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Study material V.

Waste management

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1. Environmental policy instruments in the field of waste management

State Environmental Policy and Its Instruments

The State Environmental Policy (hereinafter also referred to as the Environmental Protection Agency) was approved by the Government of the Czech Republic on 17 March 2004 for the period 2004 – 2010. Its aim is to "*define a consensus framework for the long-term and medium-term direction of the development of the environmental dimension of sustainable development of the Czech Republic... it also wants to be a document for strengthening and improving partnership cooperation with other ministries – in a way that corresponds to the principles of sustainable development.*"

Tools for implementation State environmental policies are as follows:

1. **Raising public awareness of environmental issues, environmental education, education and awareness-raising.** This tool is aimed at the so-called key groups, which are non-governmental non-profit organizations, women, children, youth, national minorities, local and regional government, employees and their organizations, entrepreneurs, trade and industry, academia and farmers. According to the SPŽP, *"Raising public awareness of environmental matters leads the public not only to a greater understanding of the environmental context of the economic and social life of society, but also to an increase in the quality of consumer decision-making, to increasing the legal awareness of citizens and, indirectly, to increasing the quality of life."* One of the measures is to promote environmental education, education and awareness in schools and in the mass media.
2. **Legal Instruments**. As rules of conduct, they are one of the key instruments of environmental policy, although it is a relatively new branch of law (see, for example, the development of waste management regulation in the Czech Republic referred to in Chapter 2.2.2). Significant changes in this area occurred in connection with the accession of the Czech Republic to the European Union.
3. **Economic instruments** are evaluated as one of the most effective tools for securing the objectives of the EIA. One of the tasks of the adopted state policy is precisely the elaboration of the concept of economic instruments.
4. **Voluntary instruments.** These tools serve, among other things, to support the company's economic growth and competitiveness. Examples include the labelling of environmentally friendly products, the introduction of environmental management systems according to EMAS or ISO 14001, the application of cleaner production

principles or voluntary agreements, the life cycle assessment of products, green purchasing. The aim is also to promote the "greening of the state administration". An example is the Ministry of the Environment of the Czech Republic, which has been using recycled paper nationwide since 2003.

5. **Information tools**. The Ministry of the Environment is preparing the creation of a Unified Environmental Information System, which will also include public library and information services. At present, the Ministry's website, the environment portal and the map server are mainly used.
6. **Strategic planning tools.** The aim is to ensure that the strategic and action plans of individual municipalities respect the principles of sustainable development and seek to link the economic and social aspects of environmental areas. Local Agenda 21 or zoning plans are also cited as a tool.
7. **Tools of public involvement**. According to the SPŽP, "*The active involvement of all key groups and the general public is one of the basic principles of sustainable development"*. The tools include, for example, the institute of referendums and local referendums, the institution of the Ombudsman, public participation in decision-making by administrative authorities, commenting on concepts or plans.
8. **Research and development** serving to influence the reduction of negative impacts of human activities on the environment, correction and removal of damage, monitoring.
9. **International cooperation**. Environmental protection cannot be carried out at national level alone, so a comprehensive approach extending beyond the territory of national and continental countries is needed. Cooperation with institutions dealing with environmental issues, especially the EU, OECD, UNECE, WHO and others, is essential.
10. **Institutional tools** serving the implementation of THE EIA measures, control of its fulfilment and evaluation. In this context, it is necessary to name the Ministry of the Environment of the Czech Republic, the Czech Environmental Inspectorate, the State Environmental Fund of the Czech Republic, territorial self-government, administrative justice, public benefit organizations, civic associations and others.

The main objectives in the field of waste management are to reduce the energy and material intensity of production and to increase the material and energy recovery of waste and responsible management of hazardous waste. The sub-objectives are to reduce the proportion

by weight of waste landfilled, to reduce the maximum amount of biodegradable municipal waste to landfills, to reduce the material and energy intensity of production, for example by implementing the best available technologies, to improve the management of products, packaging and waste thereof. In relation to hazardous waste, these include preventing and reducing the generation of such waste, improving the management of health waste, eliminating waste containing PCBs and PCB-containing equipment by 2010 and creating a nationwide network of hazardous waste management facilities.

In the area of waste management, the EIA envisages the use of primarily tools to increase public awareness and awareness, legal and economic instruments (for example, by introducing tax relief or other forms of advantage for enterprises that use part of the created financial resources for recycling or new treatment of waste as secondary raw materials). The tools of public involvement include the strengthening of citizens' involvement in the care of the environment through separate collection of waste.

