

RECENT TRENDS AND DEVELOPMENTS IN DANISH ENVIRONMENTAL LAW

Peter Pagh

1. **Politically:** Despite of the new liberal/conservative government elected in November 2001 the overall development in environmental policy has been consolidation. Regarding pollution, chemicals and nature protection no substantial changes can be detected under the new government. Regarding waste, the Danish model (mainly based on selfsufficiency) is under increasing pressure from EC legislation and from national critics . After the ECJ ruling in the Daimler-Chrysler case, the Minister of Environment has announced changes in the Danish waste legislation - and because of the critics of the Danish “model”, the Minister of Environment has set up a committee to review the need of changes. The major changes under the new government have been concentrated on less stricter rules on physical planing in farming areas, cut in public funding and closing of public committees including the Nature Council.
2. **Can ban:** The Danish can ban on bear was withdrawn by the new Minister of Environment in January and in September, the old deposit and return system for bottles was replaced by a new complex scheme, which include cans. Under the new system all stores selling beer or soft drinks must be member of a new private company called the Danish Return-system Ltd. The Company has the obligation as well as the monopole of collecting the packaging from beer and soft drinks. The system is partly similar to the German “duales-system” - but differs from a legal perspective in at least three ways. First, its limited to packaging from bear and soft drinks - which seems to reflect the strong interests of the Danish breweries. Second, under the new Danish legal frame, only one company is allowed to collect this part of the packing. And third, the private company is granted the discretion to legislate on treatment of packaging. Thus, the new Danish model is much more similar to a command-economy approach than the German model.
3. **Presidency of EU:** As the main objects under the Danish presidency of the EU, the Minister of Environment has in particular identified three questions: environmental liability, CO-2 trade emission and labeling of gen-modified products - but the implications of the priority is rather unclear - because on the two first questions, Denmark has its own reservations. Moreover, the minister of Environment has stated that the adoption of a new strategy on chemicals has high priority. Regarding international relations, the Minister has stated he will work for a global deal (partnership) that includes provisions on decoupling the connection between economic growth and increased environmental impacts; provisions on implementing international environmental agreements ; and provisions on specific goals for water, energy, and biodiversity. Increased public access to information and participation in environmental decisions should also be part of the global

deal. Although very ambitious, its not at all clear, how the Minister intends to reach the objects.

4. ***Citizens access to justice:*** Regarding public participation, the Ministry of Environment has interpret the Aarhus Convention as not requiring such access, when citizens have no right to administrative appeal - but only access to courts - and the Environmental Protection Agency has recently present a draft legislation which is intended to upheld this position - which seems in conflict with the convention.
5. ***Case-law:*** From a European perspective, no interesting case law can be reported from year 2002.