

Annex 1 – Responses to the questionnaire on Soil Certificates and Soil Passports

October 2022 in preparation for the SOILveR webinar on Soil Certificates and Soil Passports

Soil Passports

Belgium / Flanders

Are Soil Passports used in your country/region? Yes

Flanders has anchored stringent rules on the use and management of excavated soil and soil materials in its contamination legislation, applying the standstill and fit-for-use principle. Under certain conditions based on volume (above or below 250 m³) and suspicion of contamination, an investigation by a certified soil expert of the excavated soil or soil materials is required to determine the quality and the possibilities for reuse according to a standard procedure. The contractor that excavates the soil material has to respect and follow a traceability procedure of a certified soil management organization that defines the responsibilities of the different parties (builder, contractor, transporter, receiver). All transports of soil by vehicles weighing more than 3,5 tons have to be notified to a soil management organization and have to receive prior permission or permit. After the works have been executed as required and if the soil material was reused correctly, the receiver of the soil receives a soil management report as a certification of compliance.

Switzerland

Are Soil Passports used in your country/region? No

Catalunya

Are Soil Passports used in your country/region? No

Denmark

Are Soil Passports used in your country/region?

For urban areas and contaminated land analysis of soil quality mandatory when excavated and transported. No. this is a municipal assignment.

Slovak Republic

Are Soil Passports used in your country/region? No

In the Slovak Republic, there **is no established system** for monitoring the process from soil excavation to its reuse. In most cases, the procedure is in accordance with Act no. 79/2015 Coll. on waste and on amendments to certain acts (onward referred to as “Act no. 79/2015”). According to §3, section 19 and 20 of this Act, the terms storage of excavation soil and

backfilling are defined. Act no. 79/2015 does not apply to land (in situ), including unexcavated contaminated soil and buildings permanently fixed to the ground (§1, section 2, letter g) of Act no. 79/2015). Also, the act does not apply to uncontaminated soil and other naturally occurring material excavated in the course of construction in its natural state on the site from which it was excavated (§1, section 2, letter h) of Act no. 79/2015). **Contaminated soil is classified as a hazardous waste** (According to Annex 1 of the Decree of the Ministry of Environment of the Slovak Republic No. 365/2015 Coll., establishing the Waste Catalogue) and is managed in accordance with Act No. 79/2015 Coll. **Contaminated soil is disposed or recovered in the decontamination centre**

Austria

Are Soil Passports used in your country/region? No, but something equivalent

Basic characterisation of soil or rock in or ex situ; standardised sampling and analysis system, result is a quality class which determines the possibilities for recycling/reclaiming or – in case of landfilling – the possible/necessary landfill type.

Czech Republic

Are Soil Passports used in your country/region?

There is a waste act or waste law in the Czech Republic. Updated 2 years ago according to EU guidelines or directives, any soil (excavated) that is to be moved to another site for recultivation or just left on the ground has to pass (dry matter) testing for organic and metal elements contamination. Also, a soil used in constructions for e.g., landscaping has to pass. If more than 1000 tonnes are to be used at one site then a risk assessment from an authorised geologist is needed. If the soil is to be landfilled as a waste, it has to pass leachate tests depending on the type of the landfill. This system of testing has been used in the CZE since 2005. Unfortunately, a new decree (273/2021) that came into effect in 2021 put extreme demands on PAH contamination in dry matter. I.e., from original 6 mg/kg down to 0,015mg/kg of PAH in dry matter. This means that only 36% of previously clean soils can pass a new decree. Which means that the new decree 273/2021 will cause a massive generation of waste that was not considered as waste before 2021. There is however transitional period until December 2023 when both old and a new decree are valid. The new legislation also implements a different decree for using fertile ground or application of sludge on fertile ground. We use certificates just for secondary products from recycling. We do not use certificates for random soils. These soils usually need to be sampled and tested by accredited laboratory. A test protocol is then a prove of "quality".

France

Are Soil Passports used in your country/region? No

A national regulatory traceability system for excavated soils (National Register of Waste, Excavated Soil and Sediment), sometimes coupled with an excavated soil exchange system (TERRASS).

