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Legal Status of Waste

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Abstract: Within states statutes designed to combat the environmental pollution through waste and hazardous substances grow multiplied. The legal system reacts first by using known techniques and then in a progressive manner, by creating new techniques. Environmental protection will go further and turn into a powerful factor that will determine the improvement of fundamental concepts regarding environmental protection through prevention, according to the principle "it is better to prevent than to repair environmental damage". The implementation of this principle is inevitable given that environmental protection has become a global objective of the international society, resulting in a harmonization of environmental legislation and radicalization of international cooperation in environmental protection. Given the globalization of environmental protection action, economic factors play an important role in the fight to safeguard the environment, states taking measures to protect the internal environment, but also regional and global environment.

Keywords: Environment; waste; sustainable development; legal protection

1. Introduction

After accession to the European Union, following the commitments assumed by Romania during the negociations of unit. 22 - Environment is very expensive: by the end of 2018 (latest year for which we obtained the transition period for implementation of all negotiated provisions of the environmental acquis) a need of 29.3 billion Euro was estimated.

The higher costs are needed to ensure environmental infrastructure performance, which ultimately leads to the "recovery" of the economy of Romanian society. In the context of the existence of real problems of environmental pollution in Romania, the partnership principle, along with the precautionary principle, pollution prevention, sustainable use of natural resources, proximity, producer responsibility and, especially, the "polluter-pays" principles is the foundation of all measures and actions to be taken to protect and improve the environment in Romania.[2] This can be achieved only through an active partnership between government authorities, local government, professional associations, employers, unions, NGOs and all citizens of this country.

At the same time, all government institutions, business sector representatives and civil society and financial institutions need to cooperate with relevant agencies and organizations, at regional and international. We are particularly interested in speeding up the transition to a consumption and production for a viable social and economic development of Romanian society, the rational and efficient exploitation of natural resources.

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[2] Environmental Protection Law defines only the potential environmental risk - as the probability of adverse effects on the environment can be prevented using a evaluation study and not the *significant risk* to humans, environment and material assets.

2. The Matter Seat

The G.O. no. 195 of 2005 on environmental protection defines waste generally as "substances resulting from biological and technological processes that can not be used as such, some of which are reusable."

It follows from this definition that waste, in general, are natural - resulting from biological processes and industrial-technological - produced by various human activities, some of which can not be used as such and need therefore be neutralized or destroyed, while others are reusable as secondary raw materials present no toxicological or environmental[1].

The above reproduced definition has to be completed with that listed in the Government Emergency Ordinance no. 78/2000 on waste[2] which defines waste as "any substance or object in the categories set, which the holder discards, intends or is required to throw them."

This definition, as is the one given by Government Decision no. 340/1992 on the import of waste and residues of any kind and other dangerous goods for health and the environment (Tomescu, 1994, p. 29) showing that waste and debris of any kind are "products and materials with warranty terms obsolete, used products that have no physical or use-value and household waste", are vulnerable, such as discussed in legal literature, for that they do not include hazardous waste nor focus on worthless waste, contrary to their need for recycling.

The Environmental Protection Law contains a number of general rules on dangerous substances and preparations, waste and hazardous waste that concern, on the one hand, the obligations of environmental authorities and other authorities empowered by law, if necessary to supervise and monitor compliance with relevant regulations and take measures to prevent and reduce the impact of chemicals and hazardous chemicals and wastes on human health and the environment and, on the other hand, individuals and legal obligations to manage substances and preparations dangerous or carry out import, export, transit and international transport of waste and rules on water quality, soil and air, terrestrial and aquatic ecosystems protection, protection of human cities and nuclear activities .

Waste management activities, regarding the protection of human health and the environment, which include: household waste, waste production, construction and demolition waste, hazardous waste, such categories being expressly mentioned by law are covered by Government Emergency Ordinance no. 78/2000.

Waste of any kind, resulting from many human activities, is a matter of great current due to the continuous increase of their quantities and types, but also because the quantities of raw materials, reusable materials and energy that can be recovered and placed back in the economic cycle.

