

Illegal waste dumping in the Slovak Republic²

Abstract

The paper aims to outline the legal aspects of illegal waste dumping in the Slovak Republic. It presents some factual information on the issue and the legal regulations governing waste management, landfill operations, and illegal waste disposal. The analysis includes suggestions for improving legal regulations, specifically focusing on identifying those responsible for illegal waste disposal and determining who is obligated to remove the waste legally. It also discusses the administrative and criminal penalties for illegal waste dumping.

Keywords: waste, waste management, landfill, illegal landfill, illegal waste dumping

Illegal landfills (or waste dumps), established in violation of the law, have been a major ecological issue in Slovakia for decades.

In 2013, approximately 6,000 illegal landfills were estimated to exist in Slovakia, primarily situated along roads and used for storing small amounts of waste. These illegal landfills have detrimental effects on the landscape, biota, economy, and public health.³

Slovak authors Šedová and Haluš wrote in 2016 about thousands of illegal landfills in Slovakia. The largest amount of illegal waste is found in the Bratislava region, where, on average, approximately 1.5 litres of illegal waste were generated per citizen. The Senec District held the infamous top spot among districts, with more than 2 litres of waste per capita. The Prešov region had the least amount of illegal waste. According to data from the TrashOut system⁴, more than half of illegal waste is domestic and construction waste. Šedová and Haluš therefore

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2 | *The research and preparation of this study was supported by the Central European Academy.*

3 | Enviroportál 2013

4 | TrashOut is an application that allows residents to use their phones to easily report illegal activity at landfills in their surroundings, including determining their basic characteristics. However, TrashOut data have several limitations. Instead of the actual state of black landfills, they can only describe the situation of reported landfills. See Šedová & Haluš 2024



established the assumption that regular individuals were mostly responsible for the illegal dumping, with almost 50% of the waste consisting of plastics, car parts, glass, and electronics.⁵

A source from 2020 reiterated that there are thousands of illegal landfills in Slovakia. This paper by Gális pointed out that the risks of landfilling to human health could manifest themselves especially during a long-term stay in the vicinity of landfills. Gális estimated that approximately 10,700 inhabitants of Slovakia had permanent residence closer than 500 metres from legal landfills. Thousands more live in the immediate vicinity, less than 100 meters from larger illegal dumps. Residents from marginalized Roma communities are – compared to society as a whole – affected above average.⁶ It should be noted that illegal landfills are often located near marginalized communities because the residents of these communities often contribute to the creation of these landfills. This is closely tied to the fact that these communities are very impoverished.

Gális points out that landfilling poses a potentially serious risk to human health and nature. The harmful substances that result from improper waste management can contaminate the soil, groundwater, and local air, affecting public health. In addition, chemical processes in landfills persist even after landfills are closed and thus continue to negatively affect the environment. The resulting methane and carbon dioxide, in turn, contribute to global warming.⁷

A study by Slovak authors shows that higher education and higher income do not necessarily lead to lower waste production or contribute to the reduction of illegal dumping. People with higher education and income tend to consume more goods, resulting in increased total waste production. Despite potentially having enough resources for legal waste disposal, there is still a higher rate of illegal dumping. Therefore, higher education and additional means for legal waste disposal do not guarantee increased environmental awareness. The study confirmed that in districts with higher income and education levels, there is also an increase in illegal waste. On average, a 1% increase in income led to a 2.6% rise in illegal waste, while a 1% increase in the population with higher education resulted in a 10% increase in waste production.⁸

Based on the aforementioned facts, there is no doubt that the problem of illegal landfills in Slovakia is not only widespread but also serious. This paper aims to present the Slovak legislation regarding the legal and illegal disposal of waste in landfills, in addition to subjecting this regulation to critical analysis. Subsequently, this paper also aims to offer possible impulses for improving the legal regulation.

This paper addresses the issue of illegal waste dumping in the Slovak Republic in the following structure: (a) it outlines important activities, actors, as well as

5 | Šedová & Haluš 2016

6 | Gális 2020

7 | Ibid.

8 | Šedová & Haluš 2016

their obligations and prohibited activities related to waste management – the obligations and prohibitions are presented primarily on a general level, but the paper also lists some special obligations and regimes (Chapters 1 and 2); (b) it briefly outlines the organisation of the state administration of waste management in the Slovak Republic (Chapter 3); (c) the fourth chapter of the paper presents the legal regulation of waste dumps; (d) in the key fifth chapter, the paper presents legal consequences of illegal waste disposal; (e) the sixth chapter deals with illegal waste dumps; (f) selected types of waste that are significantly involved in illegal dumping are processed in the penultimate, seventh chapter; and (g) these chapters are followed by a summarising conclusion.

In terms of methodology, the paper is primarily based on the presentation of the positive legal regulation of the issue in the Slovak Republic. Based on empirical data, which are presented herein to the necessary extent, the paper draws from the works of other authors and, to a lesser extent, from the empirical practice of the author from his work in advocacy. The presentation of the existing positive legal regulation is followed by its heuristic examination. Positive legal and empirical knowledge is subjected to analytical research using the method of abstraction, induction, and deduction.

Before moving on to the issue itself, let us briefly present an outline of the sources of law relevant to the subject matter: Although wastes and hazardous substances are primarily dealt with at the local and national level, there are potential long-range effects caused by persistent pollutants.⁹ This paper is mainly based on Slovak legislation. However, this legislation was and continues to be significantly influenced by the international obligations of the Slovak Republic¹⁰ and the law of the European Union (EU)¹¹, mainly the Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives and Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 on waste and repealing certain directives.

The valid and effective Slovak law on waste, which is the Act No. 79/2015 Coll. on waste, and on the amendment of some laws (also referred to in the text of the paper as ‘Act on Waste’) governs several aspects related to the issue of illegal waste disposal. Examples of waste management measures include waste prevention, the rights and obligations of legal entities and natural persons in waste management, municipal waste management, and the jurisdiction of state administrative bodies

9 | Beyerlin & Marauhn 2011

10 | See for example the 1989 Basel Convention on the control of transboundary movements of hazardous wastes.

11 | In addition to the aforementioned directives, the principles of European environmental law, which also shape the national legal order, cannot be neglected. See Košičiarová 2009, 15. Such principles are: High level of protection, the precautionary principle, the prevention principle, the prevention at source principle, the polluter pays principle and the safeguard clause. See Jans 2024, 31.

and municipalities in waste management. The legislation also addresses liability for failing to meet waste management obligations.

1. Waste management in the Slovak Republic

Waste management according to the Act on Waste is a set of activities aimed at preventing and limiting the generation of waste and reducing its danger to the environment and managing waste in accordance with this law. The law regulates the definition of several terms that express different forms of waste management in its Section 3. Among these terms, I will define (based on the diction of the law) those that directly relate to the topic of the present paper: (1) Waste handling is the collection, transportation, recovery, including sorting and disposal of waste, including the supervision of these activities and the subsequent care of disposal sites, and also includes the actions of a trader or intermediary. (2) Waste disposal is an activity that is not recovery, even if the secondary result of the activity is recovery of substances or energy; the list of waste disposal activities is given in Annex no. 2 of the Act on Waste. (3) Landfilling of waste is the deposition of waste in a landfill. (4) Backfilling is a waste recovery activity in which suitable non-hazardous waste is used for reclamation purposes in excavated areas or for technical purposes in landscaping. The waste used for backfilling must replace non-waste materials, be appropriate for the stated purposes, and only be used in the amount necessary to achieve the stated purposes.

