

**APPROXIMATION OF THE LOCAL LEGISLATION FOR THE
ENVIRONMENT IN LINE WITH THE EUROPEAN UNION
DIRECTIVE “IPPC” – Kosovo Case**

**Dr.sc. Armand Krasniqi prof.ass
Prishtina University
Prishtina, Republika Kosovo**

ABSTRACT

Increasingly is being talked and noted about different forms of risks that our living environment is being threatened. This alert is not a characteristic only in a global point of view but in Balkan countries as well. Unfortunately, almost everyday the forms of risks are likely increasing. The various illegal actions taking place also known as attacks on human health require a rational legal regulation aiming to preserve the ecosystem. Forms how to protect the living environment may be different. Thus primarily is to be thought in aspect of legal protection. Speaking of a legal protection it means that physical and legal entities that are responsible for hazardous actions. The protection of the environment itself means a set of measures and actions that need to be undertaken in order to prevent threats towards the environment with an ultimate aim of preserving the biological balance. An ecological protection is a multidisciplinary subject and it has to be continuously complied by the society. Having into the account that the environment crisis has a global character, automatically countries, particularly those in transition, need to respond in accordance with the global strategy which needs to provide a unified legislation. The unification of the legislation for Balkan countries has to be drafted and implemented in line with the legislative principles of the European Union. A case that needs to be noted is the Directive IPPC¹, which has been adopted in majority of South-Eastern European countries even though their industrial development is not that developed.

1. INTRODUCTION

Today you may find many scientific studies that are related to the environment issues which are directly and strongly stimulating the development of the ecology as a science. Ecology as a scientific discipline its early roots derive from ancient Greece². The economic activities that harm the ecology occur when people start to degrade their natural environment by leading into a blackened the human survival as a human being. The environment problems are caused by us and become a part of our interests not only for a scientific study but in the interest of a random person due to ecological disequilibrium. The risk of environment disasters at present is a first degree of planet threat. Therefore, by setting the environment activities in the centre of our attention in the relationship of the human with the nature and the protection of the

¹ European Union Directive (IPPC) on Integrated Pollution Prevention and Control Parandalimin e Integruar dhe Kontrollin e Mjedisit Ndotjes. For further information please check: <http://ec.europa.eu/environment/air/pollutants/stationary/ippc/index.htm> Original Source: Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control

² Mikel Ndreca "Dictionary of foreign words and phrases" Rilindja Prishtina in 1986, the word ecology derives from the Greek language meaning (home - knowledge science), branch of biology which studies the mutual relationships of living beings, plant and animal world and the environment where we live.

environment now are considered as important social movements among other movements that are happening all over the globe. These movements respectively the social reaction about the environment is deriving as a new form of social movement. It is worthy to note that in 70s of XX century are considered the first serious attempts to mobilize the society about the solution of many daily living issues by including the importance of the environment. Additionally the current human rights in the present day are maximally referred to ecological welfare aspect, health, and culture. We are convinced, that by preserving the living environment it does not mean only the protection of humans' life and health but also the preservation of flora and fauna as well as the vegetation as a whole. Article 31 of the Universal Declaration on human rights promulgates that "*every human being has the right to contribute in preservation of ecological balance in its living environment which is shared with other living beings and cattle and plant world in order to live safely*".³ Out of this provision it turns out that the requirement for the existence of the living life of nature and for the humanity which intends prevention of ecologic disasters, creation of an ecological ethics which would enable to restrict and delegitimize some of the human rights in particular those so-called "*unlimited*" authorizations of the owners, manufacturers and consumers which are realizing or materializing those by misusing the technical and political power. Precisely due to this reason it is a necessity to determine new liabilities for the people aiming to improve life conditions and the earth life itself for humans on earth. We are familiar that the use of the modern technology leads towards a general progress of society but this technology has to be followed up with an appropriate prevention measures by restricting or eliminating entirely the damage consequences. The aim of the preservation of the living environment is ensuring the health and the life of humans, the quality of ecosystem, provision of plant and animal goods for what the human is the creator, maintaining a balance and ecologic stability in rational and appropriate way by using the natural resources.

