

ECO-PACKAGE

SOLUTIONS FOR THE MOTOR VEHICLE SECTOR



The Vehicle Recycling Forum Association (*Stowarzyszenie Forum Recyklingu Samochodów*) in Warsaw

Warsaw, April 2009

The FORS Association

The FORS Vehicle Recycling Forum Association was established in 1998 upon the initiative of a group of people gathered around the Industrial Research Institute for Automation and Measurements (PIAP). The Members of the Association are entrepreneurs running disassembly stations, vehicle reception points, shredders, and professors and academics from reputable universities and institutes in Poland, as well as natural persons interested in recycling.

Since its inception, the Association has been involved in overcoming the challenges of vehicle recycling through environmental and technical education, implementation of the best available technologies and initiation of actions for developing this sector, with a special emphasis on environmental protection. We share our experience with people in charge of delivering legal solutions; we have participated in the legislative work on the Act on Recycling of End-of Life Vehicles, as well as in the work on a number of other legal acts which are important for vehicle recycling, management of waste and environmental protection. During the 10 years of our activities, we have organised a number of seminars, conferences and training sessions, which transmit our knowledge and expertise to hundreds of people. The membership of FORS in the European Association EGARA creates an opportunity for us to present the achievements of Poland in the area of international vehicle recycling, allows us to monitor the market and become familiar with new solutions for recycling applied throughout Europe. Today, FORS is a nation-wide association, and thanks to the work of its members it is also a strong partner in the discussion on the motor vehicle sector's situation and developments.

Environmental protection from hazardous waste, the construction of a modern system for sourcing raw material from end-of-life vehicles, support of development and the promotion of the vehicle recycling sector remain the core aims that our Association intends to carry out also in those hard times of crisis for the economy and for many entrepreneurs.

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I. INTRODUCTION.

The global crisis, the effects of which are observed with great concern by governments, entrepreneurs and ordinary citizens in most countries of the world, is also becoming more noticeable in Poland. The economic downturn and the decrease in demand for products have also badly affected the motor vehicle sector, where the problems are faced not only by car manufacturers but also the whole group of enterprises dealing with the automotive industry. The group also includes representatives of the end-of-life vehicles recycling sector.

The current situation of the Polish economy necessitates quick and decisive steps to be taken in order to neutralise the effects of the global crisis. The FORS Association, recognising the need for urgent changes, has developed its own “SOLUTIONS FOR THE MOTOR VEHICLE SECTOR - ECO-PACKAGE”, which will make it possible to minimise the effects of the crisis on the Polish motor vehicle sector and thus contribute to its sustainable development.

The main goal of the Eco-Package is to boost the economy in the area of a wide automotive sector, including the recycling of end-of-life vehicles, taking into account all of the automotive organisations, and to create mechanisms that will affect the economy in a longer term. The solutions presented below aim at stopping the decline in sales of products and services in the whole automotive sector. They support not only entrepreneurs running disassembly stations and vehicle reception points, but also manufacturers of vehicles and spare parts running repair workshops, distributors of spare parts, craftsmen providing minor services, insurance companies and finally vehicle users themselves.

The solutions proposed by us will help avoid short-term interventions which are currently applied in some countries and which could disrupt the functioning of the economy without any positive effects being provided in a longer term. We wish to avoid providing unjustified support only to one group of entrepreneurs and privileging its position during the economic downturn in comparison to the position of other operators in the motor vehicle sector. The proposals presented ensure success provided that they are implemented in a comprehensive manner, as they are interlinked. The positive effects and an economic boost in the motor vehicle sector will only be visible if the project is implemented in all areas discussed.

The “Eco-Package” includes six proposed actions, the implementation of which will enable it to solve the most serious problems. Each of these proposals has been characterised, the areas requiring the most urgent legislative modifications have been indicated, and the foreseen effects of those solutions and their impact on operators in the motor vehicle sector and on vehicle users have been described.

The Eco-Package keeps with the spirit of the need, discussed for some time now, to make more radical changes to the motor vehicle sector. It contains references to new solutions proposed by the FORS Association at the meeting of 12 December 2008 with representatives of the Ministry of Environment, Ministry of Economy and the National Fund for Environmental Protection and Water Management, regarding the financing of recycling of end-of-life vehicles, support for the vehicle recycling sector and reduction of the grey market. The Eco-Package is also harmonised with the actions proposed by the Ministry of Economy for stability and development, and in particular with the “Green Package to support the demand for new vehicles” (*“Proekologiczny pakiet wspierający popyt na nowe samochody”*). However, our intention was, as already mentioned, to deliver solutions with the effect not only to boost the demand for new vehicles, but also to create efficient support mechanisms for the development of the overall motor vehicle sector.

II. PROPOSED SOLUTIONS:

1. Replacement of the excise duty on cars by an environmental tax.
2. Implementation of the “1000 for 1000” system.
3. Determination of conditions for a vehicle to be qualified as waste.
4. Bringing order to the CEPiK system (Central Register of Vehicles and Drivers).
5. Sanctions for non-registration/non-reregistration of the vehicle.
6. Simplification of the procedure for delivering the vehicle to disassembly - the “one-stop shops” opportunity.

1. REPLACEMENT OF THE EXCISE DUTY ON PASSENGER CARS BY AN ENVIRONMENTAL TAX - “GREEN TAX”.

1.1. Assessment of the situation.

The excise duty on passenger cars has evoked strong emotions from the moment it was introduced to the fiscal system in 1993. The emotions were even stronger than those caused by an analogue excise duty on alcohol, cigarettes or fuels, where the effective tax rate was and still is much higher. The main reason is that even though the excise duty’s cost is always borne by the consumer - while the excise duty on alcohol, cigarettes or fuels is borne by entrepreneurs and the ultimate consumer does not see it (even on his check or invoice), the excise duty on passenger cars is visible to the ultimate consumer.

This is due to the fact that the excise duty's amount is disclosed on the invoice issued by a dealer when selling a new car (Article 100 paragraph 4 of the Act on Excise Duty of 06 December 2008), and in the case of cars being the subject of intra-Community acquisition or import - it is paid directly by a purchaser of such a car, frequently by a natural person not running any economic activity.

Since the compliance of Polish regulations on excise duty on passenger cars with the Community law was challenged (ECJ judgment of 18 January 2007, case C-313/05) to the extent where the rate of tax increased with the age of the vehicle, the provisions that have so far been treated as protecting us against flooding our country by second-hand cars imported from the West were subject to change. The inflow of second-hand cars from abroad was perceived as the factor holding back the sale of new cars in our country and an important factor contributing to environmental degradation (the older the vehicle, the more harmful it is to the environment).

1.2. Necessary changes.

Taking into account that from the moment of our accession to the European Union we belong to a one market that is common to all members of the European Union, where any barriers to the free movement of goods are banned, the mechanisms facilitating the growth of sales of new cars in Poland other than the excise duty must be introduced, which will lead to a positive - from the domestic manufacturers and dealers' perspective - relation between the number of cars sold in the country and the number of those imported from abroad. The green tax is a factor that will boost the sale of new passenger cars and, at the same time, will positively influence the renewal of the car park in Poland and ensure a permanent inflow of end-of-technical life vehicles to disassembly stations. The implementation of a green tax would lead to the excise duty being removed. Such a tax should be imposed on all registered vehicles which are currently subject to the Act on Recycling of End-of-Life Vehicles of 20 January 2005, i.e. vehicles under the M1 or N1 category, specified in the regulations on road traffic, and three-wheel motor vehicles, with the exclusion of three-wheel motorcycles (Article 3 pt 4 of the Act on Recycling) and with the exception of historic vehicles (Article 2 paragraph 2 of the Act on Recycling). Such a tax should be paid once a year and its amount should be dependent on two major elements: the age of the vehicle and engine capacity.

