
The logo for Global Legal Group (GLG) features the letters 'GLG' in a bold, sans-serif font. The 'G' and 'L' are white, while the 'G' is orange. The logo is positioned in the top left corner of the cover, which has a green-tinted background of wind turbines.

Global Legal Group

The International Comparative Legal Guide to: Environment Law 2010

A practical cross-border insight
into environment law

Published by Global Legal Group, in association with
Freshfields Bruckhaus Deringer LLP, with
contributions from:

Advokatfirman Vinge
Anderson Strathern LLP
Arnold & Porter LLP
Arntzen de Besche Advokatfirma AS
Attorneys at law "Skudra & Udris"
Baker & McKenzie
Borislav Boyanov & Co.
Bowman Gilfillan
Čechová & Partners
Central Law
ChanceryGreen
Christodoulos G. Vassiliades & Co. LLC
DLA Piper
DSK Legal
Environment Law Mexico, S.C.
Fraser Milner Casgrain LLP
Freehills
Ganado & Associates – Advocates
Gessel
Gómez – Pinzón Zuleta Abogados S.A.
IK Rokas & Partners
Nishimura & Asahi
Noerr
Pachiu & Associates
Rattagan Macchiavello Arocena & Peña Robirosa
Romulo Mabanta Buenaventura Sayoc & De Los Angeles
Ronan Daly Jermyn
Salans
Schellenberg Wittmer
Skrine
Squire, Sanders & Dempsey, S.C.
Szabó Kelemen & Partners Attorneys
Tark & Co.
Tonucci & Partners
Urrutia & Cía. Abogados
Žurić i Partneri

Croatia

Tomislav Tus



Martina Prpić



Žurić i Partneri

1 Environmental Policy and its Enforcement

1.1 What is the basis of environmental policy in Croatia and which agencies/bodies administer and enforce environmental law?

The Space Planning and Environmental Protection Committee of the Croatian Parliament establishes and monitors the implementation of policy, and is a competent working body in procedures to enact legislation and other regulations in matters pertaining to environment protection.

The Ministry of Environmental Protection, Physical Planning and Construction performs administrative and other activities relating to general policy of environment protection in order to achieve sustainable development; protection of air, soil, waters, sea, flora and fauna; ensuring monitoring level of pollution; ensuring carrying out of measures for prevention of environment pollution and protection measures; drafting proposals of measures for enhancing condition of the environment; realisation of international cooperation in the area of environment protection; etc.

Within the Ministry there are four sections established for performance of its activity: Directorate for Atmosphere and Waste Management; Directorate for Environmental Assessment and Industrial Pollution; Directorate for the European Union; and the Directorate for International Cooperation. The Directorate for Atmosphere and Waste Management is divided into two Sectors: Sector for Waste and Atmosphere; and Sea and Oil.

The Agency for Environmental Protection was established in June 2002 as a central independent institution for collecting and unifying data on environment at the state level, data processing, maintaining environmental database, monitoring state of environment and reporting on environment.

The Fund for Environment Protection and Energy Efficiency (further: the Fund) was established in January 2004 with purpose of financing, among other, preparation, realisation and development of programmes, projects and similar activities in the area of preservation, sustainable use, protection and enhancing of environment.

1.2 What approach do such agencies/bodies take to the enforcement of environmental law?

The policies that underline the enforcement of environmental law are set in the National Environmental Strategy (Official Gazette No. 46/02) and the National Environmental Action Plan (Official Gazette No. 46/02) passed by the Croatian Parliament on 25 January 2002.

The National Environmental Strategy attempts to reconcile two basic strategic directions of action. The first one is based on the simulative-affirmative approach, and the other one is based on restrictions. The Strategy is entirely based on the principles of sustainable development, that include the following principles: integration of the environmental protection policy into other sectoral policies; the principles of partnership and shared responsibility; the principle of subsidiary; change of behaviour in production; and the use of large number of instruments, mainly economic ones.