2. CURRENT ENVIRONMENT PROBLEMS

In every change that occurs within the natural and social environment it interferes a reaction in life and work of the human society. The creation of men and society is regulated from the ecological harmonious system. The violations against this system have started about 40 thousand years ago when human ancestors begin to think to create working tools for fulfilling their needs. Today, due to rapid technological progress and uncontrolled use of results for technological revolution and exploitation of nature, seriously reflects on the division of ecological balance and cause of major ecological disasters. Therefore, logically further development of post-modern civilization requires much greater rationality in the exploitation of nature, and continued strengthening environmental awareness in order to protect it from further degradation. A requirement for nature protection means the requirement for planned development of society as a global society against any damages in uncontrolled environment. Due to the rapid progress outcomes, the violation of ecological balance in nature is the achievement of modern civilization. Ecological crisis as a result of violations was caused by scientific - technological and technical revolution. Due to the results of accelerated technological progress and scientific and technological revolution man has to have "*power over nature*" and the ability to fight with. But this ongoing struggle to adapt to nature and to satisfy human needs produces a series of harmful consequences for its people, the conditions of life, work, and its survival. In recent years, particular attention was paid to preserving the natural environment in all parts of the world and at all levels, especially economic enterprises.

³ The Universal Declaration of Human Rights – United Nations 1948

In this sense, companies are faced with numerous environmental problems whose efficient solution depends significantly on the future of global humanity.

3. EUROPEAN LEGISLATION FOR PROTECTION OF ENVIRONMENT

The European Union has already developed a policy in the sphere of environmental legal regulations. Development of EU legislation - for environmental protection historically began in the seventies of the last century motivated by the effects of a major crisis of global energy. Since 1972 were approved five strategic EU actions in the area of environmental protection, and consequently have been issued over 300 different sources of law together with a large number of relevant documents in this area that were recommended for the countries of the union. All sources of EU law - in this area can be divided into:

- ☞ Primary law sources- of organization's establishment acts and
- ☞ Secondary sources derived from the law that enable EU institutions, i.e. Rules, guidelines, decisions, recommendations, opinions.

All existing legal resources largely are related to restrict pollution and the introduction of minimum standards which are dedicated to waste management, water pollution and air. The combination of different types of standards and measures related to some restrictions that apply within the use and exploitation of natural resources which create legal systems and special procedures for information and operating permits. Due to the seriousness of the case, the EU has requested time to raise the level of protection and covers an area much wider fields. Thus the development of EU legislation in the early nineties focused on the exercise of the rights of citizens in a healthy environment, public participation in the decision - making whose implementation could affect and ensure a healthy environment. A special attention is paid to informing the public on the environmental situation and the realization of the right to legal protection in environmental area. A special segment of EU efforts is estimated to be the completion of adequate legislation, enforcement and promotion of various financial instruments for environmental protection. One of the characteristics of EU legislation in the field of environment is that it relies on a large part of the international community's experiences trying to follow and implement the maximum protective measure. In fact, the EU has usually attempted to specifically recommend certain measures which the wider international community should undertake or implement in the field of environment by having into account the scientific potential approved in international documents. One of the important segments of EU policy in the field of environment refers to countries in transition and it is very important for us, the countries of Central and Eastern Europe.

The most relevant institutions of the EU that are responsible for the creation and implementation of environmental policies and legislation are: the European Parliament and the Council of Ministers whose main function is the adoption of legal acts. The Commission has the main task for proposing legislative acts and ensuring their application in field. One of the important issues facing European countries in transition now is considered the harmonization of environmental legislation in the EU. This process is also one of the conditions set by the EU for cooperation in the field of environmental protection specifically for the candidate countries aspiring to EU membership. Additionally this process is recognized as one of the prerequisites for obtaining a candidate status in order and begin the preparation process for membership. Lastly, one of the reasons why it is desirable harmonization of the local legislation with the EU legislation is motivated by the great responsibility not only for sophisticated legislation in transition countries but also for their implementation.

4. CURRENT LEGISLATION IN KOSOVO

The process of harmonization of environmental legislation with the EU is intense in Kosovo as well. Due to the incontestable goal of our country soon to become a member of this organization, Ministry of Environment and Spatial Planning and other relevant institutions that are related to the European integration process have issued a series of legal and sublegal acts which relate to eliminate respectively to reduce air pollution, water and land, waste management, safeguards in the field of chemical industry and biotechnology, production standards, environmental impact assessment. Information Technology for making aware certain players for environmental protection has particular importance so that information for many polluting components does not remain only in an environment but it is transferable from one environment to another. This need provides a number of rules in the field of integrated pollution control be sufficiently known. We consider that the legislative framework is largely completed but there are serious stagnations in their implementation. However the process of approximation of legislation should be a dynamic process and associated with measures to be recommended by the EU institutions.

