

European Union Network for
the Implementation and Enforcement
of Environmental Law

IMPEL REVIEW INITIATIVE (IRI)

**“A voluntary scheme for reporting and offering advice
to environmental authorities”**

**Report on the IRI that took place in Cluj in Romania
between 26 to 29 October 2010
at the Regional Commisariat Cluj,
part of the Romanian National Environmental Guard (NEG),
Cluj-Romania**

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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 Bruxelles, 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

IRI Regional Commissariat Cluj (RC-Cluj), part of the Romanian National Environmental Guard (NEG), Cluj-Romania

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1. Executive Summary

The IRI scheme is a voluntary scheme developed by the IMPEL Network providing for informal reviews of environmental authorities in IMPEL Member countries.

In line with the Recommendation for Minimum Criteria for Environmental Inspections (RMCEI), this informal review of the Cluj regional commissariat of the Romanian National Environmental Guard (NEG) by a broad cross section of the IMPEL network, focused upon the inspection and enforcement of the IPPC and SEVESO Directives and where relevant other EU Directives applicable to industrial processes covered by the RMCEI.

Throughout, the IRI team have identified several examples of 'good practice' and 'opportunities for development', when considering the implementation of the above Directives during the review. Specifically, the review team have highlighted the following as particularly strong examples of this:

Good practices:

- RMCEI requirements have been incorporated into national law.
- Development of national guidance for carrying out inspections.
- Close cooperation between inspection and permitting authorities.
- Use of an uniformly applied, objective tool to assess risks both in terms of environmental impact and operator performance as basis for prioritising inspection activities.
- A national database referencing all the sites being supervised.

Opportunities for development:

- Given the multitude of supervisory tasks, many of which are highly specialized, as well as the necessity to maintain many intensive working relations both internally (with regional and central commissariat) and externally the county commissariats face a major challenge in organizing inspection activities and managing their limited staff in an effective and efficient way. It seems therefore worthwhile considering further up scaling of the organization of inspections to the regional level.
- Consider developing a risk assessment tool to prioritize between statutory inspection tasks (related to the different EU directives and regulations) both on a national and on a county level.
- Consider developing a methodology on inspection (intervention) strategies that can be used for both planned and unplanned inspections; the methodology would enable inspectors to apply the right mix of different inspection activities to achieve inspection targets in the most effective and efficient way.
- There could be more focus in the performance assessment of collective output of counties or regions inspectorates rather than of individual inspectors.

The review team considers that the objectives of the area of EC environmental law within the scope of the review of NEG are being delivered in Romania. Furthermore the

arrangements for environmental inspection and enforcement are broadly in line with the RMCEI.

Overall the review team is impressed by all that have been accomplished in a very short time period (less than 20 years). The NEG has efficient internal procedures in place, makes good use of IT technologies, strongly cooperates with other institutions, can rely on a legislation that provides its inspectors with a range of inspection and enforcement tools, and is making real impact on the environment.

NEG has shown that a young inspection organisation can achieve major improvements and may serve as an example in many ways for inspection organisations with a similar size and scope of work.

2. Introduction

2.1 The IRI Scheme

The IRI scheme is a voluntary scheme providing for informal reviews of environmental authorities in IMPEL Member countries. It was set up to implement **the European Parliament and Council Recommendation (2001/331/EC) providing for minimum criteria for environmental inspections (RMCEI)**, where it states:

“Member States should assist each other administratively in operating this Recommendation. The establishment by Member States in cooperation with IMPEL of reporting and advice schemes relating to inspectorates and inspection procedures would help to promote best practice across the Community.”

2.2 Purpose of the IRI

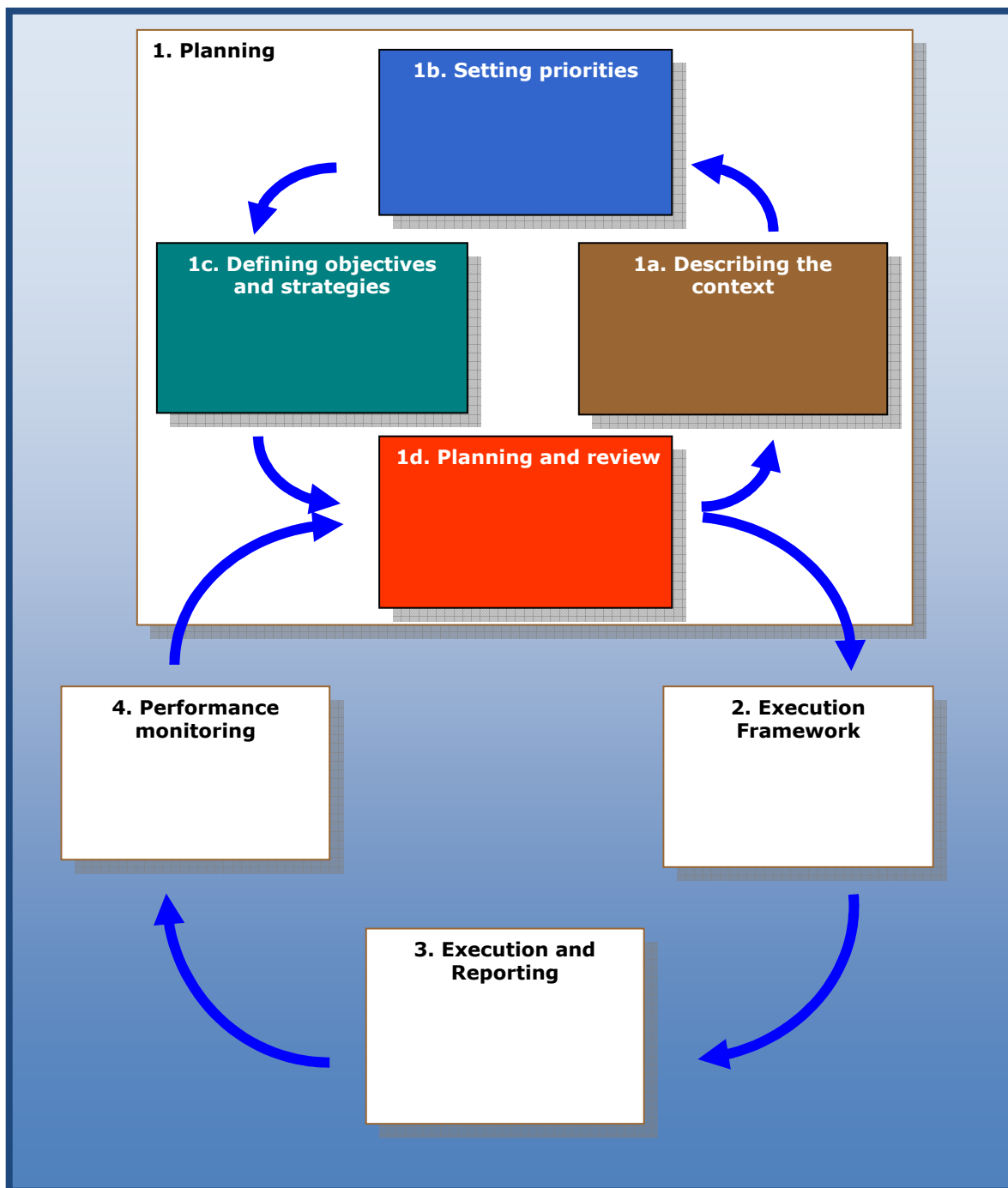
The aims of the IRI scheme are to:

- provide advice to environmental authorities seeking an external review of their structure, operation or performance by experts from other IMPEL Member Countries for the purpose of benchmarking and continuous improvement of their organisation;
- encourage capacity building in environmental authorities in IMPEL Member Countries;
- encourage the exchange of experience and collaboration between these authorities on common issues and problems;
- spread good practice leading to improved quality of the work of environmental authorities and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).

The IRI is an informal review, not an audit process. The IRI is intended to enable the environmental authority and the Review Team to explore how the authority carries out its tasks. It aims at identifying areas of good practice for dissemination together with opportunities to develop existing practice within the authority and authorities in other IMPEL Member Countries.

2.3 Scope of the IRI in Cluj-Romania

The IRI uses a questionnaire to review the environmental authority against the requirements of the RMCEI. The IMPEL “Doing the right things” Guidance Book for planning of environmental inspections (<http://impel.eu/wp-content/uploads/2010/02/2007-11-dtrt2-step-by-step-guidance-book-FINAL-REPORT.pdf>) has been used to help structure Part C of the questionnaire. The Guidance Book was developed to support Inspectorates in implementing the RMCEI and describes the different steps of the Environmental Inspection Cycle pursuant to the RMCEI.



Environmental Inspection Cycle from Doing the right things (DTRT) Guidance Book

The authority hosting the review was the Regional Commisariat Cluj (**RC-Cluj**), part of the Romanian National Environmental Guard (**NEG**), in Cluj, Romania. The areas identified as special interests for this IRI were IPPC- and Seveso inspections, and within these areas more precisely complying with the RMCEI, inspection planning, practical preparation of inspections, and training of inspectors and qualifications. Given that the RC-Cluj does not have responsibilities in permitting, only the coordination with the permitting was tackled in the review.

