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Study material VI.

Waste management tools

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1. Economic instruments

Economic instruments can stimulate people positively, for example, in the form of financial support or, conversely, negatively by burdening undesirable behavior for the environment with a tax or fee. These are indirect instruments, the freedom of the subject is left to some extent. In addition to the stimulus function, they can also perform the function of fiscal, hedging, eliminating negative externalities. Z. Štěpánek states the following on the use of economic instruments in the field of waste management: "*Economic instruments, together with normative instruments, should create economic conditions for waste producers such that it is most advantageous for them to behave in the above way (e.g. to allow the disposal of waste that is not only short-term but also potentially dangerous in the long term, only by incineration, not landfilling, and at the same time to burden their production with a fee in the incentive amount, i.e. at a level which encourages the producer of the waste to minimise the production of such waste).*

Economic instruments include various fees, levies, taxes, reimbursements, fines, environmental insurance, subsidies, grants and other support. In the Czech Republic, fees are the most widely used, the primary purpose of which is to economically motivate the taxpayer to change behavior.

In the field of waste management, the following economic instruments are used in the Czech Republic:

1. Payment for the collection of municipal waste
2. Waste disposal fee
3. Payment for the use of the municipality's waste management system by business entities
4. Fines
5. Financial security of the landfill accident and financial reserve for reclamation and subsequent care of the landfill
6. Fees to support the collection, processing, recovery and disposal of selected car wrecks
7. Reduced tax rates
8. Grants, subsidies, European funds

2. Payment for the collection of municipal waste

One of the municipality's obligations is to designate places where individuals can dispose of waste. The municipality becomes the producer and at the same time the owner of municipal waste at the moment when a natural person disposes of the waste at a place designated for this purpose. Persons living in the municipality or owning real estate can participate in the security of these public goods in

several ways. The first option is payment on the basis of a contract, then a fee for municipal waste and a fee for the operation of a system of collection, collection, transport, sorting, recovery and disposal of municipal waste. The municipality may use only one type of payment at a time.

The legal regulation of the payment for the collection of municipal waste has undergone changes during the period of validity of individual waste laws. It was not until the amendment to Act No. 125/1997 Coll., on Waste, which came into effect on 29 February 2000, that municipalities were given the opportunity to set a generally binding decree fee for municipal waste. The following Act No. 185/2001 Coll., on Waste and on the Amendment of Some Other Acts, in its first version, only directly amended Act No. 565/1990 Coll., on Local Fees, as amended. A fee was introduced for the operation of the system of collection, collection, transport, sorting, use and disposal of municipal waste, the possibility of its determination was within the competence of the municipality. With effect from 1 January 2003, an amendment to the Waste Act came into force, namely Act No. 275/2002 Coll., which extended the possibilities of payment for municipal waste to include payment on the basis of a contract and a fee for municipal waste.

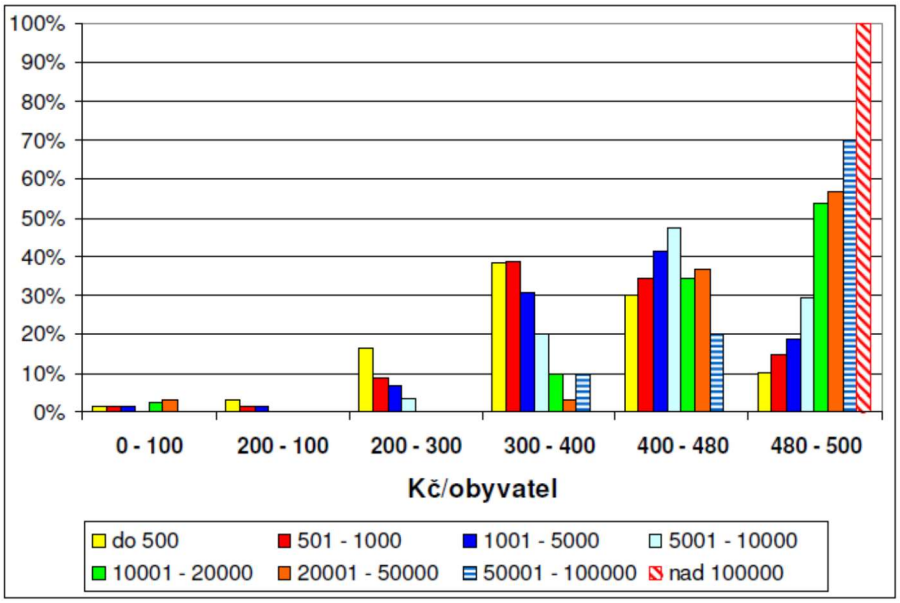
The currently prepared Waste Act already envisages the unification of the financing of municipal waste management by citizens in the form of a fee for municipal waste from households, the amount and method of payment of which is determined by the municipality in a generally binding decree. I refer to the proposed change in more detail in Section 2.2.2.