5. THE PROCESS OF APPROXIMATION OF LOCAL LEGISLATION IN LINE WITH THE IPPC DIRECTIVE AND WITH THE OTHER RULES OF EUROPEAN UNION

The approximation of legislation with the one of EU should be apprehend as a whole continuation of complex government actions of local structures to issue, modify and approve certain legal acts in conformity with certain EU documents. They should refer to national regulation but also approach all these laws and other sublegal acts with the directives and decisions that are related with the main document.

☞ Until present, has been adopted the following act (Web; www.ks-gov.net/mmph/)

The law on integrated prevention and control of environmental pollution in Kosovo is compatible with the Directive (IPPC)⁴ and with its issuance has been achieved change of the legal system in Kosovo. This law allows the competent authority to make decisions in the form of solutions for requirements on pollution prevention and integrated control of environmental pollution. Implementation of these rules provides an integrated approach to pollution control which includes reducing the minimum consumption of raw materials and energy, prevent or reduce emissions of pollutants in the air, water and land, waste management and taking into account the context of the border, etc. This law regulates the conditions for obtaining an integrated permit and specific conditions for implementing the best standard of available techniques (BAT - Standards, the best techniques available) which are approved by the Commission. Also the EU has set rules for planned preventative measures or, when it is not possible, measures to reduce or disposal of harmful substances to achieve a high level of environmental protection in general. This mainly includes:

- ☞ Rational management of resources in accordance with the principle "polluter pays"
- ☞ Action at the source of pollution, reducing emissions in accordance with limit values emissions
- ☞ Emissions limit value of applications based on standards of BAT, taking into account the technical characteristics of plants, their location and state of the environment around the plant

⁴ European Union Directive on Integrated Pollution Prevention and Control (IPPC)

The process development for the exchange of information between EU countries in improving and applying best available techniques - BAT standards, include the guarding of natural resources, waste minimization and recycling, reducing emissions of pollutants. All based in investments and economic parameters that are within acceptable limits for certain sectors of industry which is considered the basic idea of sustainable development.

In order to successfully implement the BAT standards, a certain company is obliged to determine the emission limits in the necessary permits which contain information on consumption of raw materials, water and energy. The first step is data collection in the presentation of clean production. This process will allow companies to later meet all requirements in obtaining an integrated permit. Website of the Ministry of Environment and Spatial Planning Kosovo ((IPPC) www.ks-gov.net/mmph/) you may find additional information regarding the official procedures and ways of obtaining an integrated permit. The experiences from other countries have shown that companies that participated in the project of introducing clean production later were able to easy and fast submit all necessary documents for submission of application for issuing IPPC permit. The law on integrated prevention and pollution control regulates the conditions and procedures for issuing integrated permits for installations and activities, which can have negative impacts on human health, environment, or material goods, types of activities and facilities, monitoring and other issues important to prevent and control environmental pollution. In order to implement effectively this law are approved a series of acts under the sublegal⁵ character.

This law represents a major step in the regulation and integration of the conditions for starting to perform certain activities and contains several complex procedures for issuing an integrated permit. Criteria for determining the best available techniques for plant operation and carrying out of the activities that will be issued integrated permits, the plant's technical characteristics, its geographic location, environmental conditions in a certain location, the benefits and costs of implementing these techniques, precautionary principle, specific requirements and criteria related to:

- ⊕ Application of technology that produces minimal waste;
- ⊕ Application of less hazardous substances;
- ⊕ Possibility of reusing and recycling of materials, formed in the process of waste treatment;
- ⊕ Similar and comparable processes, facilities or methods of work operations that are already proven as successful in an industrial scale;
- ⊕ Technological advances and changes in scientific knowledge;
- ⊕ Nature, impact and extent of specific program;
- ⊕ Time of starting the operation of new – existing generation systems;
- ⊕ Time needed for the introduction of better techniques;
- ⊕ Planned expenditures and characteristics of raw materials which are used in their process and energy efficiency;
- ⊕ Preventing or reducing the total impact of emissions on the environment and potential risks;

⁵ Regulations in relation to the types of activities and facilities that are issued by the integrated license on the criteria for determining the best available techniques for implementation of quality standards for emissions in determining the boundaries of the integrated permits on the content of the adaptation of existing measures or facilities activities prescribed conditions; on the dynamics of the application for issuing integrated permits, the content and presentation of the integrated permits, the content, form and method of filling the request for issuing integrated permits, the content and manner of maintaining the registry of permits integrated issued.

