

Legal analysis on the operation of industries with integrated permit, incl. steel industry

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A. General questions, legal framework

1. General introduction to the system of environmental permitting of steel plants in Bulgaria

1.1. Description of the national administrative and legal framework, main rules for authorization, EIA procedures and IED permits, relevant rules on the application of the BAT conclusions in the authorisation process, competent authorities and courts

The key legal acts that regulate the environmental permitting of the steel plants in Bulgaria are the environmental framework law, the Climate change Mitigation Act and the two ordinances – on environmental impact assessment (EIA) and on the integrated permits procedure.

The [Law on environmental protection \(EPA\)](#) (Закон за опазване на околната среда) (published in State Gazette SG No. 91 of September 25, 2002, as amended) regulates the protection of the environment, incl. the implementation of control over the state of the environment and the sources of pollution and the prevention and limitation of pollution. According to Art. 117, para. 1 of the EPA and the construction and operation of new and the operation of existing installations and facilities for the categories of industrial activities under Annex No. 4 to the EPA are authorized upon issuance of an integrated permit.

See below in Annex I the list of industrial activities for production and processing of metals subject to integrated permit, incl. those relevant for the steel industry.

Relevant BAT provisions (Art. 123 (2-5) EPA)

The competent authority (CA) determines the conditions of the permit taking into account the BAT conclusions. If necessary, the CA sets stricter values of the indicators describing the applied technique than those defined in the BAT conclusions. The CA sets conditions in the permit, taking into account the BAT determined according to the criteria, according to the regulation under Art. 119 after prior consultations with the operator in cases where:

1. an activity or production process carried out at the installation is not included in any of the BAT conclusions, or 2. applicable conclusions do not address all possible impacts of that activity or process on the environment.

The CA may set the conditions in the integrated permit based on BAT but not described in any applicable BAT conclusion, in case the technique is determined in accordance with the BAT criteria and the conditions of the integrated permit ensure that a degree of environmental protection equivalent to that achieved by means of BAT described in conclusions on BAT is achieved when the BAT conclusions do not contain emission levels.

The [Climate Change Mitigation Act](#) (Закон за ограничаване изменението на климата), (published in SG No.22 on 11.03.2014, as amended) and the [Ordinance on the procedure and manner for issuing and revising permits for greenhouse gas emissions from installations and for monitoring by the operators of installations and aviation operators participating in the European emissions trading scheme](#) (Наредба за реда и начина за издаване и преразглеждане на разрешителни за емисии на парникови газове от инсталации и за осъществяване на мониторинг от операторите на инсталации и авиационните оператори, участващи в Европейската схема за търговия с емисии), (published in SG No. 74 on 5.09.2014, as amended)

It is important to note that the integrated permit **does not cover the emission limit values for greenhouse gases¹** which are included in Annex 1 to the *Climate Change Mitigation Act* (CCMA) of categories of activities listed in the Annex, unless this is necessary to ensure that ambient air quality will not be impaired. Under CCMA, Art.5 (1) and *the Ordinance on the procedure and manner for issuing and revising permits for greenhouse gas emissions from installations and for monitoring by the operators of installations and aviation operators participating in the European Emissions Trading Scheme* (GHG Ordinance), the operator need a special greenhouse gas emissions permit if its installation falls in the categories of industrial activities in Annex 1.

The operation of new and operating installations for the categories of industrial activities under Annex No. 1 is permitted after the issuance of GHG emissions permit in accordance with the GHG Ordinance (Art.31 of CCMA).

The GHG emissions permit contains, inter alia, the following information:

1. the name and address of the operator, the management address of the operator - where the operator is a legal person, as well as other information laid down in the GHG ordinance;
2. a description of the installation, its main parameters and the greenhouse gas emissions from the installation;
3. a monitoring plan that fulfils the requirements of the GHG ordinance;
4. the reporting requirements.

The steel industry activities are listed in Annex 1 to the *Climate Change Mitigation Act*, namely in point 2 Production and processing of metals with permit for carbon dioxide gas emissions.