In 2008, the State budget should have been provided with the excise duty on passenger cars in the amount of PLN 2,200,000,000. In this period, ca. 13,750,000 cars were registered. Consequently, if the average rate of a green tax on a passenger car is ca. PLN 160, then the inflow to the State budget for a green tax would be sufficient to compensate the State budget for the lost revenues from the excise duty on passenger cars.

1.3. Foreseen effects.

The implementation of a green tax and progression of the rate of a green tax with the age of the vehicle would be favourable to the sale of new cars and would motivate the owners to dispose of their old cars and send them to disassembly faster than it is now.

Currently, vehicles with an average age of more than 17 years are qualified as end-of-life vehicles. Implementing a green tax and imposing the highest rates on the oldest cars is expected to lead to a situation in which vehicles that are several years younger will be qualified as end-of-life vehicles.

Without a doubt, a green tax will favourably influence environmental protection - younger cars meeting the EURO I-V standards in principle use less fuel and are a source of exhaust constituents that are less harmful to the environment. However, it should be noted that the implementation of a green tax may be perceived as a symptom of excessive taxation by the State - after all, it will be a new tax. In addition, a green tax will mostly affect that part of the society which cannot afford buying a new car and today uses the oldest vehicles. Manufacturers and importers of new cars and importers of second-hand cars will be most vulnerable to the removal of the excise duty. If the removal of the excise duty will result in the vehicle price being reduced, consumers will also benefit from it. However, it should be underlined that out of more than 13 million people charged with a new green tax, only ca. 1 million persons and companies will benefit annually from removing the excise duty, as such is the average number of vehicles being introduced to the Polish market within one year. It should also be noted that the vast majority of purchasers of new cars are banks and leasing companies.

Additionally, it is foreseeable that removing the excise duty may lead to the number of cars imported from abroad being increased, and the expected effect of the growth in the number of new cars sold may be insignificant (a detailed analysis of the effects of introducing such a solution is presented in 2.2.1.). Removing the excise duty will surely entail a mass import of wrecked cars to be disassembled on the grey market.

In view of the above, the proposal to replace the excise duty by a green tax should be complemented with other solutions which will neutralise the possible negative effects of removing the excise duty.

2. THE “1000 FOR 1000” SYSTEM.

2.1. Assessment of the situation

The experience gathered during more than three years of the functioning of the system of recycling of end-of-life vehicles, as was established by virtue of the provisions of the Act on Recycling of End-of-Life Vehicles of 20 January 2005, makes it possible to conclude that the system failed and did not fulfil the users' expectations. In particular, the “vehicle collection networks” failed to be a mechanism to ensure the implementation of Directive 2000/53/EC, which obligated the Member States to collect all the end-of-life vehicles. The grey market still continues to be a destination for ca. 85% of end-of-life vehicles, which means that the system covers only 15% of vehicles.

A negative evaluation should also be given to fictitious vehicle collection networks and the so-called network integrators addressing their sales offer of the vehicle collections networks mainly to parties introducing the vehicles in a number not exceeding 1000 units per year. Such “networks”, which were created by the companies out of the group of operators indicated in the Act on Recycling, were established in order to seize the funds that the parties introducing the vehicles were to spend on building networks or paying the National Fund for Environmental Protection and Water Management and did not in any way affect the availability of points of collection of end-of-life vehicles.

The system of financing the vehicle recycling in the form of subsidies for their disassembly also failed. Since it is prohibited to charge the vehicle's last user delivering his vehicle to recycling, the subsidies for recycling were meant to be a compensation for the costs incurred by disassembly stations resulting from the management of waste from end-of-life vehicles. In practice, the initial goal of the legislator was not fulfilled as subsidies were eligible for public aid and were subject to de minimis aid. Limitations on de minimis aid result in the continuous fragmentation of vehicle disassembly enterprises and the growth of the costs of their activities and distort competition among entrepreneurs. As a consequence, the high costs of the functioning of the vehicle recycling system are currently borne by entrepreneurs running disassembly stations, which in a longer perspective may lead to a part of enterprises being closed down, especially those only running disassembly stations. The general economic downturn, rising operating costs and dramatic fall in prices of raw material observed recently make the situation even more acute.

For the recycling fee and charge for the lack of networks, the NFOŚiGW accounts were provided with an enormous amount of money, i.e. PLN 1.5 million. A total amount of only ca. 50 million has been paid out under subsidies for disassembly so far. Such a small amount of disbursement in comparison to the total sum gathered in the framework of a recycling sub-fund confirms the opinion of FORS that the modification of the system of financing the recycling and development of mechanisms to

efficiently use the funds for the development of the vehicle recycling sector is needed as soon as possible, but also that the assumptions of the European Directive 2000/53/EC regarding vehicle collection and achievement of recovery and recycling targets need to be fulfilled.

The necessary reconstruction of the system also involves an extensively discussed intention to replace the excise tax by a green tax, which is also proposed by FORS in pt 2.1. of the Eco-Package. This solution, with no appropriate safeguards being introduced, will increase the number of end-of-life vehicles, which unfortunately will be delivered mainly to the grey market, thus posing an environmental risk. The reconstruction of the system should involve the introduction of such mechanisms that would, on the one hand, provide financial measures to ensure the system's operation and, on the other hand, would allow for the use of those measures in order to redirect the stream of end-of-life vehicles towards disassembly stations.

Focusing on the solutions for fostering the development of the motor sector in the growth of the sale of new cars, which is a practice implemented in many EU countries, is not deemed appropriate in Poland. The solutions applied should take into account the specific nature of the development of the motor vehicle sector in our country. Aid for vehicle manufacturers should take an indirect form. It should bring the increase in demand for new cars by attracting users to vehicles equipped with new technical and environmental solutions. For this reason, the financial bonus should be given to all those leaving their old cars at a disassembly station, and not only to those purchasing new cars, who constitute merely one-fourth of the vehicle market.

The introduction of such mechanisms is provided for in the "1000 for 1000" system presented in 2.2.3., which is a self-funding system representing no additional burden on the State budget. The implementation of the "1000 for 1000" system will provide measures necessary to establish a system of economic incentives for ultimate vehicle users and entrepreneurs incurring costs of managing the vehicles of a negative or zero value. The system will ensure that more end-of-life vehicles will be left at disassembly stations than today, thus making the position and competitiveness of legal stations stronger than those on the grey market. It will also create favourable conditions for the economic development of the overall motor vehicle sector, including the vehicle recycling sector, and will simultaneously enable the fulfilment of Directive 2000/53/EC.

2.2. Possible scenarios of financing the recycling.

In looking for the most optimal solutions, various possible scenarios of financing the recycling were analysed, starting with those requiring only slight changes in the regulations in force, and ending with those involving a thorough reconstruction of the present system. The analysis of five envisaged scenarios of financing the recycling, together with basic characteristics of each of them and foreseen effects of the implementation of each solution, is presented below. Every scenario analysed includes the solution described in the preceding point of this document (pt 2.1. of the Eco-Package), consisting in the replacement of the excise tax by a green tax, and the effects of the solutions regarding financing the vehicle recycling are envisaged taking into account the effects of a green tax.

2.2.1. Basic scenario - “Green tax” and subsidies for disassembly as de minimis public aid.

The basic scenario assumes that the excise tax will be replaced by a green tax and the current principles of financing the recycling will be maintained, i.e. subsidies for disassembly granted by NFOŚiGW under de minimis public aid (EUR 200,000 within 3 years).

In order to provide compensation to the State budget for the loss of revenues from the excise tax, the budget should be provided with a green tax of the annual amount of ca. PLN 2,200,000,000. By dividing this amount by the number of vehicles registered in Poland covered by the green tax (ca. 13,750,000), we get the amount of PLN 160, which would be an indicative average amount of the green tax for every vehicle (it will certainly be correspondingly higher or lower according to the vehicle’s age or any other element affecting the environment, taking into account the following principle: the older the vehicle or the greater the environmental risk, the higher the amount of the green tax). The green tax in its entirety will burden the vehicle users, thereby increasing the costs of maintenance of a vehicle for the user by the amount of the green tax, whereas manufacturers and importers of new cars and importers of second-hand cars will be the most vulnerable to the removal of the excise duty.

