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 **4 August 2023, Brussels**

# FEAD responses public consultation - Fitness check of the Polluter Pays Principle application to the environment

The polluter pays principle (PPP) should be implemented in EU environmental policies, as set out in Article 191(2) of the Consolidated Version of the Treaty on the Functioning of the European Union EUR-Lex - 12008E191 - EN (europa.eu).

The PPP requires polluters to pay for the measures they take to stop pollution happening and for the pollution they cause. Implementing the principle provides an incentive to avoid damaging the environment at source and makes polluters responsible. For example, does an industrial operator pay for pollution abatement systems and risk management systems, and does that operator pay for remediation of any environmental damage that does occur, or for any costs to society of pollution? What is at stake therefore is environmental effectiveness, economic efficiency and a just transition that minimises social inequalities resulting from impacts on and policies for the environment and in which measures to protect the environment are implemented in a socially fair and inclusive way.

The European Court of Auditors has concluded that the PPP[1] is reflected and implemented to varying degrees in EU environmental policies and its coverage and implementation is therefore incomplete. Following up on the Court’s recommendation, the Commission announced in its Zero pollution action plan that it would prepare a ‘recommendation on how to better implement the polluter pays principle on the basis of a fitness check in 2024’.

The fitness check will consider whether EU and national policies ensure polluters bear the cost of measures to prevent, control and remedy pollution. It covers aspects such as the use of market-based instruments by the EU and the EU Member States, indirectly paying the polluter through environmentally harmful subsidies or possibly failing to implement the PPP in the context of EU funds, how environmental liabilities are dealt with and the use of pricing in policies.

The objective of this public consultation is to collect stakeholders’ views — along with any evidence they might provide — on the implementation of the PPP in the EU, what is working well and not so well, and the EU added value of its implementation.

[[1] ECA (2021). Special Report 12/2021.](https://www.eca.europa.eu/Lists/ECADocuments/SR21_12/SR_polluter_pays_principle_EN.pdf)

1. Are you familiar with the polluter pays principle?
* I have never heard about the polluter pays principle before this survey
* I have only a general idea of what the polluter pays principle mean
* I am familiar with the polluter pays principle
1. How familiar are you with the implementation of the polluter pays principle?

* I have no idea how the principle is implemented
* I am familiar with its implementation in national legislation only
* I am familiar with its implementation in at least one piece of the EU environmental legislation
* I am familiar with its implementation in various pieces of the EU environmental legislation
1. How important do you consider it is to ensure that the polluter pays principle is implemented?
* It is a major priority
* It is important
* It is important, but only to a limited degree
* It is not important

**Part 1: effectiveness**

1. In your opinion, to what extent do polluters in the following sectors bear the costs for the pollution they are directly responsible for? [Rank from 1 ‘not at all’ to 5 ‘too large an extent’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Not at all | 2Insufficient extent | 3To some extent | 4Sufficient extent | 5Too large an extent | Don't know |
| Agriculture, forestry and fishing |  | X |  |  |  |  |
| Mining and quarrying |  | X |  |  |  |  |
| Manufacturing of food products and beverages |  |  | X |  |  |  |
| Manufacturing of tobacco products |  | X |  |  |  |  |
| Manufacture of textiles, wearing apparel, leather and related products |  | x |  |  |  |  |
| Manufacture of wood, paper and related products |  |  | x |  |  |  |
| Manufacture of coke and refined petroleum products |  | X |  |  |  |  |
| Manufacture of chemicals and chemical products incl. pharmaceutical ingredients and products |  | X |  |  |  |  |
| Manufacture of rubber and plastic products |  |  | x |  |  |  |
| Manufacture of basic metals and metal products |  | X |  |  |  |  |
| Manufacture of electronic and electrical equipment |  | x |  |  |  |  |
| Manufacture of vehicles, transporting and storage |  | x |  | ~~x~~ |  |  |
| Electricity, gas, steam and air conditioning supply |  | X |  |  |  |  |
| Water supply; sewerage; waste management and remediation activities |  |  |  | x | ~~x~~ |  |
| Construction |  | x |  |  |  |  |
| Wholesale and retail |  |  x |  |  |  |  |
| Non-financial service activities |  |  |  |  |  | X |
| Financial and insurance activities |  | x |  |  |  |  |
| Public administration and defence |  | x |  |  |  |  |
| Other |  |  |  |  |  | X |

