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## FEATURES OF LICENSING AND CONTROL OF ENVIRONMENT IN ROMANIA

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### SUMMARY

Romania's present environmental policy matches with worldwide concerns in this field. The responsibility for preparing legislation acts belongs to the Ministry of Waters, Forests and Environmental Protection (MoWFEP) in collaboration with other Ministries. The Environmental Protection Law represents the most important legislative improvement of the legal environmental framework and in the future all elaborated norms will derive from it. According to the Environmental Protection Law in Romania no industrial discharges into air, water or soil are permitted without authorization. The enforcement of the environmental legislation is achieved by Inspection. Its tools range from informal mechanisms such as warning through to prosecution, fines and imprisonment. It has established specific implementation programs consisting of actions to improve the environmental conditions of certain areas. Some "win-win" solutions for industrial restructuring and solving difficult environmental problems were found.

### 1 INTRODUCTION TO THE COUNTRY

Romania is a European country and is located in the South-Eastern part of Central Europe. There are three important elements that define the geographic position of Romania in Europe:

- the Danube River;
- the Black Sea - named by the ancient people "Pontus Euxinus" which means "The Welcoming Point"; and
- the Carpathian Circle (Mountains) - named by the ancient people "Corona Montium".

Romania covers an area of 237,500 sq. km and it has a population of about 23 million inhabitants at a density of about 95.8 inhabitants per sq. km.

Romania is today in a phase of transition to a democratic status resulting in reforms and restructuring in many sectors of the society.

Romania's present environmental policy matches with worldwide concerns in this field. One urgent issue in the protection of environment is its health related to industrial activity. The main environmental problems related to industry are:

- the reduction of discharges using better technology;
- the prevention of accidental pollution; and
- the change of pollutant technologies to less polluting ones.

## 2 LEGAL FRAMEWORK

In Romania Parliament establishes laws for the control of pollution in Acts of Parliament. These Acts provide the general framework for pollution control and they give the authority to issue more detailed requirements, for example standards, in Regulations.

The responsibility for preparing legislation acts belongs to the Ministry of Waters, Forests and Environmental Protection (MoWFEP) in collaboration with other ministries: the Ministry of Health or the Ministry of Public Works and Territorial Planning, Research Institutes and as a final step, approved by the ministries these institutes are subordinated to.

The environmental legislative system provides separate laws for different parts of the environment: water, air, soil, waste, noise, dangerous substances. The main laws, regulations and administrative decrees or orders applicable to discharges to the environment are listed in Appendix 1.

At the end of 1995, the Romanian Parliament voted the new Environmental Protection Law carried out by the Ministry of Waters, Forests and Environmental Protection with all the ministries and all the factors involved. The Environmental Protection Law represents the most important legislative improvement of the legal environmental framework and in the future all elaborated norms will derive from it.

## 3 INSTITUTIONAL FRAMEWORK

The Ministry is the central authority responsible for dealing with environmental protection issues. However, the day to day implementation of environmental policy is undertaken by regulators that work within the legal framework established by the Ministry. These regulatory bodies are:

- *Environmental Protection Agencies (EPA)* which are responsible for environmental protection at the local level; and
- *National Water Authority "APELE ROMANE" (NWA)* which is responsible for water protection, for authorizing discharges to the natural waters and it has branches at the local level; it is based on river catchment.

## 4 PROCEDURE FOR LICENSING

According to the Environmental Protection Law in Romania no industrial discharges into air, water or soil are permitted without authorization:

- All discharges in water require a license from the Ministry, for the most polluting processes, or to the National Water Authority, for all other discharges;
- Emissions into air require a license from the Ministry, for the most polluting processes or from the EPA, less polluting processes; and
- Treatment, storage or disposal of waste requires a license if it is emitted from one of the most polluting processes identified by the Ministry, or if it is waste controlled by the EPA.

