

Audit Report

21/06

State and EU funds earmarked for the implementation of measures related to waste management

The audit was included in the audit plan of the Supreme Audit Office (hereinafter the “SAO”) for 2021 under No 21/06. The audit was managed and the Audit Report drawn up by SAO member Mr. Petr Neuvirt.

The aim of the audit was to verify whether the funds earmarked for the implementation of measures related to waste management had contributed to the achievement of the set objectives and whether they had been provided and used in accordance with the law.

The audit was carried out at the audited entities in the period between March 2021 and November 2021.

The audited period covered the years 2018 to 2020. Where relevant, the preceding and following periods were also subject to scrutiny.

Audited entities:

Ministry of the Environment (hereinafter the “MoE”); State Environmental Fund of the Czech Republic, Prague (hereinafter the “SEF”); the municipality of Kolín; the municipality of Luže; the municipality of Polná; the municipality of Sivice; the municipality of Šakvice; Association of Municipalities of the Nový Bor Area, Nový Bor; Association of Municipalities Peklo, Zahrádky; the Lidice Stream Valley Microregion, Buštěhrad; METAL TRADE COMAX, a.s., Velvary; goodooga s.r.o., Prague; Tomáš Chrbolka s.r.o., Kutná Hora.

At its 6th session held on 11 April 2022, the **Board of the SAO**, by way of Resolution No 12/VI/2022, **approved** the **Audit Report** worded as follows:

I. Summary and Evaluation

The audit covered the provision of funds from the resources of the European Union, specifically from the Operational Programme *Environment 2014-2020* (hereinafter also referred to as the “OPEn”), and from the resources of the State Environmental Fund of the Czech Republic, specifically from the *National Programme Environment* (hereinafter also referred to as the “NPE”), by the Ministry of the Environment for the implementation of measures related to waste management. The aim of the audit was to assess whether the funds earmarked for the implementation of measures related to waste management had contributed to the achievement of the set objectives and whether they had been spent in accordance with the law. The audit also examined the implementation of measures under the responsibility of the MoE and the achievement of objectives based on EU and Czech legislation and the *Waste Management Plan of the Czech Republic for the period of 2015-2024* (hereinafter the “WM Plan”).

An interactive annex supplementing the Audit Report No 21/06 is available here:

<https://www.nku.cz/scripts/detail.php?id=12406>.

Although the MoE has set up the aid under the OPEn in the field of waste in accordance with the hierarchy of waste management methods set out in the Waste Act¹ and in accordance with the binding part of the WM Plan, not all objectives of the programme will be met.

The funds provided from the OPEn did not contribute to increasing the capacity for waste recycling or to building new facility capacities for the energy recovery of other waste or to modernising these facilities according to the set objectives².

Although landfilling is the least appropriate way to manage waste, 48 % of municipal waste was landfilled in 2020. Landfilling thus continued to be the most common method of municipal waste management in the Czech Republic³. The MoE did not support the statutory landfill ban⁴ by 2024 with financial instruments between 2015 and 2020 so that it could actually be achieved. There was even a 17 % increase in landfill capacity for the disposal of other waste, including municipal waste, between 2016 and 2020. In the same period, there was a 23 % increase in hazardous waste generation, but only 7 % of hazardous waste disposed of by landfill operations was charged with the risk component of the hazardous waste landfill fee, i.e., the component that constituted a revenue of the SEF under the Waste Act⁵.

During the audit of projects aided under the OPEn and focused on waste prevention or waste management, shortcomings were found in the area of public procurement,

¹ Act No 185/2001 Coll., on waste and on amendments to some other acts (hereinafter the “Waste Act”).

² As of 31 December 2020.

³ Municipal waste means mixed and sorted waste from households, as well as mixed and sorted waste from other sources if it is similar in nature and composition to household waste. The exact definition is set out in Article 3(2b) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (hereinafter the “Waste Directive”).