The [Ordinance on the conditions and procedures for carrying out an environmental impact assessment \(EIA Ordinance\)](#), (Наредба за условията и реда за извършване на оценка на въздействието върху околната среда), (State Gazette No. 25 of March 18, 2003, as amended)

The EIA ordinance defines the conditions and procedure for carrying out an EIA of investment proposals under Art. 81, para. 1, item 2 of the Environmental Protection Act (EPA) – i.e., construction, activities and technologies according to Annexes No. 1 and 2 of EPA. In Annex No.

¹ Annex 1 lists carbon dioxide, perfluorocarbon and nitrous oxide.

1 the investment proposals for which an EIA is mandatory, are listed. Among them there are the activities and technologies related to steel production and processing: 4.1. integrated plant for the production of iron and steel (primary or secondary smelting), including continuous casting and 4.2. installations for the production of non-ferrous metals from ores, concentrates or scrap metals by metallurgical, chemical or electrolytic processes.

Additionally, the investment proposals listed in Annex No. 2 to EPA and any expansion or amendment of investment proposals in Annex No. 2, which have already been approved or are in the process of being approved, have been implemented or are in the process of being implemented, if this expansion or amendment may lead to a significant negative impact on the environment are subject to so-called screening, i.e., assessment of the need to carry out an EIA.

The [Ordinance on the conditions and procedures for issuing of integrated permits](#) (IP Ordinance) (State Gazette SG No. 80 of October 9, 2009, as amended) (Наредба за условията и реда за извършване за условията и реда за издаване на комплексни разрешителни) regulates the conditions and procedure for issuing integrated permits for the construction and operation of new and for the operation and substantial changes of existing installations and equipment, for the categories of industrial activities under Annex No. 4 to the Environmental Protection Act. The regulation also defines:

1. the content and form of applications for issuing integrated permits;
2. the order and manner of determining the best available techniques (BAT);
3. the procedure and method for revising, updating and revoking issued integrated permits;
4. the order and method of reporting emissions of harmful substances;
5. the conditions for monitoring and the obligation to provide the relevant information to the authorities responsible for carrying out the control under the EPA;
6. the content and form of the information that the operator of the installation should provide to the competent authority of any planned change in the nature of the production activity, operation or expansion of the installation, which may lead to consequences for the environment.

1.2. Administrative framework – competent authorities

The Executive Director of the Environmental Executive Agency is the competent authority for issuing, refusing, revising, updating, revoking permits, as well as for confirming/refusing to change the operator of an issued permit. The Minister of Environment and Water is the competent authority for making a decision on EIA for investment proposals, extensions or changes, when they fall under Annex No. 1 and are subject to joint EIA procedure and the integrated permit procedure (Art.94(4) EPA). Other authorities involved in the relevant procedure can be the relevant Regional Inspectorate for Environment and water (RIEW) and River Basin Directorate. E.g. the competent authority consults the draft integrated permit with these authorities. The compliance of a planned change in the operation of an installation with the environmental regulations and the update of the permit are also consulted with the relevant

RIEW and with the River Basin Directorate, if necessary (Art. 16, para. 7 from the IP Ordinance). The control over implementing the conditions in the integrated permit is carried out by the relevant RIEW.

At the beginning of the procedure for issuing an integrated permit, the competent authority notifies the operator in writing, and together with the municipalities publicizes and ensures for one month, on an equal footing, access of interested persons to the application, including in the countries affected by the activity of the installation in the conditions of transboundary impact. (Art. 122a, para. 5)

2. Procedures and legal remedies concerning the integrated permit

2.1. Access to information

The access to information to the procedure of issuing integrated permit is important for the further steps and legal actions concerning the integrated permit. The Environmental Executive Agency maintains a public register of integrated permits (<https://registers.moew.government.bg/kr/>) with information about the integrated permit number, the name of the operator, the site, competent authority, the permit decision or its revision, date and media of publication and its entry into force. The CA has obligations to provide access to information during the integrated permit procedure. The CA begins a procedure for issuing a integrated permit, of which he notifies the operator in writing, and together with the municipalities, publishes and ensures for one month, on an equal footing, access of the interested parties to the application, including in the countries affected by the operation of the installation in terms of transboundary impact. (Art.122a (5) EPA)

It has to send the draft integrated permit to the mayor of the relevant municipality for public disclosure for a period of 14 days. (Art. 122a, para. 6, item 2 of the EPA)

Concerning the information about the updates in the BAT, the Minister of Environment and Water or an authorized official monitors the development of BAT, as well as the publication of new or updated conclusions on BAT and provides this information to the interested public and to the competent authority for integrated permit (Art. 120, para. 3 of the EPA).

