

EMAS AND SERBIA

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Abstract: The way people are doing bussines are changing fast under pressures such as growing number of environmental concernes, public pressure, regulatory measures, demands of consumers and shareholders for environmentally friendly products and services, so it is becoming more and more important for organizations / companies to demontsrte sustainability of their investment strategies and operations¹. A management tool for companies and other organizations to evaluate, report and improve their environmental performance is Eco-Management and Audit Scheme (EMAS), regulated by Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organizations in a Community eco-management and audit scheme (EMAS)².

Having in mind intentions of Serbia to join European Union, as well as a fact that Regulation 1221/2009 allows participation in EMAS also for organizations from non EU member countries, it is quite obvious that EMAS implementation will create necessary conditions for more intensive participation of our country in all European procceses. Thus, EMAS deserves special attention both at serbian governmental level as well as at the level of all organizations / companies interested in sustainable future progress.

Key words: EMAS, Regulation (EC) No.1221/2009,

Establishment and voluntary participation in EMAS

Notion and development

¹Kostic, Marija: »The Right of Access to Environmental Information in the Sense of Aarhus Convention – European Streams and Legal Framework in Serbia and Montenegro«, Belgrade, 2006

² The EU scheme has been available for participation by companies since 1995 and was originally restricted to companies in industrial sectors, but since 2001 EMAS has been open to all economic sectors including public and private services. In 2009 the EMAS Regulation has been revised and modified for the second time. was published on 22 December 2009 and entered into force on 11 January 2010

The eco-audit system has developed from classical auditing system, which on the other hand was created as industrial management inventory in corporations that had to make and submit the report on their activities at the end of each year to their auditors¹. At the end of 70-es in the United States of America shown up different kind of auditing system, which didn't include exclusively industrial-management data, but also environmental data. The first eco-audit systems were check of respect of the environmental regulations during manufacturing activities, because in case of disturbing public (e.g. their environment), very strict USA penal system, has predicted significant sums for the agreement and compensation². Meantime, along with this system of control of the activities of the firm along with the environmental regulations, developed system which controlled functioning of eco-management system in the enterprise, so-called "performance audits"³.

Eco-audit systems can have internal or external audit function. Internal eco-auditing is an independent appraisal activity established within a company for the review of operations as a service to management⁴. The objective of internal eco-auditing is to assist company staff in discovering lacks of environmental management system, technical installations and plans, operations, functions and processes of a company. External eco-auditing serves for informing the public or other institutions about company's environmental performance, comprising information about results achieved in relation to defined environmental objectives, as well as about steps for further improvement of company's environmental performance in the future. Impartiality of this system is ensured by the fact that external eco-auditors are independent (both in fact and in appearance) of the company, which is a subject of auditing.

Voluntary participation in EMAS

The new approach to environmental policy is perhaps the most evident in the 1993 Eco-Management and Audit Scheme (EMAS). EMAS does not replace existing Community or national environmental regulations or technical standards⁵, but rather, facilitates voluntary participation by companies in a standardized and auditable community scheme for environmental management⁶. Its aim is to promote continuous environmental performance improvements of industrial activities by committing sites to evaluate and improve their own environmental performance and to report to the public on that performance.

¹Data from the report were checked by the independent certified public accountants, thanks to that fact the auditors were protected from the possibility to obtain false data; for more detail see: Lechelt, Reiner: "System des Umweltaudits- Entstehungsgeschichte", in: Ewer; Lechelt; Theuer (Edit.): "Handbuch Umweltaudit"; C.H. Beck'sche Vrlg., München; 1998; p. 17

² This form of eco-auditing is known in the literature under the name of "complianceaudit"; for more details see: Lechelt, Reiner: "System des Umweltaudits- Entstehungsgeschichte", in: Ewer; Lechelt; Theuer (Edit.): "Handbuch Umweltaudit"; C.H. Beck'sche Vrlg., München; 1998; p. 18; Waskow, Siegfried: „Betriebliches Umweltmanagement: Anforderungen nach der Audit- Verordnung der EG; Ein Leitfaden über die EG- Verordnung zum Umweltmanagement und zur Umweltbetriebsprüfung“; in: Feldhaus, Gerhard: „Umwelt-Audit und Betriebsorganisation im Umweltrecht“, in: Kormann, Joachim (Edit.): „Umwelthaftung und Umweltmanagement“; Vol. 5; München; 1994; Rdnr. 41

