



AUDIT REPORT 2020

EFFICIENCY AND EFFECTIVENESS OF PROCESSES IN ORGANIZATIONS
OF LANDFILL MANAGEMENT AND LANDFILL INSPECTIONS

Supreme Audit Office of the Slovak Republic
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LIST OF ABBREVIATIONS

| ABBREVIATIONS USED | |
|--------------------------|--|
| EU | European Union |
| EC | European Commission |
| IMPEL | European Union Network for the Implementation and Enforcement of Environmental Law |
| MV SR | Ministry of Interior of the Slovak Republic |
| MŽP SR | Ministry of Environment of the Slovak Republic |
| NFP | Non-repayable financial contribution |
| NKÚ SR | Supreme Audit Office of the Slovak Republic |
| OOH IP | Department of Waste Management and Integrated Prevention MŽP SR |
| OP KŽP | Operational Program Environmental Quality |
| OÚ OSZP | District Office – Department of Environmental Care |
| SAŽP | Slovak Environmental Agency |
| SIŽP, Inspection Service | Slovak Environmental Inspectorate |
| IRI | Review of SIŽP activities conducted from 25 – 28 June 2019 (IM-PEL REVIEW INITIATIVE) according to the Report of 16 Sept. 2019 |

SIGNIFICANT FINDINGS AND RECOMMENDATIONS

The growing volume of waste produced by the population, as well as the business sector in Slovakia, results in its disposal to a large extent in landfills, which are gradually becoming a significant social and economic problem. Landfills not only represent a significant burden on the environment, but in the event of non-compliance with the procedures set by legislation for their establishment, operation and liquidation, there is also a risk of local pollution of groundwater and surface water, soil and air. All these influences can seriously endanger the health of the citizens of Slovak towns and municipalities, and affect the overall quality of their lives.

In Slovakia, problem persists not only with a **large number of landfills** (in 2019, 101 active landfills), but also **with a high amount of waste deposited on landfills** (up to 50 % in 2019, while the EU average is about 25 %). Although the percentage of municipal waste on landfills is decreasing year-on-year, in 2019 there was 435 kg of municipal waste per capita, which is an **increase of 35 % over the last 10 years**.

The European Commission pays great attention to the issue of waste, including landfilling. EU countries are committed to a number of procedures throughout the lifecycle of landfills; The EU pays close attention to compliance with this process, including the imposition of fines for non-compliance. **In the case of the Slovak Republic, in the period from 2017 to 2019, it identified several shortcomings in compliance with applicable legislation in the operation of landfills. One of the most important was the finding that:**

- 23 landfills are operated without having a conditioning plan and without a final decision issued by the competent authorities as to whether they can continue to operate or be closed, which was contrary to Article 14 of the Council Directive;¹
- 21 landfills in Slovakia are still in operation without having conditioning plans, as stated by the EC in its Reasoned Opinion² of March 2019. Another 14 landfills that are no longer in operation, have not been closed as required by Council Directive¹.
- Based on the judgement of the European Court of Justice of 4 July 2018³, **the Slovak Republic paid a fine of EUR 1,885,000** for violation of Council Directive¹ in the operation of a landfill in Považský Chlmec.

The above-mentioned findings of the European Commission inspired the SAO SR to carry out an audit, which was another one for the last 4 years in the field of waste management. The audit focused on the management and executive processes of state supervision, which verify compliance with applicable legislation and the technical condition of landfills, while identifying room for improvement. These processes are provided mainly by the MoEnv SR, the Slovak Environmental Inspectorate and district offices, and these entities were also the subjects of audit.

At the Ministry of Environment of SR (MoEnv SR), the audit reviewed management and control processes, focused on the performance of state supervision at landfills and their operators (including landfills that are environmental burdens), performed by the SIŽP and district offices. The purpose of the audit was to determine **whether the state supervision processes, performed by the inspection service and district offices at landfills, are efficiently managed and evaluated by the Ministry.**

The Slovak Environmental Inspectorate is entrusted with the performance of state supervision in matters of environmental care, including supervision at landfills. The audit focused on the management, planning, performance, evaluation and control related to state supervision tasks performed at landfill operators and was to determine, whether the **actual course of state supervision performed by this institution is carried out effectively.**

District Offices, their environmental departments perform state administration and state supervision of less significant landfills. By requesting information on the performance of supervision from 18 District Offices, the auditors obtained an overall picture of the management and state supervision in the area of landfills.