2.4 Structure

The review took place between 26 to 29 October 2010 in Cluj. See [Annex I](#) for the Terms of Reference for this IRI, [Annex II](#) for the programme of this IRI and [Annex III](#) for the presentation held by the IRI team leaders at the end of the IRI.

The hosting team from RC-Cluj organising the IRI was led by Mihaela Beu and Costa Stanisav. The review team consisted of 7 participants from 6 Member States.

The review team was led by Terence Shears from the Environment Agency of England and Wales, United Kingdom and Jan Teekens, of the Inspectorate of Housing, Spatial planning and the Environment of the Ministry of Infrastructure and the Environment, The Netherlands.

The review rapporteur was Benjamin Huteau, from the Regional Direction of Environment, Development and Housing, Midi-Pyrénées, France.

The other review team members were Tony Liebrechts (Inspectorate of Housing, Spatial planning and the Environment of the Ministry of Infrastructure and the Environment, The Netherlands), Bojan Pockar (Inspectorate for Environment and Spatial Planning, Slovenia), Vilis Avotins (Ministry of Environment of the Republic of Latvia, Latvia) and Pal Boda (National Inspectorate for Environment, Nature and Water, Hungary).



IRI team and CRCluj representatives

3. Main Findings

3.1 Part A - Defining the regulatory framework of environmental protection in the IMPEL member country

Objective

To find out about the organisation of the environmental authority, the relevant legislation it complies with and relationships with the public, operators government and other countries.

3.1.1 Romania's system of government

Romania is a sovereign, independent, unitary and indivisible National State. The form of government of the Romanian State is a Republic. Romania is a democratic and social state, governed by the rule of law, in which human dignity, the citizens' rights and freedoms, the free development of human personality, justice and political pluralism represent supreme values, in the spirit of the democratic traditions of the Romanian people and the ideals of the Revolution of December 1989, and shall be guaranteed. The State is organized based on the principle of the separation and balance of powers -legislative, executive, and judicial - within the framework of constitutional democracy. In Romania, the observance of the Constitution, its supremacy and the laws is mandatory. The Romanian Constitution contains the citizens right to a healthy environment and to information, see [Annex IV](#).

The Parliament is the supreme representative body of the Romanian people and the sole legislative authority of the country. The Parliament consists of the Chamber of Deputies and the Senate. The Chamber of Deputies and the Senate are elected (for a term of office of 4 years) by universal, equal, direct, secret and free suffrage, in accordance with the electoral law.

The President of Romania is elected by universal, equal, direct, secret and free suffrage. The term of office of the President of Romania is five years, being exercised from the date the oath was taken. The President, in the name of Romania, concludes international treaties negotiated by the Government, and then submits these to the Parliament for ratification, within a reasonable time limit. The other treaties and international agreements are concluded, approved, or ratified according to the procedure set up by law.

The President of Romania designates a candidate to the office of Prime Minister, as a result of his consultation with the party which has obtained absolute majority in Parliament, or - unless such majority exists - with the parties represented in Parliament. The candidate to the office of Prime Minister seeks, within ten days of his designation, the vote of confidence of Parliament upon the programme and complete list of the Government. The programme and list of the Government is debated upon by the Chamber of Deputies and the Senate, in joint sitting. Parliament grants confidence to the Government by a majority vote of the Deputies and Senators.

The Government appoints a Prefect in each county and in the Bucharest Municipality. The Prefect is the representative of the Government at a local level and directs the decentralized public services of ministries and other bodies of the central public administration in the territorial-administrative units. Among the Prefects, on the one hand, the Local Councils and the Mayors, as well as the county councils and their presidents, on the other hand, there are no subordination relationships. The Prefect may challenge, in the administrative court, an act of the County Council, of a Local Council, or of a Mayor, in case he deems it unlawful. The act thus challenged shall be suspended de jure

Ministries are organized only in subordination to the Government. Other specialized agencies may be organized in subordination to the Government or Ministries, or as autonomous administrative authorities.

Political parties are constituted and pursue their activities in accordance with the law. They contribute to the definition and expression of the political will of the citizens, while observing national sovereignty, territorial integrity, the legal order and the principles of democracy.

With EU accession, Romania became a member with full powers at Community level, as the 7th member state in number of votes.

3.1.2 Ministry of Environment and Forests

The structure of the Ministry of Environment and Forests includes the following main separate institutions which, except for the water administration, were all created after 1991:

- **National Environmental Guard (NEG)** performs environmental inspections regarding all environmental factors.
- **National Environmental Protection Agency (NEPA)** deals mainly with (coordination of) issuing permits and monitoring. NEPA coordinates 8 Regional Environmental Protection Agencies (REPAs) and 34 Local Environmental Protection Agencies (EPAs). The main responsibilities of Regional Environmental Protection Agencies are issuing IPPC permits and developing regional strategies, actions plans and projects. Local Environmental Protection Agencies' main responsibilities include permitting "non IPPC" installations and monitoring. The EPAs are also the main body responsible for protection of the local environment and communication about local environmental issues.
- **Romanian Waters Administration** covers both water permitting and water inspections.
- **Romsilva and Territorial inspectorates for hunting and forestry regime** deal with forest management, including authorizations issuing and inspections. Romsilva is also ensuring the management of majority of Romanian National Parks.

The collaboration among these institutions is coordinated by the Ministry at the highest level and is also assisted by bilateral protocols of collaboration. In special situations the Ministry can request common action from its institutions (for example, reporting, inspections etc.)

3.1.3 The National Environmental Guard (NEG)

NEG is a public institution for environmental inspection and control, with juridical status, financed from the public budget. NEG was created in 2003 from the inspection department of EPA.

The law concerning environmental protection lays down the basic provisions on environmental protection including supervision by the NEG. Based on this law a Governmental Decision on organization of NEG and so called Technical Norms “*On the organisation and development of inspection and control activities in the environmental field*” were adopted, see [Annex V](#). These norms incorporate the requirements of the RMCEI into national law. The general provisions of the norms state that the NEG is responsible for “*implementation of government policy in matters of prevention, finding and sanctioning the infringement of legal provisions on environmental protection*”.

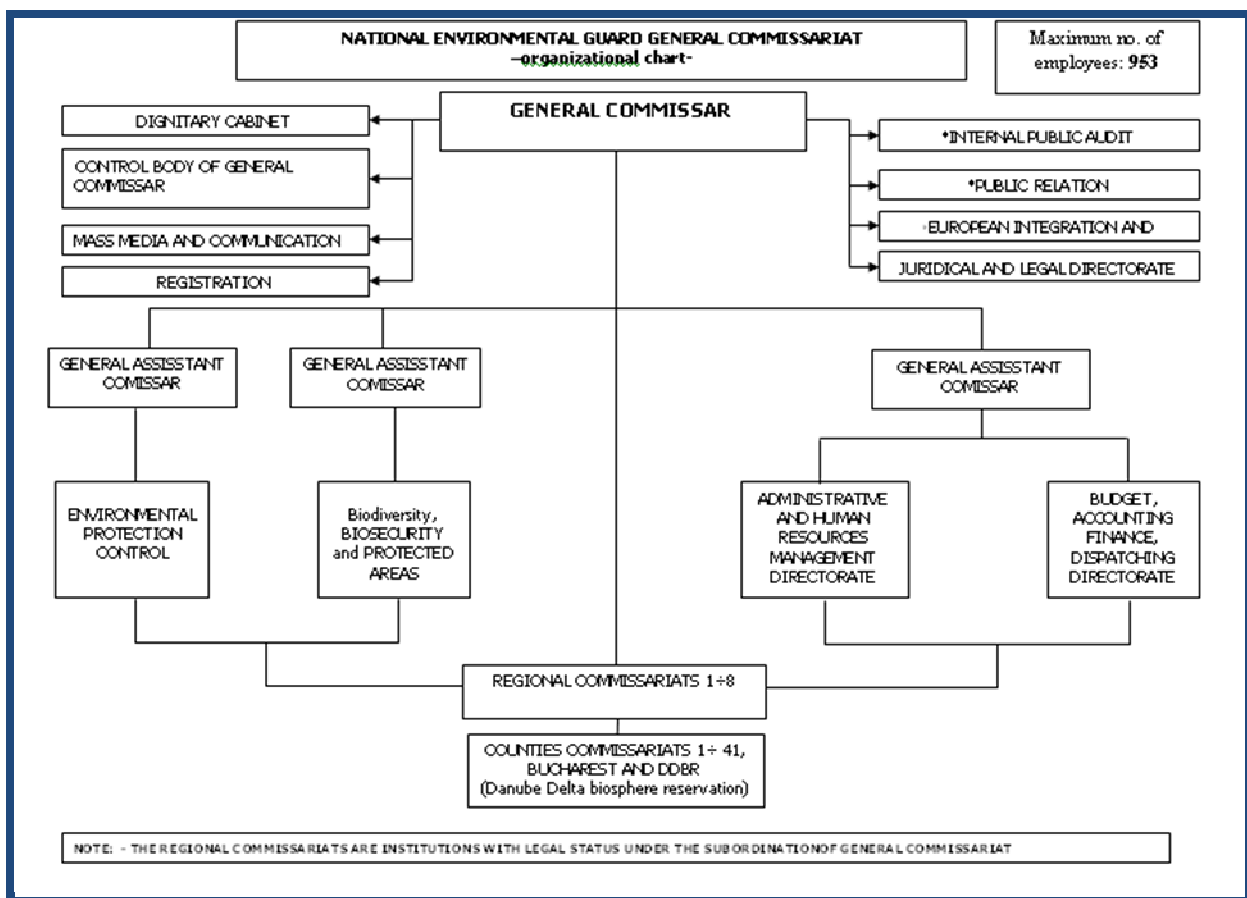
Over the recent years NEG has been given competence on many different environmental EU directives and regulations. Recently the inspection related to chemicals legislation was transferred from the chemical agency to NEG. A concern is that when new tasks are assigned an adequate number of sufficiently specialised staff need to be appointed. The following EU directives, regulations and recommendations are supervised by NEG:

