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Fiscal Resources of Local Self – Government Budgets from Environmental Charges on Czech Republic

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Abstract Protection and creation of environment represents a significant problem in Czech society - at the state and local governments. The state, regions and municipalities are responsible for creating and maintaining a healthy environment for their citizens and for future generations. Economic development brings the raising of living standards on one side, however, presents on the other side many negative moments resulting from the creation of environmental burdens of various kinds, in particular, the territory exploitation by mining activities, water and air pollution and industrial and municipal waste disposal. The state imposes taxes and charges on originators of environmental burdens, whose revenue is then used to finance programs and projects for the rehabilitation of the environment and its gradual improvement. This article is the outline of these payments catalog.

Keywords: • environmental charges • municipality • regions • Czech Republic

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1 Introduction

Jurisprudence in the Czech Republic does attempt to find an exact definition of environment, even the definition of some of its sharp boundaries is considered harmful for legal protection of the environment. The general definition of the environment gives ample scope for the application of legal instruments for its protection. Then it is difficult to determine which tools of legal tax and charges regulations serve to protect the environment.

Milan Pekárek, a significant figure in Czech environmental law science, notes: *"Under the term 'environment' we understand space or portion thereof, in which exists or may exist life. This space must have a quality that allows the existence of life for the possibility of this life existence. The quality of a particular space determines everything that is in it and therefore it is part of it, even in relations between them. The part of the environment is every form of life that is in it."* (Pekárek, 2009: 17). Ecological aspects of some elements in the tax structure are obvious. They are supporting the choice of ecologically friendly products or, conversely, they burden those persons whose actions adversely affect the environment by taxes and charges. Environmental law is built on the following principles:

- The principle of highest protection,
- The principle of sustainable development,
- The principle of a comprehensive environmental concept is its integrated protection,
- The principle of prevention,
- The precautionary principle,
- The principle of admissible levels of environmental burden,
- The principle of producer responsibility in environmental burdens
- The principle of protection of the environment as a universal obligation,
- The principle of the individuals and the public participation in environmental decision-making. (Pekárek, 2009: 71 - 76)

The principles of environmental law were essentially took over by the financial law, including tax law, if there is a legal financial regulation relating to the environment. This is also due to the fact that environmental law and financial law is strongly influenced by European Union law. Charter of Fundamental Rights and Freedoms, which is part of the constitutional system of the Czech Republic (art. 3 of Constitution of the Czech Republic) and was taken from the law of the defunct Czechoslovak federation (Constitutional Act no. 23/1991 Coll.), contains the right to a favorable environment as part of economic, cultural and social rights (art. 35/1 of Charter of Fundamental Rights and Freedoms). This right is not only the right of citizens of the Czech Republic, but applies literally to everyone. The state

has an obligation create by all means a favorable environment, therefore also by the use of financial instruments. Environment receives the highest protection from the constitutional order. Only law can establish admissible limits of potential threats to the stability of the environment (art. 35/3 of Charter of Fundamental Rights and Freedoms). If limits are not set, there is the general principle limiting the right of everyone while exercising his rights that nobody may endanger or harm the environment, natural resources, the wealth of natural species and cultural monuments. The exceeding of the limits established by law or general damage or threat of ecological values in the absence of these limits, are penalized under the administrative punishment by fines, in the case of if greater danger to the society even by the criminal law. The imposition and enforcement of sanctions does not affect the obligation to compensate the damage or obligation to remedy environmental damage at own expense.

Acting within the limits established by the law is the subject to environmental charges, however burdensome or threatening it is to environment. Environmental charges have a specific character. Environmental charges, as all other charges, do not fulfill primarily a fiscal function. Their primary purpose is not to finance public budgets (public funds), but to motivate people to environmentally friendly behavior. In situations when people have basically no other choice of action, as in the case of municipal waste, the fiscal purpose of the application of the charge is obvious, but with an objective link to finance the protection and creation of environment. Environmental charges have not equivalent compensation, which is the primary feature of the charge and differ the charge from the tax. Environmental charges fulfill substantially the definition of taxes. There is the term "eco-taxes" in the Czech literature. Some authors refers by this term incorrectly to the triad of energy taxes, whose establishment was justified by environmental aspects, but their purpose is purely fiscal and they are not earmarked to boost the expenditure on protection and conservation of environment.