¹ Council Directive 1999/31/EC of 26 April 1999 on landfills

² https://ec.europa.eu/commission/presscorner/detail/sk/MEMO_19_1472

³ <https://eur-lex.europa.eu/legal-content/SK/TXT/?qid=1581334672509&uri=CELEX:62016CJ0626&print=true>

Significant findings at the Ministry of Environment of SR

We consider the following to be weaknesses of the Ministry in managing state supervision authorities in the area of landfills.

- **Inefficient management of state supervision performed by the SIŽP – so that the performance of state supervision is purposefully focused on the most problematic and risky entities and areas.** The Ministry should require SIŽP to have a strategy for the performance of state supervision for each of its areas, the implementation of which would mean state supervision is primarily focused on these operations and areas, whose unsatisfactory condition has the most significant impact on the environment and where the risk of violating the legislation is highest. It is precisely the absence of a strategic approach to the management of state supervision in practice that its priorities are not clear and the concentration of supervision on operations with the most significant potential for environmental pollution and breaches of legislation is not sufficient in any case.
- **Insufficient control of state supervision performed by the SIŽP and District Offices.** In the period from 2015 to 2019, the Ministry did not perform any audit, so it did not assure itself of the scope and the quality of state supervision performed by SIŽP and District Offices in the field of waste management according to law,⁴ and only one audit of SIŽP, in which state supervision under law was partly verified⁵.
- **Ineffective system of evaluating the results of control activities of District Offices.** Outputs from inspections of landfills provided by District Offices, should be important information for the Ministry in the given area. However, the Ministry does not request such outputs from the District Offices and findings that could lead to further improvement of the management of state supervision authorities, remain unused.
- **Incomplete waste management information system.** The main goal of the system is to digitize and collect a comprehensive database of waste management according to its areas and to use data in the processes of state administration by the competent authorities. The SAO SR found that the waste management information system **did not have 11 out of 16 registers published at the time of the audit. Due to this situation**, state administration authorities have not yet been able to use comprehensive data and have them on-line, which has reduced their effectiveness in carrying out their processes. The original deadline (April 2020) for the completion of several parts of the system within the project financed from ESI Funds has been extended several times, but the results of the project were not delivered at the time of the SAO SR audit.
- **Inflexible, too long reaction to the legislative obligation, resulting from the transposition of the Council Directive¹ into the legal order of the SR.** This obligation required state administration authorities in the given area to issue **final decisions** to landfill operators based on conditioning plans, already in 2001. **This obligation was fulfilled by the MoEnv SR only by an amendment to the Act⁴, effective from 1 January 2019**, which the SAO SR considers for ineffective action in the field of management of state administration processes, including state supervision.

Significant findings at the Slovak Environmental Inspectorate

- **Absence of a strategic approach to the performance of state supervision, embodied in a binding document**, based on which it would be clear that the SIŽP supports the implementation of strategic objectives of the Ministry of Environment and that the focus of inspections and its frequency is directed primarily at those operations, where the risk of further negative impact on the environment and the lives of the population is greatest. The fact that the SIŽP does not have such a strategic document is not a violation of law, and the SAO SR does not even question that its activities are in accordance with the law. In adopting a strategic approach – by setting strategic priorities, however,

⁴ Act No. 79/2015 Coll. on waste and on amendments to certain laws.

⁵ Act No. 39/2013 Coll. on integrated prevention and environmental pollution control and on amendments to certain laws, as amended.

the SAO SR sees added value for this institution and presented such an opinion before the management of the organization after the audit. By applying a clearly defined SIŽP strategic approach in its activities, from which it would be clear, what the priorities are and how to implement them in practice, its activities could be more effective. Landfills, which pose the greatest risks, **could be** considered a priority for audit in such an approach, and the frequency of inspections could also be higher for them than for less significant ones. The setting of strategic priorities and their implementation would, in comparison with the current practice of the SIŽP, represent a certain way of effective prevention against violations of environmental law and environmental pollution. Strategic planning of activities is considered by the SAO SR to be an important and necessary tool in a modernly managed organization; to implement this approach was recommended to SIŽP also based on IRI IMPEL review from 2019.