- Aarhus convention
- Agricultural Use of Sludge (from a waste water plant) Directive
- Air Quality Framework Directive
- CITES convention
- Cells and Accumulators Directive
- EIA Directive
- ELV Directive
- GHG European Trading Scheme Directive
- GMO Directive
- IPPC Directive
- Incineration and Co-incineration Waste Directive
- Labelling Directive (*Directive 2000/13/EC*)
- Landfill Directive
- LCP Directive
- Directives under Natura 2000
- Ozone Depleting Substance Regulation
- Packaging & Packaging Waste Directive (94/62/EC)
- Paint and Refurnishing Vehicle Directive
- POPs Regulation
- PCB's Directive
- REACH Regulation on chemicals and their safe use (EC 1907/2006)
- RMCEI recommendation
- Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the *ozone* layer
- SEVESO Directive
- TFS Regulation
- Urban Waste Water Directive
- VOC's Directives
- Waste Framework Directive
- Water Framework Directive
- Water Protection from Nitrate Pollution Directive
- WEEE Directive

The total number of installation/economic activities on a national scale which must be supervised by NEG in 2010 is 21.645; the expected total number of planned and unplanned inspections is 61.446. The maximum number of NEG employees was increased from 748 (2005) to 953 (2010), of which 773 are inspectors (commissars) (648 at the county level, 50 at the central level, 24 at the regional level + 8 regional chief commissars + 43 county chief commissars).

NEG - Organisation

NEG includes a General Commissioner's Office and 8 Regional Commissariats. Each Regional Commissariat has 4-7 county commissariats (in total 41 counties plus Bucharest and the Danube Delta biosphere reserve).



NEG Organisational Chart

NEG - General Commissariat

The General Commissariat (GC) has two technical departments: one for **environmental protection** (Control of industrial pollution, waste, chemicals etc) and one for **biodiversity, biosafety and protected areas**.

The main functions of the GC are national strategic planning of inspection activities, preparing the overall budget, identifying training needs of inspection personnel and planning of trainings and assuring technical support for inspection activities through guidance,

procedures etc. Furthermore the GC can make proposals on new laws and regulations in the field of environmental inspection, identify the needs for collaboration with other stakeholders, draft protocols on cooperation with other authorities and propose projects in the environmental field, funded from the EU or other sources. It also coordinates the international activities of NEG.

The GC organises regular meetings with chiefs of regional and county commissariats, to harmonise enforcement and get local feedback. This is specially important during the period of setting the national objectives for the coming year. These meeting are increasingly held through means of teleconferences.

NEG - Regional and County Commissariats

Regional Commissariats (RCs) were created in 2005. Their main role is to support the County Commissariats (CCs: finance, human resources and logistics are dealt with at the regional level). Inspection activities are primarily organised, planned and performed at the county level.



NEG – Regional and County Commissariats

NEG - Certifications, International Cooperation, Environmental Volunteers

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 from Romania having ISO 9001 and 14001. The certification has helped NEG to harmonise and improve procedures resulting amongst others in uniform technical norms on inspections, including various templates as shown in Annex 4.

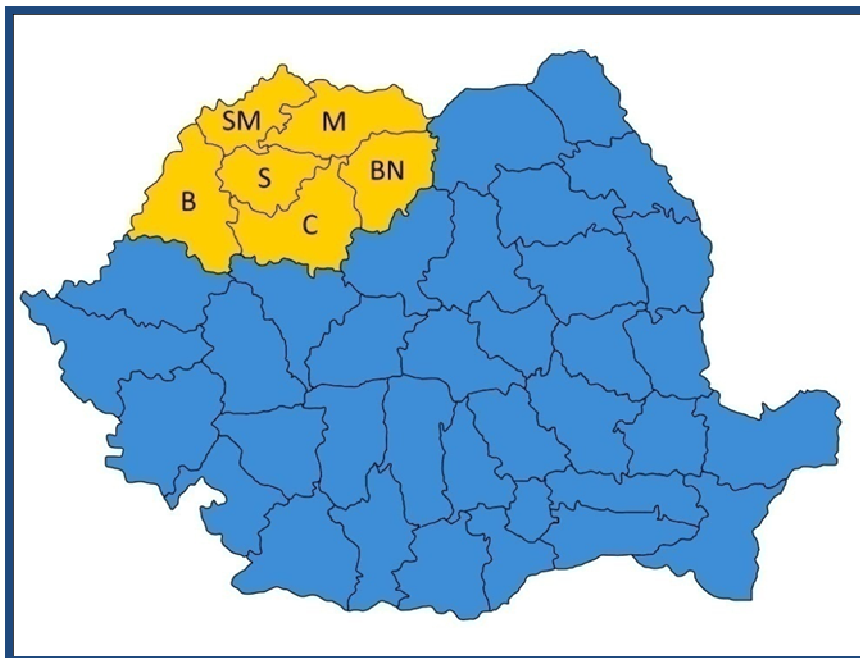
NEG has been very active over the last years in participating in international exchanges of good practices. NEG has been involved or is still involved in a number of international activities:

- 1999 – collaboration with the USAID to create an Inspection manual
- IMPEL – participation starting before joining EU.
- ECENA – collaboration still undergoing. 2009 participation in ECENA Inspection Manual.
- Twinning programmes: 2 performed in 2009 by NEG + participation in NEPA twinning programmes.
- 15 TAIEX seminars organised since 2003.

Under the responsibility of the NEG an Environmental Volunteers Network was established. The volunteers are additional “eyes and ears” for the NEG. Potential volunteers need to apply and must have good references. They are trained and carry a NEG ID. They are now organised in an association. Citizens who want to get more involved can apply to become environmental volunteers. To do so, they receive specific training and have to pass an exam concerning legislation. They are then extra eyes and ears for the inspectorate in the field though they have no special competences. They are sometimes asked to go and check complaints.

3.1.4. Cluj Regional Commisariat

The Regional Commisariat Cluj (RC-Cluj) is competent for the North West development region which covers 34.159 km², representing 14% of Romanian territory. It contains 35 towns and cities and 386 communes, and the total human population is 1.908.000. RC-Cluj is divided in six county commissariats as shown on the map below.

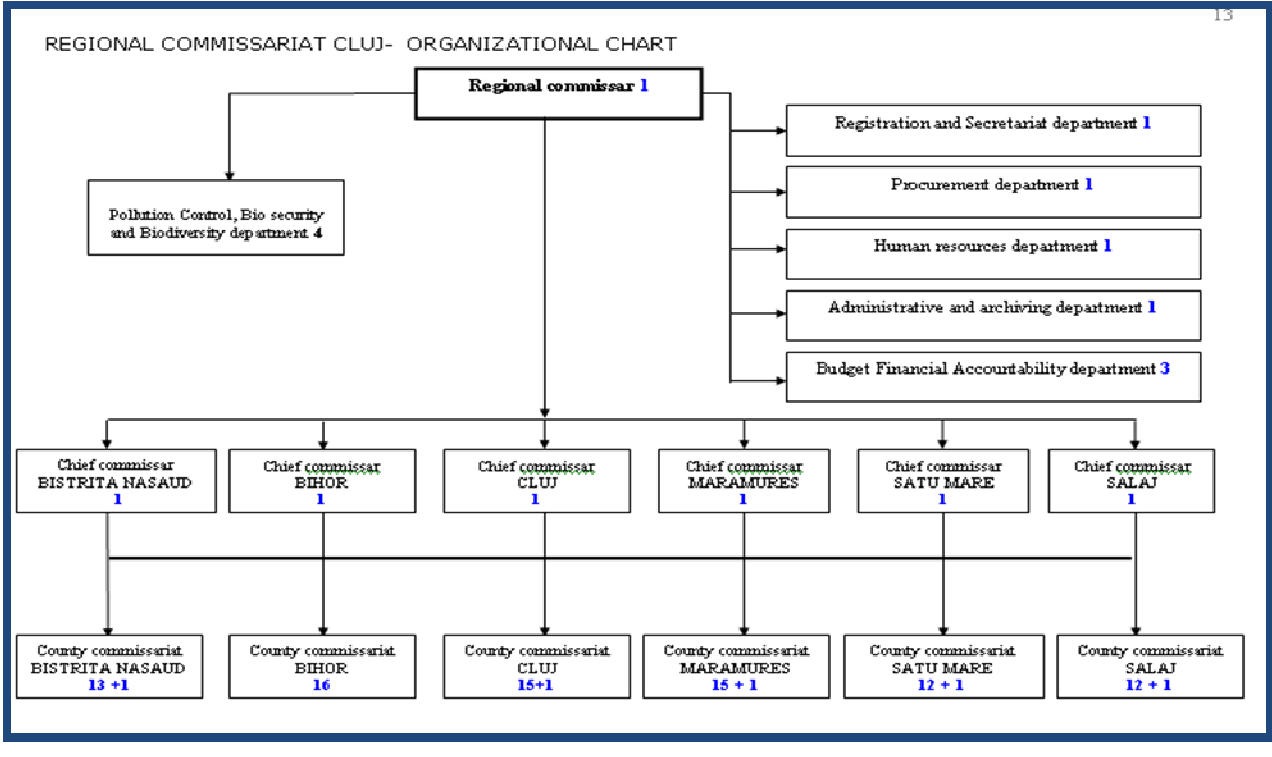


Bihor (B) , Satu Mare (SM), Maramures (M), Sălaj (S), Cluj (C), Bistrița-Năsăud (BN)

