
THE NEW BASIS FOR ENVIRONMENTAL ENFORCEMENT IN ROMANIA

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SUMMARY

Today the Romanian environmental legislation is based on two fundamental laws: The Environmental Protection Law and The Water Law. A new series of regulations derived from these laws create real work-tools for environmental enforcement. Inspection, monitoring and environmental enforcement are done through legal institutions for inspectors. However, a change in their activities has taken place. It consists of a new way of tackling environmental problems. The mainly coercive feature in environmental enforcement has been transformed into a balanced mixture of compliance programs and enforcement.

Romania's present environmental policy tends to match the worldwide trends in the field.

1 LEGAL FRAMEWORK

In Romania, environmental laws are established through Acts of Parliament. These Acts provide the general framework for:

- regulation of economical and social activities having an environmental impact;
- protection of natural resources and conservation of biodiversity; and
- pollution control.

They provide the authority to issue more detailed requirements, regulations and standards.

The responsibility for preparing the legal acts belongs to the Ministry of Waters, Forests and Environmental Protection (MoWFEP). The Ministry collaborates in this activity with other ministries: the Ministry of Health, the Ministry of Public Works and Territorial Planning and with other institutes in the field.

The environmental legislative system has been revised according to the European legal system. It provides laws for different parts of the environment: air, water and soil. It also provides laws related to these environments: dangerous substances, the fight against floods, forestry, food and nuclear activity.

Today the Romanian environmental legislation is based on two fundamental laws that guide the whole environmental protection at the national level: the Environmental Protection Law (EPL) and the Water Law (WL).

1.1 Environmental Protection Law (EPL)

At the end of 1995, the Romanian Parliament passed the Environmental Protection Law carried out by the Ministry of Waters, Forests and Environmental Protection with all the other ministries and those involved in related activities.

The objective of this law is to regulate environmental protection on the basis of the principles and strategic elements that lead to sustainable development. These principles and strategic elements, that lay at the foundation for this law, are inspired by European environmental principles that are generally accepted:

- the principle of precautionary decision making;
- the principle of prevention of ecological risks and damage occurrence;
- the principle of conservation of biodiversity and ecosystems specific to the natural biogeographic structure;
- “polluter pays” principle;
- the removal on a priority basis of the pollutants that directly and severely jeopardize public health;
- setting up of the integrated national environmental monitoring system;
- sustainable use;
- maintenance, improvement of environmental quality and reconstruction of damaged areas; and
- developing international collaboration to ensure the quality of the environment.

The Law also includes a new principle in our environmental legal system. It sets up a framework for the participation of non-governmental organizations and the public in decision-making and implementation.

The Environmental Protection Law shows the ways to implement the principles and the strategic elements presented above. It recognizes the right of all persons to a healthy environment. It also guarantees access to information regarding environmental quality. The right of association in organizations defending environmental quality is also stated, including the right to be consulted in the decision making process regarding the development of environmental policies, legislation and regulations, as well as the issuing of environmental agreements and permits. Through the Environmental Protection Law, one has the right to appeal directly or by some associations to the administrative or juridical authorities to prevent or stop direct or indirect damage from occurring.

The Environmental Protection Law stands out as a most important legislative improvement of the Romanian legal environmental system. This is a source for many norms that will be elaborated in the near future.

1.2 Water Law (WL)

The Water Law, passed by the Parliament in September 1996, rules the way we know about value conservation and protect water resources. To preserve the ecological balance, it legislates the implementation of a new economic leverage system in water management. It solves many important problems for qualitative and quantitative water management:

- public participation in the development and implementation of any kind of regulation;
- the establishment of the Basin Committee, which will coordinate the efforts of all parties involved in water management and who use the water resources of a basin river and contribute to its pollution;
- more efficient use of water resources;
- improvement of water quality and environmental condition.

To enforce the Water Law, the Ministry of Waters, Forests and Environmental Protection established regulations which take several forms: Governmental Decisions, Orders of the Minister, norms. At the same time, actions were initiated to:

- Update basin planning schemes;
- Develop a water management strategy to accompany programs for achieving water management and build related public works;
- Include the water management strategy as a necessary action for Romania's preparation to accede to the European Union;
- Update the main water norms and standards.

The water management strategy is designed to contribute to the entire complex evaluation of water resources, to both the demands for water supply and water resource quality.