If other, please specify:

1. In your opinion, to what extent are the following polluter pays principle implementation instruments effective for preventing/reducing environmental pollution caused by human activities? [Rank each instrument from 1 ‘not effective at all’ to 5 ‘fully effective’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Not effective at all | 2 | 3 | 4 | 5Fully effective | Don't know |
| Command and control measures (licensing procedures, bans, emission limit values, administrative orders and sanctions) |  |  |  | x | ~~x~~ |  |
| Market-based/economic instruments (subsidies/feed-in tariffs, taxes, charges, fees, tradable permits and quotas, Payment for Ecosystem Services, liability rules) |  |  |  | X | ~~x~~ |  |
| Voluntary approaches (voluntary agreements, environmental management systems (e.g. ISO 14001), labelling (e.g. eco-label) |  |  | x |  |  |  |
| International agreements (i.e. international environmental agreements, and the inclusion of environmental provisions in trade agreements, cooperation agreements and partnerships with third countries) |  |  |  | x |  |  |

1. Not all pollution is reduced or stopped. In your opinion, to what extent are the following instruments of the polluter pays principle effective for remedying the remaining environmental pollution caused by human activities? [Rank each instrument from 1 ‘not effective at all’ to 5 ‘fully effective’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Not effective at all | 2 | 3 | 4 | 5Fully effective | Don't know |
| Command and control law (licensing procedures, bans, emission limit values, administrative orders and sanctions) |  |  |  | x |  |  |
| Market-based/economic instruments (subsidies/feed-in tariffs, taxes, charges, fees, tradable permits and quotas, Payment for Ecosystem Services, liability rules) |  |  |  | x |  |  |
| Voluntary approaches (voluntary agreements, environmental management systems (e.g. ISO 14001), labelling (e.g. eco-label) |  |  | X | ~~x~~ |  |  |
| International agreements (i.e. international environmental agreements, and the inclusion of environmental provisions in trade agreements, cooperation agreements and partnerships with third countries) |  |  | X | ~~x~~ |  |  |

1. In your opinion, what are the most important obstacles to ensure that polluters pay for the pollution they are responsible for? [Rank from 1 ‘not important’ to 5 ‘very important’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Not important | 2Slightly important | 3Moderately important | 4 Important | 5Very Important | Don't know |
| The polluter pays principle is implemented by the most polluting industrial installations, but not by all |  |  | ~~x~~ | X |  |  |
| Public funds are used to support pollution prevention and control actions instead of the polluter paying for them |  |  |  |  | x |  |
| Public funds are used for pollution remediation activities even though the polluters are known, exist, and could be made liable |  |  |  | x |  |  |
| National authorities fail to enforce environmental legislation and to make the polluters pay |  |  |  |  | x |  |
| Industrial installations are not liable for environmental damage (because it is not captured by national liability rules or by the EU’s Environmental Liability Directive) |  |  |  |  | x |  |
| The polluter pays principle is implemented only partially, as polluters are not required to meet the cost to society of the impact of residual pollution (i.e. pollution that stays within legal requirements) |  |  |  |  | x |  |
| The price of products and services does not fully reflect (internalise) the environmental damage (externalities) of the products and services’ lifecycles |  |  |  |  | x |  |
| It is difficult to identify the polluters and make them accountable when the pollution originates from diffuse sources (sources that are hard to trace) |  |  | x | ~~x~~ |  |  |
| EU Member States supplement the income or lower the costs of consumers and producers in the form of subsidies which results in increasing negative environmental impacts (environmentally harmful subsidies) |  |  | X |  |  |  |
| Concerns about competitiveness of the EU versus non-EU countries implementing the principle differently, potentially leading to relocation of production (and associated pollution) outside the EU |  |  |  |  | x |  |
| Concerns about competitiveness between EU countries implementing the principle differently |  |  |  | x |  |  |
| Concerns about the social impact (e.g., on vulnerable households) of implementing the principle more fully |  |  | ~~X~~ | X |  |  |
| Lack of political willingness to introduce and enforce implementation of the principle |  |  |  | ~~x~~ | X |  |

1. In your opinion, are there other factors that may have hindered the effective implementation of the polluter pays principle and prevented it from fully meeting its objectives?