The Executive Environmental Agency maintains a public register on its [website](#) of the results the emissions monitoring provided for in the integrated permits (Art. 129, para.4 of EPA).

2.2. Public participation in the EIA procedure and issuance of a integrated permit

Another possible reason for challenging the integrating permit is non-conformity with the requirements for public participation in the EIA and integrated permit procedures which according to Art.94(1), item 9 and Art.94 are carried out as a joint procedure. For example, the developer has to undertake consultations with the competent EIA authorities and the public concerned regarding the project (Art 95 (3) EPA). The members of the public could submit their written opinions prior to or during the public hearings, or no later than three days after the consultation by sending them to the developer and to the EIA authority (Art.97(6) EPA).

2.3. Access to justice to challenge the integrated permit procedure or other relevant permitting procedure

A possible avenue for challenging the integrated permit procedure is its judicial review. The decision for granting, refusal, modification, updating or revocation of an integrated permit (IP) is announced by the competent authority for permits through the mass media within 14 days after the date of issue, at the same time sending it to the states affected by operation of the installation in case of cross-border transfer. During this timeframe, the applicant shall also be notified in writing. Interested persons can appeal the decision pursuant the APC within 14 days after its announcement (Art.127 EPA).

In the practice of the Supreme Administrative Court, it is established that the non-governmental organizations could be constituted as an interested party in cases concerning the integrated permit procedures and have legal standing. Bulgaria and the European Union are Parties to [the Convention on Access to Information, Public Participation in the Decision-Making Process and Access to Justice in Environmental Matters](#) which is in force from 16.03.2004, State Gazette no. 33 of 23.04.2004. For the European Union the Convention was approved by [Decision 2005/370/EC](#) of the Council of 17.02.2005. In view of this, the provisions of the Convention are, on the one hand, part of domestic law, in view of [Art. 5, para. 4 of the Constitution](#) , and on the other - part of the law of the European Union, according to [Art. 216, § 2 of the Treaty on the Functioning of the European Union \(TFEU\)](#) . According to [Art. 2, § 4 of the Convention](#) "public" means one or more natural or legal persons and, in accordance with national legislation, their associations, and according to [Art. 2, § 5](#) - "the public concerned" means the public that is affected or likely to be affected by environmental decision-making or has an interest in this process. For the purposes of this definition, non-governmental organizations working for the protection of the environment and meeting all the requirements of national law are considered to have an interest and standing. For the needs of the Convention, the contracting parties have created a presumption regarding the legal standing and interest of non-governmental organizations that work to protect the environment. With the provision of [§ 1, items 24 and 25 of the EPA](#), the concepts of "public" and "the public concerned" are explicitly introduced into the national legislation, in view of the definitions of [Art. 2, § 4 and 5 of the Convention](#) , including the presumption of the legal interest of environmental non-governmental organizations established in accordance with the law. The national provision specifies that the standing is relevant in the procedures for approving plans, programs, investment proposals and in making decisions on the issuance or updating of permits in accordance with this law or the conditions in the permit².

2.4. Costs of the proceedings

The APC promotes as the principle of access to justice, including no financial barriers to it (Art. 12), and stipulates that no stamp duties are collected and no costs are paid for any proceedings,

² Decision No. 2121 of 15.02.2018 of the Supreme Administrative Court under adm. case. No. 7911/2017, VI section, reporter Judge Sibila Simeonova.

except in the special cases provided for in the APC or in another law, as well as in the cases of judicial appeal against administrative acts and the bringing of a legal action under the APC.