An in-depth comparison of the Water Law with the former ones (the first one was passed in 1924, and the second one in 1974) shows that some technical provisions for the water management were preserved. Some new principles were introduced to harmonize with the legislation and Directives of the Europeans Community. Most importantly, a new series of regulations provide real tools for their enforcement. (see Appendix).

2 PLAN IMPLEMENTATION

The responsibility for implementation of norms and for achieving compliance with the Water Law devolve upon the following institutions:

- at the ministerial (governmental) level:
 - the Ecological control corps;
 - the Water State Inspection.
- at the local level, the representatives (inspectors) from:
 - the environmental protection agencies;
 - the water quality protection bureau from the Romanian Water Authority branches.

The authorities and missions of these institutions are established by law. The control and environmental enforcement institutions existed before completing the two major laws. However, the actual control structure is evolving to correspond to changing environmental policy evolution. Some important new changes are expected in the last part of this year to achieve more integrated control.

These institutional changes reflect the new ways of tackling environmental problems developed from European laws and international environmental conventions. Some of the new principles are used in current practice: the precautionary principle, the "polluter pays" principle, and the removal of priority polluters that directly affect and seriously harm public health. These new principles echo throughout governmental policy regarding the natural resources and commitment of capital.

3 COMPLIANCE AND ENFORCEMENT

Viable compliance programs and coercive measures have been adopted which can lead to imprisonment for law violators. However, what had been mainly coercive features in environmental enforcement have been changed so that there is now a mixture of compliance and enforcement program elements. This balanced and efficient control approach is solved at governmental and local level by:

- compliance programs (for the environmental inspectors);
- staged plans (for water inspectors).

These approaches are used when the water management authorization is part of the environmental permitting.

Negotiated “compliance programs” constitute an important new instrument for encouraging enterprises to undertake pro-environmental activities for both compliance and pollution prevention. It will enable enterprises to adjust to requirements for environmental protection from their current position. Some of them must adopt these compliance programs while participating in privatization programs, changing ownership, and suffering through a whole process of restructuring.

Staged programs are useful for inspectors who evaluate the position of facilities concerning water quality protection. Meetings play an important role in compliance activities. They are initiated by the Water State Inspection with different companies. These companies work in the fields of: coal mining, oil extraction and refining, municipal water management. The meetings provide the possibility for bilateral exchanges between inspectors and managers rather than unilateral enforcement response.

There are many violations, in spite of significant reductions in water discharges due to industrial restructuring. Last year, approximately 1.5 billion lei in penalties have been collected for routine exceedances and 250 million lei in penalties. In the future, the penalties for major violations will be more significant. The amount of penalties will be revised for this purpose.

Inspection activity now consists not only of applying penalties. The inspectors' duties focus on a number of industrial plants that are important polluters. For the first time, the Water Law establishes a special inspection scheme this kind of facilities. The purpose of the regime is to decrease the quantity of industrial discharges and to place their activities in compliance.

Romania's transition to the market economy transforms the inspection activity into a difficult task. It assumes greater flexibility and adaptation to reality combined for achieving compliance, with continued and strengthened environmental enforcement. The foundation for this activity is the new legal frameworks established under the Environmental Protection Law and the Water Law.

APPENDIX: Orders derived from the Water Law

Order no. 148/1997 - the procedure and the components for editing the permits for water management;

Order no. 275/1997 - the procedure and the establishment special supervision regime;

Order no. 276/1997- the methodology for elaboration and approval of water restrictive plans;

Order no. 277/1997 - guideline of the technical documents for permitting necessary;

Order no. 278/1997 the methodology for elaboration the plan of perspective and struggle against pollution

Order no. 279/1997 - the methodology for editing settlement permit;

Order no. 280/1997 - the notification procedure;

Order no. 282/1997 - the procedure regarding the water users participation, the riverside residents participation and public participation to consulting activities;

Order no. 281/1997 - the procedure regarding the access of people to water management information;

NTPA 001-97 - guidelines regarding the establishment of limits charges for pollutants from waste water evacuated in water resources;

NTPA 002-97 - guidelines regarding the establishment of limits' charges for pollutants from waste water evacuated in sewerage system.

GOVERNMENTAL DECISION no. 101/1997 - regarding special norms for the position and the dimensions of sanitary protection areas.