For the purposes of this work, I would divide the instruments that can be applied in the field of waste management into six groups:

1) Legislative instruments
2) Economic instruments
3) Deposit-refund systems
4) Voluntary instruments
5) Tools of environmental education and awareness
6) Information tools

2. Legislative instruments

This group of instruments may include, in particular, obligations or limits arising from legal regulations of different legal force or opinions or statements issued on the basis of such legislation.

Waste management plan

The basic document by which the set objectives must be taken into account and fulfilled in further activities is the waste management plan. The waste management plan is prepared for the territory of the entire Czech Republic, as well as by individual regional governments for the territory of a higher territorial-self-governing unit and waste producers (which are also municipalities).

The basic conceptual document of the Czech Republic for the area of waste management is Regulation No. 197/2003 Coll., Government Regulation on the Waste Management Plan of the Czech Republic.

In the case of a waste management plan of the region, which is issued in an independent competence, its binding part or its amendment is promulgated by a generally binding decree and must contain specific objectives and measures for the prevention of waste generation, limiting its quantity and hazardous properties, management of municipal waste and other waste groups, waste recovery, reduction of the proportion of waste deposited in landfills and the proportion of biodegradable components contained therein. Furthermore, objectives and measures to establish an integrated waste management system.

Larger municipalities also meet the limit set by the Waste Act for waste producers. According to ust. § 44 para. In accordance with Article 1(1), the waste producer's plan shall be required to draw up those producers who produce annually more than 10 tonnes of hazardous category waste or more than 1 000 tonnes of other category waste. If municipalities have formed a voluntary union of municipalities, they may draw up a joint waste management plan on the basis of a written agreement.

The waste management plan of the waste producer must be in accordance with the binding part of the waste management plan of the region and its amendments. A copy of the draft waste management plan is sent by the waste producer to the relevant regional authority. The regional authority may communicate comments to this plan in case of non-compliance with the binding part of the region's waste management plan or if the proposal does not contain the specified requirements, which the producer is obliged to incorporate into its plan within 3 months.

Legislation with nationwide scope

Legislation in the field of waste management with nationwide validity sets a number of obligations, prohibitions, limits. An example is the prohibition of dilution or mixing of waste in order to meet the criteria for its acceptance in a landfill, the obligation to hand over waste to an authorised person.

In 1940, the first standard was issued in Czechoslovakia that regulated waste management. This was Government Decree No. 29/1940 Coll., on Waste Management[1]. Garbage was considered to be "*old items and waste materials which are no longer used for further recovery in a household, business or other facility and which are to be disposed of as unnecessary*." This was followed by Decree No. 111 Sl. Z. of 21.4.1940 on compulsory garbage collection.

In 1949, a government decree was issued that repealed both previous regulations, namely Decree No. 88 of March 8, 1949, on the collection and disposal of collection raw materials. Subsequently, Government Decree No. 34/1951 Coll. of 27 March 1951 on collection raw materials and Government Decree No. 68/1960 on the management of metal waste and collection raw materials were issued.

The government facility from 1960 was abolished only by the first Waste Act, which was With effect from 1 August 1991 Act No. 238/1991 Coll., on Waste. This legislation, although it was not very extensive (only 16 paragraphs), for the first time systematically established the obligations of waste producers, which are the basis of further legislation in the field of waste management to this day. However, this legislation at least regulated the management of municipal waste. Although the municipality was considered to be the producer of municipal waste generated on its territory, it was not its owner. Municipalities have not been given the opportunity to regulate the municipal waste management system in their territory by a generally binding decree.

Act No. 238/1991 Coll. was replaced with effect from 1 January 1998 by a more extensive Act No. 125/1997 Coll., on waste. This Act has already regulated that a municipality may, by means of a generally binding decree in its independent competence, establish a system for the collection, sorting, recovery and disposal of municipal waste on its territory, including places intended for waste disposal. The amendment effective from 29 February 2000 also gave municipalities an economic tool – the possibility to set a generally binding decree fee for municipal waste.

Waste Act

The basic legal regulation for waste management is currently Act No. 185/2001 Coll., on Waste and on the Amendment of Some Other Acts, as amended. This Act lays down rules for waste prevention and management, further establishes the rights and obligations of persons in waste management and the competence of public administration bodies.