The law regulates the hierarchy of waste management activities, which is the binding order of the following priorities: (a) prevention of waste generation; (b) preparation for reuse¹²; (c) recycling¹³; (d) other recovery¹⁴, for example, energy recovery; and (e) disposal.¹⁵

It is allowed by law to dispose of waste in a way that neither endangers people's health nor harms the environment, specifically if it is not possible and expedient

12 | Reuse is an activity in which a product or part of a product that is not waste is reused for the same purpose for which it was intended.

13 | Recycling is any waste recovery activity by which waste is reprocessed into products, materials, or substances intended for the original purpose or other purposes, if specific rules of the Act on Waste (§ 42 par. 12, § 52 par. 18 and 19 and § 60 par. 15 of the Act on Waste) do not provide otherwise; recycling also includes the reprocessing of organic material. Recycling does not include energy recovery and reprocessing into materials to be used as fuel or for backfill operations.

14 | Waste recovery is an activity, the main result of which is the beneficial use of waste in order to replace other materials in production activities or in the wider economy or ensuring the readiness of waste to fulfil this function; the list of waste recovery activities is given in annex no. 1 of the Act on Waste. Material recovery of waste is the activity of recovery of waste except for (1) energy recovery and (2) reprocessing into materials to be used as fuel or other means of energy production. Preparation for reuse, recycling and backfilling are considered to be material recovery.

15 | § 6 par. 1 of the Act on Waste.

to prevent its occurrence or the procedure according to paragraphs 7 to 9 is not possible and expedient.¹⁶ This also applies to landfilling.

The law also regulates terms that regulate the specific roles, respectively, of specific actors in waste management (§ 4): it is especially the originator of the waste. The originator of the waste is (a) every original producer whose activity generates waste; (b) the person who performs treatment, mixing, or other actions with waste, particularly if their result is a change in the nature or composition of this waste; or (c) every lessor of an object, manager of an administrative or business centre who fulfils the transferred fee obligation for the taxpayer and simultaneously ensures the collection of sorted municipal waste components from other originators (from tenants) based on the contract.

Legal terms such as the holder of the waste¹⁷, waste merchant, waste intermediary, and waste transporter are also regulated by the Act on Waste.

2. General and specific obligations related to waste management

In the following text, I will briefly state the rules regulating the general obligations regarding waste management, as the law regulates them in § 12 of the Act on Waste:

First, everyone is obliged to dispose of waste or otherwise treat it (1) in accordance with the Act on Waste; the person who has obligations resulting from the decision issued on the basis of this law is obliged to dispose of waste or otherwise treat it also in accordance with such a decision; (2) in a way that neither endangers human health nor harms the environment, such that no (2a) risk of water, air, soil, rock, nor environment pollution, neither the endangerment of plants and animals; (2b) disturbing the neighbourhood with noise or odour; (3c) adverse impact on the country or places of special importance.

Of course, one of the most general issues that need to be regulated is the issue of waste management costs. It can be assumed, as already outlined in the introduction of the paper, that this very aspect can be one of the key factors that lead to the creation of illegal landfills, or, if the system is properly set up, they can serve as one of the tools to prevent them. The obligation to bear the costs of waste management activities must be fulfilled by persons in the following order (with the exception that I mention below): (a) holder of waste for whom waste management is carried out, if known, or (b) the last known holder of the waste.

16 | § 6 par. 10 of the Act on Waste.

17 | This term is also used because, in the case of waste, it is generally not possible to talk about the owner. For issues of waste as an object of ownership, as demonstrated for example in relation to Hungarian law in the paper: Mélypataki 2012, 51–58.

If the holder of the waste is known but does not reside in the territory of the Slovak Republic, the waste management state authority, in whose territory the waste is located, will ensure, at the expense of the holder of the waste, the treatment of the waste.¹⁸

Natural persons may, in principle, not dispose of and otherwise treat other than municipal waste, small construction waste, and construction waste from not only simple but also small constructions.¹⁹

The Act on Waste also regulates some specific obligations regarding specific types of waste (waste containing mercury, electrical equipment, electrical waste, batteries and accumulators, automotive batteries and accumulators, and industrial batteries and accumulators, packaging and packaging waste, tires and waste tires, and so on). These are, on the one hand, special obligations and legal regimes of waste management and, on the other hand, special prohibitions. Of course, these special regimes are in most cases stricter compared to the general regime, as they are usually more dangerous cases of waste. However, it does not necessarily have to be particularly dangerous waste, a special regime for dealing with a certain type of waste can be given exclusively by the effort to reduce the generation of this type of waste (e.g., such a case is the waste from single-use plastic products).

Systematics of the Slovak statutory regulation of waste management, which is structured into a general regime and several special regimes, can be considered logical and functional not only from the point of view of its continuity with the EU regulation and the regulation contained in international documents but also for substantive aspects. Of course, legal regulation conceived in this way can be more demanding for the recipients in terms of knowledge and orientation. However, this complication may be only a complication at first glance because 'ordinary' natural persons and legal entities usually do not dispose of specific types of waste (I have already partly mentioned that two paragraphs above). In addition, the law imposes an obligation on the holder of the waste to hand over waste only to a person authorised to dispose of waste according to this act, if not regulated otherwise and if he/she does not ensure their recovery or disposal himself/herself.

However, a complex legislation, and the Slovak waste management legislation is undoubtedly very complex, always in itself entails a certain risk of non-compliance by 'ordinary' persons within the general public, if only because it is objectively difficult to get to know and 'navigate' it. However, the solution to this problem cannot be so much the simplification of the system and content of legal regulation, but the key importance here (more so than sanctioning) is education and public enlightening.

18 | § 12 par. 5 of the Act on Waste.

19 | § 12 par. 6 of the Act on Waste.

2.1. Prohibited activities related to waste in general

First, let us discuss the so-called 'general' restrictions that basically apply to any waste. Under § 13 of the Act on Waste, it is prohibited (inter alia) to store or leave waste in a place other than the place designated for it in accordance with this law. This is a general prohibition of key importance to this paper. It follows that waste cannot be disposed of by dumping it anywhere.

It is also prohibited to dispose by landfilling of some types of waste, such as liquid waste; wastes that are explosive, corrosive, oxidising, highly flammable, or flammable under landfill conditions; certain waste from healthcare and veterinary care; sorted biodegradable kitchen and restaurant waste; biodegradable waste from wholesale, retail, and distribution; sorted components of municipal waste, which are subject to the extended responsibility of producers, except for unrecoverable waste after sorting; biodegradable waste from gardens and parks, including biodegradable waste from cemeteries, except non-recoverable waste after sorting; or waste that has not undergone treatment (with some exceptions).

