

## POTENTIALS FOR THE PROTECTION OF PIKIALASORSUAQ IN THE SHADOW OF CONTEMPORARY MARITIME INDUSTRIES

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**Abstract.** *The Pikialasorsuaq or North Water Polynya is a polynya that lies between Greenland and Canada in northern Baffin Bay. For centuries, small scale family-based markets had been developed between the Inuit on the two sides of the bay based on cross-border transportation. However, the emerged modern maritime industries have posed serious challenges for the polynya, where the free cross-border transportation is nowadays banned, and the environmental threat has become a reality deteriorated further by climate change. Indigenous participation and Free Prior and Informed Consent are crucial for the conservation of the polynya. Accordingly, this article was designed as a descriptive study of the current situation in Pikialasorsuaq, providing the legal framework for the protection of the region and highlighting the existing system's shortcomings.*

**Key words:** *Pikialasorsuaq, Inuit, contemporary maritime industries, cross-border transportation, Marine Protected Areas, FPIC.*

### 1. INTRODUCTORY REMARKS

The Pikialasorsuaq, or “Great Upwelling,” is the largest polynya in the Arctic and the most biologically productive region northern of the Arctic Circle, located between Greenland and Nunavut (Inuit Circumpolar Council, 2017). A polynya is a semi-permanent area of open water surrounded by sea ice that remains ice-free during the winter due to ocean and wind currents (Encyclopædia Britannica, 1998). Polynyas are incredibly rich, diverse areas teeming with marine life, in part as a result of the upwelling of nutrient-rich waters (Encyclopædia Britannica, 1998). Since time immemorial, the Inuit from both Greenland and Nunavut had been using Pikialasorsuaq for subsistence activities based on free traveling, without custom clearance across each other borders

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exchanging goods and services and developing cultural and spiritual bonds (Inuit Circumpolar Council, 2017). However, since the dawn of the new millennium, the free cross-border transportation has been prohibited, interrupting the communication between the Inuit of the two states. Moreover, Pikialasorsuaq is nowadays seriously threatened by rapid changes in the region including increased shipping activities, tourism, oil and gas exploration and development which are also driven by the ongoing climatic and environmental change that demands urgent decision-making (Inuit Circumpolar Council, 2017). In response to these emerging challenges, in January 2016, the Inuit Circumpolar Council of Greenland (ICC Greenland) together with the Inuit Circumpolar Council of Canada (ICC Canada) established the Pikialasorsuaq Commission in a project funded for 3 years (Pikialasorsuaq Commission, 2016). The author, inspired by the recent report of the Pikialasorsuaq Commission, attempts to illustrate the current reality in Pikialasorsuaq through the lens of international law. In particular, the first part offers a bird-eye's view of the recent ban of cross-border transportation among the two regions. The second part of the article addresses the environmental challenges that arose in the region due to the rapid emergence of modern maritime industries during the last decades. Finally, the third part of this study sketches the legal background of the two previous chapters, concluding with recommendations for the environmental protection of the polynya and its habitants as they derive from Canadian, Greenlandic and international law sources.

## 2. BANNING TRADITIONAL CROSS-BORDER SHIPPING

The Pikialasorsuaq polynya has always been providing food security for regional communities and comprising an enduring cultural and spiritual cornerstone linking the Inuit across borders to each other and to their shared history (Inuit Circumpolar Council, 2017). For centuries, cross-border activities had been traditionally conducted with dog-sledding through the northern ice bridge in Kane Basin and kayaking through the ocean, while the habitants of both regions had always been traveling and migrating across the ocean unobstructedly without passports, something that was obvious and necessary, due to the region's large distance from the closest administrative metropolis (Hastrup *et al.*, 2018:169). For centuries, a local small-scale family-based industry had been developed in the area based on trade relations of the Inuit of both sides (Pikialasorsuaq Commission, 2017: A-9). Besides the subsistence activities of hunting, fishing, sealing and trading, cultural and spiritual relations had been formed between the two sides being an indivisible part of the region's wellbeing, constituting traditions that predated the arrival of settler colonists by thousands of years (Pikialasorsuaq Commission, 2017: A-9).

