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I Constitutional Foundations

The Constitution of Finland (731/1999), adopted in its current base form in 2000, includes a **basic right to the environment** under its Section 20. It provides the following:

Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone.

The public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.

Access to justice is regulated under Section 21, titled “Protection under the law”. The section guarantees everyone the right to have his or her case dealt with appropriately and without delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.

While **constitutional supervision** is practiced first hand in advance through assessment of legislative proposals by the Constitutional Law Committee of the Parliament, constitutional rights can also be invoked before the courts. If, in a matter being tried by a court, the application of an Act would be in evident conflict with the Constitution, the court shall give primacy to the provision in the Constitution. The right to environment has been applied several times in the case law of the Supreme Administrative Court, often in the interpretation of provisions on right to appeal. The applicability of **international agreements**, on the other hand, is reliant on their implementation in national law. In published case law, the Aarhus Convention has been applied once, in order to redress an inconsistency in the right of appeal for non-governmental organisations (NGOs) through broadening interpretation of the applicable national law.

II Judiciary

The Finnish court system is divided into **two independent lines of courts**: general courts and administrative courts.

The general court line has three levels:

district courts

courts of appeal

the Supreme Court

The administrative court line has two levels:

regional administrative courts

the Supreme Administrative Court

The general courts handle civil and criminal cases, while the administrative courts deal primarily with appeals against authority decisions. In addition, there are a number of specialized courts (e.g. the market court, the insurance court and the labour court) as well as boards of appeal operating under one (or both) lines.

As environmental matters are generally decided in first instance by public authorities, **environmental disputes typically end up with the administrative courts**.

There are some notable exceptions, namely real property and easement cases, in which appeals are lodged with specialized land courts that operate in annex to a number of the district courts. In addition, environmental tort and criminal cases are dealt with by the general courts.

Within the administrative court system, a **major part of all environmental cases have been centralized** to one of the regional administrative courts, i.e. the Vaasa administrative court. This court deals with all cases under the Environmental Protection Act (EPA, 86/2000) and the Water Act (587/2011), which makes up for roughly one fourth of environmental cases in administrative courts nationwide. The remaining environmental cases, such as ones dealing with nature protection, soil extraction and quarrying as well as land use planning and building, are handled by the **regionally competent administrative court**. In addition, the rural business appeals board (maaseutuelinkeinojen valituslautakunta, landsbygdsnäringsnämnd) handles some appeal cases concerning agriculture, forestry, hunting and fishery. Overall, the geographical and substantial jurisdictions of the competent courts in environmental matters are quite clearly defined by law, and although borderline cases may turn up, the possibility of forum shopping is non-existent.

Generally, authority decisions can be challenged by means of lodging an **administrative appeal** with the regional administrative court, as prescribed by the Administrative Judicial Procedure Act (AJPA, 586/1996). As an exception to this, decisions taken by municipal authorities under the competence provided by their self-government are challenged instead by means of **municipal appeal**, which constitutes the second basic category of appeals. While environmental decisions are typically subject to administrative appeal, there are some notable exceptions (e.g. municipal land use plans, building ordinances and local environmental regulations as well as soil extraction and quarrying permits), which are reviewed based on municipal appeal.

The law providing competence for the decision-making prescribes which type of appeal the decision is subject to. The main **difference between the two appeals procedures** is that municipal appeal is available to all members of a municipality, while the right to administrative appeal is typically restricted to parties who are more directly affected by the decision. On the other hand, the administrative court's powers of review are wider on administrative appeal than municipal appeal. The general appeal period is thirty days from notice of the decision. Administrative court proceedings are predominantly carried out in writing, through written statements from the authorities, appellants and other parties to the proceedings. Legal counsel is not mandatory, and the AJPA does not set many formal requirements as to the appeal or other stages of the proceedings.

The administrative court's decision can be further appealed to the **Supreme Administrative Court**. Depending on the matter at hand, as well as the outcome in administrative court, a leave to appeal may be required (in environmental matters, e.g. land use and building permits, detail plan decisions), but the general rule is that the Supreme Administrative Court decides all cases brought before it. Decisions of ministries and the Government (expropriation permits, for example) are generally challenged by appeal directly with the Supreme Administrative Court. In addition to ordinary appeals, there are a number of particular forms of remedy, such as administrative litigation (hallintoriita, förvaltningsvistemål) and material tax appeal (perustevalitus, grundbesvär), which are not especially relevant with regard to environmental justice. Further, the AJPA provides for three means of extraordinary appeal:

procedural complaint (kantelu, klagan), which can be lodged with the regional administrative court within an appeal period of six months

restoration of expired time (menetetyn määräajan palauttaminen, återställande av försutten fatalietetid), lodged with the Supreme Administrative Court

annulment (purku, återbrytande), lodged with the Supreme Administrative Court.

The **administrative appeal is a reformatory remedy**, which means the court is competent to amend the challenged decision. In principle, the powers of the court to reconsider the matter at hand are quite extensive, but self-restraint is exercised in this regard. Amendments are usually left for situations where the challenged decision would be found unlawful as such, but overturning and renewal of the administrative procedure can be avoided by a restricted amendment, which thus serves general process economic considerations. In environmental matters, revision of disputed permit conditions comprises a typical use of this reformatory power. The **municipal appeal, on the other hand, is cassatory**, meaning the court can only uphold or overturn the authority decision. However, the law typically provides for exceptions to this rule in environmental matters, allowing the administrative court to make limited amendments also in such cases (e.g. land extraction permit matters).

