

Permitting without due process

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Forest Permitting – due process

Following the relevant law and necessary procedures

Examples (administration):

- Respect for timelines in the publication of tenders
- Eligibility of companies to operate permits
- Requirements re supporting documentation
- Land available to have a permit issued

Permits - another sector

- Example: Power plant permit
 - Poland – community consultation
 - Citizen participation is foreseen
 - Unlawful decision making process
 - Permit revoked
- Q: Does the act/omission = invalid permit?
- If so – when is the permit invalid?

Questions for application of EUTR

- When does information indicating failure of due process = risk of illegality?
- Is a failure by the administration to meet due process requirements, ever ok? (corruption vs error?)
- If so: when, and why – what is the threshold?

2 competing ways to understand

The letter of the law has not been followed
= 'risk' of illegality

Vs

'This is how it is done' by the responsible agencies

EUTR: how can operators/CAs know?

- Requires information 'behind' official documentation
- Independent monitoring = one source
 - 'Formal' and 'informal' IM exists
 - Operates differently in different countries