

**EUROPEAN WASTE LAW THEORY & PRACTICE
EUFJE ANNUAL CONFERENCE 2005**

**QUESTIONNAIRE ON NATIONAL CASE LAW REGARDING ISSUES OF WASTE
Czech Response**

General issues of Case Law and Implementation

The Waste Directive has been implemented by the Act 185/2001 Sb. (on waste). However, there is practically no case law on this Act, since the time of the implementation of the Directive. Thus, it is not possible to provide any details of a case in this area.

Article 1(a) – Definition of Waste

1. Special meaning of Discard/Uncertainty

Article 1(a) of the Directive has been implemented by the § 3 of the Act 185/2001 Sb. (on waste). However, there is no case law reflecting need to determine whether a substance is waste, in the database of case of the Supreme Administrative Court.

2. Disproportionate regulation/Barriers to use

There has been no application of ECJ case law on the definition of waste before the Supreme Administrative Court so far. Thus, there were no complaints that it might be interpreted too widely or too narrowly.

3. Products, by-products and residues

There is the case law concerning by-products and residues from Czech administrative courts. However, there is no case law from the time after the implementation of the Directive. Thus, there is no case law applying ECJ case law on the definition of waste.

4. Complete recovery operation

Czech courts were not confronted with the application of the idea of a “complete recovery operation” after the implementation of the Directive.

5. Substitute fuels and complete recovery operations

There is no national case law whether it is possible for waste derived fuel to case to be waste prior to its use as a fuel.

6. End of waste and recycling

There is no relevant case law on a question at what point do national courts consider materials are recycled within the meaning of the Packaging Waste Directive.

7. Lawyer driven not policy driven

The Act 185/2001 Sb., on waste, in fact copies the criteria of waste as set up by the Annex I of the Directive. However, these are not more specified by the law.

Article 2(1) (b) – Other legislation

Czech courts have not made any decision as to what constitutes other legislation so far. However, the Act 185/2001 Sb., on waste (that implements the Directive) defines itself the other legislation (eg. the Act 138/1973, on waters; the Act 44/1988, on mining; etc).

Definition of recovery

There is no case law on the concept of recovery after the implementation of the Directive. However, there is the case law from the time before the implementation. Eg. the High Court in Prague ruled that it is not undertaking of waste when a farmer brings to his land stabilized sediments from a waste-treatment plant (as a fertiliser), even if he gets paid for it. In spite of the mentioned case, there is no national case law to distinguish between disposal and recovery. Essential definitions are given by the Act 185/2001 Sb., on waste.

Article 4 – General Objective of the Directive

There is no case law on a failure to meet article 4 requirements.

Article 7 – Waste plans and permits

Czech courts have not been asked to consider the relationship between individual permits and national waste plans.