

EN
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Answer given by Ms Roswall
on behalf of the European Commission
(5.3.2025)

Article 5(1) of the Waste Framework Directive¹ entitled '*By-products*' provides that Member States shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste, but to be a by-product if the following conditions are met:

- further use of the substance or object is certain;
- the substance or object can be used directly without any further processing other than normal industrial practice;
- the substance or object is produced as an integral part of a production process; and
- further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

Without prejudice to the interpretation of the Court of Justice of the EU, which alone can provide a legally binding interpretation of EU law, the Commission considers that, unlike the activities in the case law cited by the Honourable Members², pruning and other maintenance of vegetation cannot be considered a 'production process' as their objective is not the manufacturing of any product.

Consequently, the Commission considers that grass clippings and other residues from pruning and other maintenance of vegetation cannot be considered 'by-products' within the meaning of Article 5(1) of the Directive. This does not prevent their use for composting or biogas production³.

¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, OJ L 312, 22.11.2008, p. 3–30.

² In C-238/21, the substance in question was the materials excavated or demolished in the course of a construction project. In C-114/01 the substance considered was the leftover rock resulting from the extraction of ore and/or ore-dressing sand resulting from the dressing of ore in mining operations. In C-235/02 the substance considered was the petroleum coke produced in an oil refinery.

³ According to article 22 of Directive 2008/98/EC, bio-waste shall as of 31 December 2023 be either separated and recycled at source or collected separately and not mixed with other types of waste.