1.3 To what extent are public authorities required to provide environment-related information to interested persons (including members of the public)?

In December 2006, Croatia has ratified the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, usually known as the Aarhus Convention, signed on 25 June 1998.

The Aarhus Convention grants the public rights regarding access to information, public participation and access to justice, in governmental decision-making processes on matters concerning the local, national and transboundary environment. It focuses on interactions between the public and public authorities. The compliance review mechanism provided by this Convention is unique in international environmental law, as it allows members of the public to communicate concerns about a party's compliance directly to a committee of international legal experts empowered to examine the merits of the case.

The issue of public authorities' obligation to provide environment-related information to the public is further regulated by the Law on Access to Information (Official Gazette No. 172/03) which explicitly envisages that all information which is possessed, disposed and monitored by the public authorities must be accessible to the all interested parties.

Exceptionally, the right of access to the information may be restricted by the law. Furthermore, the Law on Environment Protection (Official Gazette No. 110/07) explicitly prescribes, as one of the main principles, the *Principle of access to information and participation of the public* which envisages that the public has the right to access to the information on environment in the possession of the public authority and the persons supervised by the public authority. Additionally, the mentioned Principle also requires for the public to be entitled to take part in the procedures of determining the origins, development and adoption of strategies, plans and programmes and the drafting and enactment of regulations and general acts relating to the protection of the environment.

2 Environmental Permits

2.1 When is an environmental permit required, and may environmental permits be transferred from one person to another?

The Regulation on Environmental Impact Assessment (Official Gazette No. 64/08), based on provision of Article 71 paragraph 3 and Article 74 paragraph 3 of the Law on Environmental Protection (Official Gazette No. 110/2007) prescribes when it is necessary to conduct process of environmental impact assessment of an intended project. The Regulation divides the intended projects into two groups: first one, the projects for which the study on environmental impact is obligatory; and the second, for which the assessment of the need of study on environment impact is carried out.

The approval of the project is a precondition for obtaining a location permit for performance of construction works in accordance with the Law on Physical Planning and Building (Official Gazette No. 76/06, 38/09). The Law on Physical Planning and Building does not regulate the possibility of transferring the location permit from one person to another.

Further, in accordance with the Law on Waters (Official Gazette No. 107/95 and 150/05), the legal entity is obliged to obtain water conditions, water approval before start of construction or other works, water approval for use of waters and release of waste waters in connection with the performing of business and other activities, and obtain license directive. The Law on Waters does not envisage possibility of transferring the respective water documents from one person to another.

2.2 What rights are there to appeal against the decision of an environmental regulator not to grant an environmental permit or in respect of the conditions contained in an environmental permit?

The decision to approve or deny approval for a project is issued by the Ministry of Environmental Protection, Physical Planning and Construction. There is no right of appeal against this decision, but a party may bring an administrative claim before the Administrative Court of the Republic of Croatia.

With respect to the documents issued in accordance with the Law on Waters, there is either right of appeal or right to bring an administrative claim, depending on the administrative body (first or second instance) that issued them.

2.3 Is it necessary to conduct environmental audits or environmental impact assessments for particularly polluting industries or other installations/projects?

Yes, please see the answer under question 2.1.

2.4 What enforcement powers do environmental regulators have in connection with the violation of permits?

Under the Law on Physical Planning and Building the competent state inspector has powers to annul the location permit in the administrative proceedings (right of annulment on the basis of supervision right) if it has been issued in contradiction with the documents of physical planning or special regulation. Also, the legal entity and responsible natural person may be held liable for misdemeanour.

Water approval may be temporarily or permanently taken away

under conditions prescribed in the law. Also, the legal entity and responsible natural person may be held liable for misdemeanour.

