

Draft notes from the EUFJE Annual Conference in Stockholm, Saturday 17 October 2009

Discussion topic C – Who can appeal IPPC-permits – what is requested by neighbours and NGO:s? (question 5)

Presentation by Lavrysen, Belgium (see presentation slides: *Access to Justice of NGO's in IPPC Cases in Belgium*)

Karin Bruzelius, Norway, brings up the topic of class action which is now allowed in Norway.

Ulf Bjällås mentions the Swedish class action case regarding Arlanda airport.

Robert Carnwath, UK, on the UK principles for standing: In short, the party who appeals must have a sufficient interest. And usually the courts find that there is a sufficient interest. But there are other factors in the UK that hold back the number of appeals, such as procedural costs.

Marilena Uliescu informs about the Romanian system: In Romania, the parties personal interest is not questioned. And NGO:s have a right to launch legal proceedings.

Thijs Drupsteen, the Netherlands: We used to have no standing requirement and at that time we had some people appealing many cases that were of no concern to them. Then we introduced a standing requirement. But at that time, the people who used to appeal as private individuals formed NGO's to appeal.

Carole Billiet, Belgium, points out that having standing may be of little use unless there is a timely judgement, which is a problem in Belgium.

Ulf Bjällås, Sweden, points out that a timely judgement is important for the operator as well.

Amadeo Postiglione, Italy, gives a statement.

Discussion topic D – Starting points for the conditions of the permits; BAT and BREF:s (question 6, 11 and 12)

Introduction by Anna-Lena Rosengardten, Sweden (see section d, flap 17 in the conference binder).

Presentation by Carole Billiet, Belgium (see presentation slides *Reaching BAT: Flanders' path of discharge quality standards* and see section 6 in the Belgian national report under flap 5 in the binder). Further, Carole Billiet explains that the VLAREM rules are often changed and that, when necessary, existing installations are allowed a certain time to adapt to the new rules.

Thijs Drupsteen, the Netherlands: We generally accept the operator's proposed conditions as long as they are within the range described in the BREFs.

William Birtles, UK: Conditions are often set based on the result of negotiations between the relevant industry sector and the administrative authorities.

Françoise Nési, France: We accept the BREFs but always make an additional balancing in the individual case, for example a cost benefit balancing.

Georg Herbert, Germany, describes the German approach which is similar to that of France.

Presentation by Kari Kuusiniemi, Finland, on the Finnish system (see presentation slides *BAT – Case by case assessment*).

Discussion topic E – Time limitation of the permit and the request of a new permit in case of changes (questions 7 and 10)

Introduction by Ulf Bjällås, Sweden (see section e, flap 17 in the conference binder).

Opening by Georg Herbert, Germany:

-A permit is granted indefinitely. But the operator must ensure that the installation abides by new emission standards, if this is proportional. And the installation must be operated in a way that avoids damage to health and environment. The obligations that follows from this may change over time.

-Operators must report changes in the operation of an installation before the changes are made. After the report, the authorities have one month to require a new authorization of the installation.

-A significant change of an installation requires a new permit. If the change is likely to have a negative effect on certain interests protected by law, the change is significant.

-A new permit for a change that is only quantitative is granted only for the increased production, not for the whole production. If there is a qualitative change in the installation which affects also the existing production, the whole production will be regulated in the new permit.

-An EIS is required if certain threshold levels are exceeded.

Karin Bruzelius, Norway, explains how permits are reviewed in the Norwegian system where permits are granted without time limit: The law provides that the authorities review the installations and the authorities can require a review of the permit. Changes in an installation also require a new permit.

William Birtles, UK, explains that the UK system is similar to that of Norway.

Ulf Bjällås, Sweden, explains that the Swedish system is also similar to that of Norway. He mentions that he would prefer a system with permits limited in time, but that the Swedish industry is against that.

Amadeo Postiglione, Italy, explains that in Italy the authorities may modify a permit after five years.

Péter Vajda (COM, DG ENV): The future IPPC-directive will allow the Member States to choose between a system where permits are limited in time and a system where the authorities review the permits and ensure that they are up to date. However, the publishing of new BAT conclusions will require a review of existing permits within five years.

Jan Eklund, Finland, on the Finnish system: Permits are formally valid for ever. But the contents of the permit, i.e. the conditions, may be changed. The conditions may be reviewed every five to ten years. An operator must also apply for a new permit when changes are made that have a material effect on the pollution or risk of pollution from the installation.

End of the conference

/David Granberg