



Twinning project MK11/IB/EN/01/R
“Strengthening the administrative capacities on central and local level for transposition and implementing new Industrial Emissions Directive 2010/75/EU”

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Gap assessment and analysis of compliance of existing legislation in Macedonia with Industrial Emissions Directive 2010/75/EU (IED) (Gap Analysis Report)



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I. Abbreviations used

BAT	Best Available Techniques
BAT-AELs	BAT- Associated Emission Levels
BC	Beneficiary Country
ELV	Emission Limit Values
EU	European Union
IED	Industrial Emissions Directive (2010/75/EU)
IPPC	Integrated Pollution Prevention and Control
LCP	Large Combustion Plant
LE	Law on Environment
LWM	Law on Waste Management
MOEPP	Ministry of Environment and Physical Planning
MS	Member State
NGO	Non-Governmental Organization
OAIIEP	Ordinance on determining the activities of the installations requiring an integrated environmental permit
RLVEWI	Rulebook on the limit values of emissions in waste incineration and conditions and manner of operation of installations for burning and incineration
RSELVP	Rulebook on the substances for which emission limit values are compulsory prescribed in the A –integrated environmental permit
ToC	Table of Concordance
VOC	Volatile Organic Compounds
WID	Waste Incineration Directive

II. Background and Project Purpose

The Project

The overall purpose of the present project is to strengthen the administrative capacities of the Ministry of Environment and Physical Planning/Administration of Environment as well as of the administration of Local-self Government Units, for transposition and implementation of the new Industrial Emissions Directive 2010/75/EU (IED). A central supporting measure will be the elaboration of new primary and secondary legislation aiming at a complete and efficient transposition of the requirements introduced by the IED.

The aim of Activity 2.1, under which the present report has been compiled, is to develop a new Law on Control of Emissions from Industry, which should provide an efficient



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transposition of the Industrial Emission Directive 2010/75/EU (IED) in Macedonia (beneficiary country, BC). Activity 2.1 started with the analysis of the existing primary legislation with a focus on gaps and already existing compliance with the IED. A review of the existing relevant BC legislation (primary as well as secondary) was carried out, which resulted in the following outputs:

- Table of Concordance (ToC, annexed to this report) and,
- based upon the ToC, the present analysis.

Secondary legislation has been included in the ToC in order to achieve a complete understanding of the current regulatory basis in the BC. The review of existing secondary legislation related to the IED and, as a next step, the development of secondary legislation in accordance with the IED, is part of Activity 2.2 of the present project.

The BC has already taken a series of important steps with regard to the approximation of its legal system to the European Union’s Environmental Acquis in the area of integrated control and prevention of emissions from industrial installations in the last years, notably the comprehensive transposition of the IPPC Directive (codified as Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control). Nevertheless challenges remain, in particular with regard to the transposition of new legal requirements introduced by the IED. The present report highlights the needs for adaptations with regard to full and partial gaps in the current legal system of Macedonia.

The Current Situation in the BC

IPPC Directive has been transposed in the Law on Environment (LE), respectively in Chapter XII of the LE. Chapter XIV of the LE deals with Adjustment Permits with an Operational Plan and is thus also related to the transposition of the IPPC Directive. Additionally, several pieces of secondary legislation were adopted in order to regulate the procedure and the manner of issuing as well as the form and the substance of IPPC permits.

The Macedonian system of IPPC permits recognises two types of integrated environmental permits: first there is the A-integrated environmental permit (A-IPPC permits) and second the B-integrated environmental permits (B-IPPC permits). The responsible authority for issuing A-IPPC permits is the Administration of Environment, a public body within the Ministry of Environment and Physical Planning (MoEPP), while the responsible authority for issuing B-IPPC permits is the local administration of the municipality in whose territory the installation is located. An exception relates to a case where installations are located in the protected areas, in which case the B-IPPC permit will be issued by the MoEPP. The same is true in cases where the Local level authorities do not consider having the capacity for issuing a



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permit. According to the LE, A-IPPC permits are issued for installations (A installations) which fall within the scope stipulated in Annex I of the IPPC Directive while B-IPPC permits are issued for installations (B installations) which fall below the thresholds stipulated under the IPPC Directive. Installations which cannot meet the standards as stipulated in the LE and are defined as existing installations (operational before 2007) are obliged to obtain A or B adjustment permits with an adjustment plan (A or B adjustment permit) by means of which installations are given time frames and actions to be taken in order to meet IPPC standards. A-Installations should comply with BAT while B installations should meet national emission level standards. According to the LE, IPPC standards should be met in general latest by 1 April 2014. However, for installations which need significant improvement in their technology the deadline can be prolonged for five more years until 2019.

The IED has not yet been fully transposed into national law. This Directive is the successor of the IPPC Directive and in essence it is about preventing or minimising pollution from various industrial sources, thereby achieving a high level of protection for the environment as a whole. The IED demands that installations must be operated according to an integrated permit issued by competent authorities, the permit should contain emission limit values based on BAT.

