

Summary of the audit report *Transboundary Movement of Waste*

The Court of Audit of the Republic of Slovenia audited the efficiency of operations of the Ministry of Agriculture and the Environment (hereinafter: the Ministry), the Customs Administration of the Republic of Slovenia (hereinafter: the Customs Administration) and the Police in the provision of transboundary shipment of waste. Until 10 February 2012, the duties in the field of environment had been performed by the Ministry of the Environment and Spatial Planning but since 10 February 2012, based on the Act Amending the Government of the Republic of Slovenia Act, the duties covered by the audit have been performed at the Ministry.

The audit objective was to express an opinion on the efficiency of operations of the Ministry, the Customs Administration and the Police in the implementation of procedures for the transboundary shipment of waste in the period from 2009 to 2011. The Court of Audit assessed *the efficiency of operations of the Ministry, the Customs Administration and the Police* in that it sought answers to the questions of *whether the Ministry had established efficient monitoring and recording of waste streams across the borders of the Republic of Slovenia and whether the Ministry, the Customs Administration and the Police had ensured an efficient control over the shipments of waste across the borders of the Republic of Slovenia.*

In the majority of states, the transboundary movement of waste is the result of insufficient capacity for the recovery and disposal of waste, as well as the search of the economically more advantageous options for the recovery or disposal of waste, particularly in less developed states. As these more favourable options are often found to be environmentally inadequate or harmful, there was a Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste adopted for the Member States of the European Union on 14 June 2006, which provides for detailed conditions and procedures that have to be complied with and implemented by consignors and consignees in case of import, export and transit of waste. For the implementation of principles and procedures of transboundary shipment of waste to be efficient, the Member States have been obliged to provide a number of data and facilitate the exchange of data between the institutions responsible for the implementation of individual procedures.

The Ministry has not provided comprehensive, complete and reliable data on the recovery and treatment of waste and on the transboundary streams of waste. It can be established from the data of the Statistical Office of the Republic of Slovenia (hereinafter: the Statistical Office) on the generation of waste, practices of waste management and transboundary streams of waste that the level of self-sufficiency of the Republic of Slovenia in the disposal of waste has been increasing. It is not possible to conduct a comprehensive analysis of the self-sufficiency of the Republic of Slovenia in the disposal of waste, since the Ministry has not provided adequate data on the capacity for the disposal and recovery of waste because it failed to create a comprehensive and complete database on environmental protection and neither did it establish internal records containing such data. It can be derived from the data of the Statistical Office that in 2011 the percentage of waste recovered and disposed in the Republic of Slovenia was 12 percent higher than the percentage of such waste this year, which, however, the Ministry has not provided an adequate explanation for. The data on the transboundary streams of waste from the records of the Customs Administration, the Slovenian Environment Agency (hereinafter: the Agency) respectively the Statistical Office vary significantly, yet the Ministry failed to establish the reason for such divergence of data since it

had not collected, analysed or harmonised such data. Therefore, the Ministry has no adequate basis for the preparation of a comprehensive waste policy, particularly in so far as it relates to the disposal and recovery of waste, the transboundary movement of waste and determination of risks for the efficient implementation of control over the transboundary shipment of waste.

The Ministry failed to ensure all the necessary conditions and data for the efficient implementation of the Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste, since it did not adopt operational waste management programmes which would have enabled the Agency to verify the compliance with the fundamental self-sufficiency principle in case of the issue of consents for the import and export of waste and the preparation of objections to shipments of waste destined for disposal facilities. Moreover, the Ministry did not propose the imposition of penalties for the infringements of the regulations on the transboundary shipment of waste based on the conducted analysis, which would have illustrated a connection between the content of the infringement, the economic benefit of the infringement for the infringer and the size of penalties, and thus failed to ensure proportionate, dissuasive and efficient penalties. It may have prescribed penalties for individual infringements within a particular range but did not define criteria for the determination of the size of penalties.

The Agency failed to ensure complete efficiency of the issuing and monitoring of consents for the transboundary movement of waste. When issuing consents, it did not perform all the required verifications to be able to object to the planned shipments of waste due to the convictions of waste shipment notifiers. The shipment notifiers were issued consents in a timely manner, based on the required documentation, yet the Agency failed to ensure the efficient monitoring thereof. In 2011, in the information system for the monitoring of the issued consents, it did not record in a timely manner evidence received on the shipment of waste and could therefore not review the issuing of consents and the relevant data on the completed shipment of waste. Owing to this, the shipment providers were not returned financial performance guarantees in a timely manner. Therefore, the Agency failed to submit to the European Commission a timely report on the implementation of the Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste for the year 2010 with all the required data.

The institutions responsible for the control over the transboundary shipment of waste did not exercise the control on the basis of the conducted common risk analysis. The Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning, since 17 November 2012 active as the Inspectorate of the Republic of Slovenia for Agriculture and the Environment (hereinafter: the Inspectorate), the Customs Administration and the Police planned their control over the transboundary shipment of waste within the scope of their powers, on the basis of a partial risk analysis, notably based on the findings of the previous inspections and the analysis of waste shipment notifiers. The Ministry failed to conduct a comprehensive analysis of the control exercised over the transboundary shipment of waste and of the effects thereof so as to establish the adequacy of the number and subject of controls and to determine the factors that affected the risks accompanying the transboundary shipment of waste. It did therefore not obtain an adequate basis for assessing whether the penalties determined for infringements were proportionate, efficient and dissuasive. The Agency did not establish complete, reliable and accurate records of illegal waste shipments reported to the European Commission, since it did not keep documents on the illegal shipment of waste, which would have enabled the verification of whether in the case of suspicion of an illegal shipment of waste there were all the necessary actions and procedures performed for the confirmation of the existence of conditions for the illegal shipment of waste.

For the established inefficiencies to be eliminated, the Court of Audit of the Republic of Slovenia demanded from the Ministry *the implementation of corrective measures* pertaining to the establishment of the regular monitoring of data on transboundary shipment of waste, the adoption of operational waste management programmes, the preparation of proposals for the supplementation and amendment of regulations to determine all the conditions for the issue of consents as well as proportionate, dissuasive and efficient penalties for the infringement of regulations on the transboundary shipment of waste, the adoption of proposals of the criteria for the imposition of penalties related to the infringement of the Environment Protection Act and of the regulations adopted on the basis thereof, the review of all the procedures of the transboundary shipment of waste, together with the definition of time and human resources needed for the implementation of all the prescribed procedures and efficient provision of the transboundary shipment of waste.

The Ministry, the Agency, the Inspectorate, the Customs Administration and the Police were also provided *recommendations* to improve the efficiency of their monitoring of data on the transboundary streams of waste, procedures performed and controls exercised over the transboundary shipment of waste as well as to enable a real-time exchange of data between the competent institutions.

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