

THE LEGAL FRAME WORK OF RECICLING ELECTRIC AND ELECTRONIC EQUIPMENT IN ROMANIA

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Abstract: The study presents the actual legal framework of recycling in Romania, in general, and highlights the recycling of electric and electronic components in special. I revealed aspects which legal entities that have as objective the recycling process of electric and electronic components, but not only, have to take in consideration, in order to be able to operate in the limits imposed by the Romanian legislation. The current legislation - the Labor Law legislation, the Commercial legislation and the one that regulates the Environmental Law is quiet broad. First of all the study will have as starting point important legal provisions provided by the environmental legislation. A second approach of the issue is rooted in the Labor Law branch that incorporates regulations regarding conditions that an employer has to accomplish in order to be able to hire the necessary staff for to develop its activity. In order to present these aspects the thorough study of the New Romanian Labor Code that entered into force in 2011 and which currently regulates the labor relations in our country was absolutely necessary. I also tried to present all day situations that prove the fact that, even if a legal framework exists, in reality problems continue to appear. At last, important aspects regarding the benefits that the activity of recycling electric and electronic components can bring to the environment are presented.

Keywords: recycling/electric and electronic equipment/pollution/ environment

1. INTRODUCTION

All over the world pollution represents an extremely debated subject. That happens because industrial development brought changes on the environment. Humans have noticed too late that they are the creators of the environment that assures their biological existence and that by acting irrationally and not keeping a normal balance of life they destroy their own habitat [1]. International non-governmental organizations fight every day against pollution. As an example for that I mention cleaning campaigns that are organized in order to protect the environment. Such a campaign also takes place, once a year in Romania. Out of private initiative people all over the country are called to help clean a specific area. Of course this is only a small fraction that reflects the private recycling activity.

All dough the concept of recycling is not a new concept it only came in the attention of human beings due to the degradation of the environment. As humanity noticed the fact that the recycling process can help to improve de quality of live it started using it more and more often.

Recycling represents a concrete fact that man can do for saving the environment. Recycling is a step towards

the achievement of managing wastes. However the recycling is considered to be the treatment of symptoms and not the treatment of the causes [2].

At a larger scale the European Community, which Romania is part of, militates for the preservation, the protection and for the improvement of the quality of the environment, for the protection of men's health and the prudent and rational use of natural resources. All these objectives were listed in the first article of the Directive no. 96/2002. Romania automatically took them over as it became a member of the European Union. The European Community constantly keeps track of their accomplishment and does not hesitate to sanction those countries which disregard the quoted provisions.

The process of recycling is usually conducted in more stages: collection, transportation, the recycling itself, capitalization of the recyclable materials and the discharge of those wastes that cannot be recycled. By creating a legal framework for regulating the collection, reuse and recycling of the electric and electronic equipment the legislator tried to reduce the number of discharged wastes that harmed the environment, by capitalizing them in other forms.

A first and very important step towards improving the quality of environment would be dough the prevention of discharging wastes, by not reintroducing in the manufacturing process those materials that cannot be recycled or by not incorporating dangerous materials in the final product. If these few criterea of preventing the pollution would be respected then, such materials that I mentioned above would not be discharged anymore and they would definetly not degrade the environment.

A second big step would be to introduce fines for inappropriate disposal of electric and electronic wastes. The legislator can on this way stimulate the society to respect the legal provisions regarding the collection and the recycling of materials. Nowadays, even if the law provides fines, they are not properly applied.

The „waste“ was defined by the romanian legislator in Emergency Ordinance nr. 78/2000 as beeing any substance, material or object that resulted after some biological or tehnological processes, that by himself, without beeing subjected to a transformation can't be used anymore as it is.

The same Emergency Ordinance of the Romanian Government nr. 78/2000 establishes the principles that constitute the basis of the administration of wastes in our country, namely:

a. The principle of using only those processes and methods of administration of wastes that do not endanger the health of the population and the environment;

b. The principle „the polluter pays“;

c. The principle of the responsibility of the producer;

d. The principle of using the best available techniques, without engaging excessive costs;

The wastes, depending on their nature can be divided in three big categories: solid, liquid and gaseous. The main types of solid wastes in turn include:

- Wastes that come from private households;
- Street wastes;
- Industrial wastes [3].

