

AIR PROTECTION IN THE SLOVAK REPUBLIC IN THE LIGHT OF THE EU LEGISLATION

OCHRANA OVZDUŠIA NA SLOVENSKU V KONTEXTE LEGISLATÍVY EÚ

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I. Introduction

Air is an important element of the human environment. The life on Earth without air would not be possible. Despite this fact, its protection is even in the 21st century problematic and controversial topic. It cannot be questioned that the condition of all components of the environment deteriorates and the air is not the exception. All parts of the fauna and flora need for their existence air which is clean, not polluted by the industrial production and human activities. On the other hand, more and more strict rules concerning the protection

of air are not very welcomed by entrepreneurs, especially in the field of agriculture and industry. These two sectors of the State economy are considered as the biggest polluters, not only in relation to air, but also water and soil. Pressure of national governments, bound by their international commitments, on the reduction of air pollution cause the fall in profits from business activities – but profit is one of the conceptional signs of the business and also the biggest motivation of the entrepreneurs for expansion of their influence.

However, it is important to be aware of the fact that greener economy reduces environmental costs through more effi-

Abstract (EN)

Environmental protection belongs in accordance with the Article 4 par. 2 letter e) of the Treaty on the Functioning of the European Union between joint powers of the European Union and the Member States. In terms of vertical division of powers, this means that Member States and the Union engage in this field while respecting the principle of subsidiarity and proportionality. The European Union adopts in the field of protection of the single components of the environment mainly framework programs and directives, aimed at defining the general objectives, while the choice of tools to achieve them is usually left to the discretion of Member States. Given that the directive which is the most common act of secondary legislation in this area can be transposed into national law only in the form of generally binding legal act, its objectives at the national level are contained in national laws. Specific conditions are then further laid down by the decree of the responsible department - in the case of environmental protection particularly the Ministry of Environment of the Slovak Republic and the Ministry of Agriculture and Rural Development of the Slovak Republic, in cooperation with other central State administration authorities.

The contribution focuses primarily on the legal regulation of one of the components of the environment – air, which is an important factor influencing the quality of life of the population, but the rules defined in this area also have considerable impact on the economy of the country. The work provides a comparison of Slovak legal acts and rules enshrined in primary and secondary EU law, as well as its non-binding acts.

Abstrakt (SK)

Ochrana životného prostredia patrí v zmysle článku 4 ods. 2 písm. e) Zmluvy o fungovaní Európskej únie medzi spoločné právomoci Európskej únie a členských štátov. Z pohľadu vertikálnej delby právomocí to znamená, že členské štáty a Únia sa v tejto oblasti angažujú rešpektujúc pri tom princíp subsidiarity a proporcionality. Európska únia prijíma v oblasti ochrany jednotlivých zložiek životného prostredia predovšetkým rámcové programy a smernice, zamerané na stanovenie všeobecných cieľov, pričom výber nástrojov na ich dosiahnutie je spravidla ponechaný na rozhodnutí členských štátov. Vzhľadom na to, že smernica, ktorá je najčastejším aktom sekundárneho práva v tejto sfére môže byť transponovaná do vnútroštátneho práva len v podobe všeobecne záväzného právneho aktu, jej ciele sú na národnej úrovni obsiahnuté v zákonoch. Špecifické podmienky potom ďalej ustanovujú vyhlášky zodpovedného rezortu – v prípade ochrany životného prostredia je to najmä Ministerstvo životného prostredia Slovenskej republiky a Ministerstvo pôdohospodárstva a rozvoja vidieka Slovenskej republiky, v spolupráci s ďalšími ústrednými orgánmi štátnej správy.

Príspevok sa primárne orientuje na právnu úpravu jednej zo zložiek životného prostredia – ovzdušia, ktoré je významným faktorom, ovplyvňujúcim kvalitu života obyvateľstva, ale pravidlá, definované v tejto oblasti majú zároveň nezanedbateľný vplyv aj na hospodárstvo daného štátu. Práca poskytuje porovnanie slovenských právnych aktov a právnej úpravy zakotvenej v primárnom a sekundárnom práve EÚ, ako aj v jej nezáväzných aktoch.

