
EXPERIENCE OF THE INSPECTORATE FOR ENVIRONMENTAL PROTECTION IN IMPLEMENTATION AND ENFORCEMENT OF ENVIRONMENTAL LAW IN POLAND

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SUMMARY

The paper describes the development of Poland's environmental regulatory institutions and their activities. It discusses the results of their work and the effectiveness of enforcement instruments including: the "List of 80" – which focus of industries that have a particularly adverse impact on the environment, fines, and orders suspending plant operation. It gives brief descriptions of changes that have taken place during the last two years under administrative reforms and adjustments required for membership in the European Union.

1 ORGANISATION

The Inspectorate for Environmental Protection (IEP) is the body responsible for insuring compliance with environmental regulations and the monitoring of environmental conditions around the nation. The IEP is headed by the Chief Inspector for Environmental Protection. Each of Poland's 16 regions (*Voivodships*) has its own Regional Inspectorate for Environmental Protection, headed by the regional Inspector. Regions with larger territories also have field offices subordinate to the regional Inspectors. There are 33 such field offices in Poland. On the national scale, the IEP currently employs 2500 people including inspectors, laboratory staff, specialists in environmental monitoring and support personnel.

The Chief Inspector for Environmental Protection formally supervises the regional Inspectors. Thus, from the point of the Code of Administrative Procedure, the Chief Inspector is a superior body to the regional Inspector. On the other hand, regional Inspectors operate under the

structures of the regional Administration subordinate to the head of the Region (*Voivod*). This double responsibility is a result of the Polish administration system reform of 1999, which also created several other sub-regional administrative entities: a local government (*Urz_d Marsza_kowski*), a middle level of local government (*powiat*), and the smallest unit of local government (*gminas*). One *powiat* usually groups 5-6 *gminas*.

The main goal of the Inspectorate's control activities is enforcement of environmental law. The Chief Inspector for Environmental Protection issues inspection directives. The regional Inspectors develop annual work plans after reviewing these directives, along with national and regional environmental policies, environmental monitoring information, inspection findings, and comments from citizens the regional environmental policy, the state of the environment as illustrated by monitoring results, the findings of earlier inspections, as well as complaints and protests of the citizens.

The Chief Inspector established the following priorities in 2001:

- Integration with the European Union by transposing the *aquis communautaire* and through projects aimed at strengthening administrative bodies and inspection services responsible for the implementation of European Union directives.
- Development and improvement of cooperation between regional inspectors and the local administration bodies, including heads of Voivodship self-governments, regarding information exchange and support to inspection work.
- Reduction of environmental impact of the country's largest polluters.
- Reduction of emission of air pollutants from energy generating sources and from industrial processes.
- Protection of water resources, with special emphasis on underground waters used by the population and by industries.
- Assessment of waste management, including hazardous waste, compliance

2 ADJUSTMENT TO EUROPEAN UNION REQUIREMENTS

One of the Inspectorate's priority tasks is to adjust its work to the requirements of the European Union, including "the European Parliament and the Council Recommendation No. 2001/331/CE, setting minimum criteria for environmental inspections in member states" of April 4, 2001. It is important to standardise inspection work so that entities receive equal treatment throughout the country, as required by Polish legislation, the code of administrative practice, and the EU guidelines.

In order to standardise inspection services in the country, the Chief Inspector issued the latest of the "Guidelines on conducting inspections and on post-inspection activities of the Environmental Inspection" on July 1, 2001. At present, these guidelines are being updated to reflect a recent amendment in the Environmental Law and

to take into account the aforementioned Recommendation of the European Parliament.

The Chief Inspector plays an active role in legislative development, by proposing changes in the law and giving opinions on draft laws and regulations. Moreover, the Chief Inspector works with the Supreme Chamber of Control, with local government bodies and with Poland's other inspection authorities and enforcement bodies, including the State Sanitary Inspection, National Labour Inspection, State Fire Brigades, the Police, the Border Guard and the customs administration. Through IMPEL, the European Union Network for the Implementation and Enforcement of Environmental Law, and AC IMPEL, its twin network in the candidate countries, the Inspectorate is able to share experience and cooperate with other European environmental law enforcement agencies.