It can be empirically proven that several types of waste, the landfilling of which is prohibited as such, are also found in illegal landfills (e.g., tires). However, the ban on landfilling (including otherwise legal) of certain types of waste is relatively difficult to enforce. For example, it is probably difficult to prevent liquid waste from being a part of municipal waste. A similar problem concerns the controllability of the ban on landfilling biodegradable waste or one of the bans on the incineration of waste. Although waste incineration is not directly related to the topic of the post, I consider it necessary to mention this problem as well, as judging by media coverage or discussions on social media, it is a frequently violated ban in Slovakia.

2.2. Obligations of the waste holder in general

The waste holder is obliged (inter alia): (a) to ensure waste processing in accordance with the hierarchy of waste management; (b) to hand over waste only to a person authorised to dispose of waste according to this act, if not regulated otherwise and if he/she does not ensure the recovery or disposal himself/herself; (c) to keep records on the types and amount of waste and on their disposal; (d) to enable state supervisory authorities in waste management to access land, buildings, premises and equipment, take waste samples and, upon their request, submit documentation and provide true and complete information related to waste management; and (e) to carry out remedial measures imposed by the state supervisory authority in waste management, and others.²⁰

As the problem of close encounters with brown bears is currently widely discussed in Slovakia (according to some opinions, this animal is overpopulated in

20 | These obligations are regulated in § 14 of the Act on Waste.

Slovakia), I will also mention the obligation to ensure waste from the access of the brown bear (*Ursus arctos*) in designated areas. The abovementioned obligations do not apply to a natural person who is not an entrepreneur, with one exception (the obligation to ensure waste from the access of the brown bear in designated areas). These problems are more related to the topic of the paper than it may seem at first glance: Illegal dumping of garbage, which can attract bears as food, can lead to bears approaching human settlements and encounters with humans.

It is worth noting that in relation to the topic of the paper, there is a regulation in § 14 par. 9 of the Act on Waste. This regulation states that if the waste is generated from service, cleaning, or maintenance work performed for an entrepreneur, the entrepreneur is considered the originator of the waste. However, when these works are done for individuals, the person performing the works is the originator of the waste. In practice, this means that if, for example, a natural person that owns a building provides maintenance on such building through a third party as a contractor, this third party is responsible for waste management. Therefore, if unauthorised dumping of such waste was to occur, the responsible entity will be this third party.

3. State administration of waste management

The bodies of the state administration of waste management are²¹: (a) the Ministry of the Environment of the Slovak Republic, (b) the Slovak Environmental Inspection, (c) District Authorities in the seats of the regions, (d) District Authorities, (e) municipalities, (f) Slovak Trade Inspection, (g) customs offices, and (h) Criminal Financial Administration Office.

Among these bodies of the state administration of waste management for the topic of paper, the ones that have key competences in their hands are: (a) Slovak Environmental Inspection (more details in the subchapter on permitting the operation of landfills), (b) District authority (see below), and (c) municipality (see the subchapter on the duties of the landfill operator and the subchapter on liability for illegally deposited waste).

3.1. District authority

The key body of the state administration of waste management in relation to the illegal dumping of waste is the district authority. Let us mention some competences of the district authorities relevant from the viewpoint of the issue addressed in this paper. The district authority: (a) is a state supervisory body in waste management

²¹ | See § 104 of the Act on Waste. For more information on the organisation of the Slovak State Administration of Waste Management, see Valenčíková & Marišová 2023, 997–1015.

(§ 112 of the Act on Waste), (b) imposes fines and decides on offences (§ 115 and § 117 of the Act on Waste), and (c) makes decisions in administrative proceedings in the first instance in matters according to this act with the exception of matters belonging to other bodies of the state administration of waste management (all performance of state administration of waste management, which according to this act does not belong to other bodies of the state administration of waste management, is carried out by district authorities).

Of crucial importance is then in particular the regulation contained in § 108 letter q) of the Act on Waste, stating, that the district authority performs proceedings according to § 15 par. 8 to 16 of the Act on Waste. This is a procedure in which the person responsible for illegally deposited waste is determined and corrective measures are imposed on this person (see Chapter 5).

4. Legal regulation of waste dumps

One of the probable reasons why there are cases of illegally deposited waste is the fact that people and legal entities avoid setting up legal waste dumps, or putting waste in such legal landfills, for reasons of economic or administrative burden. Therefore, I consider it necessary to acquaint readers with the legal regime for the establishment and operation of landfills according to Slovak law.

According to § 5 par. 5 of Act on Waste a waste dump (or a landfill) is a place with a waste disposal facility where waste is permanently deposited on the surface of the earth or in the ground. In 2023, there were 81 active landfills operating in Slovakia, with the majority being non-hazardous waste landfills. Out of the total of 65 landfills, some received municipal waste from households.²² In 2020, there were 111 legally established and operating landfills in Slovakia.²³ The State of the Environment Report in 1998 listed 568 active landfills.²⁴ By comparing these data, it is clear that the number of active legal landfills in Slovakia is decreasing.

4.1. Waste dump operation permit

To operate a waste dump, the consent of the competent body of the State Administration of Waste Management is required.

Slovak Environmental Inspection (more precisely, it is the territorially competent inspectorate of this inspection), and within this inspectorate, its Department of Integrated Permitting and Control (hereinafter referred to as 'Inspection') permits landfills as the competent authority of the state administration according

22 | Potočár 2023

23 | Gális 2020

24 | Klinda et al. 1998, 125.

to the provisions of § 9 par. 1 letter c) and § 10 of the Act no. 525/2003 Coll. on the state administration of environmental care and on amendments of certain laws as amended and according to the provisions of § 32 par. 1 letter a) Act No. 39/2013 Coll. on integrated prevention and control of environmental pollution and on amendments to certain laws as amended.

It is therefore a legal institute of integrated pollution prevention and control, comprising a set of measures aimed at preventing environmental pollution; reducing emissions into the air, water, and soil; limiting the generation of waste; and recovering and disposing of waste to achieve a high overall level of environmental protection.

A key part of the integrated prevention and control of pollution is integrated permitting, or the procedure for issuing an integrated permit. Integrated permitting is a procedure that permits and determines the conditions for carrying out activities in existing industrial plants and in new industrial plants in a coordinated manner, with the aim of guaranteeing the effective integrated protection of environmental components and maintaining the level of environmental pollution within environmental quality standards.

The result of the integrated permitting is the integrated permit, a decision, that authorises the operator to carry out activities in the industrial plant or part of it and which determines the conditions for undertaking activities in the industrial plant and which is issued instead of decisions and consents issued according to special regulations in the field of the environment and public health protection, as well as in the field of agriculture and construction permit. This permit also includes the consent to operate a waste dump.

In this case, it is a so-called substantive concentration, or concentration of proceedings.²⁵ Its goal is to speed up permitting processes (especially by the fact that participants can apply objections only within one procedure instead of several procedures, that they can apply only one ordinary remedy instead of several, all the procedural deadlines run only in one procedure instead of several, and so on).

The integration of proceedings within the scope of material concentration can be considered an excellent procedural tool that does not threaten the rights of participants in the proceedings and is suitable to make permitting (in our case, landfills) faster and more efficient without discounting environmental protection.

It is possible to ask whether the way to prevent the creation of unauthorised landfills can be the administrative simplification of permitting those that are built as official and legal landfills. I certainly do not consider any reduction of material legal prerequisites to be a suitable solution. As far as the procedural regime is concerned, caution is appropriate here as well, especially because through procedural regulation, material values are guaranteed. In addition, 'simplification' could probably conflict with the Aarhus Convention in some cases.

