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Report on the implementation of Recommendation 2001/331/EC providing for minimum criteria for environmental inspections

Annex to the

Communication from the Commission to the Council, European Parliament, Committee of the Regions and Economic and Social Committee on the review of Recommendation 2001/331/EC providing for minimum criteria for environmental inspections

{COM(2007) 707 final}

Report on the implementation of Recommendation 2001/331/EC providing for minimum criteria for environmental inspections

1. INTRODUCTION

Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI) was adopted by the European Parliament and the Council in 2001.

The purpose of the RMCEI is to strengthen compliance with, and to contribute to a more consistent implementation and enforcement of Community environmental law in all Member States.

The RMCEI establishes guidelines for environmental inspections of installations and other enterprises and facilities whose air emissions, water discharges or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law ('controlled installations').

The minimum criteria concern the following:

- Establishing plans for environmental inspections
- Performing inspections
- Reporting on inspections
- Investigating serious accidents, incidents and occurrences of non-compliance

Member States had to report on the implementation of the RMCEI, on the details of environmental inspection mechanisms (point X) and on their experience with the operation of the RMCEI (point VIII).

Pursuant to Point IX of the RMCEI the Commission should review the operation and effectiveness of the recommendation. This review should be based on the reports of Member States under Point VIII of the recommendation and should take into account further contributions from interested parties, including IMPEL and the European Environment Agency. The objective of the review should be to further develop the minimum criteria set out in the recommendation in terms of their scope in the light of the experience gained from their application.

The Commission should present a report to the European Parliament and the Council on this review accompanied, if appropriate, by a proposal for a directive.

This report summarises the information available to the Commission on the situation in the Member States and the conclusions on the degree of implementation of the RMCEI as well as the areas for further development of the RMCEI.

The purpose of this report is to provide background information for the discussion on the Communication from the Commission to the European Parliament and the Council on the review of the RMCEI.

The report is based on the reports of the Member States, the assessment of those reports carried out for the Commission by contractors and additional information provided by the IMPEL Network. The information submitted by the Member States reflects the situation at a certain point in time (mostly 2002-2003). It is possible that the situation in some Member States has evolved since then, but it is not feasible to repeat the reporting exercise at this stage. As far as possible available information reflecting more recent experiences has been taken into consideration in this report.

2. REPORTING STANDARDS

All Member States and acceding and candidate countries submitted their implementation reports pursuant to point X. Some reports were quite complete. In many reports, however, information gaps were found.

Almost all of the reports on the experiences with the application of the recommendation (point VIII) were based on the IMPEL Guidance, except the reports of Germany, Greece, Luxembourg and Spain. This facilitated their completeness and consistency. Nevertheless there were information gaps in almost all the reports.

With regard to point VIII of the Recommendation the reports of Spain, Portugal, Greece and Italy were considered incomplete. In Italy and Spain replies were missing from some regions. Thus overall conclusions at national level could not be drawn. Greece developed a questionnaire for the report that did not cover all the elements of point VIII. Portugal submitted its report on inspections activities of 2002, the inspection plan for 2003 and some tables on non-compliance. These documents did not provide all the information requested.

3. IMPLEMENTATION IN THE MEMBER STATES (POINT X)

All countries described how their inspection systems are organised. A short overview of the inspection systems in the Member States and the acceding countries can be found on the IMPEL website:

<http://ec.europa.eu/environment/impel/pdf/06shortoverview.pdf>

3.1. Scope and definitions

Scope

The RMCEI applies to all industrial installations and other enterprises and facilities whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law.

In its letter to the Member States requesting them to submit their implementation reports the Commission provided a list of the most relevant directives containing permitting and inspection requirements.

In their reports all Member States submitted a table showing how they had transposed these directives. Some of the newer directives had not yet been transposed in some Member States, as their implementation period was not over yet.

Definition of environmental inspection

For the purposes of the recommendation environmental inspections should include checking and promoting compliance of the controlled installations with the relevant requirements set out in Community legislation as transposed into national legislation or applied in the national legal order.

This element is a part of all the inspection systems, but in most countries only compliance with national legislation can be checked and promoted. Most countries replied that making a link to compliance with individual directives was not possible.

