

# 2019

## Final report

Transboundary movement of waste according to Basel Convention



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## **Transboundary movement of waste according to Basel Convention**

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## OBSAH

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## ABBREVIATIONS

abbreviation/ short meaning	full meaning
Basel Convention	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal
VAT	value added tax
FA SR	Financial Administration of the Slovak Republic
GDP	gross domestic product
ME SR, Ministry	Ministry of Environment of the Slovak Republic
SAO SR	the Supreme Audit Office of the Slovak Republic
regulation, regulation establishing the waste shipment	Regulation (EC) no 1013 of the EU Parliament and of the Council of 14 June 2006 on Shipment of Waste
Commission Regulation 1418/2007 establishing the Export for the Recovery of Certain Waste	Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013 of the European Parliament and of the Council to certain countries to which the OECD Decision on the Control of Transboundary Movements of Waste does not apply
Regulation 1418/2007	
OECD	Organisation for Economy Cooperation and Development
UN	United Nations
EU	European Union
Waste management programme, Programme	Waste Management Programme of the Slovak Republic for 2016 – 2020
Directive 2008/98/EC of the EU Parliament and the Council concerning the waste Directive 2008/98/EC	Directive 2008/98/EC of the EU Parliament and the Council of 19 November 2008 on waste and repealing certain Directives
SAO SR Act	Act of the National Council of the Slovak Republic 39/1993 Coll. Concerning the Supreme Audit Office of the Slovak Republic as amended
Waste Act	Act of the National Council of the Slovak Republic 223/2001 Coll. concerning the waste as amended
EU Customs Code	Regulation (EU) 952/2013 of the EU Parliament and of the Council of 9 October 2013, laying down the Union Customs Code
Common Customs Tariff	Council Regulation (EEC) 2658/87 of 23 July 1987 concerning the Tariff and Statistical Nomenclature and the Common Customs Tariff as amended
SEI, inspection	Slovak Environmental Inspectorate

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## SUMMARY

**The Basel Convention is the largest global environmental agreement** on hazardous and other wastes. Its provisions bind 187 states of the world, including **Slovakia**, which acceded to it in 1993. The Convention regulates the movement of hazardous and other wastes across national borders. At the same time, the parties undertake to ensure that such waste is treated in an environmentally sound manner. The aim of the Convention is to protect human health and the environment from the adverse effects of waste.

The European Union has incorporated the Basel Convention into the Waste Shipment Regulation. It applies automatically and uniformly in the Member States of the European Union without the need for transposition into national law. The regulation is binding to all Member States in its entirety.

The SAO SR focused on the cross-border movement of waste in its audit. SAO SR performed the audit at the turn of 2019 and 2020 as a performance audit with elements of compliance. It covered the period from 2015 to the first half of 2019.

The movement of waste was assessed as a whole within the audit - a system that is regulated by procedures for the movement of both hazardous waste and waste not classified as hazardous.

The system of transboundary movement of waste in Slovakia was elaborated by ME SR, SEI and FA SR under which the customs offices were included. The Ministry acted as the body responsible for implementing the regulation.

The audit was performed as **international, with the involvement of SAI of Slovakia, Poland and Ukraine**. A prerequisite for the actual exercise of audit was agreed common areas, binding all three countries. A common element of international audit were the provisions of the Basel Convention, which were applicable in all three countries. In Slovakia and in Poland, European waste legislation was decisive and binding.

The audit in 2019 was partly based on the results of the SAO SR audit in 2007. At that time, the Supreme Audit Institutions of Poland, Slovakia and Ukraine performed a joint compliance audit of international obligations in the management of hazardous waste across the borders of these states.

In a joint report about the results of the 2008 audit, they pointed to the need to strengthen cooperation between the responsible authorities, to make legislative changes, to specify the responsibilities of the relevant institutions involved in transboundary movements of waste and to improve material equipment for waste identification.

In order to assess the implementation of the above proposals, the Supreme Audit Institutions have agreed to re-conduct the joint international audit.

The system of waste movements was equally important to assess in the context of the currently valid legislation in the audited period. Compared to the previous audited period (May 2004 - June 2007), significant legislative changes were identified at the national as well as European level. This concerned in particular the start of the application of the Waste Shipment Regulation in 2007 as well as amendments to waste laws at national level.

The audit found **insufficient supervision over the movement of waste** destined from and to Ukraine. The Slovak-Ukrainian border is the border of the Schengen area. In it, the States guarantee security and are jointly responsible beyond the external border of the European Union.

The Ministry issued approval for the transit of waste through Slovakia. In several cases, it **did not have accurate, complete and reliable information** about planned and made shipments to Ukraine. Entities that performed the shipment of waste did not provide the Ministry with information on all intended shipments. Recipients of waste did not inform the Ministry about all shipments made, which resulted in the receipt and recovery of waste. The Ministry did not evaluate the documentation on waste movements, it only archived it.

In several cases, the information about the actual shipments of waste **did not correspond to the data** provided in the documentation submitted to the Ministry as the competent authority of transit. The audit group found that the shipments were made with a higher weight than announced. Also, the shipments with a significantly lower weight than previously declared by the notifier were identified, while the data on the taken over and recovered waste did not correspond to the facts, but to the condition declared in the documentation. It was not possible to determine whether all the waste had

actually left the European Union or whether it remained in it and had been disposed of or treated in contravention to the approvals and shipment regulations.

The setting up of control procedures **made possible to transport waste without the obligatory accompanying documentation**. The journey was not "recognized" by the carrier as a shipment of waste and the consignment was considered as a commodity. In this case, the waste was not classified as hazardous.

The carrier did not submit the mandatory accompanying documentation to the customs office in Slovakia, which was the "last inspection" before leaving the European Union. The customs authorities did not even request it, as the consignment was not identified as waste in the documentation provided. Therefore, the customs authorities **did not apply control procedures** to verify the actual content of the consignment and compare it with the information provided in the accompanying documentation.

Thus, the customs authorities could not fulfil **the obligation under the Regulation** to send a certified copy of the waste movement document to the country of dispatch stating that it had left the European Union.