³ For more details see: Lindlar, Angela: "Umwelt-Audits"; Economica, Bonn; 1999; p. 2; Förschle, Gerhart; Hermann, Silke; Mandler, Udo: „Umwelt-Audits“, in: Der Betrieb (DB); 1994; p. 1093-1100; Feldhaus, Gerhard: „Umwelt-Audit und Betriebsorganisation im Umweltrecht“, in: Kormann, Joachim (Edit.): „Umwelthaftung und Umweltmanagement“; Vol. 5; München; 1994; p. 9-36

⁴ Lechelt, Reiner: "System des Umweltaudits- Entstehungsgeschichte", in: Ewer; Lechelt; Theuer (Edit.): "Handbuch Umweltaudit"; C.H. Beck'sche Vrlg., München; 1998; Rdnr. 67

⁵ Lechelt, Reiner: "System des Umweltaudits- Entstehungsgeschichte", in: Ewer; Lechelt; Theuer (Edit.): "Handbuch Umweltaudit"; C.H. Beck'sche Vrlg., München; 1998; p. 3

⁶ Köck, Wolfgang: "Die Öko- Audit- Verordnung; Konzeption – Regulative Philosophie – Einflüsse auf das Ordnungsrecht“, in: Epiney, Astrid (Edit.): „Öko- Audit und die Schweiz“; Universitätsverlag Freiburg, Schweiz; 1997; p. 15-17

In accordance with Council Regulation 1836/93/EEC¹, Environmental Management and Audit Scheme (EMAS I) has been available for participation by companies in industrial sectors since 1995¹. Since 2001, in accordance with Regulation 761/2001/EC allowing voluntary participation by organizations in a Community eco-management and audit scheme (EMAS II)², EMAS has been open to all economic sectors, including public and private services, operating in EU and European Economic Area (EEA). The main objective of EMAS II was „to promote continual improvements in the environmental performance of the organizations“. Enterprises that have accepted voluntarily to participate into EMAS scheme and on the basis of its criteria have established and implement environmental management system, are obliged to inform the public, in the form of environmental statement, about their activities and all questions in relation with those activities which have significant impact on the environment (emissions, waste, use of raw materials, etc).

Requirements for EMAS registration

To receive valid EMAS registration one company has to fulfill following requirements³:

- to conduct an environmental review- initial analysis considering all environmental aspects of company's activities, products, services, legal framework, existing environmental management practices according to the results of the review to conduct an effective environmental management system (as a part of company's overall management system) which is aimed to achieve company's environmental policy defined by company's top management. Environmental Management system shall set responsibilities, objectives, means, procedures, monitoring and communication systems
- to carry out an environmental audit assessment, as a management tool for evaluation of the company's performance, management system and processes aimed to protect the environment
- to provide a statement of its environmental performance, comprising information about results achieved in relation to defined environmental objectives, as well as about steps for

further improvement of company's environmental performance in future.

After all above mentioned requirements are being approved by an accredited EMAS verifier, validated statement submitted for a registration procedure to EMAS Competent Registration Body⁴ and opened for a public, company has a right to use EMAS logo¹.

¹ Council Regulation 1836/93/EEC of 29 June 1993 on the Community scheme enabling the voluntary participation by companies in the industrial sector in the eco-management and audit scheme; OJ. No. L 168; p. 1

² Regulation 761/2001/EC of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS II); OJ. No. L 114 p. 1 on 24 April 2001; on 4 December 2002 a corrigendum to the EMAS Regulation was published OJ. No. L327; p.10

³ Köck, Wolfgang: "Die Öko- Audit- Verordnung; Konzeption – Regulative Philosophie – Einflüsse auf das Ordnungsrecht", in Epiney, Astrid (Edit.): „Öko- Audit und die Schweiz“ ; Universitätsverlag Freiburg, Schweiz; 1997; p. 16-18

⁴ According to Article 32, Par. 1 Umweltauditgesetz competent registration body in Germany are: chambers of commerce (Handelskammern), chambers of industries (Industriekammern) as well as chambers of trade (Handwerkskammern); more details about Competent registration body see in: Müggenborg, Hans- Jürgen: "Der Prüfungsumfang des Umweltgutachters nach der Umwelt- Audit - Verordnung"; Der Betrieb (DB); 1996; p. 125; Feldhaus, Gerhard: „Die Rolle der Betriebsauftrag im Umwelt- Audit System“ ; Betriebs- Berater (BB); 1995; p. 1545- 1546; Köck,