In the Tariff for State Taxes, the tax for filing a cassation appeal against an administrative act by NGOs or individuals is 10 BGN (about 5 EUR). The 2019 amendments to the APC significantly increased the tax for the cassation appeal from 5 BGN to 70 BGN for individuals, sole traders, state and municipal authorities and other persons with public functions or offering public services, and 370 BGN for organisations. The tax is not paid for the filing of a protest by the prosecutor or by individuals for whom it is acknowledged by the court or another authority (e.g. the chairman of the Supreme Administrative Court) that they do not possess the means to pay. When a material interest could be defined in the administrative court proceedings, the state tax is proportional and amounts to 0.8% of the material interest of (value for) the party, but not more than 1,700 BGN, and in the event that the interest in the case is above 10,000,000 BNG the tax is 4,500 BGN. Another portion of the costs in judicial proceedings is the attorney's fee, the minimum for which is defined in Ordinance № 1 on the Minimum Amounts of Attorneys' Fees (e.g., for procedural representation, defence and assistance in administrative cases without a specific material interest, except for the special cases in para. 2, no less than 500 BGN, (Art.8(3)).

Where the court revokes the appealed administrative act or refusal to issue an administrative act, the stamp duties, court costs and fee for one lawyer, if the appellant has retained a lawyer, are reimbursed from the budget of the authority which issued the revoked act or refusal. The appellant is entitled to the same awarded costs upon dismissal of the case by reason of a withdrawal of the contested administrative act.

Where the court rejects the contestation or the appellant withdraws the appeal, the party for which the administrative act is favourable is entitled to be awarded costs. The appellant shall pay all costs incurred in litigation, including the minimum fee for one lawyer, fixed according to the ordinance to the Bar Act on minimum lawyers' fees, if the other party has hired a lawyer, or, if the administrative authority has been represented by its staff legal adviser, remuneration is awarded in the amount determined by the court (Art. 78(8) CPC).

Where the court allows expertise and assigns experts appointed at the request of the parties or ex officio, it determines an initial deposit, as well as the proportions to be paid by each party, and the timing for payment. Upon accepting the expert opinion, the court rules on the final deposit to be paid in and the remaining amounts to be paid by the parties.

The expert fees are paid out from the deposit or from the budget of the authority which has appointed the experts. The amount of the fee, the manner of calculating the time needed for the expertise, as well as the additional costs related to completion of the assigned task by the experts are regulated by an Ordinance of the Minister of Justice pursuant to Art. 403 (1) of the Judiciary System Act (Ordinance № 2/29.06 2015 on the registration, qualification and remuneration of court experts).

The fee for claims by the affected parties for damages caused by illegal administrative acts is defined as a simple flat fee, i.e., not in accordance with the material interest (value for the party) in the case.

2.5. Duration of the court proceedings

The duration of the administrative lawsuits depends on the complexity of the case, e.g. the evidence collection, however, recently the Supreme Administrative Court (SAC), in particular, was able to deliver a decision per court instance within 4 months or less from filing of the case. According to the Annual report on the implementation of the law and the work of the administrative courts for 2023, the average duration of the court proceedings in the Second section of SAC, which is in charge of environmental cases for 2023, is 107 days (from the date of initiation of the case until the judicial act is issued). For 2022 year, this indicator accounted was 113 days. For comparison in the Supreme administrative court in Austria for 2022 average duration of the proceedings is 6.2 months.

The EPA sets special timelines for the courts to hear and deliver a decision for lawsuits on the EIA/SEA decisions for projects, plans and programmes of strategic national importance. Such court cases should be heard within 6 months and a decision pronounced with 1 month after the case is completed.

3. Legal remedies available directly against the facility in the event of permit failure (administrative, criminal and/or civil law)

3.1. Administrative control

The first legal remedy against non-compliance with the integrated permit conditions is the administrative control and sanctions. In case of damage or pollution of the environment above the permissible standards and/or in case of non-compliance with the specified emission standards and restrictions on sole traders and legal entities are subject to sanctions (Art.69, para.1 EPA). According to Art. 69c (13) EPA, the procedure for suspending and resuming sanctions in case of damage or pollution of the environment above the permissible standards and/or in case of non-compliance with the determined emission standards and restrictions shall be governed by the regulation under Art. 69, para. 8.

