

CONSIDERATIONS REGARDING TO THE SPECIAL ENVIRONMENTAL FUNDS

Cîrmaci Diana*, Smit Ildico**

*Universitatea din Oradea, Facultatea de Științe Juridice, Gen. Magheru, nr.26, 410048,
e-mail:diana.cirmaciu@rdslink.ro

**Universitatea din Oradea, Facultatea de Protecția Mediului, Gen. Magheru, nr.26, 410048

Abstract

In the conditions when in this moment the citizens of the European Union are requesting a healthy environment, it appears the problem to assure the necessary financial resources to sustain and encourage the implementation of these preoccupations into the political projects (national, regional or cohesion politics, etc.).

In this context we can affirm that the environmental fund represents an economical-financial instrument destined to sustain and realize projects and programs for environmental protection.

Key words: economical-financial lever, special fund, legislation

INTRODUCTION

The measures of environmental protection have an important role, because the continuous degradation of this (determined by a series of factors, like: economical and technological development) generates important losses, especially when it goes about the quality of life.

This way it has outlined the specific terminology of *long-lasting development*¹ which assumes the consideration of the environment as an essential element of the complex phenomenon of the economical development, founded on the necessity to assure for the next generations an environment at least equal to this one which we have got from our predecessors.

It is assessed for the competent public authorities to find some practical, material and even legal methods to protect the environment – these measures implying great actions to improve the quality of the environment.

It is considered to exist different modalities to finance the costs of environmental protection (Văcărel et al., 2003):

- Funds from economical agents, to which are resorted in the situation when these must repair a prejudice caused to the environment or when these are implementing some technologies through which pollution is reduced (investments for combating pollution and to increase the ecological performance), funds proceeding from the institution of some taxes and fees (eco-taxes);
- Budgetary funds;
- *Special funds*;
- External funds under the form of some loans offered by different international financial-banking institutions.

¹ According to the definition of the Worldwide Commission for Environment and Development: “*the long-lasting development is a development which satisfies the needs of the present, without compromising the capacity of the next generations to satisfy their needs*”.

From the applied taxes and fees at a European level upon those activities which produce negative effects upon the environment we mention: taxes for brimstone emissions; taxes applied for selling fuel, natural gas and electric energy; taxes for burning wastes, etc (Brown , 2001).

MATERIAL AND METHODS

Some public authorities have the duty to administrate some financial funds like: funds for the regeneration of forests (National Institute of Forests – ROMSILVA), the hunting fund and that of protection of hunting (National Council of Hunting) (Boța, 2002), *the environmental fund* (the Administration of Funds for Environment). The Administration of Funds for Environment (AFM) is the public institution with judicial person integrally financed by own incomes, under the coordination of the Ministry of Environment, which responds for the management of the environmental fund, according to the foresights of the Urgent Ordinance of The Government no. 196 from 22 December 2005 regarding to the Environmental Fund².

The Environmental Fund is a public found, deductible from fiscal point of view, its incomes being considered public incomes – samplings instituted through a special law which establishes also its destinations -, which are part of the reinforced general budget³. The Administration of Funds for Environment has the realization of the following objectives:

- the acceleration of the implementing process of the European *acquis* in the matter of environmental protection;
- the stimulation of interest of the local public authorities, of the economical agents, of the non-governmental organizations and even of the educational institutions, for the elaboration of some projects which represent priority for the environment, through accessing some finances through the Environmental Fund;
- adopting and maintaining of an efficient communicational strategy with all the parts concerned with environmental protection through promoting attractive informational sessions, through the promotion of some active partnership with mass-media for the dissemination of some information etc;
- to increase the administrative and financial capacity, in order to finance a greater number of projects of environmental protection.

To catch concisely the legislative development in the domain of implementing, perceiving and collecting the incomes of the environmental funds we will present the following normative documents: *The Urgent Ordinance of the Government no.196/2005 referring to Environmental Fund modified through Law no. 292 from 2 November 2007*⁴ , The Urgent Ordinance of the Government no. 37 from 26 March 2008 about the regulation of some financial measures in the budgetary⁵ domain and The Ordinance of the Government no. 25 from 27 August 2008⁶; Ordinance no. 578 from 6 June 2006 to accept

² Published in the Official Monitor of Romania no. 1193 from 30 December 2005; U.O.G. no. 196/2005 was accepted with some changes by Law no. 105 from 25 April 2006.

³ According to the foresights of Article 2 point 7 of Law no. 500 from 11 July 2002 about public finances, the reinforced general budget represents “a unit of budgets, components of the budgetary system, aggregated and reinforced to form a unitary one”;

⁴ Published in the Official Monitor of Romania no. 758 from 8 November 2007;

⁵ Published in the Official Monitor of Romania no. 276 from 8 April 2008;

⁶ Published in the Official Monitor of Romania no. 628 from 29 August 2008;

the Methodology of calculation of taxes and contributions for the Environmental Fund⁷; Ordinance nr. 549 from 5 June 2006 to accept the model and content of the formulary “Declaration about the obligations for the Environmental Fund” and of the instructions of filling it in and to depose it⁸; the Governmental Decision no. 621 from 23 June 2005 about the management of packing and of the wastes of packing⁹; Ordinance no. 1607 from 17 December 2008¹⁰ about the modification and completion of the Ordinance of the Ministry of Environment and Water Management no. 578/2006.

