

TERMS OF REFERENCE

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| No | Name of project |
| | Comparison of methodologies used for the fine estimation |

1. Scope

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| 1.1. Background | <p>In the regular processes of environmental inspections and audits, a significant aspect is the imposition of administrative sanctions, mainly in terms of a fine, where non-compliance is assured. Based on the already existing information, national competent authorities at the IMPEL countries, follow various approaches and practices for the calculation / determination of the amount of the administrative fines. In parallel, in various EU legislative acts the determination of penalties is foreseen, with the provision that these penalties shall be effective, proportionate and dissuasive.</p> <p>Additionally, in the recent Commission proposal for a new Directive for the environmental protection through the criminal law, the imposing of fines for legal persons is foreseen, on a three-step approach.</p> |
| 1.2. Link to MAWP and IMPEL's role and scope | <p>Strategic Goal III - Development of Good Practices Strategic Goal V - Providing feedback to policy makers</p> |
| 1.3. Objective (s) | To obtain information from IMPEL MS relating to the methodology, the procedure and the processes that is used for the calculation / determination of the fine which is imposed in case of non-compliance with the environmental legislation. |
| 1.4. Definition | <p>The project consists of organising a coordinated input from IMPEL on the methodologies / practices that are used for the calculation of fines for penalties imposed. In particular IMPEL members will be invited to provide information on:</p> <ul style="list-style-type: none"> • Is the fine used as a tool in the frame of administrative sanctions? • In which cases fines are imposed • How many steps are taken before fines are imposed and what other types of enforcement are used? • Which are the principles that are used for the calculation of the fine amount (e.g. the evaluation of the environmental damage in monetary terms, the restoration cost, the external environmental cost ...) • How the exact amount of fine is being calculated? • Which is the exact methodology that is being used? <p>In order to obtain answers to the questions proposed above, the following approach is proposed.</p> <p>Firstly, a core team will be established comprising:</p> <ul style="list-style-type: none"> • a representative of the European Commission, • a representative of Hellenic Environmental Inspectorate, • and around 10-12 additional members of IMPEL (to be identified). <p>This core team would meet in Brussels in the first meeting (ideally October 2007) to discuss the project, review the information already available, identify the main additional data to pursue, and to elaborate a questionnaire consisting of a series of short, specific questions.</p> <p>The questionnaire would then be circulated to all IMPEL members via the IMPEL National Coordinators. Members of the core team would encourage and help the participating IMPEL members to reply the questionnaire over a specified time period (1 month).</p> <p>The information collected from the answered questionnaires, will be consolidated in a draft final report including a short summary section. The draft report as well as any individual contribution (from IMPEL MS) will be discussed at an anticipated meeting of IMPEL Cluster I in the spring of 2008 (possibly April).</p> <p>Following the outcome of the IMPEL Cluster I meeting (Spring 2008), the final</p> |

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| | report will be prepared and presented for adoption in the IMPEL Plenary (June 2008). The preparation of the final report will be supported by a second meeting of the project core team in Athens, just after the Cluster I meeting. |
| 1.5. Product(s) | <ul style="list-style-type: none"> • Information on the various approaches / methodologies that are used for the determination of the amount of the administrative fine in case of non-compliance after a environmental inspection / audit • Consolidated report |

2. Structure of the project

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| 2.1. Participants | All IMPEL Members are invited to give input to the project. A wide participation is considered desirable to maximise the information exchange and the ability of the results to give a representative picture of practises/ methodologies that are used in EU/IMPEL-wide. |
| 2.2. Project team | <ul style="list-style-type: none"> • A core project team would be formed comprising the Commission, the Hellenic Environmental Inspectorate, and 10-12 additional members of IMPEL MS (to be identified). |
| 2.3. Manager Executor | The project will be managed by Mr Ioannis Dermizakis (Head of Hellenic Environmental Inspectorate), in conjunction with the IMPEL member volunteering to co-lead. |
| 2.4. Reporting arrangements | The draft report will be discussed in an IMPEL cluster I meeting anticipated to take place in spring 2008. A final report will be submitted to the Plenary (Slovenia), for adoption. |
| 2.5 Dissemination of results/main target groups | The report will be put on the IMPEL website and disseminated to all the competent authorities in the Member States. |

3. Resources required

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| 3.1 Project costs | <p>1 project meeting for the core team in Brussels – assume 12 participants; travel plus one day's subsistence estimated at €650 per person Total travel costs €7,800</p> <p>1 project meeting for the core team in Athens – assume 12 participants; travel plus one day's subsistence estimated at €650 per person Total travel costs €7,800</p> <p>Discussion of the information provided and draft report would be prepared in the context of an anticipated Cluster I meeting with no additional travel costs.</p> |
| 3.2. Fin. from Com. | € 12.000 |
| 3.3. Fin. from MS (and any other) | Greece: € 3.600 |
| 3.4. Human from Com. | Organising and hosting core team meeting in Brussels and Athens, working with core team to formulate and disseminate questions: 5 days Reviewing information received and drafting report: 3 days Attending Cluster I meeting and finalising report: 3 days |

4. Quality review mechanisms

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| The quality of the report will be reviewed by the core team, by the Cluster I (where the draft report will be discussed). |
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5. Legal base

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| 5.1. Directive/Regulation/ Decision | National wide legislation of EU MS, setting up the administrative system for the implementation of environmental inspections and audits and imposing administrative sanctions / fines for case of non compliance |
| 5.2. Article and description | |
| 5.3 Link to the 6th EAP | More effective implementation and enforcement of environmental legislation is one of the priorities of the 6 th EAP.. |

6. Project planning

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| 6.1. Approval | The draft ToR is presented for adoption at the Plenary Meeting in Berlin, May 2006 |
| (6.2. Fin. Contributions) | |
| 6.3. Start | The project should start September 2007 |
| 6.4 Milestones | <ol style="list-style-type: none">1. core team meeting: October 20072. Questionnaire to IMPEL participants: November 20073. Replies from IMPEL participants, consolidation and drafting of report: February 20084. Discussion in IMPEL cluster I: March 20085. Core team meeting April 2008 |
| 6.5 Product | Final report May 2008 |
| 6.6 Adoption | IMPEL plenary in Slovenia (May-June) 2008 |