The AJPA requires that the appellant states the grounds for challenging a decision, but it is for the administrative court to discern the law according to which legality of the decision is reviewed. When considering administrative appeals, the **administrative court's responsibilities** are quite broad and the review is not restricted explicitly to what has been alleged in the appeal. In dealing with municipal appeals, on the other hand, the court is strictly bound to the grounds of illegality invoked by the appellant. In the municipal appeal process, these grounds of appeal must also be stated within the appeal period, while the administrative appeals procedure provides more leeway for complementing one's appeal during the proceedings.

With regard to **review of facts**, the AJPA provides that the court shall on its own initiative obtain evidence so far as is the impartiality and fairness of the procedure and the nature of the case so require. The court can, for example, request specific evidence from the parties, acquire expert statements or arrange an oral hearing or viewing to establish the facts of the case.

General court proceedings follow different and to some extent more detailed procedural regulations, principally the Code of Judicial Procedure (CJP, 4/1734, with numerous amendments) and the Criminal Procedure Act (CPA, 689/1997). Proceedings are predominantly oral, and the parties' responsibilities in invoking circumstances and establishing the facts are generally more pronounced than in administrative court proceedings. The decision of a district court can be appealed to a court of appeal, but full consideration of the appeal requires a qualified interest (sufficient civil claim or penal sentence) or, alternatively, grant of a separate leave for continued proceedings. Challenging the decision of a court of appeal requires leave to appeal from the Supreme Court, which is primarily an instance for judicial precedents (in contrast to the Supreme Administrative Court). Under certain conditions, it is possible to apply for leave to appeal against a district court decision directly with the Supreme Court, and certain extraordinary remedies are also available on the general court side.

In addition to the above, also the **autonomous Åland Islands** must be mentioned. This self-governing region is competent to pass its own legislation in many areas of law, including environmental matters, as provided by the Act on the Autonomy of Åland (1144/1991). Other areas, such as the court system and proceedings, remain governed primarily by state law, which means the above-mentioned state acts are applied to judicial proceedings. The Islands have a general district court as well as an administrative court, which operate within the respective national hierarchies. However, decisions taken by the regional government are appealed directly to the Supreme Administrative Court. In addition, the centralization of judicial review of environmental matters described above does not apply to environmental matters on Åland, i.e. the Administrative Court of Åland deals with such matters on the Islands.

III Access to Information Cases

Access to environmental information is governed generally by the **Act on the Openness of Government Activities** (AOGA, 621/1999), according to which official documents are in the public domain unless specifically otherwise provided for.

In cases where an official or employee with an authority **refuses a request for information**:

He or she is required to state the grounds for refusal as well as provide instructions regarding how to proceed in the matter.

After such refusal, the request for access can be renewed with the authority itself, in order to have it reviewed by an administrative decision.

The law requires that a request for access be considered and access granted without delay, and in any event within two weeks of the request (four weeks for exceptionally demanding requests).

If the authority's final decision is negative, it can then be **challenged by means of administrative appeal** to the regional administrative court, as described under the previous section. Appeals against the decisions of certain authorities are lodged directly with the Supreme Administrative Court. Like any authority decision, such a decision of refusal is required by the AJPA to include appeal instructions, which indicate where an appeal can be lodged and within what period of time, as well as other requirements for challenging the decision.

The administrative court generally has access to the complete administrative case file of the challenged decision, together with the option of requesting further information from the authority. Thus the information, the disclosure of which is disputed, is ordinarily acquired by the court in order to review the validity of the grounds on which access has been refused. In its review of the authority's decision, the court, should it come to a different conclusion, is competent to warrant the appellant access to the requested document.

The law does not currently provide fully effective remedies in cases where the authority holding the requested information **delays in complying with requests** for access; although such legislation is under consideration. At present, access to court requires a decision of refusal that can be challenged, as the administrative courts are not competent to intervene in the mere passivity of an authority (see further section XIII). However, it is possible to lodge an administrative complaint with an overseeing authority or ombudsman, but such overseers normally lack the power to compel the passive authority in individual matters.

With regard to the **regional administration of the Åland Islands**, access to information is regulated by regional legislation (Landskapslagen om allmänna handlingars offentlighet, 1977:72). Despite less detailed provisions with regard to requesting documents, the relevant procedure under the regional law

corresponds to what has been described above. The same is true for challenging a refusal through appeal; with the exception that court review is in certain cases preceded by a request for administrative review with the regional government. As has been noted above, appeals against decisions of the regional government are lodged directly with the Supreme Administrative Court.

IV Access to Justice in Public Participation

General administrative procedure

Procedure in administrative matters is generally governed by the **Administrative Procedure Act** (APA, 434/2003), which contains provisions on the fundamental principles of good administration and on the procedure applicable in administrative matters. The procedure under the APA is observed in environmental matters unless provided for otherwise in the applicable substantive law. Even then, the provisions as well as principles of the APA are applied complementarily. In other words, the APA lays down a universal procedure, which is then tailored on specific points by various other laws. Many types of environmental matters adhere to such tailored procedures. Environmental permit granting under the EPA and land use planning under the Land Use and Building Act (LUBA, 132/1999) are examples of procedures that have been extensively regulated in deviation from the APA. In addition to its own regional substance legislation regarding the environment, the administration of the **Åland Islands abides by a regional act** regulating administrative procedure (Förvaltningslag för landskapet Åland, 2008:9). General administrative procedure under the regional law closely corresponds with procedure under the state legislation.