Criminal acts and criminal sanctions with respect to the environment are prescribed by the Criminal Code (Official Gazette Nos. 110/97, 27/98, 129/00, 51/01, 105/04, 84/05, 71/09 and 152/08) and special laws, only for cases of severe breaches of the environment as a social value guaranteed and protected by the Constitution of the Republic of Croatia (Official Gazette Nos. 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01) and international law.

3 Waste

3.1 How is waste defined and do certain categories of waste involve additional duties or controls?

According to the definition of the Law on Waste (Official Gazette Nos. 178/04, 153/05, 111/06, 60/08 and 87/09) waste means substances and objects that a legal or a natural person has discarded, has disposed of, intends to or must dispose of them. Types of waste are prescribed by the Rule Book on Waste Types (Official Gazette No. 27/96) and the Regulation on Types, categories and classification of the waste with the waste catalogue and list of dangerous waste (Official Gazette No. 50/2005 and 39/09).

Additionally, various types of waste are described by different Regulations and these types of waste involve additional duties and control: animal waste, package and package waste, waste tires, waste oils, waste batteries and storage batteries, waste vehicles, medical equipment, waste electronic devices and equipment.

Special provisions of waste management is envisaged by the Rules of procedure and method of management of waste containing asbestos (Official Gazette No. 42/07).

3.2 To what extent is a producer of waste allowed to store and/or dispose of it on the site where it was produced?

Generally, the producer of waste is obliged to transmit the waste to a person that has permission for collecting, recycling and waste management. Exceptionally, the producer of waste is entitled to recycle or manage its own waste if it has the special permission issued according to the Law on Waste.

3.3 Do producers of waste retain any residual liability in respect of the waste where they have transferred it to another person for disposal/treatment off-site (e.g. if the transferee/ultimate disposer goes bankrupt/disappears)?

The Law on Waste envisages that the producer of waste from whom the waste originates is responsible for the selection of solution which is most suitable for environment taking into consideration the characteristics of the product and production technology, including the product life, and usage of the best accessible technology.

Also, waste producer is obliged to transfer the waste to the person authorised in accordance with the Law on Waste, transferring also a certificate containing data related to the origination and course of the waste. Consequently, the waste producer is responsible for accuracy of the data provided to the authorised person.

If the waste producer acted in accordance with the provisions of the law and regulations dealing with the waste and its management, and delivered its waste to the entities empowered to process or store it, the waste producer does not retain any residual liability with respect to such waste.

3.4 To what extent do waste producers have obligations regarding the take-back and recovery of their waste?

The Law on the Fund for Environment Protection and Energy Efficiency (Official Gazette No. 107/03) provided for obligation to pay special fees for waste disposed in the environment. These fees are payable to the Fund per calendar year and include: (i) a fee for communal waste and/or non-hazardous technological (industrial) waste; and (ii) a fee for hazardous waste.

Persons obliged to pay fees for communal waste and/or non-hazardous technological (industrial) waste are legal and natural persons that dispose of communal waste and/or non-hazardous technological (industrial) waste on the landfill. This fee is calculated and paid according to the quantity of waste disposed at the landfill.

Fees for hazardous waste are calculated and paid according to: the quantity produced but not processed; hazardous waste which is not exported; and according to characteristics of the waste.

The Fund's assets are then used for financing protection of the environment and energy efficiency, which includes financing activities related to waste recovery, such as sanitation of waste landfills, promotion of decreasing and avoiding waste productions, waste processing and use of waste valuable characteristics.

Special obligations regarding take-back and recovery are prescribed for waste batteries and accumulators. Pursuant to the Rulebook on Managing Waste Batteries and Accumulators (Official Gazette 133/06 and 31/09), producers and importers of batteries and accumulators, which are placing these products on the Croatian market, are obliged to ensure, independently or through an authorised collector or processor, take-back of waste batteries and accumulators from end users and possessor. Producers and importers of batteries and accumulators are also obliged to pay to the Fund a fee for managing waste batteries and accumulators for imported and/or produced batteries and accumulators when these are placed on the Croatian market.

