

European Union Network for  
the Implementation and Enforcement  
of Environmental Law

# **Strategies of Enforcement**

## **Final report**

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## **FOREWORD**

### **Introduction to IMPEL**

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the Environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of Environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 6th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation. Information on the IMPEL Network is also available through its website at:

[www.impel.eu](http://www.impel.eu)



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**Disclaimer**

This report on Strategies of Enforcement is the result of a project within the IMPEL Network. The content does not necessarily represent the view of the national administrations.

## **Summary**

Enforcement is an important action second to regulation, inspection and identification of non-compliance. Enforcement is the actions and tools the competent authorities use to achieve compliance with the regulation and the permits. Compliance with the legal requirements is an essential foundation for environmental protection, since non-compliance with environmental requirements leads to failure in achieving the desired results.

The framework of the project is based on IPPC-installations (industrial. Farming and livestock is not included). The project focuses on enforcement in case of non-compliance with the environmental legislation and permits.

The aims of the present project is to explore, identify and compare examples of enforcement strategies and actions in case of non compliance through the exchange of knowledge and lessons learned from practical experience. In addition, another aim of the project is to identify Good Practice and key challenges in relation to enforcement: types and levels of enforcement actions and indicators for results, and, address a follow-up ToR.

During the project meetings and discussions, a commonly accepted definition of enforcement has been set up.

Enforcement actions/strategies in the 6 participating Member States have been discussed and analysed, and the results of the respective advantages and disadvantages have been identified.

Some key challenges and recommendations for further work have been identified to be addressed in a follow-up project. The main issues are the need of the involvement of more Member States to have a better view and understanding of the different enforcement actions in the EU and Acceding and Pre Acceding Countries and the creation of a “pick and pluck” catalogue of enforcement measures which would benefit inspectors and contribute to the drafting of new laws and regulations or amending existing ones.

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## INTRODUCTION

Enforcement is an important action second to regulation, inspection and identification of non-compliance. Enforcement is the actions and tools that the authorities can use to achieve compliance with the regulation. Compliance with the legal requirements is an essential foundation for environmental protection, since non-compliance with environmental requirements leads to failure in achieving the desired results.

Basically IPPC-installations are covered by the same regulatory framework no matter what Member State they are located in. Meanwhile enforcement strategies are not aligned among the Member states but depend on parameters as for instance resources, culture and national systems, regulation and prioritization. On national level enforcement actions are made on a case by case basis taking into account the national and European legislation, environmental impact, compliance history of the site, attitude of the operator etc. In addition, international companies will be met with differences in requirements and enforcement actions in different Member States, although the offences and the plants are alike.

This implies that there is a need for investigation of the range of practice in enforcement and to compare different intervention and enforcement strategies among the Member States.

The framework of the project is based on IPPC-installations (Industrial. Farming and livestock is not included). The project focuses on enforcement in case of non-compliance with the environmental legislation and permits.

## OBJECTIVES

The aim of this project is:

1. Exploration of understanding and definition of enforcement
2. Examination of different kind of strategies for enforcement and similarities/differences
3. Identification of challenges in relation to enforcement
4. Exchange of knowledge and best-practice in enforcement

The project relates to the following IMPEL strategic goals:

- Strategic Goal I: Learning from each other and capacity building
- Strategic Goal II: Improving methodologies
- Strategic Goal III: Development of good practices
- Strategic goal VII: Exchange of experiences

This project will also consider the main recommendations for a follow-up project for 2012-2013 about supporting the implementation of European legislation related to enforcement.

## METHOD

A project team of 9 members from 6 different Member States (expanded midway through the project from 5 Member States with a team member from Italy) has discussed the following issues based on presentations of the national strategies and case studies in each of the participating countries:

- Legislation and strategies in the 6 participating countries
- Definition of enforcement
- Sanctions – advantages and disadvantages
- Practical examples of enforcement
- Issues to be addressed in a future project

The project was divided in two phases:

1. In phase I the project team identified Good Practise and challenges in relation to enforcement of environmental regulation with focus on IPPC-installations.
2. In phase II the project team produced a ToR (Terms of Reference) for a follow-up project addressing the key subjects, Good Practise and challenges which have been identified in phase I and commented by Cluster 1.

The project team has met in Copenhagen 3 times during the project period and additionally discussed and commented on different issues on mail.

The information, results and conclusions in this document is based on presentations and discussions in the project team.

In annex 1 information regarding organisation, strategies, legislation and experience regarding enforcement is listed for each of the 6 Member States participating in the project.

Presentations of strategies and case studies are available in annex 2.

## RESULTS

In the part below the information and results of the project is analysed according to each of the 4 objectives put up for this project.

### 1. Definition of enforcement

Generally enforcement is defined as the set of actions that governments or others take to achieve compliance and to correct or halt situations that endanger the environment or public health (INECE report "Principles of Environmental Enforcement, 1992).

Enforcement also includes compliance promotion (encouraging voluntary compliance, educational programs, technical assistance, and subsidies; provides economic incentives, reduced taxes). This project focuses on enforcement in case of non-compliance with the environmental legislation and permit.

Before enforcement can become effective a framework for enforcement has to be in place. The first step in creating such a framework is ensuring that environmental requirements in environmental licences are enforceable. Enforceability means that requirements need to be clear, precise, unambiguous and consistent. In case of non compliance, the environmental requirements should allow the Competent Authorities to take adequate measures.

Regulatory requirements should also be compatible with the capability to conduct inspection and emissions/ambient monitoring.

Without such a framework, it is not possible to establish a clear view on the roles and responsibilities of the various governmental bodies involved in the enforcement process. The framework should preferably lay down which government body has the authority to:

- issue regulations, requirements, licences etc. and to guide the implementation process of environmental laws and regulations (ensuring compatibility of environmental legislation with existing laws is part of this);
- inspect installations and the authority to view their records (and confiscate them if necessary);
- take legal actions (under administrative or criminal law) against violators in situations of non-compliance;
- halt and correct situations that pose an immediate risk for the environment and / or public health;

Also in the enforcement chain the feedback from inspectors to policy makers and licensing authorities is important. Lessons learnt from enforcement in practice contribute to drafting new laws and regulations or amending existing ones.

### 2. Enforcement strategies

The following prerequisites in the strategically approach of the enforcement has been identified:

- The enforcement strategy should be based on a generally understandable, good, clear, precise and detailed IPPC permit.
- Permitting and inspection activities should be done in a very close cooperation between the authorities.
- The training programmes for the inspectors are an important component of the enforcement strategy.

The discussions in the project team revealed that there are two prevailing steps in the enforcement strategies, according to the legal traditions, culture and legislation of the Member States:

1. Dialogue based enforcement strategy
2. "Command and control" /Consequent use of sanctions.

This does not imply that the two approaches should be considered as contradictions, since dialogue as well as "command and control" is used in combination in both types of enforcement strategies. The split in two components just reflects the prevailing approach and the natural steps following each other in enforcement actions. In between the two approaches there is all kind of combinations of enforcement strategies in the Member States participating in the project. Some member states are more focussed on the dialogue component in the enforcement strategy while others focuses on "command and control" as strategy. The dialogue component represents a "preventive" approach while command and control represents a "curative" approach.

*Dialogue based enforcement:*

The advantages of the dialogue in enforcement are the possibilities:

- To involve the companies in long term solutions.
- To build up a positive relation between authority and operator based on trust and cooperation.
- To increase the awareness of the operator in environmental aspects.
- In case of cooperation of the operator, quick achievement of compliance, avoiding long struggles at court.

While the disadvantages, sometimes are:

- Inefficient in case of pollution risk.
- Time and resources consuming process, in case of non cooperation of the operator.
- Risk of compromises instead of 100% enforcement.
- Differences of achievements, according to the inspector's capacity.
- Less deterrent, compared to legal actions.
- Weak position of the competent authority, if the operator quits cooperation.

*"Command and control":*

The advantage of the consequent use of sanctions is:

- Immediate results.
- Low time consumption.
- Dissuasive example.
- Enforcement according to the regulation.

The disadvantages are:

- In case of company's appeal, risk of long struggle.
- Less cooperation between the operator and the competent authority.
- Less positive relations between the operator and the authority.
- Sometimes, it could lead only to short-term solutions.

### 3. Good Practice and challenges

In the table below is a summary of the identified enforcement actions are listed as well as the respective advantages and disadvantages, which can also be considered as Good Practice and challenges. More detailed and country specific information can be found in Annex 1.

<b>Enforcement actions</b>	<b>Participating countries</b>	<b>Advantages</b>	<b>Disadvantages</b>
Oral warning	D, I, SL, LV, RO	Step in enforcement actions, sometimes adequate	Sometimes waste of time in case of lack of cooperation of the company; Not official tool, only informal and could not be taken in consideration by the operator
Written warning/recommendation sharpened	D, DK, I, SL, LV, RO	Step in enforcement actions, sometimes adequate	Sometimes waste of time in case of lack of cooperation of the company
Order/injunction/ban	D, DK, I, SL, LV, RO	Efficient, legal binding and deterrent	
Self-help action/substitute performance	D, DK, SI	Efficient and deterrent	Risk of insolvency of the operator/company
Stop of operation/suspension of activity	D, DK, I, SL, LV, RO	Efficient and deterrent	
Confiscation of economic advantages	DK, D, RO, SL, LV	Efficient and deterrent	
Cancellation of environmental permit	D, DK, I, SL, LV, RO	Efficient and deterrent	Risk of continuation of the activity without a permit, final tool – last action of Competent Authority
Fines (administrative)	D, I, SL, LV, RO	Immediate reaction on non-	Large companies are not affected by

		compliance, efficient, dissuasive if high fines	finer. Ineffective if fines are low. It does not necessarily stop polluting
Police notification/public prosecutor	D, DK, I, SL, LV, RO	Dissuasive in some countries	Long process Does not necessarily stop pollution

#### 4. Exchange of knowledge

The information, results and conclusions in this document is based on presentations and discussions in the project team.

The sharing of experience and lessons learned were mainly based on the presentations structured by each participating country. To obtain a better uniformity of those documents a general framework has been agreed. (See annex 1). Furthermore concrete case studies (see annex 2) were presented by each Member State, and they were analyzed and discussed.

## CONCLUSIONS

In the sections above the achieved results are analysed. Based on these analyses the results are compared with each of the 4 objectives put up for this project.

Furthermore the project results have revealed some issues that should be addressed in future project. These issues are listed in the end of this section.

The objectives of the project were to:

1. Explore definitions of enforcement
2. Compare and examine enforcement strategies
3. Identify Good Practice and challenges in relation to enforcement
4. Exchange of knowledge

### **Achieved results compared to the objectives**

#### *1. Definition of enforcement*

Basically all of the 6 countries participating in the project define enforcement as the set of actions that governments or others take to achieve compliance and to correct or halt situations that endanger the environment or public health. There is an agreement among the 6 countries to the definition described in the section regarding definition of enforcement.

Other important results are that in case of non compliance, the environmental requirements should allow the Competent Authorities to take adequate actions.

Also in the enforcement chain the feedback from inspectors to policy makers and licensing authorities is important. Lessons learnt from enforcement in practice contribute to drafting new laws and legislation and amending existing ones.

#### *2. Enforcement strategies*

The project team has discussed the enforcement strategies in the 6 participating countries. As mentioned in the section regarding Enforcement strategies there are two main steps of the enforcement strategy:

1. Dialogue based enforcement
2. "Command and control"/consequent use of legal actions.

Based on the discussions in the team it can be concluded that the chosen enforcement strategy depends of the country specific conditions, culture, national legislation and organisation of the competent authority. Public awareness can also influence the strategy in specific cases

As the goal is to achieve compliance in environment sometimes the authority has to go in to compromises compared to the strategy to achieve good long-term solutions for the environment and health.

### 3. Good Practice and challenges

In the section describing Good Practice and challenges the identified enforcement actions are listed in a table. Furthermore the project team has shared experience on advantages and disadvantages of practical use of each enforcement action. The disadvantages and advantages could be considered as Good Practise and challenges.

