

Better coordination and implementation of the inspection supervision: What will help?

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Summary

The work of environmental inspection services is of great importance in the prevention and sanctioning of acts that lead to degradation of natural resources. The effective planning of regular inspection supervisions enables proper deployment of the monitoring and control resources where they are most needed. The regular supervisions should be planned according to the risk assessment made by inspectors and the severity of the harmful effects on the protected goods, the environment and the human health. However, many of the inspection supervisions carried out in 2019 were extraordinary inspection supervisions, which means that the inspectors, instead of being preventive, often acted reactively.

In many cases, the competence is not limited to one inspectorate and it is necessary to do coordinated inspection supervisions. What happens is, due to real or apparent lack of mandate, the inspectorates to be exempted and the supervision is not carried out. In the absence of cooperation between the competent inspectorates there is a lack of comprehensiveness and expediency of the supervisions with other institutions as well, which leads to a low degree of punishment of the violators.

In addition, the inspectorates are not sufficiently transparent, regardless of the fact that the Law on Inspection Supervisions requires them to public, on regular basis, information that is relevant for the public in terms of activities implemented and inspection measures that have been undertaken.

Recommendations for the Macedonian Government

- To create and improve the databases of entities that are subject to inspection supervision and which are potential polluters;
- Systematize and digitalize the data on permits issued and environmental protection elaborates approved;
- Create digital platform for coordinating the planning and implementation of the supervisions by the state and local inspectors;
- Plan accordingly and increase the number of regular supervisions in accordance with initially prepared annual and monthly plans, by applying risk assessment methodology, for the sake of better prevention;
- Introduce single database with current information on inspection supervisions carried out at specific inspectorates. This will eliminate the need for the inspectors to submit plans and reports;
- Prepare digital tool that will enable issuing of order on the basis of leads received via Internet or via telephone, including greater insight in the operation of the inspectors on the field;
- Improve the system of maintaining records for each concession awarded and monitoring of the timely payment of the concession fees;
- Update and regularly maintain the inspectorate websites;
- Introduce and improve the coordination and cooperation between the inspectorates and other relevant authorities.

During the inspection supervision, the inspector primarily performs a preventive function in case when the purpose of the inspection supervision cannot be achieved with the preventive function. This inspection can be regular (announced), extraordinary (unannounced) and control inspection supervision. The inspection services prepare annual and periodic plans for conducting inspection supervision based on the risk assessment of the protected goods, the environment and human health. The insufficient number of inspection supervision increases the arbitrariness of the entities that use goods of general interest for making profit and thereby pollute and destroy the environment.

Large disproportion between the conducted supervisions and the imposed measures

The share of inspection measures imposed vs. inspection supervisions carried out is very low among the state inspectorates that have competencies for the environment. According to the Annual Report of the Inspection Council for 2019, the State Inspectorate for Forestry and Hunting (DISHL) imposed measures in 12% of its inspections; the State Inspectorate for Environment (SEI) in 10.8%; the State Inspectorate for Technical Inspection (DITI) in 7.5% and the State Inspectorate for Agriculture (DIZ) - insignificant 2.6%. This indicates a low degree of punishment of the supervised entities and does not correspond to the actual situation on the ground. The ratio of imposed measures vs. supervisions carried out, according to the reports of the Inspection Council, is an important indicator for the need to improve the inspection system, for more efficient control of the entities subject to supervisions, as well as for greater protection of the public interest.

Large number of extraordinary inspection supervisions

The efficiency of the inspectorates can be assessed according to the number of planned and realized inspections. The data show a large number of extraordinary inspection supervisions throughout the year, which indicates that there is a lack of thorough analysis in the planning and implementation of the regular inspection supervisions. The reports of the Inspection Council regularly point out that the high share of extraordinary inspection supervisions in the total number of inspections by individual inspection services indicates that the resources should be directed and used effectively. Approximate planning of extraordinary inspection supervisions can be achieved by analyzing the number of extraordinary inspection supervisions performed in the previous quarters. The average of the supervisions performed in the previous quarters should be taken as a benchmark for planning the extraordinary supervisions for the next quarter, and there should be no deviation in the regular supervisions because they are planned based on the annual work program of the inspection services.

The small number of measures imposed vs. inspections implemented in 2019

Supervision 2019	Regular	Extraordinary	Controlling	Total	Measures
DITI	889	133	47	1069	80
DISHL	2465	731	305	3501	434
DIZ	2726	44444	810	47980	1262
SEI	1533	564	300	2397	259

Source: Summary data from Inspection Council reports, 2019.

There is no updated data on entities that are potential polluters

One of the reasons for the irregularity of the inspections is that the inspectorates do not have updated data on the entities they need to inspect. Therefore, in order to have more efficient inspections it is necessary to establish modern electronic databases.