The new Directive on Industrial Emissions (IED)

Directive 2010/75/EC of the European Parliament and of the Council on Industrial Emissions (integrated pollution prevention and control) (recast version) constitutes the basis for the present analysis. This directive combines the following seven directives and replaces the original versions:

- IPPC Directive (96/61/EC, codified 2008/1/EC)
- Large Combustion Plant Directive (2001/80/EC)
- Waste Incineration Directive (2007/76/EC)
- VOC Solvents Emissions Directive (1999/13/EC) and
- 3 TiO₂ Directives (78/176/EEC; 82/883/EEC; 92/12/EEC)

With the entry into force of the IED, BAT Conclusions (these are documents containing the parts of a BAT reference document laying down the conclusions on best available techniques) become binding and thus the reference for the permit conditions regarding the ELVs, which cannot be higher than the BAT- associated emission levels (BAT-AELs) as contained in the BAT conclusions.



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Furthermore the IED introduces an extension of activities already covered by the previous IPPC Directive (wood-based panels; production of food from animal and vegetable raw materials, both in combined and separate products with a specified finished production capacity), as well as new activities such as: the capture of CO₂ streams from installations covered by the IED, the preservation of wood and wood products with chemicals, with a production capacity exceeding 75m³, the independently operated treatment of waste water not covered by Directive 91/271/EEC (concerning urban waste-water treatment).

III. Introduction to this Gap Analysis Report

Within activity 2.1 the experts made a comparison of the national law, laid down in the correlation table (see annex), with the Industrial Emissions Directive, with the aim of the further draft of the BC's law to be in line with the requirements of the Industrial Emissions Directive (IED). The experts made an article by article comparison (from article 1 to 83). Based on the “Synopsis IED” (Tables of Concordance, annexed) the most important transposition deficits and changes to be made accordingly to achieve compliance of the existing texts with the Industrial Emissions Directive are detected. Gap means all provisions, which are not or only partially transposed in national law, no matter if these provisions are mandatory or optional. The report is structured according to the chapters of the Industrial Emissions Directive 2010/75/EU, i.e. General Part, former IPPC-part, former LCP-part, etc.

IV. Main findings of the Gap Analysis

The integrated approach to issuing permits to industrial installations should allow major progress to be made in the field of atmospheric pollution. The central element of this approach is the implementation of Best Available Techniques (BAT). Besides, in article 23 the Directive also strengthens the role of environmental inspections.

BAT-conclusions¹ should be referred to when developing emission limit values in the BC. These emission limit values should reflect the state of the environment in a specific location with the quality of the environment as a whole in mind. Special consideration should be taken with regard to trans-boundary pollution and special (e.g. protected) areas. The integration of

¹According to the IED BAT Conclusions „ means a document containing the parts of a BAT reference document laying down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures.”



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BAT conclusions into the BC legal system are essential requirements so reference can be made in the permits. Currently there is no procedure in place which could be used to make the BAT Conclusions binding and applicable on the BC, a new law on industrial emissions should clarify this issue and also require updating in case of changes made to BAT Conclusions in the course of the Sevilla Process.

On a BC national level the Role of the Technical Committee on BAT is considered important. This Committee is currently already providing guidelines with regard to the application of BAT, which however have only a guideline character and are not binding. If the Technical Committee on BAT should have a central role in the context of transposing and implementing BAT Conclusions in the BC an extension of staffing and compensation for members should be considered.

With regard to the definitions contained in Art. 3 IED, it is proposed to include all definitions in BC legislation as literally as possible. In case the current wording of the Directive would be in conflict with other national legislation or should be amended for reasons of coherence, a different wording might be found more suitable.

Installations requiring an A-integrated permit in Macedonia, should be the same types of installations as laid down in Annex I of the IED (= installations obliged to hold an integrated permit), for reasons of compliance. The same is true for the substances according to Annex II of the IED. For the mentioned substances it is required that emission limit values are prescribed in the A-integrated permit, the respective national legislation should therefore be aligned with IED Annex II.

In some points national law is stricter than EU-Law. This is generally possible and in accordance with EU law (Art. 193 of the Treaty on the Functioning of the European Union). In the present context this concerns in particular the definition “substantial change”, which is broader in national law, because the “change in the operation” is not included in IED.

With regard to taking a more stringent approach than the IED also the question of B-permits will need to be discussed (see also below). B-permits relate to installations not covered by the IED (e.g. due to the non-attainment of the threshold levels in Annex I IED). It was confirmed by the BC that in principle the existing system of A-Permits and B-Permits should be maintained and that the procedure to be followed with regards to B-Permits should be the same as for A-Installations.