The revenues to the State budget from the excise duty on the sale of new cars in 2008 amounted to ca. PLN 800,000,000. It results from the division of this amount by the number of new cars introduced to the Polish market in 2008 (ca. 320,000) that manufacturers and importers of new cars paid to the budget ca. PLN 2,500 of the excise duty for every car introduced. Therefore, the excise duty’s removal confers a benefit upon manufacturers and importers of an average amount of PLN 2,500 for every vehicle introduced.

The removal of the excise duty is also beneficial for importers of second-hand vehicles who today provide to the budget the excise duty of ca. PLN 1,275 for every vehicle (in 2008, the excise duty on second-hand cars introduced, provided to the budget, amounted to PLN 1,400,000,000, whereas ca. 1,100,000 vehicles were introduced).

Foreseen effects:

- 1) economic benefit for manufacturers and importers of new cars (PLN 2,500 on average for every vehicle) and importers of second-hand cars (PLN 1,275 on average for every vehicle),
- 2) growth of import of second-hand cars from abroad (including those in a very poor technical condition),
- 3) charging vehicle users with the costs of a new green tax,
- 4) increase in the number of end-of-life vehicles delivered to the grey market,
- 5) further deterioration in the situation of legal disassembly stations,
- 6) if removing the excise duty has an impact on the vehicle price, i.e. the vehicle price is decreased as a result of the excise duty being removed, then it would will lead to the growth in the sale of new cars.

The following problems persist:

- charging natural persons with a recycling fee (Article 12 paragraph 2 of the Act on Recycling) is not compliant with European laws,
- the subsidy system violates the principle of proportional allocation,
- failure to impact the grey market (ca. 85% of vehicles will continue to be disassembled on the grey market),
- failure to implement Directive 2000/53/EC as regards collection and recycling of all end-of-life vehicles,
- it is not possible to develop the recycling system and charge the parties running disassembly stations with the costs of managing waste from vehicles if no full compensation of the costs incurred can be guaranteed,
- inappropriate use of recycling measures, i.e. for purposes other than those of vehicle recycling,
- fictitious vehicle collection networks.

2.2.2. The “500 for 500” system.

Similar to the basic scenario, the “500 for 500” system assumes that the excise duty will be replaced by a green tax. However, the present principles of financing the recycling would be changed as follows:

- a) all parties introducing vehicles (i.e. manufacturers and importers, both entrepreneurs and natural persons not being entrepreneurs) provide PLN 500 to the system (to the account of NFOŚiGW),
- b) the parties introducing vehicles will no longer be required to provide vehicle collection networks,
- c) the vehicle’s ultimate user (owner) is given, at a disassembly station or vehicle collection point, an amount of PLN 500 provided that the following conditions are met:
 - the vehicle is registered in the country,
 - the vehicle delivered is complete,
 - the vehicle’s third party insurance is valid and paid out,
 - the green tax on the vehicle has been paid,
 - the delivering person has been the owner of the vehicle for at least 3 months,
- d) the amount of PLN 500 is paid out by the operator running a disassembly station based on the contract concluded directly with NFOŚiGW (possibly by a representative in the form of WFOŚiGW), and settlements are based on monthly periods (the principles similar to those of 2008 for the civil law transactions tax collection system on behalf of the Treasury by operators purchasing goods for resale),
- e) should the vehicle delivered to a disassembly station or collection point be of a negative value (i.e. the cost of its disassembling and managing its waste exceeds the benefits from the sale of parts and raw material recovered) or a zero value, then the operator of such a station or the operator of a vehicle collection point, acting on his behalf, will be authorised to deduct, from the amount due to the owner, the costs of vehicle management of up to PLN 500,
- f) subsidies for disassembly shall be cancelled.

Foreseen effects:

- 1) equal conditions for the introduction to the market of all vehicles to be registered in Poland for the first time, both for new and second-hand cars and those imported from abroad (nowadays, part of vehicles is subject to networks, and the remaining part is subject to the recycling fee; in addition, charging natural persons importing second-hand cars from abroad with a recycling fee is a breach of the principle of the free movement of goods - Article 90 of the EC Treaty),
- 2) financial benefits to the following groups:

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- manufacturers and importers of new cars: an average amount of PLN 2,000 for every vehicle introduced,
 - importers of second-hand cars - natural persons not being entrepreneurs and entrepreneurs not providing networks: an average amount of PLN 1,275 for every vehicle introduced,
 - importers of second-hand cars - entrepreneurs providing networks: an average amount of PLN 775 for every vehicle introduced,
- 3) charging vehicle users with the costs of a new green tax in the average amount of PLN 160 annually,
 - 4) partially mitigating the effect of the provisions of pt 3 by providing the ultimate user with the possibility of receiving PLN 500,
 - 5) increase in the number of end-of-life vehicles,
 - 6) slight increase in the competitiveness of services offered by disassembly stations when compared to the grey market,
 - 7) redirecting the stream of end-of-life vehicles towards disassembly stations - a positive environmental impact by reducing the number of vehicles disassembled on the grey market,
 - 8) promoting and rewarding positive behaviour (prohibition of vehicle disassembly outside the station, obligation for vehicle owners to take out third party insurance),
 - 9) eliminating the unfair companies “selling” a non-existing vehicle collection network.

2.2.3. The “1000 for 1000” system.

Similar to the basic scenario, the system assumes that the excise duty will be replaced by a green tax. However, the present principles of financing the recycling would be changed as follows:

- a) all parties introducing vehicles (i.e. manufacturers and importers, both entrepreneurs and natural persons not being entrepreneurs) provide PLN 1,000 to the system (to the account of NFOŚiGW),
- b) parties introducing the vehicles will no longer be required to provide vehicle collection networks,
- c) the vehicle’s ultimate user (owner) is given, at a disassembly station or vehicle collection point, an amount of PLN 1,000 provided that the following conditions are met:
 - the vehicle is registered in the country,
 - the vehicle delivered is complete,
 - the vehicle’s third party insurance is valid and paid out,
 - the green tax on the vehicle has been paid,
 - the delivering person has been the owner of the vehicle for at least 3 months,

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- d) the amount of PLN 1,000 is paid out by the owner of a disassembly station based on the contract concluded directly with NFOŚiGW (possibly by a representative in the form of WFOŚiGW), settlements are based on monthly periods (the principles similar to those of 2008 for the civil law transactions tax collection system on behalf of the Treasury by operators purchasing goods for resale),
 - e) should the vehicle delivered to a disassembly station or collection point be of a negative value (i.e. the cost of its disassembling and managing its waste exceeds the benefits from the sale of parts and raw material recovered) or a zero value, then the operator of such a station or the operator of the vehicle collection point, acting on his behalf, will be authorised to deduct, from the amount due to the owner, the costs of vehicle management of up to PLN 500,
 - f) subsidies for disassembly shall be cancelled.

Foreseen effects:

- 1) equal conditions for the introduction to the market of all vehicles which are registered in Poland for the first time, both for new and second-hand cars and those imported from abroad (nowadays, part of the vehicles is subject to networks, and the remaining part is subject to the recycling fee; in addition, charging natural persons importing second-hand cars from abroad with the recycling fee is a breach of the principle of the free movement of goods - Article 90 of the EC Treaty),
- 2) financial benefits for the following groups:
 - manufacturers and importers of new cars: an average amount of PLN 1,500 for every vehicle introduced,
 - importers of second-hand cars - natural persons not being entrepreneurs and entrepreneurs not providing networks: an average amount of PLN 775 for every vehicle introduced,
 - importers of second-hand cars - entrepreneurs providing networks: an average amount of PLN 275 for every vehicle introduced,
- 3) reduction in the number of imported second-hand vehicles,
- 4) charging the users of vehicles with the costs of a new green tax in the average amount of PLN 160 annually,
- 5) mitigate the effect of the provision of pt 4 by providing the ultimate user with the possibility of receiving PLN 1,000,
- 6) drastic increase in the number of end-of-life vehicles,
- 7) significant influence on the grey market and an important increase in the competitiveness of services offered by disassembly stations when compared to the grey market,
- 8) efficient redirecting of the stream of end-of-life vehicles towards disassembly stations - a positive environmental impact by reducing disassembly made outside the stations,

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- 9) promoting and awarding positive behaviour (prohibition of disassembling the vehicles outside the station, obligation to take out third party insurance for vehicle owners),
 - 10) eliminating the unfair companies “selling” a non-existing vehicle collection network.