RC-Cluj has in total 106 positions out of which 95 are presently occupied. The staff of the regional commissariat (accountant, human resources responsible person, procurement staff etc) is located in Cluj. At the regional level there are 4 specialised commissars (protected areas, waste, industrial pollution and one vacancy) in charge with the activities' reporting procedures and with supporting the counties in their area of expertise. There is also a lawyer from the general commissariat working in Cluj for the regional commissariat who supports the different counties.

At county level there are 82 inspectors (“commissars”). Each county is managed by a chief commissar and has around 15 inspectors and one person taking care of the administrative business and secretariat.

When it comes to pollution control each inspector at county level is responsible for the supervision of an assigned number of sites. Inspectors may have developed specialism’s for instance in supervising (certain) IPPC or Seveso installations and occasionally inspect outside their county or even outside their region.



RC-Cluj Organisational Chart

The County Commissariats also have an advisory role in the permit issuing process for both IPPC and non IPPC installations. An additional more remote and merely administrative task of Inspectors supervising industrial installations is checking the notification of payment for financial operator obligations to the Environment fund.

The background of the commissars is:

- Chemistry: 32
- Agriculture, forestry and zoo-techniques: 17
- Biology: 7

- Ecology and environmental science: 8
- Hydro technique constructions: 3
- Geology: 3
- Constructions: 3
- Mining: 3
- Economy, finance: 12
- Law: 3
- Public administration: 4

RC-Cluj is totally financed from the state budget. The total budget for 2010 is about € 750.000, out of which approximately € 600.000 is for salaries.

RC-Cluj - Installations covered

In the region there are 6811 sites regulated by a permit that have to be supervised by RC-Cluj. They are all integrated permits, issued through the same administrative procedure. Among these sites, there are 6 Large Combustion Plants, 87 IPPC sites, 21 Seveso upper tier and 15 Seveso lower tier sites and 101 solvent using activities that fall under the VOC Directive.

The main industrial sectors are represented by:

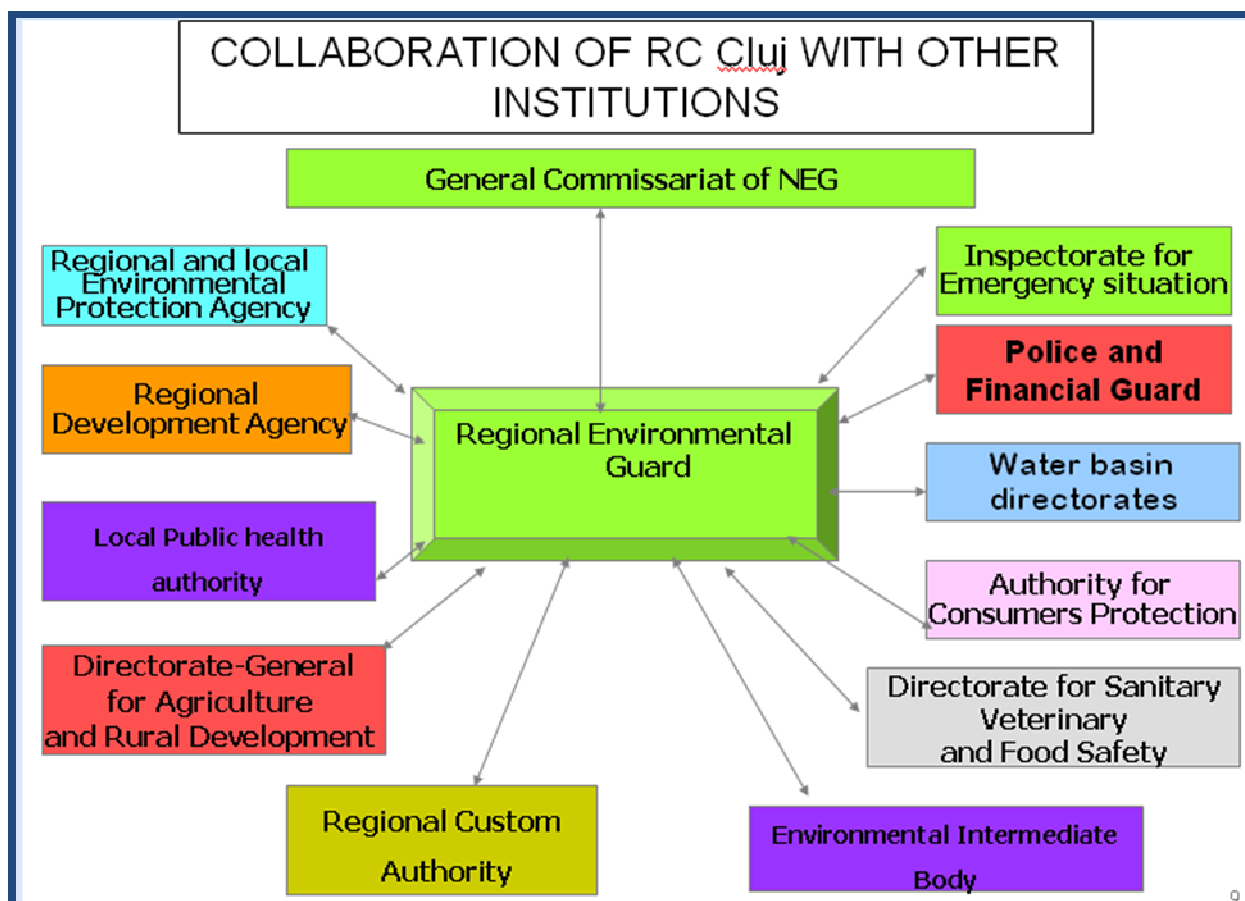
- Metallurgy
- Electrical and electronics products
- Energy
- Food processing
- Wood processing
- Mining/exploitation of natural resources
- Cement and building materials
- Poultry
- Pig farms
- Drug production

Waste collection is in place in 70% of the urban areas and 55 % of the rural areas. There were in 2009 738 rural non compliant landfills and 20 non compliant urban landfills with transition periods. Of these 98% were closed in 2010.

There is a cooperation protocol with the Trade Register: they supply the RC-Cluj with information from their database on new industrial activities.

RC-Cluj - Collaboration with other relevant institutions

There are 11 protocols signed with relevant institutions, which allow, for instance, for regular exchange of information. The main institutions with which RC-Cluj collaborates are set out below:



RC-Cluj: Collaboration with other relevant institutions

The (regional and local) **Environment Protection Agency (EPA)** issues environmental permits and is in charge of sampling and environmental monitoring. Permits regarding discharges to surface waters are issued by the Water basin directorates falling under Romanian Waters Administration. The Water basin directorates also carry out inspection to check compliance with the water permit. Water requirements are copied in the environmental permit and can be supervised by the NEG. EPA has also a role in checking the compatibility of the environment permits with other requirements set out in construction permits, water permits etc. Also, before a construction permit or an urban development plan is approved by local government, under a procedure of environmental impact assessment it is mandatory to have environmental advice from the (local respectively regional) EPA.

EPA is the organisation which is the most closely related to the environmental guard. NEG inspectors can access the EPA database permit- and monitoring data. Full alignment of the EPA and NEG databases is considered desirable. Staff from EPA often participate in inspections together with RC-Cluj inspectors, especially for IPPC and Seveso sites. This is in particular the case when permits are to be revised and when checking the execution of operators action plans to improve environmental performance. Inspectors from RC-Cluj also often take advice of colleagues from the EPA when preparing or carrying out an inspection. RC-Cluj inspectors participate on a weekly frequency in meetings of the EPA technical advisory committee on permits to be issued or revised. Now that (IPPC-)permitting has

progressed significantly more emphasis is placed on inspections, resulting in a shift of staff from EPA to NEG.

Three institutions have a role in implementing the Seveso directive (EPA, NEG, Inspectorate for emergency situations). Usually the three institutions carry out joint inspections.

RC-Cluj has also a protocol with the police. A plan scheduling joint inspections is drawn up annually. The police can also apply some part of the environmental laws. The guard often call the police for assistance; the police can act as the “strong arm”, for instance, only the police can ask persons to identify themselves and force operators to provide access to the premises. The police can only help with conducting criminal investigations. In general the police are extra “eyes and ears” for the RC-Cluj.