V. Points to be clarified for the purpose of legal drafting



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Various important points remain open for discussion. Decisions have to be taken with regard to several elements of the IED for which no specific measure for transposition is prescribed or where the Directive leaves a certain degree of discretion. These discussion points should in principle be clarified from the side of the BC before the beginning of the drafting of the Law on Emissions from Industry in order to ensure that an approach consistent with the expectations of the BC is taken. However, some of the decisions may also be taken during the legal drafting activity if necessary due to time constraints. The following list should provide an overview over the questions to be clarified:

1. Clarifications are needed with regard to the use of **Generally Binding Rules (GBR)** vs. case-by-case permitting approach. The implementation of BAT Conclusions in secondary legislation will lead to a situation where these documents function as a kind of GBR, since they would become generally applicable in the whole of Macedonia. Open questions:
 - a. Would a uniform application of either GBR or BAT Conclusions throughout Macedonia be desired or possible? This question relates to the actual standards to be applied and/or necessary transition periods (see also question on definition of “old” and “new” installations below).
 - b. Should the current approach of using GBR be upheld?
2. **BAT Conclusion Documents** and BAT Technical Commission
 - a. A decision on the method of integrating BAT Conclusions into the BC legal system has to be taken. The options are either the development of “national BAT conclusion documents” or the EU - BAT conclusions could be translated and published officially as Macedonian secondary legislation (the latter approach is recommended). How stringent can/should the specific standards (ELVs, etc.) be determined?
 - b. Regular updating of BAT Conclusions/GBRs will be necessary (Sevilla Process). The procedure for updating will have to be defined.
 - c. How should a participation procedure, if any, of industry and NGOs in the process of adopting BAT Conclusions (see Art. 13.1 IED) be designed?
 - d. The legal status and the rules of procedure for the BAT Technical Commission have to be clarified. What should be the general role of the Commission (Art. 104 Law on the Environment) be in the context of integrating BAT Conclusions into the BC legal system?



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- e. Staffing and payment of members of the Commission would need to be assessed dependent on the role foreseen for the Commission according to the legislation to be developed.

3. Emission Limit Values (ELVs, Art. 15.3 IED)

- a. The approach to the setting of ELVs is dependent upon the approach of integrating the BAT Conclusions in the BC legal system. BATAELs (as part of the BAT Conclusions) should be the reference for setting ELVs in individual permits.
- b. Should the new legislation on IE include flexibility as foreseen in Art. 14.2 IED (supplementing or replacement of ELVs with “equivalent parameters or technical measures ensuring an equivalent level of environmental protection”)?
- c. Art 15.4 IED establishes the possibility of less strict ELVs in specific individual permitting cases (cost/benefit analysis with regard to environmental benefits vs. cost of achieving ELVs). It must be decided if this possibility to derogate will be foreseen in the new legislation.

4. Existing installations

- a. Transitional periods: Which installations will be allowed to apply transitional periods? In this sense a suitable definition of “old” and “new” installations is needed. The current concept of adjustment permits as defined in the Macedonian Law on Environment needs to be revised. A decision from the BC partner on this is needed prior to law drafting, as this matter is not determined by the EU Environmental Acquis.
- b. What about “old” installations (Large Combustion Plants) that will not be able to comply even after being granted a transitional period? Should these installations be granted the possibility of a limited lifetime derogation (see Art. 33 IED)?

5. Link to Environmental Impact Assessment

The question is how (and if) the information from these procedures should feed into the updating process of existing permits in the context of IED as well as in cases where substantial changes in the installation requires the updating of a permit. For new installations it is clear that the results of EIA shall be taken into account in the permitting process.



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6. Inspections

- a. A draft for a specific Law on Environmental Inspections has been prepared by the Inspections Twinning Project. It will be necessary to take into account the results of this project and to clarify what has been/has not been included in the Law on Environmental Inspections and what is missing with regard to the complete and effective transposition of the IED in the BC.
- b. The link between the two future laws (on Inspections and on IE) has to be carefully designed in order to avoid contradictions. It is considered a disadvantage if the Law on IE will be finalized at a later point in time than the new Law on Inspections. The need for intensive coordination is highlighted; cooperation will lead to harmonized results.

7. Stricter permit conditions

Should the possibility to set stricter permit conditions than those achievable by the use of BAT as described in the BAT Conclusions in accordance with Art. 14.4 IED be included?

8. A and B Permits

The current system of A- and B-permitting should be kept (see below). However some further clarifications are necessary:

- a. Are any changes to the current system of B-permitting desired?
- b. Which technical standards should be applied to B-installations? The same stringency level as for A-installations is possible under EU legislation but may not be desirable (or realistic) in all cases.

VI. Detailed Gap Analysis Report

The following bullet points reflect the most important results of the gap analysis, which has been carried out by MS experts with regard to existing primary and secondary legislation in Macedonia. The focus is strictly on (partial or full) gaps. The following section only highlights the most important gaps detected. More details with regard to the detection and/or analysis of gaps can be found in the table (“Synopsis”) annexed to this report.



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Chapter I: Common Provisions

Art. 2 Scope

Among others there are some gaps regarding changes to Annex I of the IED in comparison with Annex I of the former IPPC Directive.

