

## Summary of the audit report *Implementation of Water Act*

The Court of Audit of the Republic of Slovenia audited the efficiency of operations of the Ministry of the Environment and Spatial Planning (hereinafter: the Ministry), since 10 February 2012 active as the Ministry of Agriculture and the Environment, with its fields of work including those from the Ministry of the Environment and Spatial Planning in terms of environment, in the implementation of the Water Act and of the regulations issued on the basis thereof.

*The audit objective* was to express an opinion on the efficiency of operations of the Ministry in the implementation of the Water Act and of the regulations issued on the basis thereof, as regards water management and water use, in the period from 2009 to the end of 2010. The Court of Audit assessed *the efficiency of operations of the Ministry* in that it sought answers to the questions of *whether the Ministry was efficient in deciding about the water use and whether it was efficient in managing the collected water use fee*.

There was no comprehensive strategic regulation established in the field of water management and water use by the end of 2010, since the Ministry failed to prepare within the prescribed time limit, i.e. by the end of 2009, the key strategic document, Water Management Plan for the Danube River Basin and the Adriatic Sea. Long-term objectives, conditions and priorities of water use were therefore not determined, and there was thus no uniform basis established for making decisions on the sustainable use of water. Water Management Plan for the Danube River Basin and the Adriatic Sea, 2009-2015 (hereinafter: the Water Management Plan) was adopted in August 2011, but this document does not yet include a comprehensive economic analysis of water use, which would provide the basis for determining the price of each type of water use in accordance with the „polluter pays“ principle.

Strategic documents and the Water Act do not provide for the terms, conditions and criteria for which types of water use it is necessary to obtain a water permit or a concession. The Ministry can therefore arbitrarily decide for which types of use it is necessary to obtain a particular type of water right. Such decisions may lead to the reduction of fees for the acquisition of water rights and to unequal treatment of persons liable who have been already granted water rights for particular types of water use and those who will be granted a different water right for the same type of use.

The Ministry failed to grant water rights in due time. By the end of 2010, it had not yet considered all the water permit applications, received within the prescribed time limit, i.e. 10 August 2004, from the persons liable under Article 199 of the Water Act, who at the time of the enforcement of the Act (ZV-1) had already been using water but without having been granted an adequate water permit. Neither had the Ministry considered all the applications for the intended use of water, received by the year 2010. Procedures for granting water permits were excessively long since, on average, they exceeded the prescribed time limit for the issue of a water permit for almost nine months.

The Ministry had failed to consider 310 initiatives for the preparation of a concession act by the end of 2010, whereby more than 60 applications were submitted by the persons liable under Article 199 of the Water Act, who at the time of the enforcement of the Water Act had already been using water without having been granted a concession. In granting the concessions, the Ministry treated the persons liable

under Article 199 of the Water Act unequally and selectively, although they all were using water during the validity of the Water Act. Those who were granted the concessions, were burdened with the payment of concession fees, but the majority of them were not paying concession fees since they were not granted concessions by the Ministry in due time. The entities that were not charged concession fees were unduly enabled a favourable competitive position compared to the entities that were paying the concession fees. In the years 2009 and 2010, the estimated amount of undercharged concession fees that should have been paid into the state and local government budgets amounted to EUR 6,589,401.

By the end of 2010, the Ministry had failed to establish an accurate, complete and reliable record of applications for the acquisition of water rights and a record of water rights granted. The water cadastre did not contain complete and accurate data on the inventory of water and water infrastructure. The existing records of granted water rights, inventory of water and of water facilities and devices did thus not provide a complete basis for deciding about water right grants.

The Ministry failed to prepare and submit for approval in due time the regulation which sets out the criteria for determining the amount, method and deadline for the payment of water rights acquired with water permits. In the years 2009 and 2010, the amount charged and paid into the state budget for the acquisition of water permits was at least EUR 3,051,266 too low. The Ministry did not determine in due time water reimbursement basic prices for the year 2010. The amount of water reimbursement fees paid into the state budget was thus EUR 830,540 too low.

There was no comprehensive control over the unauthorized abstraction of water established, since the Inspectorate of the Republic of Slovenia for the Environment and Spatial Planning was not provided with all the information required for planning and did thus not perform regular inspections of unauthorized use. There was thus no unauthorized use of water resources detected for ports and berths, which is why none of the relevant operators was paying concessions and neither were they paying water reimbursement in 2009.

The management of water losses was not efficient since the Ministry failed to establish a uniform methodology of their measurement. The Ministry data on the losses in water supply systems were therefore not mutually comparable and did not provide an appropriate basis for the planning of measures to reduce water losses.

The Water Fund was not managed efficiently by the Ministry. Not all water right payments as the source of the Water Fund were paid into the Fund since the Ministry failed to provide a comprehensive assessment of payments for the acquisition of water rights. The objectives, criteria and priorities for the determination of projects to be funded from the Water Fund were not determined on the basis of the analysis of the needs and the expected effects of individual types of water use. The Ministry did not ensure the use of funds for the approved projects, did not specify indicators for assessing the efficiency of the use of funds from the Water Fund and neither did it assess the efficiency of the management of funds from the Water Fund.

For the established inefficiencies to be eliminated, the Court of Audit of the Republic of Slovenia demanded from the Ministry of Agriculture and the Environment *the implementation of corrective measures* pertaining to the establishment of the regular monitoring of the achievement of the objectives set for the management and use of water; determination of the terms, conditions and criteria for which types of water use it is necessary to be granted a water permit or concession; activities for the granting of water

permits and concessions not yet granted; improvement of records for managing and monitoring the consideration of applications for water permits and concessions; adoption of the rule to determine the payment for the acquisition of water permits as well as of the plan for the inspection of unauthorised use of water; establishment of methods of identifying the abstracted water; and the regulation of the functioning of the Water Fund.

The Ministry of agriculture and the environment was also provided *recommendations* to monitor how much time elapses from the receipt of applications for water permits until the beginning of the consideration of these applications; include in the records for the monitoring of the consideration of applications all the data for the assessment of fees; require from the persons liable to indicate in their water reimbursement and concession fee declarations the relevant data to be able to verify the regularity of the fees charged; adopt instructions for the calculation of the financial impact of changes in regulations; arrange the payment of compensation to reduce the income from agricultural activities in accordance with the principle of the recovery of costs associated with water pollution; consider the possibility of providing for specific features of the procedure of granting water permits in the Water Act; conduct an analysis of the risk of unauthorized abstraction of water for various types of use; and establish a regular exchange of data between the bodies affiliated to the Ministry, on the basis of which it will be possible to detect unauthorized use.

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