The currently valid Waste Act came into force on 1 January 2002. To date, it has been amended 18 times[2], mainly in connection with the accession of the Czech Republic to the European Union and the implementation of directives into Czech legislation. The areas that have seen the most changes concern the management of car wrecks, electrical and electronic equipment and bio-waste.

The Waste Act implements the following legislation:

- Decree of the Ministry of the Environment and the Ministry of Health No. 376/2001 Coll., on the evaluation of hazardous properties of waste

- Decree of the Ministry of the Environment No. 381/2001 Coll., establishing the Waste Catalogue, the List of Hazardous Wastes and the Lists of Wastes and States for the Purposes of Export, Import and Transit of Waste and the Procedure for Granting Consent to export, Import and Transit of Waste (Waste Catalogue), as amended
- Decree of the Ministry of the Environment No. 382/2001 Coll., on the conditions of use of treated sludge on agricultural land, as amended
- Decree of the Ministry of the Environment No. 383/2001 Coll., on details of waste management, as amended
- Decree of the Ministry of the Environment No. 384/2001 Coll., on the handling of polychlorinated biphenyls, polychlorinated terphenyls, monomethyltetrachloro-diphenylmethane, monometyl dichlorodiphenylmethane, monometyldibromodiphenyl-methane and all mixtures containing any of these substances in a concentration greater than 60 mg/kg (on the management of PCBs), as amended
- Decree No. 352/2005 Coll., on details of the management of electrical and electronic equipment and electronic waste and on more detailed conditions for financing their management (Decree on the management of electrical and electronic equipment)
- Decree No. 294/2005 Coll., on the conditions for the disposal of waste in landfills and its use on the surface of the terrain and the amendment of Decree No. 383/2001 Coll., on details of waste management
- Decree of the Ministry of the Environment No. 237/2002 Coll. on the details of how to take back certain products, as amended

Draft of a new law on waste

On the website of the Ministry of the Environment, it is possible to get acquainted with the draft of the new Waste Act and its explanatory report. Until 31 March 2009, the public was able to comment on the law. The new Waste Act aims to increase the proportion of waste that is materially recovered to waste disposed of. The general principles clause clearly sets out the waste hierarchy as follows:

1. waste prevention,
2. preparing for re-use of waste,
3. material recovery of waste,
4. other recovery of waste,

5. disposal of waste.

Significant changes compared to the currently valid Waste Act can be attributed to the specification of the status of excavated soil containing hazardous substances. The management of this waste is quite complicated due to the inconsistent interpretation of the Waste Act. This situation is used by a number of companies that operate a landfill of excavated soil under the heading of landscaping or temporary depots, often without any permit, which often endangers or even damages the environment in the vicinity (dustiness, disturbance of landscape character, backfilling of trees, threat to the water regime, undesirable weir of solid particles, etc.). The bill regulates the current practice applied by the Czech Environmental Inspectorate, namely the removal of uncontaminated soil and other natural materials that have been extracted during construction activities from the wording of the Waste Act, if it is certain that this material will be used in its natural state for the purpose of construction on the site where it was extracted.

The new Waste Act regulates in more detail the municipality's obligations in municipal waste management and its obligation to ensure waste sorting into selected commodities. At the same time, emphasis is placed on one of the economic tools in the field of waste management, namely the financial motivation of citizens and business entities to higher waste sorting and the related reduction in the amount of waste disposed of.

It is proposed to introduce a waste management fee to be paid by the operator of the waste disposal facility for the disposal of waste disposal operations at or below ground level (e.g. landfilling), deep injection (e.g. injection of pumpable liquid waste into wells, salt chambers or areas of natural origin), disposal in surface tanks (e.g. discharge of liquid waste or sludge into depressions, water tanks, lagoons), disposal in specially technically designed landfills (e.g. storage in separate, sealed, closed spaces isolated from each other and the surrounding environment), incineration on land and final or permanent storage, for example in the form of storage in containers in mines. It is therefore, to a certain extent, an extension of the currently existing landfill fee to other waste disposal methods. The fee rate is to be gradually increased to CZK 800 per tonne of municipal and other waste from 2015. In the case of hazardous waste, since 2011 it has been CZK 6,000 per tonne.