- Prevention of accidents and reduce their consequences on the environment
- Monitoring recent information on the best available techniques.

In accordance with the best available techniques (BAT) standards are effective on the stages of development activities in their performance that enable the application of special techniques appropriate to meet the emission limit values prescribed to prevent or, if not feasible, to reduce emissions and impact on the environment as a whole. Basic principles of integrated pollution prevention and control are: precautionary principle - any activity should be done in a manner that will not cause any significant pollution, prevent or reduce pollution emissions source too, which lead to air pollution, water and earth to prevent or reduce the use of renewable natural resources and energy; prevent waste reduction, to minimize the risk to health, environment and material goods. The previous principle is realized by environmental impact assessment, risk assessment and risk using the best available techniques.

- *The principle of integration and coordination* / includes an integrated approach to licensing compliance procedures for issuing permits which participate in more than one competent authority. Permits regulate undertaking of measures for effective and integrated approach to this procedure. Joint coordination of the competent authorities in the procedure for issuing permits and determining the conditions to achieve the highest practically possible environmental protection as a whole.
- *The principle of sustainable development* / the purpose of achieving higher sustainable balance between human activities and socio - economic development in one side and natural resources and skills in upgrading the other. The integrated prevention and pollution control regime envisages issuing permits, creating conditions for sustainable use of natural resources, raw materials and energy. Non - renewable natural resources used under standardized conditions and long term for a reasonable usage. Sustainable waste management means more efficient use of resources by reducing the amount of waste and its treatment in a way that contributes to a sustainable development.
- *Principle of hierarchy of waste management* / way of determining the priorities in waste management practices which are: prevention and waste reduction, or reduction in use of resources and reduce the amount or characteristics of hazardous waste generated, reuse, use of products for the same purpose or other; recycling or waste treatment in order to obtain raw materials for producing the same or a different product, use the value of the waste (Composting energy return, etc.)
- *Principle "Polluter pays"* / polluter should bear the full cost for the consequences caused by its actions, or expenses incurred in the threat to environmental quality, which include payments to setting risk and cost of risk to the environment .
- *Principle of providing public information* / to inform the public about the work of plants and their possible impact on the environment. Also provide information for the purpose of ensuring full transparency of licensing procedures, public access to information regarding the request for issuance of permits for new plant or major changes in work system, permits for projects, decisions on issuing a permit and eventually about their renewal. Issuing permits for the types of activities and facilities that are integrated, classified by level of pollution and the risk that these activities may have on human health and the environment. Permits issued by the Ministry or agency or a municipal body of the local government in charge of environmental protection, in accordance with this law. The law on integrated prevention and pollution control, environmental laws and problems associated with the industrial processes and pollution is in full compliance with EU regulations.

6. CONCLUSION

The causes that led towards the ecological crisis are in turbulent balance among the natural systems which support the demographic and industrial life as well as the technological needs of mankind. The ecological crisis is manifested through the reduction of natural resources and environment pollution. In the modern world, everything is dominant and it is well known that ecological crisis and disasters occurring within the environment may lead towards a destruction of human kind. Since we have all agreed that environment problems are global problems it is a necessity to find considerable ways by the modern society which need to change the political views that exist among the countries in order to find a solution in regards to the environment problems that are already accumulated.

The main issue which would help in solving the environment problems is preservation of the environment from people and this can be achieved only by relating the work and increase of food production aiming to avoid diseases among the people by reducing migration in the developed countries. The respective competent authorities throughout the world claim that the remaining resources need to be used rationally by human who is to administer the natural environment reasonably and with the civilization plans. The question is: Will ever be a chance to overcome the economic interest between developed and developing countries? This question remains to be answered in the future. Our nature and society are closely bounded with each other.

I must emphasise that the contemporary society cannot be imagined without the existence of its rights. A competent law is considered a set of particular rules issued by countries that regulated relationship and behaviours of people aiming to apply necessary power determined by state power. The concept of the right is very complex which within itself comprises political, economic, social, cultural, and anthropologic dimensions this concern all aiming to develop a harmony within the society. The law is expected to contribute in expanding the human rights and freedom in favour of better preservation of environment. Precisely for this function is set the IPPC Directive which in itself describes the society and the state liability that countries possess for respecting and harmonizing the European legislation. Having into account that ecological crisis is in global scale therefore is rational to have such reaction. Now this is a necessity and is the only strategy of state response.

7. REFERENCES

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