

ACCC/C/2017/148 – Closing Statement

Dear Honourable Members of the Committee,

Dear Madam Chair,

Honourable Delegate,

1. The way the legislative operation permit operates is autonomous from the environmental permit, autonomous of the normal permitting procedure. The legislative permit gives an umbrella permission to PPC to operate iconic in terms of pollution power plants; it allows for the operation of the lignite plants no matter:
 - If there is in place or not a valid environmental permit, an IED permit or whatever permit legislation requires;
 - If the environmental permit has been challenged or not;
 - If the environmental permit has been annulled or not.
2. A distinct example is the permitting of the Megalopoli A and B power plants. Below we illustrate the consecutive renewals of the blanket Single Provisional Operational Permit (“SPOP”) and the permitting process for the renewal of the Megalopoli power plants, including pending judicial challenges against the environmental permits.



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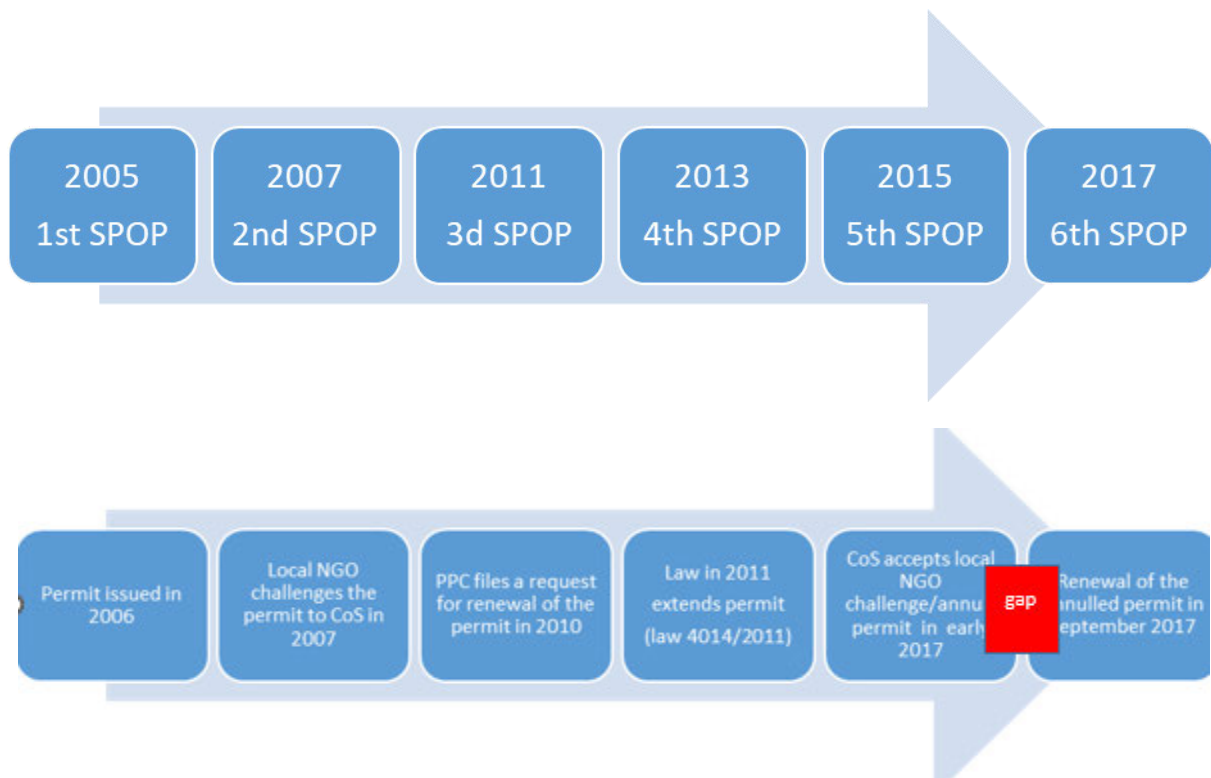
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3. The illustration above shows that the decision of the Council of State to annul the 2006 Megalopoli permits did not affect the operation of the power plants, which continued power production without a valid permit until the renewal of the environmental permits in September 2017.
4. Why the power plants continued their operation despite the Supreme Court's decision? Because, contrary to the legal requirements, their operation had become independent of the environmental permit as a result of the umbrella legislative operation permit. The latter is immune to judicial challenges and as such it allows for the continuous operation of the power plants even when those do not hold updated permits, even when the Court has ordered otherwise.
5. The next question is why a legislative operation permit was given by the Parliament instead of an administrative operation permit by the Greek Ministry of the Environment, which is the permitting authority under the normal permitting procedure. Because this was a quasi-legitimate way to side step the legal permitting requirements and effective access to justice, effective judicial control. Had the normal permitting procedure being followed PPC would never had been granted an operation permit.
6. The Ministry could not grant the operation permit as the lignite plants did not hold valid environmental permits. And if the Ministry had granted such a permit, the latter could have been challenges. On the contrary the legislative/ parliamentary permit does not allow for any judicial review and is granted exactly for this very reason: because it cannot be challenged as explained more thoroughly above.

7. The Party concerned several times has quoted the Council of State decision on the Acheloos River case. In this case, the plans and permits to divert Acheloos river and construct a dam were annulled several times by the Supreme Court. The Governments however found a way to sidestep the Court. They decided to grant a permit through the Parliament for the same reason they granted the legislative operation permit: no one could challenge the construction permit and the diversion could go ahead. The Communicant (WWF Greece) accidentally discovered a document of the Ministry ordering the developer to start the construction. This document was the act that was challenged before the Council of State, not the legislative permit. In any case, the Council of State never adjudicated that a legislative act that amounts to an individual act could be challenged, on the contrary. Therefore, despite the Party's Concerned allegation, the Acheloos case is a unique precedent on its own of challenging an administrative act and not of legislative permit.
8. Finally, unlike to what the Concerned Party claims, the operation permit of power plants by the very wording of the law pertains to environmental matters; the translation of the relevant provision is available to the Committee. It should be pointed out, that our complaint is not the only complaint against the legislative permitting procedures. Any potential remedy has been exhausted. This includes
9. A complaint of an NGO to the European Committee of Social Rights (ECSR) on 2005: ECSR found in the decision of 7.7.2006 that the Greek Government breached the European and National environmental legislations by granting permits to PPC's power plants of Megalopoli and Ptolemaida.
10. Complaint to the Greek Ombudsman: The Greek Ombudsman in his report of 2010 regarding the environmental permits of Agios Dimitrios, Ptolemaida and Kardias, found that operating these plants breaches environmental legislation.
11. Complaint to the EC [already submitted to ACCC]
12. The Party Concerned diachronically dismissed these decisions and further buttressed the operation of PPC's plants with consecutive "temporary" legislative acts. Nothing is more permanent than temporary, the Greek legislative operation permit proves this saying; a temporary legislative permit becoming the norm for 20 years.
13. This communication is our last resort to have access to effective and adequate remedies against the breaches of environmental law happening in the lignite sector for the past years. It lays in your hands honourable members of the Committee to help us remedy this temporary violation of 20 years by finding that the Party Concerned has breached its obligations under Article 9 pars 2 and 4 of the Aarhus Convention.

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