Persons that sell or possess (in performing its registered activities) batteries and accumulators are obliged to: (i) place collectors for separate collection of waste batteries and accumulators at their business premises or immediate vicinity; (ii) take-back, without compensation and with no obligation of purchase on the end user, waste batteries and accumulators that it has in its sales programme; and (iii) deliver waste batteries and accumulators to a collector or an authorised processor and/or recycler of such waste.

4 Liabilities

4.1 What types of liabilities can arise where there is a breach of environmental laws and/or permits, and what defences are typically available?

There is liability for a misdemeanour, liability for a criminal act, and a civil liability for damages. Defences that are generally available in these types of proceedings are available in the environmental proceedings as well.

4.2 Can an operator be liable for environmental damage notwithstanding that the polluting activity is operated within permit limits?

Yes, as both under the Law on Obligations (Official Gazette No. 35/05 and 41/08) and under the Law on Environmental Protection, the operator of hazardous activity (including ecologically hazardous activities) are subject to strict liability (principle of causality) for any damage caused by contamination.

4.3 Can directors and officers of corporations attract personal liabilities for environmental wrongdoing, and to what extent may they get insurance or rely on other indemnity protection in respect of such liabilities?

Yes, the responsible physical person in the legal entity who committed environmental wrongdoing may be held liable for the same misdemeanour as the wrongdoer. As concerns liability for criminal acts, the Law on Liability of Legal Entities for Criminal Acts (Official Gazette No. 151/03 and 110/07) envisages liability of legal entities, however, such liability does not exclude liability of responsible physical person within the legal entity who committed the wrongdoing. With respect to civil liability for damages, the law provides for liability of a physical person if he/she caused the damage.

4.4 What are the different implications from an environmental liability perspective of a share sale on the one hand and an asset purchase on the other?

Environmental legislation does not deal in particular with this issue. However, the following distinction may be inferred from general provisions of the Law on Companies (Official Gazette Nos. 111/93, 34/99, 52/00, 118/03, 107/07, 146/08), the Law on Property (Official Gazette Nos. 91/96, 68/98, 137/99, 22/00, 73/00, 114/01, 79/06, 141/06, 146/08) and the Law on Obligations:

- in case of a share purchase (e.g. purchase of shares in a company that owns land which may be suspected of being contaminated), the purchaser's potential environmental liability (as any other liability) would be limited to its share in the company's equity; however, the respective company remains fully liable for the environmental wrongdoing, both committed prior or after change in the company's ownership structure; and
- in case of an asset purchase (e.g. purchase of land which may be suspected of being contaminated) the purchaser's potential environmental liability would not be limited for environmental wrongdoing that occurred after the purchase, whereas the prior owner of the land would remain liable for environmental wrongdoing that occurred prior to the purchase, subject to statute of limitation as detailed in the answer under question 5.1 below.

4.5 To what extent may lenders be liable for environmental wrongdoing and/or remediation costs?

Lenders *per se* are not liable for environmental wrongdoing and/or remediation costs that burden the debtor. However, lenders do have an economical risk that the debtor would become insolvent or bankrupt due to inability to pay environmental damages and/or remediation costs caused by the debtor's environmental wrongdoing.

5 Contaminated Land

5.1 What is the approach to liability for contamination (including historic contamination) of soil or groundwater?

In this respect one might distinguish two principal situations. First, damage caused by contaminated land after the sale of land to a third party. This situation is governed by basic principles of the Law on Obligations. For the compensation of damages the Law on Obligations prescribes a three-year statute of limitation. The period for submission of claim before the competent court starts from the day the injured party has noticed the damage and the injurer.