- **The SAO SR considers the environmental risks assessment of operations, including landfills, to be inaccurate and subjective in selected cases**

Despite the fact that the evaluation is performed in accordance with the applicable legislation⁵, based on the results of the audit, the SAO SR sees room for its streamlining by increasing the degree of accuracy of the assessment and reducing the degree of subjectivity in the assessment. According to the SAO auditors: the risk of inaccurate assessment lies in the fact that the assigned scale of evaluation score represented only its limit values – 0 and 5, i.e. not the whole range from 0 to 5. According to the SAO SR, the accuracy of evaluation could be higher by assigning different weights to criteria based on their importance. Assigned scores without a detailed and uniform methodology can also be considered a risk of a subjective approach to evaluation. Inaccuracy and subjectivity can thus lead to incorrect classification of the assessed operation into the order of risk according to the risk groups of operations and to incorrect frequency of inspections. The SAO considers the adoption of measures that would contribute to a more objective environmental risks assessment as a way for the SIŽP to carry out its work not only in accordance with the law, but also as an important space for further improvements of its activities.

- **The SIŽP system for verifying the timeliness and completeness of compliance with imposed remedial actions** from previous inspections carried out as part of state supervision at landfills is assessed by the SAO as ineffective in cases, where audits of compliance with imposed measures are carried out with significant delays, for example, up to 14 months after the deadline. The measures imposed should, as a rule, eliminate the risks of further environmental degradation or other negative phenomena identified by the inspection. However, if measures are not implemented in time, the problem may be exacerbated and it will become increasingly difficult and challenging to eliminate.
- **The SIŽP does not fulfil its legal obligations of state supervision concerning environmental burdens, which include more than 800 historical, unused landfills;** and the state supervision is given by the law⁶ since 2012. Failure to perform these mandatory inspections increases the risk of failure to detect possible deficiencies in work plans and remediated landfills, which could cause pollution or damage to the environment.
- **Growing requirements for the scope and quality of state supervision are not adequately supported by a sufficient number of staff needed to perform these tasks, nor by financial resources.** Directive⁷ in the introductory part of Article 23 states that Member States should also ensure the necessary resources in the required quality for the tasks of national supervision in the area of environment. The results of the SAO SR audit show that mainly due to the discrepancy between the complexity of tasks and their staffing and financial resources cause, for example that **sampling and analyses of these samples, which are extremely important for assessing the impacts of landfill operation on the environment, is insufficient and only done in isolated cases.** The SAO SR considers as a shortcoming and an obstacle to the required scope and performance of state supervision in the required quality also the fact that for the performance of state supervision, which is

⁵ Act No. 409/2011 Coll. on environmental burdens and on amendments to certain laws

⁷ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions

the requirement of the law,⁶ no financial resources were set aside, which should have been increased for these authorities in accordance with the impact clause to the law⁶. The above mentioned problems with the staffing and financial resources are similar also in the case of state supervision performed by District Offices.

- The task of the inspection is also to control the creation and amount of special-purpose financial provision by its operator for its closure and reclamation of landfills. According to the reviewed documentation, **as of December 2020, there were up to eight landfills in Slovakia, for which no provision or insufficient provision was created**, while its sufficient amount is an obligation under European and national legislation. The SIŽP often has to face obstructions in its inspection activity by the inspected operators, such as postponement of inspection dates, not accepting postal deliveries and other. The legislation allows, in cases where landfill operators fail to submit application for closure of a landfill and the design documentation in time, to impose this obligation to prepare design documentation for landfill closure to SIŽP, which currently seems to be difficult to implement in practice.

The SAO SR wishes to point out several factual and procedural issues identified during the audit, and on the elimination of which the current legislation does not give the Ministry and the SIŽP sufficient power. In cases where **no or insufficient special-purpose financial provision has been created by landfill operators for the closure and reclamation of landfills, it is usually uncollectible from the operators and the costs in question must be borne by the state or local government.**

In cases of obstructions on the part of the operator to perform the inspection by SIŽP, already mentioned, there is a postponement and indirectly obstruction of state supervision.

From the point of SAO SR, the above circumstances are caused by the inadequacy of the legislation, which is thus in some cases an obstacle in the effective state supervision and enforcement of environmental law. The SAO also considers the amendment of legislation as a room for improvement in state supervision in such a way as to allow control authorities to enter operations in justified cases without restrictions, even without the consent of their statutory representatives and without the authorization for the inspection.