Art. 3 Definitions

The definitions from Article 3 of the IED should be transposed as far as possible with the same wording; this means for example that the definition of “installation” should not contain the definition derived from the Seveso – Directive but directly from the IED. The following issues have been detected with regard to definitions:

- The definition of “emission” could possibly be shortened because “microorganisms” do not necessarily have to be included.
- The definition of “environmental quality standard” is limited by the words “under specified conditions” in the current national legislation.
- The definition of “permit” in national law is too elaborate, a literal transposition would be recommended.
- There is no definition of general binding rules. So there is a political discussion needed, if general binding rules, i.e. for each sector are considered useful and should be introduced. The IED leaves room for discretion in this regard.
- The definition of “best available techniques” is limited by the phrase “in principle” which is not in compliance with IED and should therefore be amended.
- The definition of “available techniques” is limited by the words “under economic and technical cost effective conditions” which is not in compliance with IED and should therefore be amended.
- There is no definition of “BAT reference document” as such a definition is dependent on the decision on how to integrate BAT reference documents and, more importantly, BAT Conclusions into the Macedonian legal system (see above).
- There is no definition of “BAT conclusions” (see above).
- There is no definition of “emission levels associated with the best available techniques”. Also in this case a respective transposing provision is dependent upon



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the decision on how to integrate BAT reference documents and BAT conclusions into the Macedonian legal system.

- There is no definition of “emerging technique” (s. Art. 27 IED).
- The definition of “operator” is limited by the words “performs professional activity or performs an activity through the installation” which is not in compliance with IED and should therefore be amended.
- The definition of “the public” in the IED contains “groups” which are missing in national law and should therefore be added.
- The definition of “the public concerned” misses the addition “likely to be affected” and should therefore be adapted accordingly.
- The definition of “the public concerned” is limited through the addition “with which it has specific relation through particular procedure”. This is not in line with the IED and other pieces of EU legislation.
- The definition of “hazardous substances” in Macedonian law makes reference to the REACH Regulation, however it is not considered practical to adopt REACH definition in the present context.
- There is no definition of “baseline report”. This should be included in the new legislation since it is a central element introduced by the IED.
- There is no definition of “soil”.
- There is no definition of “environmental inspection”.
- There is no definition of “poultry”.
- There is no definition of “stack”.
- There is no definition of “operating hours”.
- There is no definition of “indigenous solid fuel”.
- There is no definition of “determinative fuel”.
- There is no definition of “gas engine”.
- There is no definition of “diesel engine”.



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- There is no definition of “small isolated system”.
- There is no definition of “waste”.
- The definition of “mixed municipal waste” is not correct. The definition is contained in Art. 6(5) of the Law on Waste Management (LWM) reference (94, 99) but is not in accordance and should therefore be amended in accordance with the requirements of the IED.
- The definition of “waste co-incineration plant” is not complete but contains additional elements. It should thus be brought in line with the IED.
- “Nominal capacity”: The respective definition is missing in LWM but is contained in the Rulebook on the limit values of emissions in waste incineration and conditions and manner of operation of installations for burning and incineration (RLVEWI) - Article 4 par. (1) point 2.
- “Dioxins and furans”: The definition missing in the LWM but is contained in RLVEWI - Article 4 par. (1) point 5.

Art. 4.1 Obligation to hold a permit

All existing installations have applied for a permit, so in the course of time each one will have a permit. National legislation should revise the current procedure on how to deal with existing installations (revision of concept of adjustment permits) operating on the basis of older permits as well as installations operating without permits.

Art. 5.1 Granting of a permit

The provisions in BC do not contain an entitlement (i.e. a legally enforceable right) for the operator to have a permit granted in case of compliance. This obligation for the permitting authority should be introduced for reasons of legal certainty.

Art. 7 Incidents and accidents

In national law the supplement (Art. 7 b) “to limit the environmental consequences” is missing and should be included in the new legislation.

Art. 8.2 Non-compliance

Par. 2 lit a, b, c IED (referring to the event of the breach of the permit conditions) is not yet implemented and should be included in the new legislation.



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Art. 9.1 Emission of greenhouse gases

Not yet implemented. The relationship between emission trading and emission limit values, laid down in a permit, must be clarified.

Art. 9.3 Emission of greenhouse gases

Not yet implemented. The relationship between emission trading and emission limit values, laid down in a permit, must be clarified.

Art. 9.4 Emission of greenhouse gases

Not yet implemented. The relationship between emission trading and emission limit values, laid down in a permit, must be clarified.

Chapter II: Provisions for Activities listed in Annex I

Art. 14.1 g Permit conditions

The provisions in BC (Art. 107 and 101 LE) might be too general. It would be better to include a specific reference regarding the minimisation of long-distance or transboundary pollution as a condition to be included in a permit.

Art 14.1 h Permit Conditions

Conditions for assessing compliance with the emission limit values are not implemented.

Art. 14.3 BAT conclusions shall be the reference for setting the permit conditions.

Not yet implemented. There is a slight change of the approach which should be taken into consideration. BAT conclusions are now a reference to establish limit values. A respective transposing provision is dependent upon the decision on how to integrate BAT reference documents and BAT Conclusions into the Macedonian legal system.

Art. 14.5

Not yet implemented. This provision covers the situation where the competent authority sets permit conditions on the basis of a best available technique not described in any of the relevant BAT conclusions.

Art. 14.6



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Not yet implemented. Setting conditions of the permit in case an installation or an activity is not covered by BAT Conclusions or the BAT Conclusions don't address all potential environmental effects.

Art. 14.7

Not yet implemented. This provision concerns animal welfare in installations as referred to in Annex I point 6.6 IED.

Art. 15.2

Not yet implemented. This provision prescribes that emission limit values should be based on BAT.

