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Managing waste in Poland in the light of the legislation and SCC audit findings

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Introduction

Harmfulness of waste to the environment manifests itself in water, soil, and air pollution, damage to the aesthetic and landscape values, exclusion from use of farming and forest areas, taken up by waste deposits. Correct waste management makes one of basic tasks, the performance of which conditions a good state of the environment.

Every year approximately 130.5 mln tons of wastes are generated in Poland (including approx. 10 mln tons of communal waste). The most common way of neutralizing waste is depositing. In 2003, 25.7 mln tons of waste were deposited in 993 waste dumping sites, while 0.7 tons were neutralized in incineration and composting plants. The proportion of recycled waste generated by the industrial sector increased from 76.9% in 2000 to 79.1% in 2003, when it reached the weight of 95.4 mln tons.

Legal regulations dealing with waste management

By the end of 1997 the issue of protecting the environment from waste was regulated by the clauses of the Act on Protecting and Managing the Environment from 31 January, 1980.

On 1 January, 1998, there came into life the Act on Waste from 27 June, 1997, with a package of executory regulations, which supplemented and developed requirements on protecting the environment from waste.

In 2001 – 2002 new legal regulations were introduced to establish a complex basis for the construction of the waste management system. Those were

- the Act on the Environment Protection Law from 27 April, 2001,
- the Act on Waste from 27 April, 2001,
- the Act on Packages and Packaging Waste from 11 May, 2001,
- the Act on Entrepreneurs' Responsibilities towards Managing Some Wastes and on Product and Deposit Charges from 11 May, 2001.

The above mentioned body of legal acts along with executory regulations completely transposed EU legislation requirements on waste management into the Polish national legislation.

The core piece of legislation was the Act listed above as first, which defined the rules for using and protecting the environment. Aiming at offering protection from waste, the Act

contained, among others, requirements on reasonable use of raw materials, materials and fuels, use of no-waste and low-waste generating technologies and on waste recovery. The Act also defined the rules on establishing and covering the cost of using the environment, including charges on waste depositing.

The clauses of the Environment Protection Law, designed to protect the environment against waste, have found continuation in the currently binding Act on Waste from 27 April, 2001. Basic rules for waste management have been set forth there, including preventing or limiting waste generation, carrying out selective waste collection, guaranteeing waste recovery and neutralization as close as possible to the waste generation site. The obligation to develop waste management plans at national, voivodship, powiat and community levels as integral parts of the respective environment protection programs has been established. Responsibilities vested on waste owners were specified, among others, in terms of obtaining permissions to recover, neutralize, collect and transport waste, holding waste registers and drafting relevant reports. Also tasks to be performed by public administration organs have been specified, especially those related to securing proper waste management, i.e., issuing permits, or running voivodship databases on waste management. Regulations dealing with international trade in waste were covered, too.

The relevant legislation on waste management, as discussed above, was supplemented with the Act on Entrepreneurs' Responsibilities Regarding Some Wastes and Product and Deposit Charges, and the Act on Packages and Packaging Wastes. They both came into force on 1 January, 2002. The first Act defines entrepreneurs' responsibilities in connection with introducing packaged products into the country, and defines the rules for determining and collecting the product and deposit charges¹. These responsibilities cover, among others, securing the required recovery and recycling levels of packaging and post-user wastes, submitting reports on the types and amounts of packages introduced to the national market, as well as wastes undergoing recovery and recycling, the recovery and recycling levels achieved, along with calculation of payments due for product fees.

The Act on Packages and Packaging Waste defines the requirements that packages have to meet, taking into account the rules for environment protection and ways of proceeding with packages and packaging waste to guarantee protection of people's life and health, and of the environment. On top of the above, it specifies entrepreneurs' (i.e., producers', importers', and purchasers' of packages inside the Community) responsibilities for introducing packages to the market in the context of the need to guarantee security to people and the environment while using packages and managing the generated waste.

The coming of the above mentioned package of Acts and regulations into life provides a solid basis for a reasonable waste management in Poland. Implementing this legislation is connected with the necessity to take up a number of important actions, including, among others

- implementation of the National Waste Management Plan along with voivodship, powiat and community level waste management plans;

¹ Product charge is calculated and paid for packages whenever packaged products are introduced to the national market; it is also calculated and paid whenever nickel-cadmium batteries, battery cells, galvanic batteries, tires, ignition lamps and lubricant oils, as listed in annexes to the Act, are introduced to the national market. Deposit charge is collected on retail sales of lead (acid) batteries as separate products; it is refunded on returning the used battery to retail battery dealer, or to a used battery collecting shop, set up by the entrepreneur.

- achieving full operational capacity by the central and voivodship databases on waste generating and processing;
- completing ecological reviews of the existing waste dumping sites and incineration plants;
- developing plans for modernizing, closing down or liquidating old waste dumping sites and building new ones;
- limiting the amounts of biodegradable waste sent to the dumping sites;
- achieving assumed recovery and recycling levels for packaging and post-user waste.

The SCC audits of task performance in the field of waste management

In the recent decade the Supreme Chamber of Control performed over 15 coordinated and several ad hoc audits to study waste management. Among the audits completed by the year 2000 it is possible to quote “Performance of Tasks in Waste Management”, “Managing Solid Communal and Industrial Waste in Communities”, and “Use of Financial Resources to Fund Investment Activity towards Sanitary Waste Neutralization”.