The SAO SR audit showed that the MoEnv SR is making considerable efforts to address long-term issues associated with the closure of historical landfills. It is an environmental challenge within the strategic goals of SIŽP for the period 2018 – 2022 to close all historical landfills that did not meet the requirements of the EU legislation, and for which there is an infringement procedure being conducted by the EC against the Slovak Republic. According to the communication between the MoEnv SR and the EC, the Ministry plans to close 24 landfills by the end of 2021. **The SAO SR considers December 2021, as the deadline for the closure of selected landfills to be endangered** also due to the fact that Final Decisions for many of them are to be issued in January 2021. The actual closure of landfills is financially demanding, since eight landfills had insufficient or no earmarked financial provision for their closure and reclamation. In the event of non-compliance with the deadlines, the Slovak Republic may be sanctioned; similar to a fine of EUR 1.8 million for the landfill in Považský Chlmec.

In addition to the findings at the audited entities, the SAO SR draws attention to the **need of urgent adoption of measures to address the long-standing problems of historical landfills.** The issue of finding financial resources to deal with historical landfills, which are also environmental burdens, especially those that have a demonstrable threat to the environment and have an impact on the health of the population, is also becoming topical.

RECOMMENDATIONS MADE BY THE SAO SR

In order to improve the performance of state supervision in waste management, as well as to contribute to the elimination of persistent problems with the closure of unused landfills and remediation of landfills that are environmental burdens – the SAO SR recommends:

Committee of the National Council of SR for Agriculture and the Environment:

- Require the Ministry of Environment to inform it once a year about the status of landfills, procedures for the closure of landfills, obstacles to their timely closure, as well as progress in remediation of environmental burdens;
- Require the Ministry of Environment of SR to prepare an analysis of the legal status and obstacles in enforcement of environmental law.

AUDIT

1. AUDIT OBJECTIVE

The objective of the audit was to review the efficiency and effectiveness of the processes of institutions focused on the management and performance of state supervision, focused on inspections of landfill operations.

The audit subject was:

- **At the MoEnv SR** – to review the management and control processes, focused on the performance of state supervision at landfills and their operators (including landfills that are environmental burdens), performed by the SIŽP and District Offices;
- **At the SIŽP** – to review the management, planning, performance, evaluation and inspections related to the implementation of state supervision tasks concerning the landfill operators.

In addition to physical audit at these entities, the SAO SR reviewed also selected state supervision activities in waste management on a sample of eighteen District Offices and fifteen landfills through written requests for documents and information.

The SAO SR based its audit on the following key facts:

- There is still a high number of operated landfills in Slovakia;
- There is a high number of disused landfills in Slovakia, which are environmental burdens;
- In its Reasoned Opinion of March 2019, the EC stated that 35 landfills in Slovakia are not in compliance with the Landfill Directive;
- In the recent past, the SIŽP identified several landfills where serious violations of environmental legislation have occurred and the risks of impact of these operations on the surrounding environment have been identified;
- State supervision in environment has an irreplaceable role in the activities of the state; through it the state can detect violations of law, environmental pollution, but also impose sanctions and order the adoption of remedial measures to eliminate deficiencies.

2. AUDIT FRAMEWORK

European legislation, specifically Article 14 of the Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste imposes, inter alia, the following conditions on all landfills of waste the operation of which was authorized before the transposition of this Directive into the national legislation of the Member States:

- landfills, which are expected to continue their operation, must have their conditioning plan, containing specific technical solutions for the landfill, according to which the landfill would meet the requirements for safe operation;
- for landfills with a conditioning plan, the competent authorities must issue a final decision determining whether the landfill can continue to operate or must be closed;
- landfills that do not have a valid operating permit must be closed as soon as possible.

2.1. BASIC CHARACTERISTICS

The audit was performed based on the SAO SR Audit Plan for 2020, and followed up on the topic of environmental sustainability, as one of the strategic areas of focus of the SAO SR audits for the years 2018 to 2020.

The audit was performed in accordance with the Act on the SAO SR and international standards INTOSAI: IS-SAI 100 – Basic principles of public sector audit; ISSAI 300 – Basic principles of performance audit; ISSAI 400 – Basic principles of compliance audit.

The SAO SR examined the quality of state supervision and its compliance with the legislation on a sample of 72 reports from inspections performed by the SIŽP. Furthermore, two environmental risk assessments were analysed, prepared in the form of three-year inspection plans of the SIŽP.