Administrative procedure does not include a general stage of **internal review**, i.e. reconsideration by the decision-maker or a superior administrative body. However, substantive law can prescribe such administrative review procedures. If a review procedure is provided for, it cannot be bypassed by directly lodging an appeal with the court. As an example, the LUBA stipulates that court proceedings are preceded by a request for rectification with the municipal supervision authority in cases where a matter has been decided by a subordinate official under delegated competence. The time limit for lodging a request for administrative review is typically shorter than the appeal procedure, and the authority may be required to give priority to processing the request as well. Ordinarily only those who have submitted a request for administrative review are entitled to challenge the review decision through appeal, unless the original decision is changed as result of the request.

The **administrative court** is competent to review both the procedural and substantive legality of administrative decisions, and, with the exception of municipal appeals (see section II, above), is not strictly bound to allegations specifically presented in the appeal. When it is called for, the court will assess the validity of material and technical findings, on which a decision has been based. The court is free to question the expertise of the authority and to reassess independently the facts of the case or their implications in the matter at hand. As described earlier, the court's means of fulfilling its obligations of review include for example arranging a viewing in order to inspect a relevant site or hearing expert authorities from outside the matter at hand.

Land use plans

Decisions to approve **municipal land use plans** (local master or detail plans) under the LUBA can be challenged by means of municipal appeal with the regional administrative court. In addition to directly concerned parties, the right of appeal belongs to all members of the municipality. This includes registered associations domiciled in the municipality. In addition, the right of appeal belongs to any other registered local or regional organization when the matter concerns its sphere of activity.

By contrast, appeals against **regional plans**, which are ratified by the Ministry of Environment, are lodged directly with the Supreme Administrative Court. In addition to the above, also nationally active organizations are entitled to appeal against decisions to approve regional plans on certain grounds, specified in the act. Since planning decisions are reviewed based on municipal appeal, the court's review is strictly confined to the grounds of illegality stated by the appellant. As an exception to the cassatory nature of the municipal appeal, the LUBA includes provisions that enable the court to make slight amendments to the plan under specified conditions. In other regards, the proceedings follow the general procedure under the AJPA.

The **Åland Islands** have their own regional act governing plans and construction (Plan- och bygglag för landskapet Åland, 2008:102). The regional law provides two levels of plans: local master and detail plans. Similar to their counterparts under the LUBA, such plans are approved by the municipality and challenged by means of municipal appeal to the administrative court of Åland. In addition to directly concerned parties and members of the municipality, the right of appeal belongs to organizations registered in the region when the matter concerns its sphere of activity.

Environmental permits

Competence to grant **permits under the EPA** for activities that may lead to environmental pollution (environmental permits) is divided between four of the Regional State Administrative Agencies (RSA-agency; AVI, RFV) and municipal environmental authorities. The permit regime includes activities from animal shelters to major industrial installations (IPPC), and permits can also be integrated with ones under the Water Act. Permit decisions can be challenged through administrative appeal with the **Vaasa Administrative Court**, which has a nationwide jurisdiction in appeals matters under the EPA. An exception from this is the autonomous **Åland Islands**, which have their own legislation on environmental protection. Permit decisions under this regional legislation are taken by the Environmental and health protection authority of Åland (Ålands miljö- och hälsoskyddsmyndighet) and reviewed on appeal by the Administrative Court of Åland.

In addition to regulating the administrative permit procedure, the EPA also includes **special provisions regarding the court proceedings**. The right of appeal is somewhat wider than under the standard provisions of the AJPA, belonging to persons whose rights or interests may be affected by the matter. The right of appeal is also provided for registered associations or foundations whose purpose is to promote environmental, health or nature protection or general amenity of the environment and whose area of activity is subjected to the environmental impact in question. In addition, certain authorities are entitled to appeal decisions under the EPA. Participation during the administrative permit procedure is not a prerequisite for standing in court, but in addition to other requirements on delivery and publication of permit decisions, the permit authority is required to give separate notice of its decision to anyone who has lodged an objection during the procedure or requested such notification.

The initial stages of the court proceedings of EPA appeal cases differ from the general appeals procedure:

Appeals are submitted to the authority that issued the permit decision, instead of the court.

That authority then gives public notice of the lodged appeals and separately notifies concerned parties and authorities, in order to allow responses to be submitted.

Only then is the complete case file submitted to the Vaasa Administrative Court.

Another feature particular to court proceedings in EPA cases is the provided option for the court or part of its assembly to conduct a site inspection, i.e. a lighter form a viewing.

The **court's competence** and responsibilities of review are the same as in other administrative appeals matters. Both the procedural and substantial legality of the challenged decision are liable to review, as well as underlying material and technical findings. However, in order to ensure the court sufficient expertise, a number of **specialist judges**, who are trained in technical or natural science instead of law, are appointed as full members of the Vaasa Administrative Court. When deciding matters under the EPA or Water Act, two jurist members of the court are joined by one of these specialist members, instead of the generally competent panel of three legally trained judges. As neither the national EPA nor the linked court specialization applies to the Åland Islands, corresponding permit appeals are handled in accordance to ordinary administrative court procedure in the Administrative Court of Åland.