**An example** of such an action was the transport of cartridges (cartridge, toners, etc). The company in question during their transport did not submit accompanying documentation proving the transport of waste. The customs document did not specify the consignments as waste. At the same time, during the physical inspection, the consignments did not show any signs of waste as they were packaged into the original boxes - one piece of cartridge was in one original box. The audit group therefore states that at the border with Ukraine, **Slovakia has not ensured the control** of all types of waste **going to and from the European Union**.

Under the Regulation, Member States were able to designate border crossing points for shipments of waste. If designated by the country, the shipment of waste should not go through another passage. Slovakia designated **three border crossings** for waste transport in the audited period: Čierna nad Tisou - Čop, Vyšné Nemecké - Užhorod, Ubl'a - Malyj Bereznyj.

**Insufficient cooperation and coordination of activities and the lack of information exchange** between the Ministry and the customs authorities caused waste to be imported through the Maťovské Vojkovice - Pavlovo border crossing **in violation of European rules**. The Slovak Republic did not mention this crossing to the European Commission as a border crossing for waste transport. Nevertheless, it represented a strategic point for the import of raw material - waste via a wide-gauge line for the metallurgical industry.

The system for controlling the movement of waste at borders **has not ensured the effective implementation of the processes** resulting in comprehensive and reliable information. The audit team found insufficient technical equipment – weighing equipment. As part of its activities, the SEI did not perform controls of transboundary movements of waste at the border with Ukraine. In most cases, the customs authorities did not request its cooperation. According to the audit group, **this did not lead to activities with an emphasis on the maximum level of efficiency**, which also had a negative **impact on the overall effectiveness** of the waste management system.

The joint activity of SEI and customs authorities based on an agreement was identified in audit in 2018 and 2019. Inspections of compliance with obligations in transboundary movements of waste at the former border crossing with Hungary were performed at the same place, same time and same season - spring and summer. The customs authorities and the Inspectorate did not perform **the joint controls** according to the audit group **effectively**.

**Based on the findings, the SAO SR recommends**, in particular, better cooperation between individual bodies in information, methodology and guidelines related to the transport of waste to and from the EU. It also recommends that **an assessment be made of the reliability and completeness of waste shipments data** coming from the EU. If discrepancies arise, or problem areas, they need to be communicated with the authorities of the exporting and importing countries.

**The audit team also recommends**, if not the purchase of new, then at least more extensive repairs of existing equipment at borders, which would make possible to perform more effective controls. In the case of a border crossing point which is not equipped with a weighing device, it proposes to reconsider the justification for its designation as a border crossing point for waste movements.

## 1 AUDIT PURPOSE

The purpose of the international audit was to establish the facts and assess the degree of compliance with the provisions of the Basel Convention for the cross-border movement of waste between Ukraine, Slovakia and Poland.

### Audit subject:

- a) the correctness of the activities of the authorities authorized to control the procedures applied in the transboundary movement of waste;
- b) the correctness of the activities of State environmental protection authorities, authorised to control entities sending or receiving waste from other countries;
- c) the correctness of the activities of State authorities, especially border and customs services checking the conformity of the declared type with the actual content of cargo transported across the border;
- d) the effectiveness of the activities performed by the competent authorities in the cross-border shipment of waste, and
- e) the effectiveness of the cross-border waste management system in the Slovak Republic.

## 2 AUDIT FRAMEWORK

The audit was performed in accordance with the SAO SR Act, as well as standards based on the basic principles of the International Standards of Supreme Audit Institutions (ISSAI) for performance audit and compliance audit from September 2019 to February 2020. The audited period was 2015 to first half of 2019.

The transboundary movement of waste was audited as part of an international audit involving the supreme audit institutions of Slovakia, Poland and Ukraine. The entities inspected in Slovakia were the Ministry of the Environment of the Slovak Republic, the Financial Administration of the Slovak Republic and the Slovak Environmental Inspectorate.

The audit was performed as performance with compliance elements. In addition, in defining the tasks of individual bodies in terms of the relevant legislation, it was evaluated **how and to what extent the individual activities were performed**. The audit therefore assessed not only the legality of procedures in transboundary movements of waste but also **the efficiency of the activities performed and the overall effectiveness of the management system of waste transboundary movements**.

The criteria for performing the audit were determined on two approaches. In the first case, in accordance with the normative legal acts represented by national and European legislation in the field of waste. Among the above was, in particular, Act no. 223/2001 Coll. and no. 79/2015 Coll. on Waste as amended, Directive 2008/98 / EC of the European Parliament and of the Council of 19 November 2008 on Waste as amended, and Regulation (EC) of the European Parliament and of the Council of 14 June 2008 2006 on Shipments of Waste, including other related legislation.

The Waste Shipment Regulation was a criterion in its entirety against which individual processes, processes and activities were assessed.

In the second case, the criteria represented the expected state, reflected on what was to be achieved or what was expected with respect to generally accepted principles and standards in the case of available options or ideal situation.

Due to the complexity and scope of the set topic, the audit was performed by a combination of approaches, namely a system-oriented approach, where the functioning was verified, setting the system in terms of the ability to meet the set objectives. At the same time, a results-oriented approach was applied, where the outputs from the activities of the competent authorities were evaluated in relation to the set tasks to be performed, as well as the goals and intentions in this area.

The main methods used in the audit included review and analysis of the information in the required documentation. This information was analysed, compared and evaluated by the auditors. Interviews with representatives from inspected entities were also used. The documentation related to the movement of waste to the territory of Ukraine was assessed based on the approvals issued by the Ministry. In the case of waste movements between Slovakia and Ukraine, which were not subject to the procedure of prior written notification and approval, the documentation was selected by non-statistical methods, based on the professional judgment of the auditors and according to the nature of the information obtained. A sample of the Ministry decisions for waste exports was also selected using non-statistical methods in the territory of Poland.



### 3 FINDINGS AND RECOMMENDATIONS

#### 3.1 DEFINITION OF TRANSBOUNDARY MOVEMENTS OF WASTE AND PLANNING PROCESS

Cross-border shipments of waste are the result of insufficient capacity to recover and dispose of the waste generated in most countries, as well as the search for more economical ways for recovery and disposal.

It is regulated by several international treaties. One of them is the Basel Convention. It binds 187 countries around the world, including Slovakia. It has several objectives, in particular:

- to protect people and the environment from the adverse effects of hazardous waste;
- reduce the generation of hazardous waste and promote the environmentally sound management of hazardous waste, regardless of where it is disposed of, and
- restrict the transboundary movement of hazardous waste.