⁴ Act No 229/2014 Coll., amending Act No 185/2001 Coll., on waste and on amendments to some other acts, as amended; Act No 541/2020 Coll., on waste (also referred to as the “New Waste Act”), postponed the ban on landfilling to 2030.

⁵ Section 48(3) of Act No 185/2001 Coll., on waste and on amendments to some other acts.

accounting and eligibility of expenditure, which the SAO assessed as indicating a breach of the budgetary discipline in terms of the Budgetary Rules⁶.

The assessment is based on the following findings:

- 1. The MoE has set up the aid under the OPEn in the area of waste in accordance with the hierarchy of waste management methods and in accordance with the binding part of the WM Plan, but not all output indicators will be met by the end of the programming period. On the contrary, the aid provided from the 3rd priority area of the NPE was not set by the MoE in accordance with the hierarchy of waste management methods and the binding part of the WM Plan.**

Two of the eight output indicators, whose values are based on implemented projects, will not be met by the end of the programming period. The output indicator *“increasing capacity for waste recycling”* showed a performance of 7.47 % as of 31 December 2020 and the output indicator *“capacity of newly built or upgraded facilities for the energy recovery of other waste”* showed a performance of 1.20 % as of 31 December 2020. Due to the fact that no further projects were in the process of assessment, evaluation or approval at the end of 2020 and no further calls were planned by the MoE before the end of the programming period, the target values of these indicators will not be met. The fulfilment of the set specific programme outcome and output indicators as of 31 December 2020 is presented in Annex 1 to this Audit Report.

The audit found that, within the 3rd priority area of the NPE, the MoE had not issued a single call for proposals focused on waste prevention since the beginning of the programme, which does not correspond to the hierarchy of waste management methods.

- 2. In the Czech Republic, there has been no reduction in the overall production of waste, including hazardous waste, the production of municipal waste has been increasing since 2012, and landfilling continued to be the most common method of municipal waste management.**

In the Czech Republic, the total production of all waste is not being reduced and the strategic objective of the WM Plan in the part concerning the reduction of waste production is not being met. The total production of all waste in the Czech Republic ranged from 34.2 to 38.5 megatonnes (Mt) per year between 2015 and 2020.

The proportion of municipal waste going to landfill did not fall below 45 % in those years⁷. In 2014, a legislative ban on the landfilling of selected waste was adopted, with effect as of 2024, without any regulation of the charge for the landfilling of recoverable municipal waste. Between 2009 and 2020, the MoE did not increase the landfill charge for municipal waste, which was CZK 500 per tonne of waste during that period; at the same time, between 2016 and 2020, the capacity of landfills for the disposal of other waste, including municipal waste, increased by 17 %. In the New Waste Act⁸, the MoE proposed postponing the landfill ban to 2030 and increasing the charge for landfilling municipal waste from CZK 800/t in 2021 to a final CZK 1,850/t in 2030. However, an exception in the law allows municipalities to landfill part of

⁶ Act No 218/2000 Coll., on the budgetary rules and amending certain related acts (the Budgetary Rules).

⁷ In 2015, 47 % of municipal waste was landfilled, in 2016 and 2017 the proportion of landfilled municipal waste decreased to 45 %, in 2018 and 2019 46 % of municipal waste was landfilled and in 2020 48 % of municipal waste was landfilled.

⁸ Act No 541/2020 Coll., on waste, was approved by the Parliament of the Czech Republic on 1 December 2020 with effect from 1 January 2021.

the waste generated at the original rate of CZK 500/t (unchanged since 2009) until 2029, which continues to disadvantage other forms of municipal waste management compared to landfilling.