The decision of the Vaasa Administrative Court can be further appealed to the **Supreme Administrative Court** in ordinary fashion. Justices trained in technical and natural science are employed by the supreme instance as well, on the basis of part-time appointment. These specialist justices also partake in deciding appeals against decisions of the Administrative Court of Åland in environmental protection and water cases. It bears mentioning that corresponding specialized part-time members of the court also partake in deciding certain other types of appeals matters, such as ones dealing with child protection, involuntary treatment and patents.

The general rule in all administrative judicial proceedings, which applies also to environmental permit matters, is that administrative decisions can be executed only after means of and time limits for challenging the decision through appeal have been exhausted. Thus, **appealing against an environmental permit decision ordinarily suspends commencement** of the authorized activity until the appeals court has ruled on the matter. As an exception from this suspensive effect, the administrative authority can under certain conditions issue a provisional order for enforcement of the permit despite appeals, either together with the permit decision or shortly thereafter through a separate decision. The court is competent to review such an order, and to suspend enforcement despite it. This system of injunctive relief is described in more detail below (section X).

EIA procedure

Environmental impact assessment (EIA) procedure is regulated by the **Act on Environmental Impact Assessment Procedure** (EIA Act, 468/1994) together with a complementary governmental decree (713/2006). The decree includes a list of activities (thresholds), for which EIA is always required. In addition, a state authority is competent to decide on whether or not an EIA is required in case of other activities (screening). In most cases, this state authority is the regional Centre for economic development, transport and the environment (ETE-centre; ELY-keskus, NTM-central).

In cases where a **screening decision is positive**, i.e. an assessment procedure is required:

The decision can be challenged by administrative appeal with the regional administrative court by the developer/operator

The review proceedings follow ordinary administrative appeals procedure under the AJPA, as described in prior contexts.

In cases where a **screening decision is negative**:

The decision can only be challenged at a later stage, in the context of a final permit or other consent decision in the matter.

The procedural conditions, including right of appeal, are determined by how this consent decision can be challenged

As an example, a decision not to require EIA for a land use plan can be challenged when and if the plan is approved, by means of municipal appeal to the regional administrative court, while a similar negative decision prior to an environmental permit is challenged together with the permit, by means of administrative appeal to the Vaasa Administrative Court.

Both the substantial and procedural legality of the screening decision can be reviewed at this point, and the court's powers of review accord with the review of the consent decision. Provisional statements issued by the coordinating authority during the scoping or concluding stages of the assessment procedure are not separately appealable. Instead, the EIA Act provides that **essential deficiencies in the assessment**, which again covers both substantial and procedural shortcomings, can be invoked against the final consent decision. When called for, the court can ascertain the validity of disputed findings of the EIA. Participation in or during the EIA procedure is not a formal prerequisite for challenging either the consent decision or the EIA preceding it. The fact that an assessment has been omitted altogether can be invoked in a similar fashion, which, in accordance with established case law, means the administrative court is competent to review the need for an EIA whether a screening decision has been issued or not, providing that it has established the necessary facts to resolve this question.

Enforceability and injunctive relief are governed by the procedure observed for the consent decision. In addition, the EIA Act provides that, should the implementation of a project not require a permit or other consent decision, and implementation is begun without a necessary EIA, the competent regional state authority has the power to order such implementation to be halted until EIA has been carried out.

EIA procedure on the Åland Islands is governed by a regional act (Landskapslag om miljökonskvensbedömning, 2006:82) and decree (Landskapsförordning om miljökonskvensbedömning, 2006:86). In contrast to the state procedure, there is no separate authority responsible for screening, i.e. the administrative authority competent in the main permit or consent matter decides whether there is need for an EIA when it is not required directly by law. The means of challenging EIA decision-making and invoking faulty EIA correspond with what has been described above. Appeals are lodged with either the Administrative Court of Åland or the Supreme Administrative Court, depending on the administrative authority whose consent decision is being challenged.

V Access to Justice against Acts or Omissions

Ordinarily, the most easily available means for an individual to seek enforcement of environmental responsibilities against private entities is to approach the competent municipal or state authority with a request for enforcement measures. **Private enforcement of public law** is not possible, i.e. private individuals cannot take other private parties to court for breach of environmental responsibilities toward the public.

Enforcement of private environmental liabilities is possible. Compensation for damages resulting from environmental nuisance, such as property damage, health injuries or financial loss, can be sought in general court. There is a specific act regulating this type of private damages, the Act on compensation for environmental damage (737/1994), which is complemented by the general Tort Liability Act (412/1974). The first-mentioned act also covers costs of measures to prevent environmental damage threatening the person undertaking the measures, as well as measures to reinstate damaged environment. This means it is possible to seek court judgment regarding costs to restore one's property directly against the liable party, without requesting an order for clean-up or such from the public authorities. With rare exceptions, private individuals cannot otherwise pursue compensation for damage to public interests toward the environment. Certain activities and situations, such as nuisance due to land extraction or permit-authorized water pollution, are subject to specifically regulated compensation procedures, which bypass the general liability legislation. Injunctive orders cannot ordinarily be sought against operators directly in court; the competent supervising administrative authority must be approached for such enforcement.