**The European Union has guided the movement of all types of waste through the procedures set out in the Waste Shipment Regulation.** The provisions of the Basel Convention, including other decisions of international organizations, have been transposed into it; for example, the OECD (see Annex 1).

The Regulation has similar objectives to the Basel Convention - to protect human health and the environment. In organising, regulating and transporting waste, Slovakia, as a Member State of the European Union, was obliged to proceed in accordance with this Regulation.

Various entities have entered the waste transport process - from the notifier of the waste shipment, through State authorities and to the recipient of the waste. Although the greatest responsibility lies with the notifier, i.e. the waste holder, the trader or the intermediary, Member States should ensure the proper management of the waste.

Because the waste that could be transported across borders had a different form, composition and therefore a potential impact on the environment and the health of the population, its movement was regulated by various administrative procedures. The Waste Shipment Regulation distinguishes waste into two groups:

- (1) yellow list of wastes (hazardous and other wastes under the Basel Convention as well as other selected wastes),
- (2) green list of wastes (waste that is not considered hazardous).

Shipments of yellow list waste were subject to the procedure of prior written notification and approval by the authorities of dispatch, transit and destination. Shipments of waste from the green list were generally not subject to such a procedure.

The movement of waste from the green list did not need to follow such procedure in general. The waste movements was accompanied by general information requirements, except for the movement of such waste for the purpose of disposal. An exception to the application from this procedure was the movement of certain types of waste to Ukraine, i.e. outside the European Union. Although it was a green list waste, it was subject to the procedure of prior written notification and approval in accordance with the Waste Shipment Regulation and other related regulations.

Authorities in countries of dispatch and destination and in potential transit countries should have information about shipments of waste that have been subject to prior notification and approval procedures, as well as related details. All had to give their approval before the actual start of the transport.

The notification prior to the approval to the movement had to be made in writing in well-defined forms containing in particular information about the exporter (notifier), importer (consignee), waste producer, transporter and disposal or recovery facility, on the type and quantity of waste, about its hazard characteristics and time of transport.

##### 3.1.1 *Planning in transboundary movements of waste*

The waste management program was a **strategic document of waste management** for 2016 - 2020. It was prepared by the Ministry and approved by the Government of the Slovak Republic. The transboundary movement of waste formed a separate part of the document. It defined legislative regulations and processed summary data on waste movements.

The audit group found out by checking the content of the Programme that it did not contain information on waste that is likely to be exported from Slovakia, transported or imported into the country.

In the case of transboundary movements of waste, as in the case of industrial waste, it was difficult to estimate future developments, according to the Ministry. It was mainly affected by the economic situation and compliance with the rules based on the Waste Act.

Only the development of municipal waste could be forecasted. It depended on several indicators - GDP growth, demographic development, consumption growth and purchasing power of the population.

However, the SAO SR considers appropriate finding a mechanism for determining the estimated amounts of waste to meet legislative requirements.

The SEI planning documentation were:

- **Plans of the main tasks** of the Waste Management Inspection Unit. In terms of form and content, these documents were prepared as a list of activities by individual areas. At the same time, they determined responsibility for the execution of tasks, deadlines and potential form of output.
- For 2019, **the Internal Plan of Waste Management Inspection Activities** was also in force. It specified in more detail the procedures for planning control activities comparing the previous years.
- **The plan for inspections of transboundary movements of waste for 2017 - 2019** was prepared in accordance with the Waste Shipment Regulation. It contained the objectives and priorities of the controls, the geographical area, information about the planned controls, the tasks assigned to each body involved in the controls, the rules for cooperation, information about the training of controllers and information on human or financial resources.

The planning and execution of joint control actions by customs offices and the SEI were negotiated on ad hoc basis, stating the exact date, place and time span of the control, sufficiently in advance to ensure staffing and material capacities. Events took place at irregular intervals several times a year. The operability in the procedures of joint control activities created a precondition for the targeted focus of controls and the effective use of available capacities.

### 3.1.2 Risks identification and analysis

Risk analysis is one of the possible tools for **identifying and managing problem areas** for cross-border waste movements. It can streamline operations and increase the overall effectiveness of the waste management system.

The audit group considers as important - at least at the level of risk identification and determination of the method of its management, or elimination - to perform such an analysis. Any problem areas related to transboundary movements of waste should be managed, assessed for relevance, likelihood of occurrence, and monitored and evaluated at the same time.

**The Ministry** did not carry out a risk analysis, which would identify potential problem areas, determine their significance and probability they would occur, and also define possible measures for their management.

The problem areas were partly part of the Waste Management Programme. However, they did not directly concern activities that could affect the accuracy and reliability of data or processes in transboundary movements of waste.

The SEI in the Plan of Controls of Transboundary Movements of Waste for 2017 - 2019 **listed the areas and information sources on which the risk assessment was based**. The risks themselves identified on the basis of these sources, **were not part of it**. However, **they were partially listed** in the Internal Action Plan for individual inspected entities and inspection orientations, for which the degree of risk in terms of possible violations of the Waste Act was determined.

The plan for the control of transboundary movements of waste in the risk assessment was not based on data from police and customs investigations and crime analysis. This procedure has been identified in the Waste Shipment Regulation as a potential source of information that can be taken into account when determining risks.

The audit group therefore **recommended initiating** meetings of police and customs authorities to exchange information and possible access to information, as well as their subsequent use in assessing the risks relevant to the preparation of the Transboundary Waste Control Plan for the coming periods.

**The risk analysis** focusing on transboundary shipments of waste **was not performed** by the customs office responsible for border crossings with Ukraine. In accordance with the FA SR organisational rules, analytical activities for the FA SR organisational units and customs offices were performed by the Department of Risk Management and Analytical Activities within the Anti-Fraud and Risk Analysis Section.

In cases of potential risk during import, export and transit of goods, the setting of risk profiles for individual application software during import, export and transit of goods was used.

If, during the customs procedure, the carrier declared data that met the set criteria, the risk profile was activated, which determined the description of the control and required method of its performance. After the inspection, any findings were sent to the Risk Management and Analytical Activities Department of the FA SR.

