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## Umhverfismatsdagurinn 2014

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**Gestir málpingsins lögðu eftirfarandi spurningar fyrir Giacomo Luciani sem hefur brugðist við þeim með svörum sem hér fylgja.**

**Spurning:** Hvernig eiga yfirvöld að koma að úrlausnum deilumála/hagsmunaárekstra er tengjast framkvæmdum og mati á umhverfisáhrifum þeirra?

**Conflict of interest (Art. 9a):** There are additional information/guidelines on how the Member States shall implement, within their organisation of administrative competences, an appropriate separation between conflicting functions when performing the duties arising from this Directive in case of conflict of interest?

**Svar:** There are no guidelines. This issue is explained in recital 25 of the revised Directive: "The objectivity of the competent authorities should be ensured. Conflicts of interest could be prevented by, inter alia, a functional separation of the competent authority from the developer. In cases where the competent authority is also the developer, Member States should at least implement, within their organisation of administrative competences, an appropriate separation between conflicting functions of those authorities performing the duties arising from Directive 2011/92/EU". For a number of public projects, we have situations when the developer is also the competent authority: for example the Ministry of Regional Development is a project proponent for a highway, while at the same time the same Ministry is the one giving the development consent. In the terms of this new provision, this will mean that one directorate/unit/division is responsible for the project preparation, while another one is the permit-issuing authority. In this regard the Court ruling in case C-474/10 can be helpful.

**Spurning:** Skilgreining á valkostum, hvað teljast raunhæfir/ásættanlegir valkostir, hvaða kostir koma til greina?

**Reasonable alternative (Art. 5.1.d and ANNEX IV.2):** When an alternative can be considered "reasonable", taking also into account possible relevant case-law on this issue?

**Svar:** This is the term used in the Espoo Convention, and means that a developer should consider only alternatives that are closely relevant to the project (see recital 31 art. 5.1 and in particular Annex VI.2 of the Directive: "reasonable alternatives (for example in terms of project design, technology, location, size and scale)") and not any alternative (e.g. if you have a nuclear plant project, a solar panel project is not an alternative).

Spurning: Er skylda að vakta? Réttlætning á endanlegri niðurstöðu er hún ekki á ábyrgð viðkomandi stofnunar/yfirvalds? Þátttaka almennings sem fyrst en hvernig?

Obligation to inform the public electronically and by public notices or by other appropriate means, of the matters listed in Article 6.2 early in the environmental decision-making procedures (Art. 6.2) and obligation to give to the public concerned early and effective opportunities to participate in the environmental decision-making procedures (Art. 6.4): Can the word "early" be defined more precisely than it is in the revised Directive?

**Svar:** "Early" is in the current text of the Directive and it is not a new requirement. It comes from the Aarhus Convention.

Spurning: Hvernig eiga áhrif almennings á lokaniðurstöðu að vera?  
„Consultation shall duly be taken into account“ – hver er meiningin?

Obligation to duly take into account in the development consent procedure the results of consultations and the information gathered for the Competent Authority and for the possible affected MS (Art. 8): Can the word "duly" be defined more precisely than it is in the revised Directive?

**Svar:** "Duly" was the compromise reached during the negotiation process (you can find the position of the European Parliament on the revised Directive Commission proposal under: <http://ec.europa.eu/environment/eia/review.htm> ) and it means promptly, carefully, etc. The term is also used in the Aarhus Convention. In addition to this, please note that to large extent, Art.8a helps to better understand the term "duly".