Type of inspection activities

Pursuant to the recommendation inspection activities should include the following:

- site visits,
- monitoring of environmental quality standards,
- consideration of environmental audit reports,
- consideration and verification of self monitoring by operators,
- assessing activities and operation carried out at the controlled installations,
- checking the premises, relevant equipment and adequacy of environmental management and
- checking relevant records kept by the operators of controlled installations.

In Austria, Belgium (Brussels and Flanders), the Czech Republic, Estonia, Finland, Ireland, Malta, the Netherlands, Slovakia, Slovenia, Sweden and the United Kingdom all of these activities are carried out.

Cyprus, France and Latvia undertake all of these except consideration of environmental audit reports and statements. **Italy** undertakes all except the checking of premises, relevant equipment and the adequacy of environmental management. **Bulgaria** undertakes all except checking of premises, relevant equipment and the adequacy of inspections and assessing activities and operations carried out at the installation. In **Lithuania** inspection activities include site visits, consideration of audit reports and statements and checking of premises and relevant equipment and adequacy of environmental management.

Wallonia lists site visits, monitoring and control of self-monitoring.

In **Finland** the inspection system for IPPC installations is based mainly on self-monitoring by the operators. On the basis of the self-monitoring reports received

inspectors decide whether there is an urgent need for site visits. The number of site visits is therefore relatively low.

Routine vs. non-routine inspections

All countries carry out routine and non-routine inspections, although in some countries other terms are used for these (e.g. reactive inspections, proactive inspections, ex officio inspections, follow-up inspections).

3.2. Cooperation between Member States

Pursuant to the Recommendation Member States should assist each other administratively in carrying out the guidelines of the recommendation by the exchange of relevant information and, where appropriate, the exchange of officials. A few Member States reported on their bilateral cooperation projects with other Member States. Other Member States referred to the joint inspections carried out in the framework of IMPEL TFS Cluster and more generally to cooperation in the framework of IMPEL projects.

Member States should also encourage, in cooperation with IMPEL, the coordination of inspections with regard to installations and activities which might have significant transboundary impact. The IMPEL Cluster Transfrontier Shipments of Waste has carried out several projects concerning the prevention of illegal shipments of waste, including the organisation of joint inspection activities. More information on these projects can be found on the IMPEL website: http://ec.europa.eu/environment/impel/impel_tfs.htm.

The recommendation invited Member States to consider establishing a scheme, in cooperation with IMPEL, under which Member States report and offer advice on inspectorates and inspection procedures in other Member States, and report to the Member States concerned on their findings. Such a scheme was developed by IMPEL. The IMPEL Review Initiative (IRI) consists of sending a team of senior inspectors from different countries to explore the regulatory system of the candidate inspectorate by comparing practice in the candidate inspectorate with the arrangements in the inspectorates of the review team members. IRI projects have been carried out in 7 volunteer EU Member States – Germany (Mannheim), Ireland (Wexford), Belgium (Brussels), France (Douai), The Netherlands (Zwolle), Spain (Santiago de Compostela) and Sweden (Stockholm and Södertälje)- between October 2001 and December 2005. The review reports can be found on the IMPEL website: <http://ec.europa.eu/environment/impel/reports.htm#minimum>. The projects are to be continued and further volunteer Member States are being sought.

3.3. Plans for environmental inspections

Pursuant to the recommendation all inspection activities should be planned in advance, by having inspection plans that cover the entire territory of the Member State and all the controlled installations.

The plans should be based on the EC legal requirements to be complied with, a register of controlled installations, a general assessment of major environmental issues in the area and a general appraisal of the state of compliance of the controlled

installations. Plans should take into account the risks and environmental impacts of installations and any available relevant information on the controlled installations, such as reports of operators, self-monitoring data, environmental audit information and environmental statements and results of previous inspections.

Each inspection plan should as a minimum:

- define the geographical area which it covers, which may be for all or part of the territory of a Member State,
- cover a defined time period, for example one year,
- include specific provisions for its revision,
- identify the specific sites or types of controlled installations covered,
- prescribe the programmes for routine inspections, taking into account environmental risks; these programmes should include, where appropriate, the frequency of site visits for different types of or specified controlled installations,
- provide for coordination between the different inspecting authorities, where relevant.

