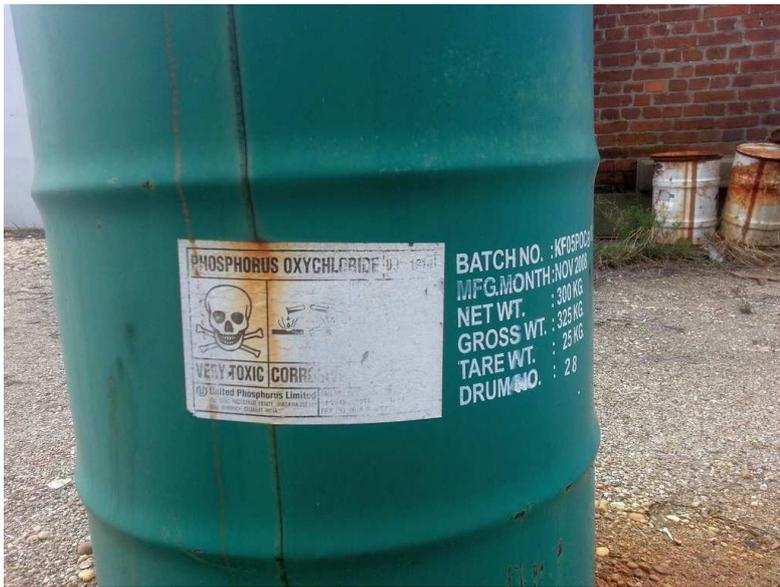


Environmental Liability - does it work in practice?

10-09-2015

At this moment the European Commission is checking effectiveness of Environmental Liability Directive (ELD) – EU tool for the prevention and remediation of damage to animals, plants, natural habitats, water resources and soil.

Justice and Environment is following ELD since its adoption and we are now proposing ways how to make the environmental liability work better in our countries.



We took a closer look at ELD application in 22 EU countries, made policy recommendations supported by interesting cases and we shared our findings with the EU representatives.

Now we are bringing to your attention a case followed by our member in Hungary. It shows how the institutional setting, including adequate resources of competent authorities, is crucial for a well functioning ELD system. Hungarian environmental authorities were not

capable or did not dare to act effectively for years to prevent significant damage to environment and human health.

Stinky Hazardous Waste in the streets of Budapest

This April the Hungarian news brought to a public attention that more than two thousand tons of hazardous and flammable waste are stored at a factory site in one of the inner districts of Budapest, with residential buildings around the site. The waste is kept in open tubs and rusted, leaking barrels resting on the ground in the open air. It is not known how much and exactly what sort of hazardous waste is kept there, but the toxic and hazardous materials include many considered as highly hazardous.¹ The pollution, which was also found in the living organisms (e.g. snails and hen eggs), is estimated to be thousands times above limits and could have penetrated up to 60 meters into the ground.

¹ Materials that have been identified by the experts include inter alia benzene, chlorobenzene, isopropyl, aminobenzotrifluoride, ammonia gas and trifluoroaniline. <http://444.hu/2015/07/21/hany-kolontar-kene-meg-hatosagi-impotencia-az-illatos-uton/>
<http://budapestbeacon.com/public-policy/government-to-wind-up-toxic-waste-dump-site-in-budapests-9th-district/22634>

In 2005 and 2008 EU gave HUF 1.4 billion (ca. 4.4 million EUR) to Hungarian companies to decontaminate the groundwater under and around the factory². However the toxic materials were not removed, so today the concentration of toxins in the groundwater is even higher than before the decontamination. Money wasted.



Hungarian environmental authorities issued several decisions: obligation to the company to conduct a full-scale environmental review of its activity, withdrawal of its IPPC³ permit, several fines for illegal storing of the hazardous waste. Already in 2008 the environmental authority decided that the storage of hazardous waste at the site is illegal.

Only after the news headlines, the police started an investigation (damaging the environment is a crime in Hungary) and the Government decided to allocate resources to clean up the site.

Back to the environmental liability system: National legislation provides Hungarian environmental authorities with a wide range of legal tools to prevent or to remediate environmental damages. It is 'polluter' who bears the responsibility for the impact of its activities upon the environment. This liability includes liability under the criminal, civil as well as administrative law. Also the ELD regime is in place: the provisions of the directive were transposed into Hungarian legislation by 12 different acts and decrees.

This case shows that it is not enough to have both regimes in place to protect the environment from the consequences of human activities. Authorities still applied available legal regime in a weak and ineffective manner. And, ultimately, it was the public who paid rather than the polluting company.

² <http://444.hu/2015/04/09/gyorsan-menjunk-innen-mert-ez-itt-nagyon-durva/>

³ Permit under the terms of the the Industrial Emissions Directive (Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control))(Recast)(OJ L 334, 17.12.2010, p.17)

So what works? We believe that legislative framework needs to be accompanied by a powerful institutional setting. It should include institutional and financial resources, outline coordination and cooperation and clearly establish rights and obligations of all competent authorities.



This article was prepared by Szilvia Szilagyi, J&E Hungary

We would like to express our thanks to Greenpeace Hungary for providing us with the photos of the Hungarian illegal dump.