3 RESULTS OF THE INSPECTION'S WORK

The Inspectorate keeps records of business entities subject to inspection. There were 46,018 entities registered in 2001 compared to 44,045 in 2000. The inspections cover all aspects of the user's environmental impact. The objectives of an inspection are not limited to determining the type and extent of environmental violations, but also include identifying the causes of irregularities and possibilities of their elimination, as well as identifying individuals responsible for them. Post-inspection proceedings review both the causes of the irregularities and industries approach to solving the identified problems. The industries are responsible for solving their environmental problems, but the Inspectorate prefers to cooperate and propose possible solutions rather than to limit itself to sanctions.

Every year, the Inspectorate carries out over 16,500 inspections. In 2001,

there were 4,600 comprehensive inspections, covering all environmental media simultaneously; almost 9000 follow-up inspections, aimed at checking the implementation of previous post-inspection orders; and over 3000 inspections prompted by complaints and protests of citizens and Members of the Parliament. If technical conditions allow, during the inspections control, emissions are measured. In 2001, the 48 Inspectorate laboratories carried out 6,600 control measurements. All the laboratories have implemented a quality assurance system based on the standard PN – EN 45 001 and on the ISO/IEC 25 manual and are currently working to adapt their systems to the requirements of the standard PN-EN ISO 17 025. 2001.

4 POLICY TOWARDS PARTICULARLY SERIOUS POLLUTERS

The Inspectorate pays special attention to supervision of industries that, from the national perspective, have a particularly adverse impact on the environment. These industries are registered on the so-called "List of 80", which was drawn up in 1990 and originally included 80 entities. The aim was to ensure that the progress made by these industries in solving their environmental problems was systematically monitored. The Chief Inspector developed special guidelines on the control of these industries. The Inspectorate's enforcement measures, combined with great pressure from the media and NGO's, have prompted the industries to take the steps necessary to be deleted from the list.

New environmental regulations have introduced some modifications in the procedures applicable to the industries listed on the List of 80. Conditional deletion from the list is possible, provided that the industry has agreed to an adjustment programme with the environmental authorities and that it begins the implementation of

measures designed to ensure compliance with the relevant permits. The industry will be permanently deleted from the list upon fulfilment of the obligations made at the time of conditional deletion.

Being on the List of 80 and under a tightened inspection regime has proved to be an incentive for the industries to implement the necessary environmental measures. 52 plants were deleted from the List of 80 between its establishment in 1990 and the end of 2001, including 36 industries which managed to fully comply with environmental regulations; 16 plants were deleted conditionally upon starting of the measures provided for in their approved adjustment programmes. In the meantime, a few new plants have been entered onto the List of 80, by the end of February 2002 the List included 40 plants.

5 SUBJECT-FOCUSED INSPECTIONS

One of the measures used by the Inspectorate to assess compliance with selected environmental protection regulations or environmental policy objectives is subject-focused inspections on the national scale

In 2001, the Inspection for Environmental Protection conducted country-wide subject-focused inspections to verify the following areas:

- compliance with asbestos waste disposal regulations;
- compliance by units which are users of the environment with the obligation to pay fees for the commercial use of the environment;
- compliance with environmental regulations by users of medical waste thermal treatment systems;
- compliance with the law of decisions issued by local governmental bodies in relation to the use of the environment;
- compliance with environmental protec-

tion regulations by organisational units managing wholesale markets;

- compliance with environmental protection regulations by industrial plants that use animal tissue waste and carrion in the production of meat/bone feeds;
- compliance with environmental protection regulations by operators of hazardous waste incineration systems;
- compliance with environmental protection regulations by meat industry plants;
- protection against noise emission in urban areas, with particular emphasis on major transport routes;
- compliance with regulations on international trade in ozone layer-depleting substances, which are controlled by the Montreal Protocol.

