

# Public Consultation on the Functioning of Waste Markets

## **Public Consultation on the functioning of Waste Markets in the European Union**

### Part 1 - Identification of stakeholder or expert

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Please enter your country of residence/establishment

- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
- LIETUVA
- LUXEMBOURG
- MAGYARORSZÁG
- MALTA
- NEDERLAND
- OTHER COUNTRY (non-EU)
- POLSKA
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- SLOVENIJA
- SLOVENSKO
- SUOMI / FINLAND
- SVERIGE
- UNITED KINGDOM
- ÖSTERREICH
- ČESKÁ REPUBLIKA
- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΥΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country of your residence/establishment:

Your name or organisation:

EurEau, European Federation of National Association of Water Services

Please provide your EU Transparency Register ID number (if you have one)

39299129772-62

If your organisation is not registered, you can register now (please see the introduction to this consultation under 'How to submit your contribution').

Can your reply be published? Please tick the box of your choice.

- With your name or that of your organisation
- Anonymously

For information on how your personal data and contribution will be dealt with, please refer to the privacy statement in the introduction to this consultation.

I am replying to this consultation as...

- an individual
- a private enterprise
- a non-governmental organisation (NGO)
- an organisation or association (other than NGO)
- a government or public authority
- a European institution or agency
- an academic/research institute
- other

If you are replying on behalf of a company, please specify in which of the following markets you predominantly operate:

- The whole EU market
- In one or several Member States, please indicate which one in the list below:
- BELGIQUE-BELGIË
- DANMARK
- DEUTSCHLAND
- EESTI
- ESPAÑA
- FRANCE
- HRVATSKA
- IRELAND
- ITALIA
- LATVIJA
- LIETUVA
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- MAGYARORSZÁG
- MALTA
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- SLOVENIJA
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- ΕΛΛΑΔΑ (ELLADA)
- ΚΥΠΡΟΣ (ΚΥΠΡΟΣ)
- БЪЛГАРИЯ (BULGARIA)

If relevant, please specify the non-EU country in which you predominantly operate:

Norway, Switzerland

If you are replying on behalf of a company, please indicate the number of its employees:

- Between 1 and 49
- Between 50 and 249
- 250 and more

## Part 2 - Questions

### A. Identification of the main perceived regulatory failures

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For the purpose of this consultation, regulatory failures are defined as situations in which the regulatory environment hampers the efficient functioning of the waste markets (i.e. where waste meant to be recycled or recovered can move freely within the EU, without unjustified restrictions) and fails to ensure optimal implementation of the waste hierarchy (according to Article 4(1) of the EU waste framework directive, the following waste hierarchy shall apply as a priority order: prevention; preparing for re-use; recycling; other recovery, e.g. energy recovery; and disposal).

1. Do you think there are any regulatory failures or obstacles currently affecting the functioning of EU waste markets?

- Yes, a large amount
- Yes, but limited
- No (go to Section B)
- Don't know (go to Section B)

2. What do you think is the most important aspect of policy and/or legislation that creates distortions in the waste markets or creates unjustified obstacles to the proper functioning of waste markets in the EU?

EurEau is the voice of the water services in Europe. The functioning of the waste market is a concern for water services the sector generates sewage sludge as a by-product of its wastewater treatment, and its amount is rising across the EU due to the improvement of wastewater treatment. Sewage sludge is a valuable source of nutrients, mainly phosphorus and nitrogen, but also of organic matter and energy. The very definition of waste makes recycling difficult. 'Wastewaters' (so far as covered by other Community legislation) are specifically excluded from the Waste Framework Directive but good quality products arising from wastewater treatment - such as biosolids and sludge based products that have beneficial use in agriculture or in industries - are not specifically excluded.

EurEau wants to emphasise that sewage sludge should be managed as a resource. Being legally a "waste" is a major disincentive to both recovery and re-use. Labelling a product as a waste is quite damaging and has specific consequences / gives rise to unhelpful perceptions that are hard to recover from. The terminology needs to change; we need to be thinking in 'resource recovery' terms going forward.

Strict national legislations together with market pressures have allowed a wide variety of high quality soil improvers and fertilizers using sewage sludge as a raw material to be commercialised on National markets. Biodegradable products containing sewage sludge shouldn't be disadvantaged by decisions made on biowastes in general to avoid them being perceived as second rate products (as will be the case if the current End of Waste criteria for biodegradable waste is approved and implemented).