Enforcement actions		
	<i>Advantages</i>	<i>Disadvantages</i>
Dialogue	<ul style="list-style-type: none"> <li>To involve the companies in long term solutions</li> <li>To build up a positive relation between authority and operator based on trust and cooperation</li> <li>To increase the awareness of the operator in environmental issues</li> <li>In case of cooperation of the operator, quick achievement of compliance, avoiding long struggles at court</li> </ul>	<ul style="list-style-type: none"> <li>Inefficient in case of pollution risk</li> <li>Time and resources consuming process, in case of non cooperation of the operator</li> <li>Risk of compromises instead of 100% enforcement</li> <li>Differences of achievements, according to the inspector's capacity</li> <li>Less deterrent , compared to legal actions</li> <li>Weak position of the competent authority, if the operator quits cooperation</li> </ul>
Command and control	<ul style="list-style-type: none"> <li>Immediate results</li> <li>Low time consumption</li> <li>Dissuasive example</li> <li>Enforcement according to the "book" (regulation)</li> </ul>	<ul style="list-style-type: none"> <li>In case of company's appeal, risk of long struggle</li> <li>Less cooperation between the operator and the competent authority</li> <li>Less positive relations between authority and operator</li> <li>Sometimes, it could lead only to short-term solutions</li> </ul>

### 4. Exchange of knowledge

It has been beneficial for the results of the project that the project team members had different backgrounds, responsibilities: Lawyers, engineers, technicians, staff on strategic level as well as inspectors. This has let the team to recommend that other parties - operators, NGO's, neighbours and other external parties- should have the possibility to give input to the enforcement issue in the next phase to qualify the results.

### Recommendations for further work

The project team has the following recommendations for future projects:

- Development of a practical "pick-and pluck" catalogue of enforcement measures including practical experience will be beneficial for as well inspectors as contribution to new regulation or amending existing ones.
- Non-compliance with conditions or legislation is normally disclosed in connection with inspections. The relation between inspection and efficiency of enforcement should be investigated further in a new project.

- Furthermore the team has concluded that the choice of enforcement actions varies from case to case depending of factors as the national legislation and organisation of the competent authority, the operator's attitude, compliance history, environmental risk etc. It is suggested that investigation of short-term and long-term efficiency of the different enforcement strategic actions is part of a new project.
- The discussions in the team have proved that sharing of experience regarding enforcement is beneficial, and that there is an need for a broader input to the enforcement topic.
- Efficiency of a specific enforcement action depends on the legal traditions of the country. Enforcement strategies have to be adjusted in accordance with the general development of the technology, policy and financial situation in the world. The project results indicate that there is a need for development of new enforcement strategies – including known options. This implies that there is a need to investigate the opinion of relevant parties in the efficiency of enforcement.

## ANNEXES

## ANNEX 1

### **Country**

Germany

In Germany, the enforcement (permitting, inspection) of the environmental law is the task of the Länder. Germany consists of 16 Länder. Schleswig-Holstein is situated in the far north of Germany. Due to different sizes and different traditions the organization of the environmental administration differs between the Länder.

### Organization in Schleswig-Holstein

Central authority with 4 regional departments

Landes level: Licensing procedure and inspection in one hand.

1 integrated permit/license for everything, except specific water conditions. In this case, a close coordination between the both competent authorities takes place.

### Legislation/guidance

In general the federal parliament (Deutscher Bundestag) has the competence in environmental legislation. The assembly of the governments of the Länder (Deutscher Bundesrat) has to agree.

The IPPC-Directive is implemented into German law through the Federal Immission Control Act, the Federal Water Act and the Act. Inspection and enforcement efforts have been issued by a couple of ordinances, and additionally by administrative guidance in the Länder.

Compliance check in Schleswig-Holstein:

- Seveso-installations: yearly
- IPPC-installations: 2 years
- Other: 3-5 years

### Strategies in Schleswig-Holstein:

- Competent authority on state level (Central with four regional departments)
- Set of competences on air, waste, soil, water and nature protection
- Licensing procedure and inspection in one hand
- Environmental impact assessment is part of licensing procedure
- Competent authority advises the operator
- Alignment of actions on strategic level. Ministry of Environment holds meetings with the enforcement authority regularly
- Individual decisions of inspectors base on general rules given by Ministry.
- Prioritisation of inspections according to RCMEI
- Top qualification of the inspectors; further training continuously (esp. development of BAT)
- Technical engineers in teamwork with lawyers

### Enforcement measures

- Warning and Reminder
- Expected and non-routine site visits
- Inspection plan
- Orders for detailed requirements
- Orders for operation stop
- Change of licensing; substantial change via licensing procedure
- Tools, if operator ignores an order: substitute performance (Ersatzvornahme) at operators expense; financial sanction to force the operator to respect the order (Zwangsgeld)
- Administrative offences
- Report to the public prosecutor

### Good Practice

- See under strategies
- Alignment of positions among inspectors twice a year on Landes level Ministry and enforcement authorities) and Federal (Bundes-) level (Ministries of Environment of the 16 Länder with the Federal Ministry of Environment)
- Guidance for applicant/applications
- If EIA is needed, the process starts with the scoping. If convenient at this meeting NGO's and local initiatives are also invited
- Public participation within licensing procedure via openness of the documents and public hearing (Erörterungstermin)

### Challenges

- Alignment meetings on Bundes level are voluntary and individual decisions in every Land are made autonomously
- Save of high quality of enforcement despite of budget cuts

### Other experiences

Administrative tools as described under "Enforcement measures" are mostly quick and effective. Criminal procedures are often too late and do not help the environment and the health of the neighbourhood. They are additional tools beside the enforcement measures to "educate" the operator.

**Country**  
Slovenia

Organization

- Ministry of Environment and Spatial Planning(MOP) – policy makers, legislation
- The Environmental Agency of the Republic of Slovenia (ARSO) – permitting, monitoring the state of the environment and reporting
- Inspectorate of RS for Environment and Spatial Planning - Environment and Nature Inspection Service (8 decentralized units) – inspections, enforcement
- Municipalities – inspection supervision over adopted municipal regulations and conducts inspection and violations procedures in municipalities.

Legislation/guidance

The IPPC Directive is implemented in/through the Environmental Protection Act and cca 200 Act and regulations issued under these laws.

Inspection and enforcement efforts of these rules have been issued in the following guidance:

- Inspection Act, General Administrative Procedure Act
- General Offences Act;
- Annual working plan

Strategies

- Competent authority on state level (central with eight regional units)
- Set of competences on air, waste, soil, water emissions, water management, nature protection, GMO
- Licensing procedure is separated from inspection
- Environmental impact assessment is part of licensing procedure
- National Environmental Action Programme
- Legislation covers sanctions
- Annual working plans
- Common simultaneous inspection campaigns for all of Slovenia
- Prioritisation according to RCMEI and DTRT
- Permanent education of inspectors
- Control monitoring (of annual working plans)
- Web tool: legislation, court practice, instructions, legal opinion issued by Ministry

Compliance check:

- IPPC and Seveso-installations: yearly
- other installations with permit: 2 years
- other: 3-5 years

Enforcement measures

- Warning and reminder(compliance in 3-7 days)
- Order
  - Order that non-compliance are remedied
  - Order to implement measures for remedying the sources of excessive environment

- Impose restriction of the installations operations to the prescribed limit values
- Order implementation of control monitoring
- Propose withdrawal of permit
- Operation stop
- Removal of illegal waste
- Self-help actions(Max 100.000 €)
- Administrative fines
  - warning or reminder
  - written decision
  - Companies: max 125.000 € (ex. no license: 70.000-125.000 €)
  - Responsible operator: max 4.100 € (environmental damage (x3))
  - Citizens: max 1.200 €
- Report to the public prosecutor
- Confiscation

#### Good Practice

- See under strategies
- IMPEL projects
- Web tool: legislation, court practice, instructions, legal opinion issued by Ministry

#### Challenges

- Save of high quality of enforcement despite of budget cuts
- Less administrative burdens in legislation
- High technical/ technological complexity of some installations

High fines can not be only mechanism to achieve compliance, various financial mechanisms or other self should be used as well. Operators should be high motivated to be in line with legislation. Speaking about enforcement strategies  
Increasing economic crisis should be taken seriously into consideration.

#### Experiences

The General Offences Act brought about an increase in the workload of environmental inspectors, which has been noted since the beginning of its implementation. The procedure for recovery of fines and procedural costs generates a very large number of administrative tasks.

Criminal procedures is not often used

**Country:**  
**Romania**

**Organization:**

**Ministry of Environment and Forests (MEF)** = the public central authority for environmental protection → env. policy, general strategy, legislation (Governmental Decisions, Ministerial Orders). MEF includes:

1. **National Environmental Guard (NEG)** = National Environmental Inspection Authority - main role = enforcement. NEG structure:
  - General Commissariat (NEG - GC)
  - 8 Regional Commissariats (NEG – RC)
  - 43 County Commissariats (NEG – CC)
2. **National Environmental Protection Agency (NEPA)** – permitting and monitoring role; also – guidance, norms.

NEPA structure/ main responsibilities:

- 8 Regional Environmental Protection Agencies (REPAs) / IPPC permitting; developing regional strategies, actions plans and projects
  - 43 County Environmental Protection Agencies (EPA) / permitting “non IPPC” installations; monitoring of environmental quality parameters; public communication regarding local environmental issues.
3. **Romanian Waters Administration** – waters management (permitting and inspection).
  4. **Romsilva and Territorial Inspectorates for Hunting and Forestry Regime** - forest management (incl. permitting and inspections); management of romanian National Parks.

*More about **NEG**:*

- Public institution for environmental inspection and control, with juridical status, nanced from the public budget; created in 2003, based on former inspection departments of EPAs.
- NEG' role and function – layed down in the Environmental Protection Law (L.265/2006).
- Subsequently: Gov.Decision 112/ 2009 - NEG organization and Technical Norms “*Organisation and development of inspection and control activities in the environmental field*”, which incorporate RMCEI requirements.
- Technical Norms: “*NEG is responsible for implementation of Government policy in matters of prevention, finding and sanctioning the infringement of legal provisions on environmental protection*”.

**NEG' General Commissariat (GC)** – 2 technical departments:

- Pollution Control (industrial pollution, waste, chemicals etc)
- Biodiversity, Bio safety and Protected Area Control.

GC - Main functions, briefly:

- Coordinates the whole NEG activity: inspection strategy; financial resources; training of personnel; technical support for inspection activities (guides, procedures, templates); initiation of legislation proposals (GD, MO); inter-institutional cooperation; EU environmental projects initiation and implementation; coordination of NEG international activity;
- Organizes and effectively performs inspections, in special situations.

Regional Commissariats (RCs) - main role: coordinate and support CCs' activity (management of logistics, financial, and human resources).

County Commissariats' main function = enforcement based on inspection. Inspections are organised, planned and performed mostly at county level.

*The inspection activity is completely aligned, from GC to RCs and CCs.*

**Legislation/guidance** – main documents\* currently used by NEG:

- IPPC Law (84/2006), transposing IPPC Directive
- Environmental Protection Law (265/2006)
- Law of Juridical Regime of Contraventions (180/2002) - *enforceable by NEG and most of Inspection Authorities*
- Air Protection Law (655/ 2001) and subsequent legislation
- Water Law (107/ 1996) and subsequent legislation
- Law on the Regime of Waste (426/2001) and subsequent legislation
- Gov. Dec on NEG organisation and function (112/2009, transposing RMCEI):
  - Harmonises templates for Inspections Reports/ Notes of Findings, reporting formats for accidental pollution etc
  - Aligns inspection activity, through: Inspection Technical Norms, Inspections Annual Planning and Reporting and Commissariats' Activity Reports (procedures and templates)
  - Introduces Risk Based Approach system, as base of inspection planning (the Uniform Risk Based Classification of Companies).

In completion – the legislation transposing and implementing the other UE Directives, regulations etc (e.g. Seveso, VOC, LCP, EIA, Waste Incineration, REACH etc).