### 3.2 TRANSPARENT SYSTEM OF OVERSIGHT IN WASTE MOVEMENTS?

The Ministry acted as **the competent authority for the export, import and transit of waste**, which, inter alia:

- issued approvals for shipments of waste from the Slovak Republic, to or through the territory of the Slovak Republic when prior notification was required;
- objected, in justified circumstances, to the shipment of waste destined for recovery and disposal;
- send a copy of the previous year's report to the European Commission before the end of the calendar year in accordance with the Basel Convention, and
- before the end of the calendar year, prepared a report for the previous year sent to the European Commission.

The Ministry was responsible for receiving and submitting information. It was to maintain a database of decisions for transboundary movements of waste, as well as data from documentation delivered to the Ministry from the entities concerned.

It statistically **evaluated the transboundary movement of waste** in terms of time, destination, quantity and type of shipments.

Two approaches were applied to the waste shipments:

- (1) prior written notification and approval to shipments of waste, in particular from the yellow list, during disposal or movement to countries outside the European Union, also from the green list,
- (2) procedure for shipments from green-listed waste accompanied by general information requirements; the movement was not notified in advance and was not subject to the approval of the States concerned.

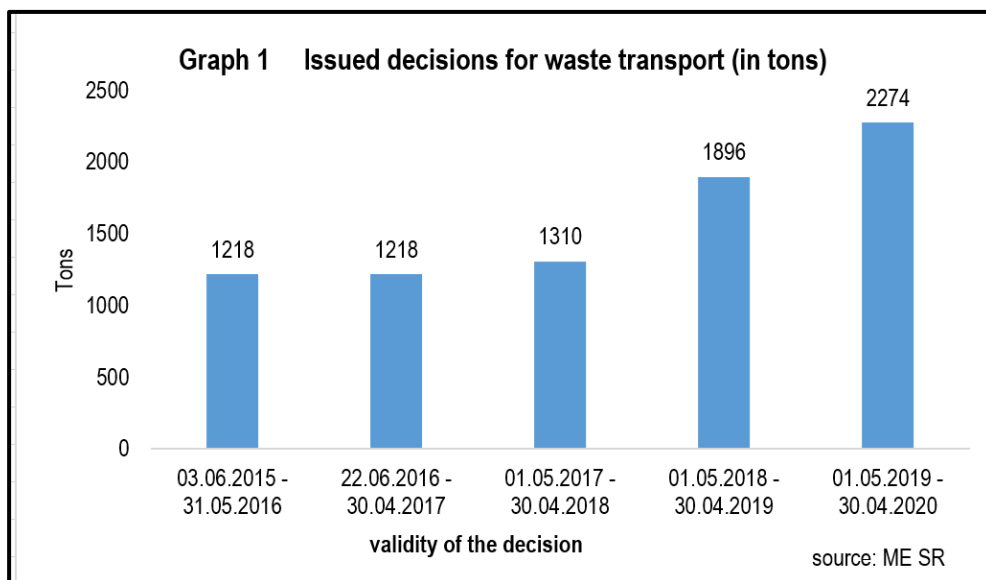
The responsibility for performing the activities by individual bodies in issuing decisions - approvals to the movement of waste depended on the position in which the country acted.

The administrative procedures of individual States are listed in Annex 2.

In the audited period, the Ministry issued 144 approvals for the export of waste, 244 approvals for the import of waste and 219 approvals for the waste transit through Slovakia. Most of the decisions were issued for the transboundary movement from the yellow list.

In the case of transit to Ukraine, the decisions issued concerned waste from the green list. At the same time, they were the only decisions by the Ministry within the framework of waste movements between Slovakia and Ukraine for the audited period.

Transport - transit of waste to the territory of Ukraine in terms of the approved volume increased in the audited period (see Graph 1).



The audit team examined five approvals for the export of yellow-listed waste for recovery in the territory of Poland.

In all cases, the Ministry checked the submitted applications - notifications. They contained mandatory information concerning the intended shipment of waste. Contracts between the notifier and the consignee of the waste were concluded

and effective at the time of notification. **By verifying the completeness and timeliness** of the procedures for issuing approvals for the export of waste, the inspection found that they were carried out in the prescribed form and within the set deadlines. The Ministry **performed all necessary activities** in assessing and taking decisions on transport and, together with the issued decisions, informed the relevant authorities, **which was proved in individual decisions**.

**The procedures** resulting from the position of the competent authority for transit **were also followed** in the case of five decisions for the transit of waste to Ukraine. Decisions were issued each year for the same type of waste, exported and taken by the same entities.

When importing waste to Slovakia, all the requirements contained in the notification were examined during the assessment of applications - the type and period of validity of the permit, on the basis of which facilities performing recovery or disposal activities functioned. Part of this process was also verifying the facility capacity and the types of waste the facility could handle.

### 3.2.1 Green for transit of „green“ waste?

The Ministry evaluated data about waste movements in Slovakia in cases where it acted as an export or import authority. Although the evaluation of data about waste transit has not been the subject of its activities, the results of the inspection, which show several errors in the implementation of shipments, justify the performance of such evaluations.

The Ministry activities in the case of transits through Slovakia to Ukraine **were not fully aimed at obtaining assurance** that it had complete, accurate and reliable information on all shipments.

The Ministry **did not evaluate information** and documentation on waste transits through Slovakia, **it only archived documents**. The delivered mail at the created address, which would prove the period of delivery of the documentation, was not archived either.

The Ministry **did not verify compliance** with the obligation to send movement documents for the intended shipment before its start, nor compliance with the obligation to send confirmed movement documents after receiving the waste by the facility and the obligation to send a waste recovery document within one year of receipt. **The obligations were part of the conditions** in all decisions - approvals for waste transit, and resulted from the Waste Shipment Regulation. By determining and complying with these preconditions, the Ministry conditioned the movement of waste through the territory of the Slovak Republic. Nevertheless, such conditions fulfilment was not assessed.

According to the evaluation of the submitted documentation, the Ministry **was not informed** by the notifier **about all intended shipments**. It was also **not informed by the facility that received the waste about all transports made - acceptances of waste** and in selected cases about its recovery. An example of this were 19 shipments in the period from December 2016 to June 2019, for which the Ministry did not have the relevant documentation - documents on the movement before the transport as well as documents on the movement, proving the receipt and processing of waste by the relevant facility.