Therefore, EurEau is calling for an "end-of-waste" criteria if the biosolids (treated sludge) and other sludge products are produced from good quality sludge. The "end-of-waste" criteria should focus on the output, through specification on final product quality rather than by prohibiting input materials as sludge. It would allow biosolids and other sludge based products to move from large production regions to region that need fertilisers

Since all sewage sludge will not fulfill end-of-waste criteria, there is also need to investigate how the possibility to recycle and reuse sewage sludge under the waste regime and fertilizer regulations will be maintained. Legislative framework for sewage sludge utilization should enable both local and small scale utilization of sewage sludge as well as high category solutions with EU market quality. A comprehensive solution with waste and fertilizer legislation is needed to ensure recycling of sewage sludge also in the future.

Another barrier is the absence of incentives (targets or financial instrument) to promote the use of secondary raw materials. Different types of industry are using sewage sludge or sludge based products as energy source or raw material (Fertilisers, cement factories, glass factories...). Incentives would help to make recycled products more competitive against primary materials and allow them to move from production region to demanding regions.

3. Could you provide an example of such a regulatory failure/obstacle? Please describe it briefly.

A consequence of labelling biogas as a “waste” is that it triggers a separate “waste” permit and creates administrative burden for the trade of a valuable product. EurEau is concerned that regulation of such a valuable resource, which helps meet green energy targets, is going in this direction. EurEau believes this contradicts expectations on waste management and energy generation from biogas plants.

In addition, there is a barrier to sludge to land recycling arising from an increase in un-even competition for limited agricultural areas from other recycled sources which are capable of achieving product status or “end of waste” status. The perceived ‘waste’ label could deter users of biosolids and we are not convinced that the implications of this have been fully explored.

The absence of “end-of-waste” for some sludge based products (including composted sludge) is an obstacle to recognised them as a useful fertiliser when they achieve high quality criteria. The fact that countries adopt stricter limit than others to define good quality products does not help to foster an EU market for biosolids. In different European countries (Sweden with the REVAQ initiative, UK with the Biosolids Assurance Scheme...) there are processes to increase confidence in the products available whilst retaining environmental protection.

Recovering phosphorus from sewage sludge and wastewater is currently expensive and often not technically feasible but, if possible, it is more sustainable and with less risk of shortage of than mined phosphate rocks. However, the techniques available today are not yet economically sustainable and the number of WWTP where they are applicable are limited. Just as requirements for blending green gas with biogas already exists, there could also be requirements of blending recovered phosphorous with mined fertilisers.

Biodegradable products containing sewage sludge shouldn't be disadvantaged by decisions made on biowastes in general to avoid them being perceived as second rate products (as will be the case if the current End of Waste criteria for biodegradable waste is approved and implemented).

4. What do you think this regulatory failure/obstacle is linked to? (multiple answers possible)

- EU legislation or policy
- National policy, legislation or administrative decisions
- Regional policy, legislation or administrative decisions
- Local policy, legislation or administrative decisions

Please briefly describe which specific policy/policies, legislation(s) or decision(s) is/are to blame for this:

Waste Framework Directive, Sewage Sludge Directive, Industrial Emission Directive and their national transpositions.

Current interpretation of waste regulations places too much focus on the type and quality of input materials rather than the quality and impact of the output materials (EoW, PAS100 etc). A better focus on the output and benefit to the environment would increase innovation.

In addition, the European Waste Catalogue definition of hazardous waste makes for an unnecessarily onerous process of assigning codes to mirror entry wastes. It is easier to recycle large quantities of consistent waste than smaller quantities of waste from varied sources - the cost of analysis and assessment for each source of the latter often outweighs the saving on landfill costs, meaning it's cheaper to dump than assess for recycling.

5. Which of the following impacts do you think such regulatory failure/obstacle has within the EU? (multiple answers possible)

- Reduces reuse or recycling
- Reduces recovery, including energy recovery
- Increases waste generation
- Leads to increased environmental impacts
- Leads to reduced resource efficiency
- Other
- None

If relevant, please provide additional information in relation to your above reply.

Increase landfill rate

Stifles innovation and investment in 'cutting edge' waste solutions and potential joint ventures between organisations

6. How did you become aware of this regulatory failure/obstacle? (multiple answers possible)

- Reported by members of your organisation
- Through complaints reported to the authority
- From literature
- From own market analyses
- Own experience
- Other

If relevant, please provide additional information in relation to your above reply.