25 | Vrabko et al. 2018, 91–92.

Figuratively speaking, when put on the scales, it entails, on the one hand, the possible risk of a weaker protection of the environment or another aspect of public interest at legally operated waste dumps and, on the other hand, the protection of the environment and other social interests in the context of illegal waste disposal. It must be said that probably greater risks are engendered by weak public law regulation of large 'official' landfills, rather than the existence of small illegal landfills, whose impact on the environment is generally relatively limited (also considering the type of waste that is usually deposited there).

In addition, there is not a clearly proven reliable piece of evidence that if the operation of official landfills were simplified (e.g., in terms of permits), the volume of illegally landfilled waste would decrease.

The ongoing recodification of the Slovak public construction law will offer an opportunity for empirical investigation of such a possible link. As part of this recodification, the zoning procedure as a type of application process aimed at assessing the compliance of the building's intention with the spatial plan²⁶ is to be abolished. The compliance of the building's intention with the spatial plan will now be demonstrated only in a simplified way: by a binding opinion of the spatial planning authority, which will be issued as part of the construction procedure. Currently, also with regard to the ongoing political processes in the Slovak Republic, the exact form whereto the Construction Act will be is unclear. This new act is currently scheduled to enter into force on April 1, 2025. If the current concept remains in place even after the law is amended (which the new Slovak government intends to do even before the law comes into force), it will be possible to investigate whether the permitting of the construction of waste landfills will be accelerated. However, it is important to understand that even if the zoning procedure were to be waived and a simplified system for assessing the compliance of the construction plan with the zoning plan purely based on a binding opinion would be introduced, the possible acceleration of the permitting process may not be exclusively attributable to this one change.

4.2. Obligations of the waste dump operator

The administrative rigor of the operation of the waste dump is determined not only by the rigor of its permitting procedure but also by the demanding conditions of its operation. The costs of operating the landfill, which are related to the obligations that the landfill operator must fulfil, are understandably also transferred to the costs of landfilling waste. The high costs of legal waste disposal can probably also lead to the creation of illegal landfills.

26 | It should be noted that, unlike the construction procedure, the zoning procedure is currently not part of the integrated permitting of landfills and is therefore carried out as a separate procedure.

The waste dump operator has of course many legal obligations, in addition to the obligations according to § 14 and § 17 of the Act on Waste, such as the obligations (a) to process and have approved project documentation for the closure, reclamation, and monitoring of the waste dump, while ensuring the care of the waste dump after its closure; (b) to ensure the operation of the waste dump by a person who meets the qualification requirements prescribed by law; (c) to ensure professional training and technical training of the waste dump personnel; (d) to close the waste dump, recultivate, monitor, and ensure care after its closure in accordance with the approved project documentation; (e) to notify the competent body of the state waste management administration of negative conditions and environmental impacts detected by monitoring during the operation of the waste dump and after its closure and to remove negative conditions and impacts on the environment detected by monitoring the waste dump; (f) to carry out monitoring during the operation of the landfill and after its closure, to keep records from this monitoring, and to report the monitoring results to the competent body of the state waste management administration; (g) and further obligations.

It can be said that these obligations are not unreasonably rigorous and can be seen as justified.

Landfills are typically shut down for two main legal reasons: reaching full capacity or the expiration of the permit for operation. The operator of the waste dump is obliged, no later than six months from the date of filling the capacity of the waste dump or from the date of expiry of the decision on its operation issued under § 97 par. 1 letter a) of the Act on Waste²⁷ to apply for approval according to § 97 par. 1 letter j) of the Act on Waste (decision to close the waste dump or part of it, carry out its recultivation, and its subsequent monitoring after closing the waste dump as a whole), and if the decision to operate the waste dump has expired according to § 114c par. 13 letters b) and par. 14, the operator of the waste dump is obliged to request the granting of this approval according to § 97 par. 1 letter j) of the Act on Waste within two months from the date of expiry of the decision on its operation issued under § 97 par. 1 letter a) of the Act on Waste.

According to § 24 of the Act on Waste the operator of the waste dump is obliged to create a special-purpose financial reserve during the operation of the waste dump, the funds of which will be used for not only closing, recultivation, monitoring, and ensuring the care of the waste dump after its closure but also activities related to averting an accident or limiting the consequences of an imminent or occurring accident after the landfill is closed. The use of reserve funds is strictly regulated: Funds of the special-purpose financial reserve can be used after approval pursuant to § 97 art. 1 letter j) Act on Waste for the

27 | Consent of the state waste management authority for the operation of a waste disposal facility, except for waste incinerators and waste co-incineration facilities and water structures, in which special types of liquid waste are disposed of.

activity for which this consent is issued. This approval is issued by the Ministry of Environment.

The author of the paper knows, from his own empirical practice, a case, where the operator of the landfill (a legal person), in order to avoid fulfilling the obligations associated with the closure of a landfill, was deliberately abolished as a legal entity. For such cases, the following regime applies:

If the waste dump operator ceases to exist without a legal successor before the end of the closure, reclamation, monitoring, or provision of care for the landfill after its closure, all rights and obligations related to the issued consent pass to the date of termination of the landfill operator to the municipality in whose territory the majority of the waste dump is located; on the date of the transfer of rights and obligations, the right to dispose of the funds of the special-purpose financial reserve shall also pass to this municipality. Obligations are transferred to the municipality only up to the amount of the purpose-built financial reserve.

A similar regulation then applies to cases of bankruptcy of the operator or its economic restructuring.

In conclusion, the legal regulations for the termination of the operation of the landfill (including the regulation of the special financial reserve) can be deemed functional. One significant issue is the possibility of the landfill operator going bankrupt without a legal successor. In this scenario, the responsibility for closure and restoration of the landfill would fall onto the municipality. These responsibilities are limited to the funds in the special financial reserve, which may not always be adequate. In such situations, seeking financial assistance from the state may be necessary. However, this topic is not within the scope of the current paper.

From the standpoint of the topic of this paper, it is important to say that although the administrative (and financial) complexity of operating a landfill in accordance with the law is not low, I definitely do not deem it appropriate to consider reducing it to prevent the creation of unauthorised landfills.

5. Legal consequences of illegal waste disposal

The issue of the legal consequences of dumping waste in violation of the law, which is the core topic of this paper, includes two thematic sub-areas: (1) First, it is a procedure for identifying the entity responsible for dumping waste in violation of the law. This issue, which is of key importance from the perspective of the topic of the paper, is regulated in detail in § 15 of the Act on Waste. The law uses the term 'Administrative liability for illegal placement of waste' to refer to the set of relevant institutes used for this purpose. (2) The next area is the penal liability for the breach of obligations deriving from the illegal dumping of waste, both administrative and criminal.

