



EFFICIENCY AND EFFECTIVENESS OF ENVIRONMENTAL PROTECTION AND POLLUTION PREVENTION ACTIVITIES

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SUMMARY

The relevance of the Audit

Environmental protection means not only rational utilisation, preservation and renewal of natural resources, improvement and preservation of the environmental quality from all adverse effects but it is also the foundation for the safe existence of animate and inanimate nature, society, and every person.

In order to have a clean and safe environment, the input of each person and the economic entity is significant as environmental protection is the concern and duty of the State and each resident thereof¹. The continual economic developments and human activities have negative effects on the environment; thus, one of the main objectives of environmental protection is to prevent pollution in advance.

More than 2.8 million people are registered in Lithuania, while more than 250 thousand companies are operating in the areas of energy, chemistry, metals industry, fertiliser production as well as other areas. Everyday thousands of tonnes of waste and wastewater are generated, while harmful pollutants are released into the air. All of this has a significant impact on the environment; thus, to prevent the pollution or to reduce it to an acceptable level, preventive measures shall be taken.

Institutions forming and implementing the environmental policies are taking measures to solve the environmental problems; however, approximately one-fourth of municipal waste is still disposed of to landfills, about half of the surface water bodies do not correspond with requirements for good water status, whereas the greenhouse gas emissions are increasing in the transport and agricultural sectors.

¹ Law on Environmental Protection, Article 4.

Law enforcement authorities draw attention to the sectoral issues of environmental protection: lack of inter-institutional cooperation, limitations of determination and estimation of environmental damage, problems with the management of waste and hazardous substances, and deficiencies of corruption prevention and legal framework (Annex 3).

In 2015–2019, by conducting audits in areas managed by the Minister of Environment, the National Audit Office identified problems related to waste management, territorial planning, and construction permits (Annex 4).

The Seimas assigned the National Audit Office to perform a public audit until 01/05/2020: to assess the efficiency and effectiveness of environmental protection and pollution prevention activities².

Objective and Scope of the Audit

The objective of the audit is to assess whether the efficiency and effectiveness of environmental protection and pollution prevention activities are ensured.

The audited entities:

- The Ministry of Environment as it forms the state policy in the areas of state control of environmental protection and pollution prevention, environmental monitoring, environmental impact assessment, and waste management as well as organises, coordinates, and controls its implementation.
- The Environmental Protection Agency as it coordinates the process of environmental impact assessment of proposed economic activity and based on it makes decisions, issues, modifies or withdraws the integrated pollution prevention and control as well as emission allowances.
- The Environmental Protection Department under the Ministry of Environment as it exercises functions of state control of environmental protection.

The main questions of the audit:

- whether the monitoring of the legal regulation of environmental protection and pollution prevention is conducted;
- whether the process of environmental impact assessment and authorisation is performed accordingly;
- whether the system of the state control of environmental protection ensures the avoidance of significantly negative effects on the environment in the course of economic activities;
- whether all sites contaminated with hazardous chemicals are remediated;
- whether the proper management of financial, human resources, and data systems are ensured in the sector of environmental protection.

² Resolution No XIII-2801 of the Seimas of 28 January 2020 on Assigning the National Audit Office of the Republic of Lithuania to Perform Public Audit.

The 2014–2019 period is audited. To assess and compare changes in legislation, data from 2010–2013 were used.

The audit has been performed in accordance with the Public Auditing Requirements and the Standards of the International Organisation of Supreme Audit Institutions. The audit scope and applied methods are described in more detail in Annex 2 *Scope and Methods of the Audit* (page 60).

Restrictions of the Audit

Considering the deadline of the audit and the fact that from 16/03/2020 quarantine regime was announced and became effective in Lithuania³, possibilities to gather information from audited entities for the audit were limited.

During the audit, we did not assess issues related to:

- the utilisation of natural resources and protection of natural sites;
- fines or amounts of economic sanctions for established administrative offences imposed by state control of environmental protection institutions, estimated and compensated for damage caused to nature;
- supervision of chemicals management.

When analysing issues relating to posts and remuneration of the Environmental Protection Department, only data from 2018–2019 is assessed since up to 01/07/2018 data has been gathered in regional environmental protection departments; hence, Environmental Protection Department did not have data necessary for the audit.