Basically the same options are available with regard to **claims against public authorities**: In order to acquire a court ruling obliging a public authority to take action, a first instance decision from the authority itself is generally required. Only upon review of this decision, the administrative court is competent to find enforcement measures warranted. What has been mentioned above about remedy against passivity on the part of the authority holds true here as well (see further section XIII). Complaints to overseeing state authorities will be described in more detail below (section VI). On the other hand, compensation for damages caused by exercise of public authority can, under certain conditions, be claimed directly in general court on the basis of the Tort Liability Act. Naturally, if claims are directed against the state or municipality in capacity of operator, for example, the same liability procedures as for private operators apply.

With regard to **enforcement through a request to the competent supervising authority**, the correct authority to approach is generally identified in the applicable substance law or in the case of municipal authorities, in municipal regulations issued on the basis of this law. Hence the EPA, for example, identifies the competent state supervising authority as well as requires the municipality to assign one of its committees as local supervising authority. On state level, the ETE-center is typically the competent supervising authority in environmental matters.

The substance law defines the supervising **authority's powers of enforcement**, i.e. the authority's competence to use administrative compulsion against someone breaching the provisions of the law. Depending on the case, this may for example entail orders to comply with a permit, prevent or remedy

environmental damage or revocation of a permit. In principle, anyone can approach the authority with a request for such enforcement measures from the supervising authority, although some environmental acts include specific provisions of entitlement. Among other forms of administrative compulsion, the procedure described here applies substantially to enforcement of obligations falling under the regime of the Environmental Liability Directive, transposed in part by the Act on the Remediation of Certain Environmental Damages (383/2009).

Regardless of whether a public liability or other matter of supervision or enforcement has been initiated through a private request or on the authority's own initiative, the **final decision in the matter can usually be challenged through appeal** in regular fashion. This means a decision compelling an operator to remedy a situation that breaches its permit, for example, can be challenged by the operator in question, while a decision not to require measures from the operator can be challenged by an interested third party (e.g. an NGO that requested enforcement). As usual, the right of appeal is regulated by the applicable substance law. Typically, the right to appeal decisions regarding enforcement is more restricted than in corresponding permit authorization matters, but this is by no means always the case. In most situations, at least neighbors and NGOs are entitled to appeal. Something worth highlighting is that the fact that the supervising authority has decided on a request for enforcement, does not automatically entitle the person who initiated the matter, i.e. made the request, to challenge the decision in court.

With regard to the **Åland Islands**, the state tort law applies in the autonomous region as well. Likewise, the principles for requesting authority enforcement correspond with what has been described above. The primary supervising authorities on the Islands are the Environmental and health protection authority of Åland, the regional government and municipal building supervision authorities.

VI Other Means of Access to Justice

As has been mentioned above, in addition to directly challenging administrative decisions, also the option of making an **administrative complaint** is available. Complaints can be filed with municipal or state supervisory authorities, when relevant, or the two supreme overseers.

The Parliamentary Ombudsman and the Chancellor of Justice with the Government are the two **supreme overseers** of public authorities' and officials' compliance with law and good administrative practice, with an emphasis on fundamental and human rights. With minor distinctions, the jurisdictions of the supreme overseers are largely the same, and extend also to the authorities of the autonomous Åland Islands. The overseers deliver their opinion to complaints lodged with them, and are also competent to issue official reprimands as well as initiate criminal prosecution for malfeasance. The overseers can also initiate investigations on their own initiative. It bears mentioning, that the supreme overseers of legality are competent to investigate the actions of courts and court officials, which naturally entails careful consideration with respect to the separation of powers and judicial independence. The overseers are not competent to compel authorities or officials in individual matters or to overturn or amend decisions or to lodge appeals of their own.

There are also a number of **specialized overseers** with a nationwide jurisdiction, such as the Data Protection Ombudsman, the Consumer Ombudsman and the Ombudsman for Minorities, for example, but no such office is designated for especially environmental matters. Instead, administrative complaints can be lodged with local or regional administrative authorities with a supervisory function, such as a superior municipal authority, the above-mentioned ETE-centre or the RSA-agency.

In addition, supervising or other authorities are often entitled to challenge environmental decision-making in the same manner as private parties. Typically, such **authority right of appeal** in environmental matters is prescribed to the ETE-centre. Notifying such an authority regarding a disputable decision can further the utilization of the authority's right to challenge it, but there are no means to effectively force an authority to employ its right of appeal.

In the context of criminal proceedings, the **public prosecutor** is, upon request, obligated to pursue a private claim for damages on behalf of an injured party. This assistance is provided free of charge, and the prosecutor can refuse the request only if the claim is obviously ill-founded or its presentation would significantly impair the prosecution of the case. Injured parties also have a secondary right of prosecution. In other words, in a criminal case where the prosecutor has decided not to prosecute, an injured party is entitled to press criminal charges for the offence and have the case decided by the court. Nationally, there are a number of prosecutors specialized in environmental matters, who can be assigned, by special order, to cases outside their ordinary jurisdiction.