The northern ice bridge in Kane Basin that connects Umimmaat Nunaat (Ellesmere Island) and Avangersuaq (Northwest Greenland) is symbolic for the strong ties between the Inuit from Canada and Greenland and their present desire to cooperate and to arrive at a common vision for shared resources, as the Commission describes (Pikialasorsuaq Commission, 2017: A-9). Nowadays, in the era of climate change, the bridge that influences the formation of the polynya has become less stable than ever before in the past and, as a result, the most reasonable way of communication with the opposite edge is the ocean (Dumont *et al.*, 2007). However, the tragedy of 11/9/2001 and the resulting increased security led to the cessation of free transit for Inuit families, pausing their economic, spiritual and cultural exchange (Pikialasorsuaq Commission, 2017: A-6). In addition, the travel between

Canada and Greenland now requires customs clearance on both sides of the Pikialasorsuaq (Pikialasorsuaq Commission, 2017: A-6). In fact, taking into consideration the high latitude where the polynya lies, the remoteness of the place, the lack of infrastructure and the tremendous distance from the main administrative centres, these measures seem to be out of reach for the limited number of the Inuit that reside around the polynya.

### 3. ENVIRONMENTAL CHALLENGES IN THE POLYNYA

Simultaneously, together with the ban of free cross-border shipping in Pikialasorsuaq, there was a rapid change in the region including climatic and environmental alterations, increased shipping activities, development of tourism, oil and gas exploration, seismic testing, and military activities which pose further risks to the indigenous communities that live around the polynya (Heide-Jørgensen *et al*, 2013:52). Due to the exposure to the unpredictable climate change, the region has become more accessible than ever before in the past and new modern maritime industries have nowadays come to the forefront raising numerous issues for discussion (Pizzolato *et al*, 2016:152).

Indeed, a modern and efficient maritime infrastructure at sea and on land is critical to the world's security and economic well-being. However, despite the potential benefits that the multidimensional industrial development has offered to the region, many challenges have come to the fore following the ban of cross-border transportation. The increasing number of large ships, whether commercial or touristic, contributes to the reduction of sea ice, driven by the climate change, which has rendered the ice bridge in Pikialasorsuaq more vulnerable than ever before increasing the risk for accidents (Shadian, 2018:283). Recently, the Greenlandic authorities issued a significant number of licenses for offshore exploration in the western part of the country where the polynya is located (Mineral Licence and Safety Authority, 2015). Besides the danger of pollution that cargo and cruise traffic has already posed, the chances of an accident or an oil spill would be also devastating for the sensitive marine life of the region. With ship transportation picking up pace, the environmental effects of it are now surfacing. Among them, the effects of noise pollution especially on marine life are highly prominent (Weilgart, 2008:4). It has been noted that approximately all 55 marine species have been noted to have suffered due to exposure to sound of varying frequencies (Weilgart, 2008:4). Such species include the sperm whale, grey whale, mink whale, pygmy sperm whale, killer whale, sea bass, pink snapper, cod, haddock and other species that can be identified in Pikialasorsuaq (Weilgart, 2008:4). Migration trends, adaptation challenges and trophic chain disturbances on marine mammals' behaviour are constantly increasing in the region, posing dietary risks to the Inuit, as those mammals constitute their main source of food (Tsiouvalas, 2018:66). Moreover, long time ago human security challenges have arisen in the Greenlandic high-north due to long-range pollution (Dietz *et al*, 2018:3). For instance, residents of communities located close to the polynya have been identified with exposure to Hg, due to biomagnification of Hg mainly across marine top predators, which are essential food resources for them (Dietz *et al*, 2018:2).

In addition to the marine commercial development of the region, the expanding traffic of military vessels is also present in Baffin Bay (Pikialasorsuaq Commission, 2017: A-16). The historical emergence of new sea lanes has strongly impacted the international balance of power in the Arctic region in general and the increase of military traffic has also become a reality in the ocean around Pikialasorsuaq, attracting both Canadian and Danish vessels

(Pikialasorsuaq Commission, 2017: A-6). In order to manage these changes in appropriate ways, by providing services and infrastructure, all levels of government require a good understanding of the patterns and trends based on evidence of historic temporal and spatial trends (Dawson *et al*, 2017:24). Additionally, a Marine Protected Area (MPA) close to Pikialasorsuaq has not been determined yet, despite the rich biodiversity and the wildlife refuge that the region forms (Naalakkersuisut, 2018).<sup>1</sup> Furthermore, the Commission's report provides that, due to the limited force of the Greenlandic and Canadian coast guard in this remote and huge region, concerns exist as well with regard to the application of international regulations as the Polar Code or even concerning cases of unregulated activities, such as illegal, unreported and unregulated (IUU) fishing (Pikialasorsuaq Commission, 2017: A-12).