(\* Last, updated/ amended version)

### **Strategies**

- Coherent and comprehensive environmental legislation, completed by guidelines and technical norms
- Connection with the national development strategies
- Specialized Environmental Inspections Authority (National Environmental Guard – NEG)
- Systematic, coherent and continuously improved training of NEG' commissioners, based on the Annual Training Plan set-up by RGs and approved by GC; each commissioner has to pass yearly a training course, or at least one/2 years, in the specific field of his inspection activities; NEG' data base includes all the trainings passed by the commissioners; *NEG Training Centre and a combined evaluation/ certification system - ongoing*
- Continuous exchange of information between NEG commissioners
- Permanent up-date of the environmental legislation in-force
- Close cooperation with Env. Permitting Authority – main issues:
  - *NEG participates in the permitting procedure*
  - *Compliance Control for IPPC install. – once per year, complex team: R-EPA, NEG, Water Admin. representatives*
  - *Permanent exchange of data and info with local EPAs*
- Use of monitoring data as input for companies evaluation
- Annual Inspections Plan, comprehensively and coherently set-up:
  - Planning process: based on “top down and bottom up” principle

- Campaigns of Thematic unplanned Inspections – efficient enforcement tool (*NEG'GC regularly asks for inspections on specific themes/sectors. Thematic Campaigns can be decided all over the year; for each campaign, GC prepares specific guidelines and reporting formats. E.g. implementation of selective waste collection system; check of landfills for hazardous/ non-hazardous /inert industrial waste; compliance of Large Combustion Plants etc*)
- Inspection principles, procedures and documents' formats - completely aligned.
- NEG' Annual Inspections Plan - technically validated and approved by the Ministry
- Use of environmental indicators as an important tool for the evaluation of the companies evolution
- Uniform Risk Based Classification of Companies/ Sites = base of inspection planning (*see details below*)
- NEG' comprehensive Data-base ("Artemis"), including mainly:
  - the National Register of the companies/ sites to be controlled
  - Annual Inspection Plans
  - Annual Reports of Activity
  - the Uniform Risk Based Classification of Companies/ Sites, yearly updated
  - all the Inspection Reports, Notes of Findings, Reports for Establishing and Sanctioning of Contraventions.
- Meetings for evaluation of NEG' activity – 2 times/ year at central level; at least 4 times / year at regional level; monthly = audio-conferences with regional and county chief-commissioners
- Open and pro-active relationship with the companies

**Uniform Risk Based Classification**

- *Uniform Risk Based Classification of Companies/Sites - important tool to gear the inspection activity, developed for NEG as a whole.*
- *The companies/ sites are classified taking into account the actual environmental impact of the unit and the operator's actual environmental performance (12+12 assess criteria).*
- *Each criterion is given a score within a certain range and a multiplication coefficient is applied to the criterion.*
- *Data from previous inspections are used for the scoring. The classification is yearly updated by CCs, as one of the main inputs to the Annual Inspection Plan.*
- *Classification is done as follows ,including 4 risk classes (A, B, C, D):*

	<i>High impact (&gt;150)</i>	<i>Low impact (&lt;150)</i>
<i>Low performance (&lt;300)</i>	<b>A</b> → 3 inspections /year	<b>B</b> → 2 inspections /year
<i>High performance (&gt;300)</i>	<b>C</b> → 1 inspection /year	<b>D</b> → 1 insp. /2 years

- *Based on it, the frequencies of regular inspections are recommended in the Technical Inspection Norms (see the table above).*

**Enforcement measures**

- Administrative tools: compliance measures
  - issued as result of permitting procedure (Action Plan for IPPC installations under transition)
  - or as inspection' result (non-compliance identified and compliance measures enforced in Inspection Report/ Note of Findings)

- Judiciary tools
  - Contraventions (civil sanctions) - *directly enforceable by commissioners*  
Principal:
    - Warning
    - Fine (*see details below*)
    - Work for community (*specific procedure, it ca be applied only based on the Law Court decision*)
  - Complementary: *can also be enforced by commissioners, in some cases with additional intervention of another authority (Police, Financial Guard, Permitting Authority)*
    - Confiscation of goods destined, used or resulting from offences
    - Suspension or cancellation, as appropriate, of permit
    - Suspension/ stop of installation' operation
    - Suspension of the economic activity
    - Blocking of bank account
    - Withdrawing the licence or approval for certain transactions or for foreign trade activities, temporarily or permanently
    - Cancellation of work and bringing the land back to its initial state

Fines' amount (*approx. figures, based on average exchange rate roL/EUR*)

Fine amount (for a single offence)	Companies	Persons
MAX (Euro)	25 000	3 750
Min (Euro)	375	75

- *Fines can be issued for a doubled maximum amount, during the same inspection – “the rule of the highest allowable fine amount”, applicable both for companies and for persons.*
- *Only several laws (Env.Protection, Water Law, Regime of Waste) allow the payment of 50% from the minimum fine range established for certain types of offences – but only if the fine is paid in max 48 hours from its communication. If the fine is appealed and the appeal is lost, the offender must pay the total fine amount, as applied. This rule doesn't apply for the rest of environmental legislation.*
  - Criminal sanctions
    - In case of severe violation.
    - Environmental crimes are specifically described in the Environmental Protection Law (separate chapter)
    - Enforced by the Law Court, based on the file received from Prosecutors office.
    - NEG'commissioners built-up the technical, environmental component of the criminal file, which is submitted, via Police-office, to Prosecutors office.

### Good Practice

- RMCEI requirements have been incorporated into national law.
- Development of national guidance for carrying out inspections (Technical Inspection Norms).

- Very close cooperation between permitting and inspection authorities (e.g. joint inspection for IPPC compliance control and also before granting permits; commissioners' involvement in the permitting process); in general, close cooperation between EPA and NEG on all relevant topics.
- A clearly established competence for NEG to initiate a permit revision (special provision in the Environmental Protection Law).
- Alignment of inspection and enforcement procedures:
  - Use of a uniformly applied, objective tool to assess risks, both in terms of environmental impact and operator's performance, as basis for prioritising inspection activities; use of weigh factors attached to risk criteria and of recommended inspection frequencies (*Uniform Risk Based Classification of Companies/Sites*).
  - A national data-base referencing all the companies/sites subject of inspection.
  - An yearly national plan, to guide regional and county commissariats on main national objectives and priorities
  - A standardised procedure for setting up plans and programmes, with guidelines from the national level ("*top down and bottom up*" principle)
  - Regular audio-conferences between NEG's structures (CC, RC, GC), to align national strategies and priorities, down to county inspection activities.
  - Campaigns of Thematic Inspections well-prepared: General Commissariat initiates it, prepares specific guidelines and reporting templates.
- Well-developed, strong and efficient IT tools: NEG's Data-base (*see above/Strategies/"Artemis"*) and on-line connection to a legislation specialised site, in each commissariat).
- Well established, full range of competences for commissioners.
- Inspections performed in teams of min. 2 commissioners and the requirement for commissioners, to regularly change the sites they enforce (rotation frequency = 2 years).
- Well established procedures for communicating with the public and dealing with complaints, including reoccurring complaints from the same person.
- Cooperation Protocols signed between NEG and other institutions (*Police, EPA, Inspectorate for Emergency Situations, Financial Guard, Public Health Authority, Water Administration, Custom Authority, Authority for Sanitary-Veterinary and Food Safety etc*), including joint inspections and exchange of information.
- Protocols signed with other authorities, on exchange of information, including *Chamber of Commerce*, so that NEG is regularly supplied with actual information on new economic activities.
- High quality of daily work: ISO certification of NEG (9001,14001), which helps NEG to harmonise and improve its procedures, having as main result the uniform and qualitative implementation of Technical Inspection Norms (including use of procedures and templates).
- Efficient recruitment and training system → educated and motivated human resources:
  - The "tutorship system", set-up for the first year of "beginners".
  - The Annual Training Plan, set-up according to the same principle "top down and bottom up".

- The on-going new internal training and recruiting strategy, including a combined evaluation system for training and inspection activities.
- Establishing and using the Environmental Volunteers Network, as “ears and eyes” for the commissariats, which increases NEG’s ability to detect possible violations of environmental norms
- An international open, dynamic and pro-active approach of NEG, aimed at learning from good practices abroad.

### **Main challenges**

- Great “personal” responsibility to appropriately evaluate the environmental offences and to issue fines (sometimes, under stress conditions)
- High technical/ technological complexity of some installations
- Mixture of new and old technologies/ equipment
- Monitoring difficulties
- Continuous need to update and correlate technical/ environmental/ legal information
  
- Brown-sites reconversion/ rehabilitation and historical pollution complex problems (especially in large chemical/ petro-chemical sites and in mining and petroleum exploitations)

### **Other experiences**

- New IPPC companies have a more positive and pro-active approach regarding environmental issues, by comparison with the “old” ones.
- The same attitude for private companies vs. state-owned companies: private ones are more sensitive to the environmental issues.
- The Uniform Risk Based Classification of Companies/ Sites proved to be a relevant and efficient tool for the companies’ dynamic assessment, in order to set-up the Annual Inspections Plan.
- More than this, the implementation of above Classification system including the “marks procedure”, based on criteria for impact and performance, made the companies even more sensitive to their environmental problems (*Everybody wants to receive good marks and to be “promoted” from “A” to “C” class. Most of the companies are aware that the worst thing is “vice versa”: fall-down from “C” to “A” !*).
- The “Action Plan” together with “Compliance Control” joint inspection proved to be an efficient mix of enforcement tools, in order to determine the IPPC companies under transition, to make the necessary steps, in due-time, for achieving compliance.
- NEG is ISO 9001 certified from 2007. Since 2008 NEG is ISO 14001 certified (by TUV). It was re-certified in 2009. It has been the first public control institution in Romania having ISO 9001 and 14001. The certification has helped NEG to harmonise and improve its procedures and to significantly increase the quality of its whole activity.
- Under NEG’ responsibility, an Environmental Volunteers Network was established. The volunteers are NEG ‘additional “eyes and ears”. (*Potential volunteers need to apply and must have good references. They are trained and carry a NEG ID, being now organised in an association. Citizens who want to get more environmentally involved can apply to become environmental volunteers.*

*To do so, they receive specific training and have to pass an exam concerning basic environmental legislation.)*

- NEG' training system for commissioners, combined with its international approach, proved also to be efficient tools for improving inspection and enforcement capacity of romanian National Environmental Guard.

## Country

Latvia

### Organization

- Ministry of Environmental Protection and Regional Development - policy, legislation and regulations
- State Environmental Service (central unit and 8 regional Environmental Boards) - permitting, inspection and enforcement at the state level
- Environment State Bureau - appeals on permit conditions, EIA, BAT responsibilities under IPPC
- Municipalities – in local level environmental regulation regarding planning, building, municipal waste management (specific binding regulations)

### Legislation/guidance

- Law on Environmental protection
- Law on Pollution
  - 94 IPPC installations (category A)
  - 2500 installations under threshold of IPPC installations(category B)
  - 8000 other installations (category C) where permits are not required (operator has notified on this activity)
- Law on the Environmental Impact Assessment
- Natural Resources Tax Law
- Administrative Procedure Law
- Latvian Administrative Violation Code

### Guidance documents:

- Guidance on integrated pollution control
- Procedure for issuing A and B category permits
- Guidance for Waste management control in the landfills
- The application of “Administrative Procedure Law” for examination the administrative cases

### Strategies

- Environmental Policy Plan for Latvia
- Compliance ensuring; alignment of legislation for enforcement
- Cooperation between the Ministry of Environment and enforcement institutions
- Monitoring enforcement

### Enforcement measures

- Negotiations - constructive dialogue with company
- Warning (oral)
- Written orders for non-compliance situation restoring with detected deadline
- Withdrawal of permit/Change in permit conditions
- Suspension of operation; *IPPC facilities operation's stop very seldom*
- Administrative sanctions - Procedure of examination administrative violations matters and list of administrative offences are given in Latvian Administrative Violations Code. Only SES officials are authorised to examine administrative violations matters for violations of environmental rules. Maximum fine imposed by environmental state inspector is 2.800 € (typically 700 €). Size of penalty depends on the environmental impact of the violation, whether it is repeat of-

fence, whether the violation was intentional or accidental; how quickly a violation was reported to the competent authorities and how quickly the problem is corrected.

- Proposal to the public prosecution; Criminal liability in accordance with the Criminal Law.
- Economic instruments (*in accordance with Natural Resources Tax Law*)  
Taxes should be paid for extraction (use) of natural resources, emission of pollutants into environment, waste disposal and the sale of goods and products harmful to the environment (electric and electronic equipment, batteries, tyres, packaging, oils). For example, fines shall be collected from taxpayer in twofold amount of unpaid tax pursuant to basic rates for the amount of pollution emitted into environment not indicated (hidden) in reports.  
*The enforcement promoting instrument – exemption concerns taxpayers which fulfil the norms for recovery of waste*
- Police involvement  
State Environmental Service (SES) has the capability to involve police, if it considered for providing the compliance of environmental laws, mostly in cases to conduct site inspection, if operator refuses the entry into facility, control in customs in opening containers, in violation fishing requirements, stop vehicles. Cooperation with police in IPPC cases is seldom. Police notification usually is delayed. For example, if there was visible water or soil pollution, police draws up administrative protocol and submits it to SES for decision making, nevertheless the test samples and measures may be taken only by accredited experts. The test samples are an essential part of the evidence category for proving the violation of law and the occurred damage.

