

Case Study: "The Inspection and the Internet"



Source: www.wikipedia.com

The company "Oil unlimited Ltd." runs a huge plant for refining oil. The facility produces significant discharges into the air and is subject to the Industrial Emissions Directive (IED). The operation of the refinery is covered by an "integrated environmental permit" issued by the competent authority of Euroland.

In 2019, during an "on site inspection" the authority found out:

1. *The discharge of NO_x is in accordance with the permit, but exceeds the limit values under the IED.*
2. *The discharge of CO exceeds the limit values of the IED and of the permit.*
3. *The guard at the entrance of the facility is drunken.*

Back at their desks the inspectors read the wording of Art 23 para 6 of the IED, which says

"Following each site visit, the competent authority shall prepare a report describing the relevant findings regarding compliance of the installation with the permit conditions and conclusions on whether any further action is necessary. The report shall be notified to the operator concerned within 2 months of the site visit taking place. The report shall be made publicly available by the competent authority (...) within 4 months of the site visit taking place."

The above "three points of incompliance" were notified to the company and a view months later put on the internet. The CEO of Oil unlimited Ltd., Mister Tiger, was out of his mind. He has brought an action on behalf of the company Oil unlimited Ltd to the administrative court and demands, the court to oblige the administration to take the "three points" from the internet site. He contends a serious violation of fundamental rights, lack of legal empowerment, lack of irregularity and, last but not least, no relevance of the drinking habits to "IED- law".

The administration as defendant demands, to dismiss the action. It contends that the inspection and the publication is provided for by EU law and identical national law.

Who will win the case? Admissibility? On the merits?

I am looking forward to our mock trial!