As illustrated above, in January 2016, in response to these trends the Inuit Circumpolar Council (ICC) established the Pikialasorsuaq Commission (Pikialasorsuaq Commission, 2016). After one year of research and negotiations, the Commission concluded to a document that addresses the concerns of the Inuit of both sides of the polynya. The Commission, being aware of the so far emerged challenges in the region, provided recommendations to the states of Canada and Greenland aiming to the recognition of Pikialasorsuaq as a Marine Protected Area where the Inuit will control the environmental management of the Polynya and continue to travel without passports and customs clearance during the exercise of their traditional activities (Pikialasorsuaq Commission, 2017b).

#### 4. THE LEGAL FRAMEWORK FOR THE REINFORCEMENT OF PIKIALASORSUAQ

Before elaborating further on the legal framework revolving around the case based on both domestic and international regimes, it has to be clarified that the Inuit are indigenous peoples. For indigenous peoples, the most appropriate definition so far is the working definition of the former Special Rapporteur on the Rights of Indigenous Peoples, José Martínez Cobo, in which indigenous peoples are described as follows:

*Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural, social institutions and legal systems (Cobo, 1986: para. 379).*

Accordingly, relevant international legislation with respect to the world's indigenous peoples provides different remedies for the Inuit case. First of all, with respect to the claim for free cross-border shipping, the Kingdom of Denmark (including Greenland) is part of the Indigenous and Tribal Peoples Convention of the International Labour Organization.<sup>2</sup> Article 23 of the ILO 169 Convention reassures this right mentioning that:

<sup>1</sup> See also Government of Canada, (2018). *Marine protected areas (MPAs) and their regulations*, Retrieved 15 October, 2018, from <http://www.dfo-mpo.gc.ca/oceans/mpa-zpm/index-eng.html>

<sup>2</sup> International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

*“Rural and community-based industries, and subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognised as important factors in the maintenance of their cultures and in their economic self-reliance and development. Governments shall, with the participation of these people and whenever appropriate, ensure that these activities are strengthened and promoted”.*<sup>3</sup>

There is no doubt that the Inuit free transportation has been built on subsistence activities, while it plays a crucial role for their cultural and economic self-reliance and development, as well. Furthermore, the Kingdom of Denmark has also adopted the recent United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), in which Article 36 provides indigenous peoples who have been divided by international borders with the right to maintain and develop contacts, relations and cooperation across these borders, while the state is responsible to reassure and protect these rights.<sup>4</sup> Though non-binding, the UNDRIP remains the most comprehensive international legal document concerning the rights of indigenous peoples and has been used as the lever by indigenous peoples in their ongoing struggle for self-determination and recognition (Barelli, 2009: 964). Therefore, it seems reasonable for Denmark to implement the recommendation of the Pikialasorsuaq Commission and regulate the free cross-border shipping in the area. Nevertheless, this approach is problematic for the Canadian authorities because Canada is not a party to any of these international regimes that aim to ensure the legal protection of indigenous peoples, and such a regulation demands concurrence or bilateral agreements of both states. Therefore, the Inuit from the eastern coast of Nunavut cannot claim rights that derive from the legal instruments mentioned above (ILO, UN General Assembly, 2018).<sup>5</sup> However, by arguing that the free cross-border travel has been taking place in Pikialasorsuaq since time immemorial, based on traditional activities and relations, the Inuit could also claim the existence of historic rights in the region. The doctrine of maritime historic rights is included in customary international law outside the ambit of, and unaffected by, the UNCLOS<sup>6</sup> and other international law regimes. In its terms of reference, the two States need to investigate the Inuit customs and the Inuit legal perceptions to find out to what extent these might have a range of application over Pikialasorsuaq, in general.

With regard to the Commission’s claims for the conservation of Pikialasorsuaq and the establishment of a Marine Protected Area around the polynya, the legal arsenal of the Inuit is more than sufficient. First of all, both states are parts of the UN Convention on the Law of the Sea. The UNCLOS provides coastal states with exclusive sovereign rights

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<sup>3</sup> Article 23, International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

<sup>4</sup> Article 36, UN General Assembly, Declaration on the Rights of Indigenous Peoples, UN Doc. a/61/295, 2007. See also UN General Assembly, Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 3 February 1992, A/RES/47/135, Retrieved 15 October, 2018, from <http://www.un.org/documents/ga/res/47/a47r135.htm>. Article 2(5) provides that: “Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.”

