



## SUMMARY OF CASE LAW ON WASTE PRODUCER LIABILITY IN EUROPE

### CZECH REPUBLIC

Most Czech cases are brought under the national Contaminated Land Law. Its provisions are broad enough to reach waste producers. See Kacabova, "[Contaminated Land Management in the Czech Republic](#)" (2008). Since most settlements are administrative, there appear to not be any reported cases with decisions in point. Under the Czech law, liability is always with the "polluter":

*"Under the "polluter pays" principle, the administrative liability for contaminated land remains with the polluter. This liability cannot be contractually passed to another person although a buyer can seek warranties and indemnities from the seller for damages or potential future damages caused to third parties by the pollution."* Clifford Chance, "Q&A on Environmental Law in Czech Republic," 2012.

Moreover, the 2014 amendments to the Czech Waste Law have squarely made waste producers of hazardous waste ultimately responsible for safe disposal. Article 9(1) provides:

*"Hazardous waste characteristics evaluated by an authorized person at the request of the producer or licensed person. If the authorized person that the waste is not hazardous properties he shall issue a certificate of elimination of hazardous properties (the "Certificate"). Otherwise, the authorized person shall communicate in writing to the applicant on the grounds that the waste has one or more hazardous properties (the "Notice"). A copy of the certificate or notification sends the originator or the beneficiary immediately Czech Environmental Inspectorate (hereinafter the "Inspection") and the regional authority in the place of waste treatment. The certificate does not relieve the waste producer and the licensed person from the obligation to dispose of waste in a manner to prevent environmental damage, and liability for damage caused by improper waste management." (emphasis added).<sup>1</sup>*

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<sup>1</sup> For waste in general (nonhazardous) it appears that the waste law may simply allow for transfer of the responsibilities to a licensed third-party. See Article 16(1). However, other Czech and EU law will provide arguments for continued waste producer responsibility even in the case of non-hazardous waste in the Czech Republic.

The above language is a major change in the Czech Law on Waste which previously simply read that transfer must be to a licensed person and responsibility would shift under the act. The amendments to the Waste Law are too recent to have generated reported cases. But legal writers have not expressed any doubt over the scope of liability provided in the laws in the Czech Republic.

**Note:** Nothing in the waste law transposed into national law supersedes, replaces or negates potential liability under the Environmental Liability Directive or the Industrial Emissions Directive (IPPC). Both of which have been applied to waste producers.

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