**INDUSTRIAL POLLUTION CONTROL**

**IED**

*Legal reference:*

DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast)

1. **Which parts of the Directive have been transposed?**

The total transposition score for this Directive is 51,5% and the main instruments for transposition are the Law on Integrated Pollution Prevention and Control (Official Gazette of Montenegro 80/05; 54/09), Waste Management Law (Official Gazette of Montenegro 64/11) and the Decree on emission limit values from stationary sources .

The Law on Integrated Pollution Prevention and Control transposes the parts of the Directive originating from previous IPPC Directive – a number of definitions, obligation to hold a permit, granting of a permit, permit application procedure, permit conditions and other features of the Chapter II of the Directive related to the activities from Annex I, changes by operators to installations**,** access to information and public participation in the permit procedure, etc. Secondary legislation adopted in accordance with this law ((Decree on types of activities for which an IPPC permit is issued (Official Gazette of Montenegro 07/08), Decree on criteria for determination of the best available techniques, on criteria for implementation of environmental quality standards and on criteria for setting of emission limit values in integrated permits (Official Gazette of Montenegro 07/08)) transpose the Annexes I – III of the Directive.

Waste Management Law and the Rulebook on Waste Incineration (Official Gazette of Montenegro 14/11) transpose a number of definition from IED as well as a Chapter IV of the Directive related to waste incineration plants and waste co-incineration plants.

Decree on emission limit values from stationary sources (Official Gazette of Montenegro 10/2011) transposes again a part of definitions from the Article 3 of the Directive, emission limit values**,** Chapter III of the Directive related to combustion plants (large and medium) a part of the Chapter V related to installations and activities using organic solvents, as well as part of the Chapter VI related to titanium dioxide industry, Annexes V, VI and VII of the Directive are also transposed by this Decree.

1. **How and when the remaining provisions will be transposed?**

Transposition of the remaining provisions will be achieved with the new Law on the IED which will be adopted in 2015.

1. **What has been achieved so far as regards:**

**Chapter I – General provisions:**

* **Identifying all relevant installations**

Relevant installations are recognized through the Programme for harmonization of certain economic activities with the Law on Integrated Pollution Prevention and Control (Official Gazette of Montenegro 19/12).

* **Identifying the competent authority/ies for the implementation of the Directive**

Competent Authority/ies have been recognized through the Law on Integrated Pollution Prevention and Control as follows:

1. Authority of the state government competent for the environmental protection (Environmental Protection Agency) - for installations and activities for which the permit or authorisation for construction and start-up, namely execution of carrying out of activities is issued by another competent state administration authority;
2. Authority of the local self-government competent for the environmental protection **(municipalities**) - for other installations or activities for which the construction permit and permit for start-up, namely the execution of activities is issued by the competent local self-government authority (Art. 4 of IPPC Law).
* **Establishing an operating permitting system for installations falling under the scope of the Directive (Art. 4)**

In accordance with IPPC Law all installations covered with Annex I of Directive must obtain integrated permit. Also, in accordance with Waste Management Law all installations for treatment of waste (Recovery or Disposal activities) have to obtain permits for recovery or disposal.

* **Ensuring compliance with the permit conditions (Art. 8)**

Environmental inspection as a part of Directorate for inspection supervision is responsible to provide the necessary controls and penalties to ensure that the law is being implemented with fully and properly.

* **Adoption of penalties applicable to infringement of the national provisions adopted pursuant to the IED (Art.79)**

Penalty provisions have been determined by Law on Integrated Pollution Prevention and Control.

**Chapter II – Activities listed in Annex I ("IPPC" activities)**

* **Implementing the best available techniques for installations covered by Chapter II (Art. 14-15)**

 In accordance with IPPC Law, the operator shall submit to the competent authority the application for permit issuing, which shall contain among other, the data related to the best available techniques implemented or planned to be implemented by the operator of a new or the existing installation in order to prevent or reduce pollution.

* **Setting up a system of environmental inspections for installations covered by Chapter II (Art. 23)**

The inspection supervision over the implementation of provisions of IPPC Law and regulations enacted based on it is carried out by the competent environmental authority through the environmental inspectorate in accordance with IPPC Law.

* **Ensuring that the requirements on public participation and access to justice are met (Art. 24-25)**

 The requirements on public participation and access to justice are prescribed with the IPPC Law.

 The procedure for public participation is fully in compliance with the requirements of Annex V of the IPPC Directive (as added by Directive 2003/35/EC).

