EU Accession and Legal Change: Accomplishments and Challenges in the Czech Republic

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In May 2004 the Czech Republic became one of the 25 Member States of the European Union. This was the result of a long-term implementation process in which substantial changes to Czech environmental legislation were made. This article will summarise the development of Czech Environmental law before and during that process and will present its main characteristics and challenges.

I. A decade of change in Czech environmental law

The Czech Republic launched systematic efforts at harmonisation in 1999, nine years after crucial changes to the Czech legal system were initiated and eight years after the first post-revolution environmental act was passed. Since the early 1990s, the Czech environmental legislation has undergone four waves of change. During the first wave (1991-1992), the main body of environmental legislation was approved and brought into effect. The main driving force of legislative "storm" was the need to transform the communist system of law into a new one based on democratic principles. By the end of this first wave, the legislation covered almost all aspects of the environmental protection and involved such major environmental issues as the protection of air, water, soil, nature and landscape, forest, waste and environmental impact assessment. However, there were some exceptions including access to environmental information, chemicals, major industrial accidents and genetically modified organisms (GMOs). New legislation was not enacted at this time for water and forest management and the acts from the 1970s remained in force.1

As the table below illustrates, the wave of environmental legislation in the early 1990s included framework legislation on environmental protection and laws specific to air pollution, nature and landscape protection, agricultural soil protection, wastes, and environmental impact assessment. During this period important acts concerning the institutional framework for environmental protection were also approved, including those that established the Czech Environmental Inspectorate and the National Environmental Fund.

In the second wave of environmental legislation (1995-1998), acts were passed on access to environmental information, forests, wastes, ozone layer protection, international trade in endangered species, nuclear energy, and technical product standards. The main impetus behind this wave was, firstly, the need for the Czech Republic to incorporate its international obligations into the national law, secondly, an effort to replace what remained of the old communist environmental laws (e.g. forest legislation) and lastly to improve the laws enacted during the first wave (e.g. Waste Act).

**Table**: Four waves of the Czech environmental legislation since 1990

<table>
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<tr>
<th>First Wave (1991-1992)</th>
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<tr>
<td>Act on Air Protection (1991)</td>
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<td>Act on Waste (1991)</td>
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<td>Act on the Czech Environmental Inspectorate (1991)</td>
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<td>Act on the Environment (1992)</td>
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<td>Nature and Landscape Protection Act (1992)</td>
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<td>Agricultural Soil Protection Act (1992)</td>
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<td>Act on Environmental Impact Assessment (1992)</td>
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Act on Forests (1995)
Act on Waste (1997)
Act on Peaceful Use of Nuclear Energy (1997)
Act on Technical Requirements for Products (1997)

Third Wave (1999-2002)
Act on Chemicals and Chemical Preparations (1998)
Act on the Prevention of Major Accidents caused by Certain Dangerous Chemical Substances and Preparations (1999)
Act on Indemnification of Damage Caused by Certain Protected Animals (2000)
Act on Hunting (2001)
Act on Environmental Impact Assessment (2001)
Water Act (2001)
Act on Waste (2001)
Act on Air Protection (2002)
Act amending the Penal Code in the Field of the Environment (2002)
Act amending the Act on Peaceful Use of Nuclear Energy (2002)

New acts:
Act on Chemical Substances and Preparations (2003)
Act on Genetically Modified Organisms and Genetic Products (2004)
Act on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein and on Other Measures to Protect These Species (2004)

Amendments of the following acts (2003/2004):
Act on Air Protection
Act on Wastes
Act on Nature and Landscape Protection
Act on Chemical Substances and Preparations
Act on Hazardous Accidents Prevention
Act on Environmental Impact Assessment and on the amendment of Certain Related Acts (Act on Environmental Impact Assessment
Act on Integrated Pollution Prevention and Control, on an Integrated Pollution Register

In 1999, following the election of a new government in 1998, a third wave of environmental legislation was launched. The Czech environmental law needed substantial changes in order to comply with Community law. At the time, none of the EC directives had been fully transposed to Czech law and a number of directives had not even been partially transposed, especially those concerning water protection, waste management, chemicals and IPPC. As such, the core environmental legislation had to be essentially rewritten or drafted from scratch. In addition, the EC environmental law continued to expand, with new directives being approved throughout the accession negotiation process. At about this time, for example, all of the following were issued, the Integrated Pollution Prevention and Control (IPPC) Directive, the Water Framework Directive, and a new Environmental Impact Assessment Directive (EIA).

The Czech environmental legislation enacted between the years 1999-2002 was entirely focused on compliance with EC legal requirements. During this period numerous acts were approved, either covering new issue areas or substantially amending previously enacted legislation, including the laws on chemicals and chemical preparations, prevention of major accidents caused by certain dangerous substances, genetically modified organisms and products, indemnification of damage caused by certain protected animals, hunting, environmental impact assessment, water, wastes, air protection, integrated pollution prevention and control, nuclear energy, and biocide preparations and substances. Almost all the acts in this list have been followed by a large number of decrees or governmental regulations implementing the acts, particularly in the field of air and water protection, waste management, noise, civil protection and chemicals.

The Czech Republic was the first candidate country to close negotiations on the environment chapter, on 1 June 2001. Only two transition periods were agreed to by the European Commission for the Czech Republic, the first for packaging waste (Directive 94/62/EC) and the other for municipal wastewater (Directive 91/271/EEC).

Presently, three more transition periods have been approved, for emissions from two large combustion plants (Directive 2001/86/EC), for the implementation of certain articles of the Directive on waste electrical and electronic equip-