Management of sea pollution incidents and recovery of pollution

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Executive summary

The State Audit Office (SAO), in collaboration with other Baltic Sea countries, has audited the Government's action in the detection and elimination of marine pollution and in penalizing the polluters.

The Baltic Sea is a sensitive sea area with heavy sea traffic: on average there are 2000 vessels moving on the sea daily and about 200 of these are oil tankers. The Environmental Inspectorate has analysed the probability of an oil tanker accident with extensive consequences in the Estonian waters, which is immense – 3 to 5 incidents within a period of 10 years. Therefore it is essential that the government be able to make an immediate and adequate response to pollution incidents.

The audit referred to the recommendations of the Helsinki Convention. The Convention governs, inter alia, the detection, reporting and recovery of marine pollution and punishment of polluters. The entity in Estonia made responsible for the compliance with the Convention is the Ministry of the Environment.

At present, responsibility for the management of a pollution incident is divided between the Ministries of the Environment and of Internal Affairs – in the case of a pollution incident in the port area, the Ministry of Economic Affairs and Communications will also be involved.

Relevant observations

The Ministry of the Environment has not been able to ensure compliance with the Convention in the protection of the marine environment: different authorities do not cooperate in managing a sea pollution incident and the domestic legislation governing the field is deficient and unclear.

Pollution at sea remains undetected. The Border Guard Administration's capability to discover a marine pollution incident is relatively poor and there is no assurance that the pollution already occurred is traced fast. Low detection rate mainly results from the lack of modern aerial surveillance equipment, the small number of flights and the fact that in planning for aerial surveys, the risk assessment is not taken into account.

Estonia is not able to combat extensive pollution with the available equipment. The state's recovery capacity is small: there is no combating equipment available for recovery at low temperatures or in ice conditions and most of the existing equipment cannot be used. At the beginning of 2004, equipment worth of EEK 23 million was acquired from Denmark, the majority of which cannot be used for technical reasons. Part of the equipment used in the recovery of the pollution caused by the Alambra in 2000 is still not cleaned and therefore useless. Hence, the government is able to combat extensive pollution only with the assistance of foreign countries.

Penalties are mild and do not consider damage to the environment. The penalties, fines and pollution charges imposed on polluters do not take account of the damage to the environment and are well below international minimum rates. The claim for a pollution charge is in contravention of international commitments, because it does not allow the ship owner to limit his liability to an amount which is linked to the tonnage of the vessel. Since the regulations governing punishment are contradictory and can be interpreted in different ways, the government's claims may remain unsatisfied. For instance, in the Alambra case the government lost about EEK 37 million of pollution charges.

Main proposals

For better management of the protection of the marine environment the SAO recommends that the **Minister of the Environment**, as the person responsible for compliance with the Helsinki Convention:

- Ensure the harmonisation of domestic legislation governing the management of marine pollution with the Helsinki Convention;

- More efficiently coordinate cooperation between different authorities in the detection and elimination of pollution at sea and for penalizing the polluters.

In order to **facilitate the detection of marine pollution incidents** and prevent deliberate pollution of the sea, the SAO recommends that the **Minister of Internal Affairs**:

- Draw up a sea surveillance plan based on the risk assessment;
- Analyse and prioritize different ways for an effective detection of pollution incidents and develop a policy for their implementation. For instance:
    - Acquire new technology facilitating the detection of marine pollution incidents;
    - Promote collaboration with neighbouring countries in the detection of sea pollution and enter into new multi-lateral agreements and partner relations with the Baltic Sea countries.

In order to **guarantee the combating capacity necessary for the elimination of pollution at sea** and for meeting internationally assumed commitments, the SAO recommends that the **Minister of Internal Affairs**:

- Ensure the acquisition of appropriate combating equipment and the prudent use of the existing equipment.

For a fair compensation for pollution damage, the SAO recommends that the Minister of the Environment:

- Initiate amendment to the Water Act, laying down the rules on the compensation for marine pollution damage, consistent with the international requirements, and consider the replacement of the pollution charge with other penalties in case of marine pollution.

Responses of the ministers

The main criticism of the audit report made by the ministers concerned responsibility. Neither the Ministry of Internal Affairs nor the Ministry of the Environment considered itself responsible for the strategic planning for marine pollution recovery, e.g., the development of a national pollution emergency plan.

The different standpoints on responsibility have entangled inter-agency cooperation. Thus the occurrence of same mistakes in situations similar to the Alambra case is highly probable.

The Ministry of Internal Affairs regards the Ministry of the Environment as a responsible and coordinating ministry.

The Ministry of the Environment, in turn, finds that it is the Government of the Republic that performs the coordinating role in the activities falling within the administration area of several ministries and that the solution to the problem lies in the inter-agency committee formed at the Ministry of Economic Affairs and Communications on 16 September 2004 for the preparation of views to international organisations on the protection of the Baltic Sea.

The Ministry of Economic Affairs and Communications has announced that it will take account of the SAO recommendations when drafting the 2005 work programme and will propose corresponding amendments to legal acts within the same year.

Since different ministries have not come to an agreement about the common coordinator in the field, the SAO will submit it to the Government for decision.

Märt Kivine
Chief Auditor of the Performance Audit Department