The competent authority for integrated permits reviews and updates the permit when causing pollution from the installation, which is **so significant that it is necessary to revise the existing emission limits in the permit or to include new emission limits** (Art. 124, para. 2, item 1 EPA). According to Art. 123c EPA, the operator of the installation is obliged to:

1. informs the competent authority of any planned change in the nature of the production activity, operation or expansion of the installation, which may lead to consequences for the environment;
2. fulfills the conditions in the integrated permit;

3. prepares and implements an agreed plan for own monitoring in accordance with the conditions in the integrated permit;
4. regularly informs the controlling authority of the results of the monitoring and immediately informs it of all incidents or accidents with a significant negative impact on the environment;
5. provides conditions for the representatives of the controlling authority during all necessary inspections of the installation for taking samples and collecting the necessary information for the fulfillment of their obligations under the law;
6. prepares and submits to the controlling authority an annual report on the implementation of the activities for which an integrated permit has been granted.

According to Art. 125 EPA, in case of violation of the conditions of the permit, the operator:

1. informs the control authority immediately;
2. immediately undertakes the necessary measures to ensure compliance in the shortest possible time;
3. implements all additional measures to restore compliance required by the control authority;
4. suspend operation of the installation until compliance is restored in cases where the violation creates an immediate danger to human health or a threat of an immediate significant negative impact on the environment.

In the event of incidents or accidents with a significant negative impact on the environment, the operator shall take the actions to limit the consequences and prevent possible subsequent incidents or accidents.

According to Art. 154a, the control authorities develop, revise and, if necessary, update the **inspection plan of the installations** with integrated permit for the territory under their control.

The plan includes:

1. general assessment of the significant impacts on the environment;
2. territory covered by the plan;
3. list of installations;
4. procedures for developing programs for planned inspections;
5. procedures for unscheduled inspections;
6. rules for coordinating checks with other control bodies - if necessary.

Based on the plan, the control authority regularly prepares programs for planned inspections, which indicate the frequency of on-site inspections for the various types of installations. The frequency of inspections is determined on the basis of a systematic assessment of the environmental risk of the relevant installations and is at least once a year for the installations that pose the greatest risk and three years for the installations that pose the least risk.

If a **significant non-compliance with the conditions of the permit** is found during the inspection, the control authority shall carry out a new on-site inspection within 6 months of the last inspection. For the systematic assessment of environmental risk under para. 4, at least the following criteria apply:

1. the potential and actual impact of the relevant installations on human health and the environment, taking into account the levels and types of emissions, the sensitivity of the local environment and the risk of accidents;

2. compliance with the conditions of the permit;
3. valid registration of the operator according to the Community scheme for environmental management and audit (EMAS) according to Regulation (EC) No. 1221/2009.

In case of receiving **complaints and reports about accidents and incidents related to environmental hazards or cases of non-compliance with the conditions of the integrated permit**, unscheduled inspections are carried out as soon as possible, and in the cases of an on-going procedure for issuing or renewal of the permit - before its conclusion.

During each on-site inspection, the control authority draws up a report of findings. On the basis of the report of findings after the inspection, the it prepares a report containing ascertained facts and circumstances regarding the compliance of the installation with the conditions of the permit and, if necessary, mandatory prescriptions for the operator, as well as administrative punitive measures taken by the control authority.

The control authority familiarizes the operator with the report no later than two months from the end of the inspection and publishes the report subject to compliance with the requirements for public access to environmental information no later than 4 months after the completion of the inspection.

For non-fulfilment of the requirements under Art. 123c and Art. 125, a sanction of BGN 10,000 to BGN 500,000 is imposed on the operator.

Art. 123c concerns **non-compliance with the obligations** of the operator of the installation to:

1. inform the competent authority of any planned change in the nature of the production activity, operation or expansion of the installation, which may lead to consequences for the environment;
2. fulfill the conditions in the integrated permit;
3. prepare and implement an agreed plan for own monitoring in accordance with the conditions in the integrated permit;
4. regularly inform the controlling authority about the results of the monitoring and immediately inform it of all incidents or accidents with a significant negative impact on the environment;
5. provide conditions for the representatives of the controlling authority during all necessary inspections of the installation for taking samples and collecting the necessary information for the fulfillment of their obligations under the law;
6. prepare and submit to the controlling authority an annual report on the implementation of the activities for which an integrated permit has been granted.