However, the general time bar is five years from the day the damage was caused. In our interpretation, in such circumstances, the new owner of land would be able to claim compensation for damages only if he is able to prove that (i) the damage was caused by pollution of the ground and (ii) that he was not aware and could not have been aware that the ground was polluted when he decided to buy the land. However, in our understanding, the new owner would not be able to claim compensation for reparation of the ground after the time bar of five years. Only in the event of conviction of the previous owner for criminal offence, as provided in the Section 19 of the Criminal Code relating to crimes against environment, the new owner of the land would be able to claim compensation even beyond time bar of five years. Otherwise, the new owner of the land would not be able to claim either compensation or cleaning of the land after the statute of limitation periods expire.

Second, obligations and liabilities of the previous owner to decontaminate the land as prescribed by the Law on Environmental Protection. In case of abandoning the site (and potential sale to a third party) the owner must develop and execute the Recovery Program, which has to be approved by the Ministry of Environmental Protection, Physical Planning and Construction. Failure of the owner to procure duly approved Recovery Program is sanctioned as the misdemeanour for which it could be fined.

In the absence of any court practice which could indicate persistency of the state in implementing of mentioned rules against the operators of hazardous activities, we are not able to point at any other significant statutory consequences of the owner's non-compliance with the said rules. Of course, the owner could be liable for criminal offence in the event that non-compliance could be qualified as the criminal offence. Also, the new owner would not be able to obtain the location permit or construction permit for any further construction on the land that remained polluted after the previous owner left and sold the site.

5.2 How is liability allocated where more than one person is responsible for the contamination?

If more than one person is responsible for contamination, polluters will be liable proportionally to their share in the contamination. However, if among more sources the polluter can not be established or their shares in the contamination can not be determined, all polluters will be jointly and severable liable for costs of environmental recovery.

5.3 If a programme of environmental remediation is 'agreed' with an environmental regulator can the regulator come back and require additional works or can a third party challenge the agreement?

The environmental polluter is obliged to make and perform a recovery programme for repairing the environmental contamination within the time periods prescribed by the Government. The polluter has to obtain the consent of the Ministry of Environmental Protection, Physical Planning and Construction for the recovery programme. The law does not provide for the possibility to challenge the recovery programme either by the Government or by third parties once it was approved by the Ministry. However, the law empowers the Government to conduct any measures for preventing or limiting future damage at the expenses of the wrongdoer, as well as to conduct itself the recovery if the wrongdoer failed to do so, at the expense of the wrongdoer.

5.4 Does a person have a private right of action to seek contribution from a previous owner or occupier of contaminated land when that owner caused, in whole or in part, contamination; and to what extent is it possible for a polluter to transfer the risk of contaminated land liability to a purchaser?

Please see the answer under question 5.1 above.

5.5 Does the government have authority to obtain from a polluter, monetary damages for aesthetic harms to public assets, e.g., rivers?

This issue is not specifically regulated by the Croatian legislation, and we are not aware of any court practice thereon. Applying general principles of the civil law, the state might try to file a claim before the court for damages if it could prove that it suffered damage because of aesthetic harms to public assets.

On the other hand, pursuant to the Law on Property, an owner of land neighbouring polluted land might bring an action in the court against the owner of the polluted land claiming cessation of emissions arriving to its land from polluted land, as well as compensation of damages he suffers due to such emissions.

6 Powers of Regulators

6.1 What powers do environmental regulators have to require production of documents, take samples, conduct site inspections, interview employees, etc.?

The state and its bodies have wide powers to conduct inspection supervision of any activity which has impact on the environment, pursuant to the Law on Environmental Protection, Law on Waters, Law on Waste, Law on Air Protection (Official Gazette No. 178/04, 60/08), and regulations based thereon.

Thus, water inspectors are authorised, in case of breach of the Law, to prohibit construction or other works, order provisional stoppage of works, prohibit use of objects or equipment, prohibit or limit use of waters, prohibit or limit releasing of hazardous substances in waters, prohibit dumping of waste and other substances in places where this can result in decrease of water quality, order taking of measures for cleansing of polluted waters, order removal of damages and restitution in the previous state, order provisional taking of an object.