5.1. Administrative liability for the illegal placement of waste

First, it is necessary to deal with information obligations concerning cases of illegal landfills, in relation to the relevant state administration authorities. This issue is regulated differently by law, depending on whether it is a notification by a person who has some legal relationship to the plot where the waste is located, or a notification by a third party: Any natural person or legal entity may report the placement of waste on real estate that is in violation of law to the competent body of the state waste management administration or the municipality in whose territorial district the property is located. The owner, manciple, or lessee of the plot is obliged to notify the state waste management authority or the municipality in which the property is located within three working days after discovering that waste has been illegally placed on his property.²⁸

Evidently, in the case of third parties, notification is a right, while in the case of individuals who have the right to the affected land, it is an obligation. It is a logical approach, and the regulation is also functional (including a relatively short notification period intended for the land owner). The importance of this approach is not only in the protection of these persons but also in the fact that in the case of persons who have a legally regulated right to the land, purposeful action or omission is not excluded, that is, that for some reason they knowingly allow waste to be illegally dumped on their land (in some cases, not only knowingly but also for the purpose of obtaining a financial remuneration). Moreover, it cannot be ruled out that the originator of the waste is the owner of the land, and that he/she could significantly delay the notification of the illegal dump in order to make it difficult for the competent authorities to identify him/her as the responsible person.

Despite the fact that the short notification period for the owner 'looks good in books', it must be said that its enforceability can be problematic, as in many cases it will be difficult to prove when the owner of the land actually learns that there is waste on his land landfilled in violation of the law. A solution that would be worth considering could be a statutory regulation of the burden of proof regarding the moment of discovery of the waste, which would be on the side of the landowner.

After filing a notification by a person with the right to the land or a third party, the municipality and state waste management authority shall inform each other of the notifications within seven working days from the date of notification at the latest. In cases of illegal placement of waste in specific places (e.g., in a water course, inundation areas, or protected natural area), the authority who receives the notification is obliged to immediately inform also the relevant body of the state water administration or the relevant state organisation for the protection of nature and landscape.

28 | See § 15 art. 1 and 2 of the Act on Waste.

Based on the notification, the competent body of the state administration of waste management shall, after carrying out a local inspection, verify whether the extent of illegally placed waste indicates that a crime has been committed, and shall issue an expert statement about it. If it can be assumed from the notification and from the previously mentioned expert opinion of the competent authority that the facts indicate a criminal offence, the competent state administration of the waste management authority shall report it to law enforcement authorities, and in such a case, the administrative procedure of this authority to determine the person responsible for the illegal placement of waste will not even start.

I see this regulation as partly controversial. On the one hand, it is logical that if there is a suspicion that a violation of the law is so serious that it has the intensity of a criminal offence, it is necessary for the law enforcement authorities to act on the matter, and, of course, it is true that in a situation where a criminal prosecution would be initiated, the parallel investigation of the responsible person by a public administration body may be perceived as problematic from the viewpoint of the principle of *ne bis in idem* and from the perspective of the principle of the presumption of innocence. On the other hand, the purpose of determining the responsible person according to the Act on Waste in the proceedings that are dealt with in this section is not primarily to impose punitive liability but mainly to ensure the correction and elimination of a situation that is unacceptable from the standpoint of environmental protection requirements. Criminal proceedings can be lengthy due to their nature. It is worth considering whether it would not be more appropriate if the authorities of the state administration of waste management could and would investigate the responsible person in parallel with the ongoing criminal proceedings, exclusively to ensure the removal of the illegal landfill as quickly as possible, and the law could explicitly state, that this investigation uniquely applies to the determination of the person responsible for the purposes of financing the removal of an illegal landfill. In the event that the criminal proceedings did not end with the conviction of the person identified as responsible by the public administration body, this person would have the right to return funds from the state. In sum, at the level of the primary financial burden, the situation would turn 180 degrees in the proposed regime.

As was evident from the previous text, if facts indicating the commission of a criminal offence were not found, the competent administrative authority will start proceedings to determine the responsible person, in which it proceeds as follows²⁹:

The competent administrative authority should (a) find the person responsible for the illegal placement of waste; (b) ascertain whether the owner, manceiple, or lessee of the property on which waste was illegally placed, did not neglect the obligation to take all measures to protect his property according to a special regulation

29 | The proceedings proceed according to § 15 art. 9 to 12 of the Act on Waste.

or an obligation according to a court decision, or whether he had a financial benefit or other benefit from this placement of waste, especially if he does not identify the person according to letter a).

If the competent body finds the person responsible for the illegal placement of waste according to § 15 art. 9 letter a) of the Act on Waste, it designates by a decision this person as one obliged to ensure the disposal of illegally placed waste. If the competent body finds the facts that establish the owner's liability according to the law (or the liability of the manciple or the lessee), it designates the owner, manciple or lessee of the property on which waste has been illegally placed, as the person obliged to ensure the disposal of illegally placed waste. In both cases the competent authority also determines a reasonable period for removal of the waste.

If, following the procedure mentioned earlier, no responsible person is found, the competent authority shall terminate the procedure for identifying the responsible person with a decision stating this fact (i.e., it was not possible to find the person responsible).

The person designated as responsible for dealing with illegally placed waste is obliged to ensure the recovery or disposal of this waste in accordance with the law at his/her own expense. If the respective waste is municipal waste or minor construction waste, the responsible person shall do so exclusively through a person who has a contract for this activity with the municipality according to § 81 art. 13 of the Act on Waste, or directly through the municipality, if the municipality provides this activity itself.

In the cases referred to in § 15, Articles 7 (the case when the procedure for determining the responsible person does not start, because the matter was handed over to the law enforcement authorities /due to the suspicion of committing a crime), 12 (the case, when in the proceedings it was not possible to determine the person obliged to ensure the disposal of illegally placed waste, and thus the proceedings was terminated), and 19 (cases where the law enforcement authority initiated proceedings), the competent authority of the state administration of waste management shall initiate proceedings in the matter of determining the person obliged to ensure the recovery or disposal of illegally placed waste. In the decision, the competent authority shall state that the recovery or disposal of illegally placed waste shall be ensured within a specified reasonable period, so that there is no threat to life or health of people or damage to the environment, by (a) the municipality on whose territory waste was illegally placed, if it is municipal waste or minor construction waste, (b) the competent body of the state administration of waste management, if it concerns waste other than the waste listed in letter a), (c) the holder of illegally placed waste or the person referred to in § 15 art. 2 of the Act on Waste, if he or she expresses an interest in ensuring the recovery or disposal of illegally placed waste.

All three categories of designated responsible persons (listed above) are obliged to take care of the recovery or disposal at their own expense. Whoever of them

has ensured waste recovery or waste disposal is entitled to the reimbursement of incurred costs against the person who is responsible for the illegal placement of waste. If funds from the Environmental Fund are provided to ensure waste recovery or waste disposal, the costs that are reimbursed, are income of the Environmental Fund.

There is also a special regulation concerning illegally placed municipal waste or minor construction waste.³⁰ The municipality is entitled to ensure, in accordance with this law, the recovery or disposal of illegally placed municipal waste or minor construction waste, immediately after its detection, in which case the previously mentioned procedure³¹ shall not apply; the municipality is obliged to inform the competent body of the state administration of waste management about it within three working days at the latest. The purpose of this specific regulation is to allow municipalities to remove smaller illegal landfills on their territory containing less dangerous types of waste promptly and without formalities.