Art. 15.3

This article includes a new and important reference not yet reflected in the articles concerning emission limit values. Emissions should not exceed the emission levels associated with the BAT as laid down in BAT- conclusions.

Art. 15.3 a and b

Not yet implemented. Art. 15.3 gives the member state 2 different options to reach the above mentioned aim (a. setting emission limit values that do not exceed the emission levels associated with the best available techniques or b. setting different emission limit values combined with an at least annual assessment of the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with the best available techniques). A decision is needed whether this flexibility option should be provided for in the new national legislation.

Art. 16.1 Monitoring requirements

Not implemented. Monitoring requirements are again related to BAT Conclusions which are in the present context dependent upon the decision on how to integrate BAT reference documents and BAT Conclusions into the Macedonian legal system.

Art. 20.2 Changes by operators to installations

Par. 2 sentence 2 has not been implemented and should be introduced by the new legislation.

Art. 21.2 Reconsideration and updating of permit conditions by the competent authority



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Not yet implemented. For the purpose of reconsidering the permit conditions the operator should submit the necessary information to the competent authority. This obligation should be introduced by the new legislation.

Art. 21.3 Reconsideration and updating of permit conditions by the competent authority

Not yet implemented. Within 4 years of publication of decisions on BAT the competent authority shall ensure that all the permit conditions for the installation concerned are reconsidered and, if necessary, updated to ensure compliance with this Directive and make sure, that the installation complies with those permit conditions. The transposition of this provision again touches upon the basic question of the legal status of BAT Conclusions in the Macedonian legal system and the procedure for the regular updating thereof.

Art. 21.4 Reconsideration and updating of permit conditions by the competent authority

Not yet implemented. Where an installation is not covered by any of the BAT conclusions, the permit conditions shall be reconsidered and, if necessary, updated where developments in the best available techniques allow for the significant reduction of emissions.

Art. 22 Site closure

Not yet implemented.

Art. 23 Environmental inspections

In the course of the transposition of this provision the results of Twinning Project MK-10-IB-EN-01 (“Strengthening the administrative capacities at central and local level of implementation and enforcement of the environmental acquis”) should be taken into account.

Art. 23.4 implemented only in parts.

Art. 23.5 not yet implemented.

Art. 24 Access to information and public participation in the permit procedure

Art. 24.1 c has not yet been implemented. Public participation is (amongst others) required if the competent authority wishes to set less strict emission limit values due to the geographical location or the local environmental conditions or the technical characteristics of the installation concerned.



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Art. 24.1 d has not yet been implemented, as the case of Art. 21 (5) (a) of the IED is not covered. This case concerns updating of permit because the pollution caused by the installation is of such significance that the existing emission limit values of the permit need to be revised or new such values need to be included in the permit.

Art. 24.2 f not yet implemented. Public participation is (amongst others) required if a derogation is granted due to the geographical location or the local environmental conditions of the installation concerned or the technical characteristics of the installation concerned.

Art. 27.1 Emerging techniques

Not yet implemented, however the transposition of this provision is not mandatory.

Chapter III: Special Provisions for Combustion Plants (LCP)

Art. 29 Aggregation rules

Art. 29.2 and Art. 29.3 are not yet implemented. These are special provisions for cases where two or more separate LCP installations use a common stack for the release of waste gas.

Art. 30 Emission limit values

Art. 30.2 - 30.9 have not yet been implemented. These provisions concern emission limit values for LCP. A transposition is necessary, however for practical reasons national transition periods should be considered.

Art. 33 Limited life time derogation

This provision has not been transposed, however it is discretionary. It only needs to be transposed into national legislation if Macedonia chooses to apply these provisions. The following sub-provisions are also dependent on this basic decision.

Art. 33.2 not implemented. Report to Commission referring to LCP covered by Art. 33.1.

Art. 33.3 not implemented. Special regulation for LCP being part of a small isolated system.

Art. 33.4 not implemented. Special provision for existing LCP with more than 1500 MW.



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Art. 34 Small isolated systems

This provision has not been transposed, however it is discretionary. It only needs to be transposed into national legislation if Macedonia chooses to apply these provisions.

Art. 34.2 not implemented. Special limit values for nitrogen oxides for LCP more than 500 MW.

Art. 35 District Heating Plants

This provision has not been transposed, however it is discretionary. It only needs to be transposed into national legislation if Macedonia chooses to apply these provisions.

Art. 36 Geological storage of carbon dioxide

Not implemented. This provision refers to Article 9a(1) of Directive 2001/80/EC as amended through Directive 2009/31/EC. This provision has however not been transposed and should be effectuated in the course of the transposition of the IED.

Art. 37.1 Malfunction or breakdown of the abatement equipment

Not yet implemented.

Art. 37.2 Malfunction or breakdown of the abatement equipment

Not yet implemented.

Art. 39 Compliance with emission limit values

Not implemented. Compliance with emission limit values for air in case of fulfilling part 4 of Annex V. Provision already contained in the old LCP Directive.

Chapter IV: Special Provisions for Waste Incineration Plants and Waste Co-Incineration Plants

Art. 42 Scope

Art. 42.1 has not been completely transposed. In particular the scope of RLVEWI does not cover the scope of co-incineration of waste and liquid waste.



