

SUMMARY OF THE POLICY PAPER
**“FROM THEORETICAL TO REAL-LIFE INTEGRATED PREVENTION AND CONTROL
OF INDUSTRIAL POLLUTION”**

RESEARCH ON THE IMPLEMENTATION AND ENFORCEMENT OF THE IPPC DIRECTIVE IN THE REPUBLIC OF
MACEDONIA

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This document summarizes the conclusions and suggestions of the research on the implementation of the provisions for integrated industrial pollution prevention and control of the “Law on Environment”, conducted by Front 21/42 as part of the project “From Theoretical to Real-life Integrated Prevention and Control of Industrial Pollution.”

The research involved employment of information retrieved from the website of the Ministry of Environment and Physical Planning; insight into the relevant documentation of the IPPC Department; several meetings held with the Macedonian Information Center and the State Environmental Inspectorate; several encounters with the local residents of the 3 places where installations subject to our detailed analysis are located as well as with representatives from the concerned municipalities and selected installations.

Apart from Jugohrom Ferroalloys whose representatives declined to meet with our research team, the remaining target groups set forth demonstrated goodwill and openness to collaboration.



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A LONG WAY TO GO?

The 2005 Framework “Law on Environment” introduced the European model of regulation of industrial pollution in Macedonia. Under this model, based on the Directive 96/61/EC on Integrated Pollution Prevention and Control (*IPPC*), operators of industrial activities are obliged to obtain an environment permit as a legal requirement for coming into (or continuing) operation.

The environmental permit is a regulatory “instrument” aimed at protecting the environment as a whole, through prevention, and wherever possible reduction of water, air and soil emissions, as well as measures for waste management and energy efficiency.

In practice, operators of industrial activities achieve this goal by introducing the Best Available Techniques (*BAT*) before coming into operation. The existing installations, however, have a set “grace” period for harmonization with the *BAT*.

In Macedonia, the provisions for integrated pollution prevention and control of the “Law on Environment” cover 117 installations.

Under the Law, all existing installations (operating before July 1th, 2007) are obliged to adjust their operation to the Best Available Technique by April 2014. By exception, the Government can extend the deadline for an individual existing installation no later than April 1th, 2019. The new installations (starting work as of December 1th, 2009) must also obtain an *A-Integrated* Environmental Permit by 2014 as a condition for *coming into* operation.¹

Out of 117 installations, for the period between December 2006 and April 2012, the Ministry of Environment and Physical Planning issued only 23 environmental permits, meaning that only 19% of the necessary permits have been issued over a period of 6 years. There are two more years remaining for 94 permits and for the adjustment of the operation of all 117 installations to the Best Available Techniques.

CONCLUSIONS FROM THE RESEARCH AND OUR RECOMMENDATIONS

1. PROCEDURE FOR ISSUING A-ENVIRONMENTAL PERMITS - CONCLUSIONS

1.1. It is certain that the provisions concerning integrated pollution prevention and control of the “Law on Environment” won’t be implemented by April 2014 at the latest.

The amendments to the A-adjustment permit to adjustment plan of Jugohrom Ferroalloys allow implementation of certain activities in 2015. There are two years remaining for the issuing of 94 permits and for full harmonization of the Macedonian industry with the European standards.

We identified several reasons for the inefficiency of the process:

- Inadequate planning of the transposition and uncoordinated implementation of the provision concerning integrated pollution prevention and control;
- The Department for industrial pollution and risk management (Ministry of Environment and Physical Planning) had/has insufficient capacity to effectively process all permit applications (in 2007, the department had 5 employees);
- The Ministry of Environment and Physical Planning has “breached” the legally established deadlines in 14 *IPPC* procedures;

¹ Depending on whether it is an existing or a new installation, the “Law on Environment” provides for two types of A-environmental permits: A-adjustment permit to adjustment plan and A-integrated environmental permit.

- Nearly each operator has submitted incomplete Application for A-adjustment permit to adjustment plan. The long period needed for completing the application delays the entire process which according to the permits issued thus far exceeds 2 years.
- The legal mechanisms for performance of duties related to the permitting process are not being employed (summoning of the governmental Adjustment Plan Commission when the adjustment plan cannot be agreed on within 1 year, punitive penalties for officials, etc).

1.2. The public and the concerned municipalities take no part in the IPPC procedures. With the exception of 3 municipalities, the concerned municipalities failed to exercise their right to submit comments, demand a public hearing etc. The concerned citizens did not participate in any IPPC procedure for the analyzed permits either.