In general the information submitted by Member States was not sufficiently detailed to allow an assessment to what degree the planning of inspections is carried out in accordance with the criteria of the recommendation.

From the available information it appears that only the **Netherlands** and **Ireland** fully comply with all the criteria. In **Sweden** and **France** inspection planning seems to comply with most of the criteria.

The **Czech Republic, Latvia, Lithuania, Luxembourg, Poland, Portugal, Slovakia, the United Kingdom** and **Romania** have annual inspection plans that partially fulfil the criteria.

In **Belgium, Denmark, Estonia, Finland, Greece** and **Bulgaria** annual inspection plans or programmes are established, but no or incomplete information is given on whether these fulfil the criteria of the recommendation.

In **Austria, Cyprus, Germany, Italy** and **Malta** plans exist only for some sectors or provinces and no or only partial information is provided on the fulfilment of the criteria.

The Recommendation provides that inspection plans should be available to the public in accordance with the provisions of Directive 90/313/EEC on the freedom of access to information on the environment. This directive has now been replaced by Directive 2003/4/EC. The new directive introduced a number of changes as compared to the requirements under Directive 90/313/EEC. As already under the earlier Directive, any applicant has the right to request environmental information held by public authorities, without having to hold an interest. The definition of "environmental information" in Directive 2003/4/EC is however wider and more explicit, including in particular biodiversity and GMOs, and also information "held

for", and not only "held by", public authorities. There has been an attempt to include authorities acting in a judicial or legislative capacity, from which Member States may however derogate. The delay for providing information is of maximum one month in principle (Directive 90/313 - two months), an extension to 2 months maximum may be justified by volume and complexity of the request. The possible grounds for refusal are more precise than under Directive 90/313, hence more limited, and can only be invoked where disclosure would "adversely affect" (instead of "affect") the interests at stake. They are to be interpreted restrictively, taking into account the public interest served by disclosure and whether the information relates to environmental emissions. Directive 2003/4/EC also includes more detailed requirements for the organisation and dissemination of environmental information, Member States shall ensure that environmental information increasingly becomes available in easily accessible electronic databases. Provisions on access to justice in relation to the denial of access to information, as such already included in Directive 90/313/EEC, are more specific, providing for both - expeditious and either free of charge or inexpensive - administrative and judicial review.

As regards the availability of inspection plans to the public, Member States reported the following information:

In **Estonia** and **Lithuania** plans are published on the internet. In the **Netherlands** the plans are accessible to the public pursuant to the Law on Administrative Openness, in **Sweden** pursuant to the Freedom of Press Regulation. In **France, Ireland, Romania** and **Bulgaria** inspection programmes are not published, but made available upon request. In **Cyprus, Hungary, Latvia, Poland** and **Slovakia** plans are not generally available to the public.

3.4. Site visits

The recommendation sets the following guidelines for site visits:

- Site visits should be regularly carried out as part of the routine environmental inspections and in case of serious complaints, accidents, incidents or occurrences of non-compliance and where appropriate before and after issuing a first authorisation, permit or license.
- During site visits the full range of impacts of the installation and its compliance with EC requirements should be examined and the impact of the installation on the environment should be considered in order to evaluate the effectiveness of the existing authorisation, permit or licensing requirements.
- Inspectors or other officials entitled to carry out inspections should have a legal right of access to sites and information for the purposes of environmental inspections and that, if site visits are carried out by more than one authority, they should exchange information as far as possible.
- The findings of site visits should be contained in reports and exchanged as necessary between the relevant authorities.

The information received from Member States is not sufficiently detailed to be able to assess the degree to which site visits fulfil these criteria.

Based on the available information it can be seen that:

All countries carry out routine and non-routine site visits.

Only a few countries replied that the full impact of installations on the environment is considered in the site visits (**Belgium, Czech Republic, Ireland, Malta, Slovenia and Sweden**).

Very little information was provided on the use of the results of site visits for the evaluation of the effectiveness of the authorisation, permit or licence.

Legal rights of access for inspectors exist in most countries. However, **Belgium (Flanders), Ireland, Greece and Spain** did not provide information on this issue.

In **France, Hungary, Ireland, Latvia, Lithuania, Malta, the Netherlands, Slovakia, Slovenia, Spain (except Catalonia), Sweden** and the **United Kingdom** cooperation between the different relevant authorities for site visits is described as good.