During this period, the audit team also identified 88 cases in which the Ministry was notified about the intended waste shipment, but after its completion, no documentation was received of the waste receipt by the facility. As part of these shipments, documents proving the recovery of waste were not delivered in 65 cases.

The audit identified 36 cases in which the Ministry was notified about planned waste shipment, but according to data from the customs authorities, these were not made. From the above, it can be assumed that the planned transport was canceled before their actual execution. However, in these cases, the Ministry did not have information about the transport cancellation.

In four cases, movement documents were identified, proving the take-over and recovery of the waste by the facility. However, these shipments were not notified in advance to the Ministry and at the same time, according to records from the customs office, were not actually made.

In one case from 2018, the waste shipment was notified in advance to the Ministry, and documentation about the receipt and recovery of waste was subsequently delivered, however, according to records, the shipment itself was not identified by the customs authorities.

In several cases, **the data** about planned and realized shipments **did not correspond** to the data about actual waste shipments. The audit group identified shipments in which waste was transported in a greater weight than declared. Eight cases were identified in which waste shipments weighing more than 51 tons were reported, while the real shipment weight was more than 57 tons.

In 2016 and 2017, ten shipments with a significantly lower weight than previously announced were identified. Shipments with weight of 73 tons were reported, while according to records, the actual weight was only almost 43 tons. Despite these differences in weight, the documentation confirmed the acceptance of the waste in declared, not actual weight.

In four cases, shipments were made for which the relevant documentation was not delivered and which at the same time **did not numerically follow** to the previous or next shipment.

In one case, a planned shipment was announced, which was subsequently cancelled, of which the Ministry was informed. Despite its cancellation, the Ministry subsequently received a movement document proving the receipt of the waste of the already cancelled notification, and such shipment was not identified by the customs authorities.

**The absence of accurate, complete and reliable data** about the waste transit did not ensure sufficient control - supervision of the waste movement through Slovakia.

The activities by the Ministry in the area of **monitoring the shipments - waste transits** - were not evaluated as fully effective. Due to the lack of comprehensive data about the waste movements, full control was not ensured and adequate action taken in case of errors.

**It was not possible to determine precisely** whether all the waste actually left the territory of the European Union or whether it remained in its territory and was disposed of or treated in contravention to the approvals and regulations granted.

### 3.3 INSUFFICIENT CONTROL

Performing physical inspections of waste shipments, including related documentation by the competent authorities, is an integral part of the processes to ensure compliance with waste shipment approvals. For wastes that are not subject to the

prior notification and approval procedures, these procedures were relevant to meet the conditions for the movement of waste under the general information regime.

**Physical control of waste shipments** in Slovakia was performed by customs authorities and the SEI. Checks could be performed:

- at the place of origin, together with the producer, holder or notifier of the waste;
- at the place of destination, together with the consignee or the establishment;
- at the borders of the European Union, and
- during transport within the European Union.

The customs authorities and the inspectorate performed their activities separately or in the framework of jointly organised activities.

### 3.3.1 *Risk of circumnavigating the control of waste export and import*

The customs authorities checked in the transboundary movement of waste:

- the mandatory documentation;
- whether the goods transported not accompanied by the required documents are or not in fact waste, and
- whether the transboundary movement of waste does not contravene the rules and corresponds to the facts.

During the period under review, two internal management acts were in force governing the procedure of customs authorities for the import and export of waste to and through the customs territory of the European Union, from the customs territory of the European Union and for shipments of waste between the Member States.

While performing the inspection, the customs office **followed exclusively** the internal management acts. However, **these did not include all the procedures** under the Waste Shipment Regulation. This created a risk that the movement of waste could lead to a situation where the customs authorities did not require the submission of all mandatory documents accompanying the import, export, transit of waste, as required by European and national legislation.

In selected verified cases of transboundary movement of waste from the green list in the general information regime, **the waste was shipped without the submission of mandatory documents**. The customs documents did not contain records of the submission of the compulsory documentation and it was not even physically attached in the form of a photocopy. Therefore, in the cases examined, the movement of waste was made without verifying that the conditions / obligations regulated by the Regulation were met.

The customs procedure was made at the branch of the customs office, where the inspection of the documents submitted by the declarant and the physical inspection of the presented goods were performed, followed by affixing of a customs seal. At the individual border crossing, physical checks of all transports were made with emphasis on the integrity, number and marks of the seals attached. If the result of the control was negative, the scope and result of the customs control were indicated in the customs documents in the prescribed manner and the goods were released with the original customs seal.

The audit verified the movement of waste on the basis of issued decisions - approvals by the Ministry for the transit of waste originating from the Netherlands through the territory of Slovakia to Ukraine. In the mentioned cases, the waste was described most often as "Other parts, components and accessories of printers – used optical cartridge". This type of waste was not classified as hazardous. According to the records of the customs office, a total of 344 shipments with a weight of almost 2,230 tons was made in the audited period.

In the customs documents, as part of the agreed transit of waste to Ukraine, **the audit group recorded no information about the mandatory accompanying documentation**. It was not even physically attached to the customs documents as a photocopy. The transported cargo **was not "declared" as a shipment of waste and the consignment was considered as a commodity**. The consignments were packed in original packaging and did not show any signs of waste during the physical inspection. **This resulted in the waste export from the European Union to Ukraine without meeting the conditions under the Waste Shipment Regulation.**



As the consignments were not identified as waste in the customs procedure, the customs office of exit did not send a stamped copy of the waste movement document to the authority of dispatch stating that the waste had left the European Union.

With regard to the transboundary movement of waste, the audit revealed differences between the Waste Shipment Regulation, the European Union Customs Code and the Common Customs Tariff, which did not regulate transboundary shipment procedures uniformly. The results of the SAO SR audit indicated problems in the control of waste cross-border shipments by customs authorities due to **differences in waste codes** - between waste codes under the Waste Shipment Regulation and Common Customs Tariff codes.

The system of waste transboundary shipments was **not sufficiently secured against shipments without meeting the conditions** laid down in the Waste Shipment Regulation.

The deficiencies found during the audit indicated **the risk of possible circumvention of the exports control and waste imports by not declaring that the goods presented are waste**; this was possible for consignments which, at first sight, did not show such signs. The potential risk was also the opposite procedure - by possible indication in customs documents that the shipment is waste, while the shipment was, in fact, products designed for market in order to achieve lower rates of customs duties and VAT.