2.2.4. Redirecting the vehicles of a negative/zero value towards networks introducing the vehicles.

In this scenario, the following is assumed:

1. The excise duty is replaced by a green tax.
2. The obligation for natural persons not being entrepreneurs who import vehicles from abroad to pay the recycling fee is removed (Article 12 paragraph 2 of the Act on Recycling shall be deleted).
3. The obligation to provide networks by entrepreneurs introducing vehicles (in the case of operators introducing up to 1000 vehicles in a row, a payment of the amount of PLN 500 to replace the obligation to provide a network continues to be possible) as well as current sanctions for the non-provision of networks shall be maintained.
4. The system of subsidies for disassembly shall be cancelled.
5. Every vehicle must be admitted by parties running the stations or vehicle collections points, belonging to the networks of entities introducing the vehicles.
6. The party running a disassembly station or vehicle collections point may refuse to take the vehicle and may indicate another disassembly station or point of collection of vehicles belonging to networks introducing the vehicles, provided that the vehicle delivered to a disassembly station or vehicle collections point is of a negative value (i.e. the cost of its disassembling and managing its waste exceeds the benefits from the sale of parts and raw material recovered) or a zero value.

Foreseen effects:

- 1) The non-compliance of the provisions of Article 12 paragraph 2 of the Act on Recycling with European laws shall be removed,
- 2) financial benefits to the following groups:
 - manufacturers and importers of new cars: an average amount of PLN 2,500 for every vehicle introduced,
 - importers of second-hand cars - natural persons not being entrepreneurs and entrepreneurs not providing networks: an average amount of PLN 1,775 for every vehicle introduced,

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- importers of second-hand cars - entrepreneurs providing networks: an average amount of PLN 1,275 for every vehicle introduced,
 - 3) increased import of second-hand cars from abroad (including those in a very poor technical condition),
 - 4) charging the users of vehicles with the costs of a new green tax in the average amount of PLN 160 annually,
 - 5) increase in the number of end-of-life vehicles delivered to the grey market,
 - 6) further deterioration in the situation of legal disassembly stations that may even lead to two-thirds of them being closed down, in the case of a large number of vehicles of a negative or zero value,
 - 7) if removing the excise duty has an impact on the vehicle price, i.e. the vehicle price is decreased as a result of the excise duty being removed, then it would will lead to growth in the sale of new cars.

The following problems persist:

- failure to affect the grey market (ca. 85% of vehicles will continue to be disassembled on the grey market),
- failure to implement Directive 2000/53/EC as regards the collection and recycling of all end-of-life vehicles,
- fictitious vehicle collection networks continue to operate.

2.2.5. Subsidies for disassembly without limiting de minimis aid.

In this scenario, the following is assumed:

- 1) the excise duty is replaced by a green tax,
- 2) all parties introducing the vehicles (i.e. manufacturers and importers, both entrepreneurs and natural persons not being entrepreneurs) provide PLN 500 to the system (to the account of NFOŚiGW),
- 3) the parties introducing the vehicles will no longer be required to provide vehicle collection networks,
- 4) the parties running a disassembly station, achieving the required recovery and recycling levels, obtain from the system (from NFOŚiGW) the compensation of the costs of managing waste from end-of-life vehicles, in the amount of PLN 500 for every vehicle admitted (**compensation as the recovery of costs shall not constitute public aid**).

Foreseen effects:

- 1) financial benefits to the following groups:
 - manufacturers and importers of new cars: an average amount of PLN 2,000 for every vehicle introduced,
 - importers of second-hand cars - natural persons not being entrepreneurs and entrepreneurs not providing networks: an average amount of PLN 1,275 for every vehicle introduced,
 - importers of second-hand cars - entrepreneurs providing networks: an average amount of PLN 775 for every vehicle introduced,
- 2) increased import of second-hand cars from abroad (including those in a very poor technical condition),
- 3) equal opportunities for all entrepreneurs running disassembly stations and implementation of the principle of a proportional allocation of recycling measures (the more the waste processed, the higher the compensation amount),
- 4) charging the users of vehicles with the costs of a new green tax in the average amount of PLN 160 annually,
- 5) increase in the number of end-of-life vehicles delivered to the grey market,
- 6) if removing the excise duty has an impact on the vehicle price, i.e. the vehicle price is decreased as a result of the excise duty being removed, then it would lead to the growth in the sale of new cars,
- 7) eliminating the unfair companies “selling” a non-existing vehicle collection network.

The following problems persist:

- failure to affect the grey market (more than 80% of vehicles will continue to be disassembled on the grey market),
- failure to implement Directive 2000/53/EC as regards the collection and recycling of all end-of-life vehicles.

2.3. The “1000 for 1000” system as the most optimal scenario of financing the recycling.

The analysis of the market and of the scenarios of financing the recycling described above as well as the experience achieved during 3 years of the recycling system operation, which was built based on the Act on Vehicle Recycling, makes it possible to conclude that only the system’s reconstruction towards the “1000 for 1000” system is able to put the brakes on the downturn observed in the recycling sector, in particular as regards the number of vehicles delivered to disassembly stations (at present, it

is only 15%) and imposing most of the vehicle recycling costs basically on only one operator, namely the one running a disassembly station.

During the work aimed at amending the Act on Recycling, conducted for several months now (in the framework of a large project to amend the Act on Waste and certain other acts), the “500 for 500” system was proposed to be introduced. At the time, the Association was a fervent adept of this system, as it promised a significant change of the current bad recycling position, introducing order to the system and a serious limitation of the grey market. The analysis showed above confirms that the “500 for 500” system makes it possible to influence the motor vehicle market both in terms of the number of new vehicles sold and the number of end-of-life vehicles, which will thus be delivered to legal disassembly stations.

Due to the fact that today the majority of vehicle purchasers already pay the recycling fee (a vast majority, i.e. ca. 75% of the vehicles introduced to the Polish market in 2008, comes from imports), the implementation of the “500 for 500” system would be free of any additional charges for parties introducing the vehicles and vehicle users. However, we believe that the target system of financing the recycling, which allowed it to influence the market to a larger extent, is the “1000 for 1000” system, particularly as it would be implemented together with the green tax and would largely mitigate the effects of the implementation of this tax.

It should be noted that manufacturers and importers of cars will be those that are most vulnerable to the removal of the excise duty and its replacement by a green tax, or possibly, an insignificant number of new vehicle users (ca. one-fourth of the Polish market) will be vulnerable provided that removing the excise duty has an impact on the vehicle price. The poorest users of old vehicles will be most affected by the tax. There is a need for the implementation of a green tax, which we propose, as it will certainly positively influence the renewal of the car park in Poland and we will use more environmental friendly cars. At the same time, we are of the opinion that the implementation of the green tax will not lead to the increase in the sale of new cars, as expected by vehicle manufacturers, but it should rather be assumed that it will cause an exponential rise in the imports of second-hand cars from abroad, though they will be newer than those used in our country today.