The competent authority is obliged to inform public on: application receipt (Art.10 of IPPC Law), the draft permit (Art.11 of IPPC Law) and the decision on permit granting, namely refusal of the permit issuing application (Art.14 of IPPC Law) through the public media, namely in at least one local or daily newspapers published in the territory that is likely to be affected by the impact of activities and installations and on the Internet, at the expense of the applicant (Art.22 of IPPC Law).

* **Establishing a consultation system with other Member States in case of transboundary**

 **effects (Art.26)**

The Ministry shall carry out the exchange of information on transboundary impacts of operation of installations and activities on the environment in accordance with IPPC Law. The exchange of information and consultations on transboundary impacts shall be carried out based on the principles of reciprocity and equality, in accordance with the signed international agreements.

**Chapter III – Large Combustion Plants**

* **Defining and classifying LCPs (Art. 28)**

The Decree on emission limit values from stationary sources (Official Gazette of Montenegro ,10/2011) is fully in line with the Article 28 of the IED (Article 22 of Decree).

* **Compliance with emission limit values (Art.30)**

Limit values are set in accordance with IED - for SO2, NOx, CO and dust. ELVs are different for LCPs with thermal input between 50-100 MWt, 100-300 MWt and more than 300 MWt. ELVs are in accordance with Annex V.

* **Deciding whether to set emission limit values (ELVs) or to implement flexibility provisions (Art.31-35)**

 Not transposed yet. The new Law on IED will prescribe provisions related to decision whether to set emission limit values (ELVs) or to implement flexibility provisions.

* R**equiring operators to monitor emissions (Art. 38, Part 3 of Annex V)**

Decree on emission limit values from stationary sources (Official Gazette of Montenegro, 10/2011) Annex V transposes this requirement.

* **Establishing a reporting system and database (Art. 72(3)-(4))**

Not transposed yet. The new Law on IED will prescribe provisions related to reporting system and database.

**Chapter IV – Waste (co-) incineration plants**

* **Establishing a system for identifying categories of waste (Art. 45(1)-(3))**

Categories of waste are determined through Rulebook on classification and catalogue of waste (Official Gazette of Montenegro, 35/12) which transposes the types of waste set out in the European Waste List established by Decision 2000/532/EC.

* **Reconsidering and where necessary updating permit conditions (Art. 45(4))**

Art. 17 of the Law on Integrated Pollution prevention and control stipulated this requirement. The permit is mandatory reviewed every five years from its issuing (Art.17. of IPPC Law).

It is the duty of the competent authority to reconsider/review the already issued permit if:

1. Pollution caused by the installation is of such significance that it is necessary to reconsider the existing emission limit values, or it is necessary to determine such new values in the permit;
2. There is the threat that pollution may cause damage or that damage is caused to the environment and human health;
3. Substantial changes in best available techniques allow for significant reduction of emissions without larger additional costs;
4. Changes in requirements related to safety of operation of the installation or safety of certain activity require introduction of new techniques;
5. Changes in environmental protection related legislation request so.
* **Establishing an effective delivery and waste reception system (Art. 52)**

Requirements regarding delivery and reception of waste are transposed by Waste Management Law (WML), Rulebook on the equipment and staffing requirements for the waste recovery or disposal facility (Official Gazette of Montenegro, 53/12) and Rulebook on incineration of waste (Official Gazette of Montenegro 14/11). The permit issued for the incineration and/or co-incineration plant shall contain conditions among other for the amount and type of waste to be treated and/or removed and technical and other conditions that are important for the process of treatment and/or removal. Also, the manager of a waste incineration and/or co-incineration plant, prior to admission of waste for incineration or co-incineration, in accordance with art.66 WML shall obtain from the holder of waste the following documentation:

- Physical characteristics and chemical composition of waste and the data necessary for

assessing the safety of application of the process of incineration and/or co-incineration;

- Indication of harmful substances with which the waste must not be mixed, if common incineration and/or co-incineration is carried out;

- The necessary precautions to be followed in handling the waste.

 Manager of the plants when receiving the waste for incineration and/or co-incineration, shall:

- Determine the quantity of waste;

- Check the compatibility of the waste received with the data on waste contained in the form for the transport of waste;

- Take samples of waste to verify the accuracy of data on physical characteristics and chemical composition.