The current practice of collecting, transporting and storage of municipal waste are still inadequate in many cases, generating a negative impact on the environment and facilitating the multiplication and dissemination of pathogens and their vectors. Waste, particularly industrial. constitute sources of health and environment risk due to their content of toxic substances such as heavy metals, pesticides, solvents, petroleum products.

Ilegal storage of waste, maintaining the operation of non-compliant landfills, collection of household waste mixed with hazardous waste are sources of pollution for both surface water, groundwater and soil. Due to the lack of selective collection systems in the urban areas, the percentage that waste are selectively collected is still very small. There are not any integrated systems for separate collection of packaging waste, hazardous waste from municipal waste, bulky waste.

Hazardous waste in household waste are the waste batteries, oil, fluorescent tubes, medicines, paints, solvents and their packaging, etc.. These wastes can make the process of decomposition in landfills difficult and, ultimately, can pollute groundwater.

[1] O.U.G. No 78/2000 was published in the Official Monitor no. 283 of 22.06.2000 and subsequently amended and approved by Law no. 426 of 18.07.2001, published in the Official Monitor no. 411 of 25.07.2001.
[2] Published in the Official Monitor no. 281 of 26.01.1992, amended by H.G. no. 437/1992, published in the Official Monitor no. 201 of 18.08.1992 and completed by H.G. no. 145 of 14.03.1995, published in the Official Monitor no. 54 of 23.03.1995.

Construction and demolition waste, namely, building demolition materials, excavated soil, wastes are generated in increased quantities in large urban areas. These wastes are stored or disposed in organic deposits without prior screening and treatment. The amount of construction and demolition waste disposed of in landfills increased from year to year, reaching in 2007 43,048 tons.

Electrical waste and electronic equipment were collected by the collection points, in accordance with Government Decision 448/2005 (on waste electrical and electronic equipment), in Constanta and Mangalia. Most of these waste come from operators who have scrapped electrical and electronic equipment they had on. Population brought a small amount of such waste to collection centers, which are very often encountered in waste collection platforms without sanitation operators to collect them separately.

States taking steps to protect the environment should consider the costs and efforts that will affect their own economy. Certainly, long-term investments made to eliminate pollution are cost-effective because restoring damaged natural resources is very expensive. However, short-term costs of environmental protection are felt instead of long-term savings.

Whether the cost of the measures taken to protect the environment will be paid by the manufacturers or service providers or if these measures are the direct responsability of public authorities, the economy will always be the one that will support short-term consequences and additional costs will be passed on to export prices. States that protect their own environment are likely to be penalized in international competition because of the distortions that appear to their disadvantage. These distortions are particularly felt in systems based on freedom of interstate trade.

Another factor in the internationalization of legislative, administrative and institutional measures is the danger of pollution and hazardous substances. A step forward in this line is the Basel Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposal, ratified by Romania by Law nr.6/1991. Also, post-Chernobyl conventions regarding nuclear safety concluded in Vienna in 1986 mark a new era in the protection against nuclear pollution and cooperation of States in this field.

According with the law, the nuclear activity is based on an authorization from the National Commission for Nuclear Activities Control, issued to units engaged in nuclear activities, provided that they comply with rules that consider security of installations, protection of professional personnel, population and environment. Subject to Authorization is the introduction into the economic and social circuit, for use or consumption by the population of products that have undergone irradiation and use of radionuclides, radiation sources and pharmaceuticals containing materials radioactive for medical treatment and diagnostic. Authorization issued by the Ministry of Health, at the request of units, under section 14 of Law no. 111/1996.

At the deployment of operating nuclear units the following elements: the direct effect of nuclear activities on population and environment, both in normal operation and in case of nuclear accident, quantities and means of disposal of radioactive waste, density and average age of the population in the area and its specific diet will be considered.

The main measures for effective protection against radiation are adequate building facilities used as nuclear facilities, organizing safe disposal and storage of hazardous waste, radioactive and dosimetric monitoring of the entire territory, particularly crowded areas, water and atmosphere, providing projection against radiation for all units used in one form or another, ionizing radiation.