Art. 125 concerns **violation of the conditions of the permit** or of the installation or not taking actions in the **event of incidents or accidents with a significant negative impact on the environment** to limit the consequences and prevent possible subsequent incidents or accidents.

For failure to fulfill the requirements of Art. 22a and the presentation of false information to the operator of the installation, a sanction in the amount of BGN 2,000 to BGN 5,000 is imposed.

Operator of installations and facilities performing activities without a integrated permit, shall be punished with a fine, respectively with a property sanction, in the amount of BGN 50,000.

3.2. Criminal offences

The criminal offence relevant to the failure to fulfil the requirements of the integrated permit and thus cause pollution and damages to or expose to risk people, animals and plants is contained in Art. 352 of the Criminal Code which states that those who pollute the soil, air, watercourses, territorial waters or internal sea waters or sea waters in areas defined by an international agreement in which the Republic of Bulgaria is a party, and thereby made them dangerous for people or animals and plants or unsuitable for their use for cultural and domestic, health, agricultural and other economic purposes, shall be punished by imprisonment from one to five years and a fine from five thousand to thirty thousand BGN.

When the acts above are caused by: 1. death or serious bodily injury of one or more persons, the penalty is imprisonment from five to twenty years and a fine from ten thousand to fifty thousand BGN; 2. significant damage to the environment, the penalty is imprisonment from two to eight years and a fine from ten thousand to fifty thousand BGN.

It should be noted the criminal liability under the Bulgarian penal law is personal not corporate, so only the managers or other responsible persons in charge of the installation operating under the integrated permit shall be liable and prosecuted for their wrongdoings.

3.3. Civil liability

Also, the operator could be liable for environmental pollution or damages on another person. According to Art. 170 of EPA, any person, who shall culpably inflict environmental pollution or damage on another, will be obliged to indemnify the aggrieved party. In cases where assets constituting state property has been damaged, the party empowered to bring an action is the Minister of Environment and Water, if the detriment extends over the territory of multiple administrative regions; or the competent regional governor, if the detriment extends over the territory of multiple municipalities. In cases where assets constituting municipal property have been damaged, the municipality mayor shall be empowered to bring the action. The aggrieved parties on behalf of the state, region or municipality may bring action against the offender for cessation of the violation and for remediation of the consequences of pollution occurred.

4. Available legal means of protection against the authority -in the event of an illegal violation of the conditions of the permit or in case of gaps in the control over its implementation

A possible avenue for challenging the integrated permit procedure, incl. of the decision of the competent authority, is its judicial review. The decision for granting, refusal, modification, updating or revocation of an integrated permit is announced by the competent authority for permits through the mass media within 14 days after the date of issue, at the same time sending it to the states affected by operation of the installation in case of cross-border transfer.

See also point 2.3.

5. Case practice for integrated permits and non-compliance with permit conditions

Below we have listed annotated relevant court cases regarding the conditions of integrated permits and the non-compliance with the permit conditions.

Decision No. 17252/17.12.2019 of the Supreme Administrative Court on adm. case No. 12128/2019, VI panel, reporter Judge Yulia Todorova

The provision of Art. 123 (11) of the EPA provides that the competent authority under Art. 120 (1) of the EPA, to include in the permit, if necessary, additional stricter measures for compliance with environmental quality norms/standards than those achievable through the application of BAT, and the norm of Art. 123a (4) of the EPA provides in the cases under para. 3 emission norms must not lead to significant pollution of the environment and must ensure the achievement of a high degree of environmental protection. The court distinguished the two provisions because in Art. 123 (11) of the EPA, stricter compliance measures for the quality of the environment than those achievable through the application of BAT, in contrast to Art. 123a, (4) of EPA.

Decision No. 2445 of 26.02.2018 of the Supreme Administrative Court under adm. case. No.10595/2017, VI panel, rapporteur the chairperson Rumyana Papazova

Compulsory administrative measures under EPA comply with the priority public interest in the protection of the environment and the protection of people's health by regulating the regimes for the protection and use of the components of the environment, the implementation of control over the sources of pollution and the creation of an economic organization of the activities on environmental protection. One of the principles of environmental protection is to prioritize the prevention of pollution over the subsequent removal of the damage caused by it.