In principle, it can be stated that the normative framework for identifying persons responsible for the illegal dumping of waste and for the removal of such waste in the Slovak Waste Act is set functionally. The following can be identified as potential weak points:

- | practical identification of the responsible person; however, this problem is apparently not quite well solvable normatively, and the solution is rather proactive control by municipalities and state administration bodies, which allows identifying illegal dumping of waste as soon as possible, which, among other things, also has a preventive effect (in Slovak there is a saying 'a big pile asks for more', and this undoubtedly applies literally in the case of illegal landfills, since if people see that other people are getting rid of waste in a specific place, they tend to dump their waste there too); and
- | legal exclusion of the possibility of simultaneous investigation of the responsible person by law enforcement authorities and state waste management authorities may not be an effective solution from the point of view of quick and effective detection of a person for the purpose of financial coverage of waste removal.

The practical problems of the application of the normative framework are also the finding that illegally stored waste is located somewhere, and the issue of financial coverage of its removal by the municipality.

It can be concluded that the existing normative regulation is not capable of completely preventing the creation of illegal landfills (including the level of general prevention), but apart from some practical problems, it provides a functional and suitable framework for tackling the problem.

30 | See § 15 art. 18 of the Act on Waste.

31 | Procedure according to § 15 articles 3 to 17 of the Act on Waste.

5.2. Penal consequences of illegal waste dumping

As Šedová and Haluš correctly state, the consistent application of fines for the creation of illegal landfills can effectively reduce their creation. A person who decides whether to dump waste illegally, at least subconsciously, compares the benefits and costs of doing so. The benefits include lower waste disposal costs in particular. The costs mainly represent the amount of the fine and the probability of being caught, the social costs (shame) in the community in case of being caught, or the distance that has to be covered to the illegal dump. The empirical model of the mentioned authors, and similarly, as Šedová and Haluš state, also foreign studies, confirm that higher costs of illegal dumping can significantly limit its occurrence. Accordingly, they conclude that the first step in the fight against illegal landfills should therefore not be to deal with the consequences but to prevent them from occurring by consistently punishing the offenders, potentially by increasing fines or by exposing the offender to public defamation (disclosure of the offenders).³²

In the case of illegal dumping of waste, two lines of sanctions come into consideration. In less serious cases of violation of the law, it can be an infringement or another administrative offence, and in more serious cases, it can be a criminal offence. Thus, the establishment of an illegal landfill can also constitute a crime against the environment. As already mentioned, before the district authority begins to investigate the person responsible for the illegal dumping of waste, it determines whether the circumstances indicate that it could be a crime. The boundary between an infringement and a criminal offence in the Slovak legal order is formed by the value of the damage that is caused (or threatened to arise) by the act or the extent of the act. In the case of crimes against the environment, damage means the sum of ecological and property damage, while property damage also includes the costs of restoring the environment to its previous state.³³ The distinction between criminal offences and infringements is generally determined by the so called substantive corrective (§ 10 par. 2 of the Criminal Code), according to which there is no misdemeanour³⁴ if, with regard to the manner in which the act is carried out and its consequences, circumstances in which the act is committed, degree of fault, and motivation of the offender, the seriousness of the conduct is negligible. If the circumstances warrant the use of this corrective measure, it will likely be considered an infringement. I should also mention that the *ne bis in idem* principle³⁵ and the prohibition of double punishment should prevent double punishment for both the criminal and administrative offences.

Infringements governed by the Act on Waste are regulated by § 115 of the Act. According to this regulation, an infringement is committed by a person who, inter

32 | Šedová & Haluš 2016

33 | Mochorovská 2023

34 | A misdemeanour is a less serious category of criminal offenses in the Slovak penal system.

35 | Hamuláková 2017, 55.

alia, (a) handles waste in violation of this act [§ 12 art. 1 and 2] (b) places waste in a place other than that designated by the municipality [§ 13 letter a)] (c) recovers or disposes of waste in violation of this act [§ 13 letter b)]

Of these offences, for the cases covered by our paper, the one I present as the second one has key relevance. It is therefore an infringement under § 115 art. 1 letter b) of the Act on Waste. For committing this infringement, a fine of up to EUR 1,500 may be imposed.³⁶ The proceedings regarding this infringement fall in the scope of competence of the municipality.³⁷

However, other infringements with stricter fine rates also come into consideration, these in some cases are dealt with by the district authorities—these are cases where, by depositing waste at an illegal waste dump, special obligations regarding special types of waste would be violated. For example, it could be the case of illegal dumping of batteries or electrical waste in an illegal landfill.

It is also necessary to mention the infringement according to § 115 art. 1 letter u) of the Act on Waste. This infringement is committed by a person who, by the decision of the district office issued in the administrative procedure, which I have discussed in the previous subsection, is designated as the person responsible for dealing with illegally placed waste. Let us repeat that this person is obliged to ensure the recovery or disposal of this waste in accordance with this law at his/her own expense; if it is municipal waste or minor construction waste, he/she shall do so exclusively through a person who has a contract with the municipality for this activity, or through the municipality, if the municipality provides this activity itself. Therefore, if these obligations were to be violated, it is a more severe offence because it is a more serious violation of the law. Thus, a stricter fine (up to EUR 2,500) can be imposed for this infringement, and a hierarchically higher authority is responsible: the district authority.³⁸

Legal entities and natural persons: entrepreneurs can be sanctioned for similar actions within the scope of responsibility for so-called other administrative offences (they are also called ‘hybrid administrative offences’ in Slovak theory³⁹). Unlike infringements, which require culpability, other administrative offenses are based on objective liability and therefore do not require or investigate culpability. Therefore, if a legal entity violates the prohibition to store or dump waste in a place other than that designated for it in accordance with this law⁴⁰, a fine of from EUR 4,000 to EUR 350,000 may be imposed for such an administrative offence.⁴¹ Both the district authority⁴² (and the district authority in the seat of a region⁴³) and the

36 | § 115 art. 2 letter a) of the Act on Waste.

37 | § 115 art. 3 letter a) of the Act on Waste.

38 | § 115 art. 2 letter b) and § 115 art. 3 letter b) of the Act on Waste.

39 | Hamuláková & Horvat 2019, 179. or Vrabko et al. 2012, 301.

40 | § 13 letter a) of the Act on Waste.

41 | § 117 art. 6 of the Act on Waste.

42 | See § 108 art. 1 letter j) of the Act on Waste.

43 | See § 107 letter k) of the Act on Waste.

Slovak Environmental Inspection⁴⁴ can be responsible for proceedings in matters of such other administrative offences under § 117 of the Act on Waste.

In cases of infringements, as well as in cases of other administrative offences, the responsible person can be imposed an obligation to take corrective measures in addition to a fine.⁴⁵

Finally, let us mention that in certain cases, where a fine for an offence was imposed by the municipality, the income from its payment goes to the municipality's budget. In other cases, the revenue from fines is the income of the Environmental Fund.⁴⁶

The legal regulation of criminal liability in the field of waste management is an example where national legislation is fundamentally influenced by European law. According to the Directive 2008/99/EC of the European Parliament and of the Council of November 19, 2008, on environmental protection through criminal law, the member states shall ensure that, inter alia, the following conduct constitutes a criminal offence: "*...(b) Supervision, collection, transport, recovery, disposal, and after-care of waste by dealers or brokers (waste management), which causes, or is likely to cause, death or serious injury to any person or substantial damage to the quality of air, soil, or water, or animals or plants. (c) Shipment of waste within the scope of Article 2(35) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of June 14, 2006, undertaken in a non-negligible quantity, whether executed in single or several shipments...*"⁴⁷

At the level of Slovak criminal law, the criminal offence 'unauthorised handling of waste' comes into consideration according to § 302 of the Slovak Criminal Code: Whoever, even negligently, disposes of waste on a small scale in violation of generally binding legal regulations, commits this criminal offence and he or she shall be punished by imprisonment for up to two years.