Site visits in **France, Ireland, Lithuania, the Netherlands, Sweden** and the **United Kingdom** appear to be largely or fully in accordance with the criteria of the RMCEI.

No detailed description of the site visits was provided by **Belgium, Denmark, Estonia, Finland, Greece, Poland, Portugal, Romania and Slovakia**.

3.5. Reports and conclusions following site visits

Pursuant to the recommendation inspecting authorities should process or store the inspection data and their findings in a database, an evaluation thereof and the conclusions on whether any action should follow. The full reports and, wherever this is not practicable, the conclusions of the reports should be communicated to the operator of the controlled installation according to Directive 90/313/EEC on the access to environmental information.

In most countries the results of inspections are systematically documented and communicated to the operators (**Austria, Bulgaria, the Czech Republic, Germany, Spain (some regions), Finland, France, Hungary, Ireland, Italy (some regions), Latvia, Lithuania, the Netherlands, Poland, Slovakia, Slovenia, Sweden and Romania**). In **Estonia** inspections other than the integrated permit checks are only reported on where there is a violation or when operators specifically ask for them. In **Malta** reports are not systematically provided to the operators.

France has developed a methodology for site visits, which details the content of the reports. **Germany** has established a data format for reports on site visits. Very few other Member States gave information on the content of the reports. Also very few countries reported whether they have a database where data from the inspections are stored.

Pursuant to the recommendation the reports should also be publicly available.

In some countries reports are accessible to the public according to Directive 90/313/EEC (**Austria, Germany, Finland, Ireland, the Netherlands, Sweden** and

United Kingdom (except Scotland)). In **Estonia** inspection reports are systematically put on the internet. In some countries only yearly reports summarising the inspections carried out are made public (**Bulgaria, Cyprus, Czech Republic, Denmark, Hungary, Latvia, Lithuania, Poland, Portugal, Slovakia** and **Slovenia**). In **Malta** inspection reports are not yet systematically accessible to the public.

From the available information it appears that only **Germany, Ireland, the Netherlands** and the **United Kingdom** comply fully or to a high degree with all the criteria for inspection reports.

3.6. Investigation of serious accidents, incidents and occurrences of non-compliance

In the event of serious accidents, incidents and occurrences of non-compliance the causes of the event, the impact on the environment, the responsibilities and liabilities should be clarified and the conclusions forwarded to the inspection authorities. Appropriate actions for the mitigation or remediation of the impacts and for the prevention of future such occurrences should be taken. It should be ensured that operators take the appropriate follow-up actions and that enforcement action or sanctions can proceed.

Very few details were provided on how this section was implemented.

In **Cyprus** the causes or responsibilities of accidents are not systematically determined, but the necessary actions to correct the problem are determined. **Germany, Ireland** and the **Netherlands** report that in their country cases of serious accidents, incidents or occurrences of non-compliance are usually followed up by a site visit to investigate the causes and limit the negative consequences to the environment.

France and **Luxembourg** gave information on the special procedures that apply in the case of accidents or incidents.

Information from **Poland, Romania, Slovakia, Slovenia** and **Sweden** on the investigation of accidents, incidents and occurrences of non-compliance is incomplete.

Information on the number and types of actions taken in case of serious accidents, incidents and occurrences of non-compliance was provided in the reports under Section VIII (see point 4.5).

4. INFORMATION ON THE APPLICATION OF THE RMCEI (POINT VIII)

4.1 Staffing and resources of inspectorates

Member States were requested to provide data on the staffing and other resources of the inspecting authorities. In the IMPEL Guidance the total number of controlled installations was also requested.

All countries, except Spain, submitted information on the number of staff of the inspectorates. Portugal and Germany did not report the total number of installations.

Table 1 shows the number of inspection staff and the total number of controlled installations per Member State.

It should be noted that there are important differences in the way this reporting requirement was interpreted by the different Member States.

Under the IMPEL Guidance the number of staff resources in full time equivalent was asked. That means that only the time spent on inspection activities should be counted. It was nevertheless not clear from all reports whether the numbers given represented the full time equivalent or whether instead the total staff of inspecting authorities was counted including the staff working on other issues.