Where the Waste Shipments Regulation is concerned the National EPA issues notifications and the NEG performs inspections. The RC-Cluj carries out both transport inspections and controls at waste facilities. There is a close cooperation with police and customs in the border counties. The police has the competence to stop cars. Following the example of IMPEL-TFS within NEG a network of specialised WSR inspectors was established.

Municipalities have some competence to enforce parts of the legislation concerning household waste and green areas. They don't have inspection plans, but only respond to complaints. The Guard can also do this enforcement, but given that municipalities often have a larger workforce available, the Guard tries to make local officials aware of their tasks and encourage them to get more involved through training sessions. Thanks to this collaboration, the number of complaints received by the Guard has decreased over the last 2 years.

Examples of Good Practice

- RMCEI requirements have been incorporated into national law.
- Development of national guidance for carrying out inspections.
- Regular teleconferences between the county and regional commissariats and the general commissariat to align national strategies and priorities and county inspection activities.
- ISO certification, which helps the NEG structure its procedures.
- Protocols signed with others authorities on exchange of information, and especially with trade authorities so that the NEG is supplied on a regular basis with actual information on new industrial activities.
- Very close cooperation between the permitting and inspection authorities (for instance joint inspection before granting permits, involvement of the guard in the permitting process), which can be further improved by developing a common database for installations.
- Cooperation with the police through a protocol and joint inspections.
- Using volunteers as ears and eyes for the inspectorate which increases NEG's ability to detect infractions on the ground.
- An international outlook of the NEG aimed at learning from best practices abroad.

Opportunities for Development

- The more remote task of NEG inspectors of checking the notification of payment for financial operator obligations to the Environment fund could be reconsidered; possibly a transfer to the authority administering the fund could be examined.
- Aligning the inspection planning with the sampling planning of the EPA and of the water inspectorate could make enforcement more efficient. Also by clarifying some roles it should be possible to avoid overlapping inspections by the water agencies and by the environmental guard.
- To safeguard sufficient critical mass specialised technical expertise could be organised at the regional rather than the county level.
- Given the multitude of supervisory tasks, many of which are highly specialized, as well as the necessity to maintain many intensive working relations both internally (with regional and central commissariat) and externally the county commissariats face a major challenge in organizing inspection activities and managing their limited staff in an effective and efficient way. It seems therefore worthwhile considering further up scaling of the organization of inspections to the regional level.

3.2 Part B - Permitting activities

Objective

Explore the permitting activities of the environmental authority.

As described in part A, the Environmental Protection Agency (EPA) is in charge of permitting activities. The regional EPA is responsible for permits for the larger installations, the local EPA for the smaller installations. As this was not in the scope of this IRI, only the cooperation between the NEG and the EPA was discussed.

The EPA is in charge of permitting but also of environmental sampling and monitoring, mainly for air, but also for water, together with the water inspectorate. They have their own monitoring plan for both announced and unannounced samplings, but the NEG can ask for them to take immediate samples. For that purpose, they have mobile equipment and laboratories.

RC-Cluj invites the regional EPA (REPA) to participate in site visits, especially for IPPC-, LCP- and Seveso-installations. The annual inspection programme is submitted to the REPA, with proposals for joint inspection. The inspection programme and the REPA work programme for issuing and revision of permits are as much as possible aligned.

After an inspection, one of the measures that can be taken by the inspectorate is to oblige the operator to request the REPA for a revision of the permit. In this way, the guard can initiate a revision of the permit conditions, if they judge that appropriate.

RC-Cluj participates in the weekly Technical Advisory Committee (TAC) meetings, presided by the REPA. They gather many administrations (EPA, EG, regional development agency, directorate for sanitary veterinary and food safety, but also municipalities).

Projects for which authorisations or permits are required, are discussed at every step in the procedure. There is no formal vote of the committee, but each stakeholder can give its views.

In addition RC-Cluj has a formal role in giving advise on draft permits.

RC-Cluj and REPA have access to each others databases. A further alignment of these databases is planned.

Recently staff from the REPA joined RC-Cluj. But it has not happened yet for people to move from RC-Cluj to REPA. This means that presently none of the people writing permits at REPA has enforcement experience.

Examples of Good Practice

- The close cooperation between EPA and NEG on all relevant topics.
- A clear competence for NEG to initiate a permit revision.

Opportunities for Development

- Explore possibilities to increase efficiency of TAC and decrease frequency of meetings.
- Consider limiting joint inspections with the EPA to the situations where they can have a clear added value (before issuing a permit or before a change in permit condition for instance).
- Consider intensifying efforts to further integrate EPA and NEG databases.
- Encourage and facilitate job swapping between NEG and EPA.

3.3 Part C - Performing inspection tasks (Environmental Inspection Cycle)

3.3.1 Planning of inspections

Objective

To find out the criteria and procedures for planning of inspections and how this is put into practice.

Describing the context (Box 1a)

Planning process: top down and bottom up

Inspection plans are made at county level. They should be in accordance with the objectives set out in the national inspection plan. The planning process is as follows. In October a meeting is held at the national level where representatives from the general commissariat and the regional and county chief commissars discuss national priorities and assess the outcomes of the previous national plan. The general commissariat then sends to the counties the adopted national plan, which defines the general objectives for the following year.

Each county commissariat then drafts its county inspection plan by bringing together the particular needs and characteristics of the county and the national priorities. The draft county plan is send to the regional commissariat, which mainly assesses the compatibility of the plan with the resources available. Subsequently the draft county inspection plan is send by regional commissariats to the general commissariat for technical validation and approval by the minister.

The national plan

The national inspection plan for 2010 is based on the priority to achieve the measures established for 2010 contained in the Chapter 22, Environment, negotiated with the EU during the accession process. Also the plan takes into consideration the measures for 2011 and the delay from 2009. Each regional/county commissariat extracts these measures (which corresponded to their county/region) from national plan and included them in their county plans. For RC-Cluj some 172 actions for 2010 are foreseen.

In addition the national plan includes also other national priorities identified in the light of current developments in national legislation, the concrete actions plans in the environmental field or national governmental strategies.

The main inputs to the national plan are currently:

- Governance Program 2009-2012;
- The 6th Community Environment Action Plan 2002-2012;
- National Strategy on Air Protection and the national plan for protection of the atmosphere (GD 731/2004, GD 738/2004 respectively);

- National waste management strategy and national plan for waste management;
- Regional and county plans for waste management;
- Water basin management plans;
- Law 5 / 2000 approving the national territorial administration plan - Part III –for protected areas;
- Sustainable Development Strategy of Romania (HG 1216/2007);
- Law 3 / 2001 on the ratification of the Kyoto Protocol;
- Water Law 107/1996 with subsequent amendments;

Thematic campaigns

The General Commissariat of NEG regularly asks for inspections to be carried out on specific themes or sectors. For instance, in the first half of 2010 RC-Cluj conducted 11 thematic control campaigns on the following themes:

- Control focused on cleaning up villages, rivers and channels of communication
- Control focused on the implementation of selective waste collection system
- Thematic Control verification of storage facilities in rural areas, which had ceased operation or which were still continuing.
- Control to check the twenty six non-compliant municipal waste deposits
- Thematic Control checking remaining landfills - in the urban area, which provided for continued operation in accordance with GD. 349/2005
- Control to verify compliant deposits of waste, both municipal and industrial
- Thematic Control checking hazardous industrial waste, non-hazardous industrial waste landfills and inert
- Control focus on management of discarded vehicles
- Control focus on large combustion plants and the deposits of slag and ash
- Thematic control system to verify implementation of selective waste collection to over 25,000 inhabitants of localities
- Control focus on checking compliance with Waste Electrical and Electronic Equipment management legislation

These thematic campaigns can be decided during the year. For each campaign, the general commissariat prepares guidelines and inspection formats.

Other unplanned inspections

Thematic inspections are regarded as unplanned inspections. Unplanned inspections include a variety of other inspections as well: inspection to verify compliance with the conditions related to new investments; inspections in response to information provided by others, like the media, inspections to resolve complaints, inspections to investigate incidents and accidents, inspections related to the revision of permits, inspections to identify new, not yet regulated industrial activities, inspections to verify implementation of the measures imposed in previous inspections, inspections with other authorities.

Examples of Good Practice

- A yearly national plan to guide regional and county commissars on main national objectives and priorities.

Opportunities for Development

- Consider developing a risk assessment tool to prioritise between statutory inspection tasks (related to the different EU directives and regulations) both on a national and on a county level.
- Consider defining fewer, more concrete and s.m.a.r.t. national targets.
- Consider defining multi-annual targets.
- Try to link targets with thematic campaigns, try to reduce number of different campaigns and avoid launching thematic campaigns during the year.
- Consider linking thematic campaigns on pollution control to regular planned inspections of sites.
- Consider reducing the variety of categories of unplanned inspections and try to have these inspections (for instance follow up-inspections, some thematic campaigns) integrate into the planned inspections scheme.

1b. Setting priorities

When it comes to pollution control RC-Cluj focuses in particular on IPPC, LCP (establishing measures to control emissions of SO₂ and NO_x), Seveso and VOC. Inspection activities are primarily aimed at verifying and stimulating compliance with permit and other regulatory requirements and the implementation of operator's action programmes. This is done through regular, planned inspections of sites and through (unplanned) thematic inspections related to installations, focussing on a certain sector or topic.