For more serious cases, the law also regulates the so-called qualified facts⁴⁸: The offender shall be punished by imprisonment for six months to three years if he or she commits this act and puts the environment at risk of greater damage or places another person by such act in danger of serious injury or death. The offender shall be punished by imprisonment for one to five years if he commits the mentioned act to a significant extent. The offender shall be punished by imprisonment for three to eight years if he commits the mentioned act and either causes serious injury or death by it or commits it on a large scale.

44 | See § 106 letter b) of the Act on Waste.

45 | § 115 art. 4 and § 116 Art. 3 of the Act on Waste.

46 | § 116 art. 6 of the Act on Waste.

47 | See Udvarhelyi 2023, 159–170.

48 | This regulation is also in accordance with the above-mentioned directive 2008/99/EC on environmental protection through criminal law.

6. Illegal waste landfills

In addition to cases where waste is dumped ‘spontaneously’ in random places in violation of the law, more serious negative phenomena can occur when unofficial waste dumps are operated without the necessary permits. Slovak law ‘remembers’ such situations and the Act on Waste regulates them mainly in its provisions § 114b.

In such cases, the state waste management authority may order the waste landfill operator who has not fulfilled the obligation to submit an application for approval pursuant to § 97 art. 1 letter j) and has not fulfilled all the requirements and conditions for issuing consent according to § 97 art. 1 letter j), to carry out the actions necessary to close the waste dump or part of it or carry out its reclamation within the period determined by the decision. If the operator of the waste dump has not carried out all the necessary actions in accordance with the decision, the state waste management authority can ensure, through a legal entity or a natural person who has authorisation for construction work, the execution of these actions and also the execution of works for the purpose of closing the waste dump or its part or carrying out its recultivation at the expense of the waste dump operator.

7. Selected types of waste that are significantly involved in illegal dumping

In this chapter, which concludes the present paper, I will briefly outline selected types of waste, which to a significant extent become the object of illegal dumping. I will briefly discuss what legal regimes apply to their management, as these legal regimes are intended, among other things, to contribute to the prevention of illegal landfills.

7.1. Special regulation of construction waste and demolition waste

Both construction and demolition waste arise as a result of construction works, securing works on constructions, as well as works performed during building maintenance, when modifying buildings or removing structures (‘construction and demolition work’).

If the waste was generated during construction and demolition works carried out at the seat or place of business, organisational component, or in another place of operation of a legal entity or a natural person (entrepreneur), this legal entity or this natural person – entrepreneur (who was issued permit according to a special

regulation⁴⁹) – is considered by law to be the originator of the waste. When performing similar work for natural persons, the person who performs said work is the originator of the waste.

The originator of waste is responsible for waste management in accordance with the Act on Waste. In addition to the general obligations⁵⁰, the originator of the construction waste and demolition waste is required (inter alia) to ensure the recovery and recycling of construction waste and demolition waste, including backfilling as a substitute for other materials, in a prescribed extent, to carry out selective demolition in such a way as to ensure their maximum reuse and recycling.

The law also determines some special notification obligations for the originator, either ex ante or ex post.

Construction and demolition waste should preferably be materially recovered and the output from recycling reused at the place of origin – preferably in the activity of the originator, if technical, economic and organisational conditions allow it. The material recovery of the construction waste generated during the construction, maintenance, reconstruction, or demolition of roads should be carried out as a matter of priority in such a way that it is used especially for the construction, reconstruction or maintenance of roads.

7.2. Special regulation of municipal waste and minor construction waste

Municipal waste⁵¹ is (a) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, biological waste, wood, textiles, packaging, waste from electrical and electronic equipment, used batteries and accumulators, and bulky waste, including mattresses and furniture, (b) mixed waste and separately collected waste from other sources, if this waste is similar in nature and composition to household waste.

Municipal waste is not deemed to be hazardous; it generally includes waste generated by households, shops, offices, and other commercial units, and it includes paper, cardboard, glass, plastics, metals, organic matter, and putrescible materials. Landfill is accounting for the majority of disposal of municipal waste in OECD countries (the other most significant technique being incineration).⁵² According to Marišová and Fandel, as of 2021, Slovakia's rate of waste incineration with energy recovery and landfilling rate of municipal waste are below the EU average, while the recycling rate, both for materials and composting and digestion,

49 | It will typically be a building permit according to the Building Act.

50 | Obligations of the originator of waste according to § 14 art. 1 of the Act on Waste.

51 | Municipal waste is regulated in the Act on Waste in the provisions of § 80 et seq.

52 | Sands 2009, 678.

is higher.⁵³ It should be remembered that municipal waste has great potential in a circular economy.⁵⁴

The legislation also subjects so-called minor construction waste to the same legal regime as municipal waste. Minor construction waste is that from common maintenance work on a construction carried out by or for a natural person, for which a local fee for municipal waste and small construction waste is paid. It is therefore waste from the smallest construction activities, such as replacing non-essential partitions, repairing roofing, repairing plaster, replacing windows and doors, and the like.

The Act on Waste also contains a negative definition of municipal waste: Municipal waste does not include waste from production, waste from agriculture, forestry and fishing, waste from septic tanks, sewage networks and treatment plants including sewage sludge, old vehicles, construction waste, or demolition waste.

7.3.1. Management of municipal waste and minor construction waste

Municipal waste management⁵⁵ is a responsibility of: (a) the municipality, in the cases of: (1) mixed waste and separately collected waste from households, (2) mixed waste from other sources, (3) minor construction waste, (b) the originator of waste, a natural person, which is an entrepreneur and a legal entity, in these cases: (1) separately collected waste from other sources that are not covered by extended producer responsibility (2) electrical waste and used batteries and accumulators (3) separately collected packaging waste from other sources and separately collected waste from non-packaged products from other sources (4) separately collected waste from disposable packaging for drinks, which was rejected by the packaging distributor on the grounds that they do not meet the requirements for collection according to a special regulation

The costs of the collection container for mixed municipal waste shall be borne by the original producer of the waste. The municipality shall establish in a generally binding regulation the amount of these costs and their inclusion in the local fee for municipal waste and small construction waste or establish another method of their payment. The costs of providing collection containers for the sorted collection of components of municipal waste, where extended producer responsibility is applied, are borne by the manufacturer of such specific products, the relevant producer responsibility organisation or a third party. The costs of providing collection containers and compost bins for the sorted collection of components of municipal waste, where extended producer responsibility

53 | Marišová & Fandel 2024, 65–84.

54 | Šimková & Bednářová 2021, 56–68.