In the category of electric and electronic wastes the following can be included:

- Big household appliances; in this category we include for example appliances like: refrigerators, freezers, washing machines, clothes dryer, dish washers, electric ovens, microwaves ovens, electric radiators, air conditioner appliances and others;
- Small household appliances as vacuum cleaners, irons and other appliances for ironing, toasters, fryers, coffee machines, hair dryer, shaving, tooth brushing appliances, clocks, scales and others.
- Computer and telecommunication equipment as it follows: desktop computers with mouse, screen and keyboard included, laptop computers, notebook computers, notepad computers, printers, copying equipment, electric and electronic typewriters, pocket and desk calculators, telephones, cordless telephones, cellular telephones, etc.
- Consumer equipments like: radio sets, television sets, video cameras, video recorders, hi-fi recorders, audio amplifiers, musical instruments, etc.
- Electric and electronic tools as: drills, saws, sewing machines, tools for mowing or other gardening activities, and others.
- Illuminating tools.

Of course the list from above is not exhaustive; it only serves as example of some electric and electronic equipment that can be included in each category.

The Directive of the European Community no. 96/2002 describes thoroughly in the first schedule ten categories of electric and electronic equipments as well as the appliances that are part of them.

In Romania the Ministry of Environment and Woods is the competent authority that watches over the compliance of the legal provisions regarding the protection of the environment.

It also has among other responsibilities the one to assure a clean and healthy environment for the present and future generations.

This ministry acts as a state authority. It has various activity domains such as: the examination of the industrial pollution, the quality of the air and the ambient noise, the management of the natural areas that are protected, the preservation of the biodiversity, the biological security, the environmental infrastructure, the management of wastes, the management of dangerous chemical substances, the protection of the soil and subsoil, the sustainable development, the management of

waters, the management of the wood sector, and others that do not present interest for the current study.

The Ministry of Environment and Woods also accomplishes the responsibilities of checking on its own activity domains either, directly, by itself or through public institutions that are in its subordination [4].

2. LEGAL ASPECTS REGARDING THE CONDUCT OF THE RECYCLING ACTIVITY OF THE ELECTRIC AND ELECTRONIC EQUIPMENTS

In our country the process of recycling starts to occupy a very important place in terms of converting the legal dispositions that exist in this domain into practice. First of all authorities try to guide private users toward selective collection of wastes. That happens mostly by using publicity. Private users have to have a minimum of knowledge in the sense of collecting wastes. This education is even more necessary when we speak of disposing electric and electronic equipments, so that authorized persons can collect and subject them to the recycling process.

A very common problem in Romania is that citizens refuse to give up their old electric and electronic equipment. As a consequence these appliances are not recycled and as time passes they become a source of pollution. Another problem that appeared lately is the fact that the life of electric and electronic equipments, that are currently manufactured, is shorter than it was before, fact that leads to a bigger accumulation of electric and electronic wastes and, even more if citizens refuse to give them up for recycling, preferring to retain them in their households. In what regards the owners of industrial recyclable wastes, legal entities, the issue has to be debated differently. These entities have the obligation to ensure the collecting, the assortment and the temporary storage of these wastes, respecting the provisions regarding the protection of the environment and health of the population. They also have the obligation to reintroduce the owned wastes in the circuit of production [5]. According to the legislation public authorities are the ones who have the obligation to collect separately these types of wastes from individuals. Also these public authorities are the ones devolved upon the obligation to provide the producers with spaces for establishing selective collecting points of electric and electronic wastes [6].

It also has to be mentioned that in Romania private societies exist, of course authorized in the recycling area, that in order to avoid a long and arduous procedures, collect directly, at request, using their own personnel, electric and electronic wastes from private households.

In order to obtain the optimum results in the recycling domain, employers, using workforce that they have employed, have to develop their activity in a legal framework that would regulate the conducted activity, regardless of its nature. The creation of this framework is the responsibility of the legislator. It is obvious that if this framework is well placed then the activity of recycling will develop in optimum conditions in order to obtain the desired results. If this system works efficiently the benefits are not delayed. The benefits that I am talking about may be of different nature: first the

economic advantage that the employer gets by conducting such an activity; then by the functioning of such entities a certain number of jobs would be created fact that implicitly provides a benefit to the community; not in the last place is the benefit brought to the environment by the recycling electric and electronic parts, and so on.