However, in the case of most municipalities, the funds obtained in one of these three forms do not cover the cost of waste collection and municipalities subsidise this public good from their budgets. Municipalities can reduce their costs through rewards under the EKOKOM system or by cooperating with collective schemes for the collection of discarded electrical and electronic equipment from citizens. The real costs of waste management in the municipality in 2007 ranged from CZK 600 to CZK 800 per person per year. Therefore, the municipalities demanded an increase in the upper limit of the fee. *"The Ministry of Finance and municipalities are demanding that our ministry propose to increase the ceilingq of the local waste management fee to allow municipalities to cover the costs of waste collection. Cost calculations and expected inflation showed that their requirement would correspond to an amount of approximately CZK 900. However, the Ministry of the Environment has not yet decided to what extent and whether it will comply with this request at all. We also take into account the fact that the method of capitulation payment least motivates citizens to sort waste,"* said the spokesman of the Ministry of the Environment Mgr. Jakub Kašpar for an article in the magazine Moderní obec.

According to the data provided in the Strategy for the Development of Waste Management in Municipalities and Towns of the Czech Republic[1], fees from citizens account for about 79% of all

municipal revenues in waste management. The average amount of payment for the collection of municipal waste from citizens was CZK 443. Most municipalities choose the form of a local fee, i.e. a fee for the operation of a system of collection, collection, transport, sorting, recovery and disposal of municipal waste, because of the easy enforcement of the fee. The graph below also shows that the amount of the fee increases with the size of the municipality or city.

Graph No. 2 Amount of the fee used by individual municipalities according to their size



Payment on the basis of a contract

Based on ust. § 17 para. 5 of the Waste Act, the municipality may collect payment for the collection, collection, transport, sorting, recovery and disposal of municipal waste from natural persons on the basis of a written contract. In the case of this contract, the procedure is in accordance with Act No. 40/1964 Coll., the Civil Code, or Act No. 513/1991 Coll., the Commercial Code. The amount of payment must be included in the contract. This is a contract price that is not regulated in any way.

If a municipality chooses this form of payment for municipal waste management, it may face a number of problems. First of all, although this is regulated by a generally binding municipal decree, the conclusion of the contract is not legally enforceable. One of the features of the contract is the free will of both parties, which would be absent in the event of the establishment of obligations and the absence of consent of the other party. For this reason, the contractual relationship is particularly

suitable for regulating the relationship between the municipality and the waste producers who use the municipality's system to dispose of their waste.

In the publication How to (not) pay for household waste[2] there is also a negative evaluation from practice: *"... where a system of payment for the volume of waste actually produced is in place, so-called black landfills are set up much more frequently and to a greater extent, because citizens try to dispose of the waste in a different way and elsewhere than in their garbage cans, for which they have to pay."*

Municipal waste fee

The legal regulation of the fee for municipal waste is contained in the provisions of Section 17a of the Currently valid Waste Act. The municipality has the possibility to set a fee for municipal waste generated in its territory by a generally binding decree. In this case, the municipality also administers the fee within the meaning of Act No. 337/1992 Coll., on the Administration of Taxes and Fees, as amended.