The inspector of environmental protection is authorised to ask for the possibility of inspection in all working spaces, delivery for insight of all data and documentation necessary for inspection, information on all measures conducted in order to remedy determined faults, and in conducting inspectional supervision, the inspector can order by removal of deficiencies and irregularities in operations, provisional prohibition of operations, prohibition of operations, apply to the competent body for criminal acts, declare punishment prescribed by law for offences, suggest to the competent court erasing from the court register the activity for which determines that the legal person does not fulfil prescribed conditions, take other measures and conduct other actions for which it is competent.

7 Reporting / Disclosure Obligations

7.1 If pollution is found on a site, or discovered to be migrating off-site, must it be disclosed to an environmental regulator or potentially affected third parties?

Yes, the legal or natural person that causes environmental pollution has the obligation to inform thereon, without delay, the competent inspector, as well as to inform the public on the caused contamination and the prevention measures that need to be taken.

7.2 When and under what circumstances does a person have an affirmative obligation to investigate land for contamination?

Such affirmative obligation is not envisaged by the legislation. However, it might be considered to be a part of due diligence procedures when considering buying a property for which it might be possible to be contaminated. Namely, under the general principles of civil obligations, the seller is liable to the buyer for the material deficiencies of the sold object. However, the seller will be released of such liability if the buyer knew or had to know of those deficiencies at the moment of the entering into the contract.

7.3 To what extent is it necessary to disclose environmental problems, e.g. by a seller to a prospective purchaser in the context of merger and/or takeover transactions?

Such affirmative obligation is not envisaged by the legislation. However, under the general principles of civil obligations, if the seller stated that the property has no deficiencies, it will be liable to the buyer for deficiencies caused by the fact that the property is contaminated even if the buyer could have easily noticed such deficiencies. Moreover, if the seller knew or had to know of such deficiencies, the right of the buyer to claim deficiencies will not be limited by time.

8 General

8.1 Is it possible to use an environmental indemnity to limit exposure for actual or potential environment-related liabilities, and does making a payment to another person under an indemnity in respect of a matter (e.g. remediation) discharge the indemnifier's potential liability for that matter?

Within the scope of Law on Obligations it is possible to use an environmental indemnity to limit exposure for actual or potential environment-related liabilities if parties so agree (e.g. purchaser and seller of the land). However, one must bear in mind that in case the seller knew or had to know of deficiencies in the object of sale which might lead to environment-related liabilities, but warranted to the buyer that the object has no such deficiencies, the seller's liability will not be limited, even if the buyer could have easily noticed such deficiencies. Therefore, the environmental indemnity for the purpose of limitation of liabilities may be relied on only when acting in good faith.

Making a payment to another person (e.g. the seller of the land indemnifying the purchaser of the land) under an indemnity in respect of a matter (e.g. remediation) discharges the indemnifier's potential liability in respect of that matter only to that person.

However, payment of the environmental indemnity does not

influence the polluter's obligations under the Law on Environmental Protection. Thus, the polluter's objective liability (causality) for the damage done by causing environmental pollution remains, and this liability is expressed through polluter's obligation to undertake all measures necessary for reducing environmental damage or preventing the creation of any further environmental risks, threats or damage, to cover all the expenses related to measures for mitigating pollution threats, and to elaborate and implement a restoration programme for repairing the environmental damage caused.

8.2 Is it possible to shelter environmental liabilities off balance sheet, and can a company be dissolved in order to escape environmental liabilities?

According to the Law on Profit Tax (Official Gazette Nos. 177/04, 57/06, 146/08) expenditures of taxation period include, among others, reservations for costs of recovering natural resources as well as reservations for costs based on pending court litigations.