Environmental statement and EMAS register

As mentioned above, one of the main steps that one organization must comply in order to receive EMAS registration is to provide statement on its environmental performance, which has to be validated by accredited environmental verifier, submitted to the EMAS Competent Registration Body and made publicly available. By composing environmental statement issues such as legal compliance of environmental regulations, current and future-planned environmental performance, external communication and relations in sense of development of open dialogue with public and other interested parties with regard to environmental impacts of company's activities, products and services, as well as involvement of employees into continual improvement of company's- organization's environmental performance should be addressed². Environmental statement should give opportunity to the public to get acknowledged with the impacts of the activities of the said organization on the environment, and to take part in the creation of the environmental policy of that company³. All information within environmental statement have to be provided in clear and coherent manner in printed form for those who have no other means for obtaining this information.

Environmental statement should be brief and clear. It is recommended always (in every environmental statement, e.g every update) to use the same kind of information what makes possible to compare different environmental statements of that organization over longer time⁴.

Upon the first registration of company- organization and every three years after it, organization – company has to make information available in consolidated print version. Further, on yearly basis organization has to update information (except small and medium – sized enterprises which have to do this every 36 months) and again to submit them to environmental verifier, competent registration body and made them available to the public. Information are mostly updated in form of paper inlaid in existing environmental statement.⁵

Composing one environmental statement means that one organization is producing information about its environmental performance. In accordance to EMAS standards those information has to satisfy at least following requirements¹:

Wolfgang: „Umweltschutzsichernde Betriebsorganisation als Gegenstand des Umweltrechts: Die EG- „Öko- Audit ‘ Verordnung“; Jur istenzeitung (JZ); 1995; p. 643- 645

¹ According to EMAS II Regulation 761/2001/EC EMAS logo has two versions: Ver. 1- verified environmental management and Ver. 2- validated information; more details about EMAS –logo see in: Knopp, Lothar; Striegel:

„Umweltschutzorientierende Betriebsorganisation zur Risikominimierung“, Betriebs- Berater (BB) ; 1992; p. 2009- 2015;

Kloepfer, Michael: „Umwelt informationen durch Unternehmen- Wettbewerbsrecht, Öko- Audit,

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² According to Annex I of Regulation 761/2001/EC allowing voluntary participation by organizations in a Community eco- management and audit scheme (EMAS II)

³ Köck, Wolfgang: “Umweltschutzsichernde Betriebsorganisation als Gegenstand des Umweltrechts: Die EG- „Öko- Audit ‘ Verordnung“; Juristenzeitung (JZ); 1995; p. 643

⁴ Wohlfarth, Werner; Signon, Jeanette: „Aufbau und Inhalt der Umwelterklärung“, in: Epiney, Astrid (Edit.): „Öko- Audit und die Schweiz“; Universitätsverlag Freiburg, Schweiz; 1997; p. 93

⁵ „Der Weg zu EMAS“, Umweltbundesamt; Karlsruhe; Oktober, 2001; p. 20

- to give an clear and unambiguous description of the organization and a summary of its activities, products and services, as well as its relationship to any parent organization;
- to inform about organization's environmental policy and give brief description of its environmental management system;
- to describe all significant direct and indirect environmental aspects which results in significant environmental impacts of organization, as well as to explain the nature of those impacts;
- to describe environmental objectives and targets in relation to significant environmental aspects and impacts;
- to make summary of data available on the performance of the organization against its environmental objectives and targets with respect to its significant environmental impacts. The summary may include figures on pollutant emissions, waste generation, consumption of raw material, energy and water, noise...;
- other factors regarding environmental performance including performance against legal provisions with respect to their significant environmental impacts;
- the name and accreditation number of the environmental verifier and the date of validation.

After accredited environmental verifier validated organization's environmental statement, organization has to forward this environmental statement to the competent body of Member state in which organization is located and organization is obliged to open its environmental statement for the public, as soon as being registered². According to Article 4, Par.1 of Regulation 761/2001/EC "Member states shall establish a system for the accreditation of independent environmental verifiers and for the supervision of their activities".