A taxpayer is any natural person who produces municipal waste in the course of his or her activities. That status is therefore not determined by permanent residence. The payer of the fee is the owner of the property in which municipal waste is generated. The fee payer charges the fee to individual taxpayers, he can be guided by the number of reported persons or the living area. If the taxpayer fails to pay the fee to the payer on time or in the correct amount, the payer is not responsible for paying the fees to the municipality, but is obliged to notify the fee administrator of this fact. On the basis of the notification, the municipality will assess the fee by means of a payment assessment.

The Waste Act regulates the maximum amount of the municipal waste fee. It is based on the anticipated eligible costs of the municipality resulting from the municipal waste management regime allocated to individual taxpayers according to the number and volume of containers intended for waste disposal attributable to individual properties or according to the number of apartment users and taking into account the level of sorting of this waste. The fee may also take into account the costs associated with the rental of collection containers.

Fee for the operation of the system for the collection, collection, transport, sorting, recovery and disposal of municipal waste

The fee for the operation of the system of collection, collection, transport, sorting, recovery and disposal of municipal waste is a local fee within the meaning of Act No. 565/1990 Coll., on Local Fees,

as amended. The fee is paid by natural persons with permanent residence in the municipality and natural persons – owners of buildings intended or used for individual recreation, in which no natural person is registered for permanent residence.

For a household, the fee may be paid by a common representative, for a family house or apartment building by its owner or manager. The common representative, owner or administrators also have a reporting obligation, which consists in notifying the name and date of birth of the persons for whom the fee is paid, to the municipality.

In the case of such a fee, its maximum amount shall be fixed. The fee consists of two parts. Amounts up to CZK 250 per person per calendar year and from the amount, the maximum amount of which is currently also CZK 250, which is derived from the actual costs of the municipality for the collection and collection of unsorted municipal waste for the previous year. In a generally binding decree, the municipality stipulates the allocation of costs for the collection and collection of unsorted municipal waste per person.

The Act on Local Fees implies the possibility for the municipality to provide for concessions and possible exemption from the fee by means of a generally binding decree. Therefore, the possibility is given to the municipal council, the decision is made in an independent competence. The fee can also be waived due to the removal of hardness.

3. Waste disposal fee

The producer of the waste is obliged to pay a fee for the disposal of the waste in a landfill, even if the producer of the waste is himself the operator of the landfill and the landfill is on his own land.

The Act on Local Fees implies the possibility for the municipality to provide for concessions and possible exemption from the fee by means of a generally binding decree. Therefore, the possibility is given to the municipal council, the decision is made in an independent competence. The fee can also be waived due to the removal of hardness.

Table 4 Rate of the basic fee for waste storage CZK/t

Waste categories	2007 - 2008	since 2009
Hazardous waste	1400	1700
Municipal waste and waste category other	400	500

Source: Waste Act

Table 5 Risk fee rate for waste storage CZK/t

Waste categories	2007 - 2008	since 2009
Hazardous waste	3300	4500

Source: Waste Act

The fee is collected by the landfill operator when the waste is deposited in the landfill and then pays the collected fees to the recipient of the fee. The income from the fee is divided between the municipality in whose cadastral territory the landfill is located and the State Environmental Fund. The municipality has a basic component, the State Environmental Fund has a risk component.

From the above, it is clear that although it is an economic tool to reduce waste production, it is not an instrument that could be influenced by the self-governing units themselves (with the exception of the legislative initiative of the regional assembly). The method of distributing the fee has been the subject of debate over the past two years. It was considered to redistribute the fee in the ratio of the municipality 20%, the locally competent region 80% of the revenues. However, the municipalities represented by the Union of Towns and Municipalities did not agree with this. The reason is evident from the joint statement of the Union of Towns and Municipalities of the Czech Republic, the Association of Regions of the Czech Republic and the Petition Committee of Municipalities with a landfill on their territory dated 31.3.2008, which was aimed at a draft amendment to the Waste Act. [3] As reasons, he cites, for example, the increased volume of traffic in the municipality with the landfill and the associated deterioration of the state of roads, as well as the smell, the threat of an environmental accident, increased dustiness. Moreover, these reasons also led to the entrustment of the fee revenue to municipalities in the mid-90s.