Therefore, when searching for the right factor to mitigate the effects of the green tax (which will fall predominantly on users of old vehicles) and to positively affect the number of new cars sold in the country in relation to the number of those imported from abroad, and which would also provide an impetus towards the progress of the recycling sector, we come to the conclusion that the “1000 for 1000” system is today the most optimal solution, benefiting all operators of the system:

- manufacturers and importers (removal of the excise duty),
- vehicle users (opportunity to obtain a motivating payment for a scrapped vehicle),

- disassembly stations and vehicle collection points (increase in the number of end-of-life vehicles delivered and reduction of the grey market).

The table below presents the economic effects of implementing the systems of financing the recycling, as described above, with reference to one vehicle and participants of the system.

Economic effect with reference to one vehicle according to different scenarios

Scenario	Manufacturers and importers of new cars	Vehicle users	Importers of second-hand cars
I	+ PLN 2,500	- PLN 160 per year	+ PLN 1,275
II	+ PLN 2,000	- PLN 160 per year, possible compensation up to PLN 500 per vehicle	+ PLN 1,275 natural persons, + PLN 775 for entrepreneurs providing a network
III	+ PLN 1,500	- PLN 160 per year, possible compensation up to PLN 1,000, not less than PLN 500	+ PLN 775 natural persons, + PLN 275 for entrepreneurs providing a network
IV	+ PLN 2,500	- PLN 160 per year	+ PLN 1,775 natural persons, + PLN 1275 for entrepreneurs providing a network
V	+ PLN 2,000	- PLN 160 per year	+ PLN 1,275 natural persons, + PLN 775 for entrepreneurs providing a network

The removal of the excise duty may or may not provide an increase in the number of new cars sold in the country. For the removal of the excise duty to be reflected in the number of new cars sold, manufacturers and importers will have to decrease the vehicle price by the amount of the excise duty. It may result in the vehicle being cheaper by an average amount of PLN 2,500. It should nevertheless be recalled that the removal of the excise duty will also include second-hand cars imported from abroad, which will be beneficial to importers. An average profit of an importer (most often also of a future vehicle user) will be ca. PLN 1,275, which is fairly large when compared to the price of second-hand vehicles. The “1000 for 1000” system and the obligation to pay PLN 1,000 to the system will have an important impact on the number of vehicles imported from abroad, as the average profit achieved by an importer of second-hand vehicles will decrease to PLN 775 (in the case of natural persons and entrepreneurs not providing a network), and even to PLN 275 (in the case of entrepreneurs providing a network).

It will no doubt affect the number of cars imported from abroad, and in addition, which is not negligible, the same levels of burden for all parties introducing the vehicles to the Polish market will make it possible to forestall any accusation that our laws are not compliant with Article 90 of the EC Treaty, as such accusations are currently submitted with reference to the regulation of Article 12 paragraph 2 of the Act on Recycling, charging natural persons with the recycling fee.

In the “1000 for 1000” system, all parties introducing the vehicles would no longer be required to provide vehicle collection networks. Our experience shows that the idea of vehicle collection points

established by parties introducing the vehicles did not succeed. This is because the obligation to provide a network did not affect in any way the availability of vehicle collection points and disassembly stations, and the number of available places where an end-of-life vehicle may be delivered is a result solely of entrepreneurs running disassembly stations and vehicle collection points. On the other hand, the statutory obligation to provide a network and sanctions for non-compliance with the obligation, as specified in the Act, gave an excellent impetus to establish the so-called network integrators, which “build” networks based on civil law contracts which connect the operators running disassembly stations and vehicle collection points. It is quite often followed by various abuses and breaches of law, but, above all, integrator networks result in a significant part of financial measures “leaking” from the system. The “1000 for 1000” system would finally close the issue of fictitious networks and relieve the parties introducing the vehicles from an obligation which neither contributes to the implementation of Directive 2000/53/EC nor improves the situation in Polish recycling, but was only a source of pathology.

The “1000 for 1000” system provides economic incentives to the ultimate user.

Nowadays, only ca. 15% of end-of-life vehicles are covered by the system, and the remaining 85% is subject to disassembly on the grey market. The figures suggest that one of the sources of troubles in the recycling sector is the small number of vehicles delivered to the stations.

The experience from a disassembly station owned by a Member of the FORS Association shows that an economic incentive system may be a significant approach to influence the number of vehicles delivered to the stations.

At the station mentioned above, within the period from 15 May to 31 May 2008, every owner of a vehicle delivered, whatever the car was, was provided with PLN 500. An appropriate information campaign was held. During this experiment, a significant increase in the number of vehicles delivered to the stations was observed, from 10 per day to as many as 100 per day. The average increase was by 500% in comparison with the number of vehicles delivered for the same period of 2007.

If a vehicle owner would be guaranteed PLN 1,000 in exchange for delivering an end-of-life vehicle to a disassembly station or a vehicle collection point, it would largely influence the number of vehicles delivered to disassembly stations, and it would definitely improve the position of entrepreneurs running legal disassembly stations when compared to what can be offered by the grey market. This system is able to effectively change the direction of the stream of end-of-life vehicles towards legal disassembly stations, and, as a consequence, will contribute to the development of the whole recycling sector.

In order to eliminate the existing pathologies and protect the system against new ones, the reception of the payment should be subject to conditions. First of all, the system only covers the vehicles registered in the country. Secondly, the vehicle delivered must be complete, within the meaning of Article 23 paragraph 4 of the Act on Recycling, its owner must have a valid and paid out third party insurance for the vehicle, and it must have a green tax paid. If the payment is possible only

after meeting the above conditions, it will avoid the situation where vehicles are dismantled outside the disassembly stations and will promote positive and legal behaviour. In addition, it will make it impossible to use the documents of vehicles disassembled on the grey market in order to defraud the system. The last condition, i.e. the delivering party must be the vehicle's owner for at least 3 months, also serves this purpose.

The "1000 for 1000" system suggests that the payments of PLN 1,000 will be made by entrepreneurs running disassembly stations. This will require that the National Fund for Environmental Protection and Water Management, which will continue to administer the recycling funds, conclude civil law contracts with entrepreneurs running disassembly stations. The operator running the station, in turn, would sign an appropriate agreement with an entrepreneur running a vehicle collection point, acting on his behalf. A principle of monthly, or quarterly, settlements should be adopted.

The "1000 for 1000" system also assumes that should the vehicle delivered to a disassembly station be of a negative or zero value, then the operator running such a station or the operator running a vehicle collection point, acting on his behalf, will be authorised to deduct, from the amount of PLN 1,000 due to the owner, the costs of managing waste from the vehicles, of up to PLN 500.

Currently, the operator running a station is obligated to accept any end-of-life vehicle, irrespective of the condition of the car and the costs of vehicle disassembly and recovery or neutralisation of waste from such a vehicle, provided that the car is marked with vehicle identification characteristics (Article 23 paragraph 1 of the Act on Recycling). Only if the vehicle is not complete, i.e. it does not have all the essential vehicle elements and its mass is lower than 90% of the vehicle mass, can the operator running a disassembly station charge the vehicle owner. On the one hand, it prevents the disassembly of the vehicles outside the stations, while on the other hand, it is compensation to the operator running the station as it becomes more difficult to get recovery and recycling, as specified in the Act, from an incomplete vehicle.

In the remaining cases, the operator running the station is not allowed to charge the vehicle owner with any fee. The costs of recovery and neutralisation of waste from end-of-life vehicles were to be covered in the form of subsidies for disassembly, and funds for the subsidies were to be ensured by the recycling fund, where money paid in by the parties introducing the vehicles are kept. Since the subsidies for disassembly were qualified as de minimis aid, the system, which initially was created as the system to compensate for the costs incurred by operators running the stations, became a system to finance entrepreneurs, totally independent of the principle of proportional allocation - by reaching a certain level, i.e. if more than ca. 1500 vehicles are processed at a station during three years, the amount of subsidy for every tonne of processed waste is lower than for entrepreneurs not reaching this level. As a consequence, it results in holding back the development of disassembly stations and their fragmentation, as only a company with a small capacity can obtain the subsidies.