There is a number of definitions of environmental taxes in the Czech literature. "Tax" is meant as a summary term covering taxes *sensu stricto*, charges and levies. Regarding this, the environmental taxes are considered as:

1. Payments to public budgets, which were established to achieve their positive effect on the environment or
2. Payments that have a positive impact on the environment. (Kubátová, 2006: 250)

Czech law did not create a common arrangement of environmental charges, in contrast to administrative charges for management and actions of public authorities and court charges. The same applies to the taxes *sensu stricto* and levies. Legislation is fragmented, which has a negative impact on the overall concept of environmental taxes *sensu largo*. Main insufficiencies are:

1. Inaccurate designation of the payment as charge in cases when the payment to public budget (fund) shows signs of the tax.
2. Remaining in the use of the term "levy" in the case when the content of levy fulfills the definition of tax.
3. Different approach to the subsidiary use of general administrative process in the Administrative Procedure Code (act no. 500/2004 Coll.) or general tax process in the Tax Procedure Code (act no. 280/2009 Coll.) next to the special procedural legislation of the environmental taxes in their assessment. There are two general procedural codes applying for the field of financial management In Czech law. First, it is the Administrative Procedure Code, which is a general procedural code of the public administration, and secondly it's the Tax Procedure Code, which contains general rules on tax administration and tax process. The principle applies that in the case you use the Tax Procedure Code; the Administrative Procedure Code will not be used (art. 262 of Tax procedure Code). It is, however, a relative prohibition, especially in the case of applying the general principles of public administration (art. 177/1 Administrative Procedure Code) and in the absence of regulation of rights of individuals - the addressees of the tax administration.
4. A complex system of so-called divided administration. Divided Administration is either procedurally divided administration or institutionally divided administration. Procedurally divided administration is the case of process division when the finding the essence of taxation and its assessment is in the Administrative Procedural Code and the collection and payment of taxes is under the Tax Procedural Code. Institutionally divided administration is when the tax assessment is the responsibility of one authority and administration of paying taxes of the other, possibly the recovering of taxes can also be entrusted to another authority.
5. The recipient of most of the environmental charges - the State Environmental Fund does not have the status of tax administrator (tax authority).
6. Many alternative ways of charging (taxation), the choice of alternatives depends on the will of the municipality. An example is the management of municipal waste, which was produced by natural persons. It may be a payment under the contract, the charge under the Waste Act or the local tax established by local municipal decree. But it must not lead to their accumulation, in the opposite case it would be an impermissible double - triple taxation.

Significant income of municipalities, which is specifically linked to environmental protection, is income from subsidies. Subsidies are irregular, unpredictable and earmarked revenue of local (regional) budget, for which there is no legal entitlement. Subsidies for support of the environment are provided from the state budget, State Environmental Fund and European Union funds. Subsidies, in many

cases, are the only source from which the municipalities can finance the fulfillment of the obligations arising from the increasing regulation of environmental law. Municipalities must meet a series of requirements that arise from national or European legislation, while an appropriate method of financing is not ensured. Revenue from environmental taxes and charges is inadequate and do not cover expenses for the fulfillment of all legal requirements. In many cases, those requirements are associated with the need to implement significant investment projects (e.g. construction of wastewater treatment plant).

2 Local Charges (Local Taxes)

Local charges are charges only by the name, but by the character they are local or better municipal taxes (Radvan, 2002). Local charges are established by the municipality in the exercise of self-government, according to the Act on local fees (act no. 565/1990 Coll.). The Act contains a catalog of local taxes from which the municipality in its sole discretion can choose a tax which will be established on its territory. The basic elements of the charges are contained in the Act and the municipality is adapting them according to its own conditions in the boundaries of the Act. With the environment are connected, these local taxes (local charges):

1. The charge for dogs,
2. The charge for spa or recreational stay,
3. The charge for the permission to drive a motor vehicle in selected areas and urban parts,
4. The charge for the operation of the system for collection, transportation, sorting, use and disposal of municipal waste.