Keywords (EN)

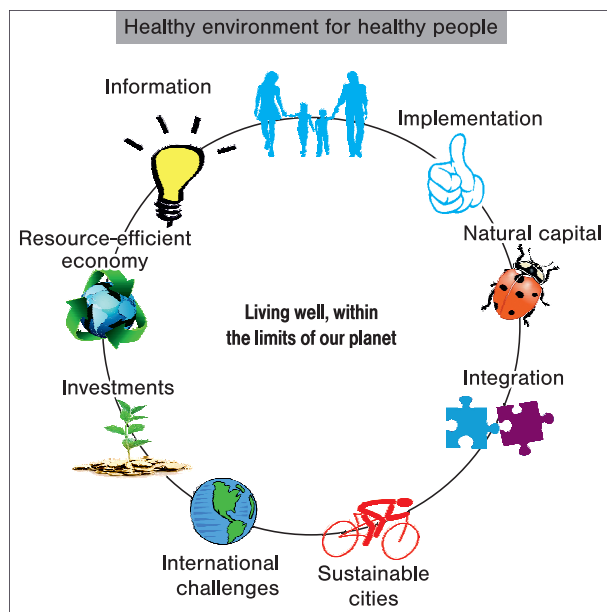
environment, air protection, legislation, European Union, Slovak Republic

Kľúčové slová (SK)

životné prostredie, ochrana ovzdušia, legislatíva, Európska únia, Slovenská republika

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Fig. 1: Priorities of 7th EAP



Source: 7th EAP priority objectives. Available at: <http://ec.europa.eu/environment/newprg/proposal.htm> [2014-03-25].

cient use of resources, while new environmentally friendly technologies and techniques create employment, give a boost to the economy and strengthen the competitiveness of industry.⁽¹⁾

European Union is nowadays the organization which is the most influential in the field of air protection. It is well-known that environment transcends political, legal and man-made boundaries and because of this fact the cooperation between EU Member States and between the EU and the rest of the world is very essential. The fundamental objective of the EU environmental policy is to enhance natural capital, promote a resource-efficient economy and safeguard people's health. Actual challenges and threats require collective action involving the not only EU, but also national, regional and local governments, businesses, NGO's and ordinary individuals.

In the beginning of the formation of EU environmental policy the focus was on traditional environmental themes such as protecting species and improving the quality of the air or the water by reducing emissions of pollutants. Now, the approach is much more systematic and complex. It takes into account links between various themes and their global dimension what means moving from remediation to prevention of environmental degradation⁽²⁾.

EU standards have great impact also on the national legislation of its Member States, including Slovakia. As the EU Member, Slovakia is obliged by the means of its State authorities to fulfill the obligations resulting from the EU rules also

⁽¹⁾ The EU explained: Environment. A healthy and sustainable environment for future generations, p. 4. Available at: <http://europa.eu/pol/env/flipbook/en/files/environment.pdf> [2014-02-27].

⁽²⁾ The EU explained: Environment. A healthy and sustainable environment for future generations, p. 3 - 4. Available at: <http://europa.eu/pol/env/flipbook/en/files/environment.pdf> [2014-02-27].

in the field of air protection and related areas at requested level.

From the point of EU view it is desirable that the level of air protection at the territories of all EU Member States would be similar - and very high.

The development of EU environmental policy (including the air protection) from 2013 to 2020 will be based on 7th Environment Action Programme (EAP) which identifies three key objectives:

- to protect, conserve and enhance the Union's natural capital,
- to turn the Union into a resource-efficient, green, and competitive low-carbon economy,
- to safeguard the Union's citizens from environment-related pressures and risks to health and wellbeing.

This goals should be achieved through the help of so called „enablers“ - better implementation of legislation, better information by improving the knowledge base, more and wiser investment for environment and climate policy, full integration of environmental requirements and considerations into other policies. Programme entered into force in January 2014.

II. European level of air protection

There is a large body of evidence on the health impacts of air pollution. Of particular concern are particulate matter (PM) - a type of fine dust - ground-level ozone (O₃) and nitrogen dioxide (NO₂). According to information published in the study of World Health Organization, the long-term exposure to very fine particles (PM_{2.5}) is closely linked with cardiovascular and respiratory deaths, as well as increased sickness, such as childhood respiratory diseases⁽³⁾. As European Environmental Agency says in its report of 2012, more than 80% of the EU's urban population is exposed to PM levels above the 2005 WHO Air Quality Guidelines, depriving citizens of more than eight months of life on average - with life expectancy reduced by up to two years in the most polluted places. There is also new evidence for the effects of long-term exposure to ozone on mortality and reproductive health.⁽⁴⁾

As well as health risks, air pollution causes significant damage to our environment and ecosystems. Ground-level ozone damages agricultural crops, forests and plants, reducing their growth rates. Nitrogen oxides (NO_x), sulphur dioxide (SO₂) and ammonia (NH₃) harm soil, lakes and rivers by acidifying them, causing loss of animal and plant life. Ammonia and NO_x also disrupt land and water ecosystems by introducing excessive amounts of nutrient nitrogen - a process known

⁽³⁾ WHO review of evidence on health aspects of air pollution - carried out at the European Commission's request. Available at: http://www.euro.who.int/__data/assets/pdf_file/0020/182432/e96762-final.pdf [2014-02-27].