The audit carried out in 2000 and titled “Proceeding with Hazardous Waste” disclosed, among others, that a considerable part of manufacturers and recipients of hazardous waste did not have waste management permissions. Registers of dangerous wastes were run incorrectly, and the obligation to present information on deposited dangerous wastes or payments collected for such wastes to marshals of voivodships was not met. Heads of Voivodships and Powiats did not have a sufficient knowledge about the number of economic entities functioning in their area and obliged to obtain permits to generate or remove of hazardous waste. Full information on the amount of dangerous waste deposited in waste dumping sites, on the number and technical condition of such sites, was also missing. Actions taken by Heads of Voivodships and Powiats towards securing the soil and underground waters against leachates from storage sites were assessed as insufficient. In conclusion, the audit disclosed that supervision over international movement of hazardous wastes was insufficient, either, and failed to offer adequate protection against illegal importation and exportation of dangerous waste.

The issue of managing waste has also been studied in recent years. Audit studies which deserve mention include “Observance of Requirements Concerning International Movement of Wastes” and “Implementation of Polish Negotiative Commitments vs. the EU in the Environmental Area”.

The audit titled “Observance of Requirements Concerning International Movement of Wastes”, carried out in 2003, assessed observance by state administration organs and economic entities of legal regulations concerning international movement of wastes, including those ensuing from the Act on Waste and from provisions of the Basel Convention on Control of transboundary Movements of Hazardous Wastes and their Disposal. The audit covered 69 structural units. Audit studies showed slow and systematic improvement of perception of requirements regarding international movement of wastes, ensuing from the Basel Convention, by audited units. Yet, important irregularities were disclosed in the field of issuing permits for international movement of wastes, observance of permit conditions, running registers of transported wastes and functioning of the system of supervising international movement of wastes. Insufficient and not fully effective was control over observance by entities of permit conditions for transboundary movement of wastes. According to the SCC findings one fourth of them did not conform to permit conditions. On

top of this, as the SCC stated, border and customs services dishonestly documented cross border transportation of waste, while incidental standard inspections of waste carrying vehicles, and controls of border and custom documents did not guarantee satisfactory supervision over transboundary movement of wastes.

The audit titled “Implementation of Polish Negotiative Commitments vs. the EU in Environmental Area” was aimed at studying and assessing activities taken up by public administration organs towards securing complete and timely fulfillment by Poland of commitments ensuing from EU membership negotiations in the field of environment protection, including those dealing with waste management. The audit was performed in 2003 and covered 56 units. Dealing with negotiation commitments in waste management the audit disclosed, among others, too slow actions taken towards developing powiat and community level programs for environment protection, including waste management plans, a slow pace of establishing selective waste collection, and dissatisfactory technical condition of community waste deposit sites. On top of the above, the audit showed that activities taken up and planned by the audited economic entities towards recovery of waste materials and recycling packaging wastes, permitted to achieve levels of recovery and recycling conforming to the requirements contained in the national legislation, thus presenting no threat to the deadlines on implementing Directive 94/62/EC on packaging and packaging waste. Also investment and modernizing activities taken up by economic entities in order to improve the technical condition of waste deposit sites, planned to be completed between 2003 and 2009, indicated that implementing Directive 99/31/EC on the landfill of waste remained possible to the negotiated deadlines.

At present, in 87 structural units audit proceedings have been completed under this year’s audit titled “Managing Packaging and Post-User Waste”. The audit was aimed at assessing observance by public administration organs and entrepreneurs of requirements contained in the law on managing packaging and some products, as well as packaging and post-use waste. The audit studied in particular

- progress in developing powiat and community level waste management plans and their conformity with the National Plan for Managing Waste in the part dealing with managing packaging and post-user waste;
- activities towards preventing waste generating and improving waste recovery levels, and the effects achieved;
- functioning of the product charge system;
- correctness of running registers of packages and packaging and post-user wastes introduced to the market, referred for recovery and recovered;
- reporting on packages and packaging and post-user wastes introduced to the market and recovered, along with recovery levels achieved and product charges collected.

Works on developing the report on the results of the audit discussed above will be concluded in the fourth quarter of the current year. Initial audit conclusions show that in all audited units actions have been taken towards implementing legal regulations on packaging and post – user waste management, yet in some units those actions turn out to be incomplete or too slow. In particular there occur

- delays in developing waste management plans in some communities,
- slow pace of completing and reaching full operational capacities by the voivodship databases on waste management,
- incomplete and untimely reporting by the heads of powiats and voivodships on waste management,

- ineffective collection by heads of voivodship of product charges due from entrepreneurs.

Irregularities disclosed by the SCC in the course of all the audits designed to study the problem area in question, found due reflections in management letters (and recommendations) addressed to the heads of audited units, and in systemic conclusions to be published in audit reports. Implementation of all recommendations is monitored by the SCC on a systematic basis.

According to the SCC, Polish legal regulations dealing with waste management have been duly harmonized with the regulations binding in the EU, and at present require full implementation and observance by waste managing units, along with Government and self-Government organs. Taking into account the obligations assumed by Poland in the area referred to above, and the need to keep the negotiated full adaptation deadlines, the SCC is going to take up further systematic audits to study the issues of waste management. It is necessary to add that an audit of managing medical waste has been suggested for introduction into the SCC 2006 Draft Workplan.

Common occurrence of problems connected with waste management and, in particular, with reducing amounts of wastes for depositing in waste dumping sites, increasing waste recovery levels and guaranteeing security to transboundary movement of wastes (in Europe regulated by EU legislation and the provisions of the Basel Convention, signed and ratified by 24 European states, and in total by 66 states) and the ensuing commonality of aims and means employed towards solving the related problems, give this complex area an international dimension.

In the SCC's opinion, waste management constitutes an excellent area for international audit cooperation and deserves serious attention from the SAIs, which should find expression in joint international audit undertakings.