



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

### LITHUANIA

The jurisdiction is relatively small and there are consequently not a lot of reported cases. However, the statute is transposed from the Revised Waste Framework Directive and the Supreme Administrative Court has informally embraced the German approach as well as indicating in *dicta* that the waste producer should be the principal liable party if the operator responsible for the contamination cannot be pursued.

**Article 3(1) of the Waste Law as amended in 2011:** *“The waste management activities of the participating entities are responsible for the waste associated with their activities...”* **Article 32:** *“The principle of "polluter pays. (1) In the field of waste management principle of "polluter pays" principle, which means that the cost of waste management must pay the original waste producer or by the current or previous holder of the waste and (or) products for which the use of waste generation, the manufacturer or importer.”*

The journal of the Lithuanian Supreme Administrative Court published a German case on waste producer liability in 2007. See *ADMINISTRACINĖ JURISPRUDENCIJA Lithuania Administrative Court Review, No. 12, 2007, Vilnius*. The official journal noted:

*“The Federal Administrative Court of Germany (in German. Bundesverwaltungsgericht ) in the area of waste management in the most important case, the question of when to end liability of the waste holder. Tightening requirements for waste management and the increasing number of laws governing waste management, waste management The legal issues are becoming increasingly important, and it is likely that this type of disputes often have to face Lithuania and administrative courts. Attention note that although the German Federal Administrative Court conspicuous case did not rely on EC law and applied only to the national provisions, but the court indicated that environmental law is based on the universally valid principle of "polluter pays" (Germ. Versursacherprinzip ), and this principle applies to Lithuanian law (see. Lithuania Republic Waste Management Law Article 32, paragraph 1, the Official Gazette., 2002, no. 72-3016).”*

The German case was summarized in the journal as follows: *“The German Federal Administrative Court ruled that if the original holder entrusts the processing of waste to third parties, it remains the responsibility of the producer to assure a proper waste disposal site, even if the ... contract to third parties transfers the waste, and the right to manage it. If ... liable person [who mismanaged the waste] is insolvent, the previous*

holder or respectively, the undertaking ... which [produced] the waste ...[retains] the obligation arises properly manage waste.“ Id. at 236.

The German case noted that “*Under the Waste Management Act 1 of Article 16 sentence of paragraph 2, a third party may be utilized only to execute the obligation to dispose of the waste, rather than transferring the responsibility before the law....*”  
30 Gesetz zur Förderung der KREISLAUFWIRTSCHAFT Sicherung und von der umweltverträglichen Remedy Abfällen (Kreislaufwirtschafts- und Abfallgesetz) vom 27 September 1994 (Federal Law Gazette. I. S. 2705), as geändert zuletzt durch des Gesetzes 2 Artikel vom 19 Juli 2007 (Federal Law Gazette. I. S. 1462). LINK: German Court Opinion, [BVerwG 7 C 5:07](#) The German opinion cited with approval in the Lithuanian journal noted: “*it would be inconsistent if [a waste producer] ...could just get rid of the waste [and his obligation] by transferring ownership to a third party.*”

**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.

### **CONTACT INFORMATION:**

Randy Mott JD, Director for Europe, the Middle East and Africa, CHWMEG, +48-607339012, [europe@chwmeq.org](mailto:europe@chwmeq.org).

**To report dead links in the above, provide feedback, or to notify CHWMEG that updates to this information are necessary,** click the link below to send an email to Randy Mott (type a brief note with your feedback before sending your email):

<mailto:europe@chwmeq.org?subject=- LITHUANIA -- Feedback/Dead Link/Update Required for Accessing CASE STUDY Information>