Concerning the number of controlled installations comparability of the data is further made difficult as the types of installations considered vary greatly between Member States. Some Member States only reported the IPPC installations. Some Member States reported all existing installations, regardless of whether they are covered by EC legislation. This is reflected in high differences in the total number of installations.

Table 1 – Staffing of inspection authorities and number of controlled installation

	Inspection staff (Full time equivalents)	Number of controlled installations (estimated)
AT	120	3.300
BE		
Brussels	36	About 40.000
Wallonia	85	More than 50.000
Flanders	84	Several tens of thousands
CY	6	450
CZ	263	2.000.000
DK	226	7.585
EE	15	1400
FI	57	5.700
FR	903	64.597

DE	2.580	
EL	164	12.000
HU	274	127.647
IE	50	636
IT	67.906	988.293
LV	92	6.244
LT	177	3.178
LU	1,5	24
MT	12	1.900
NL	1.819	303.000
PL	658	46.000
PT	32	25.995
SI	52	1.900
SK	74	22.967
ES		
SE	250	5.500
UK	510	141.968
BU	212	3.220
RO	379	19.498

4.2 Role of the inspectorates in establishing inspection plans

All Member States, except Germany, Greece and Hungary provided information on the level at which inspection plans are established and implemented.

Table 2 – Level at which plans are established and implemented

	Establishment of plans				Implementation of plans			
	National	Regional	Sub-regional	Local	National	Regional	Sub-regional	Local

AT		X				X	X	
BE		X				X		
CY	X	X			X	X		
CZ	X	X		X	X	X		X
DK	X	X		X	X	X		X
EE	X	X			X	X		
FI	X		X				X	X
FR	X	X	X		X	X	X	
DE								
HU								
EL								
IE	X				X			
	National	Regional	Sub-regional	Local	National	Regional	Sub-regional	Local
IT		X	X			X	X	
LV		X	X			X	X	
LT			X	X			X	X
LU	X				X			X
MT	X			X	X			X
NL	X	X		X	X	X		X
PL	X	X			X	X		
PT	X				X			
SK	X	X			X	X		
SI	X			X	X			X
SE	X	X		X	X			
UK	X	X		X	X	X	X	X
BU		X				X		
RO			X	X			X	X

4.3 Summary details of inspections carried out

Member States were asked to supply summary details of site visits made, including the number of installations inspected per year, the proportion of controlled installations inspected (by type) and the estimated length of time before all controlled installations of that type have been inspected. They were also asked in the IMPEL Guidance to provide the ratio of routine to non-routine inspections.

Concerning the number of controlled installations inspected comparability of the data is made difficult as the types of installations considered vary greatly between Member States.

Some countries provided one number covering all controlled installations (**Cyprus, Latvia, Lithuania, Malta, Portugal, Sweden, Bulgaria and Romania**). The **Czech Republic** provided one number covering all installations, as well as a break down into landfills, incinerators, authorised persons and municipalities.

Other countries differentiated installations according to sectors of legislation, eg air, water, waste (**Austria, Belgium-Brussels, Estonia, Hungary, Slovakia**), or the directives that apply (**Belgium-Wallonia, Greece, Ireland, Slovenia, United Kingdom**). Austria and Finland even distinguished between the different sectors of the IPPC Directive (energy, metal processing, mineral processing, chemical industry, waste treatment and other industrial installations).

Italy and the **Netherlands** distinguished installations according to the authority responsible for their inspection.

Several countries did not submit complete data on this question or submitted data that could not be aggregated. In the table below only the total number of installations was included. In some cases the gaps in the table are due to the impossibility of aggregating the data submitted.

Table 3 – Summary details of site visits carried out

	Estimated number of installations inspected per annum	Estimated total number of installations	Estimated percentage of installations inspected per annum	Estimated time to inspect all installations (in years)	Estimated ratio of routine to reactive inspections
AT	1.001	3.329		1-6	Differs per type of installation
BE	Wallonia: 3125 Flanders: 5.280	Wallonia: 50.282 Flanders: several tens of thousands	Wallonia: ca 6 Flanders: 9	Wallonia: 2-20 Flanders: 11	Wallonia: Differs per type of installation Flanders: 2:1