⁽⁴⁾ EEA Report No 4/2012, „Air quality in Europe - 2012 report“. Available at: <http://www.eea.europa.eu/publications/air-quality-in-europe-2012> [2014-02-26].

as 'eutrophication'. It is estimated that two-thirds of the protected sites in the EU Natura 2000 network are currently under severe threat from air pollution.

The EU started early with its air policy to protect human health and the environment. It adopted the first European standards for exhaust emissions from cars in 1970. Over time, emissions of most air pollutants have been reduced in the EU by setting new standards that required improved technologies and promoted innovation, both for mobile sources, such as road vehicles, and stationary sources, like power plants and heavy industry. But emissions from elsewhere can also adversely affect EU air quality – other parts of the world often use older technologies and lower standards. Crossborder co-operation is therefore necessary to tackle air pollution. In the northern hemisphere, international co-operation has centred on the Convention on Long-Range Transboundary Air Pollution (CLRTAP) – hosted by the United Nations Economic Commission for Europe (UNECE). The convention was adopted in 1979 by European countries, the United States and Canada. Today, it numbers 51 member countries and has led to a series of protocols to control emissions of the main air pollutants.

There are two main EU instruments dealing with overall air pollution. The first is the EU Ambient Air Quality Directive (revised and adopted in 2008), which sets EU air-quality standards for groundlevel ozone, PM, nitrogen oxides, dangerous heavy metals and a number of other pollutants. The second is the National Emissions Ceilings Directive (adopted in 2001), which caps overall emissions of sulphur dioxide, nitrogen oxides, ammonia and volatile organic compounds (VOC).⁽⁵⁾

In our further analysis we focus on these two legal acts as they have relatively strong impact on the level of air protection.

2.1 Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe

This Directive is based on The Sixth Community Environment Action Programme adopted by Decision no. 1600/2002/EC of the European Parliament and of the Council of 22 July 2002. The main motive for preparation such legislative act was the need to reduce pollution to levels which minimise harmful effects on human health, paying particular attention to sensitive populations, and the environment as a whole, to improve the monitoring and assessment of air quality including the deposition of pollutants and to provide information to the public. Also emissions of harmful air pollutants should be avoided, prevented or reduced and appropriate objectives set for ambient air quality taking into account relevant World Health Organisation standards, guidelines and

programmes.⁽⁶⁾

According to Article 1 of the Directive, it lays down measures aimed at the following:

1. defining and establishing objectives for ambient air quality designed to avoid, prevent or reduce harmful effects on human health and the environment as a whole;
2. assessing the ambient air quality in Member States on the basis of common methods and criteria;
3. obtaining information on ambient air quality in order to help combat air pollution and nuisance and to monitor long-term trends and improvements resulting from national and Community measures;
4. ensuring that such information on ambient air quality is made available to the public;
5. maintaining air quality where it is good and improving it in other cases;
6. promoting increased cooperation between the Member States in reducing air pollution.⁽⁷⁾

Member States shall designate the competent authorities and bodies responsible for evaluating the quality of ambient air, approving measurement systems, ensuring the accuracy of measurements, analysing assessment methods and cooperating with other Member States and the Commission.⁽⁸⁾ Directive also establishes a system for the assessment of ambient air quality in relation to sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide as well as ozone.

Mentioned legal acts further sets thresholds for assessment for each pollutant, criteria for the assessment method (in particular the siting of sampling points), reference methods for measurement, limit values for the protection of human health and the environment, the target and the obligation of reducing exposure for the population to PM_{2.5}, information thresholds and alert thresholds, critical levels for the protection of vegetation and the list of information to be included in action plans for improvement in air quality. Each Member State shall set up at least one measuring station and may, by agreement with adjoining Member States, set up one or several common measuring stations

Where the levels of pollutants in ambient air are below the limit values specified in this Directive, Member States shall maintain the levels of those pollutants below the limit values and shall endeavour to preserve the best ambient air quality, compatible with sustainable development. Where, in given zones or agglomerations, the levels of pollutants in ambient air exceed any limit value or target value, plus any relevant margin of tolerance in each case, Member States shall ensure that air quality plans are established for those zones and agglomerations in order to achieve the predefined limit value or target value. In the event of exceedances of those limit values for which the attainment deadline is already expired, the

⁽⁶⁾ Points 1 and 2 of the Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

⁽⁷⁾ Art. 1 of the Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

⁽⁸⁾ Art. 3 of the Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe.

⁽⁵⁾ Cleaner air for all. Available at: <<http://ec.europa.eu/environment/pubs/pdf/factsheets/air/en.pdf>> [2014-02-27].

air quality plans shall set out appropriate measures, so that the exceedance period can be kept as short as possible and can include additional specific measures to protect sensitive population groups. Measures similar to those laid down in short-term action plans may be considered.