For example, the Ministry of Environment and Physical Planning does not maintain electronic registers of approved environmental protection reports, does not have an updated register of A integrated environmental permits issued, does not have a Water Ledger for water right permits issued, or other registers. This prevents the inspectorates, especially SEI, in maintaining up-to-date database of legal entities - potential polluters - on which they will conduct regular and extraordinary inspection supervisions. SEI is also not getting the concession agreements and licenses for exploitation of mineral resources, although this obligation is included in the Law on Mineral Resources.

A significant impediment for the work of DISHL and DIZ is that there is no updated Cadaster of forests, forest land and on buildings on agricultural land in place. There is no main database for identifying the issues before deploying in the field, which would include data from the registers of the Ministry of Agriculture, Forestry and Water Economy and other relevant institutions (work permits issued in the subject area covered by the inspector); whether there was some prior inspection at the entity or misdemeanor/criminal procedure; and also whether there was a previous

visit by other inspector and what did he/ she established so that the next one can act according to the law in order to include the entity in the legal system.

The Ministry of Finance, on the other hand, does not have an electronic system for monitoring the collection of fees for concessions for mining of mineral resources, which will facilitate the supervision by DITI. The relevant institutions that adopt laws on the basis of which concession fees are determined should appoint a person who will monitor their collection, but this is not implemented in practice.

Insufficient coordination between the inspectorates and other institutions

Since the inspection supervision is carried out at central and local level, extremely good cooperation between central and local authorities and institutions is needed.

SEI occasionally controls legal entities that are primarily under the authority of the authorized environmental inspectors in the municipalities. This is because some municipalities do not have an authorized inspector or when expert supervision is carried out by a state inspector in terms of handling hazardous waste, discharging wastewater into a sewer or recipient, etc. Carrying out inspections on entities that are not under jurisdiction of SEI can identify irregularities that were not noticed by the municipal inspector, but can also lead to duplication of supervisions under the jurisdiction of the local self-government and irrational use of resources. Unfortunately, the communication and coordination between SEI and the authorized municipal inspectors is unsatisfactory. These situations can be resolved with a single digital platform for coordinating the planning and implementation of supervision by the state and local environmental inspectors. Such a platform will provide data on the legal entities and who controls them, and will also provide insight into the monthly plans of the municipal inspectors and adequate control of the legal entities according to the risk and impact on the environment. Furthermore, such a platform will provide a public overview of the number of authorized environmental inspectors and their deficit in individual municipalities.

When supervising the exploitation of mineral resources, there is a low level of coordination between the state inspectorates for technical inspection and for environment. During the construction of facilities for exploitation of mineral resources, DITI and SEI rarely perform coordinated inspections, although that is necessary for integrated monitoring on whether the measures for technical correctness of the facilities and equipment are applied during the construction, in order to control the emissions of pollutants. Due to the insufficient coordination and communication between the institutions, the payments of the fees, as obligation the concessionaires have, are not monitored.

There is also no coordination between DIZ, which controls the implementation of the Law on Agricultural Land and the municipal construction inspectors who supervise the construction on agricultural land.

In order to improve the efficiency of DISHL, it is necessary to improve the mutual cooperation and coordination with the Forest Police, Border Police, Center for Crisis Management (CUK), the Directorate for Protection and Rescue (DSZ) and with the judicial authorities that are expected to process the penalties in a more efficient manner.

Low transparency and accountability of the inspectors

The inspectorates are required to regularly publish and update the information from the inspections that have been carried out. According to the Law on Inspection Supervision, the inspection acts are published on the website of the inspection service no later than five days from the day of the adoption of the acts, and the report on the work of the inspection service for the previous six months is also published. A fine of 450 euros is envisaged for the director or the head of the inspection service, if he/ she fails to publish the report for the previous six months on the web no later than 15 days after finishing the report (for example, for the January - June period in the current year, the report should be published by 15 July at the latest). If the report is not submitted to the Inspection Council in electronic and paper form within that deadline, the fine for these misdemeanors should be imposed by the State Administrative Inspectorate.



However, the inspectorate websites do not include these inspection acts, reports, programs and other relevant supervision documents, and DISHL has no website at all. This violates the principle of publicity and transparency, so civil society organizations, journalists and other citizens have limited access to public information and have no insight into their work.

The inspectorates should also introduce the practice of responding and acting on citizens' reports or to inform the public about the outcome of the controls carried out on the basis of reports received through the archives or electronically (e-mail or social media). The e-inspection, provided by the new Law on Inspection to be adopted, aims to reduce the subjective behavior of inspectors and reduce corruption. The new Law on Inspection Supervision which is to be adopted soon foresees e-inspection that aims to reduce the subjective behavior of the inspectors and reduce the corruption.

References

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Please read more on this topic in the policy paper

„Effective Supervision as a Tool Against the Excessive Use of Natural Resources“.