Dále je sjednocen způsob platby za komunální odpad. Současný systém je nahrazen jediným poplatkem za komunální opad z domácnosti, jehož výši a způsob výběru stanoví obec obecně závaznou vyhláškou. Poplatníkem jsou fyzické osoby, které mají trvalý pobyt v obci, nebo které vlastní stavbu určenou či sloužící k individuální rekreaci, nebo k tomuto účelu sloužící bytovou jednotku nebo stavbu rodinného domu, ve kterých není žádná fyzická osoba hlášena k trvalému pobytu. Sazba poplatku by měla dvě složky, a to částku pevnou až do výše 250 Kč a částku pohyblivou do 750 Kč, obě za poplatníka a rok. Pevná částka poplatku je tvořena veškerými náklady

vynaloženými obcí v předchozím roce na nakládání s odpady s výjimkou směsných komunálních odpadů, sníženými o příjmy dosažené obcí z odpadového hospodářství, rozpočítané na jednoho poplatníka. Pohyblivou částku tvoří náklady vynaložené obcí na nakládání se směsným komunálním odpadem v předchozím roce, rozpočítané na jednoho poplatníka, jejímž základem jsou náklady na 1 svoz evidované nádoby daného objemu využívané nebo určené k využívání poplatníkem, případně tyto náklady vztažené k hmotnosti odpadu. Tato sazba má motivační charakter směřující k vyššímu třídění odpadů. Podle návrhu zákona je obci dána pravomoc stanovit plátci poplatku na základě jeho žádosti a v odůvodněných případech individuální roční výši pohyblivé částky poplatku, která zohlední dobu pobytu poplatníka na území obce v daném roce, objem používané nádoby na směsný komunální odpad, hmotnost produkovaného směsného komunální odpadu nebo počet využitých svozů. Na řízení ve věcech toho poplatku by platil zákon o správě daní a poplatků. Nový zákon rovněž takto zohledňuje problematické přechodné bydlení, které mnohdy dostávalo občany do situace, kdy byli nuceni platit za odvoz odpadu také v místech, kde se prakticky nevyskytovali a tudíž žádný odpad neprodukovali.

Last but not least, the administrative burden on waste producers is to be reduced, as it is proposed to increase the limits on the amount of waste produced for the purpose of establishing the obligation to report on the production and management of waste per calendar year. A new head is set aside in the Act for the detailed regulation of waste management from health care. The Ministry of the Environment of the Czech Republic should establish, manage and operate a central waste management information system, which would have the status of a public administration information system.

For the time being, the new Waste Act is expected to take effect from 1 January 2011.

Technical standards

In particular, the technical requirements for collection containers, landfill constructions and facilities for the recovery or disposal of waste are regulated by technical standards. However, these standards can only be used by local governments as an environmental policy tool in its decision-making and control activities.

Packaging Act

Act No. 477/2001 Coll., on Packaging, as amended, applies to the handling of most packaging that is marketed or put into circulation in the Czech Republic. However, with the exception of the exceptions mentioned in the law, it no longer applies to packaging waste, which falls under the

Waste Act. In the Act, packaging is defined as a product made of material of any nature and intended to accommodate, protect, handle, deliver, or present the product or products intended for the consumer or other end user. The Act imposes obligations on selected natural and legal persons engaged in business, namely those who:

(a) places packaging on the market (packaging manufacturer, non-EU packaging importer, EU packaging carriers);

(b) puts the packaging into circulation.

The basic obligations arising from the Packaging Act include the obligation to ensure the take-back of packaging or waste from these packages, including informing the consumer about the method of ensuring this take-back. It provides take-back without the right to remuneration and is obliged to ensure a sufficient frequency of collection points and their availability. At the same time, it is the duty to ensure the recovery of packaging waste with a minimum extent graduated by calendar years, as specified in the Annex to the Act. Labelling of packaging from which material it is made is voluntary.

The obliged entity may ensure the fulfilment of its obligations independently organizationally and technically at its own expense, or it may transfer its obligations to another person together with the transfer of ownership of the packaging. Another option is to conclude a contract to ensure the fulfillment of the obligation to take back and recover packaging waste with an authorized company, i.e. EKO-KOM, a. s. According to eko-KOM, a. s. data, clients involved in the system operated by it place 81% of packaging on the Market of the Czech Republic[3].

The Packaging Act is implemented by the following decrees:

- No. 237/2002 Coll., on details of the method of taking back certain products, as amended;
- No. 115/2002 Coll., on details of handling packaging, as amended;
- No. 116/2002 Coll., on the method of marking returnable deposited packaging, as amended;
- No. 117/2002 Coll., on the scope and method of keeping records of packaging and reporting data from this register, as amended.

