Arctic Project Development: Testing the law? Legal challenges of large infrastructure projects the example of the Finnafjord Port

Impact Assessment Regulations from a general point of view

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Background

• Impact assessment regulations
  – Environmental Impact Assessment (EIA)
  – Act No 106/2000 on EIA
    • Implementation of EU´s EIA directive
    • Act No 105/2006 on SEA
      – Environmental report and Master Planning (735/2013)
      – Mixed generally positive but negative environmental effects

• Finnafjord project in North-East Iceland
  – The project is a deep sea port in the North Atlantic ocean for transshipment crossing the North Pole capturing the Asia-Europe route
Legal Environment

• The EIA Act applies to the port project
  – Assessment of the environmental effects of public and private projects which are likely to have significant effects on the environment
  – (2019-2020)

• Screening of the project would not be necessary
  – Trading ports, piers for loading and unloading connected to and outside ports which can take vessels of over 1 350 tones (type A)
Legal Environment

• EIA takes place before development consent is given (could be several)

• EIA consists of
  – The preparation of the EIA report
  – The necessary consultation
    • Authorities, institutes, the public
  – The competent authority examination of the information in the EIA report (NPA)
  – The integration of the outcome of the EIA into any decision to grant development consent
Legal Environment

• The developer is responsible for the EIA
  – Applicant for a authorization for a private project or the public authority which initiates a project

• During the procedure some NPA decisions can be appealed by the developer to an independent panel
  – Scoping decision e.g.
Legal Environment

- When the EIA procedure is concluded
  - Development consent is issued
  - Publication of the decision with reasoned conclusion on the significant effects of the project, conditions etc.
    - Marine and air pollution could be significant
  - Those having sufficient interest or affected by the decision and NGOs fulfilling particular criteria can challenge the procedure and the decision
  - Independent panel and or civil court
Conclusions

• The assessment regulation is present

• SEA has taken place – General Master Planning
  – Assessment of location alternatives is not present

• EIA for a large trading port project in Finnafjord has not been concluded
  – Assessment of reasonable location alternatives is necessary