



ECRAN Multi country Workshop on compliance with the legislation on Trans Frontier Shipment of Waste

TRANSFRONTIER SHIPMENT OF WASTE WITH CASE STUDY FROM CROATIA



Robert Rocek, B.Sc.Geot.,
univ. spec. oecoling.
Antwerp, Belgium 8-10 March 2016

EU Environmental Legislation

- On 1 July 2013, Republic of Croatia became the 28th member of European Union



- Member states are obliged to implement EU legislation and to fulfill EU obligations

Legal basis:

EU and international legislation:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (OG IT 3/94, came into force with respect to Croatia on 07/08/1994)
- Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (applicable from Croatian accession – 01/07/2013)
- Regulation (EU) No 660/2014 of 15 May 2014 amending Regulation (EC) No 1013/2006 regarding the strengthening of Member States' inspection systems
- Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply (applicable from Croatian accession – 01/07/2013)

National legislation:

- Act on Sustainable Waste Management (OG No. 94/13)
- Regulation on border crossings on the territory of the Republic of Croatia which are allowed for the import of waste to the European Union and the export of waste outside of the European Union (OG No. 6/14)

Inspections of transboundary shipments of waste

Provisions and recommendations for inspections on EU level

- Article 50 of Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste states that Member States shall set **rules on enforcement**; they shall undertake inspections at establishments and spot checks on shipments of waste or on related recovery or disposal operations.
- The Regulation gives some indications as to where and how the checks on shipments should take place in particular.
- Finally article 50 stresses the importance of cooperation within and between Member States.

Responsible authorities in the Republic of Croatia

The following authorities are responsible authorities in the Republic of Croatia for Regulation (EC) No 1013/2006 of the European Parliament on shipments of waste :

Ministry of Environmental and Nature Protection (MENP)

- Permit writers at the Directorate for Environmental Protection and Sustainable Development responsible for:
 - notification procedure,
 - repatriation of legal and illegal transboundary shipments of waste.

Environmental protection inspectors responsible for:

- all kind of inspections in the field of transboundary shipments of waste (company inspections, inspections at harbors, railway stations and traffic inspections at the borders or in the country),
- setting of measures in case of illegal shipments like detaining the transports, organization of its storage,
- prohibition of transboundary shipment,
- elaboration of reports in case of illegal shipments.



Ministry of Finances, Customs Administration (customs officials) within its own field of competence, in accordance with Art 142 (1) and 166 (10) of the Sustainable Waste Management Act) responsible for:

- inspections of transboundary shipments of waste (inspections at harbors, railway stations and traffic inspections at the borders or in the country),
- setting of measures in case of illegal shipments like detaining the transports, organization of its storage,
- prohibition of transboundary shipment.



Authorized personnel of the **Ministry of Interior (police)** within its own field of competence, in accordance with Art 142 (1) of the Sustainable Waste Management Act) responsible for:

- inspections of transboundary shipments of waste,
- investigations and measures in case of illegal shipments, which (may) also constitute a criminal act in accordance with Article 196 of the Criminal Code (OG 125/11, 144/12) of the Republic of Croatia.

Coast Guard

Sea Safety Navigation Inspection

State office for Radiological and Nuclear Safety

Definition of illegal shipments

‘Illegal shipment’ means any shipment of waste effected:

- **without notification** to all competent authorities concerned pursuant to regulation 1013/2006;
- **without the consent** of the competent authorities concerned pursuant to this regulation 1013/2006;
- with consent obtained from the competent authorities concerned through **falsification, misrepresentation or fraud**;
- in a way which is **not specified materially** in the notification or movement documents;

- in a way which results in recovery or disposal **in contravention of Community or international rules**;
- contrary to **Articles 34, 36, 39, 40, 41 and 43** (prohibitions) of regulation 1013/2006;
- which, in relation to shipments of waste as referred to in Article 3(2) and (4) of regulation 1013/2006, has resulted from:
 - the waste being discovered **not to be listed in Annexes III, IIIA or IIIB**,
 - non-compliance with **Article 3(4)** (laboratory analysis),
 - the shipment being effected in a way which is not specified materially in the **document set out in Annex VII**.

