

НЕКИ АСПЕКТИ ЗАКОНОДАВСТВА О УПРАВЉАЊУ ОТПАДОМ СА ПОСЕБНИМ АКЦЕНТОМ НА БАТЕРИЈЕ И АКУМУЛАТОРЕ И ОТПАДНЕ БАТЕРИЈЕ И АКУМУЛАТОРЕ У РЕПУБЛИЦИ МАКЕДОНИЈИ

SOME ASPECTS OF THE REGULATION FOR WASTE MANAGEMENT WITH SPECIAL EMPHASIS ON THE BATTERIES AND ACCUMULATORS AND WASTE BATTERIES AND ACCUMULATORS IN REPUBLIC OF MACEDONIA

Marko Andonov

School of Law, University American College Skopje, Macedonia

“Treta Makedonska brigada” b.b, Skopje 1000, Macedonia

Tel: +389 71 365 981

e-mail: andonov@uacs.edu.mk

Kristina Misheva

Faculty of Law, University “Goce Delchev” Shtip, Macedonia

“Krste Misirkov” b.b. P.O. Box 201, Shtip 2000, Macedonia

Tel: + 389 70 322 434

e-mail: miseva@yahoo.com

Сажетак

Развој еколошког права, несумњиво доживљава експанзију у последњих неколико година. Република Македонија као земља кандидат, чини значајне напоре у процесу усаглашавања свог законодавства у области животне средине за законодавством ЕУ. Заједничка политика управљања отпадом је формирана за први национални еколошки план, који је ревидиран у складу са захтевима ЕУ.

Закон о управљању отпадом заузима посебно место у предметној материји, при чему се регулише управљање отпадом, начела и циљеви управљања отпадом, као и планови и програми за управљање отпадом. Са изменама и допунама релевантних закона и подзаконских аката са асquires, и у складу са националном стратегијом о управљању отпадом, Република Македонија је направила значајан корак за успостављање основне смернице у области управљања отпадом.

Међутим, главни акценат овог, рада ће бити дати закон који се односи на батерије и акумулаторе и истрошене батерија и акумулаторе, изражавајући наду да ће последица спровођења релевантних закона минимизирати њихов негативан утицај на животну средину.

Кључне речи: животне средине, законодавство, Директива 2006/66/ЕЦ о батеријама и акумулаторима и отпадним батеријама и акумулаторима, Закон о управљању отпадом, Закон о батеријама и акумулаторима и отпадним батеријама и акумулаторима.

Abstract

The recent development of law in the field of environment undoubtedly experiences expansion. Republic of Macedonia as a state candidate for full membership of EU, in the recent several years makes significant efforts for harmonization of its legal regulation in the field of environment with the legal regulation of the Union. The Law on Waste Management has a special place in the subject problem.

By passing and harmonization of the laws and subordinate regulation with *acquires* and according to the national strategy for waste management, Republic of Macedonia made a significant step toward setting the basic directions in the field of waste management. Within the paper we will make an analysis on the most important aspects, which are of significance for the thematic determination of this paper, wherein the major emphasis in the paper will be placed on the regulation related to the waste batteries and accumulators, in hope that the consequent implementation of the regulation will minimize their negative influence on the environment.

Key words: Directive 2006/66/EC for batteries and accumulators and waste batteries and accumulators of R Macedonia, Law on management batteries and accumulators and waste batteries and accumulators, Law on waste management of R. Macedonia, Law on management of batteries and accumulators and waste batteries and accumulators of R. Macedonia.

1. INTRODUCTION

The environmental issues gain increasing priority in both the international agenda and the national agendas of particular countries. The recent development of law in the environmental area experiences expansion. The increase of the importance of the environment and the increased risk of degradation of the environment resulted in implementation of the environmental policies in other policies, such as the economic, social, health, education, agricultural and other policies.

Republic of Macedonia as a state candidate for full membership in EU, in the recent several years makes significant efforts for harmonization of its legal regulation in the field of environment, with the legal regulation of the Union. The general policy for waste management was established in the first national environmental plan (NEAP) in 1996, and in 2007, the National plan was revised in accordance with the EU requirements. In this sense, we should also have in mind the National Program for the Adoption of the EU Law (NPAA), adopted in 2006 and amended in 2007 and 2008. Among others, there is a separate chapter in this program dedicated to the environment, as well as several sub-chapters wherein one of them is dedicated to the waste management. In this sense, the Law on Waste Management, passed in 2004, takes a special place; it regulates the management of the communal and other kinds of waste, the principles and objectives for waste management, the plans and programs for waste management, the rights and obligations of the legal and physical entities regarding the waste management. We should emphasize that Republic of Macedonia (that is, the Ministry of Environment and Physical Planning) has brought National plan for waste management (2009 – 2015). In that course, necessary restructurings were made in the Ministry of Protection of the Environment, as well as in the regional units; namely, a special department was formed for Solid waste management within the Ministry of Environment and Physical Planning of R Macedonia, which executes and coordinates the preparation of both the national programs and the regional plans for solid waste management. This means that the synchronization of EU Directives resulted not only in reforms from legal aspect, but also from technical, institutional, financial and social aspects.