* **Establishing operating conditions for plants (Art. 50)**

Operating conditions for plants have been established by art.6 Rulebook on incineration of waste (Official Gazette of Montenegro 14/11) which contains specific conditions for total organic carbon content of slag and bottom ashes, for hazardous waste with a content of more than 1 % of halogenated organic substances, expressed as chlorine, for auxiliary burner (one, at least), for an automatic system to prevent waste feed in the certain situations etc.

* **Setting air ELVs (Art. 45(1)c))**

Limit values for air emissions have been established by Decree on emission limit values from stationary sources (OG MNE No. 10/2011).

* **Setting ELVs for water discharges (Art. 45(1)c))**

 The permit shall contain conditions related to the ELVs for water discharges in accordance with

 national legislation or based on BREF documents.

* **Establishing an effective control and monitoring system (Art. 48)**

Not transposed yet. The new Law on IED will prescribe provisions related to establishing an effective control and monitoring system in accordance with Parts 6 and 7 of Annex VI of IED Directive.

* **Establishing a mechanism for access to information and public participation (Art. 55)**

IPPC Law and Waste Management Law contain mechanisms for access to information and public participation. For example, the competent authority is obliged to inform public on: application receipt (Art.10 of IPPC Law), the draft permit (Art.11 of IPPC Law) and the decision on permit granting, refusal of the permit issuing application (Art.14 of IPPC Law) through the public media, namely in at least one local or daily newspapers published in the territory that is likely to be affected by the impact of activities and installations and on the Internet, at the expense of the applicant (Art.22 of IPPC Law).

* **Establishing permit conditions for abnormal operation (Art.47)**

In accordance with IPPC law, one of the conditions set by the IPPC permit is measures planned for momentary stoppages in cases of disruption in functioning of the installations as well as for termination of operations.

**Chapter V – Installations and activities using organic solvents**

* **Identifying all relevant installations (Art.56)**

Decree on emission limit values from stationary sources (Official Gazette of Montenegro, 10/2011 (Art 27) stipulates the emission of volatile organic compounds from installations.

* **Establishing a system to control emissions (Art. 59)**

Decree on emission limits values from stationary sources (Official Gazette of Montenegro, 10/2011 (Art 27) stipulates the activities listed in Part 1 of Annex VII and, where applicable, reaching the consumption thresholds set out in Part 2 of that Annex.

* **Establishing an effective control and monitoring system (Art. 60)**

Not transposed yet. The new Law on IED will prescribe provisions related to establishing an effective control and monitoring system in accordance with Part 6 of Annex VII IED Directive.

* **Establishing a mechanism for access to information (Art. 65)**

Mechanism for access to information already exists in IPPC Law. However, the new Law on IED will prescribe provisions for mechanism for access to information.

**Chapter VI – Installations producing titanium dioxide**

* **Identifying all relevant installations (Art.66)**

 There is no titanium dioxide industry in Montenegro.

* **Establishing a system to control emissions into water (Art. 68)**

The new Law on IED will prescribe provisions related to establishing a system to control emissions into water- emissions from installations into water shall not exceed the emission limit values set out in Part 1 of Annex VIII IED Directive.

* **Establishing a system to control emissions into air (Art. 69)**

Decree on emission limit values from stationary sources (Official Gazette of Montenegro, 10/2011 (Art 29) stipulates the emission into air from installations.

* **Establishing a monitoring system (Art. 70)**

The new Law on IED will prescribe provisions related to establishing a monitoring system which shall ensure the monitoring of emissions into water in order to enable the competent authority to verify compliance with the permit conditions and Article 68 of IED Directive.

**Seveso Directive**

*Legal reference*

Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances as amended by Directive 2003/105/EC of 16 December 2003 (Seveso II Directive)

*Questions*

1. **Which parts of the Directive have been transposed?**

Seveso II Directive is at a very early stage of transposition. Regulation on the list of dangerous types of goods, method for determining quantity, permitted quantities and criteria of categorization and characterization of hazardous substances (Official Gazette of Montenegro, 5/11) has transposed some definitions from Art. 3 and Annex I Directive.

1. **How and when the remaining provisions will be transposed?**

Transposition of Seveso II Directive 96/82/EC is planned in 2015. The Ministry of Sustainable Development and Tourism shall adopt a new Law on Environment in 2014 which shall contain provisions related to transposition of Seveso directives. Identification of installations that may present a major accident hazard will be done in cooperation between the Ministry of Sustainable Development and Tourism, the Environmental Protection Agency and the Ministry of Internal Affairs i.e. Sector for Emergency Situations and Civil Protection, with 7 regional offices (through their competences for management of natural and manmade disasters).