VII Legal Standing

Legal Standing	Administrative Procedure	Judicial Procedure
Individuals	Obligation to hear parties during the administrative procedure is ordinarily regulated by the applicable substance law (otherwise APA); others can participate through public consultation.	Right of appeal for directly affected parties as well as for others when prescribed by the applicable substance law; all members of the municipality, in matters subject to municipal appeal.
NGOs	With a few exceptions, no specific provisions on standing during the administrative procedure, i.e. NGOs can generally participate through public consultation.	Right of appeal is provided for by substance law in most significant environmental matters, complemented to a certain extent by case law as well. The NGO must be registered, and certain requirements with regard to field of operation (geographic/registration purpose) are usually prescribed.
Other legal entities	Other private legal entities usually have participatory rights according to the same rules as individuals.	Other private legal entities usually have right of appeal according to the same rules individuals.
Ad hoc groups	Participation through public consultation; otherwise in the capacity of the comprised individuals.	No, i.e. only in the capacity of the comprised individuals.
foreign NGOs	Participatory rights in cross-border EIA procedure; frontier treaties and other agreements may provide for rights in other procedures.	Right of appeal in accordance with ordinary provisions, i.e. typically based on field of operation, taking into account possible obligations arising from frontier or other treaties.

<p>Any other http://158.167.220.151:8180/ejusticeportal/beta/300/EL/access_to_justice_in_environmental_matters?FINLAND&action=printContentPdfMS&clang=en&member=1&cdbPdf=1#_ftn1 [1]</p>	<p>The applicable substance law may provide that state authorities, municipalities and/or municipal authorities have to be consulted prior to decision-making.</p>	<p>State authorities, municipalities as well as municipal authorities may have right of appeal under applicable substance law or based on AJPA.</p>
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The observations presented in the table above amount to a rough generalisation. Provisions on participatory rights and standing both during administrative procedure and appeal proceedings vary according to the applicable substance and/or procedural law.

Typically, the substantive law prescribes who is to be specifically notified and/or heard during the **administrative procedure** as well as whether or not a wider public consultation of some sort is arranged prior to decision-making. If the procedure is not specifically regulated, the general provisions of the APA are applied. The APA prescribes standing as party to a person in a matter where his or her rights, interests or obligations are affected by the matter, and requires that such a party be heard before the matter is decided. In addition, the APA requires that the authority reserve also others an opportunity to participate in matters that may have a significant effect on the living or working conditions of other than the parties. In most cases, environmental substance law provides for wider standing and/or consultation. In environmental permit matters, for example, the EPA prescribes standing (right to be specifically heard) for anyone, whose rights, interests or obligations *may* be affected by the matter, and provides others the opportunity to voice their opinion during a general public consultation (in writing). NGOs are not ordinarily prescribed standing during administrative procedures, which means they are generally able to participate during public consultations, when such are provided for as part of the procedure.

As has been described, the AJPA provides for a general **right of appeal against administrative decisions**. This right belongs to any person whom the decision is addressed to or whose right, obligation or interest is directly affected by the decision. However, substantive environmental legislation often includes superseding provisions, which typically prescribe a wider right of appeal. Thus, the EPA, for example, provides a general right of appeal for all persons whose rights or interests *may* be affected by the matter, while the LUBA lays down a more detailed framework for right of appeal against different types of building and land use permits under its regime. In addition, decisions that are subject to municipal appeal, such as land use planning decisions, can be challenged by any member of the municipality, which includes any individual, corporation etc. domiciled in the municipality as well as anyone who owns or occupies property in the municipality.

Right of appeal is provided for NGOs against most, but not all types of decisions. In addition, case law has provided for further right of appeal also in some matters, where it has not been prescribed expressly by law. An NGO must be registered in order to be entitled to appeal. In addition, the applicable substantive law usually includes requirements with regard to the organization's geographic and/or substantial field of operation. Consequently, the EPA, for example, provides right of appeal to registered associations or foundations whose purpose is to promote environmental, health or nature protection or the general amenity of the environment and whose area of activity is subjected to the environmental impact in question. In cases where the connection between the NGO's purpose and the challenged decision may not be self-evident, such as various residents' or village associations, for example, the by-laws of the organization are usually consulted to resolve right of appeal. There are no requirements pertaining to duration of activity or number of members.

Once right of appeal is established, however, appellants, be they NGOs or individuals, are generally not confined to claiming impairments of their own rights or interests, but are instead **free to challenge the decision on grounds of public interests** as well. A concerned private party can therefore challenge a mining permit on the basis that it compromises the habitat of a protected species, for example.

As described, the EPA provides for a public notification/consultation also during judicial appeal proceedings (see section IV). Other court proceedings in environmental matters lack such a stage and, consequently, only provide for hearing of directly concerned parties. Opportunities to participation for NGOs and other members of the public, who have not challenged the decision in question, are therefore quite limited. There is, however, some case law linking standing in court of such non-appellant individuals/entities to their participation during the administrative procedure.

Apart from municipal appeal, there is no *actio popularis* with regard to access to court. Note the possibility to request action from a supervising authority, however (see section V). Standing in IPPC matters follows the EPA, while standing in EIA matters adheres either to AJPA or the procedure of the final consent matters (see section IV).

Participation in the EIA procedure of projects likely to have significant transboundary impact is described below (section XVI). In other procedures standing and participation of **individuals domiciled in other countries as well as foreign NGOs** are principally regulated by frontier treaties and other bi- or multilateral agreements, and the legislation transposing them. Especially the Convention on the Protection of the Environment between Denmark, Finland, Norway and Sweden (Nordic Environmental Protection Treaty, SopS 75/1976) must be mentioned. Typically, standing corresponds with the standing of domestic participants, which is particularly true between citizens of the above-mentioned Nordic countries. Some agreements also contain similar provisions on equal treatment with regard to right of appeal. Either way, in case law pertaining to the Water Act, for example, foreign NGOs have been granted right of appeal according to the same criteria as domestic NGOs, i.e. based on field of operation. Thus appeals lodged by Estonian NGOs against a permit for the Nord Stream pipeline were tried alongside domestic appeals, for instance.