On the basis of data from the *Waste Management Information System* (hereinafter also the “WMIS”), the SAO audit found that only 7 % of the total amount of hazardous waste disposed of (1 Mt) in landfill operations between 2016 and 2020 had been charged at the higher, risk-based rate. According to Section 45(1) of the Waste Act, the waste generator was obliged to pay a charge for landfilling, and, according to Section 46(1) of the Waste Act, for the landfilling of hazardous waste, the waste generator was obliged to pay, in addition to the base component of the charge (CZK 500/t), also the so-called risk component of the charge (CZK 4,500/t), which according to Section 48(3) of the Waste Act constituted a revenue of the SEF. More than 50 % of the hazardous waste landfilled in 2016-2020 without charging the risk component of the charge was reported as so-called landscaping in landfill operations, which represents a reduction in the revenues of the SEF in excess of CZK 2.5 billion for the period of 2016-2020.⁹

3. The following shortcomings were found during the SAO audit of the OPEn projects aimed at waste prevention or waste management:

- a) failure to comply with the principle of non-discrimination under the Public Procurement Act¹⁰;
- b) the project's accounting records were not properly maintained in accordance with the Act on Accounting¹¹;
- c) the SEF failed to identify ineligible expenditure in two projects, which should have been covered by the applicant's own resources, not by EU funds;
- d) significant time delays in the final evaluation of projects have been identified at the SEF and the MoE.

4. The SAO audit found shortcomings in relation to the obligations arising from the waste management legislation.

- a) EU Directives in the field of waste management¹² had not been transposed by the Czech Republic into the Czech legal system within the set deadlines.
- b) The Czech Republic is not meeting the EU Landfill Directive¹³ target for the

⁹ According to the Waste Act, the SEF was the recipient of a portion of the collected charges, but it did not have the control authority to check the continuous recording of the waste disposed at the landfill. This authority was vested in the Czech Environmental Inspectorate, regional authorities and the municipalities in whose cadastral territories the landfills were located.

¹⁰ Act No 134/2016 Coll., on public procurement (hereinafter the “Public Procurement Act”).

¹¹ Act No 563/1991 Coll., on accounting (hereinafter the “Act on Accounting”).

¹² Directive (EU) 2018/849 of the European Parliament and of the Council of 30 May 2018 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment; Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 1999/31/EC on the landfill of waste; Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste; Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste; Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment.

¹³ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.

management

of biodegradable municipal waste (hereinafter also “bio-waste”).

- c) In the case of packaging waste, the MoE has set unequal requirements for the extent of recycling of packaging waste.

5. The SAO audit found that the MoE had violated the Waste Act by not updating the WM Plan and also found shortcomings in the implementation and evaluation of the WM Plan objectives.

In 2018, new legislation was adopted at EU level setting new waste management targets. The MoE did not proceed to update the WM Plan immediately after that change in EU legislation, as required by the Waste Act¹⁴. The MoE submitted a draft update of the WM Plan with a view to 2035 at the end of October 2021 for an inter-ministerial comment procedure.

In the reports on the implementation of the WM Plan, the MoE evaluates only the status of implementation of the measures being implemented, which does not allow, for example, to continuously assess the contribution of the measures being implemented to reduce waste production to meeting one of the strategic objectives of the WM Plan¹⁵.

The SAO audit found that the MoE had not set indicators for the evaluation of two objectives of the WM Plan¹⁶ that would take into account the impact of waste and hazardous waste management on human health and the environment, which the SAO found insufficient with regard to the defined objectives of the WM Plan, i.e., to minimise the adverse effects of waste and hazardous waste management on human health and the environment.

In two reports on the implementation of the objectives of the WM Plan¹⁷, the MoE assessed the achievement of the objective of reducing the landfilling of bio-waste with differently constructed indicators, which differed in the calculation of the share of the landfilling of bio-waste in relation to 1995. The MoE did not justify the change in the indicators used in the second evaluation report.

6. The audit identified shortcomings in the monitoring and reporting of waste management data.

The MoE does not have data on the actual utilisation of the capacity of waste management facilities on an ongoing basis. In order to target financial aid, the MoE commissioned an external evaluation of the state of the network of waste management facilities at national and regional level, including proposals for optimisation¹⁸.

The scope of information made available to the public by the MoE from its *Waste Management Information System* is limited compared to the scope of the non-public part of the WMIS¹⁹,

¹⁴ Section 42(7) of Act No 185/2001 Coll., on waste and on amendments to some other acts.