	Brussels: 2.800	Brussels: 40.000	Brussels: 7	Brussels: 15	Brussels: 4:1
CY	90	450	20	5	5:2
CZ	3549	2.030.158	0,18	572	1:7 -30:1
DK	4.297	7.585	60	Max 2	9:1
EE	400	1.100	36	2,8	1:1
FI	256	672	38	1-3	Varies from region to region
FR	17.241	64.597	0,2-0,9 differs per type of installation	3	6-11 differs per type of installation
DE	16.462				
EL	3.668	12.000			
HU	36.816	127.647		1,0 – 16,5	1:1 – 34:1
IE	636	636	100	1	5:1
IT	96.895	988.293			
LV	4.729	6.244	76	1,3	1 : 2,5
LT	1.920	3.178	60	2	3:1
LU	456	440			
MT	20	1906	1,05	5 months	
NL	24.000		19		
PL	13.000	46.000			1: 0,22
PT	2.318	25.995	8,92		14,27:1 for IPPC installations
SI	885	1896	7-100	1-2,5	1:5 – 1:15
SK	1.047	22.967	3-35	3-30	1:2-10:1
ES					
SE	3.700	5.500			
UK	30.447	22.472		1-2	1:1-10:1
BU	13.252				

RO	19.498	46.342		1	1:2
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4.4 Degree of compliance of installations with EC requirements

Member States were asked for brief data on the degree of compliance by controlled installations with relevant environmental requirements set out in Community legislation as transposed into national legislation.

A problem mentioned by almost all Member States is the difficulty to distinguish between EC requirements and national requirements. Member States transpose a directive in several national laws or transpose several directives in one national law. Inspections are organised according to national law. Thus the link between inspections and the implementation of EU directives is difficult to make. Where information was available on individual EU directives, it concerned mainly the IPPC and the Seveso Directive.

Some countries made qualitative assessments of the general degree of compliance of installations. For instance, **Austria, the Czech Republic, Denmark, Finland, France, Ireland, Italy, Latvia, Lithuania, the Netherlands, Sweden, the United Kingdom** as well as **Bulgaria** stated that the requirement to have a permit is complied with by almost all installations. The few cases where infringements are found usually concern individual conditions of the permit. Serious infringements are rare.

In **Malta** compliance with the need to seek a permit was considered poor, but once the licence was issued, operators generally complied with the conditions. In **Ireland** unauthorised landfills were identified and a major investigation into illegal waste activities was carried out. In **Cyprus** not all installations were licensed yet in 2002, but once the licence was obtained, operators generally complied. In **Hungary** part of the legislation was not implemented yet, so experiences were limited. In **Slovenia** many installations did not have a permit yet, because the relevant legislation was not implemented yet. Where permits exist, they are usually complied with. In **Romania** compliance is generally good, but there are some problems with the installations under the privatization process.

Some countries gave detailed data on the cases of non-compliance.

In the **Brussels** Region the percentage of non-complying installations in 2002 was 6,5%.

In **Estonia** 102 operators were found operating without a permit and 64 non-compliances were recorded.

In **France** the estimated percentage of non-complying installations in 2002 was 13%.

In **Greece** violations were found in 14% of the controls carried out. Greece was the only country that gave information on follow-up inspections in cases of violations.

In **Ireland** notifications of non-compliance were issued to 35% of the IPPC and VOC facilities and 75% of the waste treatment installations.

Italy indicated a rate of compliance of 98% in the inspections carried out by the ARPAs, but levels of illegality found by the Environment Police reached from 32 % (for wastewater treatment plants) to 56 % (for waste disposal plants).

In **Slovakia** violations of legislation were found in 30% of the inspections in the waste sector and in 35,5% of the inspections in the water sector.

4.5 Actions taken as a result of complaints, accidents, incidents and occurrences of non-compliance

Member States were asked to indicate the number of actions taken as a result of complaints, accidents, incidents and occurrences of non-compliance. These actions include administrative sanctions, criminal prosecutions and civil or administrative court actions.

In most Member States administrative orders and sanctions are imposed and some cases of criminal prosecution were instigated. Civil or administrative court actions are used only in a few Member States (**Estonia, Lithuania, Malta, the Netherlands and Sweden**). In Latvia no criminal prosecutions were instigated. Denmark and Ireland do not impose administrative fines.