Generally binding decrees of municipalities or regions, regulations of municipalities or regions

At the level of local self-government, administrative instruments are regulated by generally binding regional decrees, generally binding municipal decrees, regional regulations and municipal

regulations. Municipal and regional councils may, within the limits of their independent competence, issue generally binding decrees. This right is based on the Constitution of the Czech Republic and further elaborated in the Act on Municipalities and the Act on Regions, respectively the Act on the City of Prague. If it is expedient to regulate certain conditions only locally, the region or municipality may issue a regulation on the basis of a statutory empowerment in the delegated competence.

Municipalities issue generally binding decrees primarily for the purpose of regulating the system of municipal waste management in the territory of the municipality and setting a fee for municipal waste. Relatively newly, the municipality may also determine the system of community composting and the way of using green compost for the maintenance and restoration of public greenery in the municipality by means of a generally binding decree. By a generally binding decree, the Region announces a binding part of the Region's waste management plan.

A breach of an obligation arising from a generally binding decree may be classified as an offence under the provisions in the case of a natural person – a non-entrepreneur. § 46 para. 2 of Act No. 200/1990 Coll., on Misdemeanors, as amended. A fine of up to CZK 30,000 can be imposed for an offence. In the event of a breach of a generally binding decree by the entrepreneur, it is an administrative offense under the Municipalities Act, respectively the Act on the Capital City. Prague, for which a fine of up to CZK 200,000 can be imposed.

The evaluation of the importance of these legal regulations is poor, for example, from the Strategy for the Development of Waste Management in Municipalities and Towns of the Czech Republic[4]: "*The generally binding municipal decree on the system of "management" of municipal waste is an instrument whose application in most municipalities is the only means of implementing the rights and obligations of municipalities as producers of municipal waste, given by the Waste Act and related regulations, in the territory administered by them*."

Limits

Legislative as well as economic instruments are also limits that can be set when depositing waste in a landfill of a given category, or quantitative limits, after which the waste producer is obliged by law to submit a report on the production and management of waste for a calendar year or the preparation of a waste management plan. The limits set by the Waste Act on the content of selected heavy metals in batteries are decisive for the obligation to ensure their separate collection, concentration, recovery or disposal.

Decisions, opinions, statements

Another administrative tool that influences the desired management of waste is the decisions, statements or opinions issued by public authorities in waste management.

Table 2 Overview of decisions under the Waste Act

Type of decision	provisions of the law	emits
Decision to suspend the hazardous properties exclusion certificate for waste	§9	ČIŽP/KÚ
a decision to withdraw the certificate on the exclusion of hazardous properties of waste	§9	ČIŽP/KÚ
consent to the mixing of hazardous wastes with each other or with other wastes	Article 12	CA
consent to the operation of facilities for the recovery, disposal, collection or purchase of waste	Article 14	CA
decision requiring payment of a landfill fee	Article 46	CA
consent to draw from the funds of the financial reserve for reclamation and remediation of landfills	Article 51	CA
decision on the determination of the duration and conditions of care for the landfill after the closure of its operation, reclamation and remediation	Article 52	CA
a decision in doubt as to whether the movable property is waste	Article 78	CA
Decision to prohibit the operation of waste disposal facilities	Article 78	CA
Decision to prohibit or restrict the operation of a waste facility from the production of titanium dioxide	Article 78	CA
a decision on the obligation of the landfill operator to pay the collected fee for the disposal of waste to the landfill	Article 47	CA
consent to the abandonment of sorting or separate collection of waste	§16 and §18	CA/ORP
consent to the management of hazardous wastes	Article 16	CA/ORP
decision on the registration of a manufacturer of electrical and electronic equipment in the List of Manufacturers of Electrical and Electronic Equipment	Section 37i	MOE
consent or objections relating to shipments of hazardous waste	Article 56	MOE
a decision imposing an obligation on the operator of a disposal facility to dispose of waste	Article 79	ODA
decision on the disqualification of the waste producer	Article 79	ODA

Explanatory notes: ČIŽP = Czech Environmental Inspectorate, Regional Authority = Regional Authority, ORP = Municipal Office of a Municipality with Extended Competence

The competent public authority may make its decision subject to conditions. Conditions and warnings may also result from a wide range of opinions and statements.