During the audited period, the relevant customs office did not detect the illegal shipment of waste when moving from and to the territory of Ukraine.

### 3.3.2 *Insufficient material equipment at border crossings*

In the audited period, **Slovakia designated three border crossings to Ukraine for the transport of waste**: Ubl'a - Malyj Bereznyj, Vyšné Nemecké - Užhorod, Čierna nad Tisou - Čop.

**The control system** for waste movements at borders **has not ensured the effective implementation** of the processes that would result in comprehensive and reliable information. The audit team found that there was **insufficient technical equipment at some border crossings**.

The Ubl'a - Malyj Bereznyj border crossing, which is a road border crossing for traffic up to 3.5 tons, did not have weighing equipment. If the waste were to be shipped, the customs authorities would have to rely on the information given in the accompanying documentation.

The Maťovské Vojkovce - Pavlovo border crossing, which was not intended for the transport of waste, had equipment for weighing railway wagons. However, this has not been functional since the device was put into operation.

The absence and **malfunction of the weighing equipment** did not ensure the possibility to assess the declared waste with its actual quantity and to provide accurate and reliable information on the shipments.

The Vyšné Nemecké - Užhorod border crossing had equipment for weighing lorries. It also had a scanner through which each truck passed.

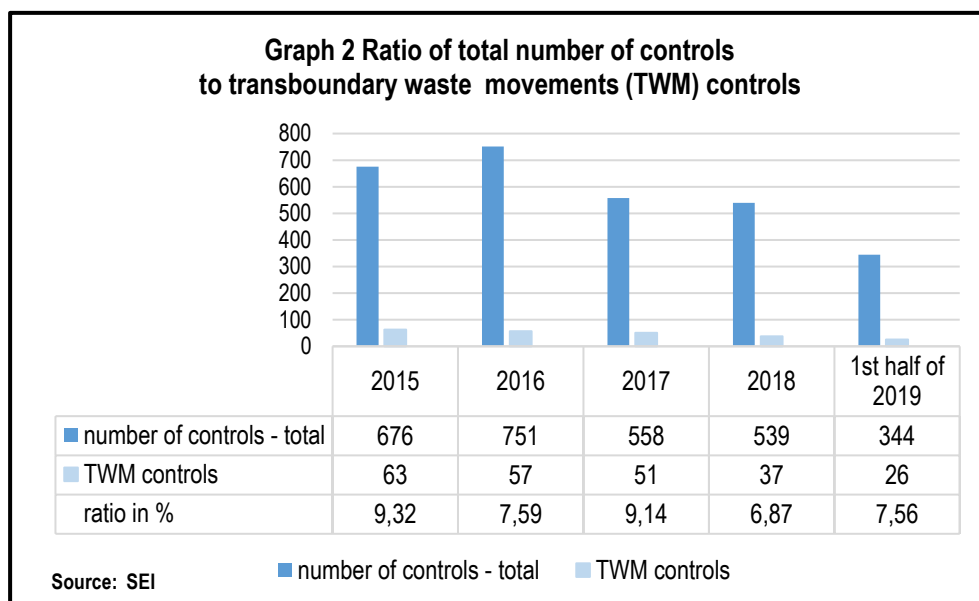
At the fourth railway border crossing Čierna nad Tisou - Čop, a functional device was found during an inspection for weighing railway wagons.

Each border crossing was equipped with a declaration system.

The audit identified the need, if not the purchase, of new, at least more extensive repairs to existing technical means of customs control in order to increase the effectiveness of control procedures in the waste movement management system. Until the border crossing is equipped with a functional weighing device (in case of its absence), it seems appropriate to reconsider the justification of its designation as a border crossing for the movement of waste.

### 3.3.3 Sanction as a control result

Sanctions are one of the essential tools for implementing legislation when shortcomings are identified. The competence of the SEI, as a sanctioning body, was regulated by the Waste Act.



The SEI made more than 2,800 inspections of waste management in the audited period, of which 234 inspections were in transboundary movement of waste (see Graph 2). It found violations of the law in 13 cases. In nine cases it imposed fines, in the other two cases it could not do so due to the expiry of set deadlines and in two cases no fine proceedings were initiated, which was not in accordance with the Waste Act.

In the second half of 2019, the SEI adopted the Principles of Imposing Sanctions for Administrative Offenses, which can be assessed as a positive step to the set the processes in the sanction system.

By reviewing the internal control procedures, the audit found that the SEI had **sufficiently defined procedures for controlling the transboundary movement of waste** throughout the audited period, which were reflected in individual manuals for transboundary movements of waste, manuals for transit of waste through the Slovak Republic and several methodological guidelines.

## 3.4 INSUFFICIENT COOPERATION

The subject of the 2016 agreement concluded by the FA with the SEI was **mutual cooperation ensuring the fulfilment of tasks arising from legislation within the cross-border movement of waste**.

The agreement was concluded to promote the legal transboundary movement of waste, in accordance with the regulation and to combat illegal trade in waste. The form of mutual cooperation has been agreed in the area of providing synergies and information, at various levels within the organizations.

The cooperation consisted in particular of:

- (1) providing up-to-date information obtained between the parties to the agreement;
- (2) drawing up inspection plans;
- (3) the planning and implementation (as necessary) of joint controls of waste transboundary movements at the state border or the Slovak Republic territory with the participation of employees from the relevant customs office;
- (4) communicating the results of that control activity which the parties to the agreement made independently and which could be the subject of further proceedings by one of the parties to the agreement,
- (5) conducting (as appropriate) working meetings of their representatives or employees authorised for specific cooperation issues and other intentions.

In the audited period, the method of cooperation was applied in the form of providing information, planning and performing the joint inspections. Other forms were not used.



In 2018, seven joint inspections were made, of which only in one case was the import of waste to Slovakia detected. In 2019, six joint inspections were performed, of which waste imports to Slovakia were detected in three cases. Shipments according to inspection records were accompanied by the necessary documents, no deficiencies were found.

**All joint controls** at the entry to Slovakia on the state border with Hungary near the Slovenské Nové Mesto were made **exclusively in the spring and summer months**. Due to the regularity of the performed inspections in terms of time, season and place of performance, **these inspections were not evaluated as effective**.