**Table 1. Summary of responsibilities for licensing industrial discharges**

<b>Discharge</b>	<b>Issuing License</b>	<b>Monitoring</b>	<b>Enforcement</b>	<b>Prosecution</b>
<b>To Air</b>	MoWFEP EPA	EPA	MoWFEP-Insp EPA	MoWFEP-Insp
<b>To Water</b>	MoWFEP NWA	NWA	MoWFEP-Insp NWA	MoWFEP-Insp NWA
	<b>Radioactive Substance</b>	MoWFEP MoH	MoWFEP-Insp	MoWFEP-Insp
	<b>All Other Processes</b>	NRA	NRA	NRA
<b>To Land/Waste</b>	MoWFEP EPA	EPA	MoWFEP-Insp EPA	MoWFEP-Insp EPA

1. The responsibilities for licensing industrial discharges are divided according to Table

- MoWFEP: Ministry of Waters, Forests and Environmental Protection
- EPA: Environmental Protection Agencies (local level)
- NWA: National Water Authority
- MoH: Ministry of Health

There are three key elements of this system:

- a clear separation of regulators from the regulated;
- the regulators are appointed to specialist organizations; and
- each regulator has responsibility for the whole regulation and enforcement cycle, from issuing permits to enforcing consent conditions; however, an important role in enforcement and prosecution is taken by inspections.

Some forms and procedures have been established in law to ensure proper communication among the regulators. The environmental license cannot be obtained without the water authority permit moreover the National Water Authority can veto the discharge if it will cause damages to environment.

The existing framework of licensing covers today about 3,000 facilities of industrial discharges. The main criteria used in the licensing process are designed to prevent unbalanced natural systems based upon existing natural conditions, to avoid overloading the existing capacity of the environment to support "the load" that is to be added by the respective industrial activity. For instance, consider an existing situation on a river. If another industrial activity requests to discharge certain "quantity" (load) of BOD5 (biochemical oxygen demand), the procedure to give the license is based on the calculation of self purification capacity of the river receiving the respective load in the respective location.

The license duration may vary up to five years. The license is to be renewed whenever the environmental authority considers it necessary. The industrial facility is obliged to require the license modification when the quantity or quality of the substance discharge changes. The environmental authority may modify the conditions provided in the existing license in special circumstances. These conditions are: environmental changes (e.g., changes of functions of the receiving river); quality standards changes; and any modification or technology applied.

## 5 IMPLEMENTATION AND CONTROL

Self-monitoring by industry is a common element in many licensing systems. The most significant discharges are required to undertake self-monitoring. The actual strategy of environmental protection provides the promotion of the self-monitoring systems. However the highest level of compliance monitoring is undertaken by the National Water Authority and EPA that check the industrial discharges.

Responsibility for the implementation of the environmental enforcement process has been arranged by Inspection.

At the national level:

- there are the inspectors from the Ministry (MoWFEP).

At the regional level:

- the directors of the regional water authorities pertaining to the “APELE ROMANE”, and also the persons nominated by them; and
- the directors and inspectors of the EPA.

The main duty of the Inspection from the Ministry of Waters, Forests and Environmental Protection is the management of the environmental process, including promotion of compliance, supervision and enforcement.

By Romanian Environmental Protection Law the facility has to allow the inspector to come onto the site any time, whenever he is sent by the environmental authority.

There is a wide range of enforcement tools available, including:

- consent withdrawal;
- consent suspension;
- consent amendment;
- plant closure;
- prosecution leading to fines; and
- prosecution leading to imprisonment.

Actions taken in cases of noncompliance are decided on a case-by-case basis. The action will depend on the severity of the impact and the reason for noncompliance. The enforcement tools range from informal mechanisms such as warning through to prosecution, fines and imprisonment. Prosecution is normally seen finally or for persistent offenders.

The main economic instruments to make the investors or the companies to respect the regulations are fines. It corresponds to the polluter pays principle promoted in the Law of Environmental Protection (1995).

The fining procedure is provided by:

- Government Decision No. 138/1994 concerning penalties applied for those who do not respect the existing regulations regarding water protection.
- Government Decision No. 127/1994 concerning penalties applied for those who do not respect the existing regulations regarding environmental protection.

All the penalties listed in these Decisions are applying to both individual or juridical persons for breaking the existing laws.

**Table 2. Enforcement Actions — Summary of the enforcement proceedings used by MoWFEP Inspection in 1994**

Enforcement Action	Use by MoWFEP
No. of inspectors (1994)	450
Typical training of inspectors	Graduated specialist (most engineers) have 5-10 years experience in industry. Technical instructions elaborated by MoWFEP.
No. of facilities regularly inspected	2,900
No. of compliance visit (1994)	52,100
Frequency of visits	typically industrial unite varies from 2 to 12 per year depending on "the size" of impact on environmental in the zone.
Violations (total)	6,234
Serious violations (putting in danger human health)	6
No. of closures (1994)	1
No. of licenses withdrawn	25
No. of licenses suspended (1994)	12
No. of prosecutions (1994)	6
Fines (total)	1,000 million lei

The punishment with imprisonment appears for the first time in recently promulgated Environmental Protection Law. These important aspects of the law reveal the increasing of awareness toward the environmental issues and it is contained in the European legislation.