OUR RECOMMENDATIONS FOR OVERCOMING THE PROBLEMS IN THE PROCEDURE FOR ISSUING A-ENVIRONMENTAL PERMITS

1. **External experts should be included in the IPPC process, following the example of many other countries.**
2. **The “Law on Environment” should be amended in order to determine a 3-month time-frame for the operators to submit *complete* Application for A-environmental permit.**
3. **The law should be obeyed and the envisaged Adjustment Plan Commission should be established in all IPPC procedures when the deadline for agreeing on the adjustment plan has been missed.**
4. **The “Law on Environment” should be amended to enhance the public participation in the IPPC procedure:**
 - The Ministry of Environment and Physical Planning and the municipalities should determine the public concerned in the earliest stage of the procedure and continuously and *directly* inform it on the activities in the process, including information on the performance of the obligations under the permit;
 - The conduct of at least two public hearings should be a must;
 - The Ministry of Environment and Physical Planning should prepare a public participation report which will be published on the Internet.
5. **The local population should be educated and cooperation between the Ministry of Environment and Physical Planning and the civil society should be established.**
6. **A separate IPPC e-portal should be set up.**

Currently, the information regarding the IPPC procedures is not easily accessible on the website of the Ministry of Environment and Physical Planning and much of the data is not even publicly available. Therefore, extensive utilization of the full Internet potential is essential to inform the public efficiently and to increase the transparency of the IPPC procedures. Following the example of the Strategic environmental assessment (SEA) internet portal, a separate IPPC portal sending automatic e-mails informing its registered users on the particular activities of certain installations should be set up as well. The IPPC portal should be used for transparent electronic consultation with the public, in which the Ministry of Environment and Physical Planning will publicly expound the comments of the citizens and citizens’ associations and will publish information on the monitoring and enforcement of the obligations of the environmental permits. The portal should be easy to navigate (categorized by operators or elements of the permit - monitoring, reporting, limit values, adjustment plan, supervision) and continuously updated. The portal itself should identify the citizens’ associations concerned for particular installations (e.g. active citizens’ associations and residents in the vicinity of FENI Industries).

7. The capacity of the citizens' associations for participation in the IPPC procedure should be strengthened.

8. The role of the municipalities should be strengthened as well.

Following the example of the municipality of "Gazi Baba", it is highly recommended to form a mixed body composed of representatives of the local population, the municipality, the environmental organizations and the operators, which would meet at least twice a year and/or should the need arise.

People with adequate education in the field of the environment should be employed in all concerned municipalities.

9. The public should be provided with effective and available model for access to justice in all cases when some of their rights have been violated in IPPC procedures.

We suggest the Government to form a working group to analyze the right of access to justice in the area of the environment which will include one representative from the civil society. The Working Group should then draft recommendations for legislative amendments that will guarantee full exercise of the right of access to justice.

2. ADJUSTMENT PLANS/ENHANCEMENT PROGRAMMES - CONCLUSIONS

- 2.1. The majority of the analyzed adjustment plans i.e. enhancement programmes (22 in total) are drafted in accordance with the "Law on Environment".
14 environmental permits have complete adjustment plans/enhancement programmes; 7 environmental permits contain certain deficiencies (the enhancement programmes contain neither time frames nor financial evaluation of activities; there are no adequate measures for harmonization with the adjustment plan); and 1 environmental permit contain no activities in the enhancement programme (CHP).
- 2.2. We learnt from the conversation with the State Environmental Inspectorate (Ministry of Environment and Physical Planning) that most operators which have obtained environmental permit implement the adjustment plan in line with the set time frames.
The most worrying case is Silmak Jegunovce (now Ferroalloys). In the period between 2008 and 2010, Silmak implemented none of the activities of the adjustment plan and in return, not only that it received no punishment, but the new owner (Ferroalloys), contrary to the law, obtained a new permit with extended deadlines. The fact that new deadlines are also disregarded is of particular concern.
- 2.3. The amount of the financial guarantee or the amount of the penalties for non-performance of the activities prescribed by the adjustment plan have not been determined in any A-permit for adjustment to the adjustment plan.
- 2.4. The detailed analysis of three A-adjustment permits to adjustment plan showed that the activities which would have greatest positive impact on the environment have the farthest deadlines, just before the expiration of the legally established "end point" - April 2014.
- 2.5. The economic interest of the operators has a great impact on the establishment (and implementation) of the adjustment plans.

OUR RECOMMENDATIONS FOR OVERCOMING THE PROBLEMS WITH THE ADJUSTMENT PLANS / ENHANCEMENT PROGRAMMES:

- 1. The announced review should include full harmonization of the adjustment plans/enhancement programmes with the “Law on Environment” for all A-environmental permits issued.**
- 2. The review should determine the financial guarantee or the penalties for all A-environmental permits issued.**
- 3. The “Law on Environment” should be amended thereby ensuring compulsory activation of the financial guarantee/penalties provided the operator fails to perform the obligations.**
- 4. The order of performance of activities should be prioritized to the benefit of the environment wherever technically possible.**
- 5. A suitable financial model must be found as soon as possible for the operators to overcome the economic difficulties arising from the adjustment of their operation to the Best Available Techniques (BAT).**