The Bankruptcy Law (Official Gazette Nos. 44/96, 29/99, 129/00, 181/03, 82/06) prescribes two reasons for opening bankruptcy proceedings over a legal entity and, consequentially, its dissolving. The reasons are that a legal entity is insolvent or over debited. Therefore, a company may not directly be dissolved for the purpose of escaping environmental liabilities. Indirectly, that result would be attainable by filing for bankruptcy once a company has been found liable for environmental wrongdoing and imposed either a fine or obligation to pay damages, provided that due to such obligation the company became insolvent.

8.3 Can a person who holds shares in a company be held liable for breaches of environmental law and/or pollution caused by the company, and can a parent company be sued in its national court for pollution caused by a foreign subsidiary/affiliate?

Shareholders in a joint stock company and a limited liability company (companies of capital under Croatian law) are in principle not liable for obligations of the company. However, in case of so-called "piercing of the corporate veil", a shareholder may be held liable for the company's obligation (if it misuses the circumstance that it is not liable for obligations of the company).

On the other side, the members of companies of persons are liable for the obligations of the company unlimited and jointly with all their property.

8.4 Are there any laws to protect "whistle-blowers" who report environmental violations/matters?

There is no special law on whistle-blowers protection, however, general provisions contained in some legislation are applicable on protection of people who report environmental violations. For instance, the Labour Law (Official Gazette No. 137/04, 68/05) envisages that submission of complaint or appeal or participation in the process against the employer is not a valid reason for termination of the employment contract. Hence, with this norm employees are protected in the case they report any kind of employer's violation of the law, also with respect to environmental violation.

8.5 Are group or "class" actions available for pursuing environmental claims, and are penal or exemplary damages available?

"Class" actions are not available for pursuing environmental claims

under the Croatian legislation. However, the Law on Obligations envisages *actio popularis*, i.e. everybody has a right to claim from another person to remove the source of danger if a more significant damage threatens either to the claimant or to a certain number of other persons.

Penal or exemplary damages are not available for pursuing environmental claims under the Croatian legislation.

9 Emissions Trading and Climate Change

9.1 What emissions trading schemes are in operation in Croatia and how is the emissions trading market developing there?

The Croatian law neither regulates issues of emissions trading nor are there emissions trading schemes in operation in Croatia.

10 Asbestos

10.1 Is Croatia likely to follow the experience of the US in terms of asbestos litigation?

No it is not.

10.2 What are the duties of owners/occupiers of premises in relation to asbestos on site?

Duties of owners/occupiers of premises in relation to asbestos on site are regulated by the Rules of procedure and method of management of waste containing asbestos (Official Gazette No. 42/07). The Rules of procedure contain provisions on prevention of pollution by asbestos and management of waste containing asbestos.

The producer of asbestos cement is obliged to ensure processing and recycling of all waste liquids that arise as a consequence of production of the asbestos cement. If, however, the recycling is not possible, the producer is obliged to take all measures for storage of the waste liquid containing asbestos, thus, ensuring that no further environmental damage will arise.

Additionally, the producer and cultivator are obliged to conduct all necessary measures to prevent environment pollution with the asbestos fibres or dust arising from their activity and for that purpose make the plan on removal of asbestos or materials which contain asbestos from buildings, constructions or devices that contain asbestos.

The producers of asbestos are obliged to ensure regular monthly measuring of emissions into air, to which the limit values prescribed by law apply.

11 Environmental Insurance Liabilities

11.1 What types of environmental insurance are available in the market, and how big a role does environmental risks insurance play in Croatia?

Croatian insurance companies do not offer insurance policies specially designed for environmental damages. The Law on Environment protection envisages the obligation of the operator from the Article 150 (*the Company which performs the activity representing the risk for environment and human health*) to obtain the insurance policy pursuant to the law or in the other appropriate

way according to law provide funds for repair of possible environmental damage and elimination the danger of damage. Further on, the Law on environment protection envisages that the other types of environmental insurance may be prescribed. We are not aware of existence of any such separate Law envisaging other types of insurance.