Decision No. 10448 of 1.11.2023 of the Supreme Administrative Court under adm. case No.1087/2023, VI panel, reporter Judge Haiguhi Bodikyan

According to the provision of Art. 120 (5) of EPA, the control of compliance with the conditions in the issued integrated permit is assigned to the RIEW. In case of deviation from the conditions set in the integrated permit, sanctioning measures should be applied, the most severe being the revocation of the integrated permit or suspension of the operation of the installation. The procedure for issuing the integrated permit should be distinguished from the subsequent control of compliance with the conditions laid down in it.

Decision No. 17252 of 17.12.2019 of the Supreme Administrative Court under adm. case No. 12128/2019, VI panel, reporter Judge Yulia Todorova

The provision of Art. 123, para. 11 of the EPA provides that the competent authority under Art. 120, para. 1 of the EPA, can include in the permit, if necessary, additional stricter measures for compliance with the environmental quality norms/standards than those achievable through the application of BAT, and the norm of Art. 123a, para. 4 of the EPA provides in the cases under para. 3 emission norms must not lead to significant pollution of the environment and must

ensure the achievement of a high degree of environmental protection. The court distinguished the two provisions because in Art. 123, para. 11 of the EPA, stricter compliance measures for the quality of the environment are specified than those achievable through the application of BAT, in contrast to Art. 123a, para. 4 of the EPA.

According to the text of Art. 123a, para. 1, item 11 of the EPA emission norms under Art. 123, para. 1, item 1 under normal operating conditions should not exceed the emission levels defined in the BAT conclusions adopted by decision of the European Commission. These emission standards apply to the same or shorter periods of time and to the same reference conditions as the emission levels defined in the decisions. The emission standards are contained in the integrated permit under Art. 117 of the EPA, given the express provision of Art. 123, para. 1 of the EPA and are legally established - Appendix No. 8 of the EPA. The indicators that should be taken into account when determining the standards are related to the properties and ability of substances to transfer pollution from one component of the environment to another, respectively, the standards for permissible emissions can be supplemented or replaced by equivalent indicators or technical measures, providing an equivalent degree of environmental protection.

Decision No. 2121 of 15.02.2018 of the Supreme Administrative Court under adm. case No. 7911/2017, VI panel, reporter Judge Sibila Simeonova

According to the norm of Art. 121, para. 1 of the EPA, during the operation of the installations and facilities, the operator controls the implementation of all appropriate measures to prevent pollution by applying BAT. The determination of BAT is part of the process of issuing an integrated permit (IP). The permit can only be issued if the operator guarantees compliance with the requirements of the law. In the event that the operator cannot provide the necessary conditions to ensure compliance of the installation with the requirements of the law, the issuance of the IP is refused by a decision, according to the provision of art. 11, para. 2 of IP Ordinance.

Annex I List of industrial activities for production and processing of metals subject to integrated permit

2.1. Installations for roasting or sintering metallic ores (including sulphurous ores).

2.2. Installations for the production of iron and steel (primary or secondary fusion), including continuous casting, with a capacity exceeding 2.5 t per hour.

2.3. Installations for processing of ferrous metals:

a) hot rolling mills with a capacity of more than 20 t of crude steel per hour;

b) blacksmith shops with presses whose energy exceeds 50 kilojoules per press, where the thermal power used exceeds 20 MW ;

c) application of protective coatings of molten metal with a consumption of more than 2 tons of raw steel per hour.

2.4. Foundries for ferrous metals with a production capacity of over 20 tons per day.

2.5. Installations for:

a) production of unprocessed metals, other than those listed in items 2.2, 2.3 and 2.4, from ores, enriched products or metal waste through metallurgical, chemical or electrolytic processes;

b) remelting, including alloying of metals other than those listed in items 2.2, 2.3 and 2.4, including restored products and operation of foundries, with a melting capacity of more than 4 tons per day for lead and cadmium and 20 tons per day for all remaining metals.

2.6. Installations for the surface treatment of metals and plastics by electrolytic or chemical processes, where the volume of the treatment baths is more than 30 cubic meters.