

PORTUGAL'S PROPOSED WASTE EXCHANGE MARKET - ABREU ADVOGADOS

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Waste as a misplaced resource, is becoming definitely the motto of waste management in Portugal.

The key objective is the centralisation of waste transaction, thus reducing its cost and reducing consumption of raw materials, but the public tender does not, however, set a definitive model but

rather asks the bidders to create one. At a time where the revision of Europe's Waste Directive is clarifying the path towards an "end to waste", the Portuguese government has launched its much-awaited "sort" of public tender for the establishment of a "waste exchange market". The creation of which was foreseen in article 61 of Decree Law 178/2006 following the examples already in place in Catalonia, France and the UK to name a few already operating across the European Union (EU).

Nonetheless, the key features proposed to the Portuguese Agency for the Environment (APA) will need to meet the principles of transparency, equability of access and accuracy of information.

The main attributes of the exchange market will be transaction validation, and certification of quality. Supervision will be conducted by APA and the General Inspectorate for the Environment (IGAOT), but some of the open issues have proven rather puzzling for the candidates.

The first one being the economics of the whole system, for contrary to most of the European waste markets that are somewhat subsidised as, for example, happens in the UK and Catalonia where public financing occurs under the idea that the more you declassify waste into products the more the State waste targets, regarding the landfill and packaging Directives, are more easily met – the less waste, the less treatment.

The second, and true bottleneck to the real interest in such mechanism, is closely related to the decision making process of "end to waste". This, bearing in mind that most waste streams are already organised, is crucial to the success of the process. Waste producers have an interest in transforming their waste into a product to avoid stricter and more expensive treatment/consumption methods.

An example is the slops originated with the fuel oil vessels. If regarded as waste, they can only be used under the rules of the Incineration Directive – in Portugal therefore for use only in cement kilns. If they are regarded as a product they can be used in all other combustions, namely for the glass, ceramics and other industries. Needless to say this inevitably also has an impact on price and energy consumption rates.

The EU Environment Director General has already defined that it is up to the national authorities to decide on this matter based on a set of four conditions:

- i) the substance or object being commonly used for a specific purpose;
- ii) having a market or a demand for it;
- iii) fulfilling the technical requirements for the specific purposes or the existing legislation and standards; and
- iv) that the use of the substance or object won't lead to overall adverse environmental or human health impacts.

However the Administration's response to this challenge has been so cautious that you can call it non-existent. This is clearly therefore a matter that, in our opinion, should be attributed to the new management society of the Waste Exchange Market, with the necessary technical and scientific approval necessary to demonstrate the last two conditions being met – either internally or outsourced to reliable independent institutions, and inspection to be conducted by the administration.

Otherwise this new mechanism will have a residual impact, for most waste management circuits are already organised and profit generating. Let us hope common sense prevails this time, so that we save on energy and raw materials while getting closer to European targets on this subject.

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