Case: Examples of illegal shipments – export of treated medical waste



- from Croatia to Bosnia and Herzegovina
- waste classification EWC 19 02 03 mixed waste composed only of non hazardous waste,
- Annex VII only
- Take back procedure to producer of waste with Annex IB
- Ordering of analysis of taken back waste – hazardous (infective) waste EWC 19 02 04* mixed wastes composed of at least one hazardous waste

General steps required in case of illegal shipments

- **When encountering a possible illegal shipment, several actions are required:**
 - State the illegality of a shipment and the persons involved
 - Document the evidence of illegal activity
 - Inform all Competent Authorities involved
 - Decide on immediate measures
 - Initiate the further handling of the waste
 - Initiate appropriate administrative measures or criminal prosecution
- **In most cases, such activities**
 - Involve cooperation between different national authorities and Competent Authorities (CAs)
 - Require well-based information on the shipment

Who is responsible?

- Determine the responsibilities for a possible take-back or recovery/disposal
- Direct administrative measures or criminal prosecution - it is necessary to determine who is in charge of such illegal activity
- The notifier (de jure) or person who arranges the shipment
- The consignee
- The carrier / driver
- A third and possibly unknown party

Necessity for evidence

Clear and verifiable evidence on an illegal waste shipment is needed in order to:

- Sufficiently inform the Competent Authorities of an illegal waste shipment
- Prepare a basis to answer questions on
 - Waste classification and applicable shipment procedure
 - Responsibilities
 - Subsequent handling of the waste
 - Subsequent administrative measures or criminal prosecution

Such evidence showing the illegality of a waste shipment is based on

- description of the findings of the traffic check
- freight documentation and contracts
- pictures and possibly analysis of the waste

The preparation of an inspection consists of the following general steps:

- Identify the object of inspection
- Identify all persons / authorities involved
- Identify relevant tasks and competencies (and skills)
- Prepare the communication (internal and external communication)
- Availability of equipment is to be checked
- Select a location at a strategic point (e.g. borders for road transport, ports, etc.; list of inspection points)
- Prepare the inspection in detail (self-protection measures, telephone numbers, communication equipment like telephone, fax, etc.)

Case: Export of hazardous waste



- Transboundary waste movement, exporting of hazardous waste, EWC 19 12 11*- rest waste from mechanical treatment
- Permit of the MEPPPC for export hazardous waste EWC 19 12 11*, and other document for transboundary movement of waste,