Another important convention on the prevention of negative environmental impact of industrial activity in a transboundary context is the *Convention of February 25, 1991 Espoo, Finland, on Environmental Impact Assessment in a Transboundary Context.*

3. Conclusions

International environmental law, still evolving, is founded on some traditional principles of international law, namely that it is prohibited causing damage to other states through waste and hazardous substances.

1. Defining the legal regulations concerning waste management in terms of Strategy and National Waste Management Plan such as: regional landfill, collection points (in rural areas), isolated settlement, transfer stations, composting plants. On approval by H.G. 1470/2004 Strategy and National Waste Management Plan, within the legislation on waste management terms were not defined, otherwise used within the requirements to implement European legislation in this field.

Strategy and National Waste Management Plan aimed at creating the necessary framework to develop and implement an integrated waste management, energy efficient and environmentally-friendly system.

For example, the legal framework for implementation of the Directive 99/31/EC was created by GD 162/2002 on waste disposal, the Minister of Waters and Environment Protection Order 1147/2002 approving the Technical Norms on waste disposal - construction, operation, monitoring and closure of landfills and Order 867/2002 concerning the definition of waste criteria to be satisfied for to find the list specifies a deposit on the national list of waste accepted in each class of landfill. In 2005, Technical Norms on storage was being promoted repealed Order 756 - Technical Standard for the storage, Order 867/2002 was replaced by Order 95/2005, GD 162/2002 was repealed by H.G. 349/2005. The new regulations ensure that European requirements on landfill waste, in terms of building operation, monitoring, closure and post-closing follow-up of new deposits, as well as those existing. Some of the terms mentioned (regional landfill, isolated village) have been explained by GD 349/2005.

2. Differentiated approach to the issue of deposits in rural areas, in the case where they were filled only with waste generated in cities they serve. The approach will have to consider the practical ways of closing the landfill in these areas and new possibilities for storage (temporary) of generated waste.

A very important issue, related to integrate waste management is the closure of old landfills. These deposits have significant impact on the environment: polluted groundwater, biogas emissions, odors, degraded, uncontrolled waste, including hazardous waste, may damage the health of the population of surrounding areas. Operators of waste from old landfills have not been required to provide funds for the closure and post-closure monitoring of them. Most deposits are owned by city halls and were not given in concession to operators. Closing them requires significant funds for: the studies and projects, implementation of proper closing, post-closure monitoring, providing site security.

In H.G. 162/2002 the closing and monitoring post-closure of existing deposits was seen together regardless of location, urban or rural. It is necessary the promotion of a guide for closing landfills of non hazardous waste is necessary.

3. To develop a strategy for waste management in the medium and long term strategy embodied by the Local Waste Management. Its main purpose is to highlight the waste streams and treatment options of these wastes. Local Waste Management Plan is an important contributor to implement waste management policies at national and European level.

To achieve the recycling targets for packaging waste, and the targets of Directive 99/31/EC on landfill of waste, capacity mechanical biological treatment, composting capacity, transfer stations, collection systems for packaging waste will be proposed in this plan. Costs can not be assimilated to the specific conditions in Romania; what can be highlighted is the high cost of the proposed waste management systems. An important aspect is related to the location of local / regional systems (for example, location capacity mechanical biological treatment, composting of the deposits near the area) and their number.

4. Important projects are carried out locally to attract financing in managing their household and similar waste. Before a project waste management these should be considered:

- for all waste management activities public agreement is a must, especially for stations of composting, mechanical biological treatment plants, incinerators, landfills;
- awareness campaigns are useful for all investment projects;
- environmental impact of each alternative, technical, economic, financial implications in terms of required fees.

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***Law no. 426/2001 for the approval of GEO no. 78 / 16 iunie 2000, regarding the legal status of waste.

***GEO no. 78 / 16 iunie 2000 regarding the legal status of waste. Official Monitor no. 283 / 22 June 2000.