



**EUROPEAN WASTE LAW THEORY & PRACTICE
EUFJE ANNUAL CONFERENCE 2005**

**ANSWERS OF HUNGARY
(dr Péter Darák, Supreme Court)**

SECTION A: GENERAL ISSUES OF CASE LAW & IMPLEMENTATION

There is a general uncertainty in the Hungarian jurisdiction about the “ex post facto” effect of environmental protection.

A new general environmental act came into effect in 1995, and another about waste in 2000. Many companies argue against their duty prescribed by the authority to fulfil disposal operations, and they say the waste was accumulated by state companies in the earlier decades. Since private companies bought the contaminated fields with hidden waste they haven't handled the waste.

The question for the court was, whether the landowner can be obliged to take measures, when he has not performed any activity and the waste is older than the act. The other option is, that the state has to treat the waste.

**SECTION B: SPECIFIC ISSUES OF CASE LAW & IMPLEMENTATION -
DIRECTIVE 75/442/EC - WASTE FRAMEWORK DIRECTIVE**

Article 1(a) - Definition of Waste

1. Special meaning of Discard/Uncertainty

I've overviewed the case law of the Supreme Court and the Capital Court in connection with waste. I had to realise that there was no case in the last two years where the court was asked to determine whether a substance was waste.

In our cases the main question was whether the activity of companies without permit or differing from the license can be fined, and how can they be obliged for treatment or disposal of the waste.

2. Disproportionate regulation/Barriers to use

We haven't faced the problems of the definition.

3. Products, by-products and residues

There are no cases concerning by-products and residues.

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4. Complete recovery operation

We haven't applied the idea of a complete recovery operation yet.

5. Substitute fuels and complete recovery operations

No case law in connection with substitute fuels.

6. End of waste and recycling

No experiences in applying Packaging Waste Directive.

7. Lawyer driven not policy driven

No jurisdiction.

Article 2(1)(b) – Other legislation

There is no national decision on what constitutes “other legislation”.

Definition of recovery

No cases on distinguishing between disposal and recovery.

Article 4 – General objective of the Directive

I can't mention any example for disproportionate national standards, or difficulties in the transpose. As I see the Hungarian legislation follows and interprets the EU secondary law. So it is no elbow-room to find disproportionate national standards.

Article 7 – Waste Plans and permits

We don't have any individual construction permit case, where the waste management plan was disputed.