

FEAD Press Release

Waste-to-Energy under the Sustainable Investment Regulation & the future Taxonomy: a legal analysis

Energy recovery from waste (Waste-to-Energy, WtE) is a vital possibility of making the best use of resources from waste, in particular non-recyclable, residual waste. It plays an important role in the circular economy, as an essential step in the waste management chain. However, the role of WtE in the context of the provisions of the **EU Sustainable Investment Regulation (best known as the Taxonomy Regulation)**, which entered into force on July 12, 2020, is not clear, as it is not apparent whether WtE can be considered a sustainable economic activity.

FEAD, the European Federation of Waste Management and Environmental Services, commissioned to the consultancy PricewaterhouseCoopers a [legal analysis and interpretation of the Taxonomy Regulation](#) with regards to the **question of whether waste incineration for energy recovery (WtE), fulfilling R1 energy recovery criteria, can be considered an environmentally sustainable economic activity**. This clarity is needed ahead of the detailed definition of "sustainable activities" and "green investments" in the future Taxonomy.

The aim of the Taxonomy Regulation is to bring environmental, social and governance considerations at the heart of the financial system and of green investment decisions. The Regulation sets out some general criteria for determining the sustainability of activities, as a basis for a detailed description of the green activities in the future Taxonomy. However, it does not differentiate between waste incineration for energy recovery and waste incineration for disposal, whereas depending on the particular purpose of waste incineration, the impact on the circular economy varies, thus the sustainability of the activity.

The **legal analysis** that was conducted deployed all the methods applied in interpreting provisions of Union law, taking into account the **European waste law and political framework** and concluded that **(a)** waste incineration must be viewed in a differentiated manner, **(b)** a distinction must be made between incineration for disposal and incineration for energy recovery (R1), and that **(c)** WtE (R1) is consistent with the circular economy, while also fulfilling other environmental objectives, as long as it complies with the waste hierarchy. Therefore, **recovering the energy from non-recyclable waste for energy recovery must be regarded as an environmentally sustainable economic activity**. FEAD President Peter Kurth highlights in a short [video](#):

"By diverting non-recyclable, residual waste from landfilling, by ensuring their environmentally sound treatment, and by avoiding the use of fossil fuels, Waste-to-Energy (under the R1 criteria) is a key activity to more recycling and to saving CO2 emissions. The legal analysis is in line with the facts."

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