination of environmentally harmful subsidies” is repeatedly heard, as in the EU Commission's response on p. 5 at the end of the European Court of Auditors' special report. It would be particularly important to clarify and standardise definitions of what exactly is meant by environmentally harmful subsidies and how they relate to other important sustainable subsidy objectives.

- Example 1: Is a lower taxation of diesel fuel (has higher importance for commercial transport) compared to petrol fuels really a subsidy?
- Example 2: Is a heating cost subsidy (social subsidy) to socially needy people for the purchase of heating oil or coke to be considered an environmentally harmful subsidy?

An evaluation of subsidies based on sustainability criteria and a more holistic assessment of their environmental, economic and social role are to be considered.

PPP implementation has been hindered so far by:

- **Feasibility to calculate relevant costs** / definition of system boundaries: costs should be calculated in a fair and thorough way
- **Allocation and distribution of costs** of pollution between polluters regarding the whole life cycle (producer/producer; producer/trader/customer (use-phase)/disposal etc.)
- **Lack of differentiation between officially approved**, authorized pollution (BREF documents, compliance with environmental quality standards, EU vehicle emissions) and illegal pollution by breaking the law or not following disposal recommendations by a supplier (e.g. as forwarded with the safety data sheet for chemicals)
- **Integration of non-EU-pollution in the PPP** to avoid, that EU-market participants are favoured, when they outsource polluting production outside the EU and therefore produce at far lower prices than market participants underlying the full EU-PPP approach. Furthermore, direct online imports of goods by consumers from non-EU countries are becoming an increasing source of non-compliant products with all the negative consequences for pollution and recycling; this needs to be considered in the PPP
- **Over-burdening of new or up-to-revision EU legislative acts:** so far, IED has been focusing mainly on environmental issues such as air, water and soil; the extension of BREFs to climate protection and circularity is - on the one hand - obsolete because of many EU legislative acts covering those issues being relevant for IED installations, too; on the other hand, the contradictions arising of too many environmental issues covered all-in-one may lead to a worse environmental performance than before by - at the same time - over-burdening affected industry sectors and BREF authorities.
- **Product policy:** the latest EU legislation or pending proposals on products over the life cycle and supply chain may very probably contradict each other already at EU level or produce cumulated costs and red tape: supply chain law, green empowerment package, green claims, eco-design, carbon removal certification, deforestation products etc.

Unclear scope - arbitrary costs

It is questionable which costs should be applied in future within the framework of an extended Polluter Pays Principle. The Commission's proposal for the revision of the Urban Wastewater Directive foresees, for example, that distributors in the pharmaceutical and cosmetics industries should bear the full costs for additional wastewater treatment stages. It is obviously not taken into account that countless other groups of emitters, including entire sectors such as transport, households etc. also cause comparable pollution and do not have to make a contribution. Likewise, there are countless pollutants that are also

filtered and for which no contribution is paid. Therefore, the question arises: How will proportional costs be fairly distributed in the future? What standards will be applied - e.g. toxicity, share of potential or real environmental impact, administrability or the ability of emitters to pay? How can free-riding and distortions of competition be avoided?

No undermining of the precautionary approach

The Polluter Pays Principle is actually just the second-best solution in environmental policy. The Precautionary Principle and thus the avoidance of environmental pollution must come first. Austrian companies spend enormous financial means on the precautionary approach compared to their competitors - by having to undergo stringent licensing procedures and strict requirements when it comes to avoiding emissions. However, this does not give them an advantage in the market. The PPP fitness check should fully take into account these upfront costs. Extensions of the PPP must not lead to precautionary companies paying twice and their competitiveness suffering even more. We also consider the Polluter Pays Principle as a justification for the European Commission to enforce longstanding environmental law in defaulting Member States or modifies the legal framework to enable everyone to achieve environmental goals.

WKO input referring to some issues of the roadmap:

Industrial Emissions Directive / Water Services: Current EC proposals should not be pre-empted.

- **Waste management:** Concerning this point it has to be stated explicitly that not any obligations can be put on the manufacturers; shared responsibility on the part of consumers is necessary and sensible. Otherwise, consumers would not be motivated in the same way as companies to participate in improving waste management, as this would convey the message that others will ensure that waste is recycled and paid for anyway. The question often arises: Who is the polluter? In our view, the solution can only lie in a shared responsibility that encompasses product design (producer), placing on the market (EU plus Member States), proper use and disposal (consumer) and recovery (waste management) and provides the appropriate legal framework for each stage of the life cycle.
- **Soil protection and contaminated sites:** WKO considers soil protection to be better anchored at national and regional level in accordance with the subsidiarity principle. EU regulation does not make sense. National systems that have been established for decades for the remediation of contaminated sites and soil protection, as well as cost-intensive preliminary work, must not be counter-acted.

- **Environmental liability:** Due to the extensive scope of the Environmental Liability Directive, mandatory financial security would be an unreasonable burden for an enormous number of companies, especially for SMEs, while the risk of significant environmental damage (especially in Austria, where the approval criteria are strict) would be comparatively low and would therefore not be in a meaningful cost-benefit ratio. A mandatory financial security ties up capital that is urgently needed for the transformation of the economy with regard to climate targets and extended energy crisis preparedness. WKO considers the exemption option for a permit defense to be enormously important for the legal, planning and investment security of companies. Furthermore, the exemption for the state-of-the-art risk strengthens research and development activity in Europe.



Contact:

Juergen Streitner, WKO, Director of Environment and Energy Policy Department, Vienna, +43 590 900-4195, juergen.streitner@wko.at

Axel Steinsberg, WKO, Environment and Energy Policy Department, Vienna, +43 590 900-4750, axel.steinsberg@wko.at

Barbara Lehmann, WKO EUREP, EU Representation of Austrian Federal Economic Chamber (WKO), Brussels, +32 2 286 58 80, barbara.lehmann@eu.austria.be

