



SUMMARY OF CASE LAW ON WASTE PRODUCER LIABILITY IN EUROPE

Name of case: Az. 2 K 2191/99

Country and court: VG Freiberg, Court of Appeals

Date of holding: March 14, 2001

Summary of facts: An aggregator contractor for waste plastics took in material from several sources and mixed it with ultimate recovery or treatment going to yet a third party. Upon the bankruptcy of the aggregator, about 2000 tons of plastic waste remained onsite. Local authorities insisted that it be properly treated and the original waste producers were notified. The German court held that the *“responsibility of waste producers for the fulfillment of the obligations under the Waste Recovery / Recycling Act remained the same even if they, like the applicant, entrusted third parties with the performance of these duties.”* The court specifically rejected the argument of the producers that *“the [cleanup] order is unlawful because their legal responsibility for the waste ended with the transfer of waste to the [waste management] company....”* The waste producers argued that they had made the standard of care required in selecting the vendor, who had not had previous problems. The price was low, but appropriate according to their position. The mixing of the plastic waste did not extend the liability of the individual producers to the entire mixture, but they retained responsibility for their original volumetric share. The Court held that the responsibility could not be transferred.

Legal basis for holding waste generator or producer liable:

The waste producer and original owner who entrust third party with the waste , in accordance with the Waste Recovery and Recycling Act § 16 Section 1 Sentence 2 remains liable even after transfer of waste until proper disposal the waste occurs.

This is the older German law and was made even more restrictive in 2012. Revision of §22 KrWG: *“That the utilization and removal obligation can be delegated to third parties to fulfill of [the waste producer’s] duties. But responsibility for the fulfillment of the duties hereof remains untouched and exist until the disposal is completed and properly done.”*

Scope of damages or relief ordered: Removal of the pro rat share of the plastic wastes by each waste producer and its proper treatment required by the statute and applicable regulations.

Case [link in German](#). Links to new law reference [\(1\)](#); [\(2\)](#).

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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