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Art. 42.2: Exemptions contained in Art. 3 RLVEWI range are wider than those in Art. 42 IED; Art 42.2 (a) grants exemptions for plants, which ONLY treat certain waste types. Art 3.31 (b) RLVEWI refers to vegetable waste, whereas the RLVEWI grants exemptions for any kind of waste from agriculture and forestry; same for the food processing industry and pulp and paper. The European Law grants exemption for vegetable waste only. Regarding animal carcasses, no reference is made to Regulation (EC)No 1774/2002 of the European Parliament and of the Council of 3 October 2002. The RLVEWI grants a general exemption for combustible liquid waste, including waste fuels (provided the content of certain POPs is within limits, or the Calorific Value is at least 30 MJ/kg).

Art. 44 Applications for Permits

One should bear in mind that chapter IV of IED applies to all waste incineration and co-incineration plants (independent of the size), whereas chapter II (see Annex I) applies to waste incineration and co-incineration plants exceeding a given capacity (non-hazardous waste: > 3 t/h and hazardous waste > 10 t/d). This means that small plants do not have the obligation to apply for permits.

Art. 45 Permit conditions

Art. 45.3 not implemented, however this provision is not mandatory.

Article 55 Reporting and public information on waste incineration plants and waste co-incineration plants

Art. 55.2 and Art. 55.3 are not implemented yet. These provisions concern the report to the public information on specific waste incineration and waste co-incineration plants.

Chapter V: Special Provisions for Installations and Activities using Organic Solvents

Art. 56 Scope

Not yet implemented, however not necessary, because it doesn't contain a legal obligation.

Art. 57 Definitions

Definition (5) 'mixture' not implemented. Definition has to be added.



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Art. 58 Substitution of hazardous substances

Not implemented. Transposition of the obligation to substitute specific hazardous substances is considered necessary.

Art. 59 Control of emissions

Art. 59.5 not implemented. Control of emissions on specified VOC.

Art. 60 Monitoring of emissions

Not yet implemented. Ensure that measurements either by specification in the permit conditions or by general binding rules.

Art. 61 Compliance with emission limit values

Not yet implemented. Emission limit values in waste gases shall be regarded as being complied with if the conditions set out in Part 8 of Annex VII are fulfilled.

Art. 62 Reporting on compliance

Not yet implemented. Reporting on compliance is to be defined as a duty of the operator.

Art. 63.1 Substantial change to existing installations

Not yet implemented. This provision contains a special definition of Substantial change to existing installations.

Art. 65 Access to information

Art. 65.2 and Art. 65.3 are not implemented. Access for the public to the results of the monitoring described in Art. 60. This should be in line with Directive 2003/4/EC.

Chapter VI: Special Provisions for Installations Producing Titanium Dioxide

Art. 66 – 70

Art. 66 covers the scope of the chapter. If legislation on Titanium Dioxide is to be developed this provision should be transposed.



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Art. 67 -70 not yet implemented. Special provisions for installations producing titanium dioxide have to be added if applicable in Macedonia.

Chapter VII: Committee, Transitional and Final Provisions

Art. 72 Reporting by Member States

Art. 72.3 not yet implemented. Annual inventory of the sulphur dioxide, nitrogen oxides and dust emissions and energy input for special LCP.

Art. 82 Transitional provisions

Not yet implemented. There should be special provisions in Macedonia.

VII. Annexes

Annex I Categories of Activities referred to in Article 10 IED

The list of activities contained in Annex I of the Ordinance on determining the activities of the installations requiring an A-integrated environmental permit (OAIIEP, the numbering in the present chapter refers to the Annex I of this document if not indicated otherwise) is not completely in line with Annex I of the IED since they were following the IPPC Directive Annex. Therefore an updating of the Annex will be necessary; preferably a literal transposition should be envisaged. The following gaps and differences were identified:

- “Production of coke” is missing.
- “Coal gasification and liquefaction plants” is limited as compared to “Gasification or liquefaction of: (a) coal; (b) other fuels in installations with a total rated thermal input of 20 MW or more” as mentioned in the IED.
- In Nr. 3.1 “or in other furnaces” is missing.
- Nr. 3.5 “Stationary asphalt bases” are not contained in the IED.



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- Nr. 4. Annex I IED category “Chemical industry” includes “biological processing”, this is missing in the OAIP.
- Nr. 4.1 of the IED contains also “mixtures of esters”, missing in OAIP.
- Nr. 4.1h contains “basic plastic materials” while the IED speaks of “plastic materials”.
- Nr. 4.4 “Chemical installations for the production of basic plant health products and of biocides” differs from “Production of plant protection products or of biocides” as contained in the IED.
- Nr.4.5 “Installations using a chemical or biological process for the production of basic pharmaceutical products” differs from “Production of pharmaceutical products including intermediates” as contained in the IED.
- The structure of chapter 5 OAIEP is different to chapter 5 of Annex I of IED
- Nr. 6.1.c as contained in the IED states “Production in industrial installations of: one or more of the following wood-based panels: oriented strand board, particleboard or fibreboard with a production capacity exceeding 600 m³ per day”. This is missing in OAIP.
- Nr. 6.2 as contained in the IED says “textile fibres or textiles” instead of “fibres or textiles” as contained in the OAIP.
- Nr. 6.4: updating from IPPC to IED necessary, because there are some gaps i.e. concerning animal & vegetable combinations.
- In Nr. 6.7 the “organic solvent consumption” is missing.
- CO₂ Capture and storage is missing.
- Preservation of wood is missing.
- Independent treatment of waste water is missing.