The Netherlands

Are Soil Passports used in your country/region? No

In the Netherlands an environmental **declaration of soil quality (EDSQ) is required to demonstrate the quality of the re-used soil when reusing soil**. The owner of the excavated soil is responsible for the proper handling on the location of excavation, the quality testing and assurance, while the owner of the receiving site is liable for the proper reuse of the soil. Under the national **Soil Quality Decree Soil and sediment is reusable if there is a useful application, there is compliance with reuse standards based upon stand-still and fit for use + risks for humans and ecology**. A notification of application (every single batch of contaminated soil and every useful application of clean soil above 50 m³ needs) is necessary to a national register that reports back to the competent authority. The register keeps information on the owners and locations of excavation and reuse, the soil quality and quantity, and the soil investigation reports.

The EDSQ itself consists of:

- Reference to relevant reports:
 - preliminary investigation
 - stockpile investigation
 - soil investigation
 - soil quality map
 - entrance examination
- Description and amount of soil
- Soil Quality based upon reports and investigated standardized contaminants
- Disclosure of concentration or emission of non-standardized contaminants
- Content of debris
- Instructions for use

Sweden

Are Soil Passports used in your country/region? No

SEPA has recently left some suggestions to the Swedish government to investigate and establish regional and local systems for traceability in e.g., reuse of excavated soils. SEPA suggests awaiting the work within EU on soil passports to evaluate the proposal and its potential impacts on Swedish soil management.

UK

<https://www.claire.co.uk/projects-and-initiatives/dow-cop>

Soil Certificates

Flanders

Are Soil Certificates used in your country/region? Yes

One of the central instruments of the Flemish soil remediation policy is the soil certificate, a system that exists since 1995. When land is transferred (transfer of ownership, but also ground lease, usufruct, concessions, etc.) the transferor (usually the seller) has to consult the Land Information Register. This database contains the location of potentially contaminated sites and all known data on soil contamination. The register is managed by the public authority in charge (Public Waste Agency of Flanders, OVAM). The transferor or seller has to inform the receiver or buyer of the land on the known information about soil quality and has to hand over a mandatory soil certificate, which summarizes the data for the specific parcel in the Land Information Register. A soil certificate mentions the following information:

- Cadastral data of the parcel and the address
- Presence of potentially polluting risk activities (list of risk activities is defined in the legislation)
- Soil investigations and remediation projects that have been or still have to be executed
- Presence and type of contamination
- Advise on the use of the land, safety measures, precautionary measures, etc.
- Information on the presence of asbestos

The soil certificate and the transfer of land is subject to a strict legal framework with enforceable investigation and remediation obligations. On sites with (former) potentially contaminating risk activities, a soil investigation has to be carried out before the land can be transferred. If soil contamination is detected for which further action is required, the transfer of the land cannot take place before certain conditions are met:

- a soil remediation project has to be prepared.
- a financial guarantee has to be deposited.
- a contract that the remediation will be carried out has to be signed.

The soil certificate is usually requested by the intervening notary, who will copy the information of the certificate into the legal act that seals the transfer of the land. Everybody can request online a soil certificate from OVAM after paying a retribution of 55 euro. OVAM issued in 2021 more than 322.000 certificates, so it is also an important source of revenue that is used to manage the system and to fund “ex-officio” interventions by OVAM.

Catalunya

Are Soil Certificates used in your country/region? No

When a site is declared contaminated, this condition must be recorded on the folio of the registered property or properties affected by means of a marginal note to the latest registration of title. The recorded condition does not include soil quality information.

Austria

Are Soil Certificates used in your country/region? No, but something equivalent

Austria has a national system playing an equivalent role (as already presented in a webinar of the EU SEG; see also attachment 2) is in place. In a systemic approach main pillars are the inventory on historically polluting activities (before 1 July 1989) and the Austrian Standard ÖNORM S 2093 (“Environmental status characterisation in real estate evaluation”)

Denmark

Are Soil Certificates used in your country/region?