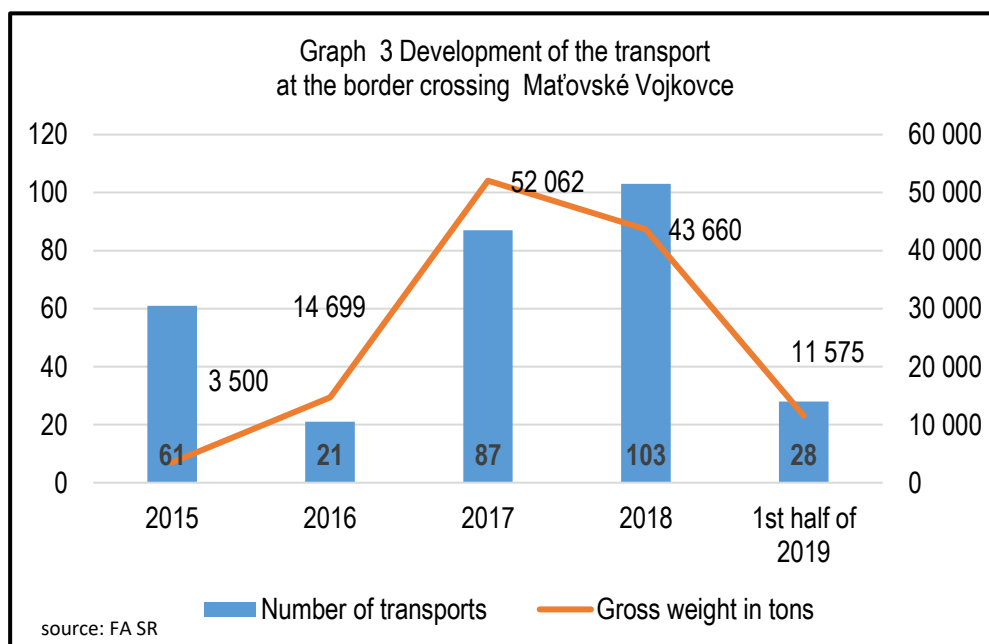
Due to the fact that during the audited period the SEI did not make inspections at the border with Ukraine and no co-operation was required by the customs authorities (except for one case for the Košice Customs Office), **it is the opinion of the audit group it also had a negative impact on the overall effectiveness of the waste management system**.

The Regulation allowed Member States to designate entry and exit customs offices into and from the Community. If these procedures were applied and such customs offices were designated, no waste could be imported into or out through other border crossing point in that Member State.

The official website of the European Commission listed customs offices and border crossings designated by the authorities of the countries concerned. The list contained three border crossings for Slovakia: Čierna nad Tisou, Ubl'a and Vyšné Nemecké. They were also mentioned in the reports that Slovakia translated to the European Commission under the Regulation. The change of designated border crossings and the updating of information took place at the end of 2019 in connection with the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union.

**The audit revealed** that in the period from 2015 to the first half of 2019, waste was transported through the border crossing Maťovské Vojkovce - Pavlovo, which was not a designated border crossing according to the regulation.

In audited period, a total of more than 125,000 tons of waste from the green list destined for the metallurgical industry, was transported to Slovakia through the said border exceeding 300 cases (see Graph 3).



In terms of the volume of transported waste, it was **the key passage Slovakia determined for waste transport**.

The audit team notes that **communication between the various responsible national authorities was insufficient**, as no organization identified a discrepancy between the designated border crossings and the actual shipments of waste, that would allow an action(s) be taken.

## RECOMMENDATIONS

Based on the audit results, SAO SR submitted the following recommendations to various addressees:

### Ministry of Environment:

- a) to perform an evaluation of the accuracy, reliability and completeness of the data on a selected data sample;
- b) to communicate irregularities and problem areas with the relevant authorities for waste export and import, and
- c) to intensify cooperation with the FA SR in the field of information and methodology,

### The Slovak Environmental Inspectorate:

- a) to initiate meetings and strengthen cooperation with the police and customs authorities for exchange of information and possible access to information, as well as their subsequent use assessing the risks essential for the development of a plan for waste transboundary movements for the coming period.

### Financial Administration of the Slovak Republic:

- a) to amend the Regulation of the Financial Administration of the Slovak Republic;
- b) to analyse the waste transboundary movement at the border with Ukraine in terms of the risk of shipments and the likelihood of violation of the established conditions;
- c) to ensure functional material equipment of border crossings, and
- d) until the border crossing point has been equipped with a functional weighing device, reconsider the justification for its designation as a border crossing point for the waste movements.

The SAO SR recommends the responsible authorities to strengthen mutual cooperation primarily through meetings of the working group established in accordance with the agreement between the Slovak Environmental Inspectorate and the Financial Directorate of the Slovak Republic. The Working Group, as a common platform for solving the issue of waste transboundary movements, represents an effective tool for the mutual exchange of information, experience as well as the application of a uniform methodology and procedures for waste transboundary movements. According to the SAO SR, one of the subjects of the working group meetings should be the area of waste transport going to and from the European Community. This should include solutions to problem areas, methodological guidelines in terms of European and national legislation, exchange of information as well as procedures for planning control activities and streamlining the control system.

## 4 AUDITEES' REACTION

The audits performed in all three entities were completed with identified deficiencies. One audited entity - the Ministry of the Environment of the Slovak Republic - objected to the veracity, completeness and provability of the inspection findings. The examination of the objections by the SAO SR did not confirm their validity.

Based on the results of individual inspections, the audited entities took measures in accordance with the SAO SR Act to eliminate the identified deficiencies, which were submitted in writing to the SAO SR.

A total of five measures were taken, the fulfilment of which resp. compliance by the audited entities will be monitored and evaluated by the SAO SR based on sent written reports within the specified deadlines during 2020.

## 5 AUDIT TEAM

The audit in three auditees was performed by two auditors from of the SAO SR Prešov Branch Office, two from the SAO SR Košice Branch Office and one from Environment and Agriculture Division, Audit Department I. The audit leader as well as the auditors have many years of experience with the audit in the environment as well as in the field of customs.