6 OBLIGATORY FINES

When a plant exceeds permissible levels of pollutant emission to the environment, specified in emission decisions, or operates without necessary permits, the Inspectorate is obliged by the Polish law to impose a fine on the plant. In 2001, fines were imposed on 4,181 industrial plants (compared to 5,115 in 2000):

- 2,456 fines for sewage discharge and exceeding permissible water consumption levels (338 fines in 2000);
- 1,399 fines for emissions to the air (1,225 in 2000);
- 96 fines for illegal waste storage or waste storage not compliant with relevant requirements (153 in 2000);
- 230 fines for noise emission (356 in 2000);

In 2001, the total value of the fines imposed, calculated proportionally to the duration of excess emissions or for the period between the occurrence of the violation and the end of the calendar year, amounted to 270.5 million PLN (66 million

USD). In 2000 the figure was 404.8 million PLN (99 million USD).

7 FINE SUSPENSION SYSTEM

The main objective of the fines is to stimulate pro-environmental measures by plant. Therefore, if a fined plant undertakes the obligation to implement within a specified time (no longer than 5 years) a project to eliminate the cause of the sanction imposed, the fine may be temporarily suspended. If the goal is achieved within the specified time, the fine is cancelled, if it is lower than the investment outlays. If the fine was higher, the plant pays the difference only. Thus, the fine suspension system converts sanctions into investments to eliminate environmental law transgression.

In 2001, units of the Inspection for Environmental Protection issued 668 decisions suspending penalties for the total amount of 168.9 million PLN (approximately 41 million USD). Out of 238 plants using the suspension system, which by the end of 2001 were to complete investments eliminating the cause of non-compliance, as much as 236 (99%) met the deadline (in 2000 the proportion was 94%). It should be stressed that the high efficiency of the suspension system has been observed for a number of years; the system strongly stimulates business entities to undertake pro-environmental measures.

If control measurements are taken in a plant and, based on their results, an administrative fine is imposed, the plant also has to cover the costs of the measurements. If the results demonstrate that the plant operates in accordance with the law, the costs of the inspection are covered by the state budget. In 2001, 3612 decisions were issued which imposed on the inspected plants the obligation to pay the costs of inspections for the total amount of 5.4 million PLN i.e. about 1.3 million USD (in 200, 3,567 decisions were issued for the total

amount of 3.2 million PLN i.e. approx. 0.8 million USD). As in previous years, in 2001 a high level of effectiveness in collecting these payments was reported which was 92.8% (compared to 90.1% in 2000).

8 OTHER ENFORCEMENT INSTRUMENTS

In addition to administrative fines, the Inspectorate uses other instruments to enforce compliance with environmental regulations. These instruments include post-inspection orders, setting deadlines to eliminate law transgression, and, as a last resort, suspension of the operation of the plant/ installation. While taking these measures the Inspectorate is guided by the principle of adequacy of the sanction used, so that the penalty is proportional to the violation identified and takes into account the plant's overall attitude to environmental protection.

In 2001, the units of the Inspectorate issued 10,008 post-inspection orders for the plants inspected (compared to 10,435 in 2000). The orders imposed the obligation to eliminate violations detected, to regulate formal and legal issues, etc. In 2001, Voivodship (regional) environmental inspectors issued 82 decisions setting deadlines for eliminating the violations detected (in 2000 – 136 decisions) and 15 decisions suspending the operation of organisational units (compared to 19 decisions in 2000).

When a violation of environmental protection law has the status of an offence or crime, the Inspectorate is entitled to impose an additional personalised fine upon the individual guilty of the violation. In total, the Inspectorate imposed 1,260 of such personalised fines for the total sum of 176.5 thousand PLN i.e. approximately 43 thousand PLN (compared to 1,844 fines for the total sum of 238.6 thousand PLN i.e. about 58 thousand USD, in 2000). In justi-

fied cases, the Inspectorate has the right to act as public prosecutor. In 2001, environmental inspectors filed 43 cases with the police and prosecution bodies (compared to 68 cases in 2000) and 158 cases with petty offence courts (compared to 216 in 2000). At present, all applications are submitted to district courts.

