

# ***Environmental permitting processes in the Nordic countries***

---

**Presentation of a report for the  
Nordic council on environmental law  
and procedure**

**Naturvårdsverket, Stockholm 22 March 2023**

***Emeritus Professor Jan Darpö  
Juridicum/Uppsala Universitet***



# Scenarios

**A: A new industrial installation that will have effects on the environment.** In this scenario it might be interesting to focus on industries where environmental impact assessment is not mandatory and where the national authorities have to decide **whether an EIA is needed** according to Article 4.2 of the EIA Directive, 2011/92/EU (projects listed in Annex II).

**B: A change of a permit for an existing industrial installation as part of the effort to achieve climate neutrality,** that is a change that aims to lower the facility's carbon footprint. Such changes may include increased energy efficiency in the installation, or a change of fuel or processes (such as electrification). In this scenario, it might be interesting to see **how the national systems deal with the application of Article 20 of the Industrial Emissions Directive (2010/75).**



# ***Comparative Law***

**“Criminal law is part of public law. Civil law is divided into public law and private law”**

McKenna-report 1996: Study of civil liability systems for remedying environmental damage, p. 4 (Denmark)



# ***Environmental permitting processes in the Nordic countries***

***Constitutional traditions; 1523 → West – East:  
1814/1905, 1917/1944, 1809/1918***

- ★ Administrative structure (Gov → auth ← → municipalities)***
- ★ Role of the courts***

***EU/EEA***

- ★ DK/SE/FI, EEA, COM – ESA, CJEU/Efta court, “binding”, sanctions...***

***Business structure...***

***Sami people...***



# ***1. Scope and method***

**Scope of the study**; comprehensive within a limited scope...

**Actors**: Authorities and “decision-makers”...

**Method**: Comparative study, quality check, workshops with discutants (interviews)...

**Perspective**: “Swedish” (*independence of the municipalities*)...



### ***3. Conclusions from the workshop***

- **Integration in legislation and procedure**
- **Case processing time**
- **Eternal permits or permits limited in time?**
- **Changes in the operation of permitted activities**
- **Permitting, supervision and enforcement**
- **Challenges to the permitting process**



# ***Integration***

- In law (DK, SE, NO) or procedure (IS, FI)...
- EIA, WFD and IED for all, BD and HD only for DK, SE, FI...
- Environmental permits and PBL (relationship, emissions/developments)...
- EIA procedure, integrated or separate...

# ***Case processing time***



UPPSALA  
UNIVERSITET

- **The design of the study...**
- **A variety of factors:**
  - ✱ **EIA; separate or integrated, obligatory or screening, the process...**
  - ✱ **PBL; plans and permits...**
  - ✱ **Formal time limits or administrative benchmarks...**
- **The Nordic systems do not differ much, but what is measured?**
  - ✱ **Appeals stage...**
  - ✱ **Reformatory or cassatory (SE  $\leftrightarrow$  NO)..?**
  - ✱ **May the permit be utilized..?**





# ***Eternal permits or limited in time?***

- **Eternal permits in all the Nordic countries, except for IS (12/16 years)...**
- **A single permit or several/subsequent permits..?**
- **What does the permit cover..?**



# ***Changes in the operation***

- **Alterations in the given permit...**
- **Old permits and updating (SE; 1998  $\leftrightarrow$  FI; 2010)...**
- **EIA and screening...**
- **New BAT conclusions and the 4-years requirement...**
- **Ongoing evaluation of the permits...**
- **Who may apply for an update..?**



# ***Permits and enforcement***

- **Same authority in DK, NO and IS, separate in SE and FI...**
- **Pros and cons; efficiency v. transparency...**
- **Trends in EU law on enforcement..?**



# ***Challenges***

- **Quality of the applications...**
- **The EIA procedure and remits...**
- **Environmental aw (IED, WFD, HD, Seveso) may be technically complicated...**
- **Lack of administrative resources and experienced personnel...**
- **Possibility to prioritize...**



....and finally...

**THANK YOU FOR LISTENING..!**

§ § § § § §

[jan.darpo@jur.uu.se](mailto:jan.darpo@jur.uu.se)

[Jan Darpö - Publikationer och material \(jandarpo.se\)](http://jandarpo.se)