<sup>5</sup> See also UN Division for Inclusive Social Development, (2018). *United Nations Declaration on the Rights of Indigenous Peoples* Retrieved 15 October, 2018, from <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>.

<sup>6</sup> UN General Assembly (1982). Convention on the Law of the Sea, 10 December 1982

according to their continental shelf and their Exclusive Economic Zone (EEZ).<sup>7</sup> This means that Canada and Greenland should be aware of the protection and conservation of the part of their EEZ which extends to the polynya. Additionally, Canada and the Kingdom of Denmark are both part of the International Maritime Organization (IMO) while they have also ratified the International Convention for the Safety of Life at Sea (SOLAS)<sup>8</sup> and the International Convention for the Prevention of Marine Pollution from Ships<sup>9</sup>, which commit states to protect further their waters and the shipping activities conducted within them. Canada and Greenland, as members of the IMO, could also establish a Particularly Sensitive Sea Area (PSSA) in Pikiyasorsuaq including ship routing measures, reporting requirements, discharge restrictions, operational criteria and prohibited activities.<sup>10</sup>

The principle of Free, Prior and Informed Consent (FPIC) is of vital importance in the case. The normative framework of FPIC consists of a series of legal international instruments including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the International Labour Organization Convention 169 (ILO 169), and the Convention on Biological Diversity (CBD), among many others, as well as national laws. First of all, both states are members of the Convention on Biological Diversity (CBD).<sup>11</sup> In particular, Article 8(j) of the CBD guarantees further safeguard of the region related to the needs of the Inuit since it binds the states to take into consideration the indigenous and local communities applying their traditional knowledge when it comes to region's conservation and protection of biodiversity.<sup>12</sup> Therefore, prior to the beginning of industrial development in Pikiyasorsuaq including licensing for exploration, international law requires free prior and informed consent (FPIC) of the Inuit (Fontana et al, 2016:256). Correspondingly, the ILO Convention 169 provides that the requirement for consultation constitutes an obligation of the Government of the state and not of private persons or companies (ILO, 2013). Although this may be delegated, the responsibility rests ultimately on the government (ILO, 2013). The need for consultation of indigenous peoples is written throughout the Convention a number of times and is referred to in Articles 6, 7, 16 and 22.<sup>13</sup> Article 6(1), for instance, states that governments should:

*“Consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly”.*

Article 6 (2) adds that this consultation will be carried out in good faith and in a form that is appropriate to the circumstances.<sup>14</sup> The aim of the consultation process is to reach

<sup>7</sup> Article 56. UN General Assembly (1982). Convention on the Law of the Sea, 10 December 1982.

<sup>8</sup> International Maritime Organization (IMO), International Convention for the Safety of Life At Sea, 1 November 1974, 1184 UNTS 3.

<sup>9</sup> International Convention for the Prevention of Marine Pollution from Ships, 12 ILM 1319 (1973); TIAS No. 10,561; 34 UST 3407; 1340 UNTS 184.

<sup>10</sup> International Maritime Organization, Resolution A.982(24), 6 February 2006.

<sup>11</sup> Convention on Biological Diversity, 1760 UNTS 79; 31 ILM 818 (1992).

<sup>12</sup> Article 8(j). Convention on Biological Diversity, 1760 UNTS 79; 31 ILM 818 (1992).

<sup>13</sup> Articles, 6, 7, 16, 22. International Labour Organization (ILO), Indigenous and Tribal Peoples Convention, C169, 27 June 1989.