The charge for dogs is property tax, which taxes the possession of dogs older than 3 months (art. 2 of Act on Local Charges). The primary purpose of dog taxation is regulating their quantity and secondarily purpose is fiscal. The Czech Republic is the country with the largest amount of dogs per capita in Europe. About 2 million dogs live in 4.5 million (FEDIAF, 2010). The dogs are an ecological burden especially in cities. Tax burden, repression of cleanliness and order rules violation, but also the overall cultural change in the behavior of dog owners has led to a positive state of cleanliness of public greenery in cities. Although the number of dogs kept in households increases, they no longer pose an environmental problem such as in the eighties and early nineties. The charge for dogs so today has more fiscal function, as investments of municipalities in measures to eliminate the impact of dogs on the environment are lower than the charge income.

The charge for spa or recreational stay is a tax which compensates municipalities the environmental burden associated with tourism (art. 3 of Act on Local Charges). The Act does not define the obligation of municipalities to invest collected money in the protection and creation of the environment in tourism services (Pařízková, 2013: 69).

The charge for the permission to drive a motor vehicle in selected areas and urban parts is in terms of the tax theory the only real charge. The charge payment allows entrance of motor vehicles to places determined by a municipal decree (art. 10 of Act on Local Charges). The purpose is to regulate the environmental burden associated with the motor vehicles in municipalities. The municipality is not obliged to use the funds for expenses related to the environment.

The charge for the operation of the system for collection, transportation, sorting, use and disposal of municipal waste is a tax paid by natural persons who are residents in the municipality regardless of whether the municipal waste they produce or not. Legal entities are obliged to arrange collection and disposal of waste under the Waste Act because they are not connected to that system (art. 10b of Act on Local Charges).

All local charges are administered by municipal office. The Act on Local Charges defines for each charge, *de facto* tax, the circuit of payers and the subjects of the charge, the objects of the charges, the base rate and limits. It also contains a special provisions on local charges administration. Generally, the Tax Procedure Code (act no. 280/2009 Coll.), which is code for tax administration and tax process, is applied.

3 Ecological Taxes in Legislation of Environment Protection and Creation

3.1 The Charge under the Air Protection Act

The Air Protection Act (act no. 201/2012 Coll.) imposes a uniform charge for pollution that burdens the operators of stationary sources of pollution. These stationary sources of pollution are defined by the Act. Furthermore, the taxpayers are the persons to whom the Act imposes an obligation to determine the level of air pollution caused by their activities. This charge relates primarily to industrial enterprises and not on the population. They is, however, a tendency to charge the population in the future and thus put pressure on them to use particularly environmentally friendly ways for heating. The charge is administrated by regional offices, the collection and enforcement is administrated by custom administration bodies. The revenue from the charge is divided since 2017 between the State Environmental Fund (65%), region (25%) and the state (10%). In all cases, these funds must then be used to create and protect the environment. In terms of tax theory and the theory of tax law, the charge for pollution is a tax (Boháč, 2013: 122) and not a charge. Administration of this charge and procedure is defined by the Tax Procedure Code.

3.2 The charge under the Act on storage of carbon dioxide into natural geological structures

The Act on storage of carbon dioxide into natural geological structures (act no. 85/2012 Coll.) impose the charge for carbon (CO_2) storage (art. 14). The charge is paid by store operator. District mining authority is the charge administration. The revenue is an income of the budget of the municipality where the storage is located. The further use of this income is not determined. Administration and management of the fee are governed by the Tax Code. In terms of theory is not a classic fee but a tax. Administration of this charge and procedure is defined by the Tax Procedure Code. In terms of tax theory, this charge is a tax.

3.3 Charges under the Water Act

The purpose of the Water Act (act no. 254/2001 Coll.) is to protect surface water and groundwater, to establish the conditions for economic utilization of water resources and to preserve and improve the quality of surface water and groundwater, to create conditions for reducing the adverse effects of floods and droughts and to ensure the safety of waterworks in accordance with European Union law. The purpose of the Water Act is also to contribute to ensuring drinking water supply and to protect aquatic ecosystems and terrestrial ecosystems which directly depend on them. The Water Act regulates four charges, which by their nature are taxes on water management. These charges are:

1. Charge for groundwater abstraction (art. 88 of Water Act),
2. Charge for pollution of wastewater drain (art. 90 of Water Act),
3. Charge for volume of wastewater drain (art. 89 - 90 of Water Act),
4. Charge for allowed drain of wastewater to groundwater (art. 100 of Water Act).