The draft of the new Waste Act complements the fee for the disposal of waste in landfills with a newly introduced fee for waste management. The revenue of the fee for waste management will not belong to the municipality, the fees should be 50% the income of the State Environmental Fund of the Czech Republic and 50% the income of the region locally competent according to the registered office of the establishment. These funds may be used by the regional authority only for environmental protection, in particular to support the implementation of waste management measures. In 2014, the expected revenue from these fees is CZK 3.78 billion.

In addition to this fee, there would continue to be a landfill fee. This fee would no longer be regulated by the Waste Act, but would take the form of a local fee pursuant to Act No. 565/1990 Coll., on Local Fees, as amended. The landfill fee shall be paid by the producer of the waste in the amount of:

- up to CZK 1700 per 1 tonne of hazardous waste deposited,
- up to CZK 500 per 1 tonne of other waste stored.

Municipalities in whose cadastral territory the landfill is located would be given the opportunity to influence the amount of the fee for the disposal of waste to the landfill. Municipalities are expected to use the maximum possible fee. The total revenue from fees for landfilling waste in municipalities in whose cadastral territory the landfill is located is expected in 2010 in the amount of approximately CZK 2.3 billion.

4. Use of the municipal system by tradesmen

In accordance with the provisions of § 17 para. 6 of the Waste Act, the municipality may allow waste producers to participate in the city's municipal waste management system. This option is particularly suitable for waste producers who primarily carry out administrative or other similar activities in which they produce waste similar to municipal waste. The generated waste is classified according to the Waste Catalogue. Participation in the system arises from the conclusion of a written contract with the municipality, which must include the amount of the agreed price for the service.

With this tool, the municipality can increase its revenues in waste management and at the same time gain a greater overview of waste management by waste producers. The disadvantage is the problematic control of the actually discarded amount of waste.

5. Fines

The Waste Act currently regulates fines imposed on business entities and individuals. The recipients of fines are either municipalities in whose cadastral territory the violation of the Waste Act occurred, or they share part of the fine with the State Environmental Fund.

The distribution of fines is as follows:

- If the fine is imposed by the Czech Environmental Inspectorate, 50% is the income of the municipality in whose cadastral territory the violation of legal regulations occurred, and 50% is the income of the State Environmental Fund.
- The fine imposed by the Czech Environmental Inspectorate directly on the municipality is the entire fine by the state environmental fund.
- If the fine is imposed by the municipal authority of the municipality with extended competence, it is entitled to 50% of the amount of the fine, another 50% is the income of the municipality in whose cadastral territory the violation of legal regulations occurred.

- The fine imposed by the municipal authority of the municipality with extended competence on the municipality is income from 50% of the State Environmental Fund and the remaining part is the income of the municipality with extended competence.
- The fine imposed by the municipal authority is the income of the municipality.

The range of fines that are regulated by the Waste Act is very wide. Fines are divided according to the severity of the threat to the environment into fines with an amount of up to CZK 300,000, which can be imposed by the municipal authority, up to CZK 1,000,000 imposed by the Czech Environmental Inspectorate or the relevant municipal authority of a municipality with extended competence, and fines of up to CZK 10,000,000 and CZK 50,000,000 imposed only by the Czech Environmental Inspectorate. The stated maximum amount of the fine is doubled if there is a violation by a legal entity or a natural person authorized to conduct business within 1 year of the final imposition of a fine for the same obligation.

The time limit for which proceedings for the imposition of a fine may be imposed is 1 year from the date on which the administrative authority became aware of the breach of duty. The deadline is 3 years from the date on which the breach occurred.

