

Fruzsina BÖGÖS

- Environmental Liability, Case C-129/16 – Túrkevei Tejtermelő Kft.
- Waste Management, Case C-69/15 - Nutrivet

Hungarian Environmental Code

Section 102

(1) Liability for environmental damage or for any risk to the environment shall fall joint and severally - pending proof to the contrary - upon the person who is registered as the owner or possessor (user) of the property after environmental damage or threat to the environment has occurred on which the activity resulting in damage to the environment or posing imminent threat to the environment was carried out.

(2) The owner shall be exempted from joint and several liability if able to name the actual user of the real property and if able to provide proof beyond any reasonable doubt that liability does not lie with him.

Article 16 of Directive 35/2004.

Relationship with national law

1. This Directive shall not prevent Member States from maintaining or adopting more stringent provisions in relation to the prevention and remedying of environmental damage, including the identification of additional activities to be subject to the prevention and remediation requirements of this Directive and the identification of additional responsible parties.

2. This Directive shall not prevent Member States from adopting appropriate measures, such as the prohibition of double recovery of costs, in relation to situations where double recovery could occur as a result of concurrent action by a competent authority under this Directive and by a person whose property is affected by environmental damage.

Annex VII of Regulation 1013/2006. on shipments of waste

Consignment information ⁽¹⁾

1. Person who arranges the shipment: Name: Address: Contact person: Tel.: Fax: E-mail:		2. Importer/consignee Name: Address: Contact person: Tel.: Fax: E-mail:	
3. Actual quantity: kg: litre:		4. Actual date of shipment:	
5 (a) ⁽²⁾ First carrier: Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:		5 (b). Second carrier: Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:	
		5 (c). Third carrier: Name: Address: Contact person: Tel.: Fax: E-mail: Means of transport: Date of transfer: Signature:	
6. Waste generator ⁽²⁾ Original producer(s), new producer(s) or collector: Name: Address: Contact person: Tel.: Fax: E-mail:		8. Recovery operation (or if appropriate disposal operation in the case of waste referred to in Article 3(4)): R-code/D code:	
		9. Usual description of the waste:	
7. Recovery facility <input type="checkbox"/> Laboratory <input type="checkbox"/> Name: Address: Contact person: Tel.: Fax: E-mail:		10. Waste identification (fill in relevant codes): (i) Basel Annex IX: (ii) OECD (if different from (i)): (iii) EC list of wastes: (iv) National code:	

Article 2(35) g) iii) of Regulation 1013/2006. on shipments of waste

“illegal shipment”

means any shipment of waste effected: (g) which, in relation to shipments of waste as referred to in Article 3(2) and (4), has resulted from:

(iii) the shipment being effected in a way which is not specified materially in the document set out in Annex VII. (i.e. the accompanying document).

Questions by the referring court:

Must a shipment be considered illegal, when the accompanying document relating to a shipment

- includes incorrect or inconsistent information regarding the importer/consignee, the recovery facility and the countries/States concerned, even though the information relating to those entries is clearly apparent from the international consignment note and other documents available?
- In order for a shipment of waste to be declared illegal, must the person completing the accompanying document deliberately mislead the authorities? Is it relevant, whether the information or data not specified or not correctly indicated in accompanying document is significant as regards environmental protection?