

## THE IMPLEMENTATION OF AN IPPC DIRECTIVE IN THE REGION

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### **Abstract**

The Council Directive 96/61/EC on Integrated Pollution Prevention and Control (IPPC Directive) aims at the integrated prevention and control of pollution within EU countries starting from the activities listed in Annex I of the Directive, which consider all environmental aspects (air, water, soil, waste, *etc.*) as a whole and unique integrated system.

The overall objective of this paper is to review the implementation of this IPPC Directive in the Region of non-EU countries consisting of Bosnia and Herzegovina, Croatia, Macedonia, Montenegro and Serbia almost 20 years after the entry of the IPPC Directive into force. The main task of the paper is to assess the current situation in the Region, to identify the legal and institutional frameworks, assess the permitting process, to indicate the main problems in its implementation, and to propose recommendations especially in the process of issuing permits.

**Keywords:** IPPC, Emission, permits, installations, Region

### **Introduction**

In Europe, industrial activities are amongst the main causative factors of pollution. The IPPC Directive 96/61/EC aims at the integrated prevention and control of pollution within EU countries,<sup>1</sup> starting from the activities listed in Annex I of the Directive,<sup>1</sup> which consider all environmental aspects (air, water, soil, waste, *etc.*) as a whole and unique integrated system. The activities and installations that are regulated by the IPPC Directive are the following: the production of energy, metal production and processing, the mineral industry, the chemical industry, waste management and other activities (e.g., the food industry, farms, *etc.*).

According to this approach, the IPPC Directive introduces a single authorization<sup>1</sup> - the Integrated Environmental Authorization – the so-called “permit” to regulate the “environmental behavior” of IPPC-related activities, to determine

parameters of environmental aspects and establish measures to avoid or reduce environmental impact. The transposition and implementation of the IPPC Directive remains a key challenge as it involves interfaces with air, water, waste, noise and nature protection. According to EU data, around 52,000 IPPC installations exist in Europe

The IPPC Directive has been codified (Directive 2008/1/EC). The Directive on industrial emissions 2010/75/EU (IED) recasts seven existing Directives related to industrial emissions into a single clear and coherent legislative instrument. The recast includes the IPPC Directive, the Large Combustion Plants Directive (LCP), the Waste Incineration Directive, the Solvents Emissions Directive and 3 Directives on Titanium Dioxide. It entered into force in 2011 and must be transposed into national legislation by Member States by 2013. The IED repeals the IPPC Directive and the sectorial directives as of 2014.

### **Methodology of the research**

Many studies<sup>1</sup> have dealt with the evaluation of the IPPC Directive implementation, most of which refer to the application of BAT in the industrial field or in a localized nation or country. Some dealt with the evaluation of the IPPC and the effects they have generated in some specific activities or sectors, also taking into account the different experiences that occurred in various different European Member States.

This paper represents an added value to the studies existing in the literature on the evaluation of the IPPC. In it, the implementation of the IPPC Directive was evaluated in a Region consisting of 5 countries, non-EU members, but at different stages of approximation to EU membership: Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, (Countries). Many of its aspects (laws that implemented the Directive, institutional set up and responsible authorities, administrative procedure to issuing permits and current state on issuing permits) were analyzed.

A methodological approach, necessary to evaluate the nominated Countries in the implementation of the IPPC Directive, was defined taking into account data such as: existing studies and official web sites of the Authorities of relevant Countries. The methodological approach included four typologies of Analysis: the Legislative, the Institutional, the Control and Inspection System and the Efficiency of the Permit process.

The most important novelty of the paper is that it allows a comparison among the countries in the Region of interest, as well as experience exchange, especially “good practice” among the Countries in the Region.

### **The Implementation of the IPPC Directive in the Region Bosnia and Herzegovina**

Bosnia and Herzegovina has been recognized by the EU as a “potential candidate country”<sup>2</sup> for accession since the decision of the European Council in Thessalonica in 2003. Bosnia and

Herzegovina participates in the Stabilization and Association Process, and the relative bilateral SAA agreement was signed in 2008, ratified in 2010, but has still to come into force. Meanwhile, the trade bilateral relations are regulated by an Interim Agreement.

In Bosnia and Herzegovina, the concept and philosophy<sup>3,4</sup> of the IPPC Directive is conditionally reflected thorough the Law on Environmental Protection (LEP). LEP is harmonized for both Entities (FB&H and RS) and the Brcko District (BD). The LEP introduces the concept of “environmental permit” and “environmental permitting”, which are equivalents of the terms “IPPC permit” and “IPPC permitting”. Environmental permitting as a concept did not exist prior to the enacting of this law.