¹⁵ Strategic Objective 1 of the WM Plan: “waste prevention and reduction of specific waste production”.

¹⁶ Strategic Objective 2 of the WM Plan: “minimisation of the adverse effects of waste generation and management on human health and the environment” and Main Objective 12 of the WM Plan: “minimise the adverse effects of hazardous waste management on human health and the environment”.

¹⁷ *Report on the Fulfilment of the Objectives of the Waste Management Plan of the Czech Republic for the period of 2015-2016* (1st evaluation report), December 2017; *Report on the Fulfilment of the Objectives of the Waste Management Plan of the Czech Republic for the period of 2017-2018* (2nd evaluation report), November 2019.

¹⁸ Analysis: *Basis for the area of aid for waste and recycling management as part of the programming document in the Operational Programme Environment 2021-2027* prepared by Ernst & Young, s.r.o.; the cost of the analysis was CZK 3.4 million.

¹⁹ These include, e.g., data on available landfill capacities and data on the production of selected packaging

which is not in line with the general principle of public data policy stemming from Directive (EU) No 1024/2019 of the European Parliament and of the Council that public sector information and publicly funded data should be usable by the public with no legal, technical or financial constraints.

The SAO audit found a difference in the data published by the MoE and the Czech Statistical Office (hereinafter the “CZSO”) on the total production of municipal waste; the difference was approximately 10 % (0.5 Mt) for 2019 and approximately 6 % (0.3 Mt) for 2020.

II. Information on the Audited Area

Ministry of the Environment

The Ministry of the Environment is the central state administration authority dealing with, among other things, waste management. The MoE exercises supreme state supervision in the field of waste management, except for the protection of public health in waste management within the meaning of the Waste Act.

The MoE is the managing authority for the OPEn. Furthermore, the MoE decides on the provision of funds from the State Environmental Fund for waste management; these funds are distributed from the NPE.

State Environmental Fund

The SEF plays the role of an intermediary body for the OPEn, based on the *Agreement on Delegation of Certain Activities and Powers of the MoE as the Managing Authority for the OPEn in the Programming Period of 2014-2020 to the SEF*. The SEF also administers the NPE.

Strategic documents

The top, overarching strategic document in the field of environmental protection is the *State Environmental Policy of the Czech Republic for 2012-2020* (hereinafter also referred to as the “State Environmental Policy”), which was approved by Resolution No 6 of the Government of the Czech Republic of 9 January 2013; its updated version was approved by Resolution No 1026 of the Government of the Czech Republic of 23 November 2016. For the area of waste, the State Environmental Policy sets the thematic area/priority 1.2 *Waste prevention, ensuring the maximum use of waste and limiting its negative impact on the environment. Promoting the use of waste as a substitute for natural resources*.

The State Environmental Policy has emphasised compliance with the waste management hierarchy as a prerequisite for meeting the requirements of EU legislation. Landfilling as the most common method of waste disposal was cited as a persistent problem. Improvements were required both in the area of waste prevention (waste production was to be reduced) and in the area of waste management, i.e., increasing the material and energy recovery of waste or other uses of waste.

Strategic Framework for the Development of the Czech Republic until 2030 (Czech Republic 2030)

Czech Republic 2030 is a strategic framework that sets the direction in which the development of the Czech Republic should evolve and serves as a basis for evaluating the development of

waste.

the Czech Republic and its global responsibilities. The document formulates strategic and specific objectives that the Czech Republic should achieve by 2030, including increasing the share of the circular economy in the total volume of material flows and achieving a decrease in the amount of landfilled municipal waste. The Strategic Framework was approved by Resolution No 292 of the Government of the Czech Republic of 19 April 2017.

Waste Management Plan of the Czech Republic for the period of 2015-2024

The *Waste Management Plan of the Czech Republic for the period of 2015-2024* is the instrument for regulating the waste management in the Czech Republic and for implementing the long-term waste management strategy. The WM Plan contains, among other things, an analytical part, a binding part and a guideline part. The binding part was announced by Government Decree²⁰ of 22 December 2014 No 352/2014 Coll., on the Waste Management Plan of the Czech Republic for the period of 2015-2024. The obligation of the Czech Republic to prepare a WM Plan is stipulated in Directive 2008/98/EC of the European Parliament and of the Council on waste.

