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**"ENVIRONMENT AND LAND TRANSPORTATION LAW"
IN CZECH REPUBLIC**

Ilona Jancarova

There is no doubt that the traffic has a negative impact on the environment and its increase had lead to many attempts to regulate it. Non-binding political and legal measures are applicable in this regard. Measures aimed at reduction of negative impact on the environment can be further differentiated:

- a) measures focused on reduction of traffic volume in general, resp. measures supporting less detrimental forms of transportation (road traffic, railroad traffic, inland navigation)
- b) measures focused on protection of public health and environmental components (noise, air pollution)
- c) measures focused on reducing emissions from mobile sources
- d) measures related to land use planning and development of an adequate traffic net,
- e) economic tools.

While the first approach (ad a) relies mostly on political decision making including measures such as public support of mass transportation, rail road transportation or water traffic, quite broad legislative frame has been developed in respect to other approaches in the Czech Republic.

Even though measures focused on protection of public health and environmental components (ad b) are basically not aimed at the overall reduction of pollution from the mobile sources, they are an important part of environmental law.

The air protection from mobile sources of pollution is contained in the Air Protection Act No. 201/2012 Coll. (§ 10 and § 14). The regulation applies to smog situations, e.g. cases of extremely polluted air accompanied by low dispersion due to specific weather conditions. For the case of smog situation, municipalities issue "Regulation order" to restrict the traffic. However, Regulation order should not be issued if it is uncertain that it would have any effect. The municipality has a duty to inform the Ministry of the Environment on adoption of the Regulation order. Moreover, in sites designated by the Air Act¹ the municipality is entitled to adopt an ordinance in order to designate so called "low emissions zones", eg. zones with traffic restrictions. Based on low emissions zone establishment, only specifically designated cars may enter the city/village center (they must have "*emission plaque*"), however, the transit for other cars must not be prohibited if there is no other traffic passage available. This rule was adopted because after the toll imposition, many drivers preferred to take small road routes to avoid paying highway toll. In cases of low emission zones establishment, Regulations orders are serving as a part of low emissions zone regulation applicable specifically in case of smog situations.

The protection against noise produced by the traffic is contained in the Public Health Protection Act No. 258/2000 Coll.. This Act established the primary duty for the owner/operator of the road/railroad to take technical, organizational and/or other measures to ensure compliance with hygienic limitations for noise². If those limits is impossible to comply with, the source of noise may be operated only based on the permit issued by the

¹ In especially protected natural areas, spa areas or in all those areas where the ambient air quality standards were exceeded.

² Those limits are set by implementing legislation.

competent authority. The permit is time limited and shall be granted only if the owner/operator of the existing source of noise will prove that the noise will be limited to a reasonably achievable level. Based on this provisions, many noise barriers were built along highways in sites close to habitations and other technical measures were adopted to reduce noise in inner cities.

Measures focused on reducing emissions from mobile sources (ad c) consist basically of technical requirements related to types of cars, regular technical check-ups accompanied by emission measurements without which the vehicle must not be operated. The other legal instruments contributing to reduction of emissions of polluting substances into the environment are fuel quality requirements (for example ban on leaded gasoline, the maximum amount of sulphur in the fuel etc.).

Regulation related to land use planning and development of an adequate traffic net is encompassed in several different laws. The basic law is represented by the Construction Code setting the basic steps of permitting procedure - development consent, construction permit and permit to operate. Before the development consent can be granted, the project must be assessed in the EIA procedure according to Act No. 100/2001 Coll. as amended. The project must comply with the Regional Development Policy and other land-use planning documentation which are subject to strategic impact assessment as well. There different different levels of planning documentation: Territorial development policy (national level), principals of territorial development (regional level), land use plans and regulation plans (local level).

Act No. 416/2009 Coll., on accelerating of a traffic and technical infrastructure (as amended) brought certain special rules aimed at decision-making procedure and at expropriation of the land.

According to the Air Protection Act, the Ministry of the Environment is entitled to issue a binding opinion, based on which the development consent is issued. Compensatory measures are required by the law if the road construction and operation is anticipated to exceed the air quality standard, resp. concentration limits for specific polluting substances in the air in a specific region. Other environmental protection authorities are involved in the decision-making procedure as well so that protection of other environmental components is ensured (NATURA 2000 etc.). The public has an open access to it.

A comprehensive political document dealing with development of traffic in general, is a Traffic Policy which is adopted at government level. This document is subject to strategic environmental impact assessment.

As far as economic tools are concerned, tolls and user charges imposed under the Act 13/1997 Coll., on the land infrastructures as amended are not primarily aimed at traffic reduction or environmental protection. According to it, a flat rate user charge is applied to vehicles with weight below 3,5 tons and the rate depends on the time period. Above 3,5 tons vehicle weight electronic toll per kilometr is collected. These tolls and time charges apply only for highways and speedways.

The draft of the Act amendment is about to enlarge the system of electronic toll to other categories of vehicles and to lower level infrastructure. The entrance to city centers should be charged according to the amendment as well. The conditions to issue the permit for the infrastructure development should be simplified.

The economic tool directed to support environmentally sound vehicles is a "road tax" according to Act No. 16/1993 Coll. on the road tax, as amended. The tax is progressive for older vehicles, with the highest rate for vehicles with their first registration before 31.12.1989. The road tax law supports the combination of traffic, however, it is not a mandatory rule. There was an attempt to regulate the volume of truck traffic in Northern Bohemia in the past by using combination with railroad. Because it was not mandatory and

due to undeveloped railroad infrastructure this system was not very successful. Zero tax rate is applied to "green" vehicles enabling to use fuels such as LPG, E85 and electric power.

Beside legal instruments mentioned above, trucks are generally prohibited to use highways and speedways on weekends (with certain exclusions) which is primarily aimed at traffic security.

No emission trading system on vehicles exists.

CR National transport policy (NTP) is reflecting international obligations stemming out of its membership in the UN, OECD and EU while specific national conditions and needs are to be respected. National transport policy is aimed at improvement of conditions for better traffic service at regional and national level. Its main aim is the establishment of an adequate traffic net and its efficient protection and maintenance. Reduction of environmental impacts and negative public health impacts are topics which are dealt with in the NTP, however traffic reduction is not explicitly pinpointed as the priority.³

Regarding to alternatives, their legal basis is encompassed in EIA and SEA, including the aspects of Natura 2000 protection. However, preferable mode of transportation can be proposed only in NTP SEA, since the EIA of individual project (road construction, for example) deals necessarily only with variants related to proposed project (e.g. road construction) and not to completely different mode of transportation. The zero-alternative option must be always taken to consideration according to the EIA Act.

At the constitutional level, the provision establishing the right to the favourable environment is applicable mainly to development of new traffic roads.

As far as the eco-labeling is concerned, EMAS (1221/2009) and ISO 14 000 seems to be applicable to firms operating road vehicles and railways, resp. to facilities where they carry out vehicle maintenance and similar activities. Regulation 66/2010 on EU ecolabel sets criteria for product labeling which should take into account, inter alia, the influence on the environment and especially to climate change. In this regard, the ecolabel should reflect long-distance transportation of raw materials and other components and thus energy-consumption of products in their production phase. However, it does not pay for goods that is transported to long distances to be sold. In practice however, the above mentioned criteria seems to be problematic to assess, since the suppliers of raw materials and other components may change, as well as the long/short distance travelling.

³ Transport Policy of the Czech Republic for years 2005 - 2013, <http://www.MD.cz>