**Part 2: efficiency**

1. In your opinion, does the implementation of the polluter pays principle cause disproportionate costs to operators and consumers? Please rate your level of agreement or disagreement with the following statements (rate from 1 ‘completely disagree’ to 5 ‘completely agree’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Completely disagree | 2 Mostly disagree | 3 Neither agree nor disagree | 4 Mostly agree | 5Completely agree | Don't know |
| The implementation of the polluter pays principle has led to disproportionate costs in the production of products and the provision of services by EU companies |  | x |  |  |  |  |
| The implementation of the polluter pays principle has led to disproportionately high prices of products and services for EU consumers | ~~x~~ | x |  |  |  |  |
| The costs of the implementation of the polluter pays principle has negatively impacted the profitability and competitiveness of EU companies vs their competitors | ~~x~~ |  | x |  |  |  |

1. In your opinion, has the polluter pays principle been implemented to the detriment of some social groups?
* Yes
* No
* In part
* Don't know

If you wish, please provide examples.

**Part 3: relevance**

1. In your opinion, to what extent does the implementation of the polluter pays principle contribute to the achievement of the following objectives of the European Green Deal? [Please rate from 1 ‘not at all’ to 5 ‘full extent’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Not at all | 2  | 3  | 4  | 5Full extent | Don't know |
| A zero-pollution ambition for a toxic-free environment |  |  |  |  | x |  |
| Preserving and restoring ecosystems and biodiversity |  |  |  |  | x |  |
| A fair, healthy and environmentally friendly food system |  |  |  |  | x |  |
| Accelerating the shift to sustainable and smart mobility |  |  |  |  | x |  |
| Building and renovating in an energy and resource efficient way |  |  |  |  | x |  |
| Mobilising industry for a clean and circular economy |  |  |  |  | x |  |
| Supplying clean, affordable and secure energy |  |  |  |  | x |  |
| Increasing the EU’s Climate ambition for 2030 and 2050 |  |  |  |  | x |  |
| Just transition and leaving no one behind |  |  |  |  | x |  |

1. In your opinion, is the implementation of the polluter pays principle in the EU acquis adequate to tackle new or emerging environmental issues and changes in technology (i.e. issues that are not yet generally recognised but potentially having a major impact on human wellbeing and the environment, such as new materials and new production methods, or the increasing use of digital tools)?
* Adequate
* Neither adequate nor inadequate
* Inadequate
* Don’t know

**Part 4: coherence**

1. In your opinion, is the polluter pays principle coherently and consistently implemented in the following areas? [Please rate your answer from 1 ‘completely disagree’ to 5 ‘completely agree’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Completely disagree | 2 Mostly disagree | 3 Neither agree nor disagree | 4 Mostly agree | 5Completely agree | Don't know |
| Across environmental policies and mechanisms at the EU level |  |  | X | ~~x~~ |  |  |
| Across environmental policies and mechanisms at the Member State level |  |  | X | ~~x~~ |  |  |
| Across relevant policies (e.g., agriculture, transport, trade) and strategies at the EU level |  | X |  | ~~x~~ |  |  |
| Across relevant policies (e.g., agriculture, transport, trade) and strategies at the Member State level |  | X |  | ~~x~~ |  |  |
| Across trade agreements |  | x |  |  |  |  |

1. In your opinion, what is the impact of the EU implementation of the polluter pays principle outside the EU? [Please rate your answer from 1 ‘very negative’ to 5 ‘very positive’, or select ‘don’t know’]