Where there is a risk that the levels of pollutants will exceed the alert thresholds, Member States shall draw up action plans indicating the measures to be taken in the short term in order to reduce the risk or its duration. These actions plans can in particular suspend activities which contribute to the risk of exceedance (motor-vehicle traffic, construction works, the use of industrial plants etc.). In addition, these action plans may include specific measures aimed at the protection of sensitive population groups, in particular children. Where thresholds are exceeded due to transboundary transport of air pollutants, the Member States concerned shall cooperate and coordinate their work in order to remove the exceedance.

Member States shall ensure that up-to-date information on ambient concentrations of the pollutants covered by this Directive is routinely made available to the public and the bodies concerned. Where alert thresholds and information thresholds are exceeded, Member States shall publish:

- information on the exceedance or exceedances observed (place, type of threshold, time and duration of the exceedance, highest concentration observed);
- forecasts for the following hours and days;
- information on the type of population concerned, possible health effects and recommended behaviour;
- information on preventative measures and measures to reduce the emissions.

Member States shall also make available to the public annual reports for all pollutants covered by this Directive.

Further, States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties must be effective, proportionate and dissuasive.⁽⁹⁾

2.2 Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants

In order to limit air pollution responsible for acidification, eutrophication and ground-level ozone pollution the European Union has policies in place limiting individual sources but also national totals of atmospheric emissions of four pollutants.

Directive on national emission ceilings for certain pollutants (NEC Directive) has set upper limits for each Member State for the total emissions in 2010 of the four pollutants responsible for acidification, eutrophication and ground-level

ozone pollution (sulphur dioxide, nitrogen oxides, volatile organic compounds and ammonia), but has left it largely to the Member States to decide which measures – on top of EU legislation for specific source categories – to take in order to comply.

The NEC Directive has been amended as part of the accession of new Member States. A consolidated NEC Directive for the EU 28 includes the entire Community including the 2009 amendment of committee decisions. The implementation of the Directive requires that Member States develop national programmes of 2002 and, where needed, revise those plans of 2006 that aim at meeting fixed ceilings of national emissions by 2010 and thereafter. Further Member States have to report their emission inventories to the EEA and the European Commission in order to monitor progress and verify compliance.

The Thematic Strategy on Air Pollution in 2005 identified a number of key measures to be taken to help meeting the 2020 interim objectives for human health and the environment. The revision of the NEC Directive was identified as one of the key measures.⁽¹⁰⁾ Communication of 21 September 2005 from the Commission to the Council and the European Parliament – Thematic Strategy on Air Pollution [COM(2005) 446] supplements the current legislation. It establishes objectives for air pollution and proposes measures for achieving them by 2020: modernising the existing legislation, placing the emphasis on the most harmful pollutants, and involving to a greater extent the sectors and policies that may have an impact on air pollution.⁽¹¹⁾

Parallel to the development of the EU NEC Directive, the EU Member States together with Central and Eastern European countries, the United States and Canada have negotiated the “multi-pollutant” protocol under the Convention on Long-Range Transboundary Air Pollution (the so-called Gothenburg protocol, agreed in November 1999). The emission ceilings in the protocol are equal or less ambitious than those in the NEC Directive.⁽¹²⁾

To sum it up, over the past 20 years, the EU has successfully reduced the levels of a number of pollutants. Lead emissions, for example, have fallen by some 90%. Despite the progress made, air pollution ranks high among Europeans’ environmental concerns and causes many premature deaths every year. The Union still has some way to go to meet its aim of securing levels of air quality that do not give rise to significant negative impacts on, and risks to, human health and the environment.⁽¹³⁾

⁽¹⁰⁾ National Emission Ceilings. Available at: <<http://ec.europa.eu/environment/air/pollutants/ceilings.htm>> [2014-03-24].

⁽¹¹⁾ Thematic Strategy on Air Pollution. Available at: <http://europa.eu/legislation_summaries/environment/air_pollution/128159_en.htm> [2014-03-25].

⁽¹²⁾ National Emission Ceilings. Available at: <<http://ec.europa.eu/environment/air/pollutants/ceilings.htm>> [2014-03-24].

⁽¹³⁾ The EU explained: Environment. A healthy and sustainable environment for future generations, p. 12. Available at: <<http://europa.eu/pol/env/flipbook/en/files/environment.pdf>> [2014-02-27].

⁽⁹⁾ Pure air for Europe. Available at: <http://europa.eu/legislation_summaries/environment/air_pollution/ev0002_en.htm> [2014-03-24].