1. **What has been achieved so far as regards:**
* **Identifying the competent authority/ies (Art. 16)**

The competent authority/ies will be designated upon adoption of the Government Decree based on the new Law on Environment, foreseen to be adopted in 2015.

* **Establishing a notification system (Art. 6)**

A notification system has not been established yet. Transposition is planned through a Government Regulation/Decree, in 2015.

* **Requiring operators to implement a major-accident prevention policy (Art. 7)**

Obligations for operators to provide the competent authority with a notification of how they intend to control the major accident hazards associated with their installation will be prescribed by the Government Decree.

* **Requiring operators to produce safety reports (Art. 9)**

Safety reports and internal emergency plans for operators of installations will be prescribed by the Government Decree.

* **Requiring competent authorities to examine Safety Reports, to decide to allow or prohibit the use of the establishment and to communicate conclusions to the operator (Art.9 and 17). Establishing a system for identifying establishments or groups of establishments with possible "Domino effects" (Art. 8)**

These provisions have not been transposed yet. Transposition is planned through a Government Decree, in 2015.

* **Requiring all Art. 9 establishments to draw up internal emergency plans (Art. 11)**

Safety reports and internal emergency plans for operators of installations will be described with Government Decree.

* **Requiring competent authorities to draw up external emergency plans (Art. 11)**

Preparation of external emergency plans with the requirements of Annex IV of the Directive and public consultation as well as definition of updating and testing for external emergency plans will be prescribed by the Government Decree.

* **Requiring operators to provide information on major accidents to competent authority (Art. 14)**

Obligations for operators to provide the competent authority with report on major accidents will be prescribed by the Government Decree.

* **Establishing procedures for investigating major accidents (Art. 14)**

Transposition has not started yet. It is planned through a Government Decree in 2015.

* **Consideration of major accidents in land-use planning (Art. 12)**

Obligations for operators to provide the competent authority with report on major accidents will be prescribed by the Government Decree.

* **Establishing a procedure for information be made available to the public (Art. 9 & 13)**

Competent authority will be responsible for providing the public and other countries with information on major accident hazards. It will be prescribed with Government Decree/Regulation.

* **Establishing an effective inspection and enforcement system (Art. 18)**

Regular and other inspections are regulated with national Law on inspection control (Official Gazette RMN No. 39/03 and 76/09).

* **Establishing a reporting system (Art. 15)**

It has not been transposed yet, expected through a Government Decree, in 2015.

**Ecolabel**

*Legal reference:*

Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the **EU Ecolabel**

**What has been achieved so far as regards:**

* **Establishing an EU Ecolabel competent body according to the Article 4 and Annex V of the Regulation (EC) No 66/2010**

The Ministry competent for environmental protection is the competent body according to the Law on Environment (Official Gazette of Montenegro, 48/08).

* **Ensuring that the award of the EU Ecolabel and terms and conditions of its use are implemented and market surveillance and control are performed according to Articles 9 and 10**

Article 65 of the Law on Environment (Official Gazette of Montenegro, 48/08) stipulates that the Ministry competent for environmental protection will adopt Act on granting the right to use the ecological label. Furthermore, interested party is submitting request for the ecological label, to the Ministry. It is most likely that the deadlines for rules and manner of implementation EU Ecolabel Regulation will be determined with a new Law on Environment which will be adopted in 2014.

* **Lay down rules on penalties applicable to infringements of the provisions of the Regulation according to the Article 17** **the Law on Environment (Official Gazette of Montenegro, 48/08)**

Penalties are transposed in 2008 by Article 69 of the Law on Environment (Official Gazette of Montenegro, 48/08,): legal person and entrepreneur shall be fined for an offense, in the amount of hundredfold to three hundredfold amount of the minimum wage in Montenegro, if it fails to use the ecological label in prescribed manner.

**EMAS**

*Legal reference:*

Regulation (EC) No 1221/2009 of the European parliament and of the Council of 25 November 2009 on the voluntary participation by organizations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No. 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

**Question: What has been achieved so far as regards:**

**Competent and Accreditation and Licensing Bodies**

* **Designating competent body/ies (Art. 11&12)**

Competent body/ies is not designated yet. It will be determined with a new Law on Environment which will be adopted in 2014.