The passing and harmonization of the laws and subordinate regulations with acquies and in accordance with the national strategy of R Macedonia (2008 – 2020) for waste management, R Macedonia made a significant step forward for determination of the underlying guidelines in the field of waste management, establishing a whole system for waste management in the country, building principles for protection of the natural resources mobilizing the public and making effort to install ecological conscience in the involved subjects (physical and legal entities).

However, the emphasis would be placed on the issues related to the waste batteries and accumulators and the tendency, that is, the possibility of minimizing their negative effect on the environment. For that purpose, the subject matter of this analysis will also be the Law on management of batteries and accumulators and waste batteries and accumulators¹. Nonetheless, it will be one of the major objectives of this paper.

2. LEGAL REGULATION IN THE FIELD OF ENVIRONMENT IN REPUBLIC OF MACEDONIA

The development of the legal regulation in the field of environment in R Macedonia is also related to the signing and ratification of a number of international conventions in the field of the environment. The obligations taken on upon these conventions are executed in through the legislation in the field of environment in Republic of Macedonia. The increase of the intensity of creation of the legal regulation in the field of environment is influenced by the bilateral agreement that Republic of Macedonia has signed with other countries, as well as by the increase of the level of conscience regarding the environment.

Thus, in 1996, the first Law on Protection and Improvement of Environment and Nature² was brought in Republic of Macedonia, and in 1998 the Ministry of Environment and Physical Planning was established. Since 2004, a number of laws related to the environment were passed in R. Macedonia. However, we should take into consideration that almost all laws were amended as a result of the pursuit of the dynamic processes in EU for regulation in the field of the environment. Of course, this group of laws a special place is awarded to the Law on Waste Management and the Law on Management of batteries and accumulators and waste batteries and accumulators.

When we talk about the regulation in this field, it is necessary that we should have in mind that the major legal ground of the legislation in the field of environment, is found in the highest legal- political act – the Constitution of Republic of Macedonia, which Article 43 envisages that every man has the right of healthy environment and that everybody is obliged to improve and protect the environment, wherein our country provides the right of healthy environment to its citizens. By this, Republic of Macedonia is among the countries which constitutions regulate the protection of environment.

The matter we should take into account is that one of the more serious problems Republic of Macedonia is faced with (*like all other countries in the region*) is the implementation of the regulation into practice. We should not emphasize that within the Euro-integration processes, one of the more serious obligations of our country (*like other countries that follow the same path*) is harmonization of the entire domestic legislation with the relevant EU Directives. There is a common impression that in this pretty specific segment (*the*

¹ Official Bulletin of R Macedonia No. 140/10 ; 47/11; 148/11

² Null and void.

treatment of the waste batteries and accumulators) of the regulation devoted to the environment and its improvement, Republic of Macedonia has entirely processed all the specifics related to this significant problem, primarily through passing the Law on management of batteries and accumulators and waste batteries and accumulators.

The expenses for campaigns created for urging the ecological conscience in the citizens of Republic of Macedonia and for support of the implementation of the National plan in the period 2006 - 2012 are estimated to 600.000 EUR, while for the period 2012 - 2020 they are estimated to 900.000 EUR.¹ The first 2006-2012 National plan for waste management refers to the implementation of a set of EU Directives such as Waste Directive (75/422/EEC amended with 91/156/EEC), Landfill Directive 99/31/EC and the Directive for package and package waste (94/62/EEC). On the other hand, this raises the issue of the landfills and their equipment in Republic of Macedonia, as well as the issues related to the packaging during the production process and the market sale, as well as dealing with the package waste and its processing in the territory of Republic of Macedonia.