As part of the audit, an expert analysis was prepared by an expert in the given field, whose position is the head of the waste management department of the Environmental Agency of the Czech Republic “Cenia“. As part of the analysis, an assessment of selected methodologies, documentation and outputs from the inspection activity of the SIŽP. The results were used appropriately in the inspection reports (protocols) and the whole documentation was handed over to the SIŽP.

The audited period was 2015 – 2019 and related periods.

2.2. COURSE OF THE AUDIT

The audit confirmed the risks identified in advance and reached the following findings, in particular:

- The system for evaluating control activity of state supervision authorities is inefficient and ineffective, the MoEnv SR did not have the outputs from the control activity of District Offices – environmental care departments, performed within state supervision, either individually or in the form of annual evaluations.
- The MoEnv SR did not issue guidance documents on the “Work Plans“ and “Final Decisions“ in a timely manner with the aim of operating and closing waste landfills in accordance with the Landfill Directive. Related to this is the Infringement Procedure by EC against the Slovak Republic for non-compliance with the conditions of Council Directive 1999/31/EC of 26 April 1999 on the landfills of waste.
- The MoEnv SR did not carry out control focused on the quality of state supervision at landfills; this is performed by state administration authorities.
- The SIŽP did not have a strategy or strategic goals for the performance of inspections in the areas of environment. The more important and riskier operations were not examined in more details than less risky and less significant ones.
- The SIŽP did not check fulfilment of selected remedial measures in order to eliminate deficiencies from previous inspections in time; internal audit, focusing on the control of processes and quality of state supervision of operations falling under the regime of Act No. 39/2013 Coll. on integrated prevention and pollution control, was ineffective.
- The SIŽP did not perform any inspections within the state supervision regarding work plans for environmental burdens, by which it did not act in accordance with Act No. 409 /2011 Coll. on environmental burdens.

2.3. SPECIFIC AREAS

The MoEnv SR, according to Act No. 525/2003 Coll. on state administration in environmental care, is a central body (state administration in environmental care), and according to this Act – as well as Act No. 79/2015 Coll. on waste, and Act No. 39/2013 Coll. on integrated prevention and environmental pollution control, ensures the management of state administration authorities in the area of environment, which includes state supervision performed by the SIŽP and District Offices. The MoEnv SR has, among other things, the obligation to carry out audits of these organizations in accordance with Act No. 10/1996 Coll. on control in state administration.

State supervision at the most important landfills is performed by the SIŽP – Department of Integrated Permitting and Control, which is also the permitting authority for operations, including landfills, falling under the regime of Act No. 39/2013 Coll. on integrated prevention and environmental pollution control. In 2019, this regime included 86 active landfills. In this context, the SIŽP has recently identified serious violations of legislation and non-acceptable condition with a high risk of hazardous impact on the environment at several landfills, such as the illegal dumping of unapproved and hazardous waste to landfills that have not been adjusted for such waste and did not have a permit for the given waste, incorrectly closed landfills and other.

A serious problem in the operation of landfills is the creation of an earmarked financial provision by its operator for the closure and reclamation of landfills, the additions to it and the amount is regularly checked by SIŽP. According to the reviewed documentation of MoEnv SR and SIŽP, as of May 2020, there were up to ten landfills in Slovakia, for which there was no or insufficient provision created, while its sufficient creation is an obligation under European and national legislation. SIŽP often has to face various obstructions on the part of the inspected operators, such as postponement of inspection dates, not accepting postal deliveries and other. The legislation allows, in cases where landfill operators do not submit an application for the closure of a landfill and the design documentation in time, to impose the obligation to prepare design documentation and the landfill closure by SIŽP.

3. REACTIONS BY AUDITED ENTITIES

MoEnv SR did not submit any objections against the findings.

The SIŽP objected to three of the 15 findings listed in the Audit Report. Based on the submitted arguments of the SIŽP, the SAO SR partly accepted one objection. Acceptance of the objection was taken into account by changing the text of the given finding in Amendment No. 1 to the Audit Report.

Based on the findings both entities undertook to take appropriate measures to eliminate the identified deficiencies and to inform SAO SR about the implementation of the measures taken. The SAO SR will evaluate the measures taken with the possibility of a subsequent audit regarding the details of their fulfilment.

4. CONTACT DETAILS

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