#### Good Practice

- Experience exchange among regional inspectors and experts 5-6 times a year for better permitting and inspection, for achieving common procedures of enforcement across the regions.
- Inspection Manual, Latvia (legislation, planning, inspection, enforcement, follow-up, practice advice)
- Annual inspection plan; planned and unplanned inspections; prioritization of problematic cases. Control frequency: Seveso- yearly; A, B category - yearly; C category – once in 2-4 years
- Other types of control: thematic; announced and unannounced inspections. Advantage of an unannounced inspection – the facility has not had the opportunity to change critical situations, i.e. illegal storage of chemicals, broken filters etc.
- Public access to environmental information held by government and relevant agencies

#### Challenges

- Lack of knowledge of enforcement strategies on enforcement of IPPC requirements
- Lack of human and financial resources
- Not all involved organizations are well known with the rules and regulations
- Need of guidance document for good practices in enforcement
- Strengthening of inspection and development of new approaches

- Develop enforcement strategy and approaches in order to achieve compliance with laws and regulations

Other experiences

- Compliance promoting activities (education, awareness raising)
- Use of media to publicize environmental law violations, while highlighting positive environmental achievements

## **Country**

Denmark

### Organization

- Ministry of Environment - policy
- The Environmental Protection Agency - legislation
- The decentralized EPA units – permits, inspections, enforcement mainly complex IPPC facilities and large/medium companies
- Municipalities – less complicated IPPC and companies

### Legislation/guidance

The IPPC Directive is implemented in Danish law through the Environmental Protection Act and the Livestock Approval Act and regulation issued under these two laws.

Guidance has been issued to guide and support the inspectors. There are following guidance's:

- Guidance on the enforcement of the environmental law
- Guidance on the application of procedural law on the environment
- Guidance on differential environmental inspection – prioritisation of inspections efforts
- Guidance on environmental inspection of industries.
- Instructions on self-monitoring of external environmental conditions by companies
- Public Prosecutions Communication concerning the processing of cases involving violations of environmental legislation.

In addition, there is an agreement between the Ministry of Environment and the association of municipalities on the minimum frequency for inspection. The agreement implies that all companies mentioned in the Environmental Approval Act as a minimum should have received a comprehensive inspection within the last 3-year period.

### Strategies

- Compliance with environmental legislation
- Legislation covers sanctions
- Strategy of enforcement organised by authorities
- Prioritization enforcement effort
- Enforcement action must reflect actual violation
- Compliance history
- Different strategies in different sectors

### Enforcement

According to the Enforcement guidance the authority has the following overall reaction possibilities for violation of the legislation:

- Recommendation sharpened: The mildest enforcement action to bring the unsatisfactory conditions in compliance within a time limit. No legal bindings. Recommendations should only be used if it is expected that it will be followed and only once.
- Injunction / ban: Changed conditions for the company or order that the company must make a study. Formal warnings, injunctions, orders must as a principal be written with a deadline for compliance, but in case of danger to health or substantial harm to the environment that requires immediate action it can be oral(to be followed up in writing). If the injunction/other requirement is not com-

plied within the deadline, a police notification should be submitted, unless there are special circumstances.

- Order: A declaratory rule. The company must meet already defined conditions: the company is operating without an environmental permit, violation of conditions or the law is violated. Should be written. Only time extension if the company actively has tried to meet the deadline and is not responsible for the exceeding. In general there police notification should be used if there are delays (unless special circumstances).
- The Authority may undertake self-help actions (that the authority performs the necessary action on account of the person in charge) in the following situations: a) as follow-up to injunctions/bans or orders, b) where immediate action is necessary or c) to prevent serious danger to health or significant pollution, or when the facility is no longer in operation.
- Police notification: When administrative measures were not sufficient to stop an illegal act or there is a serious offense.

If the authority decides to lodge a police notification a number of indicative levels for fines are set.

For first time violations the fine for violations is 670 € - in case of severe conditions 1.300 €. In addition, there are set specific fines of certain violations of the environmental legislation. For example, emissions that can pollute the water as a starting point trigger a fine of 2.600 €. In the case of operation without an environmental permit the fine starts at 6.700 €. This is the highest level of fine which also applies for formal violations. The reason for this is that the company that is subject to the Environmental Approval Act has a potential risk of pollution.

### **Good Practice**

- Elaborated guideline for enforcement
- Dialogue and negotiations with the company normally results in the good compliance results
- Normally 2 inspectors performing the inspections
- Public access to environmental information
- Permitting, inspection and enforcement integrated

### **Challenges**

In Denmark, the following trends and challenges are common:

- The cooperation between different authorities (police and the environmental authorities) could be optimized
- The police do not prioritize environmental notifications and the actual fine levels are not in harmony with the guiding fine levels.
- Guidance regarding enforcement are not followed completely by the municipalities and the decentralized units (the inspectors)
- Mainly use of administrative enforcement actions
- Enforcement in practice is more pragmatic than the formal Enforcement Guidance prescribes – this implies that police notification is used very rarely
- A low level of enforcement (or none) has nearly led to an “accepted” or “good-Good” practice

- Different enforcement actions among authorities (among authorities and among inspectors)
- Fines are normally too low to prevent violations min 650 € - this amount will not get the companies to change their behaviour.
- Lack of knowledge regarding legislation and interpretation of legislation among companies
- Requirements not always enforceable – and it can be a waste of time and the consequences can be that it will cost a lot of resources.
- Monitoring efficiency of enforcement action

#### **Other experiences**

- Industrial companies generally have a more positive attitude to environmental supervision than livestock farms
- Larger companies have a more positive attitude to environmental inspection
- No possibility of appeal against injunctions
- Generally Danish large companies are sensitive to negative environmental publicity

## Country

Italy

### Organization

In Italy different authorities are involved in the environmental enforcement process, starting from the legislator to the control and inspecting authorities. This is the result of quite complex national legislation that splits these activities among ministries, regions, provinces, local authorities, police forces for the environment, in addition to the magistracy, which operates autonomously.

- Ministry of Environment , Land and Sea
  - Issuing of environmental legislation and regulations;
  - Supervising the implementation and enforcement of the environmental legislation at regional level, Replacing Regions and other local authorities in their competences, if necessary;
  - Guiding and coordinating regional/local administrative activities;
  - Policy instructions to the environmental technical bodies and agencies;
  - EIA, and IPPC permits for large installation falling under national competences, national authority for SEA;
  
- Institute for Environmental Protection and Research (ISPRA)
  - technical steering and coordinating body of the System of Environmental Protection Agencies;
  - Supports the environmental and institutional actions of the National Environment Authorities in general and for the IPPC activities such as technical support for permitting and controls,
  - Responsible for national environmental information system (SINANET), including INSPIRE and PRTR implementation.
  
- Regional Authorities
  - regional policy makers, regional legislations, regional planning;
  - permits for regional installations, issuing environmental authorizations for installations and infrastructures of regional relevance;
  - organizing the monitoring of environmental media and control of polluting activities;
  - set up strategic planning of Regional Environment Agencies (ARPA);
  
- Regional Agencies for Environmental Protection (ARPA)
  - technical-scientific support to regional authorities;
  - monitoring of environmental media;
  - they have certified laboratories;
  - controlling polluting activities and compliance checks on industrial inspections;
  - collection, assessment and analysis of regional environmental data;
  
- Provincial Authorities
  - planning for provincial activities and controls;
  - many regional competences are delegated to Provinces

- Provincial Agencies for Environmental Protection (APPA- only for Autonomous Provinces)
  - technical-scientific support to provincial authorities;
  - they have certified laboratories;
  - monitoring of environmental medias;
  - controlling polluting activities and compliance checks on industrial inspections;
  - collection, assessment and analysis of provincial environmental data;
  
- Carabinieri Forces for Environmental Protection (CCTA)
  - They accomplish the task of judicial police for the environment;
  - for the technical-scientific activities they make use of the ARPAs/APPAs;
  - coordinating tasks and environmental crime investigations;
  - controls of specific industrial installations (specified by law);
  - flow of information, coordination of inspecting activities, their electronic information system is linked with the data base of the ARPAs and ISPRA;
  
- Provincial Police
  - It carries out, besides the activities of its competence, the implementation of inspection plans established by the regional authorities, related to: installations, productive activities and waste transports and verifying the compliance of their permits, especially regarding to waste disposal and emissions into the atmosphere.

#### Legislation/guidance

- The IPPC Directive 96/61/CE has been:
  - transposed into the Legislative Decree “D.Lgs of 18 February 2005 n. 59, which was
  - abolished by point a) of comma 1 of *art. 4* of the Legislative Decree “D.Lgs of 29 June 2010 n. 128 and
  - endorsed into the 1<sup>st</sup> part of the unified text of environmental legislations, the Legislative Decree “D.Lgs of 3 April 2006, n. 152 (the Decree is divided into 5 parts).
  
- For the simplification for permitting, the IPPC is integrated with the EIA (Part 1 of D.Lgs 152/2006).
- The legislative act includes permitting, compliance check procedures and sanctions in case of non compliance.
- Legislations on/for single environmental media
- As for the execution of compliance checks/environmental inspections, each region and regional environment agency makes its annual planning according to the regional politics, needs and number of installations.

#### Strategies

- Competent authority on state level for installations of national competence (defined by law);
- Competent authority on regional level for installations of regional competences (defined by law);

- Close cooperation between Ministry and ISPRA and regional authorities and ARPAs/APPAs;
- Close cooperation between Ministry, ISPRA, ARPA/APPA and the Carabinieri Forces for Environmental Protection;
- Set of competences on air, waste, soil, water emissions, water management, nature protection, GMO, radiations, noise etc.
- Compliance with environmental legislations and environmental permits;
- Licensing procedure is separated from inspection;
- Environmental impact assessment is part of licensing procedure;
- National Environmental Action Programme;
- Legislation covers sanctions;
- Regional annual working plans;
- Follow up trainings of inspectors and personnel of ARPA/APPA;
- Control monitoring on installations and surrounding environment
- The frequencies of compliance check on IPPC, Seveso-installations and other installations with permit is different in every region and depends on the number of installations, the regional politics, regional planning and necessities.
- Besides, the new IED establishes the frequencies of inspections

#### Enforcement measures

- Implementable Legislation
- Clear permit requirements
- Programs of regional compliance checks
- Warning and reminder
- Impose restriction of the installations operations to the prescribed limit values
- Prescriptions depending on the non compliance and the type of installations
- In case of crimes the ARPAs denounce to the Judicial Authority, to the CCTA or to the competent regional authority
- Administrative (fines) and penal sanctions depending in the level of non compliance
- Sanctions according to D. Lgs 152/2006

In absence of permit or expired permit	Whoever pays between € 2.500 to € 26.000 or imprisonment up to 1 year
Non compliance with permit	From € 5.000 to € 26.000
If operating when a close down of the installation was ordered	Whoever pays between € 5.000 to € 52.000 or imprisonment between 6 months to 2 years
If the operator does not communicate the beginning of the activity of the permit requirements to the competent authority	Operator pays between € 5.000 to € 52.000
Non communication to competent authority of self monitoring data required by the permit	Operator pays between € 2.500 to € 11.000
Non communication to competent authority (C.A.) of further documents required by C.A. during the permitting process	Operator pays between € 5.00 to € 26.000

- In case of non compliance of installations of national competence the sanctions are applied by Civil Governor.
- In case of non compliance of installations of regional competence the sanctions are applied by the competent authority.

#### Good Practice

- EIA and IPPC in same permit
  - System of Environmental Protection Agencies – networking, preparing guidelines and homogeneous methodologies for sampling and laboratory measurements
- “One stop shop” (sportello unico) called SCIA - segnalazione certificata d’inizio attività; (certified signalling/communication of beginning of an activity). It is a new procedure made to simplify the start of productive activities. A communication has to be delivered to the competent authorities (with the relevant documents requested by law for the different activities) just the day before the beginning of the activity. For environmental activities, thus also for IPPC installations, the environmental permits have to be released before communicating the beginning of the activity. The Competent authority then assesses the documentation etc. Before this new procedure, it was not possible to start with the activity until an authorization for the production activity was released by the competent authority.