Charge administration is very complicated and involved several government bodies. The Czech Environmental Inspectorate (act no. 282/1991 Coll.) assesses the charge based on the charge declaration of polluter. The Customs Administration Body (art. 8/2a) of the Act on Custom Administration of Czech republic) collects and eventually enforced the charge. The charges are administered by the Tax Procedure Code which involved also the procedural rules. In the case of the charge for allowed drain of wastewater to groundwater it is a divided administration – the charge is assessed by appropriate water authority (authorized municipal office), but the payment and enforcement is then the responsibility of the municipality where the drain takes place. The budget allocation of charges is determined as follows:

1. Charge for groundwater abstraction – 50 % to region according to the place of water intake and 50 % to State Environmental Fund of the Czech Republic. The charges which are a part of the regional budget can only be used to support the construction and rehabilitation of water infrastructure,

especially for the municipality in whose territory the groundwater withdrawal takes place, and to establishment and replenishment of the special account dedicated to the elimination of damage caused to waters (art. 42/4 of Water Act).
2. Charge for pollution of wastewater drain – 100 % income of the State Environmental Fund,
3. Charge for volume of wastewater drain – 100 % income of the State Environmental Fund,
4. Charge for allowed drain of wastewater to groundwater - 100 % income of the municipality in whose cadastral area the drain occurs.

3.4 Charges under the Waste Act

The Waste Act (act no. 185/2001 Coll.) implements relevant European Union standards in the Czech Republic and contains rules on waste prevention and waste management while respecting the environment, protecting human health and sustainable development, while reducing negative impacts of resource use and improving the efficiency of such use. The Act has the nature of a general regulation, and will always be applied unless a special Act provides otherwise, as is the case for example of waters (Water Act) or radioactive waste (act no. 18/1997 Coll.). The Act established the following charges:
1. Charge for municipal waste (art. 17a of Act on Waste),
2. Charge to support the collection, treatment, recovery and disposal of car wrecks (art. 37e of Act on Waste),
3. Charge for waste storing of waste (art. 45 and following of Act on Waste).

The charge for municipal waste is an alternative to the local charge for the operation of the system for collection, transportation, sorting, use and disposal of municipal waste, according to the Act on Local Charges (art. 10a of Act on Local Charges), or to contract settlement negotiated between the municipality and the natural person - producer of waste in the contract for collection, transportation, sorting, use and disposal of municipal waste (art. 17/6 of Act on Waste). Charge for municipal waste has the nature of indirect tax. The taxpayer is any natural person whose activities generate municipal waste. Payer of the charge is the owner of the property, where the municipal waste is produced. If it is a case of building in which owners association is formed (apartments and offices), the payer is this association. The payer counts the amount for each owner of apartment of office. In cases where the owner does not pay it on time or in full, the payer notifies this to the municipality, which is not only the beneficiary of the charge, but also the administrator of charge (the tax administration under the Tax Procedure Code). The municipality assesses the charge to the owner by payment order. The amount of the charge is laid down by the municipal decree. The municipality may determine the amount of the charge in accordance with the predicted eligible

municipal costs arising from the regime of municipal waste management, distributed to individual taxpayers, the number and volume of containers for waste collection per individual real estate or the number of users of flats and considering the level of classification of the waste. The charge may also reflect the costs associated with hiring containers for storing waste (Radvan, 2016: 511 – 520).

The charge for depositing of waste in landfill consists of two components:
1. The general component of the charge is paid for the waste storage,
2. Risk component, which is paid in the case of hazardous waste.

The charge is associated with payment of services, through which the obligations of the Waste Act are fulfilled. In essence depositing of waste in a landfill is one of the alternatives of possible legal disposal of the waste and in some cases the only alternative. We might think that this is the price of the service, but in terms of landfill operators, which are mostly persons of private law, the charge is not their income. Whoever stores the waste in the landfill, paid in addition to the charge for waste disposal (payment public) also the prices for service that is private in nature, and this prices is income of the landfill operator. The landfill operator has the duty to collect the charge. The landfill operator on his own responsibility assessed the charge, receives the payment of the charge and levies the charge to recipient. The recipient of the general component is the municipality in whose cadastral territory the landfill is located. Recipient of the risk component is the State Environmental Fund. Control is performed by the municipal office and the regional office, according to the landfill location. The competent custom administration body is the charge administrator.