In FB&H, the competent authorities for environmental permitting are the Federal Ministry responsible for the Environment and the Cantonal Ministries responsible for environmental protection. The division of competencies is realized based on the Federal LEP and threshold limits given in the “Rulebook on installations for which environmental impact assessment is obligatory and installations that can be built and operated only after obtaining an environmental permit”. In RS, the competent authorities for environmental permitting are the Ministry responsible for Environment and municipal bodies responsible for urbanism. In BD, the competent authority is the Department for Communal Works in the Government of Brcko District<sup>4</sup>.

A ministry authorized institution capable of preparing documentation for application

The work of inspectors is guided by the LEP. However, as a part of the transformation, a Law on Inspections has been enacted.

An official estimation of number of installations<sup>3</sup> has not been realized in B&H. According to data, 122 environmental permits were issued by the Federal Ministry before 2009.<sup>4</sup>

The small number of IPPC installations is explained by the fact that B&H installations mainly fall into the category of small and medium enterprises. For this reason, the threshold limits from Annex I of the IPPC Directive are significantly lower in the national legislation - to suit local conditions.<sup>3</sup>

The Ministries responsible for the environment in both Entities have issued several integrated environmental permits for installation having smaller capacity than those defined in Annex I of the IPPC Directive.

### **Croatia**

The EU Commission<sup>2,3</sup> has adopted a Communication on the main findings of a comprehensive monitoring report on the state of Croatia's preparedness for EU membership (expected date for membership is spring 2013).

Croatia as part of the accession process to the EU has drafted an Environmental Protection Act - EPA (OG 110/07). The EPA outlines basic obligations as regards to IPPC permitting, reporting and it provides a basis for the determination of the procedures for IPPC permitting. The Regulation on the procedure for establishing integrated environmental requirements entered into force in 2009

Ministry of Environment and Nature Protection – IPPC Department provide information about the valid legislation and legislation under preparation on the Ministry website. The Ministry also appointed a list of persons eligible to be appointed members and deputy members of committees for the establishment of procedures of integrated environmental requirements (OG 126/09)<sup>5</sup>

Authorities of counties are responsible for the procedure of public participation and thus for publishing information about the application issued by the MENP.

The Croatian Environmental Agency (CEA) maintains an Emission Pollution Register database (Croatian PRTR) for installations,

including IPPC installations. The reported data are listed in the Environmental Information system.

Authorized consulting organizations (ACO)<sup>3,5</sup> have been elaborating the analyses of the status of existing installations, preparing the applications for an IPPC permit and sometimes also drafts of permit conditions. The CEA requires the MENP to keep and publish the register of ACOs.

There are around 250 existing companies in Croatia which shall have to obtain integrated environmental requirements. According to the IPA 2009<sup>5</sup> Program for Croatia, 16 permits have been issued, and 198 have not.

### **The Former Yugoslav Republic of Macedonia**

The Former Yugoslav Republic of Macedonia was granted candidate status in 2005. In 2009, the Commission<sup>3</sup> assessed that the country sufficiently met the political criteria and recommended the opening of negotiations.

The Environmental Law - EL (Off. Gaz. of RM Nos. 53/2005, 81/05 and 24/2007) transferred the horizontal EU legislation of the environment<sup>5</sup> into national legislation. The law contains basic principles and procedures for the integrated management of the environment, especially the regime of environmental licensing and permits for compliance for integrated prevention and pollution control (IPPC), and access to information.<sup>5</sup>

Under the Law, mandates are given both to the Minister responsible for the Environment and to the Government of the FYR Macedonia, to regulate certain issues by adopting secondary legislation.

The Minister managing<sup>6</sup> the body of the state administration responsible for the affairs of the environment shall establish a Commission for the Best Available Techniques for the purpose of defining the best available techniques in A, integrated environmental permits. The Mayor of the Municipality and the Mayor of the City of Skopje shall be the competent body for B, integrated issuance of environmental permits.

The enforcement is realized by the State Inspectorate on the Environment.

The integrated pollution prevention and control (IPPC) permit process<sup>6</sup> is behind schedule.

