

Clean Transport Zones in Poland

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INTRODUCTION

Introduction (Including the problem of the research)

The growing number of cars in city centers, noticeable in Poland, becomes an increasing burden for the inhabitants of these areas. In order to counteract these phenomena at the EU level, permissible emission standards were introduced. Meanwhile, Poland has significant delays in these matters, but the transformation currently taking place in the fight for clean air is taking place in many areas. One of them is Clean Transport Zones (CTZ)

The aim of research

The aim of the research and legal analysis are not all activities related to combating smog, but only the issues of the so-called Clean Transport Zones, an institution introduced into the Polish legal system by the Act of January 11, 2018 on electromobility and alternative fuels (u.e.p.a.), implementing Directive 2014/94 / EU of the European Parliament and of the Council of October 22, 2014 on the development of fuel infrastructure alternative.

Objectives

Deciding whether SCTs should be obligatory or optional

Analysis of the evolution of legal regulations in the field of CTZ and an attempt to indicate the directions of their development

The methods of the research

Dogmatic-legal and legal-comparative methods

Theoretical background

The introduction of CTZ in Poland follows the principle of decentralization of public administration. This means that their creation remains within the competence of the basic local government units, i.e. the commune. Their creation is not a statutory obligation, but it is related to the discretionary possibility of adopting a relevant act of local law by the commune. As indicated in the explanatory memorandum to the bill, "the introduction of zones will not be obligatory, and may help local governments to fight air pollution in cities". Thus, as in the case of a local spatial development plan, there is, in principle, no obligation to adopt them. The lack of such a reservation can be seen as a disadvantage from the point of view of the fact that achieving the goal of minimizing air pollution caused by transport depends only on the will of the basic local government unit. The act resigned from linking these zones with air quality, i.e. a measurable and thus objective factor, which, after exceeding certain standards, would oblige municipalities to introduce them. Meanwhile, rational behavior would require their automatic establishment in an area where the concentration of nitrogen oxides and other harmful substances causes threats to life and health. Consequently, even when the quality standards are exceeded several times, the creation of such zones is not an obvious consequence of this state. From this point of view, it makes the CTZ institution in Poland certainly ineffective, if not dead.

If the above is supplemented with the fact that entry to such a zone is generally to be allowed only for low or zero-emission vehicles, then in the Polish reality, i.e. with a small number of electric cars and charging stations, its introduction must be opposed. The above is exemplified by the city of Krakow, which has so far been the only one in Poland that has attempted to introduce such a zone in accordance with the intention of the legislator. A resolution on this matter was adopted at the end of December 2018 and included the historic district of the city in the city center - Kazimierz. On his example, it turned out that one of the key and, at the same time, the most conflicting issues is deciding on the determination of exemptions from the restriction of entry to the CTZ for third parties. The rigorously introduced rule was immediately objected by entrepreneurs. As a result of their actions, including legal actions (a complaint to the provincial administrative court), significant changes were made to the original resolution already in March of the following year, which destroyed the purpose for which it was established.

The above indicates that ultimately the creation of the CTZ depends on the "courage" and determination of councilors in the commune. Therefore, the current solution puts their future in question, as they will certainly face opposition from local communities, whose voice will certainly be considered. It is a phenomenon characteristic of this type of zones, therefore their implementation requires a public and individual interest that is difficult to balance.

Main findings

The legal basis for establishing clean transport zones in Poland is Art. 39 and 40 u.e.p.a. Although the regulations contained in these provisions are relatively young, they entered into force at the beginning of 2018, from the very beginning they were the subject of further reflection on the part of the legislator, which ultimately led to two important changes in the period of 4 years. On the other hand, the purpose of their establishment can be considered the unchanging element of SCT. It is the prevention of negative impacts on human health and the environment due to the emission of pollutants from transport. However, other issues are not so obvious anymore. In particular, the discussions are related to the delimitation of areas where restrictions or even prohibitions on the movement of certain categories of vehicles would apply.

The first amendment, from 2018, introduced a rule that the CTZ could be established in a municipality with more than 100,000 inhabitants for the area of downtown buildings or a part of it, constituting a cluster of intensive development in the downtown area, specified in the local spatial development plan, and in the case of its absence, in a study of the conditions and directions of spatial development in a commune. As a consequence, its creation was possible only in urban communes, and there are currently 37 such communes in Poland, with a total number of 2,477 communes.

The second amendment significantly simplified Art. 39 sec. 1, resigning from the criterion of 100 thousand residents, reference to planning acts and linking the CTZ with a specific type of development and the area of the city. Currently, it is established in order to reduce the negative impact of emissions of pollutants from transport on human health and the environment in a commune, it is possible to establish a clean transport zone with roads managed by the commune, to which forbids the entry of motor vehicles other than:

- 1) electric;
- 2) hydrogen powered;
- 3) powered by natural gas;
- 4) excluded on the basis of a resolution of the commune council.

The current solution should be assessed positively, primarily because it allows for real counteracting the negative impact of pollution emitted by means of transport in every commune in Poland, not just selected ones.

MAIN RESULTS AND CONCLUSIONS

1. The first normative attempt to establish clean transport zones in Poland proved to be too rigorous
2. When introducing CTZ, the emphasis was wrongly placed on zero-emission instead of low-emission - Ultra Low Emission Zones were introduced in London, for example, only in 2019.
3. The number of zero-emission cars in Poland is small, hence the introduced CTZ model aroused justified opposition from local communities and entrepreneurs in these zones
4. It is essential to demonstrate a progressive approach when establishing CTZ and adapting it to local conditions - an intermediate step is needed
5. The desire to introduce CTZ instead of Low Emission Zones probably results from the desire to catch up with civilization backlogs
6. Establishing CTZs should be obligatory - the principle of optionality may frustrate the overall purpose of their introduction
7. It is difficult to unequivocally assess the establishment of CTZ by acts of local law. On the one hand, this allows local governments to locate them more accurately, on the other hand, assuming that they are not optional, it would be worth considering whether the establishment should not be a statutory obligation.