#### Challenges

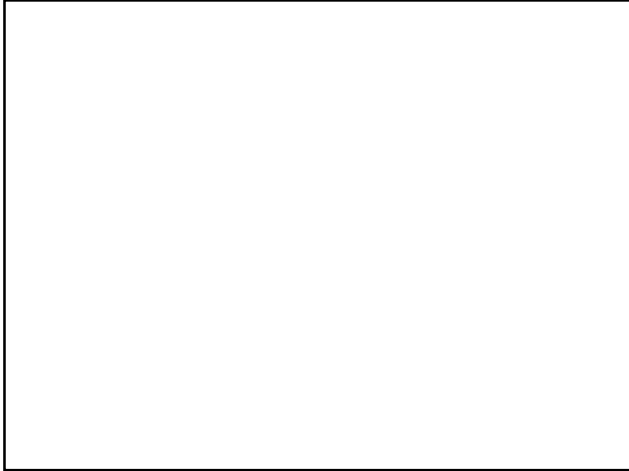
- Simplification procedure IT of inspection, control and monitoring data
- Save of high quality of enforcement despite of budget cuts

#### Experiences

- Digitalization of permits helps in the prevention phase

## ANNEX 2

### Presentations



DANISH MINISTRY OF THE ENVIRONMENT

### Environmental authorities, Denmark

Ministry of the Environment

Agency for Spatial and Environmental Planning

The Environmental Protection Agency + decentralized centres (IPPC and large/medium comp.)

Local councils(IPPC and SMV)



DANISH MINISTRY OF THE ENVIRONMENT

### **Enforcement**

#### **Strategies of Enforcement**

#### **Denmark**



DANISH MINISTRY OF THE ENVIRONMENT

### Environmental authorities - executing tasks

- Permitting
- Environmental Impact Assessment
- Control
- Inspections
- Negotiations
- Enforcement



### Environmental Permit

1. Operator
2. Legal category
3. Information regarding establishment
4. Localisation and technical drawings
5. Emissions to air and water/waste water
6. Noise and waste
7. Protection of ground and groundwater
8. Provisions
9. Self monitoring

### Definition - Enforcement

The set of actions that authorities take to  
achieve compliance with legislation  
and  
to correct situations that  
endanger the environment

### Environmental Legislation - Enforcement

- The Environmental Protection Act
- Guidance regarding Enforcement of the Environmental Protection Act, 2005
- Directive on Environmental liability



### Enforcement-when?

#### **Noncompliance with environmental requirements**

Non-compliance typically detected in connection to:

- Inspections – no compliance with requirements
- Complaints
- Environmental risk
- Prevention of recurrence of accidents

No possibility to complain about enforcement decisions

DANISH MINISTRY  
OF THE ENVIRONMENT

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### Inspections

- Control (physical inspection)
- Administrative (control of conditions for self-monitoring)
- Supervision regarding new legislation or cleaner technology
- Plans for carrying out the inspections
  
- Inspections have to be carried out 1 time per 3. years as a minimum (for "EPA" facilities)

DANISH MINISTRY  
OF THE ENVIRONMENT

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### Strategy of enforcement-principles

- Compliance with environmental legislation
- Legislation covers sanctions
- Strategy of enforcement organised by authorities
- Prioritization of enforcement effort
- Enforcement action must reflect actual violation
- Compliance history
- Different strategies in different sectors

DANISH MINISTRY  
OF THE ENVIRONMENT

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### Steps of Enforcement: Sanctions

- Recommendations sharpened
- Order
- Operation stop
- Self-help action
- Loss of Environmental Responsibility
- Notification of police
- Monetary penalties (min. 650 €)



DANISH MINISTRY  
OF THE ENVIRONMENT

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### Enforcement – practice

Actions taken by decentralised EPA authorities

Year	Recommendation	Notice of violation	Order	Ban	Notification police
2008	70	45	12	0	1
2009	57	118	37	3	2



### Challenges

- Guidance regarding enforcement is not followed 100%
- Mainly use of administrative enforcement actions
- Diverting enforcement actions among authorities
- Fines normally too low to prevent violations (minimum 650 €)
- Lack of knowledge among companies
- Requirements not always enforceable
- Monitoring efficiency of enforcement action



### IMPEL Project: Strategies of Enforcement

Dr. Andreas Wasielewski, Land Schleswig-Holstein, Germany

Copenhagen, 27th January 2011



Thanks



### Federal Republic of Germany





Ministerium für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

**Enforcement strategies in Schleswig-Holstein**

- **Competent authority on state level (central with four regional departments); set of competences on air, waste, soil, water and nature protection.**
- **Licensing procedure and inspection in one hand**
- **integrated approach according licensing (covers more installations than Annex I of IPPC-Directive)**

Ministerium für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

**Environmental Legislation and Administration in Germany**

- In general the Bundestag (federal parliament) has the competence in environmental legislation. The Bundesrat (assembly of the Länder) has to agree.
- The state parliaments have to adopt additional regulations, esp. concerning waste, water and nature protection.
- The enforcement (permitting, supervision) of national environmental law is the task of the Länder.

Ministerium für Landwirtschaft, Umwelt und ländliche Räume des Landes Schleswig-Holstein

- **Licensing procedure with public participation within 7 months**
- **Competent authority advises the operator**
- **Guidance for applicant/applications**
- **EIA part of licensing procedure**



## Implementation of the minimum criteria for environmental inspections in Schleswig-Holstein

- Introduction by administrative regulation
- Definition of regular inspection: compliance check, site visit
- Twice a year regular meetings of all inspectors



## Follow-up measures

Competent authorities concerning offences and criminal acts:

Criminal acts: public prosecutor

Offences: licensing and inspection authority  
measures: subsequent orders for determination  
i.a. of detailed requirements or closing  
down installations  
fixing fines  
change of licensing



## Frequencies of regular inspections differ according a risk based approach: 3 categories

- Seveso-installations: yearly
- IPPC-installations: 2 years
- other installations: 3 – 5 years

## Legislation and Strategies of Enforcement in Latvia

Zinta Lace  
State Environmental Service of Latvia

IMPEL project: Strategies of Enforcement  
27th of January 2011, Copenhagen



## General information about Latvia



- Area - 64 000 sq. km;
- ~2.3 million inhabitants
- 40 inhabitants per km<sup>2</sup>
- 43% of the territory are covered with forest;
- 12% of the territory are protected nature territories
- length of Baltic Sea coastline - 500 km



### Main industries:

- timber production, textile production, electronics
- metal production and manufacture, chemical industry
- food production

State Environmental Service of Latvia, Rupniecības Str. 23, Rīga, LV - 1045, Latvia  
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## The legal and administrative background

### • Law on Pollution

#### Category A activities

IPPC installations (94 installations)

#### Category B activities

Installations (~2500 installations) under threshold of IPPC installation which have to apply Cleaner production principles

#### Category C activities

Other industries (~8000 installations) for which permits will not be required but which will have the obligation to monitor and report SES on activities and processes

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## The legal and administrative background

### • Law on Environmental Protection

determines the bases for state control of environmental protection and utilization of natural resources

### • Law on Pollution

The purpose of law is to prevent or reduce harm to human health and environment due to pollutions. Law determines:

- requirements for operators,
- environmental quality,
- classification of polluting activities,
- procedure on permit issuing, review and revocation

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phone +371 67084200, fax +371 67084212, e-mail vvd@vvd.gov.lv



## The legal and administrative background

### • Law on the Environmental Impact Assessment

### • Natural Resources Tax Law

The purpose of NRT is to promote economically efficient use of natural resources, restrict pollution of the environment, reduce manufacturing and sale of environment polluting substances, promote implementation of new environment-friendly technology, as well as to ensure environmental measures financially

- Liability of violations of the Law
- Instruments for promoting activity: exemption from tax

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## The legal and administrative background

- **Latvian Administrative Violations Code**

Contains system of sanctions with environmental penalty charges and a list of offences

The maximum penalty that can be imposed by state inspector is 2000LVL (~2800 EU);

30 administrative offences in sphere of environment

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## Enforcement activities/tools

- Inspection and follow-up actions by State inspectors
- Constructive dialogue with companies
- Training and high degree of knowledge
- Co-operation with other organizations
- Sanctions – civil, administrative, criminal liability
- Steps in the enforcement procedure:
  - warning: verbal/written
  - order

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## Involved authorities

- **Ministry of Environmental Protection and Regional Development** (MEPRD)- responsible for environmental policy, for preparing environmental laws and regulations
- **State Environmental Service** (SES) - (Central structure and 8 Regional Environmental Boards) responsible for permitting, inspection and enforcement at the state level
- **Environment State Bureau**- appeals on permit conditions, environmental impact assessment, BAT responsibilities under IPPC
- Other- Health Inspectorate, State Labor Inspectorate
- **Municipalities** – at the local level have responsibilities for environmental regulation mainly in the field of planning, building, waste management

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## Enforcement activities/tools

- Inspection Manual for Environmental State Inspectors
- Inspection plans, reports, checklists for inspection
- Permitting and control advisory council (organized by State Environmental Service)
- Application of BAT principle, use of BREFs
- Mitigation measures:
  - water, energy economy,
  - noise, waste reduction/prevention
  - etc

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## Current difficulties in Enforcement

- Lack of knowledge of enforcement strategies on the enforcement of IPPCD requirements
- Lack of human and financial resources
- Not all involved organizations are well known with the rules and regulations
- Guidance document for best practices

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## Thank You for Your attention!

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## Future developments

- Strengthening of inspection and development of new approaches
- Develop enforcement strategy and approaches in order to achieve compliance with laws and regulations

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**ROMANIAN ENVIRONMENTAL LEGISLATION  
ENFORCEMENT STRATEGY**

**- IPPC INSTALATIONS -**

Cristina Miclaus  
MEF – NEG – Neamt County Commissariat

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**Enforcement of Environmental Legislation – 2 components:**

1. Permitting – “border” activity, between “implementation” and “enforcement” concepts (Environmental Protection Agencies - in charge for issuing environmental permits)
2. Inspection – main activity aiming the enforcement of the environmental legislation; (specialized inspection authority - National Environmental Guard)

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- Particular case: IPPC installations under “transition period” → Action Plan = Set of actions to be taken (well-defined dead-lines, estimated costs), in order to comply with legal demands
- Action Plan – subject of negotiation, in the frame-time of the specific transition period
- Once established, the Action Plan becomes part of EIP; it’s accomplishment → compulsory !
- The Action Plan accomplishment status = subject of periodical inspection.

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**PERMITTING**

- IPPC Permit = Environmental Integrated Permit (EIP)
- Permitting Authorities = National Environmental Protection Agency (NEPA) or Regional EPA-s
- EIP main chapters - brief content: IPPC operator/owner identification; Legal base; Category of activity; Application documents; Management of the activity; Raw materials and auxiliaries (incl. hazardous chemicals); Resources (water, energy, fuel etc); Installation and technological flow (brief description); Equipments for (air, water, soil) pollutants retention/ treatment, discharge, dispersion; “Emissions” (incl. noise) and allowable limits; Waste management; Emergency, safety management; Monitoring; Reports; Records and other documents; Obligations of the installation’ operator / owner; Closing down management; **Action Plan**\*.

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**INSPECTION**

NEG = main Environmental Inspection Authority in Romania (Gov.Dec.no.112/2009)

NEG structure:

```

    General Commissariat
      ↓
    8 Regional Commissariats
      ↓
    43 County Commissariats
  
```

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**NEG - activity profile – 2 main inspection components:**

- Biodiversity
- Industrial Pollution Control (incl. IPPC, Seveso, VOC etc install.)