* **Identifying the body for the accreditation of independent environmental verifiers (Art. 28)**

Implementation of this Regulation has not started yet. It is most likely that the new deadlines for rules and manner of implementation EU EMAS Regulation will be determined with a new Law on Environment which will be adopted in 2014.

**Registration and verification process**

* **Establishing a mechanism for registering organizations (Art.13-15)**

According to the Law on Environment (Official Gazette of Montenegro, 48/08) the registry of legal persons and entrepreneurs registered with the EMAS System is managed by the Agency. Article 30 of the Law on Environment stipulates that the methodology for enlisting the legal person and entrepreneur into the EMAS System, conditions that legal person and entrepreneur have to meet in order to be enlisted, methodology of data collection about legal persons and entrepreneurs, contents and methodology of administering the Registry will be defined by Government Regulation. **E**stablishing a mechanism for registering organizations will be determined with the new Law of Environment which will be adopted in 2014.

* **Establishing a system of accreditation and supervision of independent environmental verifiers (Art. 23&29)**

Establishing a system of accreditation and supervision of independent environmental verifiers will be determined with new Law of Environment which will be adopted in 2014.

**Information and promotion**

* **Establishing a mechanism to promote the participation of organizations, in particular SMEs (Art. 7, 33, 36-39)**

Establishing a mechanism to promote the participation of organizations, in particular SMEs, will be determined with the new Law of Environment which will be adopted in 2014.

* **Establishing a mechanism to inform organizations and the public about EMAS (Art. 35-37&41)**

Establishing a mechanism to inform organizations and the public about EMAS will be determined with new Law of Environment which will be adopted in 2014.

**Enforcement and transparency**

* **Establishing an effective enforcement system (Art. 40)**

Establishing an effective enforcement system will be determined with the new Law of Environment which will be adopted in 2014.

.

* **Establishing a list of registered organizations and verifiers to be made publicly available (Art. 12)**

Establishing a list of registered organizations and verifiers to be made publicly available has not started yet. It will be determined with a new Law on Environment which will be adopted in 2014.

* **Establishing procedures to report to the Commission relating to the functioning of the CB and ALB**

Establishing procedures to report to the Commission relating to the functioning of the CB and ALB has not started yet.

**VOC Paints Directive**

*Legal reference*

DIRECTIVE 2004/42/CE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC

*Questions*

A. **Which parts of the Directive have been transposed?**

Transposition of this Directive has not started yet.

B. **How and when the remaining provisions will be transposed?**

 **T**ransposition is planned for 2013. Provisions will be transposed by adopting a secondary legislation as referred to in article 30 of the Law on air protection (Official Gazette of Montenegro, 25/10, 40/11).

C. **What has been achieved so far as regards:**

* **Identifying the competent authority/ies (Art. 5)**

Identifying the competent authorities is expected during 2013 and will be done by adopting a secondary legislation as referred to in article 30 of the Law on air protection (Official Gazette of Montenegro, 25/10, 40/11).

* **Ensuring that the requirements in relation to VOC limit values and labelling are implemented (Arts. 3 & 4)**

Plan for implementation of requirements related to VOC limit values and labelling requirements will be determinate with a secondary legislation as referred to in article 30 of the Law on air protection.

* **Establishing a monitoring programme (Art. 6)**

Establishing a monitoring programme is expected during 2014. Transposition will be done by adopting a secondary legislation as referred to in article 30 of the Law on air protection (Official Gazette of Montenegro,25/10, 40/11).

* **Adoption of penalties applicable to infringement of the national provisions adopted pursuant to the Directive (Art. 10)**

Penalties are transposed in 2011 by the Law on technical requirements for products and conformity procedure (Official Gazette of Montenegro,53/2011, Art. 36).

**Mercury**

*Legal reference*

Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury

* **Mercury from a limited number of sources (see Article 2 of Regulation No 1102/2008) must be disposed of as waste. Is there any such source in Montenegro?**

There are no such sources in Montenegro; there are no chlor-alkali industries, production of natural gas, non-ferrous mining and smelting operations related to metallic mercury ore extraction cinnabar ore.

Implementation of this Regulation has not started yet. The Ministry of Sustainable Development and Tourism shall adopt a new Law on Environment which shall contain prohibitive provisions related to export of mercury as well as provisions related to safe storage of metallic mercury and certain mercury compounds. The Law shall be adopted in 2014.