

First Case Study: "Super Supermarket"



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Eurotown is a small city in the centre of EU Memberstate Euroland. The City Council of Eurotown is committed to adopt any plan or programme that makes Eurotown a more attractive place with a better supply of nearby shopping facilities.

The Planning Law of Euroland (a transposition of the SEA Directive) provides several options. Among them there is the “perfect planning and zoning without bureaucratic burden” as the Government declared within the legislative process.

Thus, Art 10 of the Planning Law in Euroland states:

“A city council may adopt urban plans for the town development within a fast track procedure which does not require full public participation, if

- a) the scope of the urban plan does not exceed 20.000 m² and
- b) the urban plan is not likely to have significant effects on the environment.”

In 2016 a developer, a business company named Money Ltd., showed interest in investing in Eurotown and in getting a construction permit (developer’s consent) to build a “Super Supermarket” with 1.500 m² on an old parking spot at Schuman Street. In 2017 the City Council of Eurotown adopted an urban plan for “shopping facilities /Schuman Street” and based it on Art 10 of the Planning law with the following explanation: “The plan does only cover a small area. Significant effects on the environment can be excluded. The potential concerns of nearby residents are already taken care of. An expert (physicist and physician) has confirmed to the Council that the noise caused by delivery trucks during the night time will be - even within the busiest hour at 5 o’clock in the morning (worst case) - not exceed the specific limits which exist to assume a relevant danger for human health.”

The nearby resident Mr. Will Sleep brings an action to the Administrative Court against the urban plan invoking “procedural errors of the worst kind”.

Questions: How will the Court decide? Admissibility? On the merits?

Please feel free to give your colleagues an input on your own professional experience, domestic laws and jurisprudence.

I am looking forward to our discussion!