As part of the administration of justice, which falls under state competence, right of appeal is regulated by state legislation also on the **Åland Islands**. Thus right of appeal in environmental matters is normally resolved according to the state law corresponding to the applicable regional law.

State and municipal authorities as well as municipalities themselves may have procedural rights in administrative matters they are not competent to decide. In environmental procedures, it is quite typical that the competent administrative authority is required to consult other public entities before making its decision. Such consultation obligation may be either unconditional or dependent on the circumstances of the matter. Likewise, substantive environmental law often provides certain authorities the right to challenge the decisions of the competent authority. If such **authority right of appeal** is not provided for expressly, the authority may also attempt to claim it based on a general provision in the AJPA, according to which it is granted if it is essential to protect a public interest supervised by the authority. Typically, the right to appeal is prescribed to the regional ETE-centre in matters decided by municipal authorities or other state authorities. Municipal environmental or health protection authorities, regional or national museum authorities as well as municipalities themselves are examples of other authorities who may be entitled to appeal. With the exception of the special consultation procedure in appeal proceedings under the EPA, such "extra" authorities do not have standing in court in another capacity than as appellant.

The supreme overseers of legality do not have standing or right of appeal in administrative matters. Likewise, other ombudsmen ordinarily lack standing in environmental matters. With the above-mentioned exception concerning civil law claims for damages, prosecutors' standing is limited to criminal proceedings; they do not have standing in administrative environmental matters. As noted earlier (see section V), civil claims based on public interest cannot ordinarily be brought before the general courts. Likewise, the secondary right of prosecution only belongs to an injured party.

There is no system of class action in place in environmental matters.

VIII Legal Representation

Simple and inexpensive access to court is one of the cornerstones of administrative judicial proceedings, and correspondingly, **legal counsel is not mandatory** in any environmental administrative court proceedings. Neither is it in practice very common for appealing individuals or NGOs to employ counsel. For

corporations, in the capacity of appellant or otherwise concerned party, it is more usual. The AJPA does not require counsel, when used, to have a law degree or other training, only general suitability is called for.

Counsel is not mandatory in general court proceedings either, but here it is more commonplace. In contrast with the AJPA, the CJP also requires legal qualification of the person acting as counsel or attorney, with the exception of certain types of cases (which includes land court cases).

There is no official certification for environmental lawyers in specific, excepting studies under graduate and postgraduate degrees. Nonetheless, there are lawyers and law firms of various sizes that offer **environmentally specialized legal counsel**. Most of the larger firms offer services in the area of environmental law, although typically in the context of business law. There is no comprehensive register of environmentally specialized law firms or lawyers available. The Finnish Bar Association provides a search engine that allows searching for members and firms according to location and areas of expertise, including fields of environmental law, and which includes offices on the Ålands Islands as well (a link provided at the end of the document). NGOs do not typically advertise legal services.

IX Evidence

When considering appeals, the administrative court usually has access to the complete administrative case file (requesting it from the authority together with a statement is usually the first step to processing an appeal). As has been noted above, the AJPA further imposes a **general obligation to investigate the matter on the court**.

The aim is to establish the objective facts of the matter.

The court fulfills its obligation by requesting evidence it finds necessary or useful in addition to the administrative case file.

Typically, such requests are directed to the authority, while the parties of the case are provided opportunity to provide their own account.

Corresponding with this principle of judicial investigation, there are no explicit general rules regarding **burden of proof** with regard to the parties of appeals proceedings. Certain implicit principles have evolved for different types of matters and situations, sometimes resting also on the case law of the European Court of Justice. However, it must be stressed that issues regarding evidence are usually resolved in first instance by the administrative authority, and, correspondingly, the court's task is typically not so much to consider new evidence, as it is to review evidence previously submitted to the authority as well as the evaluation made by the authority. In addition to requesting documents or opinions from the first instance authority and the parties, the court can **facilitate its review** by other means as well:

The court can consult other authorities or arrange a viewing or oral hearing.

Parties are free to introduce evidence of their own to support their claims and arguments.

The parties can also request for the court to employ any of the means of investigation at its disposal.

The court exercises discretion in determining whether to agree with requests by the parties. The measure of discretion depends on the type of request as well as the matter at hand, and a refusal to investigate further can naturally be invoked against the court's final decision, if it is subject to further appeal.

The administrative court is free to independently **evaluate the evidence and reassess the facts** of the matter. In this regard, the court is not bound by the parties' arguments either; i.e. the parties cannot usually settle on the facts of the case. Naturally, allegations pertaining to evidence will guide the court's attention in the matter. As has been noted above, the court is competent to extend its review to technical or other scientific bases of the challenged decision. Consequently, the court is free to question scientific studies or expert accounts, regardless of who has submitted them or at whose request. It is worth repeating that the **Administrative Court of Vaasa**, with nation-wide competence in appeals matters under the EPA and Water Act, makes use of judges trained in natural and technical science in order to ensure it sufficient expertise for such consideration (see section IV).