Due to the fact that the current financing system has a negative impact on competitiveness among entrepreneurs running the stations (some of them can get it, some of them cannot), we believe

that the present system of financing the recycling in the form of subsidies for disassembly should be abandoned.

It should be noted that although disassembly stations aim at protecting the environment against hazardous waste, such as end-of-life vehicles, each and every entrepreneur running his station is guided by cost-efficiency and will only function if it brings him profit.

Our experience shows that the majority of vehicles delivered to disassembly stations are of a negative or zero value, i.e. the cost of managing waste from the vehicles exceeds the revenue from the sale of its parts and waste. The end-of-life vehicles are not only spare parts for reuse and raw material to be sold, but they are also a lot of hazardous waste, the neutralisation of which must be paid by an operator running the station. In addition, the operating costs of the company (taxes, environmental fees, land perpetual usufruct fee) as well as labour costs should be taken into account. As a result, only a small percentage of the vehicles accepted by the station bring profit to such a company.

The analysis of the disassembly of an end-of-life vehicle made by the FORS Association, with the assumption that the average price of a tonne of scrap, as determined based on data from the last seven years, is PLN 457, shows that the average entrepreneur's loss due to the disassembly and management of waste from the vehicle amounts to ca. PLN 475.

This analysis confirms that the operators running the disassembly station must be able to function according to market conditions, i.e. for the work they have done, they must receive appropriate remuneration, commensurate to the work involved and costs incurred. We reckon that since the subsidies system failed (also because it does not take into account the actual costs of entrepreneurs and does not provide all entrepreneurs with equal terms of functioning on the market, reducing the possible development of a station to an economically reasonable level), an alternative system to compensate for the costs of managing vehicle waste should be implemented. That is why, in the framework of the "1000 for 1000" system, we suggest that the operator running a station could deduct the costs of his service from the amount of PLN 1,000 paid out by him. Simultaneously, the threshold for such costs would be determined to be PLN 500, as confirmed by the analysis of the Association which shows that the average cost of disassembly of a vehicle and management of its waste is estimated to be PLN 500.

The implementation of this system would be free of any additional charges for ultimate users. On the contrary, the ultimate user can always receive at least PLN 500 for delivering the vehicle to a disassembling station or a vehicle collection point. The system would also influence, to a significant extent, the financial standing of the operators running the stations, who could have their costs returned on a regular basis, and not after nearly 1.5 years, as it is today. We think that this system of financing the recycling, by increasing the competitive character of legal disassembly stations, may also

have a very important influence on the grey market. It is then possible to reverse the trend of today and redirect most of the end-of-life vehicles to legal disassembly stations.

The “1000 for 1000” system is an optimal solution because the costs of implementing it are low and it will ensure maximum benefits and positive effects. On the one hand, it can help protect the domestic motor sector from the flood of second-hand cars from abroad, while on the other hand, it can provide a supportive environment for the development of the vehicle recycling sector. The “1000 for 1000” system is not meant as a temporary solution or an urgent attempt to find a way out of the troubles the motor sector is facing. These long-term solutions can also be easily applied in the times of economic prosperity and stimulate the development of the motor sector for many years to come.

3. DETERMINATION OF THE CONDITIONS FOR A VEHICLE TO BE QUALIFIED AS WASTE.

3.1. Assessment of the situation.

In February 2003, the provisions of paragraph 1a - 1c were added to Article 4 of the Act on Waste of 27 April 2001, which were meant to be an attempt to determine technical requirements for substances and objects, stating that if the requirements are not met, the owner of such substances and objects must dispose of them. Despite the authorisation to enact implementing provisions, contained in Article 4 paragraph 1 b of the Act, no regulation on this matter has been adopted until today.

The need to determine the technical requirements, under which if the requirements are not met an object is qualified as waste, is particularly noticeable in the area of vehicles. The motor vehicle sector is particularly affected by the grey market. Various pathologies, such as: trading in documents of totally destroyed vehicles, illegal disassembly of vehicles outside the disassembly stations, or import of wrecked cars in order to disassemble them, can only develop because no clear and legible regulations exist that would clarify what is a vehicle and what is waste. The definition of waste provided for in the Act on Waste is too broad, and practice shows that if regulations in this area are not sufficiently precise, the need to protect the environment and eliminate pathologies in economic trade is rejected in favour of efforts to provide the owner with the protection of his rights to goods.

In its fight against the pathologies mentioned above, the administration authorities took steps which, though with legitimate aims, were only half measures and were assessed by courts in various ways, as they were not always supported by the regulations in force. One example is the “Methodology Instructions for the Recognition of Vehicles As Waste in a Cross-border Transport of Waste”, which was issued in April 2008 by the Chief Inspectorate for Environmental Protection.

The draft Act of 20 February 2009 amending the Act on Waste and certain other acts also makes an attempt to bring order to those issues, by suggesting amending the Act on Recycling of End-of-Life Vehicles of 20 January 2005. The draft provides that the minister of transport will be authorised to

issue, in agreement with the minister for the environment, the technical requirements for the vehicles, where if such requirements are not met, the vehicle is meant to be an end-of-life vehicle.

Since lawyers have criticised those solutions many times for being inconsistent with the Constitution, particularly in the context of the inadmissibility of their interference with ownership rights based on the regulation, this attempt to regulate the problem should also be assessed negatively.

3.2. Necessary changes.

The fight against vehicle pathologies may only succeed if appropriate instruments are established that make it possible to determine in an unequivocal and certain manner when a vehicle fails to meet the conditions required for environmental safety and protection and should be removed from traffic.

Two solutions are possible:

- A. Determination, in the Act on Recycling of End-of-Life Vehicles of 20 January 2005, of the technical conditions which, if not complied with, make it possible to qualify a vehicle as an end-of-life vehicle, that is waste.
- B. Determination, in the Act on Road Traffic of 20 June 1997 (i.e.: Journal of Laws of 2005 No. 108, item 908 as amended), of the conditions which, when fulfilled, will make a vehicle not admitted to traffic.

Scenario A refers to attempts which have been made for a long time to regulate this matter and introduce a precise definition of an end-of-life vehicle. In that scenario, technical conditions are determined which, if not met by a vehicle, will indicate that such a vehicle is considered as waste. However, in our opinion, as opposed to the recent works on defining such a condition in a regulation, they should take the form of an Act. Due to the fact that when defining the conditions to qualify a vehicle as waste we enter the area of ownership rights to a vehicle (waste must be treated in a specific manner, including its transfer to a required place - to a disassembly station or vehicle collection point), hence those provisions should take the form of an Act. The Constitution of the Republic of Poland in Article 64 paragraph 3 provides that ownership may be limited only by the Act and only in so far as it does not violate the very essence of the ownership rights. The protection of ownership rights and the admissible, in the light of the Constitution, limitation of the ownership rights have frequently been the subject of judgements by the Constitutional Tribunal. The Tribunal indicated that the limitation of the

ownership rights, including deprivation of it, is only possible provided that such limitations result from the provisions of the Act (e.g. as in the judgment of 3 June 2008, signature P 4/06, OTK-A 2008/5/76).

Scenario B provides that the Act on Road Traffic of 20 June 1997 is added with a provision defining the conditions which, when fulfilled, will make a vehicle not able to be admitted to traffic. Generally, technical requirements need to be indicated which, if not met by a vehicle, would be registered in the Central Register of Vehicles (Centralna Ewidencja Pojazdów) and in the registration book and vehicle card as an annotation that the vehicle cannot be readmitted back to traffic on public roads. In this context, this scenario corresponds to a certain extent with Scenario A, however in this solution the vehicle does not become waste by virtue of the Act, but rather the owner has limited possibilities to use the vehicle, namely it is not possible to use the vehicle on public roads. It should be noted that such solutions are already applied in some countries where a vehicle that was largely destroyed in an accident, and the repair costs of which are equal to or exceed the vehicle's value from before the damage (the so-called total damage), "receives" a certificate of total damage or a certificate to deliver it only to disassembly, on the basis of which the vehicle is de-registered and its re-registration in this country is not possible.