9 ROLE OF THE INSPECTORATE IN EVALUATION OF NEW INVESTMENTS

The Inspectorate conducts inspections of new projects when they are put into operation to check whether a facility and/or installation comply with environmental protection requirements. If the requirements are substantially violated, the Inspectorate suspends the launching of the investment or submits its objections to the planned launching. In 2001, Voivodship environmental inspectors suspended the launching of new projects in 11 cases (compared to 13 cases in 2000) and submitted their objections to planned launching of 152 projects (214 projects in 2000).

The Chief Inspector for Environmental Protection is a second-instance body for administrative decisions by Voivodship inspectors. In 2001, 442 appeals against decisions of Voivodship inspectors were submitted to the Chief Inspector, including 8 complaints against lack of action. 62 complaints were filed with the Supreme Administrative Court against decisions of the Chief Inspector. The highest number of appeals from decisions of Voivodship inspectors was related to water and wastewater management (154), issues connected with pollutant emission to the air (105), waste management (78) and excessive noise levels (71). Other cases were related to the suspension of the operation of plants and objections to the launching of projects.

The Chief Inspector for Environmental Protection upheld decisions of

Voivodship inspectors in 189 cases. 106 decisions were directed for reassessment, and in 102 cases the administrative proceedings were discontinued. In 39 cases the Chief Inspector overruled decisions of Voivodship Inspectors and issued his own decision. In 2001, the Supreme Administrative Court issued 60 verdicts, including 39 complaints dismissed or with court proceedings discontinued, and overruled 12 decisions taken by the Chief Inspector and Voivodship Inspectors and overruled decisions of the second-instance body. In 4 cases, the court declared invalidity of the Chief Inspector's verdicts and in 5 cases proceedings were discontinued.

The Inspectorate accepts and analyses complaints, interventions and applications related to environmental nuisance of plants or to deterioration of the environment. As a result of those interventions the Inspectorate conducts inspections of the users of the environment, followed by post-inspection measures according to its capacity. In 2001, units of the Inspectorate analysed approximately 5 thousand interventions. Most cases analysed were related to water quality and wastewater management (1407), protection against waste (1183), air protection (872) and protection against noise (800).

One of important tasks of the Inspectorate is the supervision over transboundary movement of wastes. The Chief Inspector for Environmental Protection issues permits for import of wastes from abroad, export of waste and transit of hazardous waste. In 2001 the Chief Inspectorate for Environmental Protection received 191 applications (50 more than in 2000) for foreign waste import permit. In 2001, the Chief Inspectorate received also 21 applications for waste export permits (40% more than in 2000), which were related to export of pesticides after the expiry date, used solvents, used catalysts, used fluorescent lights and condensers contain-

ing polychlorinated bi-phenyls. In 2001, four applications were submitted to the Chief Inspector for Environmental Protection for permits for transit of hazardous substances across Poland. 3 permits for the transit of car battery scrap were granted.

10 EXPECTED CHANGES

After administrative reform and the subordination of regional inspectors to both the Chief Inspector for Environmental Protection and to heads of Regions, the Inspectorate has reported many disruptions in the appropriate functioning of the organisation. Taking into account new tasks related to the transposition of the European Union law to the Polish legislation and new challenges connected with the accession process, it has to be concluded that the environmental inspection structures require modification and ultimately, strengthening and implementing a new more effective methods of work. It seems that the organisational model of services responsible for the implementation and enforcement of the environmental law should be similar to the model used by agencies operating in many European Union countries, in which responsibilities for the issuing of permits and the control of compliance with the law are joined. At present, we are working together with experts from the Netherlands and United Kingdom under a twinning project financed under PHARE 99 to determine directions of changes required.