The WM Plan defines four strategic objectives: waste prevention and reduction of specific waste production; minimisation of the adverse effects of waste generation and management on human health and the environment; sustainable development of society and moving towards a European “recycling society”; maximum use of waste as a substitute for primary resources and transition to a circular economy.

Legislative framework for waste management

During the audited period, the following legislation was in force and effect: Act No 185/2001 Coll., on waste and on amendments to some other acts, and Act No 477/2001 Coll., on packaging and on amendments to some other acts (the Packaging Act). The Waste Act was the legislation governing waste management in the Czech Republic for almost 20 years. At the end of 2020, new waste legislation was approved with effect from 1 January 2021, through which new European regulations were transposed into Czech law.

Hierarchy of waste management methods

According to Section 9a(1) of the Waste Act, the following hierarchy of waste management methods must be observed in the waste management:

- a) waste prevention;
- b) preparation for reuse;
- c) waste recycling;
- d) other uses of waste, such as energy recovery;
- e) waste disposal.

Aid for waste management

The audited funds earmarked for the implementation of measures related to waste management were provided by the Ministry of the Environment and the State Environmental Fund of the Czech Republic from the OPEn and the NPE.

Operational Programme *Environment 2014-2020*

The issue of waste is addressed in Priority Axis 3 - *Waste management and material flows*,

²⁰ Effective from 1 January 2015.

environmental burden and risks (hereinafter “PA 3”), specifically in Investment Priority 1²¹.

Investment Priority 1 of Priority Axis 3 of the OPEn has three specific objectives (hereinafter also referred to as “SO”): 3.1 *Prevent waste generation*; 3.2 *Increase the share of material and energy recovery of waste*; 3.3 *Reclaim old landfills*.

National Programme Environment

The NPE aids projects for the protection and improvement of the environment in the Czech Republic from national resources or from the funds of the SEF. In the audited period, the NPE was divided into nine priority areas; the audited issues were covered by the 3rd priority area: *Waste, old burdens, environmental risks*.

III. Scope of the Audit

The aim of the audit was to verify whether the funds earmarked for the implementation of measures related to waste management had contributed to the achievement of the set objectives and whether they had been provided and used in accordance with the law.

The audit focused on the performance of the tasks of the managing authority (the MoE) and the intermediary body (the SEF) in the administration of the OPEn and the NPE, and on the verification of the fulfilment and evaluation of the objectives in the field of waste management resulting from the EU and Czech legislation and from the WM Plan.

Furthermore, for selected beneficiaries under the OPEn, the audit focused on compliance with the conditions for granting the subsidy, the demonstrability and justification of eligible expenditure, verification of economy, the use of subsidy funds for the stated purpose, the fulfilment of project objectives and the sustainability of projects. A total of 11 projects were selected for the audit; these were aimed at the implementation of measures related to waste management and were financed from SO 3.1, 3.2 and 3.3 of PA 3 under the OPEn.

The audit also examined 5 projects financed from the 3rd priority area of the NPE. An audit of the administration, implementation and compliance with the conditions of the subsidy for these projects was carried out at the SEF.

An overview of the audited projects is presented in Annex 2 to this Audit Report.

The audited volume of funds at the system level amounted to CZK 10.46 billion, of which CZK 9.88 billion was from the OPEn and CZK 0.59 billion from the NPE.

²¹ Investment Priority 1 of Priority Axis 3: *Preserving and protecting the environment and promoting resource efficiency by investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements (under Regulation (EU) No 1300/2013 of the European Parliament and of the Council, Article 4(c)(i)).*

The audited volume at the project level amounted to CZK 99.70 million, of which CZK 96.33 million was from the OPEn and CZK 3.37 million from the NPE.