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## **ENVIRONMENTAL INSPECTION IN TRANSITION IN THE CZECH REPUBLIC**

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### **SUMMARY**

In the Czech Republic fundamental legislative conditions for the application of an enforcement method have been established. Legislation has especially focused on the development of the system of environmental inspection that supervises compliance with environmental requirements. However, it is necessary to fulfil other prerequisites to systematically implement the enforcement.

## **1 THE ENFORCEMENT FRAMEWORK IN THE CZECH REPUBLIC**

### **1.1 Changes of the legislation after 1989**

The Czech Republic is one of the two succession states of the former Czechoslovak Republic (the country was divided January 1, 1993). It has 78.864 km<sup>2</sup> and 10 million inhabitants. The country is one of the most highly industrialized states of the world and, at the same time, one of the most environmentally polluted. For example, in 1989 it held the 10th place in the world as far as the exploitation of natural resources per km<sup>2</sup> is concerned.

Between 1989 and 1992 existing legislation was amended and new legislation was approved regarding the protection of all sectors of the environment and concerning threats (e.g., waste) against the environment. Although acts are not always perfect in their systematic enforcement, it will be possible to effect more significant changes of polluters' behavior (1).

### **1.2 Concept of environmental policy**

Another necessary prerequisite for the systematic enforcement of legislation has been created by working out the first inventory of the most important kinds of pollution and risks for the environment (2). The first version of possible solutions for environmental problems was elaborated as well (3). However, these documents could not be used for the preparation of prospective environmental enforcement programs because they were not prepared following the appropriate method (themes, target groups, etc., as is being used in the Dutch NEPP)(4). Nevertheless, they represent the first step toward prioritizing and particular programs setting.

### **1.3 Administrative framework**

The establishment of the Ministry of the Environment and of the system of public administration authorities of environmental protection in districts and municipalities is considered as the most important organizational change after 1989.

The whole system of the new environmental legislation and the system of public administration have been developed with the aim to assure conditions for the improvement of the state police function for environmental protection (i.e., for systematic enforcement of environmental requirements). Nowadays the Ministry of the Environment has the following responsibilities: protection of air, water, soil, forests, and mineral resources, waste management, nature conservation, and environmental impact assessment. Up to 1992 the responsibilities for land-use planning and construction procedure

also belonged to the Ministry. This means that the land-use planning and the environmental impact assessment process was under the control of the same authority.

## **2 ENVIRONMENTAL INSPECTION**

### 2.1 Tradition of inspection authorities

In the 1960s the deteriorating state of the environment led to the establishment of the State Water Management Inspection Body and later the State Technical Inspection of Air Protection Body. The concept of inspection authorities, created at that time, significantly influenced the legislation which had been approved in the new economic and political conditions after 1989. This development was positively influenced by the fact that even at that time the task of the State Water Management Inspection Body had been to check compliance with regulations and measures aimed at both the economical use of water and at protection against pollution.

Both environmental inspections bodies also had a highly professional staff that was transferred to the new State Environmental Inspection Body established after 1989.

### 2.2 Integrated environmental inspection

The Act concerning the Czech Environmental Inspection Body and Its Responsibilities in Forest Protection from 1991 was enacted before all the principal acts concerning the protection of particular environmental sectors. The Act only created an organizational framework for various kinds of inspection, the responsibilities of which are specified by the above mentioned acts. It explains differences in the extent of authorities and their diversity. Nevertheless, the establishment of the integrated Inspection Body represents a good starting point for systematic and coordinated application of the enforcement methods.

According to the Act, the Inspection Body is the public administration authority executing the state supervision in environmental protection issues. It is an independent budgetary organization. In all legal relations it acts on its own behalf and responsibility. The Inspection Body is managed by the Director, who is appointed, recalled, and directly controlled by the Minister of the Environment.

The Inspection Body is divided into the Directory and nine regional Inspectorates. The number of Inspectorates is sufficient with regard to the area of the country and to the extent of environmental problems. The Directory has five professional sections which focus on the five protected sectors of the environment; the regional Inspectorates operate within the same system.

The responsibilities of the Inspection Body are narrower than those of the Ministry. They cover only the protection of air, water, and forest, nature conservation, and waste management. According to the acts on the protection of particular sectors of the environment and on the protection against environmental risks, the Inspection Body:

- Supervises compliance with legislation and with decisions of public administration authorities in environmental protection.
- Monitors (acknowledges) non-compliance and environmental damage and its causes.
- Imposes measures to remove non-compliance and to restore compliance (e.g., in the case of impending damage, it has the right to ban the production or other activities).
- Ensures compliance with the imposed measures.
- Imposes fines for the violation of legal duties upon both legal and physical persons.