The current<sup>6</sup> estimation shows a figure of about 130 IPPC (“A” installations according to the LE) installations. Certainly, this figure is subject to updates as knowledge of the competent authorities, the operators and the other major players, grows

### **Montenegro**

In October 2005, Republic of Montenegro commenced stabilization and association negotiations with the European Union. On 29 June 2012,<sup>2,3,8</sup> the European Council endorsed the decision of the Council, based on a Commission report, to open accession negotiations with Montenegro. Montenegro sufficiently meets the political criteria for membership of the EU. The legislative and institutional framework and policies have been improved.

The Law on Integrated pollution prevention and control (LIPPC) was adopted in 2005 and applied from 2008.<sup>5</sup> Presently, the secondary legislation to support the LIPPC implementation has a number of decrees. The Progress Monitoring Report for Montenegro, July 2007,<sup>5</sup> stated “Transposition of the IPPC directive is very advanced (85 %).

The competent permit issuing authority is: the Agency for Environmental Protection<sup>8</sup> (for installations and activities which require a permit or authorization for construction and start up, namely the execution of performing activities is issued by another competent administration authority); and authority of the local self-government competent for the environmental protection –municipalities – (for other installations or activities which require a construction permit and permit for startup, namely the execution of activities is issued by the competent local self-government authority). The control is performed by “environmental inspectors”.

In accordance with Regulation on types of activities and installations for which an integrated permit is issued, the List of IPPC installation in Montenegro consists of 15 installations

### **Serbia**

Serbia has been a potential candidate country for EU assessing from June 2003. In 2009, Serbia submitted<sup>2,3</sup> an application for EU membership. The European Council of March 2012 granted Serbia the status of candidate country.<sup>4</sup> Serbia continues progressing to sufficiently fulfill the political criteria and conditions of the Stabilization and Association process

The directive IPPC is fully transposed in national legislation through The Law on Integrated Pollution Prevention and Control (Off. Gaz. R. Serbia 135/04)

The current institutional arrangements for the implementation of the Law on IPPC in Serbia are complex with implementation being undertaken at national, provincial and local levels. The law prescribes that different types of installations will be licensed at different administrative levels. The Department for IPPC in the Ministry responsible for the environment was established in 2007. The Serbian Environmental Protection Agency is responsible for the establishment of a National Cadaster of polluters.

Supervision of IPPC installations is performed by “environmental inspectors assigned to the Ministry, Autonomous province or a Local self-government

Currently, the list of IPPC facilities consists of 177 installations. Nearly half of the list of the activities belongs to the food industry, which required permitting at the local level.

Following the order prescribed by the bylaw, hitherto, 25 integrated permit applications have been submitted to the Ministry: 3 Cement factories received an IPPC permit (7 in total). Currently, capacities within local government regarding IPPC are limited. Therefore, the Department for IPPC provides guidance on

integrating permitting to the local government authorities.

### Conclusions

The legal framework as regards to provisions of the IPPC Directive has been established in whole Region (through a separate Law on IPPC – 2, or with Environmental Acts 3 –countries).

Competent Authorities in charge of issuing the Integrated Permits in the Region are Authorities ministerial (4), provincial (1) or local level (2) as well as an Agency for Environmental Protection (1)

The Competent Authorities for inspections and controls are national for most countries regions, while are provincial and local in a few cases

Some general difficulties in implementation of IPPC Law in Region may be summarized as follows:

- The environmental administration is too understaffed to cope with all the tasks caused by the IPPC legislation and strategic framework, and “let alone” undertake complex reforms;
- Capacity and competences are also lacking at the local level;
- Insufficient experience of all participants in the process of preparing applications and issuing integrated permits;
- Lack of publishing basic information on official web sites;

- Lack of public awareness;
- Lack of public participation;
- Unfavorable socio economic situation to achieve the requirements of IPPC;
- Insufficient number of IPPC permit issued, especially the timeframe that is appointed through the legal framework in each country in the Region of interest.

### Recommendations

- Further upgrade of legal framework regarding requirements of the IED is required;
- The environmental administration has to be strengthened (it is priority for each Country), both in terms of employment and training as well as financial requirements:
  - to get additional personnel into IPPC departments,
  - involve inspectors or staff from country authorities for the review of IPPC applications.
- Where possible, establish Regional IPPC Centers<sup>13</sup> for local government bodies for issuing permits which may solve problems of capacities at local level as well as act as the source of information and support of IPPC stakeholders in the IPPC process;
- Competent Ministries may accredit a Consulting Company (ACO) for elaboration/ review of IPPC applications.

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