According to the existing legal dispositions the contributions to the environmental funds are the followings (Duca, 2009):

- contributions from the incomes realized by the selling of some metallic and non-metallic waste, as from the goods destined to be dismembered, obtained by the holder of the wastes, actually the holder of the goods, physical or judicial person – a percent of 3% by the selling of the metallic or non-metallic waste, excluding the tax on the added value;
- taxes for the pollution in the atmosphere, originating from stationary sources, the use of which influences the environment and the environmental factors;
- taxes cashed from economical agents, users of new fields for the storage of reusable wastes;
- the contribution for the difference between the annual value objectives or incinerated by incinerating installations with recovery of energy of packing wastes foreseen by the existing legislation and the effectively valorized quantities with energy recovery – it is applied in a quantum of 2 lei/kg at the weight of the packing introduced to the national market¹¹;
- contributions from the value of the substances which are dangerous for the environment, introduced to the market by producers and importers, except those used for the pharmaceutical industry – the contribution is in value of 2% applied upon the sale/import value of the substances classified as being dangerous for the environment, excluding the tax on the added value;
- contributions in case of selling wood after exploiting, paid by the buyer who introduces the goods to a processing work – the contribution is in quantum of 1% applied upon the sale value of the products;
- taxes for introducing new and/or used tires destined to be reused, paid by the economical agents, producers and importers;
- the contribution to manage the hunting funds, paid by the managers of these funds – it is calculated applying a percent of 3% of the managing tax of the hunting fund, established in the in the management contract;
- ecologic tax for plastic bags.

Another particular aspect of the Urgent Ordinance no. 50 was represented by the Government on 21 April 2008 for the implementation of the pollution tax for vehicles¹² modified by the Urgent Ordinance no. 218 from 10 December 2008 and through Urgent Ordinance no. 7 from 18 February 2009. This Ordinance abrogates the dispositions of art. 214¹-214³ of the Fiscal Code (chapter II¹ special taxes for passenger cars and vehicles).

⁷ Published in the Official Monitor of Romania no. 516 from 14 June 2006;

⁸ Published in the Official Monitor of Romania no. 504 from 12 June 2006;

⁹ Published in the Official Monitor of Romania no. 639 from 20 July 2005;

¹⁰ Published in the Official Monitor of Romania no. 864 from 22 December 2008;

¹¹ this is calculated as difference between the annual objectives of validation/incineration and the actually validated/incinerated quantities according to G.D. no. 621/2005;

¹² Published in the Official Monitor of Romania no. 327 from 25 April 2008;

This way cashed incomes are destined for the financing of programs and projects, like:

- the program to stimulate the renewal of the national vehicle park;
- the national program to increase the quality of environment through realizing green spaces in localities;
- replacement or completing projects of the classical heating systems with systems which use solar, geo-thermal or aeolian energy;
- projects regarding to producing energy from recoverable sources;
- projects about planting forests on the degraded terrains;
- projects of repopulation of some terrains which were drawn out from the natural patrimony;
- projects to realize bicycle tracks.

Practically, through the financial resources of the environmental fund there are encouraged some projects concerning with the control and decrease of air, water and soil pollution, including the use of some cleaning technologies; the management of wastes, including the dangerous wastes; the protection of the natural resources; the protection and conservation of biodiversity and not at least, projects to inform and educate the public about environmental protection.

In the matter of fiscal establishments we must mention the fact that the assemble of the operations regarding to the declaration, establishment, verification and collection, including the solution of the contestations regarding to contributions and taxes for the Environmental Fund paid by judicial and physical persons, like the accomplishment of the assuring measures and the procedure of forced execution are realized by the Administration of the Environmental Fund, according to the conditions of the Fiscal Code of procedure.

RESULTS AND DISCUSSION

Taking into consideration the duties of the National Agency for Environmental Protection (from which we mention: the authorization of the activities with influence upon the environment, the establishment of non-conformities in the authorization documents, assuring the technical support to elaborate strategies and politics in the domain of environmental protection; the coordination of regional action plans and of the action plan of environmental protection we can consider this entity to be an important part of the institutional legal system of environment from Romania.

The Administration of the Environmental Fund has his own budget, this way we can accentuate in judicial terms the Governmental Decision no. 228 from 4 March 2009 about the acceptance of the budget of incomes and costs for 2009 of the Environmental Fund and that of the Administration of Environmental Fund published in the Official Monitor of Romania no. 171 from 19 March 2009.

It was asserted that the Environmental Fund is constituted according to European principles “the polluter pays” and that of “the responsibility of the producer”, in order to implement the legislation regarding to environmental protection, harmonized with the European acquis foresights.

CONCLUSION

The adherence of Romania to the European structure and the acceptance of the concept and of some unitary strategies in this domain have accentuated sometimes the features of the environmental politics of our country, but these aspects will be eliminated step by step in time, creating a uniformity of the European legislation of environment.

Romania must assure in continuity financial resources in order to realize significant investments in the infrastructure of environment, like in the creation of some efficient systems for the environmental management, with the final goal to assure quality service for the population.

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