<sup>14</sup> The general principle of good faith implies that consultation respect for Indigenous peoples' values and interests. Peoples concerned can be defined as the potential people affected by any measure, and appropriate procedures means that consultation is meaningful.

an agreement or consent to a purposed development prior to any processes.<sup>15</sup> Additionally, Article 19 of UNDRIP states:

*“States shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.”*<sup>16</sup>

Articles 10 and 32 of UNDRIP also provide the same right.<sup>17</sup> However, despite the relevant extensive legal framework, the lack of the Inuit consultation in the specific case is apparent based on the Commissions’ statements in the report.<sup>18</sup>

As it was mentioned above, Canada might have never become part of the ILO Convention 169 or the UNDRIP concerning the protection of Indigenous Peoples. Therefore, the Canadian authorities are committed to the FPIC principle only through the State’s participation to the CBD and its domestic law;<sup>19</sup> however, the Canadian domestic legislation provides potentials for the establishment of Marine Protected Areas. In particular, the government of Canada has issued the Oceans Act,<sup>20</sup> the Wildlife Act,<sup>21</sup> and the National Marine Conservation Areas Act<sup>22</sup>, which provide the right for the establishment of either MPAs or even of National Marine Conservation Areas (NMCA). Moreover, the recent Canada’s Federal Marine Protected Areas Strategy binds the State to cooperate with the affected Aboriginal Peoples for collaboratively planning, establishing and managing marine protected areas (Government of Canada, 2005:12). Similarly, the Greenlandic government (being responsible for its own environmental policy since the 2007 Self-Government Act)<sup>23</sup> has issued the Nature Protection Act<sup>24</sup> and the Marine Environment Protection Act,<sup>25</sup> which both provide the right for establishment of MPAs whenever reasonable.

<sup>15</sup> Scholars usually make a distinction between FPIC and consultation concerning the role and the extent of indigenous participation decision making by States on issues which impact and affect their lives. See Margherita Poto, ‘Participatory rights of indigenous peoples: the virtuous example of the Arctic region’ (2016) 28 ELM, pp. 81-89.

<sup>16</sup> Article 19. UN General Assembly, Declaration on the Rights of Indigenous Peoples, UN Doc. a/61/295, 2007.

<sup>17</sup> Articles 10, 32. UN General Assembly, Declaration on the Rights of Indigenous Peoples, UN Doc. a/61/295, 2007.

<sup>18</sup> At this point, it has to be noted that the potential secession of Greenland from the Kingdom of Denmark will raise serious concerns regarding the indigeneity of the Greenlandic people and the compatibility of their status to the aforementioned international agreements. As a result, the application of FPIC in Greenland will potentially be contested at the moment when Greenland succeeds independence as sovereign state.

<sup>19</sup>The duty to consult and accommodate is the closest principle to FPIC in the Canadian constitutional law. For a comprehensive analysis of the FPIC characteristics in the Canadian law, see Sasha Boutilier, ‘Free, Prior, and Informed Consent and Reconciliation in Canada: Proposals to Implement Articles 19 and 32 of the UN Declaration on the Rights of Indigenous Peoples’ (2017) 7:1 online: UWO J Leg Stud 4 <<http://ir.lib.uwo.ca/uwojls/vol7/iss1/4>>.

<sup>20</sup> Government of Canada, Oceans Act, SC 1996, c.31.

<sup>21</sup> Government of Canada, RSC 1985, c. W-9.

<sup>22</sup> Government of Canada, SC 2002, c.18.

<sup>23</sup> See ‘List II’ in Act on Greenland Self-Government, 12 June 2009, Act no. 473. <<http://naalakkersuisut.gl/~media/Nanoq/Files/Attached%20Files/Engelske-tekster/Act%20on%20Greenland.pdf>>

<sup>24</sup> Greenland Assembly Act No. 29 of 18 December 2003 on Nature Protection.

<sup>25</sup> Citation not available at time of writing. For the content of the act see <<http://naalakkersuisut.gl/en/Naalakkersuisut/Departments/Natur-Miljoe/Miljoe-og-beredskabsafd/Havmiljoe>>

In conclusion, it has to be mentioned that there are several global examples of bilateral or multilateral agreements that have abrogated similar travel restrictions in the past. For instance, the Jay Treaty between the US and the UK,<sup>26</sup> which was signed in 1794, includes an objective that addresses similar cultural connections. Another example is the Torres Strait Treaty between Australia and Papua New Guinea, which addresses the freedom of travel for indigenous peoples in a specially designed area.<sup>27</sup> Finally, the example of free transportation in the European Union within the Schengen zone is also an exemption from the general restrictions of free travelling.<sup>28</sup>