The differences between the judicial systems in the Member States make it difficult to make a detailed assessment of the enforcement actions taken.

Table 3 contains the data provided by countries using the IMPEL guidance.

Table 3 – Actions taken in the event of serious accidents, incidents and occurrences of non-compliance

	Administrative sanctions			Criminal prosecution instigated by the inspecting authority		Civil/Administrative court actions instigated by the inspecting authority		Other
	Warning letters	Issue of notices/ orders requiring operators to take action	Administrative fines	Reports to prosecutor	Prosecutions taken	Reports to prosecutor	Civil/ Administrative cases taken	
AT	107	7	98	1	2	n/a	n/a	
BE								
Flanders	1.299	15	30	741	138	n/a	n/a	13
Brussels	454	1182	172	207	7	n/a	n/a	

CY	5	5		2	1			
CZ	1	1060	1488	3				9
DE								
DK	723	44		15				
EE								
EL								
ES								
FI	69	82	n/a	8	5	n/a	5	
FR	2.713	215	410		1139			
HU	509	1811	1216		17		318	4637
IE	586	17	n/a		11	n/a	n/a	
IT		1979 (data from 9 regions)		1539 (data from 11 regions)	62			
LT	3560		4405	n/a	n/a	29		
LU	6	36		13	0			6
LV	98	7.593	298					142
MT	4	120		15	14			
NL	13.434	1.874		1.745	247			
PL								
PT	63	2.065	2.796	4		n/a	n/a	
SE		750	140	260		20	3	50
SI	50	900	150	4		110		
SK		237	379					
UK	74-84	993		22				
BU		1.269	1.084	2	0			279
RO	822	335	4.863	64				

4.6 Evaluation of the inspection plans

Member States were to report on the success or failure of plans for inspections, indicating any recommendations for future plans. Few Member States reported on this element. Information provided on this point varied considerably and information on evaluation criteria was rarely provided. This problem is linked to the general problem that the concept of inspections is interpreted in different ways

Some Member States reported on their experiences with the plans:

Flanders has a database since 1998 where data on installations and information on inspections is collected. A system is set up to add data from laboratory analyses and information on complaints and their handling into the database. Flanders is considering introducing multi-annual plans from which yearly programmes are derived.

Brussels carried out a self-evaluation and several external evaluations of the work of the inspectorate. The questions assessed were whether the inspections were well targeted and whether they were effective. In addition, an IMPEL audit took place in Brussels in 2002. For the future Brussels is considering introducing 5-year plans and improving the coordination with the other authorities (municipalities).

Cyprus did not yet have an inspection plan in 2002, but was moving towards a new planning system that should lead to a more effective inspection system. Improvements that are considered necessary are more qualified staff and more assistance from the Regional Health and Safety Inspectors.

In the **Czech Republic** the future plan will be based not only on the results of completed controls, but also on the Waste Management Plan and its targets.

In **Denmark** the inspections carried out are evaluated annually against the national inspection plan. The summarised result is included in the national inspection report. In general the results of the evaluation have been positive.

In **Estonia** the success rate of the general work plan of the inspectorate is assessed through a statistical report. All data on violations of legislation or permits are collected in a database. The plan and the enforcement report are available to the public via the internet.

In **Finland** regional environment centres and the Finnish Environment Institute maintain an environmental compliance monitoring data system, containing all the inspection reports. It is planned to expand this system to the municipalities. A database for making the inspections plans, reports and records public is also being planned.

In **France** indicators have been developed for the three- yearly action programme and it is planned to integrate the follow-up of the objectives by working on the basis of management data of the controlled installations.

Hungary draws the conclusion that to improve the efficiency of the control more staff should be employed and the present sectoral inspection system should be

changed. Self-monitoring of the operators should be improved and integrated inspections should be held.

Greece also concluded that the inspection authorities are not adequately staffed and equipped to aim and respond to controls for the observance of environmental legislation and permit conditions.

In **Ireland** the enforcement plan is reviewed on the basis of the available resources, the number of inspections and audits undertaken, the percentage of sites inspected/audited in a year, the number of complaints received and the number of enforcement actions taken. Ireland has further developed its methodology for reviewing inspection plans based on a risk-based methodology. Since 2003 the number of inspections and prosecutions has increased significantly. The Recommendation is now implemented at local level as well as at national level and the implementation of inspection plans is co-ordinated via the Environmental Enforcement Network.

