

EN
P-001608/2026
Answer given by Ms Roswall
on behalf of the European Commission
(3.7.2026)

Article 5 of the Waste Framework Directive¹ sets out four cumulative criteria that must all be met for a substance or object to qualify as a by-product rather than waste: further use must be certain; the substance or object must be usable directly without any processing other than normal industrial practice; it must be produced as an integral part of a production process; and its further use must be lawful, meeting all relevant product, environmental and health protection requirements without leading to overall adverse environmental or human health impacts.

These criteria apply regardless of the national context. Based on the information available, the Commission considers that the Italian framework, as described in its previous answer, appears consistent with the requirements of the Directive, provided that the four conditions of Article 5 are genuinely verified on a case-by-case basis by the competent national authorities.

It is ultimately for those authorities to assess and demonstrate compliance with these conditions in each individual case. In its role as guardian of the Treaties the Commission will continue to monitor the correct application of EU waste law across all Member States and will take appropriate action should evidence of non-compliance come to its attention in line with its enforcement priorities².

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, as amended by Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May, OJ L 150, 14.6.2018, p. 109–140 and Directive (EU) 2025/1892 of the European Parliament and of the Council of 10 September 2025, OJ L, 2025/1892, 26.9.2025.

² Communication from the Commission - EU law: Better results through better application, OJ C 18, 19.1.2017, p. 10–20, and Communication from the Commission - Enforcing EU law for a Europe that delivers, 13.10.2022, COM(2022) 518 final.