

Second Case Study: "The Sand Quarry"



Credit: LATGEO Invest

Scenario 1: "SPQR"

The local authority of Eurotown granted Bob Builder a development consent to extract sand from a quarry with more than 25 hectares (Annex I Nr.19 of the EIA). An environmental impact assessment was carried out. However, "questions of cultural heritage" were excluded from all steps of the procedure. The SPQR (service for the protection and questions as to historic remains), a legal person under Euroland public law, was concerned that the soil to be extracted contained the remainder of a Roman „villa rustica“, which would then be endangered or even destroyed. Thus, the SPQR brought an action against the development consent claiming - inter alia - that its rights to participate in the administrative proceedings have been violated.

Will SPQR have success with its action?

What about a similar action brought by a nearby farmer interested in "cultural heritage"?

Scenario 2: "The Judge"

During the court proceedings in a case concerning the legality of a development consent for a big street no one of the parties seems to realize that an environmental impact assessment has not been carried out at all. One day, preparing for the public hearing, the judge detects the procedural error.

What may he or she do acting in conformity with existing procedural principles?

Please feel free to give an input based on your domestic laws and jurisprudence.

Scenario 3: "The Exemption"

Bob Builder bought former Military properties. He plans to construct a big installation for the rearing of pigs. It is no doubt about it that under the EIA Directive (Annex I Nr.19 of the EIA) this project would require an environmental impact assessment. However, Euroland has a parliamentary statute stating that Euroland "does not transpose the EIA-Directive in so far as projects on former Military properties are concerned". The local authority of Eurotown granted the development consent according to domestic law without environmental impact assessment.

Can a neighbour, who fears nuisance by the smell, successfully challenge the development consent?

If the consent was denied, would Bob be able to invoke domestic law before the national court?

I am looking forward to our discussion!