Luxembourg intended to develop a new inspection programme for inert waste landfills in 2004, taking into account all the conditions of the permit in a systematic way. Procedures for the harmonisation of inspections in case of complaints or accidents need to be established.

In **Malta** the regime needs to become more standardised to be able to measure its performance. Furthermore a national registry on waste management and IPPC issues is being formulated.

Portugal has established a database, where data on installations, information on inspections as well as data from laboratory analyses are collected. The database also allows the treatment of data related to complaints and administrative sanctions. A statistical report on the inspection activity is made every year. The targets established in the inspection plan are achieved in Portugal. The efficiency of inspection activities could be improved with more inspection staff and material resources. The self-monitoring of operators should also be improved.

Several Member States (**Latvia, Lithuania, Malta and the United Kingdom**) have the intention of developing environmental indicators to enable the inspection authority to judge its performance against the impact of regulatory activity on the environment.

In **Sweden** planning is increasingly governed by the environmental quality objectives adopted by the Swedish Parliament. A defining factor is also the extent to which the operator assumes own responsibility for the installation's impact on health and environment. Furthermore, inspections are increasingly based on a holistic view of the installations, where not only emissions from the production process are of interest, but where energy use, transport, the supply of raw materials and the product's impact on the environment during the entire eco-cycle are also considered.

In the **United Kingdom** a risk based inspection planning system was developed, which is based on an assessment of the inherent hazard of a process, the sensitivity of the location and the management competence of the operator. The Environment

Agency is moving towards a planning system linked to the achievement of environmental objectives with a twenty-year horizon.

5. CONCLUSIONS

5.1. Implementation in the Member States

The analysis of the reports shows that some countries have already achieved a high level of implementation of the RMCEI, while others still have some way to go.

In several countries (Denmark, Finland, France, Greece, Italy, Spain) the situation regarding the level of implementation of the RMCEI is unclear. It is not possible to establish whether this is due to the gaps in the information or if there are real cases of non-compliance. In Italy and Spain only some of the regions replied, so conclusions can not be drawn at national level.

Belgium, Germany, Ireland, the Netherlands, Sweden and the United Kingdom appear to have reached a high level of implementation of the RMCEI.

Austria, Luxembourg, Portugal, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia as well as Bulgaria and Romania seem to have partially implemented the RMCEI.

Cyprus and Malta seem to be some way from fulfilling the requirements

In general, the highest degree of implementation was reached for the carrying out of site visits (Section V) and the reporting on site visits (Section VI).

The level of implementation was lowest regarding investigations of accidents, incidents and occurrences of non-compliance (Section VII) and inspection plans (Section IV).

It appeared from the reports that the weak points of the inspection plans were the definition of relevant requirements in the plan and the availability of the plans to the public. In most countries the plans focus only on defining periodic visit programmes.

Regarding investigations of accidents, incidents and occurrences of non-compliance there appears to be insufficient information.

5.2. Experiences with the application of the RMCEI

The reporting under point VIII produced a large amount of information. Due to differences in the interpretation of reporting requirements and due to lack of information on some of the issues or non participation of some regions the data obtained does not give a full picture of how effective the inspection systems in the Member States are.

Member States have had difficulties in showing the adequacy of the inspections and the inspection systems vis-à-vis the requirements laid down in EC directives. This is due to the fact that they do not distinguish between EC requirements and national requirements in their inspection activities. There is a need to find another way of

measuring whether the inspection systems in the Member States are fulfilling the objective of the RMCEI, i.e. whether they lead to a better implementation of environmental legislation.

Also due to differences in the interpretation of terms used in the Recommendation, the data reported by countries are often not comparable.

A further important factor making comparison between data received difficult is the difference of the national legal systems, for instance the different sanctions applied in the case of non-compliance.

Overall it can be concluded that, although very few countries appear to fully apply the Recommendation, it seems to have had a positive impact on the inspection systems in most countries. Many countries have started to reform their inspection systems because of the Recommendation. This should be seen as a starting point of a process leading to more efficient inspection systems in all the Member States. The first reporting exercise has provided valuable information on the strengths and weaknesses of the Recommendation, on the basis of which the review process can build.