Although in the past the inspection authorities themselves did not impose fines, in the new legislation this responsibility has appeared. Including this responsibility among those of the Inspection Body is controversial because the Inspection Body has both the responsibility of discovering and monitoring violators and the exclusive authority to judge and penalize them. Although other bodies exist which could take enforcement action against violators, they do not have the jurisdiction.

Also other responsibilities of the Inspection are not in accordance with its character of the supervising authority. Under the Clean Air Act, for example, the Inspection Body grants both permits regarding the location of air polluting sources and decides on fees for air pollution; according to the Waste Act, the Inspection imposes charges for waste depositing upon operators of landfills, etc.

From the point of view of enforcement development, there are some positive provisions which oblige the Inspection Body to collaborate not only with departments of the Ministry of the Environment but also with district authorities and local governments, and with the State Prosecutor. Detailed specification of this collaboration is laid down by the Acts concerning the protection of particular environmental sectors.

As the Inspection Body gathers information about insufficiencies and gaps in the legislation, it has a duty to initiate its changes. It also comments on proposed changes of acts submitted to it. In this way it may participate in formulation of environmental requirements.

### 2.3 Previous activity

The Inspection Body has been in existence and active for the third year in its new form. Including the current supervision activity, it also carries out systematic and comprehensive checkup of compliance with legislation. For the moment, it is focused on smaller areas and particular issues.

In the year 1992, water and forest protection and waste management in the area of the largest drinking-water basin supplying the capital were checked.

In the same year an inspection was made of the National Park Sumava, which is the largest National Park in Central Europe (1.630 km<sup>2</sup> including the landscape protected area). This check monitored damage caused by military bases (cancelled in 1991). The check also monitored damage done to water sources and waste management practices of municipalities, farms, industries, and leisure facilities.

Systematic attention is paid to accidental water pollution.

In 1993 the Inspection Body made a systematic check of waste imports. It particularly focused on the accordance of imported waste with the conditions imposed by the Ministry of the Environment. In this inspection process the management of imported waste and the waste of the domestic origin was checked. Compliance with other environmental regulations was also checked.

The following table demonstrates decision-making activities of the Inspection Body (in USD).

	1992	1993 (first half-year)
Imposed fines	2,25 mil.	0,96 mil.
Imposed fees (Clean Air Act, Waste Act)	51,78 mil.	34,09 mil.
Number of investigated accidents (water pollution)	500	120

### 2.4 Necessary changes of legislation

In order that the Inspection Body fulfills its functions in the enforcement framework, it will be necessary to make the following legislative changes of its responsibilities:

- To transfer imposing fines to public administration authorities or to the local governments.

- To transfer other decision-making responsibilities of the Inspection Body, especially in the field of air pollution, to the Ministry of the Environment, to district authorities, and to local governments.
- To define responsibilities and to impose duties by promoting compliance (by providing consultations, organizing training, technical assistance, etc.).

### **CONCLUSION: CHANGES IN ENVIRONMENTAL POLICY DEVELOPMENT**

The development of the systematic environmental policy in the period of the economic transformation is difficult. Production programs of enterprises, their organization, and property relationships are changing. Nevertheless, the existing legal and institutional framework enables the gradual development of enforcement in sectors with prerequisites for it (typically energy, toxic waste management, etc.). The Inspection alone cannot be a responsible body for enforcement programs. The Ministry of the Environment and its territorial departments must coordinate such programs. It is apparent that the necessary conditions for such environmental policy have been established.

### **REFERENCES**

1. Kruzikova, E., Some Factors Influencing Environmental Enforcement in the CSFR, International Conference on Environmental Enforcement, Sept. 22-25, 1992, Budapest, Hungary, Vol. 2, pp. 37, 38.
2. Environment of the Czech Republic ("Blue Book"), Ministry of the Environment of the Czech Republic, Prague, 1990. Parts I-III.
3. The Program of Restoring Environment of the Czech Republic ("The Rainbow Book"), Academia Praha, Ministry of the Environment of the Czech Republic, 1991.
4. National Environmental Policy Plan (NEPP), Second Chamber of the States General, Session 1988-1989, 21137, ms. 1-2, The Hague, The Netherlands.