**NEG – IPPC Enforcement – Legal Framework:**

- General:
  - Gov.Dec.112/2009 – NEG organization and function (completed by Min. Order – Inspection Technical Norms - transposing RMCEI)
  - Law 180 /2002 -Juridical Regime of Contraventions
- Specific:
  - Law 265/2006 (Gov.Ord.195/2005) – Environmental Protection Law
  - Law 84/2006 (Gov.Ord.152/2005) - Integrated Pollution Prevention and Control
- In connection:
  - L.655/2001 – Air Protection; L.107/1996 – Waters' Law; L. 426/2001 - Regime of Waste; etc. (all updated)

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**Enforcement concept – based on:**

- Administrative tools = compliance measures, established as the result of:
  - Permitting procedure → EIP with Action Plan
  - Inspection → findings in the Insp. Report /Note of Findings→remediation measures defined = compulsory !
- Judiciary tools:
  - Contraventions (civil sanctions)
  - Criminal (penal) sanctions

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**-Types of Inspections:**

- Planned (for IPPC install. – min 1/ year)
- Unplanned: (e.g. in case of accidental pollution, for the investigation of people's complaints etc)

**-Inspection' main "outcome":**

- Inspection Report (planned insp./detailed doc./ template)
- Note of Findings (unplanned insp./brief doc./focused on specific investigated problem)
- Report for Establishing and Sanctioning of Contraventions (specific doc./template/ the identified non-compliance vs. specific legal demands are described and the fine to be paid is established accordingly / the payment and/ or the appeal conditions are specified)

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**Judiciary tools**

**Contraventions** (Law 180/2002, updated): **directly** enforceable by NEG

- Principal
  - Warning
  - Fine
  - Work for community (can be applied only after a juridical decision)
- Complementary
  - Confiscation of goods which are subject of contravention
  - Permit suspension/ cancellation
  - Activity suspension/ stop
  - Company' closing
  - Blocking of bank account etc

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**Judiciary tools – Contraventions**

- NEG – as a specialized inspection body in the MEF – authorized to establish (to find out) and to sanction directly the contraventions in the field of environmental protection, based on the general and specific legal provisions (see slide no.6).
- NEG' commissioners – competence limits:
  - General Commissariat – all Romania
  - Regional Commissariats – Regional level
  - County Commissariats – County level

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**Criminal (penal) sanctions – NEG involvement**

- NEG findings: Environmental crime → Criminal Notification File forwarded to the Police
- Based on it → Police's own investigation (if case, additional information required from NEG)
- Police file completed → Prosecutor's office/ Criminal investigation started/ 3 possible diagnosis:
  - a) Environmental crime → Penal Procedure Start → Law court → Trial etc (NEG' commissioners can be subpoenaed as witness).
  - b) Environmental offense (contravention) → Penal Procedure doesn't Start → Case' File sent back to NEG, for contravention procedure (see slides no.7, 9, 10)
  - c) No violation of the environmental legislation → Case closed

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**Judiciary tools**

**Criminal (penal) sanctions:**

- Enforceable in case of severe violation of the law (environmental crimes), but *not directly by NEG*
- The environmental crime categories and the specific punishments (years of imprisonment/ penalty amount) are explicitly described in L. 265 / 2006 – Environmental Protection Law. Their enforceability includes IPPC installations also.
- Subject of Criminal Legislation/ Criminal Procedure
- Authorities involved:
  - Police
  - Prosecutor's office
  - Law court (Tribunal)

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**Coming back to IPPC installations:**

- In Romania – 699 IPPC installations, from which:
- 195 install. obtained “transition period” between 2008 -2015 (until now, about 10% of it closed down or changed the production profile, due to different economical reasons)
- 130 IPPC install. – still under transition
- The categories of activity covered – almost all in the Annex I of IPPC Directive (except 5.2 and 6.8)

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**Enforcement - Main “Challenges”**

- High technical/ technological complexity of some installations
- Mixture between new and old technologies/ equipments (more difficult to “forecast” an environmental risk)
- Monitoring difficulties (e.g. air emissions on-line)
- Continuous need to up-date and correlate technical/ environmental/ legal information
- Brown-sites reconversion/ rehabilitation and historical pollution problems

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**Enforcement Strategy – Main Components**

- Permanent up-date of the environmental legislation in-force (on-line connection to specialized site, in each county commissariat)
- Close cooperation with Env. Permitting Authority:
  - Continuous exchange of data and information
  - NEG’ commissioners – involved in permitting procedures
  - Permitting Authority – involved in inspection activity (“IPPC Compliance Inspection”/ once per year/ complex inspection team)
- Use of monitoring data as input for companies’ evaluation, in order to set-up the Annual Inspections Plan (permanent cooperation with the main “providers” of monitoring data: EPA-s and Water Management System’s Laboratories)

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**Enforcement Strategy – Main Components**

- Coherent and comprehensive environmental legislation, completed by guidelines and technical norms (ongoing, new inspection guidelines, “Directive-oriented”: IPPC, VOC, LCP etc)
- Specialized Environmental Inspection Authority – National Environmental Guard
- Periodical training of NEG’ commissioners (ongoing, internal certification system of commissioners, for performing certain types of inspection / a better specialisation of commissioners)
- Continuous exchange of information between NEG’ commissioners (e.g. forum on NEG site)

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**Enforcement Strategy – Main Components**

- Use of environmental indicators as an important tool for the evaluation of the companies’ evolution (based on the EPA-s Annual Environmental Reports)
- Open and pro-active relationship with the companies (incl. IPPC ones):
  - When new legislation become in force, the first inspections are prioritarily focused on “compliance promotion”, not on “tough enforcement”
  - Environmental Management Systems implemented by the companies (e.g. ISO 14001) are considered as an efficient instrument, especially for rising the environmental awareness of the employees.

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### Inspectorate of the RS for the Environment and Spatial planning

- Environment and nature protection, ecological controls on the border
- Water regime and water management
- Building facilities and building structures
- Meet the significant requirements for facilities
- Housing requirements

INSPEKTORAT RS ZA OKOLJE IN PROSTOR

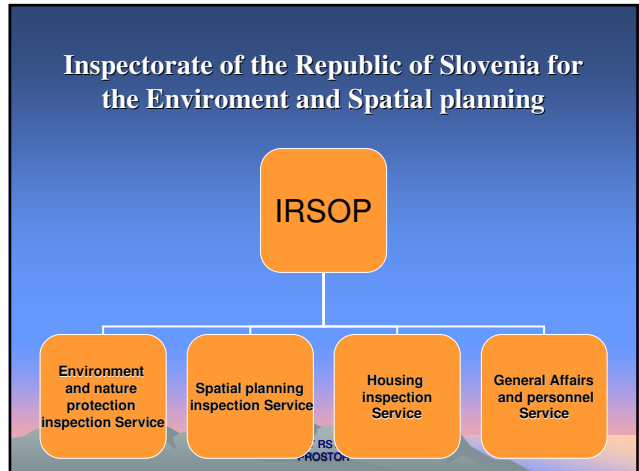
### Environment and nature protection Service in Slovenia – enforcement strategie



Strategies of Enforcement, Copenhagen – January 2011

INSPEKTORAT RS ZA OKOLJE IN PROSTOR

25.06.2009

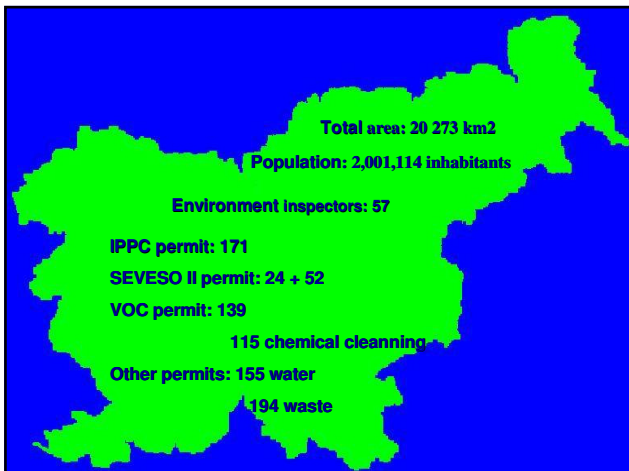




### Environment and Nature protection inspection Service(EIS)

- Competent authority to carry out inspection and enforcement based on following legislation:
  - Environmental Protection Act;
  - Nature protection Act;
  - Water protection Act;
  - Genetic modified organisms Act;

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR



### Environment and Nature protection inspection Service(EIS)

- According to the Law on offense IRSESP in 2005 became an offence authority. EI inspectors provide offence procedure and impose fines.

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## Environment and Nature protection inspection Service(EIS)

- Annual working plan (IMPEL Guidance book on inspection planning DTRT).
- Setting priorities
- Related to the working plan we prepare certain specific actions, taking place throughout the Slovenia at the same time.

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PROSTOR

## Environment and Nature protection inspection Service(EIS)

### Inspection strategies

- Permanent education of inspectors;
- Working groups;
- Tools (list of legislation, court practice, instructions, legal opinions issued by Ministry)
- Integrity of inspectors;
- Control monitoring;
- Regulatory cycle.

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## Environment and Nature protection inspection Service(EIS)

### Defining objectives and strategies

- Consideration of RMCEI;
- Consideration of the Guidance book "Doing the right things";
- Consideration with National Environmental Action Programme;
- Confirmation of annual working plan from chief inspector and minister;
- Inform all inspectors with annual working plan;
- Preparing multi annual working plan in near future.

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## Environment and Nature protection inspection Service(EIS)

### Communication strategies

- Communication with stakeholders;
- Communication with public;
- IRSOP Web-site.

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## Measures

- Warning note - in the case of minor irregularities;
- Administrative decision:

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## Enforcement

If ordered malfunctions are not remedied competent inspector:

- a) may prohibit temporarily or permanently:
  - operation of the facility or plant,*
  - performance of the activity,*
  - use of dangerous substance*
  - implementation of technological procedure*
  - use of facility/plant,*
  - transport means or products or its release on the market.*

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## Measures – administrative decision

- To order that irregularities are remedied;
- To order implementation of measures for remedying the sources of excessive environment;
- To impose restriction of the installation's operations to the prescribed limit values;
- To order implementation of control monitoring;
- To propose the withdrawal of an environmental permit;
- To ban the operation on the installation
- To order that illegal disposed waste are removed.

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## Enforcement

If ordered malfunctions are not remedied competent inspector:

- a) may prohibit temporarily or permanently:
  - operation of the facility or plant,*
  - performance of the activity,*
  - use of dangerous substance*
  - implementation of technological procedure*
  - use of facility/plant,*
  - transport means or products or its release on the market.*

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## Enforcement

- b) enforcement:  
with compulsory payment or by other  
authorised person.

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## Offences Procedures

### Inspector

- Warning
- Reminder
- Order to pay
- Written decision
- Proposal to Court of Justice
- Confiscation

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## Infringement

Harmonization

Offences Procedures  
or  
Criminal Procedures

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## Criminal Procedures

Inspector → Police

Inspector → Prosecutor


Prosecutor → Court of Justice

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## Fines

- Companies
  - Max 125.000 EUR
- Responsible Operator
  - Max 4.100 EUR
  - Environmental Damage . . . X3
- Citizens
  - Max 1.200 EUR

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Ministerium für Landwirtschaft,  
Umwelt und ländliche Räume  
des Landes Schleswig-Holstein 

- **Licensing procedure with public participation within 7 months**
- **Competent authority advises the operator**
- **Guidance for applicant/applications**
- **EIA part of licensing procedure**

Ministerium für Landwirtschaft,  
Umwelt und ländliche Räume  
des Landes Schleswig-Holstein 

### Enforcement strategies in Schleswig-Holstein

- **Competent authority on state level (central with four regional departments); set of competences on air, waste, soil, water and nature protection.**
- **Licensing procedure and inspection in one hand**
- **integrated approach according licensing (covers more installations than Annex I of IPPC-Directive)**

Ministerium für Landwirtschaft,  
Umwelt und ländliche Räume  
des Landes Schleswig-Holstein 

### Implementation of the minimum criteria for environmental inspections in Schleswig-Holstein

- **Introduction by administrative regulation**
- **Definition of regular inspection: compliance check, site visit**
- **Twice a year regular meetings of all inspectors**



### Frequencies of regular inspections differ according a risk based approach: 3 categories

- Seveso-installations: yearly
- IPPC-installations: 2 years
- other installations: 3 – 5 years



### Examples concerning challenges on enforcement

- I. Transboundary shipment of hazardous waste to a high temperature waste incinerator in Schleswig-Holstein
  - Notification to import hazardous waste from a foreign (non EU) country to a waste incinerator in SH. The permit of this plant covers the allowance to treat this specific kind of waste. The notification authority is not the competent authority for enforcement. The notification allows the import of max. 6.000 tons within one year.



### Follow-up measures

Competent authorities concerning offences and criminal acts:

Criminal acts: public prosecutor

Offences: licensing and inspection authority  
measures: warning letters with requirements,  
subsequent orders for determination  
of detailed requirements or closing  
down installations  
fixing fines  
i.a. review of license



- During a period of one month more than hundred lorries reach the site. The operator has no permit to store such a huge quantity of waste close to the incinerator. For safety reasons a subsequent permit is not feasible. After two weeks parts of the stored waste start burning (spontaneous ignition). At that time the enforcement authority was informed firstly by the operator.
- Reactions of the enforcement authority:
  - > site visit on the same day
  - > subsequent order with specific requirements concerning:
    - specific safety check by an expert to decide which is the less harmful alternative: store the waste under specific conditions or bring them to a different place which is licensed for storage
    - stop of any further transports
    - frequent measurements of sulphur and heavy metals
    - check of homogeneity of the waste material (no bottles or containers with peroxide substances ...)