3. MONITORING, REPORTING AND SUPERVISION – CONCLUSIONS

- 3.1.** The information on the monitoring and/or supervision of the installations and the results thereof are not easily accessible to the public, including the local population. Despite being obliged to since 2006, in 2012, the Ministry of Environment and Physical Planning neither keeps electronic registers of the A-environmental permits, nor publishes the results of the monitoring of the installations which have obtained permits. Only “Titan Cementarnica Usje” publishes online reports of the average monthly and daily concentrations of air emissions. As to the remaining operators, the public can learn whether the operators are implementing the measures from the permit and the results thereof by demanding insight into the documentation in the premises of the Ministry of Environment and Physical Planning and a written notification of the Macedonian Information Center or the State Environmental Inspectorate (Ministry of Environment and Physical Planning). However, this is just theoretical, since the insight (the requests for information) does not provide sufficient information either – the following paragraph (2) contains further elaboration on this matter.
- 3.2.** In terms of reporting of the monitoring and implementation of the measures, most operators fail to duly perform their obligations of the permits with impunity.² Only 3 permits (FENI, Vardar Dolomite and USJE) out of the analyzed 22 regularly submit (relatively) complete individual and annual reports to the Macedonian Information Center. At least, there are timely Annual Environmental Reports for 3 more permits (Vesna SAP, Makpetrol and Jugohrom Ferroalloys), which, however, contain no conclusive data that the operators abide by the emission limit values prescribed in the permit. The operators of 9 A-permits hadn't

² Three basic reports must be submitted by the operators:

- Monitoring reports containing results of emissions monitoring conducted by operators in accordance with the obligations of the permit;
- Reports on the implementation of the activities of the adjustment plan/enhancement program, which the operator must submit 14 days after the implementation of an activity; and
- Annual environmental reports containing data from the monitoring reports, a summary of the reports on energy efficiency and efficient utilization of raw materials, a summary of reported incidents, etc.

submitted any report to the competent authorities. None of the operators submit reports on the implemented measures of the adjustment plan/enhancement programme.

- 3.3. None of the A-environmental permits contain reporting in accordance with the national BAT Monitoring Guidelines.
- 3.4. The irregular reporting on the monitoring of the emissions raises questions about the amount of the annual compensation for holding an environmental permit and for the regular supervision. The emission levels and the exceeding percentage of the limit values are important elements in the formula for calculating the annual compensation for a permit. We do not understand how the Ministry of Environment and Physical Planning calculates the amount of these compensations without data on the emissions. The same applies to the annual compensation operators pay for the regularly conducted supervision - the emission levels play an important role in this calculation.
- 3.5. A full monitoring of the emissions in the environment was established in the majority of A-environmental permits issued. We have discerned deficiencies only in the environmental permits of Jugohrom Ferroalloys and Vesna-SAP: in both cases neither the monitoring nor the soil emission limit values have been established. The dates as of which the monitoring obligations are applicable have not been determined in the case of Jugohrom.
- 3.6. The State Environmental Inspectorate supervises the operation of IPPC installation at least once a year. For some of the installations, the Inspectorate conducted additional supervision throughout the year. The outcome of these supervisions is simple measures for 4 operators and a misdemeanor sanction for Jugohrom Ferroalloys for not implementing the measures of the adjustment plan. The information on the supervision and the passed sanctions has been communicated neither to the municipalities nor to the Department for industrial pollution and risk management. They haven't been published anywhere either. Not even the Inspectorate itself has an electronic database with records of the activities of all inspectors.

OUR RECOMMENDATIONS FOR OVERCOMING THE PROBLEMS IN THE ADJUSTMENT PLANS/ ENHANCEMENT PROGRAMMES:

1. **The reporting obligations in accordance with the best available techniques for monitoring should be established in all A-environmental permits.**
2. **The performance of the reporting obligations should be strengthened with all available mechanisms (especially penalties in cases of repeated disregard of obligations).**
3. **The manner in which amount of the annual compensations for operators with an A-environmental permit was calculated should be examined. The IPPC documentation must contain documents pertaining to the compensations.**
4. **The announced review should establish limit values and adequate monitoring of soil emissions for the respective operators.**
5. **The review should adjust the air emission limit values to the new Rulebook in all A-environmental permits.**

- 6. The State Environmental Inspectorate should set up an electronic database wherein each inspector will submit the reports and the results of the supervision.**

WORK PERMIT PRIOR TO IPPC PERMIT?

We would also like to point out one case not subject to the analysis: the “Law on the Environment” prohibits the issuance of a work permits to any IPPC installation prior to the obtaining of an A-environmental permit. Johnson Matthey has been working since April 2010, regardless of the fact that its permitting procedure is still pending.

CONCLUSION

Our impression is that the authorities have great understanding for the problems of the pollutants especially for the financial burden involved in the necessary investments. On the other hand, the treatment of the local population is not nearly as caring and understanding.

Integrated pollution prevention and control is a great “tool” which, if effectively implemented, will result in visible pollution reductions and healthier environment for us all.

However, given the serious deficiencies we were able to discern in our research, we wonder whether the implementation of the IPPC provisions in Macedonia depends largely on the goodwill and responsibility of the operators and perhaps on the occasional pressure from the public.

Our assumption is that this directive will be one of those that will slow the negotiations for Chapter 37 thereby hindering Macedonian’s integration into the EU.

We consider the announced review of the issued environmental permits a significant opportunity to enhance the implementation of the IPPC provisions, or a chance to correct the deficiencies in the already issued permits, and to provide specific guidelines as to avoid the same mistakes and deficiencies in the new permits.

This document is our modest contribution to the reviewing process, especially to the protection of the nature and health of the Macedonian citizens.