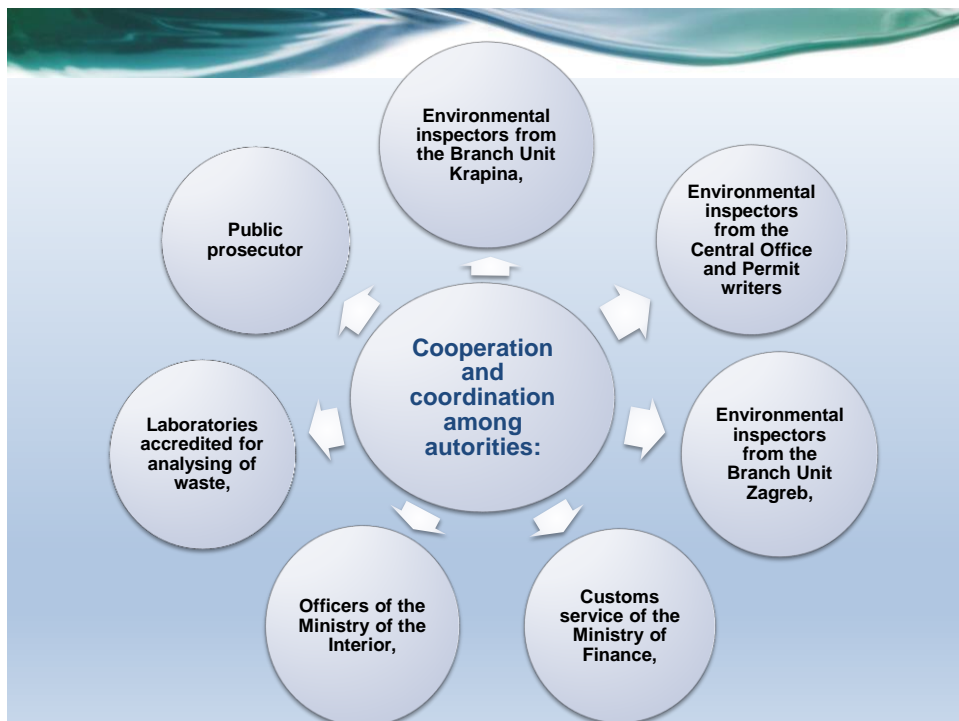
Procedure of competent authority



Competent authority which discovers a shipment that it considers to be an illegal shipment, it shall immediately inform the other competent authorities concerned.

Responsibility for illegal shipment must be established:

- notifier and country of dispatch,
- consignee and country of destination.






Inspection - investigation

- During the supervision of the transboundary movement of waste at the border crossing, the environmental protection inspector established that there was reasonable doubt about the type of waste listed in the documents accompanying the shipment of waste
- the type of waste categorized in the waste shipment documentation was EWC 19 12 11*- rest waste from mechanical treatment,
- The environmental protection inspector requested testing of the physical and chemical properties of waste via the Laboratories accredited for analysing of waste,



Inspection - investigation

- The Environmental protection inspector ordered temporary detainment of the waste shipment.
- The waste in question was warehoused at a temporary and appropriate location until the analysis of physical and chemical properties of it were completed.
- The Environmental protection inspector prohibited the carrier of the waste from exporting the hazardous waste by giving a verbal order, which was recorded in the minutes,
- The Environmental protection inspector informed the central office-TFS national coordinator in MENP, customs office and police about offence,



Inspection - investigation

- The laboratory analysis of the physical and chemical properties of the waste indicated waste EWC 08 01 15*- aqueous sludges containing paint or organic solvents
- The person licensed to export the hazardous waste failed to follow the protocol by not obtaining appropriate as well as required permission/consent to do so.
- The Environmental protection inspector prohibited this licensee from exporting hazardous waste EWC 08 01 15*



Court case

- According to attempt of legal person to export hazardous waste without having properly obtained consent/notification of transboundary movement of waste at the border crossing, environmental inspector:
 - Requested for initiating misdemeanor proceedings in Court against legal person and responsible person within a legal person for export of hazardous waste, without permission based in Waste Act.

Evidence submitted in court

The responsible environmental protection inspector sends all relevant documentation

- copy of the complete documentation, which has accompanied the transport
- statements of the companies / persons involved,
- photos of the waste and of the means of transport
- Copies of notification document and Movement document concerning the actual shipment
- copy of the report / information with a detailed description of the case including the filled in waste transport inspection form and the results of analysis,

Court decision

- Based on the request of the environmental protection inspectors, the Misdemeanour Court initiated proceeding and consequently delivered the following verdict:

GUILTY

- The person licensed to export the hazardous waste is found GUILTY for failing to follow the protocol,
- PENAL PROVISIONS:
 - legal person – 100.000,00 kn (13.500 Euro)
 - responsible person within a legal person – 33.400,00 kn (4.500 Euro)



THAK YOU FOR YOUR ATTENTION!

*Senior Environmental Inspector
Robert Rocek, B.Sc. Geot.,
univ. spec. oecoing.
mob: 00385 91 2877179
tel: 00385 42 301-684
e-mail: robert.rocek@mzoip.hr*