11.2 What is the environmental insurance claims experience in Croatia?

We are not aware of any court practice thereon.

12 Updates

12.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Environment Law in Croatia.

The new trends and developments in the next decade are determined by the Plan on waste management in the Republic of Croatia for the period of 2007 - 2015, issued by the Government of the Republic of Croatia and published in the Official Gazette No. 85/07 (hereinafter "the Plan").

The frame for preparation of the Plan was the Strategy of Waste Management of the Republic of Croatia (Official Gazette No. 130/05) and current legislation and directives of the European Union. The Strategy, as a part of National environment protection strategy (Official Gazette No. 46/02) contains the evaluation of the current status in the field of waste management, strategic and quantity goals and measures for achievement of the said goals, directives, estimation of the investments and the sources of founding.

This Plan also envisages the Plan on organisation of system of waste management in Croatia. The aims of an integrated waste management system are to, in the greatest possible extent:

- minimise the amount of generated waste;
- minimise waste placed on landfill during primary separation of useful waste;
- reduce biodegradable waste share in stored municipal waste;
- reduce harmful impact of stored waste on environment, climate and human health;
- manage produced waste pursuant to principles of sustainable development; or
- utilise waste for energy production.

The mentioned aims for management of the waste are to be implemented through adoption of various legislative acts regarding: a) municipal waste; b) special categories of waste; c) landfills; and d) centre for waste management.

Under authority rendered by the Law on Air Protection, the Government of the Republic of Croatia adopted the Plan for Protection and Enhancement of Air Quality in the Republic of Croatia for the Period from 2008 to 2011 (Official Gazette No. 61/08), which represents a document envisaged for implementation of the Air Protection Strategy, an integral part of the above stated National Environment Protection Strategy. The Plan envisages a system of objectives and measures designated for protection and improvement of air quality in Croatia over period of four years.

Bearing in mind all that has been said, it is important to stress that all future trends and developments will be strongly connected with the Croatian approach to the European Union and the process of adjustment of Croatian legislation with *acquis communautaire*. Hence, all future trends, cases and developments in the European Union will have an impact on the Croatian environment legislation.



Tomislav Tus

Žurić i Partneri
Ivana Lučića 2a
10 000 Zagreb
Croatia

Tel: +385 1 4881 333
Fax: +385 1 4856 703
Email: tomislav.tus@zuric-i-partneri.hr

Tomislav Tus is a partner in Žurić i Partneri law firm. After graduating from the University of Zagreb, Faculty of Law, he was admitted to the Croatian Bar in 1993, at the time when Žurić i Partneri was engaged in the pioneer era of the privatisation process in the Republic of Croatia. Tomislav Tus has advised major international investors in their entry on the Croatian market either through green-field projects or M&A's.



Martina Prpić

Žurić i Partneri
Ivana Lučića 2a
10 000 Zagreb
Croatia

Tel: +385 1 4881 300
Fax: +385 1 4856 703
Email: martina.prpic@zuric-i-partneri.hr

Martina Prpić is a lawyer in Žurić i Partneri law firm, one of the leading law firms in Croatia. She graduated from the University of Zagreb, Faculty of Law *summa cum laude* in 2000, and graduated with distinction LL.M. in International Business Law from Central European University in 2001, completed course on American Law, organised by the Law Faculties of Columbia University in the City of New York, the Leiden University, and the University of Amsterdam in 2002. She is a member of the Croatian Bar since 2002. She specialises in business and arbitration law.

Žurić i Partneri
odvjetničko društvo

Žurić i Partneri is one of the leading firms in Croatia in the field of general commercial and corporate law, competition, banking, corporate finance, energy, construction, information technology, telecommunications and intellectual property. We are particularly proud of our work related to the privatisation and acquisition of former socially owned enterprises, where we developed efficient strategies and techniques for the acquisition of local companies and banks on behalf of our foreign clients and have advised in the biggest transactions of that type in Croatia.