## 5. CONCLUSIONS

To sum up, the regulatory solutions suggested by the Pikialasorsuaq Commission are certainly remarkable and promote the indigenous peoples' engagement to the broadest extent. However, so far, the states have not imposed any relevant measures based on the strategic plan of the Pikialasorsuaq Commission, which will continue to be funded until 2019, raising doubts about the existence of a future advocate for the Inuit of the polynya. Up to that date, there are various ways and legal remedies through which the Pikialasorsuaq Commission can continue urging the two states to seek legal protection and rights for the Inuit as a response to the latest exclusionary transportation measures and the on-going development of marine industries in the Baffin Bay. The Commission's claims for environmental protection and the designation of a Marine Protected Area in Pikialasorsuaq are essential and based on a sufficient legal background. However, as it was illustrated above, the revocation of the ban of free-shipping in the polynya among the indigenous residents of the two sides is more difficult to succeed, since Canada's participation in the international instruments that provide the corresponding legal basis is deficient. Therefore, only a court decision could potentially grant customary rights to the Inuit of Nunavut for free cross-border use of the polynya. On the other hand, the Commission carries a more tangible legal armoury concerning the international and domestic obligations of Greenland.

It is safe to say that for the coming decades the presence of commercial and cruise ships will undoubtedly continue in the region until the states decide to regulate these activities in depth. Climate change will further deplete the existing ice-bridge while the fauna revolving around the Pikialasorsuaq shall not cease to be exposed to dangers. Together with these trends, new species migrating from warmer regions would soon reach the Arctic, influencing the current nexus of biodiversity in the polynya. Urgent actions, security measures and environmental policies are indispensable in order to avoid further disturbances in the region, until international law provides the basis for interpreting and implementing their dynamics. The FPIC processes, as crucial mechanisms for the expression of the indigenous right to self-determination, are necessary for the protection of Pikialasorsuaq, leading gradually to the establishment of long-term, sustainable structures

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<sup>26</sup> Treaty of Amity, Commerce, and Navigation, between His Britannick Majesty; and the United States of America, by Their President, with the advice and consent of Their Senate, 19 November 1794 (entered into force 29 February 1796)

<sup>27</sup> Australian Treaty Series 1985 No 4, Torres Strait Treaty, signed in 1978 – Fact Sheet 258.

<sup>28</sup> European Union, Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic, on the Gradual Abolition of Checks at their Common Borders ("Schengen Implementation Agreement"), 19 June 1990.



for participation at the local, regional, national and international level, where it is the Inuit and not the majority society that defines both the indigenous matters in hand and measures required to deal with them.

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## **POTENCIJALI ZA ZAŠTITU ARKTIČKE POLINJE PIKIALASORSUAQ U SENCI SAVREMENE POMORSKE PRIVREDE**

*Polinije (rus. polynya) su prirodno formirane otvorene vodene površine u ledom okovanom Arktičkom okeanu koje, pod uticajem toplih morskih struja, tokom cele godine ostaju nezaleđene. Zahvaljujući bogatom biodiverzitetu, ove morske oaze na Arktiku su utočista i glavni izvor hrane raznim vrstama morskih sisara, riba i ptica naročito u zimskom periodu.*

*Pikialasorsuak (Pikialasorsuaq) je najveća polinija u Severnim vodama Arktičkog okeana, koja se nalazi između Grenlanda i Kanade, u severnom delu zaliva Bafin. Autohtone inuitske zajednice sa obe strane zaliva se od davnina oslanjaju na prirodna bogatstva ove polinije i porodičnu trgovinu na malo, koja počiva na slobodnoj razmeni dobara i slobodnom prekograničnom prevozu robe. Međutim, razvoj savremene pomorske privrede doneo je ozbiljne izazove, kako u pogledu zabrane slobodnog prekograničnog prevoza tako i u pogledu realne ugroženosti životne sredine, koja je delovanjem klimatskih promena izložena još većoj opasnosti. Učešće autohtonog stanovništva i princip dobrovoljne, prethodne i informisane saglasnosti stanovništva ključni su za očuvanje ove polinije. U skladu s tim, ovaj članak daje prikaz trenutne situacije u poliniji Pikialasorsuak, pregled normativnih okvira na nacionalnom i međunarodnom nivou u pogledu zaštite ove oblasti, i ističe nedostatke postojećeg pravnog okvira.*

*Ključne reči: Pikialasorsuak, Inuiti, savremena pomorska privreda, prekogranični prevoz, Zaštićena morska područja; dobrovoljna, prethodna i informisana saglasnost stanovništva*