The actions of Inspectors are not only based on punishment. Their duties focus on important industrial pollutants in targeted geographic areas considered environmental "hot spots". A number of industrial plants which are subjected on a zonal pollution were taken into account. A special observing regime was set upon them, with the special purpose of decreasing the global amounts of industrial pollutants. The factories belong to the following industries: metal-processing, chemical and oil-processing and agro-processing ones.

Some solutions were found for the waste waters deriving from these industrial areas:

- change of technical conditions;
- introduction and use of pretreatment conditions before discharges waste waters into municipal waste water system; and
- supplementary monitoring systems of discharges.

The Ministry of Waters, Forests and Environmental Protection Inspection takes place in good cooperation with the branches of the National Water Authority and EPA. It has established specific implementation programs consisting of actions to improve the environmental conditions of certain areas.

The beginning was the metallurgical region from Baia Mare, in the North part of Romania. Two big nonferrous metallurgical factories from Baia Mare City produced an important environmental impact by noxious releases evacuated in to the air, water and land. Some "win-

**APPENDIX 1**

1. Law No.5 (1989) concerning the rational water management and water quality assurance.
2. Law No. 18 (1991) regarding the land fund.
3. Law No. 2 (1987) concerning conservation of forest.
4. Law No. 41 (1992) concerning the protection of forest fund.
5. Law No. 9 (1971) concerning the meadows' management.
6. Law No. 5 (1982) concerning cultivated plants and pesticides' regime.
7. Law No. 3 (1978) concerning human health insurance.
8. Law No. 17 (1990) concerning the legislative framework for the inland marine water, Romanian territorial sea water and the adjacent area.
9. Decree No. 414/1990 - establishing the admissible limit value of the main polluting substances in the waste waters before their discharge into natural waters.
10. Decree No. 466/1979 concerning the toxic products and substances' regime.
11. Gov. Decision 437/1992 concerning the import regime of any kind of wastes as well as of other goods dangerous for human health and environment.
12. Ministry of Agriculture and Food, Ministry of Health and Ministry of Resources and Industry Order No. 15/1991 concerning the production, trading and use of the pesticides for agriculture and forestry.
13. Ministry of Environment Order No. 170/1990 that approves the procedure and the competencies for issuing the environmental permit;
14. The Decision No. 113/1990 that approves the Content Regulation of the Documentation necessary to be submitted to obtain the environmental permit.
15. Ministry of Environment Order No. 437/1991 concerning the issuing of the environmental authorization.
16. Ministry of Environment Order No. 619/1992 concerning the elaboration of the ecological impact assessment studies for investments with impact.
17. MoWFEP Order No. 462/1993 concerning the approved of technical conditions for atmosphere protection.
18. Law No. 69/1991 concerning the public local.
19. Law regarding the Transport of Hazardous Substances (1972).
20. MoWFEP Order No. 9/1990 regarding the approved of Regulation for quantitative and qualitative waters necessary for industrial units.
21. Gov. Decision No. 861/1992 concerning general actions regarding the national water management.
22. Gov. Decision No. 615/1992 regarding the fight against flood, dangerous meteorological phenomena and the accidents at hydrological constructions.

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## APPENDIX 2

1. Law on the management of water resources-draft.
2. Law on the management of the forestry (forestry code)-draft.
3. Law on the organization, management and exploitation of pastures-draft.
4. Law on the management of land and reclamation activities draft.
5. Law on the exploration and exploitation of the natural resources draft.
6. Law on the plants' protection, phytosanitary, quarantine and regime of products for phytosanitary use-draft.
7. Draft on the creation and management of the Danube Delta Biosphere Reserve.
8. Law on the setting up of the regime for protected natural areas and natural monuments and on their management - draft.
9. Law on the seashore and coastal area protection-draft.
10. Law on the waste and hazardous waste management-draft (List of toxic products and hazardous waste with special regime of administration).
11. Guidelines for the activities submitted to authorization and permit procedures.
12. Guidelines for the activities requiring environmental impact assessment in view of environment permits emission.
13. Guideline on the limitation of the emissions of noxious gases in the atmosphere.
14. Guideline on the requirements for the waste treatment and limitation of noxious discharges in surface waters.
15. Guidelines on the conditions for the water courses' management and land reclamation.
16. Guidelines on the procedures for report and assessment of natural resources and environment state statistical indicators.