3.5 Charge under the Forest Act

Basic legal regulation concerning the protection of forests and forest management is in the Forest Act (act no. 289/1995 Coll.). The purpose of the Forest Act is to establish conditions for forest preservation, care for the forest and reforestation as national wealth forming an irreplaceable component of the environment to perform all its functions and to support sustainable forest management. The Forest Act establishes charge, which basically meets the characteristics of tax; it is **the charge for the withdrawal of the land fulfilling the function of the forest.** This is not a sanction, but it follows the final decision of the state administration on changing the use of the land which originally fulfills one of the functions of the forest. These so-called forest lands may not be forested, but are destined for planting forests. Furthermore, in fulfilling the function of the forest land the Act considers other lands, such as, for example, paved forest roads or water areas in forests (art. 3 of Forest Act). Charge is assessed under the Forest Act in the case with area up to 1 hectare by municipal office with extended competences. These are municipalities defined by Act which perform state administration for other municipalities in defined administrative district. (art. 66 of Act on Municipalities,

act. no. 314/2002 Coll., and art. 48/1 of Forest Act). In case of a larger area the charge is assessed by the regional office (art. 48a of Forest Act). Specific is the situation in case of military forests and forests that are part of the national parks and their protection zones. The charge administration is so called divided administration. This means that the administration is split between authorities who assess the charge and authorities which collect and enforce the charges (the customs administration bodies). Revenue from the charge is determined by a ratio; 40% of the revenues is the income of the municipality in whose cadastral area the land is situated, and 60% if the revenue is the income of the State Environmental Fund. The municipality is obliged use the income from this charge solely to improve the environment and reforestation.

3.6 Charges under the Act on Geological works

Act on Geological Works (act no. 62/1988 Coll.) after the amendment in 2012 became the Act implementing relevant EU regulations in the field of geological work. The Act on Geological Works regulates the conditions for designing, implementing and evaluating of geological works, their control and sanctions. It also regulates inherently eco-tax associated with geological work in a determined area. The tax is called charge for authorization to carry out exploration bearing (art. 4b of Act on Geological Works), but it is not a charge for administrative decision establishing authorization to carry out exploration bearing in a particular territory, but de facto it is a tax on the use of this area. The charge is the income of municipalities, on whose cadastral territory the deposit survey is found. The charge is assessed by the Ministry of the Environment which issues the permission to conduct a survey of the bearing. Legal regulation of charge is simple in the case of charge construction but unclear from the side of procedure and administration. The Act does not specify under what procedural regulation the charge is assessed, whether it is an Administrative Procedure Code or the Tax Procedure code. The practice is that the ministry assesses the charge along with the authorization under the Administrative Procedure Code. This practice was subjected to sharp criticism by Radim Boháč. (Boháč, 2013: 188). This charge is in fact this financial performance determined in the procedurally divided administration (art. 2/3c) of Tax Procedure Code) and becomes a tax *sensu largo* in the moment when the administrative decision comes into force.

Formally the charge is a tax *sensu largo* from the beginning, in the sense of defining tax *sensu largo* as monetary payments, which the Act terms as a tax, duty or charge (art. 2/3a) of Tax Procedure Code).The frequency of this charge is relatively low and the judicial practice and jurisprudence does not deal with this charge. But this is a typical evidence of ignoring the terminology and mechanisms of tax law in legislation and application in practice. The charge structure is not limited to a procedurally divided administration, but also uses institutionally

divided administration. The charge assessment is carried out by the Ministry and then tax administrator who collects and enforces the charge is the custom administration body, which pays the collected charges to the relevant municipality.

4 Ecological Charges of National parks

Ecological function also fulfills the special charges, which are imposed in national parks by Act on Nature and Landscape Protection (act no. 114/1992 Coll.). These charges are:

1. The charge for entry and residence of motor vehicles in the national park,
2. The charge for entry into selected areas of the National Park outside built-up areas of municipalities,
3. The one-time charge for entry and ride in the national park.

The charges are imposed by authority of national park nature protection. The amount of the charge is determined by the Ministry of Environment by implementing regulations. It also may define the exemption from the charge. The exemptions defined by the Act are for workers, permanent residents or individuals owning recreational facilities in the National Park. The charges are administered by the national park office. The revenue from the charge is the income of this office. The reality of these charges is such that the ministry only defined the maximum amount and method of calculating of the charge for driving motor vehicles in national parks by the implementing decree (art. 9 of the decree no. 395/1992 Coll.). The municipalities solve this by the local charge for the permission to drive a motor vehicle in selected areas. This charge is administered by the municipality, not by the national park office. The Act on nature and landscape protection excludes double charging and prefers inherently local charges. Therefore the Ministry does not deal with the charge for the entry to the national park.