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 1Very negative | 2negative | 3Neither negative nor positive | 4 Positive | 5Very positive | Don't know |
| Impact on the competitiveness of EU industries vs non-EU industries |  | X |  | ~~x~~ |  |  |
| Impact on environmental legislation in other developed world regions |  |  |  | x |  |  |
| Impact on environmental legislation in least-developed countries |  |  |  | x |  |  |

**Part 5: EU added value**

1. In your opinion, to what extent have EU requirements led to your Member State implementing the polluter pays principle in its policies?
* To a large extent
* To a limited extent
* Not at all
* Don’t know
1. Market based instruments on Member State level are one approach to implement the polluter pays principle to pollution. Are there cases where you consider the polluter pays principle would have better been implemented through an EU level market-based instrument (such as taxes, charges, fees, tradable permits and quotas, Payment for Ecosystem Services)? Please explain your answer below, possibly pointing to specific examples.

Please provide any other comment or suggestion you would like to share regarding the evaluation of the implementation of the polluter pays principle in the EU legislation.

As highlighted in our response to the Commission’s call for evidence/fitness check on the Polluter Pays Principle, FEAD fully supports the “Polluter pays principle” (PPP). The linked EPR schemes allow for the financial responsibility for collection and disposal of waste to be assumed by the producer. Nevertheless, it is also the Member States’ duty to ensure that producer’s responsibility organisations (PRO) ~~this should~~ do not hold a ~~promote~~ dominant position ~~of Producer Organization~~ and make use of abusive clauses leading to market distortions, competition issues and priority access to materials. EPR schemes should be an additional method that intervenes only when, or only to the extent that, the market fails to sufficiently develop an entire waste management chain, covering collection, treatment, recycling, recovery or final disposal, as necessary in each case. For materials where a functioning recycling market exists, they pose little to no added value.

FEAD has thus supported e.g. the introduction of EPR for textiles as a way to incentivise needed investments in textiles recycling plants and stimulate a recycling market. Another example, where it could stimulate recycling is for certain products in the construction sector where recycling markets are not sufficiently developed.

For wastewater, the quaternary treatment necessary to remove micro-pollutants from urban wastewater and monitoring and new advanced equipment to be installed in certain treatment plants will imply additional costs. Therefore, FEAD has also supported the polluter-pays principle to cover such costs. It is essential that the producers placing on the Union market products containing substances which, at the end of their life, are found as micro-pollutants in urban wastewaters (‘micro-pollutant substances’) take responsibility for the additional treatment required to remove those substances, generated in the context of their professional activities. Considering that in Europe wastewater management system is already well established and functional, each Member States should be able to organise the extended producer responsibility taking into consideration the actual situation, with the possibility to involve those organisations already in place to act as intermediaries.

One of the most significant examples of lacking implementation of the polluter pays principle concerns the damage done to our environment and to human health due to wrongly discarded batteries. The fire incidents that very regularly affect waste management plants and other infrastructure cause enormous damage to property and even human lives. These are constant and unsolved problems for which the producers necessarily need to be called accountable. Here, again an extended producer responsibility scheme would constitute a very effective tool obliging the producers to bear the costs incurred due to the repair of the damage initially caused by their placing batteries on the market. Since the dangers inherent to wrongfully discarded batteries are imminent, this EPR scheme should, inter alia, necessarily cover large awareness-raising campaigns, as well as an improvement of the collection of batteries. In this context, it should also be emphasised that an EU-wide and mandatory deposit-refund system for batteries must remain a priority.

On another note, FEAD considers that the tax on non-recycled plastic packaging (European plastic contribution) should be effectively born by the producer and not by the Member States (i.e., the taxpayers), and that it should be widely and consistently implemented across the EU. The tax should be modulated according to the recycled content (as it has been introduced in the UK). This measure would be a good incentive to promote recycling.

Please upload a document if you wish to share a more extensive contribution or any background materials that will help us to understand your answers. [Please note the maximum file size is 1 MB, however, multiple files may be uploaded].

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