Key Results of the Audit

The system of environmental protection and pollution prevention does not ensure that significant negative effects on the environment are avoided, since processes of environmental protection legislative, authorisation, remediation of contaminated sites, and state control of environmental protection have gaps. The results of the audit showed that constant monitoring of the most significant legal acts regulating environmental protection and pollution prevention is not performed, whereas the process of environmental impact assessment and authorisation together with the system of the state control of environmental protection do not ensure the avoidance of significant negative effects on environment when planning or conducting economic activities; part of the contaminated sites are not remediated for a long time. The funding for environmental protection does not ensure the solution for long-term problems.

1. Monitoring of the legal regulation of environmental protection and pollution prevention is not performed regularly

³ Resolution No 207 of the Government of 14 March 2020 on Declaring Quarantine on the Territory of the Republic of Lithuania

- During 2011–2017, the Ministry of Environment did not have the most significant laws or other legislation relating to state control of environmental protection or pollution prevention included in the endorsed plans for monitoring legal regulation, while, legal regulation plans for 2018–2020 were not endorsed. Regular monitoring would allow making sure that legal regulations are appropriate and would help to identify the need for their changes; nevertheless, changes in legislation are initiated not by monitoring results of legal regulations but by trying to eliminate regulatory deficiencies noticed in practice (Section 1).

2. The process of environmental impact assessment, integrated pollution prevention and control as well as issuing of emission allowances has shortcomings

- Economic entities do not always properly prepare documents for environmental impact assessment and documents for integrated pollution prevention and control or emission allowances. 37% of economic entities must revise documents submitted for screening for environmental impact assessment, while 59% provide revised documents for authorisation. Approximately 8 months after the opinion is provided or decision is made on the environmental impact, the economic entities request the Agency for the authorisation. 22% of documents provided for the screening for environmental impact assessment and 61% of documents submitted for the authorisation are not assessed by Agency until the established deadlines. On average, the assessment of the screening documents for environmental impact assessment is delayed by 11 working days, whereas the assessment of documents for authorisation is delayed by 13 working days. Due to this, the authorisation process is prolonged and the start date of the activities of the economic entity is postponed (Sub-section 2.1).
- The possibilities for the public to participate in the environmental impact assessment process of the proposed economic activities are not always offered. 10% of surveyed communities indicated that they had found out about the proposed economic activities only after the beginning of construction works. 71% of them indicated that the deadlines established in the legislation for accessing documents of the proposed economic activities' environmental impact assessment are too short. 59% of people indicated that after starting their activities, economic entities do not follow the agreements reached during the environmental impact assessment. If the public is not sufficiently included in the planning process of economic activities, all factors might not be assessed (Sub-section 2.2).
- Not all decisions made during the environmental impact assessment are transferred into allowances. Specific restrictions of activities (movement of transport only on certain roads, operation only at certain hours, usage of specific raw materials, etc.) established during the assessment are not transferred to allowances as well as obligations to apply specific mitigating measures (afforestation, watering of territories, creation and maintenance of habitats, etc.). Agreements established in documents of environmental impact assessment but not transferred to allowances are not viewed as an object of state control of environmental protection (Sub-section 2.2).
- Examples presented by the Environmental Protection Department reveal that not all economic entities perform their economic activities after mounting pollution mitigation measures or equipment indicated in the allowance or their annexes. If equipment, determined in the allowance, is not mounted, the mitigation of

dissemination of odours, air pollution, noise, etc. is not ensured. All of this could have a significantly negative impact on the environment, health of the people living nearby, and/or their quality of life (Sub-section 2.3).

- In the current legislation, the duty of the responsible institutions to make sure that economic entities have mounted all pollution mitigation measures or other equipment for reducing the dissemination of odours, air pollution, noise, etc. indicated in the terms and conditions of the allowance or their annexes is not established. From 2022, an amendment of the Law on Environmental Protection will come into force which will obligate the authorized institution to make sure whether terms and conditions indicated in the allowance are implemented in the object of economic activities before their start. In terms and conditions of the emissions allowance, no data on pollution mitigation measures or other equipment is provided; only allowed pollution levels are indicated. Thus, even after amendments of the Law come into force, without amendments of implementing legislation relating to the regulation of terms and conditions of emission allowances, inspections of economic entities with emission allowances will not be efficient, since in the terms and conditions of the allowances no information on pollution mitigation measures or other equipment is indicated except for allowed pollution levels (**Sub-section 2.3**).

3. The system of the state control of environmental protection does not ensure the avoidance of significant negative effects on the environment while performing economic activities.