2.3 Implementation of the EU environmental policy

Accountability for implementation of measures, adopted in the framework of EU environmental policy is entrusted to the EU Member States. In addition to any implementation and enforcement action taken at national level, the European Commission fulfils the role of “Guardian of the Treaty”: Commission is to ensure that the provisions of the Treaty and the measures taken by the institutions pursuant thereto are applied. In performing that function, the Commission may open infringement procedures.

Close cooperation between national authorities and the European Commission contribute to a better implementation. Regional and local authorities are also key players and co-operation with the Committee of the Regions is facilitated by a Technical Platform for Cooperation on the Environment.

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is a network of the environmental authorities of EU Member States, acceding and candidate countries, and Norway. It provides a framework for policy makers, environmental inspectors and enforcement officers to exchange ideas, and encourages the development of enforcement structures and best practices.

Next to administrative authorities, judges in the Member States have to play a very important role since rights and obligations deriving from Community law are enforced on daily basis by national courts and tribunals. The European Union Forum of Judges for the Environment contributes to promote the enforcement of national, European and international environmental law by contributing to a better knowledge by judges of environmental law.

To support the implementation and enforcement of Community environmental legislation the Community has adopted the directive on environmental liability, the recommendation providing for minimum criteria for environmental inspections and the directive on the protection of the environment through criminal law.⁽¹⁴⁾

III. Air protection in Slovakia

Legal acts in Slovak Republic greatly reflect the position of the European Union in the field of air protection. Slovak government is aware of the fact that protection of all of environmental components is one of the most important priority with the big influence on the future development not only economic, but also social relations. Due to the length of following legislation which we consider as the most significant in this area, we will focus only on the selected issues.

3.1 Air Act no. 137/2010 Coll.

Air Act is aimed at achieving the objective in the field of air quality, assessment of air quality and public information on air quality, rights and obligations of the persons in the air protection field against bringing of pollutants from human

activities and in the area of limiting the causes and mitigation of air pollution, certification of competence and responsibilities of authorized assessors in the process of making expert opinions or partial expert opinions, legitimate measurements, calibration, further at testing and inspection of compliance, competence of State administration of air protection and finally at administrative offenses in the field of air protection.

According to sec. 4 of the Act, the permissible levels of air pollution are determined by emission limits, technical requirements and operating conditions for stationary sources, national emission ceilings and emission quotas. Emission limit is the maximum rate of discharge of a pollutant into the air from a stationary source, or parts thereof, expressed as:

- a) mass concentration or volume concentration of the pollutant in the waste gas,
- b) mass flow of pollutant per unit of time,
- c) limit the emission factor,
- d) emission level,
- e) rate of desulphurisation,
- f) the darkness of smoke⁽¹⁵⁾.

The public is annually informed on air quality through the web site of the Ministry of Environment of the SR and information concerning the territorial districts are provided by the district offices in the seat of county. Air quality assessment is carried out by authorized organization in all agglomerations and zones for pollutants, for which limit values or target values are determined, and for ozone precursors according to established methods and technical requirements or equivalent methods.⁽¹⁶⁾ There are also stated some zones requiring special level of air protection – for example the area of air quality management, national parks, locations of spa or protected landscape.

As a reflection of European legislation an Ozone smog alert system can be perceived. It has been created for cases in which the increased concentration of ozone can cause smog conditions. This system consists of files of information on air pollution by ozone obtained from data of monitoring measuring network, forecasts of meteorological conditions and air pollution levels and signals warnings and alerts.

What is also important the mention is the scope of bodies governing the air protection. Between these bodies we include the ministry, inspection, district offices, district offices in the seat of county and communes.⁽¹⁷⁾ Ministry as a central government body mainly manages the State administration in the field of air, performs a general State supervision in the field of air, ensures through an authorized organization monitoring and assessment of air quality, transmission and scattering of air pollutants and grants exemptions from the deadlines for attainment the limit values for nitrogen dioxide or benzene in cases approved by the Commission.

Inspection is the controlling body, which carries out professional State supervision in the field of climate protection. Inspectorate monitors compliance of the operation of sta-

⁽¹⁴⁾ Implementation of Community environmental legislation. Available at: <http://ec.europa.eu/environment/legal/implementation_en.htm> [2014-03-24].

⁽¹⁵⁾ Air Act no. 137/2010 Coll. Available at: <<http://www.zakonypreludi.sk/zz/2010-137>> [2014-04-21].

⁽¹⁶⁾ Sec. 7 par. 2 of the Air Act.

⁽¹⁷⁾ Sec. 22 of the Air Act.

tionary sources with documentation and conditions specified by district authorities and communes, observance of the approved set of technical and operational parameters, technical and organizational measures for ensuring the protection of air intended for the operation of stationary sources, observance of emission limits, technical requirements and operating conditions stationary sources.

