

Talking about the environmental effects of industrial installations: the IED

*Dreaming:
What about future developments?
Introduction of the sustainability criterion?*

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I. 'Sustainable development' as criterion/permit condition in a permitting process? (1)

Can the sustainability-criterion be part of the broader criterion '*protection of the environment*', which is a relevant criterion in an environmental permitting process?

see Article 1 IED: '*in order to achieve a high level of protection of the environment as a whole*'

I. 'Sustainable development' as criterion/permit condition in a permitting process? (2)

Two European Member States (the Netherlands and Belgium/Flanders) gave a slightly different answer to this question

See the case of environmental permit demands for palmoil fired powerplants

I. 'Sustainable development' as criterion/permit condition in a permitting process? (3)

Dutch standpoint (see Dutch Council of State: judgments of 24 January 2007 (200602467/1), 7 November 2007 (200609021) en 14 November 2007 (200608547/1):

- Interests other than environment-related interests (such as economic and social interests – see the broad concept of sustainable development) cannot lead to the refusal of an environmental permit

I. 'Sustainable development' as criterion/permit condition in a permitting process? (4)

- The concept of 'installation' leads to a spatial limitation of the notion 'consequences for the environment'

I. 'Sustainable development' as criterion/permit condition in a permitting process? (5)

- It is impossible to impose a permit condition stating that only sustainably produced palm oil may be used, as the environmental permit legislation *does not offer a legal ground for permit conditions which are not related to the negative impact on the environment caused by the installation itself*. It is even impossible to impose these conditions on demand of the operator of the plant.

I. 'Sustainable development' as criterion/permit condition in a permitting process? (6)

Belgian/Flemish standpoint:

- On 25 April 2007 an Article 7bis has been introduced in the Belgian Constitution, as a policy goal: *'The federal state, the communities and the regions have to aim for the goals of sustainable development in its social, economic and environment-related dimension, taking into account the solidarity between the generations.'* (see also France, Switzerland, Greece, Luxembourg, Finland, Brasil and South-Africa)

I. 'Sustainable development' as criterion/permit condition in a permitting process? (7)

- In 2008 two environmental permits for palmoil fired powerplants were refused by the permitting authority on basis of *incompatibility with the principle of sustainable development* enshrined in Article 7bis of the Belgian Constitution

I. 'Sustainable development' as criterion/permit condition in a permitting process? (8)

- In appeal, the Flemish minister for environment granted the environmental permit, stating that *'the environmental permit legislation does not offer a legal basis to refuse environmental permits merely on ethical grounds'*

I. 'Sustainable development' as criterion/permit condition in a permitting process? (9)

- However: on the explicit demand of the operator, *permit conditions were imposed with respect to 'sustainable development'*:
 - BIOX had to deliver a yearly report to the permitting authority indicating:
 - the compliance of the palmoil with the European and/or national sustainability criteria
 - the exclusive use of RSPO-certified palmoil
 - the unavailability of sustainable alternatives for the palmoil
- No appeal nearby the Belgian Council of State!

II. Future development of the Sustainability Impact Assessment?

- Now: SIA as policy tool for ‘better regulation’ and ‘good governance’
- Future: SIA as annex to environmental permit demands (see the Environmental Impact Assessment)?

III. Final question: Is this congress sustainable?

- The International Organisation for Standardisation is working on a new ISO norm for *sustainable event management*, with a clear link to the International Standard providing guidelines for social responsibility (ISO 26000)
- All events during the Belgian presidency of the European Union have to be sustainable (see www.be2010.eu and the commitment of the organisers of this congress)