- submission of a plan how to incinerate the huge stockpile of waste in an environmentally friendly way developed by an independent expert who is paid by the operator
  - continuous reporting on the development of the decrease of the stockpile by the operator
  - analysis of the source of the fire and consequences thereof
- Further steps of the authority
- report to the public prosecutor
  - information to the public, the massmedia and the parliament



- After a couple of months and additional orders nothing happened, but the stockpile still increased. The competent authority took the measurement of the „Ersatzvornahme“ (substitute performance). It engaged a private company to bring a big number of tyres to a cement installation, and to realise on-site the necessary safety measurements. But the operator couldn't pay the bill, because he went bankrupt.
- Many competent authorities made similar experiences with stockpiles of waste. For that reason the national law was changed: every operator who applies for a permit for a waste treatment plant has to pay in advance a specific amount of money to reduce the risks connected with his possible bankruptcy in the future. It should be a bank-deposit (security deposit).



## II. Storage place for used tyres

- The operator accepted used tyres, stored them, and sold them to the industry (i.e. cement installation). Due to market conditions he did not find enough customers. His stockpile increased enormously. Now he needed a permit, and for safety reasons he had to establish fire-proof lanes.
- Reaction of the competent authority:
  - Request for permit application
  - Subsequent orders to stop the acceptance of new tyres, and request to establish fire-proof lanes

## Enforcement

### Examples of Enforcement

#### Denmark



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OF THE ENVIRONMENT

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1. Enforcement with notification of police  
2. Enforcement - partially



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OF THE ENVIRONMENT

### 1. Enforcement – police notification

History

- 2008 Previous police notification rejected because of long procedure
- 2008 Measurements shows tree times exceeding of odour limits
- 2009 Inspection at the foundry
- 2009 Review of Env.Approval – same odour limits
- 2009 Warning, injunction and order of action plan
- 2010 Lack of compliance with deadline for action plan
- 2010 New deadline due to minor errors in the processing
- 2010 Lack of compliance with deadline
- 2010 Warning about police notification
- No reaction from the company
- 2011 Notification of police

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OF THE ENVIRONMENT

### 1. Enforcement – police notification

Installation: Foundry

Background: Violation of condition regarding odour  
Lack of compliance with order to prepare an action plan

Actions: Dialogue  
Warning  
Order  
Injunction  
Notification of police

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OF THE ENVIRONMENT

### Challenges

- Lack of resources – lack of reaction on offence
- Dialogue as far as possible – long procedure
- Resistance to police notification
- Negative environmental approach from company
- Size of potential fine probably low

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## 2. Enforcement - partially

Installation: Waste Incineration plants

Background: Many violations of emission limits in the WID


Actions: Joint simultaneous enforcement action  
 20 plants violating the WID received  
 1/more notice of violations in 2010

DANISH MINISTRY  
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## 2. Enforcement - partially

- Recommendations sharpened
- Notification of violence/injunction
- Order
- Operation stop
- Self-help action
- Loss of Environmental Responsibility
- Notification of police
- Monetary penalties (min. 650 €)




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## 2. Enforcement - partially

- Despite of the first notice of violation 5 plants continued to infringe the emission limits
- Causes varies from lack of attention from employees, poor reception control of waste to breakdown of equipment



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OF THE ENVIRONMENT

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## 2. Enforcement - partially

The reality is:

- Reflections on police notification on 1 plant
- Dialogue with 1 plant to stop operation/order
- Follow-up on actions plans on 3 plants

DANISH MINISTRY OF THE ENVIRONMENT

### Challenges

- Guidance regarding enforcement is not followed
- Mainly use of administrative enforcement actions
- Diverting enforcement actions among authorities
- Requirements not always enforceable
- Lack of enforcement for some years (weak criminal procedure)
- Lack of resources for criminal procedures


DANISH MINISTRY OF THE ENVIRONMENT

## Enforcement


### Examples of Enforcement

#### Denmark

#### Nr 2



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### Thanks

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### Enforcement with dialogue

1. Landfill



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### Enforcement with dialogue

Background: Pollution of surface water



DANISH MINISTRY OF THE ENVIRONMENT

### Enforcement with dialogue

Problem: Measurements shows exceedances of limit value for surface water

Consequences: Contamination of recipients

The company was not aware of exceedances

The authorities were trying to make it clear, what the environmental consequences were to their surroundings by the elevated emissions

DANISH MINISTRY OF THE ENVIRONMENT

### Enforcement with dialogue

Location: Near lakes and the sea



DANISH MINISTRY OF THE ENVIRONMENT

### Enforcement with dialogue

Process flows

- Ordering the investigation into the cause of polluted surface water
- The company wanted to find the cause and was active in dialogue with authorities
- The company found the cause of pollution and solved the problem in dialogue with authorities
- The result was an even smaller discharges to surface water than the permit indicates



## Challenges

- Dialogue is the common tool - when to stop
- Is the company cooperative and active participant what if the company suddenly turns around
- Dialogue as far as possible – long procedure
- Will the court find overruns important if there has previously been a long dialogue
- Positive environmental approach from company – for now
- Size of potential fine probably low
- Guidance regarding enforcement is not followed
- Mainly use of administrative enforcement actions
- Better environment for money?

## Examples of Enforcement

**Zinta Lāce**  
**State Environmental Service of Latvia**

**IMPEL project: Strategies of Enforcement**  
**3rd of March 2011, Copenhagen**

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**Thanks**

## Enforcement. Benefits. Challenges

### Examples:

1. **Dust emission prevention in the dry process cement plant**
2. **Odor minimizing in animal by-products processing plant**

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## Dust emission prevention in the dry process cement plant

- Installation is classified under the polluting activity category A (IPPC installation) according to the Law „On pollution” - installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tones per day or installations for production of lime in rotary kilns with a production capacity exceeding 50 tones per day

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## History Description of the new plant

- By considering the fact that existing plant requires considerable investments, have been analyzed several scenarios - from simple renovation of the existing plant to construction of a new, more productive plant somewhere else
- Therefore a completely new, planned type of activities were applied, a new environment impact assessment procedure started with a new application, decision and initial public participating and Environmental impact assessment program was adopted for construction a new cement plant

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## History Description of the new plant

- Cement plant started the operation in 2006
- There were many complaints about air pollution in the vicinity of enterprise. The land and trees were covered with white dust
- The emission limit values specified in a permit have been exceeded
- The equipment of cement plant was outdated and did not comply with the current technological requirements
- The decision to reconstruct the existing plant was taken by replacing the wet technology line for clinker production with a dry technology line and by also increasing the production capacity

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## Description of the new plant

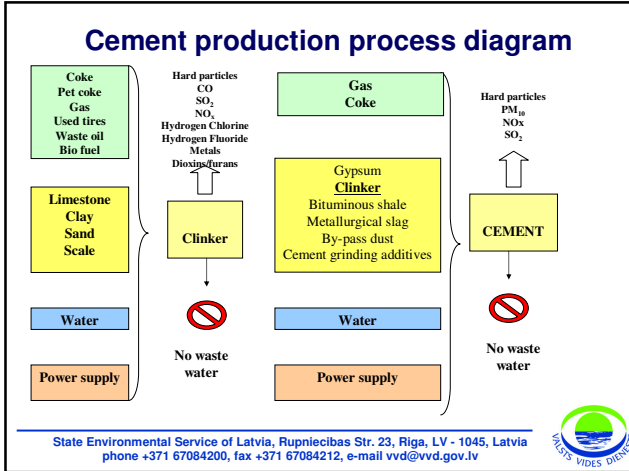
- The permit for new polluting activity has been issued in 2009.

Production amount:

- 1 149 750 tons clinker a year
- 1 186 000 tons cement a year
- The environmental priorities of the company - reduction of emissions, increase of fuel efficiency, power supply and natural resources.

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### Achieved environmental benefits

#### Material consumption - usage of alternative fuel

(suitable waste products - used tires, metallurgical slag, by-past dust, waste oils, ecological fuel- RDF)

- The consumption of natural resources will be reduced (limestone, clay, sand). Fuel saving calculated for coal will be approximately 59000 tons a year. The eventual emission (CO, NO<sub>x</sub>, SO<sub>2</sub>, dust) will also be reduced.

#### Dust emission reduction technologies

- Fabric filters are installed (for material transportation and storage units, clay dryer, cement and coal mills)
- Total dust emission from main emission sources (basic chimney and by-pass chimney) will not exceed 30mg/m<sup>3</sup> per day, PM<sub>10</sub> 10mg/m<sup>3</sup>.

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### Achieved environmental benefits

#### Selection of the production process – dry process:

- Heat balance value 3000MJ t clinker (compared to the wet production process – 7000MJ t clinker). The hot gases of the production process will be used in other process, e.g. drying of raw materials and coal

#### Material consumption -return of dust in the process

- All dust emission will be equipped with separate fabric dusting devices and the amount of dust collected will be returned to the production process for repeated usage.

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### Achieved environmental benefits

#### Periodic dust emissions:

- Raw material sites are closed in the entire process and transportation of materials are automatic for limestone, clay storage and raw materials silo
- A closed clinker storage unit with the capacity 100 000 tons is constructed
- No periodic dust emissions will be possible

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## Enforcement steps

- Orders for violation permit conditions
- Imposed administrative fines
- Order for operation stop (old facility)
- Change of permit (for new installation)
- Stricter requirements for reduction dust emission
- Determine permit conditions to ensure that control is maintained and correspond to BAT

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Example II of Enforcement

## Odor minimizing in animal by-products processing plant

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## Enforcement/ Achievements

- Implemented the best available techniques in cement production process
- Achieved compliance with the requirements of legislation and permit conditions
- Constructive dialogue with company, public consultation
- The high environmental culture level of company

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- Installation is classified under polluting activity category A (Annex 1, "Law on Pollution" – installations for disposal or processing of animal carcasses and waste of animal origin the capacity of which exceeds 10 tonnes per day
- Specified requirements for handling – storage, transport and processing of animal by-products in accordance with the requirements of Regulation (EC) No1774/2002 concerning animal by-products not intended for human consumption
- Methods for determination odor concentrations in accordance with the Cabinet of Minister Regulations No626 (27.07.2004) "Regulation on the methods for determination of odor, as well order of limitation of odors from polluting activities"

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## Situation description

- Animal by-products processing plant (rendering plant) has received IPPC permit in 2008. In Latvia there is only one animal by-products plant. Its production capacity is sufficient (38 tones per day) to process all collected raw materials. The plant is located in rural area, at a distance of one kilometer from small city, near the motor road. The locality of the plant is in conformity with the local land use planning
- Since the beginning the polluting activity there has been significant complaints to the company and to the authorities. Local residents and people from organizations and school complained for annoying smell in the vicinity
- Measurements have shown that odor emission limit values specified in a permit were exceeded considerably (using olfactometry and dispersion modelling techniques)
- Competent authority has imposed administrative sanctions of the violation the requirements of regulations and permit conditions

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## Enforcement measures for odor abatement

### Odor abatement measures taken till now

- installed a leak-proof containers for collection condensate of rendering process; apply overfilling protection on all storage tanks;
- regular maintenance of filters (wet scrubber with sodium hydroxide is installed with automatic feeder);
- insurance with activated carbon filters in ventilation room;
- appointed prolonged working hours before weekends and holidays to treat all delivered raw material to avoid odor emissions

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## Enforcement measures for odor abatement

### Respond to the non-compliance situation

1) Violation of permit conditions - exceeded odor target values (8ou/m3); 2) large amount of significant complaints

- Elaboration the **Odor action program** (Odor management plan) The operator should:
  - identify each odor problem, all sources of odors;
  - select the appropriate corrective actions;
  - discuss and submit this with authority;
- Authority indicate: immediate action; "grace" period for restoration; reactive control measures, deadline

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## Enforcement measures for odor abatement

### Best practice to notice

- fresh materials have to be treated quickly after slaughter and before decomposition;
- closure the doors and collections tanks;
- clean and disinfect delivery vehicles and equipment after each delivery/use;
- separate process and non-process wastewaters;
- good control practice for all emission sources;
- staff training and awareness of odor issues

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## Enforcement steps

Reactions on enforcement authority:

- site visit; subsequent orders with specific requirements:  
(requirements for raw materials transportation time – 72 hours in winter period; 48 hours in summer; installation wet scrubber with sodium hydroxide with automatic feeder, etc);
- imposed administrative sanctions of the violation the requirements of regulations and permit conditions;
- competent authority decision for elaboration Odor action program
- immediate action; "grace" period for restoration; reactive control measures, deadline
- Operator's notification for orders execution
- Revisit improvement program, further control actions

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## Summary/Problems

- Necessary to improve methodologies for odor impact assessment procedure to predict the odor impact on a surrounding community
- Detect the "odor complaint threshold"
- Relationship between "the reasonable cause for annoyance" and "the no reasonable cause for annoyance"
- Improve constructive communication with all interested parties

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## Summary/Problems

- At present odor problems in the vicinity of the plant are minimized
- Odor emission concentrations (limit values) of point sources are not exceeded, but achieved compliance is difficult to maintain
- For facilities with an existing odor management plan, but not operating in compliance with the plan, or otherwise in violation of permit conditions, competent authority may forward the stronger enforcement sanctions – limitation of working hours, limitation the production capacity, suspension of installation operation
- The authority will consider several factors, including, but not limited to - the scope, frequency and duration of the odors, the impact on people and environment

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## Thank You for Your attention!