Annex II List of Polluting Substances

The Rulebook on the substances for which emission limit values are compulsory prescribed in the A –integrated environmental permit (RSELVP, the numbering in the present chapter refers to the Annex of this document if not indicated otherwise) does not



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cover the list of substances contained in Annex II IED completely. A revision of the Annex of the RSELVP should, if possible and considered practical, contain a literal transposition of Annex II IED. The following gaps or differences were identified:

Annex “Air”

- Nr.6: “Dust including dust particles” is going further” than Annex II IED.
- Nr. 12: “Agents” mentioned are not the same as “mixtures” as contained in the IED.
- Nr.13: “Polychlorinated dioxins and polychlorinated furans” is different to “Polychlorinated dibenzodioxins and polychlorinated dibenzofurans” as contained in the IED

Annex Water

- Nr.4: “Agents” mentioned are not the same as “mixtures as contained in the IED.
- Nr. 4: “which can influence reproduction through water” is different to “which may affect reproduction in or via the aquatic environment” as mentioned in the IED.
- Nr. 10: “Suspended solids” is different to “Materials in suspension” as contained in the IED.
- Nr.12: “Substances with adverse impact on Oxygen” is different to “Substances which have an unfavourable influence on the oxygen balance” as contained in the IED.
- Nr.13: The IED refers to Annex X of Directive 2000/60/EC. A literal transposition of substances listed in this provision is proposed.

Annex Greenhouse Gases

- Nr.6: Sulphurhexafluorid” is not contained in IED

Annex III Criteria for determining Best Available Techniques

Not yet implemented.



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Annex IV Public Participation in decision making

Mainly transposed, however a few gaps remain. No. 1 a) is only partially transposed; a reference to the updating of a permit or the permit conditions is missing. No.1 e) and No. 2 have not been transposed.

No 2 concerns making available background information, like expert advice, and all information relevant for the decision which only becomes available after the time the public concerned was informed initially. This provision requires the competent authority to make available any new information which becomes available until the decision is taken.

Annex V Technical provisions relating to combustion plants

Part 4: Assessment of compliance with emission limit values

Not yet implemented.

Part 5: Minimum rate of desulphurisation

Not yet implemented.

Part 6: Compliance with rate of desulphurisation

Not yet implemented.

Annex VI Technical provisions relating to waste incineration plants and waste co-incineration plants

Part 8: Assessment of compliance with emission limit values

Not yet implemented.



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Annex VII Technical provisions relating to installations and activities using organic solvents

Part 4: Emission limit values relating to volatile organic compounds with specific risk phrases

Not yet implemented.

Part 5: Reduction scheme

Not yet implemented.

Part 6: Emission monitoring

Not yet implemented.

Part 7: Solvent management plan

Not yet implemented.

Part 8: Assessment of compliance with emission limit values in waste gases

Not yet implemented.

Annex VIII Technical provisions relating to installations producing titanium dioxide

Part 1: Emission limit values for emissions into water

Not yet implemented.

Part 2: Emission limit values into air

Not yet implemented.

Part 3: Emission monitoring

Not yet implemented.



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VIII. Non-Mandatory Provisions

The following elements listed in Chapter III IED are not mandatory:

- Definition of “emerging technique”. (Article 27 - Emerging techniques states that Member States shall, where appropriate, encourage the development and application of emerging techniques.)
- Derogation of BAT, Art. 15.4
- Art. 36 Geological storage of carbon dioxide
- Art. 45.3 Permit conditions
- Art. 56 Scope
- Art. 66 Scope
- Art. 82 Transitional provisions

IX. Next Steps

One aim of this analysis (together with the annexed Synopsis-Table) was to make areas of non-compliance with EU requirements derived from the IED visible. These documents identify corresponding/not corresponding provisions in Macedonian legislation and highlight transposition options. Thereby the present analysis, together with the Synopsis table, forms the basis for further project benchmarks. These are:

- List of Laws/By-Laws/Provisions to be amended/abolished
- Legal drafting work by experts

Work with regard to both benchmarks will be commenced as a next step. In this respect the following approach was decided together with the BC:



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- A new Law on Control of Emissions from Industry will be created
- The structure of the new law will follow the structure of the IED

IED Chapter	Chapter of new IED Law	New secondary legislation
General Provisions	General Provisions: Definitions	
	General Provisions: Other	
IPPC	IPPC	List of A installations, list of B installations, list of substances, Rulebooks on procedures (A&B), <i>Inspections Rulebook (RPI)</i>
LCP	LCP	Rulebook on LCP
WI	WI	Rulebook on WI
VOC	VOC	Rulebook on VOC
TiO2	TiO2	Rulebook on TiO2
Final Provisions	Final Provisions (including transitional provisions)	