Only in terms of soil contamination, not in terms of the general soil quality. It is not mandated by law, only that contaminated sites must be registered

France

Are Soil Certificates used in your country/region?

The Soil Information Sectors (SIS) correspond to land where the State is aware of soil pollution, as well as to areas where industrial or service activities may have impacted the environment. Environmental studies and, if necessary, pollution management measures must be implemented in these areas in the event of a construction project, in order to protect health and the environment. An ATTES-ALUR certificate must accompany applications for building or development permits for sites located in a Soil Information Sector (SIS) as well as certain projects to change the use of an Installation Classified for Environmental Protection (ICPE). The aim of this service is to guarantee the compatibility between the future use of the site and the state of the existing environment (soil, water, air) on potentially risky sites. In parallel, in the context of the closure of an Installation Classified for Environmental Protection (ICPE), an ATTES-TRAVAUX certificate must be produced. This certifies compliance of the work carried out with the rehabilitation objectives for ICPEs that have been permanently shut down. This ATTES-TRAVAUX certificate includes, among other things, verification of compatibility with future use.

The Netherlands

Are Soil Certificates used in your country/region? No

In the Netherlands **information has to be transferred by exchange of land or property**. Only information available should be given, **extra research is not obligatory** unless it's agreed upon by the seller and buyer to do further examination. This 'certificate' is **only focused on soil contamination**. The driver for disclosure of information on soil contamination is the liability aspect of the contamination. The transfer of information on soil contamination is more an aspect of private law than administrative law. Information such as/similar to cadastral data of the parcel, presence of potentially polluting risk activities, soil investigations and remediation projects that have been or still have to be executed and presence and type of contamination is provided. Municipalities or provinces have most of this information available to buyers (there are certain soil maps for each municipality). If further examination on presence and type of contamination is required, this can be conducted by a certified soil testing company and laboratories.

Slovak Republic

Are Soil Certificates used in your country/region? No

Proposal for the implementation of an **environmental monitoring system** was approved by the Slovak government via Resolution No. 620 from September 7, 1993. Environmental monitoring system consists of 10 sub-systems. One of them is **the Soil Monitoring System**, elaborated and permanently updated by the Soil Science and Conservation Research Institute, includes immense data holdings on soil and associated components of the environment as well as **trends in soil contamination**. The object of soil monitoring is the entire soil cover (soil fund) of the Slovak Republic, which includes **agricultural and forest soils**, as well as **soils above the upper boundary of the forest**. Agricultural soils are monitored on all types of land, except for gardens in built-up areas of municipalities. The Slovak core monitoring network consists of 318 monitoring sites on agricultural soils and soils above the upper boundary of the forest and 112 monitoring sites on forest soils.

The concept for **evaluation of agricultural soils** is used in Slovak Republic. It is based on the characteristics of each parcel by parameters of **soil-ecological properties**, which are expressed by the evaluated Soil-Ecological Units. The Soil-Ecological Units are soil and ecologically the most homogeneous units, which represent the main soil-climatic units, subdivided according to categories of slope, soil depth, exposure to the cardinal points, skeletonisation and grain size of the surface horizons. Soil evaluation is realised through the Soil Evaluation Information System, operated by the Soil Science and Conservation Research Institute. Its three main components are: Evaluation data bank, base of digised soil-ecological maps and Soil-Ecological Units. Evaluation data bank includes background data of the Slovak Republic's soil resources as a whole. All background data needs to be updated so as to take account of all dynamic processes running through the whole economy, together with the most recent findings from regional soil and economic research.

Sweden

Are Soil Certificates used in your country/region? No

National registry of contaminated sites (continuously updated) and registry on land (with some specific information, in some cases soil properties) (Kristina Widenberg)

“Land transactions in Sweden follow a combination of the “polluter pays” and “caveat emptor” principles, where the seller has a duty to report contamination, whilst the buyer has a responsibility to carry out a due diligence before buying. In Sweden, property owners have a further duty to ensure that they are aware of the contaminant status of their properties. “
(Comment to SEG)

UK

<https://www.claire.co.uk/projects-and-initiatives/dow-cop>