An important tool to gear these activities is the uniform risk based classification of sites developed for the NEG as a whole. Installations are classified taking into account the impact of the unit on environmental factors and the operator's performance.

The impact criteria which are used are:

- 1. Plant Type;**
- 2. Location towards urban and/or protected areas;**
- 3. Location towards surface waters;**
- 4. Air emissions and/or inputs type;**
- 5. Waste Water Dumping type into an emissary;**
- 6. Contaminated surface terrain;**
- 7. Quantity of generated hazardous waste;**
- 8. Quantity of generated industrial non-hazardous waste;**
- 9. Load type of waste water drain;**
- 10. Inconveniences produced by odors;**
- 11. Inconveniences produced by noise and vibrations;**
- 12. Score granted by the unit commissioner.**

The performance criteria which are used are:

1. BAT Use;
2. Implementation of the environmental management system;
3. Number of applied penalties;
4. Amount of applied penalties;
5. Number and type of complementary sanctions;
6. Number of complains directed to the criminal investigation organs;
7. Number of accidental pollutions;
8. Frequency of monitoring air emissions and/or inputs;
9. Frequency of monitoring water emissions;
10. Frequency of soil monitoring;
11. Number of grounded claims;
12. Score granted by the unit commissioner.

Each criterion is given a score within a certain range. A multiplication coefficient is applied to the criterion to give it a relative importance. Data from previous inspections are used for the scoring.

The score granted by the unit commissioner is based on the more subjective assessment of the inspector which he makes at the end of a site inspection when filling in the inspection report.

Classification is done as follows:

- if the total impact criteria score is > 150 points and the total performance criteria score is < 300, the Risk Class is A;
- if impact is < 150 points and performance is < 300, the Risk Class is B;
- if impact is > 150 points and performance is > 300, the Risk Class is C;
- if impact is < 150 points and performance is > 300, the Risk Class is D

	High impact (> 150)	Low impact (< 150)
Low performance (<300)	A	B
High performance (>300)	C	D

There are less than 3% of type A installations in Cluj region. The risk classification is updated once a year, as an input to the inspection plan. This ranking is not communicated to companies, but the NEG is considering making the classification methodology more transparent. The classification tool has been applied in 2010 for the second time. The use will be evaluated shortly. It takes on average 2 to 3 days per inspector to update the risk classification. In the future it should be part of the inspectorate database, and computed automatically.

The frequencies of inspections are defined in the national technical inspection norms :

- Class A: 3 inspections each year;
- Class B: 2 inspections each year;
- Class C: 1 inspection each year;
- Class D: 1 inspection each two years.

The above frequencies refer to comprehensive integrated inspections. They have been set high for the moment, for the following reasons:

- industry operators were not used to being regulated
- operators need to be made aware of the new legislation
- economic changes happen rapidly in the different industrial sectors
- Romania has a lot of environmental problems inherited from the past
- Initially, the attitude of some operators was uncooperative

The inspection frequencies defined above are recommendations. It is the responsibility of the county chief commissar to make adjustments according to local priorities and needs.

Examples of Good Practice

- Use of an uniformly applied, objective tool to assess risks both in terms of environmental impact and operator performance as basis for prioritising inspection activities.
- Use of weigh factors attached to risk criteria.
- Use of recommended fixed frequencies.
- Inspectors concerned provide the data to feed into the risk assessment.
- Having the general commissariat at the national level prepare guidelines and inspection templates for thematic campaigns.

Opportunities for Development

- When evaluating the risk assessment tool look critically at the efforts needed to make the scoring and consider either to simplify the tool (for instance reduce the number of criteria or limit the scoring range) or to allow for a further refined distinction between different classes of installations based on their risks.
- When evaluating the risk assessment tool reconsider some of the indicators. The criterion of complaints now plays a role under impact as well as operator performance. The frequency of monitoring is taken into account under operator performance, but it is more an indication of the impact of the site. There is no separate indicator for safety issues, though there are facilities with very low environmental impact but very high safety risk.
- The inspectors appreciation of the installation as risk criterion in the risk assessment duplicates work and brings in a subjective element while the weight of this criterion in the total score is very little. Therefore one may consider deleting this criterion.
- Consider options to have a more flexible and more diverse distinction of frequencies and reduce the frequency of Class A and Class B installations. In general Inspection frequencies should be periodically reviewed to optimize the efficiency of the inspectorate. With the growing environmental awareness of operators, it might be possible to decrease them in the future.

1c. Defining objectives and strategies

Targeting inspection activities in the field of pollution control is done mainly through carrying out thematic campaigns. Strategies applied in these campaigns are outlined ad hoc on the national level and then further detailed on the county level. An example of a more sophisticated intervention strategy which was developed for a specific topic is the one regarding landfills:

- Based on the inventory of all non compliant landfills, sending a letter to the local authorities and county council concerning their obligations (make contracts with an operator, monitor the quantities of waste etc)
- Checking the operator contract with the authorized landfill, asking the landfill operator to provide data about the quantities disposed of by each local authority
- an inspection in the second part of the year to check the implementation of the measures imposed in the closure plan and to monitor the situation
- Applying sanctions and informing the county council about the situation
- Continuous information on the website about the situation.

There is no standard methodology on the use of different interventions/inspection activities like various ways of compliance promotion, compliance checking and enforcement.

Regular planned inspections of installations are as a rule all full inspections. There is not a systematic focussing or targeting of these inspections.

Examples of Good Practice

- Use of different interventions to achieve targets.

Opportunities for Development

- Instead of carrying out merely standard integrated inspections consider targeting/focusing regular inspections by setting specific objectives and targets (for instance improving compliance in a certain sector on certain specified areas within a set timeframe).
- In view of the need to target inspection activities further it can be useful to link risk scores/profiles of installations with information concerning the regulated status of the installation, i.e. existence of action programmes to improve performance.
- Consider developing a methodology on inspection (intervention) strategies that can be used for both planned and unplanned inspections; the methodology would enable inspectors to apply the right mix of different inspection activities to achieve inspection targets in the most effective and efficient way.

1d. Planning and review

The county inspection plan must include:

- An updated and approved register of the regulated units;
- A list of the controlled units on which environmental inspections are planned;
- A summary of the plan

Plans are translated at the county level into inspection programmes and schedules. They should include information regarding:

- the performance record of operators;
- membership of the team of commissioners and their tasks;
- time allocated for carrying out inspections;
- necessary resources, cars and vans, analysis equipment, camera, video etc;
- other authorities invited to participate in the inspection, when appropriate.

As a general guideline for making programmes the following starting points are applied:

- Of the total of working hours 80% is spend on inspection activities; the other 20% is spend on other activities like bringing a case to court;
- Of this 80%, in Cluj Region, according to the number of biodiversity issues, 75% is allocated for pollution control and 25% for nature protection;
- Of this 75%, 60% is allocated for planned inspections and 40% for non planned inspections.

These recommendations are not fully met in RC-Cluj. For 2010 RC-Cluj has estimated to carry out some 5401 inspections in the field of pollution control, from which 1491 are regular planned site inspections (around 30%).

There is a quota of 2 working days per inspection of a class A, and of 1 day for B, C and D sites. Over one year, an inspector may carry out between 100 and 120 inspections, in half of which he will be acting as a team leader.

Examples of Good Practice

- There is a standardised procedure for setting up plans and programmes with guidelines from the national level.

Opportunities for Development

- Consider streamlining the planning process further by giving the regional level a more important role for instance by having working groups consisting of inspectors from across the region drafting the different elements of a regional inspection plan directed to a limited number of identified topics and targets. Counties could then set their inspection programmes based upon regional inspection plans. This would ensure a planning based on a more robust critical mass, a more targeted approach, more coherence, it would save time, and help the development of exchanges between counties.

3.3.2 Execution framework

Objective

To find out what provisions, instructions, arrangements, procedures, equipment etc, are in place to enable inspectors and other staff to carry out inspection activities on the ground.

National Inspection Guidelines

A manual for environmental inspection was created in 1999 in cooperation with the USAID. In 2005, the governmental decision 440/12 May 2005 on the reorganizing and functioning of National Environmental Guard, stipulated the environment inspections are made according to the Recommendation on Minimum Criteria for Environmental Inspections. This decision also harmonised templates for inspections reports, annual planning, reporting after accidents etc. See Annex 4 - Technical norms on the organization and development of inspection and control activities in the environmental protection field. The new Governmental Decision on organization and functioning of NEG 112/2009 took over and improved the previous provisions introducing risk based approach of planning.

Inspectors competences

Inspectors have a wide spectrum of competences. They include:

- inspecting at any time all installations that can generate environmental pollution;
- applying civil sanctions (penalties) to individuals and companies;
- completing and submitting (to prosecutors) dossiers regarding a possible criminal violations of the law;
- requesting other authorities' support (for example, Police, Romanian Waters, inspectorate for Emergency Situations).