The institutions authorised to make such a qualification would have to be indicated. The following should be authorised to do so:

- 1) insurance companies - in the case of the so-called total damage,
- 2) the Police.

If the vehicle is subject to total damage and the insurer pays out the corresponding indemnity, the vehicle cannot be re-admitted back to traffic. However, if the Police finds out that the vehicle is in a condition preventing it from admitting it to traffic on public roads (e.g. as a result of an accident), it would be possible to change such a qualification, under the condition that an expert represents that the vehicle may be repaired and re-admitted back to traffic in a way that does not endanger the safety of road traffic.

3.3. Foreseen effects.

The introduction of one of the two solutions presented above will create the instruments to fight, in a more efficient manner than it is today, against vehicle pathologies, particularly against the phenomenon of the grey market, which is very common in vehicle recycling. The definition, based on which we will be able to indicate unequivocally which vehicle is waste, will help reduce illegal vehicle disassembly outside the disassembly stations and cross-border transport of waste, that is the import of wrecks to be disassembled or possibly reconstructed. This could increase the number of vehicles delivered to legal disassembly stations and collection points and change the existing relation between the number of vehicles delivered to legal stations and the number of vehicles disassembled on the grey market (15% - 85%). A precondition for the benefits to be achieved is also a consistent enforcement of the provisions of law.

If the second scenario is implemented, it may contribute to removing completely destroyed vehicles from traffic, which, besides the impact that it has on the size of illegal disassembly, might also affect small entrepreneurs running repair workshops. Today, they are not able to compete with those operating on the grey market who offer much lower prices for repairing the vehicle which, in the opinion of an insurer covering the communication damage, was subject to the so-called total damage (i.e. repair of the vehicle is not reasonable due to repair costs exceeding or nearly equalling the value of the vehicle from before the damage). If the vehicle that was subject to the total damage cannot be re-admitted back to traffic, the vehicle owner will decide not to repair it.

Without any doubt, the solutions proposed will also positively affect the environment (by, *inter alia*, limiting disassembly at places not designed for that purpose) and improve the safety of road traffic by eliminating those vehicles which should not be repaired and admitted to traffic, considering their technical condition.

4. BRINGING ORDER TO THE CEPiK SYSTEM (Central Register of Vehicles and Drivers).

4.1. Assessment of the situation.

The Central Register of Vehicles was established in 2000 based on the provisions of the Act on Road Traffic of 20 June 1997 (i.e.: Journal of Laws of 2005 No. 108, item 908 as amended).

According to the official information of the Minister of Internal Affairs and Administration (response of 25 March 2009 to an MP's question), 24,145,788 vehicles were registered in the IT System of the Central Register of Vehicles and Drivers as of 31 December 2008. The data submitted by CEPiK on the

compulsory third party insurance policies taken out shows that as of 31 December 2008, 11.7 million third party insurance policies were taken out, whereas as of 17 March 2009 it was 16.4 million.

Summary data on the number of registered vehicles and the number of insured vehicles confirms the information of FORS regarding the size of the grey market for vehicle recycling. The difference between the number of registered vehicles and that of insured vehicles, even assuming that, to a certain extent, the data submitted by CEPiK on the number of third party insurance policies is not complete, is huge. The vast majority of the vehicles which were not insured but registered are vehicles that were disassembled on the grey market a long time ago; according to our estimates, it is ca. 30% of the number of vehicles entered in the registers.

MSWiA, as an institution keeping CEPiK and responsible for the quality of data in the register, has not known for many years how to bring order to this data and delete the data on non-existing vehicles from the register.

Every year the problem is growing and it should be expected that the registers will soon contain more non-existing vehicles than those actually using our roads.

An essential reason for it is the lack of sanctions for the failure to declare that a vehicle was sold/purchased (as a result of which the data on vehicle owners is not reliable), but most of all, the abolition on regular checks of the implementation of the statutory obligation for vehicle owners to conclude a third party insurance agreement. This involves the risk that Poland will be accused of not complying with the wreck Directive 2000/53/EC, which obliges us to collect all end-of-life vehicles (Article 5 of Directive) into the system of its processing. CEPiK's data confirming that only a part of end-of-life vehicles were delivered to the system and were de-registered exposes our country to financial sanctions for the failure to implement the wreck Directive.

4.2. Necessary changes.

To bring order to the data in the register, and above all to delete the non-existing vehicles from it, new instruments should be established, intended to encourage the owners to de-register the vehicles, based on Article 79 paragraph 5 of the Act on Road Traffic (permanent and total loss without any change in ownership). It would necessitate a change of Article 79 paragraph 6 of the Act on Road Traffic, containing the instruction to issue the enforcement provisions, which define in detail the level of the vehicle de-registration fee, if a permanent and total loss of the vehicle is documented. We also recognise the necessary changes of the present principles of calculating the fee, which today are extremely confusing, and to determine fixed rates, the level of which would be dependent mainly on the time in which, from the moment of entering into force of new regulations, the owner would submit an application to de-register his vehicle. During the first 3 months from the moment of entering into

force of new regulations, it should be a symbolic amount of ca. PLN 50, during 6 months (after the lapse of 3 months) - PLN 100, and after 6 months - PLN 700.

If new regulations are followed by an appropriate information campaign, we can expect that a significant part of the vehicles will soon disappear from the register. Generally, the persons who did not de-register their vehicle accidentally will not notice the “punishment”, whereas those operating on the grey market and buying the vehicles to disassemble them illegally, considering the high number of the vehicles - would be punished.

The registers can only succeed and be put in order if, after the lapse of 6 months from entering into force of the new regulations, third party insurance policies are checked and non-covered liabilities and corresponding sanctions are enforced.

As an objective, the number of registered vehicles should be equal to the number of vehicles insured and covered by a green tax.

Such a gentle approach towards the problem and providing an opportunity to de-register the vehicle with no extra financial burden for the owner is caused by the fact that it regards a large number of people and the restrictive solutions could lead to social dissatisfaction. The proposal is an optimal solution, as the total abolition would be proof that the law may be ignored without any consequences.

4.3. Foreseen effects.

A fundamental effect of the implementation of the solutions would be the order brought to the data at CEPiK and the removal of the non-existing vehicles from the register. Thus, CEPiK could become a reliable source of information about vehicles. The enforcement of the obligation for vehicle owners to take out third party insurance, which would mostly affect those running illegal disassembly stations, would also have a social impact, showing that the law must be obeyed and those who fail to do it will bear consequences.

5. SANCTIONS FOR NON-REGISTRATION/NON-REREGISTRATION OF THE VEHICLE.

5.1. Assessment of the situation.

The Act on Road Traffic of 20 June 1997, Article 71 paragraph 7 requires that any vehicle imported from a Member State of the EU must be registered within 30 days.

In the case of vehicles imported from a non-Member State of the EU, Article 71 paragraph 6 of the Act on Traffic Road does not require that a vehicle must be registered, but only provides that the

vehicle is admitted to traffic for a period of 30 days, which means that if the vehicle owner does not intend to use it on roads in the country, he is not obliged to register it at all.

In the case of vehicles registered in Poland, Article 78 paragraph 2 of the Act on Traffic Road requires that the fact of selling or purchasing a vehicle must be declared within 30 days.

The provisions currently in force do not provide for any sanctions for non-compliance with those obligations.

If the obligation to register a vehicle imported from abroad is not enforced, pathologies in vehicle recycling and cross-border transport of waste appear in the vast majority of the vehicles imported from abroad and wrecks brought to Poland to be disassembled are not registered.

