

## Case Study: "A Tale of Two EIA scenarios"



Credit: UNECE

**First scenario:** Judge Masaryk decides cases on environmental law. Confronted with difficult claims (NGOs and/or neighbours against power plants, motor ways etc.) she asks herself how the Courts of other Member States control the legality of a contested EIA. Therefore, she wants to know:

1. *Is complaining about (missing) EIAs an important feature of court proceedings in your country?*
2. *If so, is there a typical complaint?*

Minor projects like a supermarket do not fall under Annex I of the EIA Directive and therefore do not require an EIA in any case. However, a supermarket (“shopping centre”) is an urban development project under Annex II of the EIA Directive (No. 10 b). Here, the domestic authority must conduct a special procedure and then determine whether the supermarket requires an EIA or not. In English this procedure is called “screening” because you filter out projects “likely to have significant effects on the environment” from projects that do not have that quality. Here is the next question:

3. *According to your opinion are the key words “screening” and “likely to have significant effects on the environment” well translated into your domestic language? (Your smart phone /the bilingual EUR-Lex display of Recital 26/27 of Directive 2014/52/EU may be a help here).*

**Second scenario:** Judge Masaryk tells another scenario and has some more questions: “One day I had to decide on the legality of a permit issued for the construction of a big motor way. The permit was challenged by some neighbours who complained about the future noise, air pollution and – last but not least - loss of value (100.000 Euro) as regards their land and buildings. It was crystal clear for me that such a big project is subject to a mandatory EIA (Annex I No. 7 b of the EIA Directive). However, the lawyers of the neighbours did not see the missing EIA! I did not raise the question by myself or as they say ‘ex officio’. So my following questions would be:

4. *Was I obliged to do so under EU law?*
5. *What would you have done under your domestic law?*

Meanwhile, the motor way has been built. Guess what! Yesterday, the neighbours brought an action against the State because the permit for the motor way was carried out without the mandatory EIA.

6. *Do the neighbours have a legitimate claim to get compensated for their loss of value (100.000 Euro) as regards their land and buildings?”*

I am looking forward to our discussion!