7. What actions are you aware of that could solve or mitigate this problem? (multiple answers possible)

- Not aware of any actions
- Legislative changes
- Changes in the policy or decision-making by authorities
- EU guidance on waste legislation or policy
- Co-operation between authorities in different Member States
- Co-operation between authorities in the same Member States
- Other

If relevant, please provide additional information in relation to your above reply.

The overarching aim should be to create a level playing field. Currently there are variations in member states interpretation; therefore there is an apparent need for clearer understanding on the intention of the European policy. For example the exclusion of sewage sludges from the criteria for the proposed European End of Waste standard for biodegradable wastes.

Clear Directives with no duplication of regulation and some kind of European 'help desk' to resolve any issues arising over interpretation.

8. Are there other important aspects of policy and legislation that distort the waste market or create obstacles to the functioning of waste markets? If yes, please describe these taking into account the previous questions.

Ecotoxicity criteria (HP14) for hazardous waste is under development. It is important to verify that new criteria will be suitable and would not falsely classify wastes as hazardous. It should be ensured that new method will be suitable also for easily biodegradable organic wastes such as sewage sludge or biowaste.

## B. Obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation

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9. Do you consider that there are any obstacles to the functioning of waste markets connected to the application of EU waste legislation or other EU legislation?

- Yes, many
- Yes, but limited
- No (go to part C of the questionnaire)
- Don't know (go to part C of the questionnaire)

10. What are the drivers/causes of these regulatory failures or obstacles to the efficient functioning of waste markets?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Application of the system of notification- and consent requirements under the Waste Shipment Regulation (Articles 4-17 and 26-33 of the Waste Shipment Regulation).

*between 0 and 5*

b. Application by national authorities of the provisions concerning waste shipments through transit countries (Waste Shipment Regulation).

*between 0 and 5*

c. Other controls imposed on waste or waste shipments by application of EU waste legislation.

*between 0 and 5*

d. Different interpretations of the definition of 'waste' according to the Waste Framework Directive.

*between 0 and 5*

e. Diverging classifications of waste as 'hazardous' or 'non-hazardous' (Waste Framework Directive).

*between 0 and 5*

f. The distinction between 'recovery' and 'disposal' (Waste Framework Directive).

*between 0 and 5*

g. Application of the 'proximity principle' resulting in an outcome which is inconsistent with the waste hierarchy (Waste Framework Directive and Waste Shipment Regulation).

*between 0 and 5*

h. Divergent application of the so-called 'R-codes', i.e. the recovery operations listed in Annex II to the Waste Framework Directive.

*between 0 and 5*

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

*between 0 and 5*

i. Application of national end-of-waste criteria established in accordance with the Waste Framework Directive, see further Article 6(4) of the directive.

j. Application of the grounds for reasoned objections to shipments of waste for recovery, as listed in Article 12 of the Waste Shipment Regulation, or the requirement for environmentally sound management (ESM), see further Article 49(1) of the regulation.

*between 0 and 5*

k. Other obstacles not listed above.

*between 0 and 5*

If relevant, please provide additional information in relation to your above reply.

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11. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)



### C. Obstacles to the functioning of waste markets arising from national, regional or local rules or requirements and decisions which are not directly linked to EU legislation

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12. Do you consider that there are any distortions created by waste policy, requirements or decisions taken at national, regional or local levels?

- Yes, many
- Yes, but limited
- No (go to question 15)
- Don't know (go to question 15)

13. What are the drivers/ causes of these market distortions?

(Rate in a scale of 0–5, with 0 not important, 5 very important)

a. Differing taxes or fees leading to internal or cross border 'shopping behaviour', i.e. waste is transported to locations where it is cheaper to manage to the detriment of more environmentally sound management options which are locally available.

*between 0 and 5*

0

b. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

*between 0 and 5*

3

c. Development of waste treatment networks leading to local overcapacities or under-capacities for different types of waste treatment (e.g. incineration) to the detriment of higher positioned treatment steps in the EU waste hierarchy.

*between 0 and 5*

4

d. Inefficient use of available capacity in recycling or energy recovery in a neighbouring country or within the country itself.

*between 0 and 5*

3

e. Regulatory barriers that lead to shipments of waste in spite of facilities existing nearer to the source that could treat the waste in an equivalent or better manner in terms of environmentally sound management and the waste hierarchy.

*between 0 and 5*

4

f. Design and implementation of extended producer responsibility schemes leading to competition distortions or market access problems for producers and waste operators.