The recycling of the electric and electronic components can be viewed at least from two different points of view: either these components are recycled and then afterwards the obtained materials are used in the production of new parts of same nature; either they are recycled and then used in the production of new parts of other nature. But returning to the legal framework of the recycling process, we can define this process the activity of reintroducing recovered wastes in the process of production. Some legal aspects regarding the activity of recycling, but not only, as it was mentioned before, can also be found in commercial and labor legislation. So, in order to be able to conduct an economic activity the registration of a company in the Register of Commerce [7] is necessary.

Anyone who desires to establish a company has to respect the provisions of the commercial legislations first. Then the already established companies that want to have the quality of employer, regardless if we speak of an authorized person or a legal entity has to fulfill the conditions imposed by the legislation regarding the capacity to hire personnel. The issue is differently debated depending on the nature of the employer. So, the situation regarding individuals that are authorized in the domain of recycling electric and electronic equipments the capacity of employment is relatively simple. This type of employers can hire third parties if they have full capacity of exercise that is when they are 18 years old.

The capacity of exercise of companies on the other hand is acquired at registering of the society into the Commercial Register. The capacity of exercise that we are talking about consists in the aptitude of gaining and exercising rights and assuming obligations by completing legal documents through the company's governing bodies [8].

Beside the general criteria, that the labor law provides, a legal entity that wants to conduct the activity of reuse, recycle and remanufacturing of electric and electronic equipments must obtain an authorization. The task of according the mentioned license belongs to an Evaluation Commission whose compound is provided in the 3rd article, second alignment of the Order no. 1225/2006 regarding the approval of the procedure and the criteria of evaluation and authorization of collective organizations in sight of taking over the responsibilities regarding the accomplishment of the annual objectives of collecting, reuse, recycling and the capitalizing of the electric and electronic wastes equipments.

The Commission provided by the 3rd article of the Order no 1225/2006 has the following composition: a stat secretary from the Ministry of environment as president; the president of the National Agency for the Protection of the Environment – vice-president; a representative of the wastes and dangerous chemical substances Direction within the Ministry of Environment and Woods – as member; a representative of the Ministry

of Commerce and Economy – The General Direction of industrial politics – member; a representative of the dangerous chemical substances and wastes within the National Agency for the environmental protection - member; a representative of the authorizing and horizontal legislation Direction within the National Agency of environmental protection – member; a representative of the Commerce and Economy – The National Commission for Recycling of Materials.

The procedure of authorization is described in a detailed manner in the annex of the above mentioned Order. This license has a limited validity. It is issued by the competent authority for a period of two years. At the expiration of the license the requesting of the reauthorization is mandatory. The interested person must address itself to the same commission with a written request. The procedure of reauthorization is similar to the initial authorization one. Also for obtaining this license the petitioner must pay a total of 5000 Lei.

The Romanian legislation, respectively the 10th point of the 1225/2006 Order regarding the approval of the procedure and the criteria of evaluation and authorization of collective organizations in sight of taking over the responsibilities regarding the accomplishment of the annual objectives of collecting, reuse, recycling and the capitalizing of electric and electronic wastes equipments concretely, provides the obligations that collective organizations that conduct activities of collecting, reuse, recycling and capitalizing electric and electronic equipments have to accomplish in order to develop their activity and implicitly to maintaining their license. So, among other obligations they have to:

- a. Take over the responsibility of collection, reuse, recycle and capitalize the electric and electronic waste;
- b. To conclude contracts with any interested producer;
- c. To receive the interested producers among the organization members, with the abidance of the legal provisions;
- d. To conclude contracts with authorized collectors and to take over electric and electronic waste equipments and to facilitate their transfer to the traders;
- e. To conclude contracts with operators that maintain and repair electric and electronic equipments for capitalizing reusable components and that process the replaced parts that are wastes;
- f. To conclude contracts with recyclers which have the capacity to reevaluate materials, components or entire electric and electronic equipments?
- g. To avoid discrimination between counterparties and the members of the collective organization;
- h. To conduct only activities that are related to the recycling, reuse and the capitalization process, the performance of educational and informational programs and also to conduct studies regarding the collection and treatment of electric and electronic wastes;
- i. To reinvest their profit in the development of the system of wastes management;

- j. To send to the evaluation and authorization Commission the complete report of their activity every year for the past one. This report must contain detailed information regarding the following: legal entities that they have conclude contracts with, data regarding the electric and electronic wastes that they have administrated, a presentation of their activity, the amount and the way of using the exceeding money, the real costs that they had in the past year, but also other relevant information;
- k. To inform in writing the evaluation and authorizing Commission about any significant change of the information that constituted the basis of the release of the operating license; in this situation the Commission of evaluation and authorization will decide whether it is necessary to review the license or not, or if a reauthorization is necessary.