I will also focus on fines, the imposition of which is within the competence of the municipality or the municipal authority of the municipality with extended competence, divided into misdemeanors and administrative offenses.

Offences

Section 69 of the Waste Act regulates two offences for which a fine of up to CZK 20,000 may be imposed on a natural person. In the first case, it is the disposal of a car wreck or the placement of a vehicle removed from the vehicle register in violation of the Waste Act. In this context, the Waste Act and the Roads Act are often intertwined. In relation to car wrecks, it is decisive where they are located.

Relatively newly, the law regulates the facts of the offense consisting in the postponement of electrical and electronic equipment outside the places designated for this purpose or the places of their take-back.

Administrative offences

While municipal authorities may control the waste management of waste producers only within the scope of Section 80 of the Waste Act, municipal authorities of municipalities with extended powers are entrusted with a much broader control power. Municipal authorities of the third degree check the compliance of waste producers with legal regulations and decisions, i.e. all waste management. However, they are not entitled to impose sanctions to the full extent of their powers of control.

A penalty may be imposed for an administrative offense, which is the use of the system established by the municipality for the management of municipal waste by waste producers without a written contract with the municipality or if the waste producer does not have the recovery or disposal of waste in accordance with the Waste Act. A fine of up to CZK 300,000 may be imposed for this administrative offence. This administrative offense is the most common violation of the law by waste producers inspected by municipal authorities.

In addition, the municipal authority of a municipality with extended competence, as well as the Czech Environmental Inspectorate, may impose a fine of up to CZK 1,000,000 on a waste producer who:

- fails to properly fulfil its registration obligations under the Waste Act,
- does not secure waste from undesirable deterioration, theft or leakage,
- makes it more difficult to carry out control of waste management,
- does not process the hazardous waste identification sheet or equip waste management points with it.

The Waste Act contains a provision that should cover the facts of administrative offences not listed elsewhere. This is the provision of § 66 para. 5, according to which the municipal authority of a municipality with extended competence (in Prague, the Prague City Hall) or the Czech Environmental Inspectorate may impose a fine of up to CZK 1 million on a waste producer who breaches another obligation laid down by the Waste Act or a decision issued on the basis of this Act. This provision may, for example, penalise waste producers if they do not sort waste.

If, during the inspection of waste management, the workers discover a violation of the Waste Act or a decision issued pursuant to it, which constitutes an administrative offense for which a sanction cannot be imposed by the municipal authority of a municipality with extended competence, the matter is referred in accordance with the Administrative Code to the relevant administrative authority, i.e. usually the Czech Environmental Inspectorate. The Czech Environmental Inspectorate is usually required to hand over the file to such an extent that it is possible to initiate administrative proceedings on a fine or corrective measure without further investigation.

Sanctions allow waste producers and individuals to be led to the proper fulfillment of legal obligations. Although their stimulus effect outweighs the fiscal function, they are an important economic tool.

6. Financial security of the landfill accident and financial reserve for reclamation and subsequent care of the landfill

The financial reserve for reclamation, care of the landfill and remediation after the end of its operation is obliged to create the operator of the landfill. The funds are deposited in a special account maintained by the bank and cannot be subject to execution or bankruptcy.

Funds can be drawn from this special account only on the basis of the consent of the relevant regional authority, which is subject to the issuance of a decision on the commencement of reclamation works issued under the Building Act. The purpose is also defined by law – work related to reclamation, ensuring the care of the landfill after its operation and sanitation.

Currently, the financial reserve is adjusted as follows:

a) CZK 100 per 1 tonne of hazardous waste or municipal waste deposited, with the exception of asbestos waste;

b) CZK 35 per 1 ton of stored waste of the category other waste and asbestos waste, as well as waste stored as technological material to ensure landfill.

The draft of the new Waste Act envisages an increase in the financial reserve, in the case of point a) to CZK 150 per 1 tonne of waste and for point b) to CZK 50 per 1 tonne of waste.