## CONCLUSION

**Wastes and their life cycle** - from generation, through movement to disposal - **is a global problem**, now more and more urgent due to ever-increasing consumption, free movement of goods, as well as the critical limit of sustainable environmental status.

They have a direct impact on the economy and the environment, they indirectly affect the State budget and health care, as they negatively affect the health of the population.

Waste management is regulated by several international declarations, conventions or action plans of sustainable development. Their aim is to minimise the generation of waste, ensure environmentally sound management, minimise adverse effects and prevent its illegal export, especially to developing countries.

The most important of all are the United Nations declarations, agreements and action plans. One of them is the Basel Convention, which deals with hazardous and other wastes. Its goals are interlinked with the goals for Sustainable Development set out in Agenda 2030 for Sustainable Development. The provisions of the Basel Convention have been implemented in the Waste Shipment Regulation, which is binding for the Member States of the European Union.

**The control of transboundary movements of waste** from 2019 fulfilled its purpose. Despite the change in legislative conditions, it pointed to similar shortcomings as already identified in 2007.

According to the audit group from the SAO SR, the responsible authorities insufficiently supervised the transport of waste to Ukraine.

**Eight cases** weighing almost six tons weighed more than originally reported. In ten cases, a total of 73 tons of waste was declared, taken over and certified, with the actual weight of the waste being more than 30 tons **less than actually reported**, according to customs records. The audit also found 36 reported shipments weighing more than 230 tons, in which, although the companies notified the Ministry of the intended transit, there was **no record of crossing the State border or a record of its cancellation**. There was also a lack of confirmation of receipt and recovery of waste.

**The activities of the Ministry** were not aimed to ensure the completeness, accuracy and reliability of information about all performed transports. The Ministry did not evaluate the documentation about them, it only archived it.

The SAO SR therefore warns that if the control system does not change, a large amount of waste will continue to pass through Slovakia, and its movement not controlled. The action of the competent authorities is therefore important. At the same time, however, their mutual cooperation, methodological support and exchange of information are important for a functioning system.

The audit team therefore considers important that the individual national authorities responsible for managing waste movements be adequately staffed and resourced. Given the scope of activities, the volume of data processed, as well as other focus, in addition to waste management, sufficient material and personnel provision is one of the prerequisites for the activity to be made efficiently, thus increasing the overall efficiency of the waste management system.

Slovakia is a country with an external border of the **Schengen area**, in which the States guarantee security and are jointly responsible for the external border of the European Union. However, the SAO SR found that border control did not work sufficiently either.

Two of the four border crossings lacked sufficient technical equipment. While in one case the weighing equipment was missing, in the other case this equipment was inoperative for a long time. The inspection showed that the waste was transported across the Slovak-Ukrainian border also through one crossing Slovakia did not report to the European Union.

According to the Waste Shipment Regulation, waste may **only be shipped through border crossings** that the country has reported to the European Commission. As the waste was transported across crossing that was not reported, **Slovakia did not comply with the regulation**.

Due to the **absence of comprehensive waste management procedures**, the lack of up-to-date information, identified shipments made without fulfilling set conditions, as well as the lack of joint inspections and the lack of material equipment, the actions of the responsible authorities at national level were not assessed as fully effective. **The shortcomings affected the accuracy, completeness and reliability of the processes performed and the information obtained.** Slovakia did not fully ensure the effectiveness of the cross-border waste management system in the audited period.

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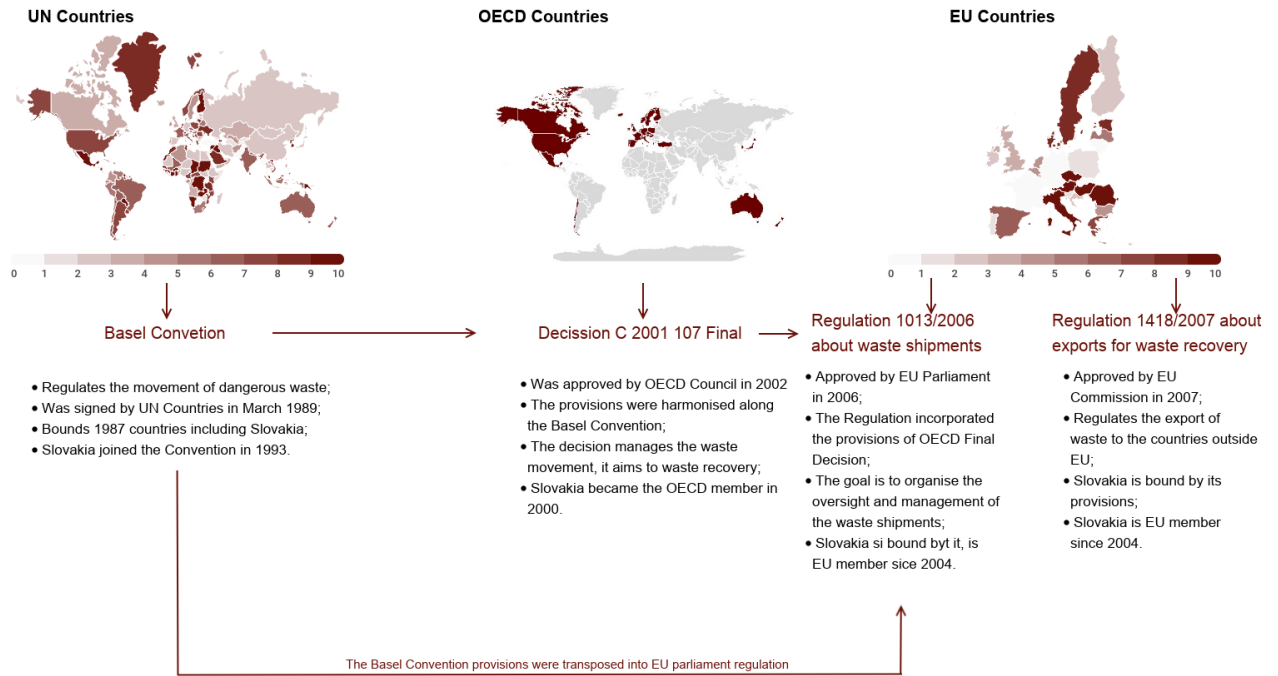
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## ANNEX 1

## The rules governing transboundary movements of waste



## ANNEX 2

# The waste route through State border

