



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

Questionnaire on the IPPC-directive for the annual conference in Stockholm 2009

(to be answered by e-mail to monica.stenberg@dom.se before 1 august 2009)

This questionnaire consists of two parts. First, there are some general questions about the implementation and application of the IPPC-directive (Council Directive 96/61/EC of September 1996 concerning integrated pollution prevention and control, codified version in Directive 2008/1/EC of the European Parliament and of the Council) in your country, and the role of the courts. Then, we have constructed a case, where an operator is asking for a permit, and we ask you to fill in the information about how this example would be handled/examined in your country.

General questions about the implementation and application of the IPPC-directive and the role of the courts

1. How many IPPC-plants are there in your country?
2. In what way are questions concerning the application of the IPPC-directive brought to court (litigation, application for a permit, appeal of a permit decision, application for a summons, criminal offence)?
3. Which authority (authorities) issues permits according to the IPPC-directive? How far has the integration according to the directive reached? Can, in your country, one authority issue an IPPC-permit comprising the total environmental impact of the polluting activity (water, air, land, waste etc) or does the company (the applicant) have to send applications to different authorities?
4. Which authority or court hears appeals against IPPC-permits? What competence does the authority or court have to change/amend a permit? Can it for example decide about new or changed conditions? Can it just withdraw the permit or parts of the permit?
5. Who – in addition to the operator of the plant - can bring a case concerning IPPC-matters to court by appealing against an IPPC-permit? What about for example people living in the neighbourhood, NGO:s and authorities on different administrative levels (local, regional, national)? What kind of obstacles are there for them to bring a case to court; for instance different kinds of procedural costs?
6. On what basis is decided what is considered to be the best available technique (BAT) in a certain case? What is the role of the BREF documents?
7. Is there a time limit for the IPPC-permit, or is the permit valid for ever? Is the permit holder obliged to apply for a new permit after a certain time period? Can a supervisory authority issue injunctions which go further than the conditions of the permit as regards environmental

matters? Under what circumstances can a supervisory authority request a review of the permit and its conditions?

8. Is the choice of the localisation of an IPPC-plant considered in the same process as the IPPC-permit and the conditions for the permit? Or is the localisation decided in a separate process according to another legislation? In that case; which comes first, the decision on the localisation or the IPPC-permit?

9. Are the EIA-directive (Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, 85/337/EEC) and the IPPC-directive implemented in the same legislation in your country, so that you in one single process get a permit that fulfils the demands of both directives? If not so; how is the EIA-directive implemented? For example in a special legislation, in planning and building legislation or otherwise?

10. Suppose an existing IPPC-plant wants to double its production and that this will be done by duplicating most of the process equipment. The plant will thus consist of an old and a new line of production, but some equipment that is necessary for environment protection will be parted so that it is used by both lines. The application concerns only the increase of production (the new line) and not the whole production (both old and new line). How does the permit authority handle this situation? Does it issue a permit concerning only the increased production (the new line)? Or does it demand a new application concerning the whole production (old and new line)? Or what? (See article 12.2.) This question can be considered in light of the EIA-directive, which demands the assessment of a project as a whole (and no cutting of the salami!).

11. Can the permit authority decide on conditions based on BAT, even if the application only describes environment protection measures that are less strict? How does the authority handle applications that are not based on BAT?

12. If there are national general rules on emission standards that do not match BAT, how are they applied by the permit authority?

13. How does existing industries meet the demands of the IPPC-directive in your country? Who has the responsibility to make sure that the requirements are met? Is it the supervisory authority, the operator of the plant or someone else? What are the consequences if an existing industry does not meet the requirements? Can it be closed? Or is a certain time period accepted before measures? How long? (See article 5.)

14. Which authority is supervising IPPC-plants? How often do inspections take place? What enforcement policy do they have (warnings, injunctions, sanctions and so on)? Which type of sanctions can be applied in case of violations?

2. An example

A new tannery is going to be built in your country. The tannery will have a production that exceeds 12 tonnes per day and is thus an IPPC-plant.

1. What kind of authority or authorities (local, regional, central) will handle (examine, review) the application and issue the permit?

2. Will the application include an EIS according to the EIA-directive?

3. Will the permit authority/authorities try the localisation of the plant in the same process as the IPPC-questions?

4. Are there any procedural costs for the tannery operator?

5. Does the permit authority normally ask other authorities on different administrative levels in the permit process for their opinion on the application?

6. How does the permit authority ensure public participation? Can for example people state their view in writing, by e-mail, in a public hearing or otherwise?

7. The permitting authority will issue the permit on certain conditions. Mark with an X the in the table what kind of conditions that might be laid down. And please make good use of the “remark”-column, with for instance examples of conditions!

Kind of condition	Yes	No	Remark
conditions concerning the tanning technology itself (clean production)			
conditions concerning the cleaning technology (end of pipe solutions)			
limit values for water pollutants			
limit values for air pollutants			
conditions concerning solid wastes			
limit values for noise			
limit values for energy consumption			
conditions concerning transports to and from the plant			
conditions about what chemicals that are not to be used in the production			
conditions concerning the control of discharges			

Other questions	Yes	No	Remark
can the setting of conditions be postponed in the permit?			
can stricter conditions than what is stated in the BREF-document be set?			

8. If the permit authority wants to prescribe a condition on the maximum discharge of chromium to water from the tannery, on what basis is the level of the discharge decided?

9. Who can appeal the permit and to whom?