The amount of the reserve is not controllable by the self-governing unit, but within the framework of the state administration in the waste management sector, the regional authority may influence the management of the tied funds.

7. Fees to support the collection, processing, recovery and disposal of selected car wrecks

This fee shall be paid by the registrant of selected used vehicles in the register of road vehicles. The purpose is to support the collection, processing, recovery and disposal of selected car wrecks.

The amount of the fee is as follows:

- CZK 3,000 if the EURO 2 emission limits are met,
- CZK 5,000 if the EURO 1 emission limits are met,
- CZK 10,000 in case of non-compliance with the emission limit values referred to in letter a) or b).

The recipient of the fees is the State Environmental Fund, so it is not an economic tool enabling local government to influence waste management in a desirable way.

8. Reduced rate of tax

On 1 April 2009, an amendment to Act No. 235/2004 Coll., on Value Added Tax, as amended, came into effect. This amendment expands the range of services that are subject to only a 9% rate of value added tax. By redefining the item, the collection, collection and processing of municipal waste was moved to the reduced tax rate.

9. Economic instruments resulting from the new Waste Act

In addition to waste management fees and changes to existing instruments, the draft of the new Waste Act provides for other economic instruments. These are fees for technological material to secure the landfill and the tool "Carrying bag".

According to the explanatory memorandum, fees for technological material to secure the landfill are introduced in order to prevent the release of free material deposited in the landfill and at the same time to reduce the amount of material deposited in the landfill.

The proposed institute, designated as a carrying bag, is related to bags handed over free of charge, usually made of polyethylene. A ban on gratuitous handover is proposed, with the Ministry of Finance of the Czech Republic setting a minimum selling price.

10. Grants, subsidies and European funds

In this area, the most important position is held by the State Environmental Fund of the Czech Republic, which is a special fund focused on environmental protection.

In the Operational Programme Environment, one of the priority axes is the Improvement of Waste Management and the Removal of Old Environmental Burdens. It accounts for 15.8% of the total of more than €5 billion allocated from European funds for projects improving the state of the environment in the Czech Republic. This program can be used by a wide range of people, including associations of municipalities or municipalities.

In addition to European funds, it is also possible to draw support from Swiss funds. One of the areas of support is the renewal and modernization of basic infrastructure and environmental improvement, one of the objectives of which is to strengthen infrastructure-related services at the municipal level in order to raise the standard of living and promote economic development, e.g. in the management of solid waste.

11. Deposit-refund systems

Deposit-refund systems are based on the principle of responsibility of producers or importers for the handling of their produced or imported goods after their end of life. In current legislation, these are waste oils, packaging, batteries and accumulators, tires, discharge lamps and fluorescent lamps, electrical and electronic equipment. The involvement of producers or importers may take the form of an advance scheme, recycling fees or a product charge. In the Czech Republic, the fulfillment of the obligation to take back and recover packaging waste has been operating for many years with the authorized company EKO-KOM, a. s. In recent years, collective systems for financing and handling electrical and electronic equipment and electrical waste have also been approved.

12. Voluntary instruments

Voluntary tools include, for example, **ISO certification**, which verifies that the company meets the requirements for access to the environment or waste management. The environmental area is covered, for example, by EN ISO 14001 Environmental Management System.

The active approach of the company to environmental protection is represented by **the EMAS Environmental Management System**. The Community eco-management and audit scheme with voluntary participation by an organisation was established by Regulation No 761/2001 of the European Parliament and of the Council on 19 March 2001. The aim of the programme is to support the continuous improvement of the organisation's activities in the form of:

(a) the establishment and implementation of environmental management systems;

(b) a systematic, objective and regular evaluation of the performance of these systems;

(c) the provision of information on the environmental performance of the organisation and an open dialogue with the public and other interested parties;

(d) the active involvement of employees in the organisation and appropriate initial and further training to enable active participation in the above tasks.

For the Czech Republic, the guarantor of the system is the Ministry of the Environment of the Czech Republic.