5 Payments under the Mining Act

In The Mining Act (act no. 44/1988 Coll.) represents a fundamental regulation of mining in the Czech Republic and draws on the rich traditions of mining law in the Czech Republic. In the past there was mainly economic interest of monarch, later state lent mining licenses for a charge. This was one of the major sources of the Treasury. Later other the purposes were regulating strategic interests and, finally, nature and landscape protection. Creation of legal regulation of mining operations is always a conflict of economic and environmental interests and often conflicts of interest of local government and the state contribution with different mining lobby. The current Mining Act is based on EU law. Part of the Mining Act is a regulation of payments to specified public budgets. From the perspective of financial law there is mainly structural and terminological problem, because the

current legislation does not respect the basic terminology and principles of tax law. For the payments related to the budget the legislator does not use the standard term "tax" or "charge", but choses the specific term "payment".
The current legislation is effective from January 1, 2017 and it is based on the amendment to the Mining Act approved in 2016 (act no. 89/2016 Coll.). The Act defines these payments:

1. Payment from the mining area
2. Payment from extracted minerals.

Payment from the mining area is determined by the size of mining area (art. 33b of Mining Act). The mining area is an area defined by a decision to mining activities, irrespective of whether it is the extraction of surface or underground (underground mining). Legal definition of the mining area does not exist. The mining area is always determined by the decision of the state administration. The Act determines the amount in Czech crowns per hectare of mining area. The amount is also influenced by the character mining and mined minerals (art. 33c and art. 33d of Mining Act). It is paid annually (art. 33f/1 of Mining Act) and it is the income of the budget of the municipality in whose territory the mining area is located (art. 33g of Mining Act). The payer is a person entitled to mine (art. 33a of Mining Act). The municipality is not tied to the use of funds for purposes connected with the creation and protection of the environment.

Payment from extracted minerals is based on minerals extracted, their type and quantity. The minerals are distinguished:

1. Minerals for which the mining area was determined and which were in the extracted in the reimbursement period according to the decision on mining permit,
2. Reserved minerals obtained in the reimbursement period by deposit exploration in established exploration area, or
3. Reserved minerals gained by unauthorized exploitation of the exclusive deposit or by illegally bearing survey (art. 33i of Mining Act).

These categories represent a partial fundament for determining the final payment. The rate of payment depends on the market price of the mineral, and the government is legally authorized by the Act to determine this rate for each category. Maximum of the rate can be 10% of the market price. Raising rates may happen maximally after five years with regard to market prices development. It is paid annually (art. 33m of Mining Act). The revenue is divided between the budget of the municipality in whose territory the mining is realized, and the state budget (art. 33n of Mining Act) at the rate set by the Mining Act by the type of extracted mineral (art. 33n of Mining Act). Purpose of the use of income of municipal budget is not determined. In the case of the income of the state budget the Act defines that 30% of this income is income o the chapter of the Ministry of

Industry and Trade and the chapter of the Ministry of the Environment. The Act also strictly defines purposes of use of this part of income. The income shall be used for elimination of the consequences of negative impacts on the environment by the scope of these ministries (art. 33o of Mining Act).

Payments under the Mining Act are essentially taxes. In the case of payment from extracted minerals the legislator by determination of the rate through government regulation evades article no. 11 paragraph 5 of the Charter of Fundamental Rights and Freedoms. The Charter provides that taxes and charges can be imposed only under the Act and the tax rate is the primary structural element of the tax, which must be contained in the Act. The petitioner of this bill was alerted to this fact in the legislative process (Materials from the meeting of the Legislative Council for the amendment of the Mining Act), but Parliament has adopted the construction previously described.

6 Subsidies to support the environment

Municipalities and regions can receive subsidies from programs that help to improve the environment and life of the population. These subsidies can be financed from the state budget, the budget of the State Environmental Fund, or from the EU budget. Subsidies are always provided for a specific purpose, based on the request. Subsidies are awarded in the form of a written decision. The decision sets conditions for particular subsidy (art. 3a) of Act on Budget rules and The Statute of the State Environmental Fund of the Czech Republic).