District office in the seat of county except for the disclosure of information also discusses with the authorized organization the location of sampling points, approves the identification of areas requiring special air protection, draws up and publishes program and integrated program and holds public hearing of the proposals and subsequently monitors, ensures and evaluates their implementation and, if necessary, updates them. It further gives opinions on the regional zoning plans and under certain circumstances may order reduction or cessation of operation of large source and medium source.

District office shall decide in case of doubt on the definition, inclusion and categorization of stationary source and the definition and inclusion of its equipment, approves procedures for calculating the quantities of pollutants emitted from large sources and medium sources in accordance with prescribed requirements and technical calculation of data on observance of emission limits, technical requirements and conditions of operation. It also ensures the maintenance of air quality, is involved in developing the program and the integrated program, periodically reviews the conditions for operation of waste incineration plant or equipment of waste co-incineration and amend them if necessary and further identify new operating conditions and imposes fines on operators of large sources and medium sources and on those who produce, import and sell fuels.

Commune performs its powers in this section as delegated State administration performance. Inter alia, in the field of air protection it is for example involved in elaboration and implementation of program and integrated program, controls the observance of obligations of operators of small sources, issues approval for small sources, imposes fines on operators of small sources or may order a reduction or cessation of operation of a small source. Commune may also establish the zones with limited operation of mobile sources.

Fines imposed by the district office or inspection may differ from 330 EUR to 330 000 EUR, depending on the severity of administrative offense.⁽¹⁸⁾

3.1.1 Decree of the Ministry of Environment of the Slovak Republic no. 410/2012 Coll. of 30 November 2012, implementing certain provisions of the Air Act

The Ministry of Environment of the Slovak Republic explains and specifies the provisions of Air Act in this Decree. Its purpose is to define the large sources of air pollution, medium pollution sources and small sources of pollution air, their

classification, categorization and significant changes. The Decree also contains the definition and division of equipment of stationary resources, list of pollutants for which shall be determined emission limits, technical requirements and conditions for operation of stationary sources, dates, deadlines and the conditions for their validity, including exemptions from them, conditions of application of the transitional arrangements, requirements for ensuring dispersion of pollutant substances.

Decree contains more than 100 pages, but from our point of view, very important part of it its annexes represent. There is 10 Annexes included, relating to categorization of stationary sources (these sources can be categorized as following: fuel-energy industry, manufacture and processing of metals, manufacture of non-metallic mineral products, chemical industry, waste management and crematoriums and other industries and equipment). Emission limits, technical requirements and conditions of operation are determined for solid pollutants, solid inorganic pollutants expressed as an element or compound, gaseous inorganic substances, organic gases and vapors, carcinogenic pollutants, persistent organic compounds and odorous substances (Annex 2). Decree also states the general emissions limits and general technical requirements (Annex 3). There can be also found special requirements for combustion plants, waste incineration plants and for technological plants.

3.2 Act on Emissions Trading no. 414/2012 Coll.

Emissions trading represents one of the solutions of worsening climate during the last centuries. Parties with commitments under the Kyoto Protocol (Annex B Parties) have accepted targets for limiting or reducing emissions. These targets were expressed as levels of allowed emissions, or “assigned amounts,” over the 2008–2012 commitment period. The allowed emissions are divided into “assigned amount units” (AAUs).

As a policy instrument, emissions trading is preferable to taxes, inflexible command-and-control regulation, and taxpayer-funded support programs because: it is the most economically efficient means of reaching a given emissions reduction cap or target, it is specifically designed to deliver the environmental objective and it delivers a clear price signal against which to measure abatement investments.⁽¹⁹⁾

Emissions trading, as set out in Article 17 of the Kyoto Protocol, allows countries that have emission units to spare – emissions permitted them but not “used” – to sell this excess capacity to countries that are over their targets.

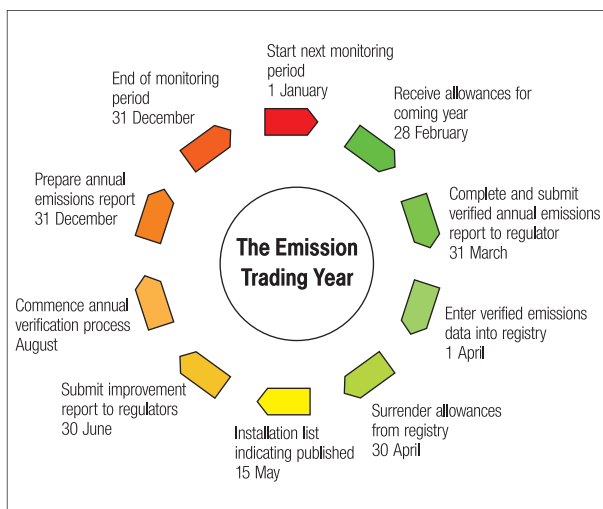
Thus, a new commodity was created in the form of emission reductions or removals. Since carbon dioxide is the principal greenhouse gas, people speak simply of trading in carbon. Carbon is now tracked and traded like any other commodity. This is known as the “carbon market.” Emissions trading schemes may be established as climate policy instruments at the national level and the regional level. Un-

⁽¹⁸⁾ Concrete conditions for imposing the fines are governed by the sec. 30 of the Air Act and following.