EMAS III and its significance for Serbia

EMAS III – a step further to EMAS II

Entering into force of Regulation (EC) No 1221/ 2009 on the voluntary participation by organizations in a Community eco management and audit scheme (EMAS) on 11 January 2010, initial EMAS I and later on EMAS II Regulation have been revised and modified to so called EMAS III.

Beside amendments and modifications made to increase (even more) quality of the environmental management scheme, Regulation also includes new measures for reducing

¹ Der Weg zu EMAS“, Umweltbundesamt; Karlsruhe; Oktober, 2001; p. 14-15; see also Annex III (3.2) of Regulation 761/2001/EC allowing voluntary participation by organizations in a Community eco-management and audit scheme

² Article 3, Par. 2 (e) of Regulation 761/2001/EC allowing voluntary participation by organisations in a Community eco-management and audit scheme

administrative burdens for EMAS registered organizations and creating incentives for raising the attractiveness of the scheme, particularly for smaller organizations¹.

Certainly the most important innovation of EMAS III Regulation for Serbia is the fact that the scope of the scheme has been extended to allow organizations outside of the EU to gain EMAS registration within EMAS verifiers within EU. In relation to that, Article 3 of Regulation (EC) No 1221/ 2009 states “applications for registration from organisations outside the Community, including corporate registration consisting only of sites located outside the Community, shall be made to any Competent Body in those Member States that provide for the registration of organisations from outside the Community in accordance with the second subparagraph of Article 11(1)“.

Legal framework in Serbia

Even before Regulation (EC) No 1221/ 2009 entered into force Serbian legislator has shown an intention to follow-up with European environmental trends. Thus, it has adopted a new version of Serbian Law on Environmental Protection², which includes a few provisions on EMAS³. Although this is the only Serbian regulation promoting and mentioning EMAS, it should be recognized as a positive example of national law-maker. In benefit to this statement, let us remind you that at the time when Law Environmental Protection entered into force, European Union was still regulating EMAS on a basis of Regulation 761/2001/EC allowing voluntary participation by organisations in a Community ecomanagement and audit scheme (EMAS II), which has allowed applications for registrations only for organizations in a EU Member states.

After adoption of Regulation (EC) No 1221/ 2009 provisions on EMAS in Serbian Law on Environmental Protection need to be revised and harmonized with EMAS III. Ministry of Environmental Protection is familiar with this request and it is only question of time when harmonization process shall begin.

According to- still current version of the Law- EMAS procedure in Serbia is voluntary and allowed to all „natural and legal persons“. Competent body is Ministry for Protection of the Environment, which is also the one to keep and maintain the Register of all EMAS participants. Information in Register are public and everyone has a right to access it. Unfortunately, even though possibility for EMAS participation exists in Serbian since 2004, EMAS Register has never been created and Ministry for Protection of the Environment has no data on any request for registration submitted.

European organizations, unlike Serbian ones, know very well that the environmental management system in accordance with Eco-Management and Audit Scheme (EMAS) represents not only a company's active approach to the monitoring, management and gradual decrease of its environmental impact, but also increases their credit and the competitiveness⁴, brings cost savings, credibility and order in operating documentation. EMAS implementation and maintenance also improve the communication and awareness of staff and partner companies, enhancing emergency preparedness. Using EMAS, an excellence level, exceeding legislative requirements, may be achieved.

¹<http://www.tmsconsultancy.com/index>

² Law on Environmental Protection, Official Gazette of the Republic of Serbia, No. 135/04, 36/09

³ Articles 44-50 of Serbian Law on Environmental Protection

⁴ It may also be a technical qualification criterion pursuant to Act No. 137/2006 Coll., on Public Procurement

Summary

Implementation of EMAS have some shaded future in Serbia, meaning that some of the most important issues have not been resolved yet, neither on governmental nor on companies level. Ministry of Environmental Protection in Serbia has a primary responsibility for providing procedures and conditions required by companies to comply with EMAS III. All countries are expected to organize their institutions and procedures in order to enable implementation of EMAS. Ministry of Environmental Protection in Serbia is currently creating national program and action plan for EMAS implementation, also this Ministry should establish EMAS council and EMAS secretariat. We are hoping that these measures will aid in better implementation of EMAS in Serbia, as well as that intensive preparations for European integrations will also affect field of the environment and bring good changes not only in legal framework, but also in awareness of widest public and entire society.

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