- During different periods, the state control of environmental protection was assigned to various institutions, a structured efficiency assessment of state control of environmental protection was not created, and indicators for assessing activities of institutions were not established. This negatively impacts the efficiency of the process of the state control of environmental protection (**Sub-section 3.1**).
- The Environmental Protection Department plans inspections without having an accurate list of monitored economic entities. Information on economic entities, required for planning and performing inspections, is not structured and collected; it is gathered manually from paper files and other sources. In this way, not only all necessary information on economic entities is not disposed but also it is not ensured that the entities belonging to the greatest risk groups will be included. Economic entities that are not listed might avoid scheduled inspections (Sub-section 3.2).
- In the Environmental Protection Department, the functions of selection and implementation of inspections are not separated; i.e. the same officers or subdivisions assess the risk of activities of economic entities, select economic entities for inspection, decide on the scope of the inspection and perform it. If all decisions are made by the same officer, the risk of corruption occurs (Sub-section 3.2).
- When carrying out inspections, environmental protection officers have not only to be familiar with the specifics of the economic entity's activities but also to have the required equipment. However, officers indicate that there is a shortage of measuring devices, thermal imaging cameras, and other equipment necessary for inspections. On average, one officer can dedicate approximately 3.7 working days for one inspection, while 6.2 hours of training courses for improving qualification are appointed to them every year. Due to these reasons, part of the inspections can be performed in a rushed

and superficial manner; thus, quality and effective state control of environmental protection is not ensured (Sub-section 3.3).

- The methods regulating the calculation of environmental damage do not clearly indicate how the damage to nature and its resources should be assessed. Laws allow suspending activities that are harmful to the environment; nevertheless, there is no detailed regulation on how to assess whether the suspension of activities will create greater damage to the public interest than the continued activities. If the criteria according to which the damage to the environment, human health and life are not established, it will be difficult to stop harmful activities of an economic entity (Sub-section 3.4).
- Economic entities should perform their activities without creating significantly negative effects on the environment. Following the 2014–2018 data of the Environmental Protection Agency, every year approximately 48.1 million m³ of wastewater that is not treated based on the established requirements or is not treated at all is released to the natural environment. 32 (of 74 inspected) economic entities have not treated their wastewater in accordance with the established requirements for 3 or more years. Generally, this occurs due to treatment equipment that is unsuitable, outdated, has insufficient capacity or because this type of equipment is not owned. Wastewater that had not been treated according to the established requirements was released to 20 water bodies that at least at one section did not correspond to the requirements of good water status. In Lithuania, only 53% of water bodies are of good water status; however, even if their status had not complied with requirements of good water status, the wastewater, which had not been treated appropriately, was still released into them. If no means are taken to stop this pollution, long-term damage to the environment might be caused (Sub-section 3.5).

4. Only a small part of contaminated sites is remediated

- If contaminated sites are not remediated for a long time, drinking water can be polluted and other negative effects, impacting human health and quality of life, can be caused. 12,514 potential pollution sources are indicated in Lithuania. In 6,189 of them, the activities of economic entities are suspended. In 1,770 territories (28.5%), tests had been carried out and, in approximately 50% of them, soil or groundwater pollution with hazardous chemicals was identified. In 2020, 117 of contaminated sites in which pollution with hazardous substances had been identified, were remediated. According to the data of the Lithuanian Geological Survey, the required amount for the remediation of all contaminated sites would be EUR 432–568 million (Section 4).
- The legislation does not regulate the insured amount of insurance against civil liability in respect of damage that might occur when companies conduct such activities as collecting, transporting, disposing, or using hazardous waste. In 2017–2019, during the authorisation, the total amount of insurance against civil liability of all economic entities (163) was EUR 8.1 million, i.e., on average, the insured amount of insurance against civil liability of one company was EUR 50 thousand. For half of the companies, the amount of this insurance does not reach EUR 10 thousand, while other companies insure only a sum of a few hundred. The current regulation of insurance against civil liability does not ensure that in the case of emergency (accident) the damage to nature and/or people and other economic entities will be compensated.

- The requirement for companies to have insurance against civil liability is intended only for managers of hazardous waste; thus, in the case of fire or another emergency, e.g. in a company, managing non-hazardous waste or wastewater, the environmental damage or damage to third parties might not be compensated (Section 4).