3. THE LAW ON WASTE MANAGEMENT- GENERAL ASPECTS

As is was already mentioned, the Law on Waste Management regulates the communal and other kinds of waste, the principles and objectives for waste management, the plans and programs for waste management, the rights and obligations of the legal and physical entities regarding the waste management. It is especially important to have in mind that this law also regulates the mode and conditions of collection, transportation, treatment, storage, processing and elimination of the waste, monitoring, information system, financing and supervision over the waste management. It is characteristic that the waste management is defined as a public activity. It is important to emphasize that the Law on Waste Management is applied as a general law on both the environment and the waste management. Intended to promote the priorities in waste management, the law says that the waste producers are obliged to avoid, as much as possible, to produce waste and to reduce the harmful effects of the waste over the environment and the human health. During the management process, the waste should be treated by recycling, re-use or by another treating process of the secondary raw materials or it can be used as an energy source. The Law also defines the hazardous and non-hazardous waste. It is important to emphasize that according to the Law, there are separate kinds of waste, such as the various kinds of waste oils, batteries and accumulators, as well as electronic and electro-technical waste, medical waste, waste that originates from used vehicles, asbestos, and some other kinds of waste. Of great importance is the obligation imposed by the Law for making and executing of a Strategy for waste management, as well as a Plan for waste management. We should underline that this legal obligation is put into practice, wherein the competent Ministry has prepared those documents that will be discussed later in this paper.

However, despite the relatively good quality legal framework of Republic of Macedonia in the domain of waste management, we can regretfully state that the situation regarding the waste treatment is alarming and the improper waste management is obvious, as well as the lack of modern landfills for waste disposal. In this sense, all competent authorities and institutions should be more engaged because of the total implementation of the provisions

¹ Source: Ministry of Environment and Physical Planning of Republic of Macedonia

of the Law on Waste Management, with the ultimate goal of improvement of the citizens' life quality and the entire environment.

4. LAW OF MANAGEMENT ON BATTERIES AND ACCUMULATORS AND WASTE BATTERIES AND ACCUMULATORS – ESSENCE AND OBJECTIVES

Initially, the Law on management of batteries and accumulators and waste batteries and accumulator in Republic of Macedonia was brought in 2010, regulating that subject matter for the first time in the country. Since that day, the Law was amended on two occasions during 2011. the Law primarily regulates the claims for protection of the environment which the batteries and accumulators must satisfy during their production and market sale in Republic of Macedonia, as well as the dealing with the waste batteries and accumulators¹. In that direction, the law envisages a number of obligations of the economic operators, as well as of the other subjects that participate in the process of production and putting the batteries and accumulators into circulation, the limitations of their use etc. It is important to mention the rules for collection, processing, recycling and disposal of the waste batteries and accumulators, which are elaborated in detail by the Law². Indeed, the underlying objective of the law is to reduce to the lowest possible level the negative effect of the batteries and accumulators and the waste batteries and accumulators over the environment, which contributes to the protection, preservation and improvement of the environment's condition. Special objective of the law is the protection of the human health and environment through the improvement of the ecological features of the batteries and accumulators during their entire lifecycle³. Taking into consideration the impact of the transportation on the environment, the law is intended to achieve a high degree of separate collection of waste batteries and accumulators and to reduce, as much as possible, the disposal of the waste batteries and accumulators as a part of communal waste, in order to reach high level of their processing. Pursuant to the principle of sustainable development, the law is also focused on reducing the quantity of waste batteries and accumulators disposed in a landfill, achievement of higher level of collection of waste batteries and accumulators, as well as a higher level of recycling and other kinds of processing the waste batteries and accumulators. It is important to emphasize the need of providing conditions for establishment and development of a marketplace for processing and recycling the waste batteries and accumulators, which is also one of the fundamental objectives of the Law on management of batteries and accumulators and waste batteries and accumulators⁴. We should also underline that the law regulates all the domains of the subject matter in detail, pursuant to the relevant EU Directive.

Even though the above mentioned law is in effect for a relatively short time, one cannot say that the competent institutions and other affected parties have made more significant steps in the direction of its putting into practice. In this sense, we think that one of the most essential matters (to which this law should also contribute) is the change of the state of mind, both in the institutions and the citizens, concerning the necessity of a special treatment of the batteries and accumulators and the waste batteries and accumulators. Their improper storage, use and possibly the most important – their treatment after their life period

¹ Article 1 of the Law on management of batteries and accumulators and waste batteries and accumulators. Official bulletin of Republic of Macedonia No. 140/10 ; 47/11; 148/11

² Ibid

³ Article 3 of the Law on management of batteries and accumulators and waste batteries and accumulators

⁴ Ibid

is expired, is something we should pay extra attention. That is the reason why bigger accent should be placed on the educational moment of the citizens of all age categories concerning the harmful effects of the improper treatment and disposal of the batteries and accumulators. We think that besides the competent state authorities (first of all, the Ministry of Environment and Physical Planning) a part of the numerous NGOs that are established and operate in the domain of the protection and improvement of the environment should be also involved in these activities.