55 | See § 81 of the Act on Waste.

does not apply, are borne by the municipality and may be included in the local fee for municipal waste and minor construction waste. The municipality may establish in a generally binding regulation another method of payment for the costs of providing collection containers and compost bins for biodegradable municipal waste.

The law regulates in detail the special obligations regarding the management of municipal and minor construction waste, including the regulation of what the municipality has to regulate in its generally binding regulation. Moreover, it not only regulates more detailed issues of the costs of handling this type of waste but also governs issues of contractual relations between municipalities and persons who ensure the collection of separated waste and other specific activities for the municipalities.

7.3.2. Collection yard

The so-called collection yards significantly help prevent the creation of unauthorised landfills. A collection yard is a facility for the collection of municipal waste and minor construction waste established by a municipality or an association of municipalities and operated by a municipality, an association of municipalities or a person who has a contract with the municipality or an association of municipalities for this activity; an approval of the competent authority of the state administration of waste management is required for the operation of the collection yard. At the collection yard, a natural person can hand over small construction waste, bulky waste, waste whose collection at the collection yard is permitted by the law, and separately collected components of municipal waste within the scope of sorted collection established in the generally binding regulation of the municipality.

Every natural person may hand over separately collected components of municipal waste free of charge⁵⁶ to (a) the collection yard, which is located in the territory of the municipality in which he/she is a taxpayer, (b) the collection yard, the operation of which is ensured by the association of municipalities, whereof the municipality in which he/she is a taxpayer is a member.

Delivery of a separately collected component of municipal waste at the collection yard by other persons may be charged.

56 | Although it is possible to hand over this waste free of charge, it is not, in the true sense of the word, typifying an exception to the 'polluter pays' principle, as these persons pay a local fee for municipal and small construction waste. Regarding the 'polluter pays' principle (and landfill fees in Hungarian conditions), see e.g. Csák 2014, 48–61.

8. Conclusion

The problem of illegal landfills is quite widespread and results in serious negative environmental impacts, which have been briefly mentioned. Unfortunately, a Slovak study indicates that increasing education levels and awareness among the population are not effective enough in solving this problem; however, effective punishment for illegal waste dump appears to be a viable solution. The key is to shift the 'informal cost-benefit evaluation' that individuals make before dumping waste in illegal landfills towards recognizing the economic disadvantages of breaking the law.

This paper presented information about the legal regulation of waste management in the Slovak Republic, as they relate to the topic of illegal waste disposal.

This paper defines several activities that are included in waste management. Under the law, a prescribed hierarchy of waste management exists, which is the binding order of the following priorities: prevention of waste generation is the most desirable, followed by preparation for reuse, recycling, other recovery (e.g., energy recovery), and lastly, disposal.

Further, the paper presents waste management actors and their responsibilities. The originator and holder of waste have key roles to play. The obligations and prohibitions are presented primarily on a general level, but the paper also lists some special obligations and regimes (concerning mainly specific categories of waste).

In Chapter 3, the paper briefly outlines the organisation of the state administration of waste management in the Slovak Republic. Among the bodies of the state administration of waste management for the topic of paper most important are (a) Slovak Environmental Inspection (which has competence in permitting the operation of landfills, but also when inferring administrative legal responsibility) (b) District authority (it has important competences in particular in determining the persons responsible for illegal dumping and inferring administrative liability) (c) Municipality (in some cases, it decides on infringements, in some cases it is the entity that practically ensures the removal of illegal landfills, etc.).

Chapter 4 of the present paper deals with the legal regulation of landfills. Although this is only a brief outline of the issue, it shows clearly that the legal regulation of the establishment and operation, as well as the subsequent closure of the waste dump, is very complex. This indicates that even this aspect of the issue can to some extent be an indirect stimulant for the creation of illegal landfills. Despite this, I do not think it would be appropriate to consider reducing claims in terms of material legal prerequisites for operating waste landfills. The reason is not only the need for balancing of the importance of benefits and risks for the environment but also the fact that the connection between the administrative and economic complexity of operating 'legally established' waste dumps (and dumping waste on

them) and the emergence of illegal dumps, to be a sufficient basis for a recommendation to reduce the administrative complexity of operating landfills, would have to be proven beyond any doubts, which is not the case.

At the procedural level, any simplifications must also be made in such a way that the rights of the public are not compromised, at least to the extent of the standards of the Aarhus Convention. The integration of proceedings within the scope of material concentration can be considered an excellent procedural tool that does not threaten the rights of participants in the proceedings and is suitable to make permitting (in our case) of landfills faster and more efficient without discounting environmental protection. Integrated permitting is therefore a very useful tool, and it is also applied in the case of landfills.

The ongoing recodification of the Slovak public construction law will engender another simplification: the zoning procedure as a type of application process aimed at assessing the compliance of the building's intention with the spatial plan is to be abolished. The compliance of the building's intention with the spatial plan will now be examined only in a simplified way: by a binding opinion of the spatial planning authority, which will be issued as part of the construction procedure. This new law is currently scheduled to enter into force on April 1, 2025.

The fourth chapter also deals with the legal regulation for the termination of the operation of the landfill (including the regulation of the special financial reserve). This regulation is well set. The single most fundamental practical shortcoming can be identified in the case of the dissolution of the landfill operator without a legal successor (i.e., his bankruptcy, etc.). In such a scenario, the obligations associated with the closure and reclamation of the landfill pass to the municipality. These obligations will only go up to the amount of the special purpose financial reserve, which may not always be sufficient. In such a case, there is no other option than to look for financing instruments on the part of the state.

The fifth chapter is of key importance for the issue under scrutiny. It presents the legal consequences of illegal waste disposal. First, it tackles the topic of administrative liability for illegal placement of waste. This concerns problems such as the notification obligation regarding illegally deposited waste in relation to the authorities, issues of the procedure for determining the person responsible for the disposal of such waste, as well as the connection of these procedures with the criminal law aspects of the issue and with criminal proceedings. However, the paper understandably also deals with the criminal aspects of the issue, whether it is infringements or the so-called other (or hybrid) administrative offences, or even criminal offences.

Concerning the right or obligation to notify illegal placement of waste, the study identified a practical problem: in many cases it will be difficult to prove when the owner of the land actually learned that there was waste on his land dumped in violation of the law. A proposed solution could be a statutory regulation of the

burden of proof regarding the moment of discovery of the waste, which would apply to the landowner.

Another proposal *de lege ferenda* in this chapter concerns the change of the current approach, which excludes the simultaneous investigation of the person responsible for illegal dumping in criminal and administrative proceedings. The authorities of the state administration of waste management should be able to parallelly investigate the responsible person alongside the ongoing criminal proceedings but exclusively for the purpose of ensuring the removal of the illegal landfill.

I also point out another practical problem – the issue of identification of the responsible person; however, this problem is apparently not quite well solvable normatively, and the solution is rather proactive control by municipalities and state administration bodies.

The brief sixth chapter deals with a specific aspect of the issue, namely, illegal waste dumps in the true sense of the word. In this case, the problem entails not only the simple deposition of waste in a place where it cannot be deposited according to the law but also the organised and planned illegal operation of a waste dump.

In the penultimate, seventh chapter, the present paper also deals with selected types of waste that are significantly involved in illegal dumping, including construction and demolition waste, as well as municipal and minor construction waste.

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