Inspectors qualifications and training

Commissars (inspectors) must have an academic background. There are 3 levels of commissars: beginner (1 year experience minimum), principal (5 years experience minimum) and superior (9 years experience minimum). The beginner environmental commissars do not have sites allocated to them from the Inspection plan; they only participate in inspections in teams of commissars until they obtain a permanent status. The 3 levels inspectors are recruited through exams organized at the regional level. For the post of county chief commissar the exams are organized at the national level. County inspectors do not have a say in the appointment of chief commissars. Nor is there a developed career policy enabling well experienced inspectors at county level to more easily move up to the level of chief commissar.

Each year the regional Commissariat identifies the training needs for the commissars. This year, a detailed questionnaire was filled in by all inspectors which will be used to systematically list existing expertise and skills and analyse training needs. The Regional

Commissariat has an annual training plan. Usually each commissar has to pass a training course each year in the field of inspection activities he is responsible for. NEG is exploring possibilities to establish a scheme introducing formal externally accepted qualifications following the trainings. The plan is partially consistent with the inspection plan. There is a data base of all the training undertaken by the Commissars. The weak point of training courses until now is the evaluation after the training period.

NEG will open later this year the national Internal Training Centre in Sibiu. The General Commissariat is also developing a new internal training and recruiting strategy, including a combined evaluation system for training and inspection activities. Within this framework, a national database is being developed to identify and better manage inspectors' expertise. This database will be initiated with the data collected in the training questionnaire.

Inspectors can submit questions through forums on the NEG website and the answers provided by the general commissariats are made available to all inspectors.

Inspectors' ethics

The ethics code (national law for all civil servants) is the main reference document. A public servant at the regional level is in charge of this topic. The discipline committee is competent for analyzing any problematic situations and the decisions are taken by the Regional Commissar.

There is no confidential advisor within or outside the NEG where inspectors can go to discuss confidentially issues like malfunctioning or misbehavior of colleagues or superiors.

Within the NEG a guideline exists to rotate commissars after two years: this means that after that period at county level installations are re-allocated. In practise this is done taking into account the expertise an inspector has acquired.

Applying sanctions

Inspectors can apply the following sanctions:

- warning : is considered as a sanction, and is reported to the general commissariat
- fine (penalty) : can be imposed directly by inspectors. The maximum amount for a single violation is 25 000 euros, and fines can be issued for a maximum of two violations during the same inspection. The amount is decided by the inspector, taking into consideration the seriousness of the violation and, the size of the company.
- working for community: to be decided by the judge

Complementary sanctions can also be applied by inspectors – sometimes with additional intervention of another authority:

- confiscation of goods destined, used or resulting from offences (civil violations);
- suspension or cancellation, as appropriate, of the opinion, approval or authorization of activities;
- closing the installation;
- blocking the bank account;

- suspension of the economic activity;
- 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.

NEG has no competence to impose a sanction which obliges the operator to pay a fine for every day he is in non-compliance. But it can start the procedure for the calculation of environmental damage under the Directive 35/2004/CE, transposed in Rumanian legislation by OUG 68/2008.

There are no (national) guidelines on applying sanctions (what sanctions in what cases). This is very much to the discretion of the individual inspector.

Civil sanctions (administrative fines)

If a non-compliance is observed for the first time, inspectors would generally apply a warning. Fines would be applied in case of repeated non compliance. As said, inspectors have a great deal of autonomy in the field of sanctions. After an inspection, the inspection report and the form applying the sanction are written in two different formats and registered separately. There is no validation by the hierarchy, the choice of the nature of the sanction and of the amount of the fine is made on the spot by the inspectors under their own responsibility.

Operators can appeal against fines and complementary sanctions to the court. The appeal always suspends the execution of the sanction. At the moment around 110 legal cases are going on in the region. In 2009, the Cluj Environmental Guard won 98% of the court cases.

The penalties paid by companies go first to the state general budget. Then 25% is returned to the institution that applied the penalty. This part is then divided as follow: 66% to the county commissariat, 9% to the regional commissariat, 25% to the general commissariat. The county part has to be distributed by the county chief commissar to the personnel according to some general criteria stipulated in the law. For 2009, the total amount of sanctions applied in the region was € 600.000. There are large differences in the amount of fines applied by the different counties and regions.

Criminal proceedings

There is no obligation for inspectors to regularly report to the prosecutor. At the moment, only very serious non-compliances are reported. After a notification, only the prosecutor can decide whether to take the matter to a criminal trial. As at present, there are no prosecutors specialised in environment issues. Prosecutors don't give their own priorities to the Guard, and are not being sent the inspection programme. There are no regular meetings organised between the guard and prosecutors, but once a year, a report on legal cases is sent to the general commissariat and presented to local courts.

Communication to the public

The Aarhus provisions were transposed into the Romanian legislation by the Governmental decision No 878 of July 28, 2005 on public access to the information on environment. See annex 3. According to the national technical norms for inspection, the information to which the public has access is as follows:

Information available for the public:

- **information regarding the institutional capacity and NEG resources;**
- **details about NEG tasks and its performance in its activities developed according to the plan of activities;**
- **general information regarding the inspections performed, the number of field inspections, the number of controlled units under different types of classification, estimation of the duration of inspections taking into consideration the duration of the previous inspections on the respective types of units and the measures imposed in the inspection documents drawn up by Commissars;**
- **general information regarding the conformity of the controlled units with the legislation in the environmental protection field;**
- **a briefing on actions carried out (and their number) following complaints or as a result of the investigation of events that have led to nonconformities related to environmental protection legislation. Data connected with complaints received are made public only following the check of the criteria described above;**
- **evaluations of the inspection activities and the way in which the plan of activities is being carried out.**

Inspection reports are not made public. On request, there is a procedure for publishing an inspection report online, after seeking the opinion of the operator. The final decision belongs to the General Commissariat, which takes care of the publication. An appeal can be made before a court against any refusal to make a report public.

Anybody can send a request for information through the national website of the environmental guard. The request is then forwarded to the relevant county commissariat, which has one month to answer.

In each county commissariat there is one person in charge of centralising communication with and information providing to the public and mass media. The Guard also tries to actively communicate through mass media release (for instance in case of new legislation, accidents, thematic inspection campaigns etc.). Each county commissariat has a phone number available online (the “green line”), and also an email address. This number is answered 24 hours a day as there is always an inspector on duty in each county.

Dealing with complaints

The legal way to receive complaints is by written form, which can be via web site, email, mail or fax. Difference is made between accidental pollution demanding urgent action and regular complaints. After receiving a complaint, a note on the substance of the complaint together with the proposed response is written by the inspector in charge and put to the chief commissar. Complaints have to have a written answer within one month. There are specific legal provisions on dealing with frequently reoccurring complaints from the same persons so that inspectors do not have to waste time in dealing with them. Complaints are not yet fed into the inspections database but the documents resulted after checking the complaints are introduced into the database.

In practice people can send in complaints to different authorities at the same time. Also RC-Cluj often receives complaints that should be dealt with by other authorities.

Examples of Good Practice

- Well established, full range of competences for the inspectors.
- Well established procedures for communicating with the public and dealing with complaints, including reoccurring complaints from the same person. It would be helpful to put information on complaints into the inspections database.
- The requirement for inspectors to regularly change the sites they enforce. The rotation frequency (two years) could be reviewed and possibly reduced, taking into consideration the importance of developing specialist expertise.
- The tutorship system in place for the first year of 'beginners'. It might be useful to broaden this system to all new inspectors, including principal and superior inspectors recruited without previous experience in the inspectorate.

Opportunities for Development

- Develop (national) guidance on the use of sanctions (tool to choose the right sanction strategy) could be developed to help harmonize practices.
- Move away in legislation from the automatic suspension of the execution of a sanction when the operator appeals to a system where the operator has to request the court for a suspension.
- Introduce in legislation the possibility to apply a fine for every day an operator is non compliant.
- Non confidential parts of inspection reports could be made available more easily on request.
- Consider establishing a central point for receiving complaints at county or regional level. Together with a clarification of supervision and enforcement responsibilities in this area, it could improve the coordination between the administrations involved (the guard, county councils, municipalities) and help streamline procedures for dealing with complaints.
- It appears it is a great challenge for the NEG to deploy sufficient specialised inspectors, given the great variety of legislation it has to enforce. It is therefore key to further invest in building, maintaining and efficiently utilising specialised expertise.
- Many important managerial decisions rest with the county chief commissar. He is a key person and that could be a fragility of the system. An increase in support from the regional level for instance could be considered. Also it is important to ensure that people appointed to these positions have the appropriate qualifications. In this respect it would be worthwhile to consider making better use of skills and experience of senior county or regional inspectors in terms of introducing a career policy which encourages and facilitates these inspectors to be promoted to chief commissar.
- The possibility for inspectors to apply fines is an efficient way to achieve compliance. But returning a portion of the penalties to county commissariats and to the inspectors that applied them, can result in a conflict of an interest. It should be clear that fines are being issued only as a means of achieving better compliance. The possibility of charging fees to operators for permits and inspections could be considered as an alternative way of funding the NEG.

3.3.3. Execution and reporting

Objective

Find out how routine and non-routine inspection activities are carried out and reported on and how data on inspections carried out, their outcomes and follow-up are stored, used and communicated.

Planned inspections can be either announced or unannounced.