5. Proper management of financial, human resources, and data systems is not ensured in the sector of environmental protection

- In 2019, EUR 436 million were allocated to the area managed by the Minister of Environment, i.e. the allocated appropriations were 8% lower than in 2015. Moreover, each year the percentage of used appropriations is reducing: in 2019, only 60% of appropriations were used, i.e. 32% less than in 2015. One of the main reasons is the unused funds of fixed funding programmes, allocated for the implementation of specific objectives. Until 2020, in 5 fixed programmes, the balance of EUR 191.5 million was accumulated. The unused funds could be employed for addressing problems of the environmental protection sector (Sub-section 5.1).
- It is essential to collect, structure, and analyse information on the area of management to effectively manage data of environmental protection and make decisions. The Ministry of Environment together with its subsidiary bodies manage 17 databases; during 1995–2018, EUR 11.1 million were used for their development. Both the officers performing state control of environmental protection and other entities using data systems indicate that the databases are flawed: necessary links with other systems are not created, not all models are functioning in the planned manner, etc. Many various information systems and databases are developed but not all information necessary for the institutions is accessible on them; thus, information required for the performance of institution's functions and decision-making has to be looked up in paper files and archives (Sub-section 5.3).

Recommendations

For the Ministry of Environment

1. In order to improve the legal regulation of environmental protection and pollution prevention, to prepare and implement means ensuring the monitoring of regulatory framework of legislation regulating this area (First key audit result).
2. With a view of reinforcing the supervision of the state control of environmental protection, to plan and implement measures ensuring efficient monitoring of effectiveness assessment of state control of environmental protection and determine indicators according to which the effectiveness of functions allocated to the control institutions are assessed (Third key audit result).
3. With the aim that economic entities should only start their activities after all pollution prevention measures and measures mitigating all other negative impacts established in the documents of environmental impact assessment and/or integrated pollution prevention and control or emission allowances (Second key audit result):

- 3.1. to plan and implement measures ensuring that solutions mitigating the negative effects on the environment and public health would be transferred from documents of environmental impact assessment to the terms and conditions of allowances.
- 3.2. when preparing implementing legislation, clearly define what should be checked before the economic entity starts its activities.
4. In order to avoid possible situations when, in the cases established in the laws, the harmful environmental activities are not suspended, and to provide possibilities to properly assess the damage caused to the environment and its resources (Third key audit result):
 - 4.1. to define conditions for stopping the environmentally harmful activities in the implementing legislations and to establish criteria according to which the environmental protection officer would assess the arising danger or damage to the environment;
 - 4.2. to overview and specify legislation regulating the calculation of environmental damage.
5. To avoid long-term damage to the environment, to plan and implement measures ensuring that sites contaminated with hazardous chemicals would be remediated (Fourth key audit result).
6. In order to develop the functionalities of databases (systems) administered by the Ministry of Environment and its subsidiary bodies, to plan and implement measures ensuring their proper operation and that the collected and structured data could be used when implementing functions of the state control of environmental protection (Fifth key audit result).
7. As a means of ensuring that in the case of emergency (accident) the damage to nature and/or people and other economic entities will be compensated, to establish clear criteria for estimating insurance amounts of insurance against civil liability for waste managers. To assess, if the civil liability institute could be applied for the insurance of other economic entities and, if required, initiate the regulation of such insurance in relevant laws (Fourth key audit result).
8. To increase the accessibility of information to the public, to design means for enhancing its distribution in the processes of the environmental impact of economic activities assessment as well as the integrated pollution prevention and control allowance authorisation (Second key audit result).
9. Aiming to avoid negative environmental impacts, to plan measures for ceasing activities if higher than allowed pollution is identified (Third key audit result).

For the Ministry of Environment and the Environmental Protection Agency

10. In order to ensure that processes of environmental impact assessment, integrated pollution prevention and control or emission allowances are performed until the determined deadlines (Second key audit result):

- 10.1. to prepare methodical recommendations allowing to reduce the number of errors in documents prepared by economic entities and to ensure their distribution;
- 10.2. to plan and implement measures ensuring that documents of environmental impact assessment provided and applications for integrated pollution prevention and control as well as emission allowances submitted by economic entities would be examined by the deadlines established in the legislation.

For the Environmental Protection Department

11. In order to increase the efficiency of the state control of environmental protection it is necessary (Third key audit result):
 - 11.1. to improve the planning and implementation of economic entities' inspection; for this objective, an accurate list of monitored economic entities should be compiled, while entities posing the greatest risks should be selected and the selection and implementation functions of inspections should be separated;
 - 11.2. to plan and implement measures ensuring the provision of equipment necessary for environmental protection officers during inspections;
 - 11.3. to plan and implement measures enabling environmental protection officers to improve their qualifications.

The means and terms for the implementation of recommendations are provided in the Section *Recommendation Implementation Plan* of the report (page 53).