



Fighting Environmental Disasters

Environmental Liability

Slovakia

Case Study

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Leakage of waste water into the river Trnávka.

1. Basic data

a. Location

Including the territorial extension of the case

At the waste water treatment plant located in village of Zeleneč there was a leakage of waste water into the river Trnávka (Western region of Slovakia). This leakage affected principally a section of the river between villages Zeleneč and Hoste, long 10 km.

b. Operator

Primary and secondary responsible party(ies), land owner(s), basic data about the economic activity (e.g. is it an Annex III activity? – just a small checking exercise)

Trnavská vodárenská spoločnosť (*Trnava Water Management Company*) is the operator of the waste water treatment plant in Zeleneč. This activity falls under Annex III of the directive and under Section 2 of the Act no. 359/2007 Coll. on prevention and remediation of environmental damage transposing the ELD.

Authorities

Including lead authority and other authorities that contributed to the decision or acted parallel to the lead authority

Slovak Environmental Inspection in Nitra was the leading authority in this case, which acted under the regime of Act no. 364/2004 Coll. on protection of water corps

District office, department of protection of the environment in Trnava also assessed the case in response to the reception of the notification via Information portal on prevention and remediation of environmental damages.

District police force unit in Zavar was authority who assessed the case under criminal law. After the financial damage was set lower than originally estimated the case was declined under criminal law.

Slovak water management enterprise who undertook measurements of water quality

Municipality of the village Majcichov who contacted Inspection.

District directorate of Fire and Rescue Corps in Trnava

d. Other stakeholders

Communities, individuals that suffered direct or indirect harm, municipalities, NGOs etc.

Local fishermen associated under local municipal fishermen's union.

5-6 municipalities between Zeleneč and Hoste were affected but as far as we know they did not take part in the proceedings.

e. Time dimensions

Description of the major events in time order, also important to establish the speed of the social-legal responses to the environmental incidences

The damage was announced to the Slovak Inspection of the Environment on 3 April 2014 at 6.39 pm through District directorate of Fire and Rescue Corps in Trnava who received information from the mayor of the municipality Majcichov. Notification on the accident was also filed on 3th of April 2014 via Information portal on prevention and remediation of environmental damages by the operator, 2 hours after the accident.

Discharge of waste water into river Trnávka happened in consequence of a technical maintenance on the plant and during the period where operator was given permission to discharge higher quantities of waste water than legally set thresholds. This lasted approximately 2 weeks. In reaction to the call Slovak Inspection of the Environment received, an employee of the Slovak water management was sent to investigate the accident. He monitored the affected river in different places and stated the death of fish. After receiving this information the same day the Inspection itself visited the contaminated place. Inspection on the basis of the Act on water protection ordered to operator to immediately stop to contaminate. They stopped to pump waste water into the river 3 of April 2016 at 8.30pm.

Day after site monitoring was carried out by the Inspection who stated that operator was not contaminating anymore.

At the same time few days after the accident, the Slovak Agency of Environment consulted also the Slovak National authority for the protection of the Nature whether some areas under European protection which are situated in the lower parts of the river were affected. Concretely there are wetlands in the lower section of the river but State Protection of the Nature rejected the suspicion of contamination.

In summer 2014 several associations among them the Union of fishermen led discussion with competent water management authorities on possible reconstruction of the waste water treatment plant in Zeleneč. However since then no more was said or done in this respect and case was closed.

f. Type of legal basis

ELD type administrative, other administrative legal provisions applied in the procedure; interconnection with other (civil, criminal etc.) kinds of responsibilities

Operator submitted the notification through the information system established under Act no. 359/2007 Coll. on prevention and remediation of environmental damage. At the same time the Inspection was called to act. Following proceedings were led under regime of the Act no. 364/2004 Coll. on protection of water corps. This Act regulates "Exceptional deterioration of water" so the situation where a sudden unexpected and considerable contamination of water corps occurs and under this regime was led the proceeding. Under this regime the competent authority to act and to lead the proceeding is the Slovak Inspection of Environment. Case was also assessed by the District office, department of environmental protection in Trnava, as it was the authority who received the notification on the accident via Information portal on the prevention and remediation of environmental damages. However no measures were adopted or recommended by the latter authority as everything was managed by the Slovak Inspection under Water Act.

g. Results

How far prevention and remediation was successful. Primary, interim, complementary and compensatory remediation, if any (see Annex II of ELD).

Slovak Inspection of Environment in this case required the operator to stop to contaminate and the day after they verified it with measurements of the water quality. Afterwards no more measures were adopted.

Local fishermen claim that this accident was not first and either last. According to them competent authorities do not take adequate and sufficient steps to prevent these accidents. Except for financial sanctions authorities do not require from operators to adopt other measures which would be preventive and also fail to monitor the operation of this plant.

After contamination fishermen turned to the Inspection in order to request a cleaning of sediments left in the river after the contamination however no such cleaning happened. Moreover discharges continue to happen.

2. Expert analysis

If expert documents, statements are available (or from decisions can be deducted):

- what kind of materials were involved;
- what kind of procedures led to the incident;
- the nature of environmental threats and damages;
- prospects of prevention and remediation
- actual results of the process from expert angle

River Trnávka got contaminated with waste water which led to massive death of fish and other riverine species. Even though water quality check 24h after accident concluded that river was without contamination, local fishermen claim there were still left sediments.

From the perspective of a member of Union of fishermen authorities failed to act in this case adequately because did not require from operator any remediation or preventive measures for future but only focused on financial sanctions.

3. Legal evaluation

a. Procedural legal issues

- role and responsibility of expert authorities and experts
- expedited processes or regular ones
- burden of proof
- reasoning of the decision
- several kinds of cost and cost bearing
- remedies and their legal effects
- others

Operator did not deny its responsibility and informed competent authorities about the accident and was ready to financially compensate the damage caused by the accident.

Local fishermen also requested compensation for the damage the death of fish caused to them given that it was the Union of fishermen who invested money in fish restocking in the river. They claim that their investment was of 3000 euros meanwhile operator paid them 500 euros.

Burden of proof within the administrative proceeding led according to Water Act lays on the competent authority, so the Slovak Inspection of the Environment.

As the measurements proved the contamination of the river Inspection imposed a fine of 3000 euros on the operator.

b. Substantial legal issues

- problems with definitions, if any
- calculation of the damage and the cost of preventive and/or restoration measures
- application and scope of strict liability
- joint and several liability or shared one
- full or limited liability
- others

There was problem with calculation of damage given that affected fauna fled to lower rivers.

4. Public participation

- a. The role of members and/or organisations of the public played in initiating the procedure
- b. Notification of the public (timeliness, information content, ways of notification etc.)
- c. Extent of participation (number of persons and organisations, substantial suggestions made etc.)
- d. Due consideration of the public input

There was participation of local Union of fishermen but only on a very limited way were they were trying to push authorities to act and adopt appropriate measure and discuss possible reconstruction of the plant. However they did not undertake any administrative proceedings where they could effectively claim their rights.

5. Financial security data

The financial background of the responsible parties and other arrangements that allowed or rather prohibited the full coverage of the emerging costs

According to Slovak Agency of the Environment the operator had a financial security for cases of environmental damages.

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