The national guidelines say that inspections are carried out by at least two commissars with one acting as team leader. It is the responsibility of the chief commissar to appoint the team and establish their responsibilities. The normal steps in a planned inspection are:

Inspection steps

Preparation

- **The inspection report is prepared in advance, setting out the objectives of the inspection, and is at that stage validated by the Chief Commissioner.**

Inspection

- **An Opening Meeting on site is held to inform the operator about the type of inspection to be carried and the programme of the site visit.**
- **The Inspection is conducted. It comprises the check of the site and the equipment and facilities of the regulated unit, the activities carried out on the premises, interviewing responsible persons, examining relevant documents and looking for areas of non-compliance related to legal provisions.**
- **The inspection report and other relevant documents are drawn up. The report will contain findings and conclusions and the measures to be taken by the operator to improve environmental performance. Sanctions are applied in a separate document.**
- **Final session where the operator is informed about the results and conclusions of the inspection, the measures established following the inspection, including the application of sanctions and presenting the inspection and control documents, where necessary, in order to confirm and sign the documents.**

The report is always written during the inspection and at the end signed by the inspectors and the operator. It means that all decisions concerning measures and sanctions have to be taken during the inspection. Occasionally, when further investigations are needed, the sanctions can be applied later, within maximum 6 months after an infringement was identified.

There is a section of the report for marks given to the site. These marks are the basis for the inspector appraisal of the site/operator as criterion for the risk based classification of installations, see section 3.3.1

Usually one inspector plays the role of team leader, while the other writes the report. To help them do so, the NEG databases are accessible on the operator sites. It is mandatory for

the operators to sign the reports. If they have any objections, they should write them on the report. The report has then to be presented to the Chief Commissioner, Regional Commissioner or the General Commissioner, as appropriate. It is then registered in the register of reports, and in the national electronic database of the NEG.

Joint inspections

Three institutions have a role in implementing the Seveso directive (EPA, NEG, Inspectorate for emergency situations). Usually the three institutions carry out joint inspections. A common inspection report is signed by the three institutions. Sanctions are written on separate templates, under the responsibility of each institution.

Examples of Good Practice

- The validation of the preparation of inspections by county Chief Commissars.
- Writing the report directly on site. However, this could be made optional (in complex cases, it could be useful to take some time to seek advice from experts or from the hierarchy before defining the appropriate measure to be enforced).
- Having opening and closing meetings with the management of the company, so as to make sure they are fully involved.
- Having the possibility to decide on whether inspections are announced.
- The detailed technical norms and templates that provide good tools for inspectors, structure their activity, and harmonise their actions at the national level.
- The national database referencing all the sites being enforced is an excellent tool. The possibility to merge it or link it with the EPA database to gather permitting, monitoring and inspection data would be a decisive step forward.
- To write and sign one common report between different institutions making joint inspections (Seveso).

Opportunities for Development

- Having the possibility for inspectors to directly fill in the database instead of filling in a report and copy-paste it in the database would save time.
- Inspectors do sometimes take some risk carrying out inspections: they should be covered by insurance for that.
- As already mentioned above in the section on setting priorities, other ways of organizing the inspectors' feedback on site should be considered, and this should remain internal to the inspectorates, to prevent unnecessary and unhelpful discussions with operators.
- Inspections in teams are a good way of meeting the obligation for regularly changing the sites inspectors are responsible for. The presence of two people also makes it easier to take decisions on sanctions and strategies, and it is good for the safety of the inspectors. But it can also prove to be costly and perhaps unnecessary in the case of very simple sites or sites which have a long tradition of excellent performance.
- There is potential value in separating the facts reported from the measures and sanctions applied. It is good practice to issue the first part of the inspection report on site. As for the second part, some delay would allow for more experts to be consulted thus resulting in more collective decisions and quality reviews of the decisions taken.

3.3.4 Performance monitoring

Objective

Find out how the environmental authority assesses its performance and the environmental and other outcomes of its activities.

Use of Indicators

The following parameters are used both for reporting and for assessing inspectors :

- number of inspections per inspector
- number of penalties per inspector
- amount of penalties per inspector
- number of complaints per inspector
- number of trainings attended by inspectors
- number of inspectors knowing foreign languages
- number of environmental regulated enterprises/no of existent enterprises
- number of complaints per inspector
- number of press releases per inspector
- number of fulfilled measures stipulated in negotiated process/no of unfulfilled measures

They are complemented by 12 qualitative indicators set out in the civil servant law, of which the main ones are:

- capacity for team work
- capacity for independent work
- capacity for solving complex problems
- planning and strategic action capacity
- analysis and synthesis abilities
- negotiations capacity
- creativity and initiatives

There is also a sanction system : in case of unsatisfactory final annual evaluation, an internal discipline commission can analyse and propose to the management sanctions which can be :

- written warning
- salary diminishing for a period of 3 months
- ceasing the work contract

Reporting procedures

Output data on the execution of the inspection plan (number and types of inspections, sanctions, accidental pollutions etc) are reported from counties to regions and from regions to the General Commissariat twice a month.

These reports include mainly :

- Number of routine and non routine inspections
- Data on civil sanctions (number, types, amount, warnings)
- Criminal dossiers submitted

- Accidental/incidental pollution

Trimester reporting includes in addition:

- Number of hours spent on routine inspections, non routine inspections and other activities
- Percentage achieved in all activities compared with the amount allocated in the annual plan
- Percentage of appeals to penalties where the court decision is in favour of the NEG

There is therefore a close monitoring of the execution of the plans by the general commissariat. Feedback is provided to region and counties after every reporting period.

In addition, a yearly report on activities carried out by the commissariats is sent to the general commissariat in accordance with the procedure below set out in the technical norm:

Reporting the inspection activity developed by NEG commissariats is mandatory to be done yearly by NEG General Commissariat, as well as each time is requested.

The annual report contains:

- The activity report ;
- The completed summaries of the Inspection Plan, in each column;
- Assessment of the annual planning of activities;
- Description of some efficient inspection actions that led to the significant improvement of the environmental factors (optional);
- Proposals of necessary actions to improve the inspection activity for example: personnel training of personnel in the field of the inspection activity, drawing up guidelines, manuals etc;

The annual report on the activity results are submitted to the NEG General Commissariat for assessment by 15th of January of the year following.

Examples of Good Practice

- it is good to have the general commissariat involved in the execution of the inspection plans.

Opportunities for Development

- Perhaps the reporting frequency (every 2 weeks) could be reviewed as it seems rather high.
- There could be more focus in the performance assessment of collective output of counties or regions inspectorates rather than of individual inspectors.
- A review of the criteria for individual evaluations could be considered, mainly around the accomplishment of agreed yearly individual plans.

3.4 Part D – Site visit

There was no site visit during this IRI, but there was a presentation by a company : the Abo Mix intensive pig farm, founded in 1972. The permit writers and inspectors concerned were participated in the session. Abo Mix is a Hungarian owned company. Around 50 000 slaughter pigs are produced per year. There was a great investment in 2007-2008 aimed at environmental protection. The water purifying station was then modernized, and feeding, stalling and ventilation were upgraded. The permit of this site prepared by the REPA as well as one inspection report had been translated into English and made available to the team members. The permit allows 38 000 pigs in 19 stables. An annual environment report is to be made every year by the owner. It is sent to the RC-Cluj and the REPA. This applies to all IPPC installations. It is analysed by the regional EPA and used by the guard to prepare for inspections. The monitoring of the site is the responsibility of the county EPA. In 2010 they had had only one inspection from the guard, lasting 2 days. This case formed a good occasion to see how topics discussed during the review in a more abstract way, are dealt with in practice.

4. Conclusions

The Romanian inspectorates willingness to improve and learn from others is a major benefit to the organisation, as its intensive international cooperation and its broad collaboration with all relevant local institutions show.

The discussion was very open, and the participation of many inspectors from the county, regional and national levels allowed rich discussions, which highlighted the progress made in recent years. The NEG enforces a multitude of supervisory tasks, many of which are highly specialized, making it a real challenge for county levels to cope with.

Detailed national guidance and IT tools have been developed. Educated and motivated human resources have been recruited.

Overall, the management of NEG and of the Cluj regional office should be congratulated on their hard work and commitment that they have put into the organization of this review and the development of the inspectorate.

The report suggests a number of areas of good practice that could be embraced by other organisations and suggests some areas for possible development in the future.

The Review team's broad conclusions are that the objectives of the area of EC environmental law within the scope of the review of NEG are being delivered in Cluj, Romania, and that arrangements for environmental inspection and enforcement are broadly in line with the RMCEI.

5. Lessons learned from the Review Process

The main lessons are:

- It is very important to have as many documents in advance as possible.
- The presentations and the course of the review are more efficient when they are fully in line with the questionnaire.
- It is preferable to have at least one evening free for the review team to elaborate on the report and the main findings.
- Cooperation could be developed together with the Greenforce network, especially for IRI in countries where nature and industrial inspectorates are connected.
- It is good practice to have many people from the organization involved in the organization and attending the meeting.
- We had the privilege to have the general inspector from Moldova associated with the review as an observer. Having observers from other organizations attend the review could be encouraged.
- In this IRI one session was dedicated to one particular company case where we looked at the permit and inspections of an IPPC pig farm. Representatives of the company and the permit writers and inspectors concerned joined the discussion. This was a useful exercise to get a better understanding of how procedures and provisions work in practice.