⁽¹⁹⁾ Why Emissions Trading? Available at: <<http://www.ieta.org/emissions-trading>> <2014-04-23>.



Fig. 2: Emissions Trading - How does it work



Source: *How does the system work*. Available at: <http://www.sepa.org.uk/climate_change/solutions/eu_emissions_trading_system/how_does_the_system_work.aspx> [2014-04-23].

der such schemes, governments set emissions obligations to be reached by the participating entities. The European Union emissions trading scheme is the largest in operation.⁽²⁰⁾

The EU emissions trading system (EU ETS) is a cornerstone of the European Union's policy to combat climate change and its key tool for reducing industrial greenhouse gas emissions cost-effectively. The first – and still by far the biggest – international system for trading greenhouse gas emission allowances, the EU ETS covers more than 11,000 power stations and industrial plants in 31 countries, as well as airlines. It works on the 'cap and trade' principle. A 'cap', or limit, is set on the total amount of certain greenhouse gases that can be emitted by the factories, power plants and other installations in the system. The cap is reduced over time so that total emissions fall. In 2020, emissions from sectors covered by the EU ETS will be 21% lower than in 2005. By 2030, the Commission proposes, they would be 43% lower.

Within the cap, companies receive or buy emission allowances which they can trade with one another as needed. They can also buy limited amounts of international credits from emission-saving projects around the world. The limit on the total number of allowances available ensures that they have a value.

After each year a company must surrender enough allowances to cover all its emissions, otherwise heavy fines are imposed. If a company reduces its emissions, it can keep the spare allowances to cover its future needs or else sell them to another company that is short of allowances. The flexibility that trading brings ensures that emissions are cut where it costs least to do so. By putting a price on carbon and thereby giving a financial value to each tonne of emissions saved, the EU ETS has placed climate change on the agenda of company boards and their financial departments across Europe.

⁽²⁰⁾ International Emission Trading. Available at: <http://unfccc.int/kyoto_protocol/mechanisms/emissions_trading/items/2731.php> [2014-04-23].

A sufficiently high carbon price also promotes investment in clean, low-carbon technologies.

In allowing companies to buy international credits, the EU ETS also acts as a major driver of investment in clean technologies and low-carbon solutions, particularly in developing countries. The EU ETS is now in its third phase, running from 2013 to 2020. A major revision approved in 2009 in order to strengthen the system means the phase 3 is significantly different from phases 1 and 2 and is based on rules which are far more harmonised than before. The main changes are:

- A single, EU-wide cap on emissions applies in place of the previous system of national caps;
- Auctioning, not free allocation, is now the default method for allocating allowances. In 2013 more than 40% of allowances will be auctioned, and this share will rise progressively each year;
- For those allowances still given away for free, harmonised allocation rules apply which are based on ambitious EU-wide benchmarks of emissions performance;
- Some more sectors and gases are included.

Participation in the EU ETS is mandatory for companies operating in these sectors, but in some sectors only plants above a certain size are included. Governments can exclude certain small installations from the system if fiscal or other measures are in place that will cut their emissions by an equivalent amount.⁽²¹⁾

All these facts are taken into account also in Slovak legislation. Act on Emissions Trading reflects the requirements of air protection, raising from Slovak international commitments. It governs trading of greenhouse gas emission quotas in the Slovak Republic, between the persons registered in the Slovak Republic and the European Union and those registered in the countries listed in Annex B to the Kyoto Protocol, which supports reducing greenhouse gas emissions in an economically efficient way, trading with emission quotas of pollutant substances, rights and obligations of the person who operates or controls stationary operation, aircraft operators, other participants of trading scheme and other participants in the system of trading and competence of State administration bodies. In Annex 2 the list of greenhouse gas emissions and pollutants can be found.⁽²²⁾

3.3 Act on Charges for Air Pollution no. 401/1998 Coll.

Act on charges for air pollution regulates especially the fee obligation and competence of bodies of air protection. Fee for air pollution is paid by legal persons and natural persons authorized for business who operate large, medium and small sources of air pollution. There is no such an obligation, if annual fee of operator of large pollution source or medium

⁽²¹⁾ A 'cap and trade' system. Available at: <http://ec.europa.eu/clima/policies/ets/index_en.htm> [2014-04-23].