The inobservance of the legal regime of the management of wastes attracts the contravention or penal liability, whatever the case is. If the provenience of the wastes cannot be proved, these will be impounded and capitalized in legal conditions. Their consideration will constitute income for the local budget of the region where the wastes were impounded [9].

Our country, in comparison with other countries of the European Community has yet a lot to progress in the recycling area, regardless of its object, even if a legal framework for this process already exists. It is vital to continue the fight against pollution and to permanently develop this domain in order to obtain the results that all parties involved in the process of recycling expect.

It is also important for Romania to accede to the European legislation regarding the recycling process. A step in this matter has been made as the Romanian Government issued the Governmental Decision no. 816/2006 after the European Parliament and Council issued the Directive no. 95/2002 regarding the limitation of the use of some dangerous substances in the manufacturing of electric and electronic equipments. Consequently the legislator issued this decision that limits the use of dangerous substances in the compound of electric and electronic equipments. In the annex of this decision we find the legal quantities of chromium, lead, mercury, cadmium, and other such substances that are allowed to be used in the mentioned equipments. The tolerated maximum concentration is 0, 1% of chromium weight, lead, mercury as well as a maximum concentration of 0.01% of cadmium weight in homogeneous materials.

3.CONCLUSIONS

The above presented facts represent only an example of accession to the European legislation by the internal one. This shows the intents of the Romanian state to reduce the quantity of dangerous and substances that cannot be recycled that are eliminated in the environment. The permanent implementation of the Romanian legislation in this area is a sign that the state is interested to protect the environment, but is also interested to align our country's legislation to one of other European states that are part of the European Community. But we all know that the way from theory to practice is long.

Authorities must intensify their activity of control and they must supervise better the compliance of the legal provisions. Bigger fines must be applied to those who disregard these provisions, who pollute the environment and endanger the health of our society. A big interest to develop the area of recycling, reuse, capitalization and remanufacturing electric and electronic wastes is also shown by private legal entities that are directly involved in this process by collecting, transporting and the recycling electric and electronic wastes. Beside their interest to obtain a profit, they offer private householders the opportunity to disembarass themselves of old electric and electronic appliances that would be otherwise stocked in their households, degrading and polluting the environment. But, these private entities should benefit of a bigger support from the part of the Romanian state.

It is extremely important to prevent pollution because irrational elimination of wastes that aren't recyclable produces irreversible damages to our environment and on our health. It is necessary that citizens start the process of prevention and recycling. That is because they are the ones that by selective collection and by the controlled disposal of electric and electronic wastes can stop the pollution and encourage the development of the economic activities of recycling. Families must educate their children to take care of the environment we live in by recycling not only electric and electronic wastes but all kinds of wastes. A big step towards recycling was made by introducing in Romanian schools disciplines that contain at least a part of environmental law. These disciplines can be later thoroughly studied in Universities of profile, but not only. Most of the Romanian law schools also dedicate various disciplines to the study of the legal framework of the law branch called "Environmental Law".

Due to the efforts that were made by the state and non-governmental organizations citizens begin to grow a conscience towards recycling. They begin to understand the consequences of pollution and most important they begin to see its effects.

4. REFERENCES

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- [3] See Capatana C., Simionescu C.M. (2006), Storage, treatment and recycling of wastes and recyclable materials, Bucharest, Matrix Rom Publishing House, p. 10
- [4] The information were taken from the Ministry of Environment and Woods official web page, www.mmediu.ro
- [5] See M. Dutu (2007), Treaty of Environmental Law, 3rd Edition, Bucharest, C.H. Beck Publishing House, p. 880
- [6] See the 5th article from the Governmental Decision no. 448/2005 regarding the electric and electronic wastes.
- [7] The Register of Commerce is a register were information about the legal entities are kept. If a legal entity is not listed in this Register it does not exist
- [8] See A. Ticlea (2011), Treaty of Labor Law, 5th Edition, reviewed, Bucharest, Legal Universe Publishing House, p. 398
- [9] See M. Dutu, cited work, p. 880