

Environment: integrated pollution prevention and control

1993/0526(SYN) - 03/11/2005 - Follow-up document

Council Directive 96/61, otherwise known as the IPPC Directive, obliges the European Commission to prepare a Report on the Directive's level of implementation. In presenting this Report to the European Parliament and the Council, the Commission is fulfilling its obligation under Article 16 of Directive 96/61. This is the first Report prepared by the Commission since the Directive's entry into effect in October 1999 and covers the years 2000 – 2002. Bearing the time frame in mind, the Report only covers fifteen Member States and does not include the new EU Member States.

To recall, the IPPC Directive seeks to prevent and control pollution from an estimated 45 000 industrial installations across the then fifteen EU Member States. In assessing the general progress made in implementing the Directive, the Commission notes that the IPPC Directive has been transposed but with considerable delays. Although most of the Member States had transposed the necessary legislation by the end of 2004 a number of gaps remained in some of the Member States' legislation. In addition, a number of shortcomings have been noted. For example, infringement proceedings are currently underway against Belgium, Denmark, France, Germany, Greece, the Netherlands, Luxembourg and Spain. Further, in 2004, the ECJ ruled for the first time against Austria for failure to transpose the IPPC Directive completely. In other developments, the Commission notes that in most cases, the Member States have opted to take a different approach in the adoption of the Directive. France and Sweden, for example, only made minor changes to their legislation given that they had an extensive body of law in place compared to Spain, Portugal and Greece who had no pre-existing integrated permitting system. The latter countries, therefore, based much of their provisions on those of the IPPC Directive. As concerns the number of IPPC permits issued the Commission reports that until the end of 2002 around 5545 installations were granted permits for substantial changes, representing around 13% of the 45 000 installations to which the Directive applies. The Report has also identified a discrepancy in the number of permits issued by the Member States. Italy, Spain and Portugal each reported less than 10 permits granted for "substantial changes" in existing installations, whereas several other Member States reported much higher permitting levels for such types of installations. Greece provided no information at all on the number of permits issued. The Commission expresses concern that one result of the limited progress in the Directive's practical implementation could be the disproportionate number of permit applications being filed prior to the October 2007 deadline for the overall implementation of the Directive. As a result, the Member States are urged to take a much more active approach towards meeting the Directive's full requirements by the end of October 2007.

In light of the challenges and issues raised, the Commission has identified seven actions which need to be carried if the full implementation of the IPPC Directive is to be assured. The seven actions identified are as follows:

1. To ensure full transposition of the Directive by pursuing infringement cases.
2. To regularly monitor the Member States in their efforts to meet the 2007 deadline. Indicators will be developed which will include information on the number of installations identified and the number of permits issued or updated by the Member States.
3. To intensify the use of the European Pollutant Emission Registers, to launch a project whereby 30 installation are chosen at random in order to verify their compliance with the Directive and to launch a project examining whether the "general binding rules" set up in certain Member States meet the requirements of the Directive. This action has been specifically designed to ensure that there is no abuse of the Directive's inherent flexibility.

4. To ensure the finalisation of the first round of BREFS and to begin their review.
5. To clarify certain ambiguous legal issues and to technically review the Directive
6. To assess ways in which existing legislation can be streamlined on industrial emissions in line with the Better Regulation initiative.
7. To assess the possible use of market-based instruments and to examine what other incentives could be introduced.

Lastly, the Report notes that there is general agreement amongst the Member States that the IPPC Directive acts as an effective tool in combating industrial pollution. At the same time, some of the Member States expressed the need to clarify certain technical aspects of the IPPC Directive and requested greater coherence with other related EU legislation – specifically on industrial emissions. In addition, the United Kingdom and the Netherlands, as well as some industrial associations have asked for more scope to provide emissions trading, principally for NO_x and SO₂, as an alternative to the current BAT-based permitting process. As far as next steps are concerned, the Commission is committed to continue the ongoing review of the Directive throughout 2006. To complement the review an Advisory Group on the IPPC is to be set up. In its concluding remark the Commission states that the Member States' first priority must be the full implementation of the Directive by 30 October 2007.