⁽²²⁾ Act on Emissions Trading no. 414/2012 Coll. Available at: <http://www.seas.sk/_img/SEAS/SE%20Documents/Spolocnost/O_nas/Energetika_na_Slovensku/Regulacia_a_trh/ETS_12-z4141.pdf> [2014-04-23].

source of air pollution is 34 EUR or less.

Charge of operator of large or medium source is specified for each source for a period of one calendar year for all spilled pollutants which are the subject of fee obligation and which are listed in Annex 1 of the Act, according to the calculation set in Annex 2. Charge of operator of small source is specified for each source for a period of one calendar year by a lump sum of up to 663,87 EUR proportionally to the quantity and harmfulness of emitted pollutants or to the consumption of fuels and raw materials from which pollutants originate. Annual fee for the operator of a large or medium source consists of the sum of the fees for all large air pollution sources and medium sources of air pollution operated by him in one district. Annual charge for the operator of small source consists of the sum of all his charges for running small sources of air pollution in one municipality.

The annual fee is paid from 35 EUR to 33,194 EUR per year fee in quarterly payments equal to one quarter of the annual fee later than the end of the relevant quarter and from 33 194 EUR, including 33,194 EUR per year fee in monthly payments equal to one-twelfth of the annual fee later than the end of the month in question. Fees paid by the operator of a large or medium source are income to the fund, fees paid by the operator of a small source are income of the municipal budget.⁽²³⁾

IV. Conclusion

Contribution is focused on the overview of the EU position on protection of air pollution and related legal acts. It can be said that EU and subsequently its Member States are making efforts in improving the status of climate.

More action is needed to make further progress: fine particles and ground-level ozone still create serious health problems, and emissions continue to harm many natural environments. The latest analysis suggests that 420 000 people died prematurely from air pollution in the EU in 2010. Public concern is growing.⁽²⁴⁾

The European Commission's review of air policy, including stakeholder and public consultations, will result in a renewed EU strategy for clean air for the period up to 2030 and beyond, with the following focus:

1. Protect our health

The most important long-term goal is to reduce further the exposure of citizens to air pollution. This requires, as a first step, ensuring a minimum level of protection for all EU citizens, meaning that the EU air-quality standards are not exceeded anywhere.

2. Protect our environment

The EU also aims to protect all ecosystems from stress due to acidification or eutrophication. This will involve continued efforts to reduce emissions in key sectors such as power

⁽²³⁾ Act on Charges for Air Pollution no. 401/1998 Coll. Available at: <<http://www.minzp.sk/oblasti/ovzdušie/ochrana-ovzdušia/pravne-predpisy/pravne-predpisy.html>> [2014-04-23].

⁽²⁴⁾ Cleaner air for all. Available at: <<http://ec.europa.eu/environment/pubs/pdf/factsheets/air/en.pdf>> [2014-02-27].

generation, road transport, energy-intensive industries and waste management – with increased focus on sectors which have not yet received enough attention, such as shipping, domestic heating and agriculture.

3. Additional efforts to implement existing commitments and achieve further emission reductions in future

To deliver these objectives, the review is considering a range of cost-effective measures to bring down emissions even further. Simply by applying existing technologies on the widest possible scale, it is estimated that we could avoid around 100 000 premature deaths a year, and eliminate a third of the eutrophication impact on the protected sites in the Natura 2000 network within a decade.

4. Innovation to reduce emissions and support growth

Meeting these ambitious goals for air quality will require the development and application of new technologies. The Horizon 2020 research programme and Innovation Union initiative will help, and European industry will need to invest in cleaner technologies. This will bring both economic and social benefits, as health costs and lost working time due to air pollution can be very significant. It will benefit European competitiveness, too. US air-quality legislation is already more stringent than in the EU, and countries like China are beginning to step up air-quality monitoring and emission controls. These developments create an enormous demand for products and processes that emit less – a huge opportunity for European companies to contribute to sustainable growth and jobs.

5. Coherence with other policies and international initiatives

The review will seek coherence between EU air policy and the recently revised CLRTAP Gothenburg Protocol, which includes new emission ceilings for 2020, including for particulate matter. The Union will also work to ensure broader ratification of the Protocol by countries outside the EU, which would bring large air-quality benefits both for EU neighbouring countries and for the Union itself. In addition, the European Commission is looking at how to make sure that air policy can benefit from climate and energy policies and vice versa. For example, reducing Short-Lived Climate Pollutants will simultaneously benefit health and limit climate change. Europe has achieved great improvements in air quality over recent decades, but much more remains to be done. The current review will deliver a strategy to achieve even cleaner air in future, bringing very significant benefits to our health, environment and economy.

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