In this regard, we should mention and welcome the recent action initiated and supported by the Embassy of the Kingdom of Sweden in Republic of Macedonia in cooperation with several NGOs from this country. The essence of the action was placing of trashcans in designated spots in several major markets (and market chain) in Skopje, where the citizens could dump the used and useless batteries from their households. In this way, the batteries are separated from the other communal waste and they are destroyed in a special way, without any negative consequences for the environment.

5. ASPECTS OF THE NATIONAL STRATEGY FOR WASTE MANAGEMENT IN THE POLICY OF PROTECTION OF THE ENVIRONMENT IN REPUBLIC OF MACEDONIA (2008-2020) THAT REFER TO THE WASTE BATTERIES AND ACCUMULATORS

As it was already mentioned, one of the obligations envisaged by the Law on Waste Management is the preparation of a national strategy for waste management. Within that framework, it is necessary to perform strategic estimation of the impacts on the environment according to the Law on Environment. The strategy contains the fundamental strategic determinations and guidelines for all kinds of waste, in terms of waste management, the measures required for meeting the standards, the required legal instruments that are to be adopted and executed, because of the more effective waste management.

Directives 91/157/EEC and 2006/66/EC strictly point out to the fact that the used batteries and accumulators should be collected in a proper and controlled way and that the member states should undertake measures for their separate collection. By collecting and recycling of this kind of waste, the use of unnecessary materials can be avoided. Thus, the negative effect of the waste batteries and accumulators will be reduced. The aim of the above-mentioned directives and the related directives is to limit the use of batteries and accumulators that contain toxic substances in quantities higher than the permitted.¹

The waste management in Republic of Macedonia poses a serious problem especially emphasized in the recent years. The decision on bringing National strategy is aimed to overcome the inefficiency in collection, transportation, disposal, recycling. The most part of waste disposal is done on so- called “wild” landfills which do not have relevant technology and do not meet the minimum of the necessary requirements for operation as a regular landfill, due to which, they do have neither licenses for waste management nor proper monitoring concerning the impact on the environment. The disposal of used tires and accumulators for vehicles is predominantly made at private landfills without being pre-treated for disposal. The gradual development of the scheme for waste management from the sources of creation of the waste to its disposal / elimination will contribute toward the reducing of the waste from the past, undertaking measures for dealing with the waste from its source, using

¹ See ANNEX 1 of the Directive 91/157/EEC

the waste as a secondary raw material and its utilization as a possible replacement of the non-restorable resources, and furthermore, its recycling and at the end as a least desirable option – its disposal.

At the moment, there are no statistical data and information on the creation of the special kinds of solid waste such as the accumulators and batteries at annual level. However, according to the data of the 2006-2012 National plan, in 2004 – 2005, on the basis of the study on the evaluation of the market of recyclable materials in Macedonia, a waste of 1,500 tons is produced only through the automotive batteries and accumulators. There is only one landfill in Republic of Macedonia, which largely meets the modern standards (the “Drisla” landfill), while all other landfills are below the standards for waste management. It is probably one of the reasons why the special kind of solid waste mostly ends in illegal so-called “wild” landfills.

6. FINAL INSIGHTS

According to the statistics of the Ministry of Environment and Physical Planning, it is obvious that Republic of Macedonia slowly moves to undertaking concrete measures of protection the environment and prevention against the negative effects of the disposal / non-disposal of the solid waste. Even though de lege is achieved a high degree of compliance of the national legislation with the EU law, Macedonia requires further application of the strategic measures against which a sustainable system of waste management will be built both in national and local levels, the public conscience for protection of the environment will be increased, which will urge the participation of the involved subjects, especially the participation of the private sector into the achievement of the national strategies, plans and programs.

Undoubtedly, the situation with the waste is a serious world problem. Because of the seriousness of the problem, the modern world trends in this sphere point out the need of placing emphasis on avoiding the production of waste and its reducing whenever the production of waste is impossible to avoid. Those trends are different from the traditional perspectives to the waste management, which place major emphasis on the waste treatment. In Republic of Macedonia, the situation with the waste treatment is alarming and the improper waste management is evident, as well as the lack of modern landfills for waste disposal.

Republic of Macedonia can improve the current situation only by invasive application of the primary and secondary legislation (plans for waste management and coordination of the national projects for waste management) and shifting of the previous general policy of waste management, application of the fundamental European principles, closure of the landfills that do not meet the standards, solid technical- operational structure.

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