Subsidies granted by the State Environmental Fund are provided under the conditions laid down in the Statute (The Statute of the State Environmental Fund of the Czech Republic) and internal regulations. Minister of the Environment decides on providing the subsidy in accordance to the Statute of State Environment Fund. Its advisory body in this case is the Board of the Fund (art. 1/4 of The Statute of the State Environmental Fund of the Czech Republic).

The State Environmental Fund provides subsidies from national sources for projects that cannot be supported from EU funds under the Operational Program Environment and the Green Savings program, in the framework of the so-called national programs (The State Environmental Fund of the Czech Republic. Available at: www.sfzp.cz). The subsidies are provided on the basis of the Directive of the Ministry of the Environment no. 6/2010 on the provision of funds from the State Environmental Fund, which entered into force on 1 May 2010. Support is provided in the form of subsidies, loans or through a combination of subsidies and loans.

Subsidies for municipalities from the State Environmental Fund, aimed, for example, the restoration and creation of green areas, disposal of old borehole of

underground water, creating new water features such as sun protection, reconstruction of water treatment or disposal and restoration of illegal dumps. Subsidies from the European Union budget for environmental protection are provided through the Operational Program Environment.

The Operational Program Environment focuses on the protection and sustainable use of resources, climate protection and improving air quality, nature and landscape protection and safe environment. It supports the improvement of water quality, reduction flood risks, improvement of air quality in human settlements and climate protection, waste reduction and efficient material flows, reduction of environmental burdens, protection and care for nature and landscape. Subsidies are provided within these priority axes:

- Improving water quality and reducing flood risks
- Improving air quality in human settlements
- Waste and material flows, environmental burden and risks
- Protection and care for nature and landscape
- Energy savings.

The European Union and Czech Republic itself in recent years, increase demands on municipalities and regions to raise the quality of the environment and enable sustainable growth. These requirements are in most cases associated with significant expenditures that must be spent on introducing new elements of environmental protection. The revenue from the above-described environmental taxes and charges do not cover these costs. The only possibility for municipalities (regions) to raise funds for their payments is the subsidy. The problem is that subsidies are by nature non-mandatory and are also associated with meeting a number of conditions. Failure to comply with these conditions may lead to a decision on the repayment of subsidies which were already provided, or for its non-payment. Subsidies are linked with high risks. If the state has an interest in environmental protection, which is evident from the increasing regulation in the field of environmental law, it should occur to re-value the method of financing of newly introduced measures.

7 Conclusion

The Payments to public budgets in the Czech Republic are a complex issue of financial law at the level of the tax law and financial law. The problem is mainly due to a conflict of concept of primary regulation of environmental law and concept of regulation of financial relations by financial law. It is natural that the financial law adapts regulatory mechanisms to primary relationships and tries to be a natural part of the phenomena with which it connects the existence of financial relationships. On the other hand, however, the creators of regulation of environmental law should bear in mind the rules, terminology and the pursuit of a

coherent and comprehensive understanding of legal regulation of public finances. The process of finding payment obligation is very complicated. In some cases the Administrative Procedure Code is applied, in some case the Tax Procedure Code. The fact that the environmental law is connected with ecological taxes may be evaluated positively. But on the other hand, one can imagine a comprehensive codification of ecological taxes which will ensure uniform construction and understanding of the various segments of environmental creation and protection.

A positive trend can also be viewed in the regulation of environmental law, which includes in particular Acts, the regulation of budgetary allocation of the relevant payments. From the perspective of Czech jurisprudence we can say that the ecological taxes are unfairly marginalized in comparison with other taxes of the Czech tax system.

A negative phenomenon is the increasing regulation in the area of environmental law that is not, in all cases, accompanied by proposals on solving financial impacts. Financing of the obligations that are addressed to the municipalities is not secured. In these cases, the municipalities are dependent on subsidies from national and European sources. It is a very complicated way, which allows to municipalities to finance the obligations required by the legislature. There is no legal entitlement for subsidies. If municipality wants to get a subsidy and maintain this income, the municipality has to meet a number of conditions set by the legislature or by the subsidy provider. Moreover one of the many unsolved problems in this area is the review of providing subsidies.

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