*between 0 and 5*

5

g. Permits and registrations which are not linked with EU legislation, requested from companies established in other Member States, even if they have fulfilled similar requirements in their home Member State.

*between 0 and 5*

5

h. Excessive controls on waste or waste shipments by national/regional/local policy, decisions and legislation that go beyond EU requirements ('gold plating').

*between 0 and 5*

5

i. Distribution of roles and responsibilities for municipal authorities and private companies in waste management.

*between 0 and 5*

2

j. Other obstacles not listed above.

*between 0 and 5*

If relevant, please provide additional information in relation to your above reply.

In order to solve confidence problems and assure quality guaranties and lack of contamination, an accurate registry of products should be developed (some kind of eco-label). This would facilitate the understanding of farmers of what they can do and what they are using - 5

Due to the lack of accurate information of products and the possibility of municipalities to regulate by local ordinance agricultural use of sewage sludge, unjustified barriers have been created to the use of sewage sludge for agronomic uses - 4

14. Please provide qualitative or quantitative evidence of the impacts of these distortions (e.g. in terms of additional costs for businesses, missed new job opportunities, environmental impacts etc.)

The report from the Club of Rome shows the enormous potential to create new jobs and a growing economy if a circular economy will be developed, see <http://www.clubofrome.org/?p=8260>

15 a. Please rank the three most important drivers of market distortions and obstacles according to their importance with respect to being tackled first to improve the efficient function of waste markets. Please indicate the relevant number and sub-letter from 10a)-k), 13 a)-j).

13h, 13f, 13g.

15 b-c.

- 15 b. Cannot rank them. They are all equally important.
- 15 c. Not enough knowledge to rank them.

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

a. Increased waste generation or less reuse

*between 0 and 3*

16. What do you feel are the negative impacts within the EU of such obstacles? Please rank them between 0 (no impact) to 3 (high impact).

2

b. Less recycling

*between 0 and 3*

3

c. Less recovery, including energy recovery

*between 0 and 3*

3

d. Less environmentally sound management of waste

*between 0 and 3*

1

e. Less resource efficiency

*between 0 and 3*

3

f. Lack of market access

*between 0 and 3*

3

g. Other

*between 0 and 3*

3

If relevant, please provide additional information in relation to your above reply.

The absence of harmonised standards at European level and the absence of end-of-waste criteria for products recovered from sewage sludge does not create confidence in the final product and limit the access to this product to national level. The focus should be put on the quality of the recovered product instead of its origin to enhance a market and foster innovation to develop high performance technologies to ensure a constant product quality.

We should consider:

- a move away from 'input focused' to 'output or outcome focused' policy and legislation
- educating the public and stakeholders on the quality of recovered products and to control their emissions not to jeopardise the potential of recycling
- incentivising good behaviours from producers
- marketing products as 'recycled, or sustainable'
- promote a shift away from the 'fear' of waste and towards the 'opportunity' of resource recovery
- ensure that decisions are based on outputs and impacts on the environment based on sound science rather than 'fear'.

## D. Final questions

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17. Do you consider that there are large differences between the Member States in the way their waste markets function?

- Yes, very large differences.
- Yes, but the differences are small.
- No differences.
- Don't know.

18. Please briefly describe the differences between Member States, perceived as obstacles to the functioning of waste markets:

Standards are different, requiring individual negotiations between MSs to allow the waste market to be developed. Political decision on product should remain local but European fact-based and objective standards for quality of products could help to remove barriers.

19. What solutions would you propose in order to address the regulatory failures or obstacles you have identified above?

Developed European fact-based standards based on the quality of the final product and not on the origin of it.

Give an end-of-waste status to good quality products coming from sewage sludge if they meet European standards.

Since all sewage sludge will not fulfil end-of-waste criteria, there is also a need to investigate how the possibility to recycle and reuse sewage sludge under the waste regime and fertiliser regulations will be maintained. Legislative framework for sewage sludge utilisation should enable both local and small scale utilisation of sewage sludge as well as high category solutions with EU market quality. A comprehensive solution with waste and fertiliser legislation is needed to ensure sustainable recycling of sewage sludge also in the future.

Remove more products from waste status, or develop a quick and easy process to get decisions on whether something is still a waste or not, and establish incentives to encourage the right behaviour.

### Part 3 – Follow-up activities

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20. Would you be interested in participating in a stakeholder meeting on these issues that will be held on 12th November 2015?

- Yes, I would like to attend.
- No, I'm not interested.

My contact details are (optional):

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