

# Environmental inspections of major industrial installations in Ukraine: proposed reforms on the way to the European Union

*Yelyzaveta Aleksyeyeva,  
senior lawyer at Environment-People-Law (EPL),  
legal expert at GIZ Project Best Available Techniques (BAT) for Ukraine*

# Proposed reform

- Draft law 3091 on state environmental control – passed the first hearing in the Parliament in summer of 2021. Developed by MENR in cooperation with civil society experts (EPL).
- Draft law 6004-2 on ensuring the constitutional rights of citizens to an environment safe for life and health – transposes the IED including the respective provisions of Article 23 on Environmental inspections. The draft law was developed by the MENR in cooperation with a technical support project Best Available Techniques (BAT) for Ukraine.

# Routine inspections (1)

The routine inspections are carried out by the EI based on the List of installations that are subject to inspections (the List)

- The permitting authority quarterly reviews, approves the List.
- The List covers all the installations that are operating on the basis of the IE permit. For each installation the List specifies the frequency of inspections.
- The period between inspections is based on a systematic appraisal of the environmental risks of the installations concerned and shall not exceed
  - 1 year for installations posing the highest risks and
  - 3 years for installations posing the lowest risks.

# Routine inspections (2)

The systematic appraisal of the environmental risks is based on the following criteria:

- the potential and actual impacts of the installations concerned on human health and the environment taking into account the levels and types of emissions, the sensitivity of the local environment and the risk of accidents;
- the record of compliance with permit conditions.

The inspections include site visits.



# Non-routine inspections

Non-routine environmental inspections are carried out

- before the granting or update of a permit;
- to investigate complaints from the public or local authorities regarding compliance by the installation with the respective environmental requirements;
- to investigate accidents, incidents and occurrences of non-compliance;
- to follow up on a routine (or non-routine) inspection within 6 months of that inspection, if a non-compliance with the permit conditions has been identified;
- before site closure upon definitive cessation of activities.

# Inspections before the granting a permit (1)

6004-2 Article 7.3. After an application for IEP is submitted by the operator and before the permit is granted the EI

- inspects the installation for compliance with the requirements of environmental legislation,
- inspects the installation and the site to make sure their actual state is correctly reflected in the application for a permit,
- draws up a report and submits it to the permitting authority

# Inspections before the granting a permit (2)

Along with all other consulting authorities the EI having considered the IEP application issues its **conclusions** on granting the IEP, including proposals for its conditions.

These conclusions and the results of the inspections are taken into account by the permitting authority when granting the permit and determining its conditions.

Communication through the online Register.

# Non-compliance/incident/accident (1)

In the event of a breach of the permit conditions and in the event of any incident or accident

- the operator shall inform the permitting authority and the EI within 1 day;
- EI investigates the case;
- the permitting authority and the EI draw up the appropriate measures to restore compliance/to limit the environmental consequences and to prevent further possible incidents or accidents.

3091 – EI is entitled to fine the operator

- failing to comply with the directives of the IE issued in the result of the inspection – 1800 euro.



# Non-compliance/incident/accident (2)

- 6004-2 Where the breach of the permit conditions poses an immediate danger to human health or the environment, and until compliance is restored the operation of the installation shall be suspended.
- 3091 – the EI is entitled to bring a lawsuit against an operator to suspend operations of the installation carried out in violation of the environmental regulations.

# Following the inspection (1)

- Following each inspection, the EI prepares a report describing the relevant findings regarding compliance of the installation with the permit conditions. In case of non-compliance the EI issues binding prescriptions, orders, or other administrative documents specifying the period by which the compliance shall be restored.
- 3091 – EI is entitled to fine the operator
  - illegal interference with the inspection – 54000 euro for IEP installations;
  - operating without IE permit – 10800 euro;
  - non-compliance with IE permit conditions – 5400 euro.

# Following the inspection (2)

The EI is entitled to initiate the procedure to revoke the IE permit -

- the operator has twice illegally interfered with the inspection (denied access to the premises of the installation, relevant documentation);
- introduced changes that require the IE permit to be updated;
- the operator did not restore compliance the IE permit conditions within the prescribed period - by court.

All documents issued by the EI are submitted to the Register and thus made available to the operator concerned and the public.