What is more, the lack of sanctions for non-reregistration of the vehicle (not declaring that the vehicle was purchased or sold) leads to a situation where the data contained in the Central Register of Vehicles and Drivers is not reliable - in many cases the register is not consistent with the actual legal order, and the vehicle owner is often a person different than the one registered in the data of CEPiK.

It complicates the actions taken by the Police and Municipal Guards in order to find road traffic offenders and it is in favour of many vehicle pathologies. Also, when accepting a vehicle for disassembly, the determination of a real owner of a vehicle poses many problems. Many times, a person delivering the vehicle, in order to provide documentary evidence of the ownership right to the vehicle, must present several or more sale agreements, which must be verified by the party running the station.

The government draft Act on Admitting Vehicles to Traffic of 8 September 2008, Article 28 paragraph 1 obliges the vehicle owner to submit an application for the vehicle registration within 30 days from the day of purchasing the vehicle in the country or its import from abroad. However, Article 42 paragraph 1 requires that the vehicle owner should provide notification of the sale of his car, without indicating any deadline in which such an obligation should be fulfilled. The draft regulations do not provide any sanction for non-compliance with the obligations to register the vehicle or provide notification of its sale either.

5.2. Necessary changes.

For many years the FORS Association has requested the need to change the regulation in force concerning the vehicle registration and corresponding obligations for vehicle owners.

We believe that sanctions for failure to comply with the obligation to register the vehicle within a statutory deadline are necessary. But for this obligation to be possible, the vehicle registration should not depend on submitting a certificate with a positive result of technical inspection, as it is today. In other words, the vehicle should be registered by an authority, and the certificate with a positive result of the technical inspection of the vehicle should be a condition for issuing the registration book. Certificates of the results of vehicle technical inspection issued by authorised

institutions of other Member States of the EU should also be respected. In order to improve the safety of road traffic, every vehicle should undergo an additional technical inspection if it results from sales documents that the vehicle was damaged while purchasing it.

As the works on the draft Act on Admitting Vehicles to Traffic are now being conducted, the draft should be completed with the provisions on sanctions for non-compliance with the obligation to register the vehicle within the deadline or failure to provide notification of selling the vehicle. The provisions with sanctions should be placed in Chapter 9 of the draft “Penal Provisions”.

The changes mentioned above should also be followed by appropriate changes to the provisions determining competences and duties of inspection authorities, such as environmental inspection. During the inspection of places where vehicle repair or disassembly is done, the inspection officer should also verify the legal situation of the vehicle, i.e. who its owner is and whether any possible changes regarding the owner have been notified to authorities and noted in the register. In addition, the authorities registering the vehicles should be authorised and obligated to provide notification of any cases of offence in the situation where the vehicle was declared to have been sold but was not declared to have been purchased/registered by the statutory deadline.

The Police and Municipal Guards should check whether the obligations described above are met, in the course of regular inspections of vehicles, and every time a case of non-compliance is found they should enforce the obligation and should draw consequences as determined in the provisions of law.

5.3. Foreseen effects.

As a result of the introduction of those changes and consistent enforcement, the import of damaged cars to be disassembled is expected to be reduced (cross-border transport of waste). The new regulation will also be beneficial to bringing order to the data of CEPIK, which could become a reliable source of information about vehicles and their owners. Also, the improved quality of data in CEPIK will support the work of the Police and Municipal Guards, which today spend too much time and energy on identifying the vehicle owner.

6. SIMPLIFICATION OF THE PROCEDURE FOR DELIVERING THE VEHICLE TO DISASSEMBLY - THE “ONE-STOP SHOPS” OPPORTUNITY.

6.1. Assessment of the situation

Today, the vehicle owner delivering his car to disassembly, after receiving the certificate of disassembly or certificate of admitting a non-complete vehicle, should then go to an authorised institution keeping the register of vehicles and submit an application to deregister his vehicle. And if the owner fails to submit the application to deregister the vehicle, his vehicle will be deregistered *ex officio* after the lapse of 30 days from the day of receiving a certificate from the entrepreneur running the station.

Then, the owner should notify the compulsory insurance company where his third party insurance policy is taken out about the vehicle's deregistration, because although the subject of the policy does not exist anymore, the insurance agreement can be terminated only at the moment of the deregistration of the vehicle. The regulation where the termination of the agreement depends on the vehicle's deregistration is wrong, as it obliges the vehicle owner to pay the premiums for the insurance he does not use. In addition, it is a source of much misunderstanding - it often happens that insurers ask the parties running disassembly stations to pay the premium of the insurance for the period: from the delivery of the vehicle to the station until the date of its deregistration.

6.2. Necessary changes.

The procedure for delivering the vehicle to disassembly should be simplified so that the owner could close all the formalities at a disassembly station. The certificate of disassembly or certificate of admitting a non-complete vehicle, transferred by the party running the station to the authority keeping the vehicle register, should be sufficient to deregister the vehicle *ex officio*, without a separate application of the owner being necessary. The information technology system should be provided, so that, in the future, the information on the delivery of a vehicle to disassembly could be sent by a disassembly station to the authorities by e-mail.

Other necessary changes are those to amend the Act on Compulsory Insurance of 22 May 2003, the Insurance Guarantee Fund (Ubezpieczeniowym Funduszu Gwarancyjnym) and the Polish Motor Insurers' Bureau (Polskim Biurze Ubezpieczycieli Komunikacyjnych) (Journal of Laws of 2003 No. 124, item 1152, as amended) in order to indicate the date of issuance of the certificate of disassembly or certificate admitting a non-complete vehicle as of the moment of termination of the agreement of compulsory third party insurance for vehicle owners.

6.3. Foreseen effects.

Thanks to the implementation of the solutions proposed, the procedure for delivering the vehicle to disassembly and its deregistration from the system will be improved, and from the vehicle owner's perspective the whole process will be more rapid and informal.

III. FINAL CONCLUSIONS.

The difficult situation of the entrepreneurs in the motor vehicle sector is forcing us to urgently seek new solutions, which will hamper the negative trends of a falling demand for vehicles, and in effect also for other related products and services. The Eco-package proposed by FORS aims at establishing the system solutions to positively affect the motor vehicle sector in a longer term. Part of the proposals, such as the "1000 for 1000" system, determination of the conditions to qualify a vehicle as waste, or sanctions for non-registration/non-reregistration of the vehicle, are some of the requests that have been submitted by FORS for a long time. The situation in the motor vehicle sector shows that those requests are justified and can change the face of this sector, which is neglected today. The Eco-package is not only a chance to survive in the time of crisis, but also a possibility for development for many entrepreneurs dealing with production, the import of vehicles or the import of parts for vehicles, as well as entrepreneurs running small repair workshops and those taking the end-of-life vehicles. The FORS Association is a voice of the recycling environment hoping that, in those hard times for the economy, the Government remembers not only about the entrepreneurs who manufacture and sell the vehicles, but also takes into account those who deal with vehicle wrecks. Today, in Poland there are more than 700 disassembly stations and vehicle collection points. Those stations and points are places of work for thousands of people. Today, if this group of entrepreneurs is omitted when new economic programmes to support the motor vehicle sector are established, not only will workplaces be closed down, but also the whole sector could collapse in an irreversible way. The size of the grey market of vehicle recycling, where ca. 85% of end-of-life vehicles are disassembled outside the legal disassembly stations, shows that with the overall economic downturn, we are approaching a critical point where recycling entrepreneurs could face a necessity to close down their companies and give up their activities.

The Eco-package is not only a project to support the economy, it is also a green project destined to protect the environment. The "green tax, the "1000 for 1000" system, or the solutions to protect us against the illegal flood of wrecked cars from other European countries, are proposals aiming at environmental protection and involving the need for strong actions to hamper its further degradation.

We hope that the voice of our community will be heard and that the decision-makers responsible for the direction of economic development of our country will get to know and analyse our proposals. We also hope that our proposals will be taken into consideration in the debate to help the motor vehicle sector, because they are supported by many observations, market analyses and the expertise of more than 200 Members of the FORS Association.