- Drafting “Chapter-by-Chapter” and in parallel for primary and secondary legislation
 - **Primary and Secondary Legislation will be drafted in parallel** for each Chapter following the structure of the IED starting with the General Provisions.
 - Experts from Components 2 and 3 will coordinate that information collected in the course of workshops held within Component 3 will feed into the legal drafting process
- For the legal drafting of each Chapter the following procedure will be followed:
 - Step 1: For each IED- Chapter a **half-day meeting** should take place before the actual drafting of the new law commences. The meeting should be closely coordinated with the workshops under Component 3 of the present project and could, for reasons of resource efficiency and information flow, also take place in this setting. The meeting should provide MS and BC experts with an overview of the respective IED Chapter as well as with an understanding of the challenges currently faced in the implementation in the sector in question. The meeting could thus include the following elements:
 - Presentation by MS expert of gaps and transposition options for Macedonia



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- Presentation by Beneficiary expert on challenges perceived in Macedonia during implementation
 - Presentation by MS expert on best practices and possible solutions for challenges in Macedonia
 - Discussion
 - Step 2: Drafting by MS Experts (regular exchange with Beneficiary)
 - Step 3: Sending out of draft for comments
 - Step 4: Feedback round and finalization
- The following indicative time schedule is proposed:

Month	Chapter	Work Type	Legislation Type
March	General/IPPC	Drafting	Primary/Secondary
May	General/IPPC	Finalization	Primary/Secondary
	LCP	Drafting	Primary/Secondary
July/August	LCP	Drafting/Finalization	Primary/Secondary
September	WI	Drafting	Primary/Secondary
October	WI	Finalization	Primary/Secondary
	VOC	Drafting	Primary/Secondary
November	VOC	Finalization	Primary/Secondary
	TiO2	Drafting/Finalization?	Primary/Secondary
December	All	Overall Finalization	Primary/Secondary

X. List of relevant Laws and Provisions

OFFICIAL translations of the current versions of the documents are necessary at least for the provisions mentioned below, in the best case the whole law/by-law is made available.

Priorities (time)

Priority 1: Laws/by-laws relevant for IPPC



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Priority 2: Laws/by-laws relevant for LCP

Priority 3: Laws/by-laws relevant for Waste incineration/VOC/Titanium Dioxide

Primary Legislation

- Law on Environment (Official Gazette of RM no.53/05, 81/05, 24/07 159/08, 83/09, 48/10, 124/10, 51/11, 123/12, 93/13, 187/13, 42/14)
- Law on Ambient Air Quality (Official Gazette of RM no.67/04, 92/07, 35/10, 47/11, 59/12, 163/13)
- Law on Waters (Official Gazette of RM no, 87/08, 6/09, 161/09, 83/10, 51/11, 44/12, 23/13, 163/13)
- Law on Waste Management (Official Gazette of RM no. 68/04, 71/04, 107/07, 102/08, 143/08, 124/10, 51/11, 123/12, 147/13,163/13)
- Law on Inspections (Official Gazette of RM no. 50/10, 162/10, 157/11, 147/13 and 41/14)
- Law on Protection from Environmental Noise (“Official Gazette No. 79/07, 124/10 and 47/11,)
- Law on General Administrative Procedure (Official Gazette of RM no, 38/05, 110/08 and 51/11) → *Probably not necessary to translate, if translation is available please provide anyway*

Secondary Legislation

- Decree on determining the activities of the installations requiring an Integrated Environmental Permit, i.e. adjustment Permit with an adjustment plan and time schedule for submission of Application for adjustment Permit with an adjustment plans (Official Gazette of RM No. 89/05, 21.10.2005)
- Rulebook on procedure for issuing an A-Integrated Environmental Permit (Official Gazette of RM No. 04/06, 13.01.2006)
- Rulebook on procedure for issuing an B-Integrated Environmental Permit (Official Gazette of RM No. 04/06, 13.01.2006)
- Rulebook on procedure for issuing an adjustment Permit with an adjustment plan (Official Gazette of RM No. 04/06, 13.01.2006)
- Rulebook on conditions to be met by members of the Scientific-Technical Committee for Best Available Techniques (Official Gazette of RM No. 71/06, 08.06.2006)
- Decree on the level of charges payable by operators of installations with adjustment Permit with an adjustment plan (Official Gazette of RM No. 117/07, 01.10.2007)
- Decree on the level of charges payable by operators of installations with B-Integrated Environmental Permit (Official Gazette of RM No. 117/07, 01.10.2007)



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- Decree amending the Decree on the level of charges payable by operators of installations with adjustment Permit with an adjustment plan (Official Gazette of RM No. 64/10, 10.05.2010)
- Decree amending the Decree on the level of charges payable by operators of installations with B-Integrated Environmental Permit (Official Gazette of RM No. 64/10, 10.05.2010)
- Decree on the level of charges payable by operators of installations with A-IPPC Permit (Official Gazette of RM No. 64/10, 10.05.2010)

Rulebook on substances for which are required to be prescribed emission limit values in the A-Integrated Environmental Permit (Official Gazette of RM No. 72/10, 27.05.2010)