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**EXAMPLES OF ENFORCEMENT  
ROMANIA**

**- IPPC INSTALATIONS -**

Cristina Miclaus  
MEF – NEG – Neamt County Commissariat

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**Ex.1 – Enforcement: EIP with Action Plan**

- Non-compliance identified during the permitting procedure: HNO<sub>3</sub> installation doesn't completely follow BAT specific requirements; the result: exceeding of NOx LVE (Limit Value for Emission) established according to RO specific BREF and to Min.Ord. no. 462/ 1993 – Technical Conditions for Air Protection.
- Emission LV = 500 mg NOx / c.m air
- Emission Actual Value = over 2000 mg NOx /c.m air
- Emission source = HNO<sub>3</sub> inst.- dispersion stack;  
H =105 m, D=1,4 m, Q=81.000 c.m/hr gases with NOx

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**Example no.1 – Enforcement using Permitting Procedure: Environmental Integrated Permit (EIP) with Action Plan**

Subject: Company “ALPHA”– application file for EIP

Categ.of activity (IPPC Dir.-Annex I): **4.2.(b)** – “Chemical installations for production of basic inorganic chemicals, such as .... **nitric acid**”

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**Ex.1 – Enforcement: EIP with Action Plan**

Dead-line to achieve compliance: 31.12.2014

Enforcement method:

- Action Plan proposed by the company “Alpha” and evaluated by the Technical Committee established in the context of permitting procedure conducted by Regional EPA (NEG' commissioners are part of the Technical Committee).
- Action Plan approved and included in the EIP no. 15/ 06.08.2006,1-st Rev.- 21.03.2008 (see [www.arpmbc.ro](http://www.arpmbc.ro))

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**Ex.1 – Enforcement: EIP with Action Plan**

- Max.Allowable Conc.(MAC) for NOx emission = 2150 mg/c.m air, daily average,until the Action Plan is accomplished.
- Emission LV = 500 mg NOx /c.m air, after the accomplishment of AP.
- Monitoring and reporting requirements have been accordingly set-up in the EIP.

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**Ex.1 – Enforcement: EIP with Action Plan**

Main challanges/ difficulties:

- The Action Plan was set-up at the beginning of 2008 and the costs were underrated (at that time, the company hadn't enough information and data regarding the detailed content and cost of such a project).
- The company produces NH<sub>3</sub>, HNO<sub>3</sub>, and Nitrogen fertilisers, so its development strategy depends very much on the market conditions (fluctuations of the natural gases and Nitrogen fertilizers prices on the international market).
- Formerly, the company invested a large amount of money, for ammonia and fertilizers installations revamping and modernization.

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**Ex.1 – Enforcement: EIP with Action Plan**

Content of Action Plan: 2 actions to be taken by the company/ estimated costs/ set-up dead-lines/ actual status, as follows:

a). Project (design) regarding the system for decreasing NOx emission at the dispersion stack of HNO<sub>3</sub> installation. /30.06.2012/ 100.000 Euro – *ongoing*.

b).Implementation of the project mentioned above. /30.06.2014/ 1.600.000 Euro – *not yet started*.

Once included in EIP, the Action Plan became compulsory.

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**Ex.1 – Enforcement: EIP with Action Plan**

Main challanges/ difficulties:

- In such conditions, for NEG' Commissioners it was a challenge to make clear to the company's management, that the accomplishment of Action Plan is a "must".
- The project is quite complex; it takes long time to be set-up and implemented → it's evolution has to be checked "step by step", by the inspection authority.
- The project will be implemented in a functional but old installation (1963 !) → the mixture "modern/ ancient" is itself a challenge for any inspection authority.

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**Ex.1 – Enforcement: EIP with Action Plan**

Positive aspects:

- The NOx decreasing project started by the end of 2009.
- Following the commissioners' request, the company submits periodical reports on the project evolution, to NEG' local (county) structure.
- According to the last report (05.01.2011), the design is expected to be finalised in the first half of 2011.
- The first step of implementation is expected to start in the second half of 2011.

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**Ex.2 – Enforcement: INSPECTION**

Non-compliance identified:

- MAC for NOx emission (2150 mg/c.m in the transition period) has been exceeded, during 3 days: 2230 up to 3087 mg/c.m.

Applied enforcement tools:

a). **Contraventional** – fine of 5.000 ROL (about 1.250 Euro), according to Law 655/ 2001 regarding the air quality protection, art 47- 4.

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**Ex.2 – Enforcement: INSPECTION**

Subject: Company “ALPHA” – the same as in Ex. no.1.

Categ.of activity (IPPC Dir.-Annex I): **4.2.(b)** – “Chemical installations for the production of basic inorganic chemicals, such as .... **nitric acid**”

Installation inspected: HNO<sub>3</sub> plant

- Final product: HNO<sub>3</sub> 47- 49 %
- Technological principle: NH<sub>3</sub> catalitical oxidation; NOx absorbtion in water/ aqueous solution

Type of inspection: unplanned (complaint)

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**Ex.2 – Enforcement: INSPECTION**

Applied enforcement tools:

b). **Administrative** – 2 remediation measures defined in the Note of Findings issued as the result of inspection, regarding:

b1) Operation of the installation according to EIP provisions, in order to comply with the emission limits for NOx.

b2) Improvement of the self-monitoring and reporting procedures of the company, in accordance with any specific operational situation.

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**Ex.2 – Enforcement: INSPECTION**

Results:

- Fine paid by the company, without appeal.
- The reporting procedure improved (The specific requirements in the EIP haven't been clearly formulated → subject of future adjustments, at the next EIP revision).
- No more exceeding of NOx MAC, according to the company monitoring data.

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**Ex.2 – Enforcement: INSPECTION**

Main challenges/ difficulties

1. Reporting problems

- Due to the unclearly formulated requirement in the EIP, the company didn't realize the obligation to report *immediately* at NEG, *each single exceeding of any limit value* set-up in EIP (problem solved, through the measure enforced in the Note of Findings – see slide no.12).

Note: A complementary/ additional sanction (installation stop, until the non-compliance is solved) wasn't applied together with the fine, because the company voluntarily took this measure, when the exceeding of NOx emission limit was identified as "serious".

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**Ex.2 – Enforcement: INSPECTION**

Main challenges/ difficulties

1. Monitoring problems:

- For the air quality – the EPA network/ programme doesn't cover properly the specific needs in the impact area of HNO<sub>3</sub> installation (H<sub>max</sub> =105 m; special dispersion conditions over the 4 seasons of the year; particularly – thermal inversions, long periods of air dead-calm, high humidity values)
- For NOx emission – on-line monitoring is not yet implemented in the company (subject of future enforcement measure, in the framework of EIP revision, when Action Plan is going to be accomplished) → the evaluation of NEG' commissioners has to be based on the registered results of classical analytical procedures and on the mass balance data in the installation.

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**Ex.3 – Enforcement: INSPECTION** (related to a former IPPC site and waste disposal problem)

Subject: Company "BETA" – main contractor for dismantling and demolition activities on a former IPPC site/ activities 4.1.-b, d; 4.2.-b (caprolactum, adipinic acid, sulphuric acid etc) / belonging to "GAMMA" company.

Both companies have appropriate environmental permitting documents

Locations inspected:

- River bank – village area
- Industrial area, where demolition activities and handling of generated waste (separate collection/package/labeling if case/loading/transportation) take place.

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**Ex.3 – Enforcement: INSPECTION**

Type of inspection: unplanned (complaint from the village' mayor)

Non-compliance identified:

- Inappropriate disposal of non-contaminated demolition waste (2 trucks/ the river bank, village area)

Applied enforcement tools:

a). **Contraventional** – fine of 20.000 ROL, (about 5.000 Euro), according to Gov.Ord. 78/2000 (L.426 /2001 - Regime of Waste), updated, art. 51.1- a. Complementary – stop of all demolition waste transports, until the non-compliance is eliminated.

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**Ex.3 – Enforcement: INSPECTION**

Results:

- Fine paid by the company, without appeal.
- Waste removal and transportation to the authorized place - done by the company.
- Internal investigation conducted by the executive manager of company "BETA", in order to find-out the causes of non-compliance.
- Waste management, recording and reporting procedures improved at the company "BETA" (non-compliance was caused by deficiencies of waste management, at demolition site)
- Report submitted to NEG' county structure.

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**Ex.3 – Enforcement: INSPECTION**

Applied enforcement tools:

b). **Administrative** – 2 remediation measures defined in the Note of Findings issued as the result of inspection, regarding:

- b1) Waste removal and transportation to the authorized place - immediately.
- b2) Report to NEG' county structure, regarding the accomplishment of b1.

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**Ex.3 – Enforcement: INSPECTION**

Main challenges/ difficulties

- The former IPPC area – complex industrial site, large variety of chemical installation.
- In order to properly evaluate situations like the one above, the NEG' commissioners must know essential elements about the site history/ historical pollution, specific of production/ main pollutants/waste type etc.
- NEG' commissioners must also know the content of EIA – part of permitting file - and to correlate it with each particular situation that could arise, taking into account the legal specific context.

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THANK YOU  
FOR YOUR ATTENTION !

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### Example 1: House hold Waste treatment and disposal

Only traeted waste from the house hold are allowed to dispose on the lanfill (the rull from 2006).

Only one inceneration in Slovenia operates from 2009. Not enough capability.

No other facilities for waste treatmen, insufficient waste collection system.

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Environment and nature protection Service in Slovenia – enforcement strategie



Strategies of Enforcement, Copenhagen – March 2011

25.06.2009 INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Example 1: House hold Waste treatment and disposal

Inspection and enforcement:

- Landfills and waste collectors: state competence
- Doore to doore collection: municipality competence
- No formal cooperation

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Example 1: House hold Waste treatment and disposal

Working plan 2010:

all lanfills (34) included in inspection campaign focused on waste treatment and disposal announced and not announced site visits  
Coordinated campaign from the head office

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Example 1: House hold Waste treatment and disposal

Reactions:

- all appeals on written order were rejected
- many appeals in infringement procedure (all sent to the Court)
- very hard pressure of the Operators and mayors on the Ministry
- Ministry started legislation process (changes), defined their vision, started negotiation process with local authority

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Example 1: House hold Waste treatment and disposal

Enforcement reaction:

- ensure only treated waste are disposed within 3 months (written order)
- Fine: 10.000 Eur – operator  
1.200 Eur – responsible person

Follow –up:

- repeted financial sanctions ( 10.000 Eur) until the measure are not fulfilled

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Example 1: House hold Waste treatment and disposal

Reactions:

- Local authority strengten inspection and enforcement
- Operators started to work on teh problem
- New problems (noncompliances) arised:
  - illegal shipment ??
  - traetment of waste by not verified persons

INŠPEKTORAT RS ZA OKOLJE IN PROSTOR

### Example 2: IPPC installation section 2.6

- planned inspection once per year
- noncompliance on the field of waste water discharge, air emissions, chemical storage.

#### Reaction:

- Written decision with measures to comply
- Fine: 75.000 Eur operator  
3.500 Eur responsible person

INSPEKTORAT RS ZA OKOLJE IN  
PROSTOR

### Example 2: IPPC installation section 2.6

#### Follow up reaction:

If operators does not harmonise within decision framework:

- repeated financial sanctions ( 10.000 Eur) until the measure are not fulfilled
- proposal to the Agency to withdraw the permit
- Fine: 10.000 Eur operator  
1.000 Eur responsible person

INSPEKTORAT RS ZA OKOLJE IN  
PROSTOR