No general rule can be provided with regard to the bearing or **consequences of new evidence** introduced during appeal proceedings. A new expert study presented by appellants against a decision to grant a permit could, for example, prove conclusively that the permit decision is unlawful, or the court could find it necessary to return the matter and new evidence to be (re)considered in first instance by the permit authority. With its non-jurist judges, the Administrative Court of Vaasa is naturally better equipped to directly evaluate scientific evidence and make a substantive decision based on new evidence as well, but the court must obviously be careful not to intrude excessively on the first instance discretion of the administration. Accordingly, parties should not wait until the appeals stage before introducing evidence relevant to the case, when they have the opportunity to do so already during the administrative procedure.

The **general courts** have the same principal competence to evaluate evidence, but it bears stressing that in civil disputes the scope of the court's review is in this regard normally restricted exclusively to the claims and evidence presented by the parties. Correspondingly, the parties' role in providing also scientific expertise is considerably more pronounced.

X Injunctive Relief

According to general provisions regarding enforceability under the AJPA, an administrative decision qualifying for appeal **shall not be enforced before (ordinary) means of challenge have been exhausted**, i.e. the decision has gained "legal force" (saanut lainvoiman, vunnit laga kraft). This entails that lodging an appeal against a decision ordinarily automatically delays its execution.

Environmental and other permit regimes often provide for an option to request the **right to commence work/activities** in accordance with the permit decision irrespective challenges against it. As the conditions for granting such right to commence are laid down by the applicable substance law, they may vary, but typically the requirements are:

a justified cause for immediate execution

that execution does not defeat the purpose of appeals against the decision

that the applicant gives an acceptable security

The right to commence can be granted either together with the actual permit or upon separate request submitted within a period of time after the appeal period has expired (typically 14 days). In most cases a request for right to commence is filed with and subsequently decided by the permit authority.

The administrative court with which the permit decision has been challenged is **competent to review** an order to grant right to commence as well, upon application of an appellant or on its own initiative. Standing in interim relief proceedings corresponds with standing in the main proceedings. The court can quash or amend the order or otherwise provide injunctive relief. Typically, any measures that cause or risk irrevocable effects to the environment are suspended. The court's interim decision, whether positive or negative, cannot usually be challenged separately, but the question of interim relief can be raised again if the final decision of the court is challenged with the Supreme Administrative Court. It is, however, possible to file a new application for injunction with the same court, based for example on a change in circumstances. There are also regimes under which the right to commence is decided in first instance by the competent appeals court (e.g. under the Water Act) or where it is possible to the appeals court to issue such an order together with rejecting appeals against the permit decision (e.g. the EPA).

There are also some types of decisions that are **directly enforceable** before they have gained legal force, i.e. despite appeals, unless the appeals court rules otherwise. Examples include decisions to implement protected habitats or to enforce protection under the Nature Conservation Act. In cases where there are no specific provisions with regard to enforceability, the AJPA provides for a general possibility of execution before legal force. Such order of execution is permitted if the decision is of a nature requiring immediate enforcement or if its enforcement cannot be delayed for reason of public interest. Also such order is reviewable by the administrative court.

No security is required from an applicant for injunction, regardless of whether enforceability is based on a granted right to commence or other order of execution.

Another form of interim judicial protection is the power of the court to order an administrative decision to **remain in force** until a new decision has been taken in a situation where the court rules to overturn it. An example of application would be a case where a decision to implement nature protection is overturned and sent back for partial reconsideration or renewal of incorrect procedure.

XI Costs

For administrative judicial proceedings, the following **trial fee** is charged from the appellant, according to appeals stage (as of the beginning of 2011):

Administrative court: 90 euro

Supreme Administrative Court: 226 euro

Certain types of matters are categorically exempt from fee, although these are not typically environmental matters. Likewise, individual **appellants can be exempted** under certain circumstances. An essential ground for exemption is that the appellant is successful in his/her challenge (does not apply to the Supreme Administrative Court). A fee is not charged for appeals that are dismissed without consideration of its merits, e.g. if the appeals are not lodged in time or if there is no right of appeal as well as in case appeals are withdrawn. When an extraordinary appeal is rejected or a leave for appeal is denied by the Supreme Administrative Court, the fee is halved.

There are no additional court fees for any additional stages of the proceedings, e.g. consideration of an application for injunctive relief or arranging an oral hearing or viewing. Likewise, parties will not be incurred costs for other measures of the court in investigating the matter, such as acquiring a statement from an expert authority.

When multiple persons jointly lodge an appeal, only one fee is charged.

With regard to the **parties' own expenses**, the AJPA provides for a main rule, according to which parties bear their own trial expenses unless this would be unreasonable in light of the circumstances. This includes fees for legal counsel as well as possible costs for producing expert statements or other evidence on one's own initiative. If an oral hearing is held, the state is responsible for compensating witnesses and experts called by the court on its own initiative. Parties, on the other hand, are ordinarily obligated to compensate witnesses that they have called.

With regard to the **exemption from bearing one's own expenses**, i.e. the obligation of another party or the authority whose decision has been challenged to bear these costs in full or in part, the circumstances of the case are tried by the court on a case-by-case basis. The AJPA provides that especially the outcome of the case shall be considered. In addition, when assessing the liability of a public authority, special account shall be taken of whether the proceedings have arisen from the error of the authority. In addition, the AJPA holds that private individuals can be held liable for the costs of a public authority only if they have made a manifestly unfounded claim. In practice, it is also exceptional for private parties to be obligated to pay other private parties' expenses. This means questions with regard to costs typically revolve around **whether the authority should be held liable** for the expenses of a successful appellant. However, it is worth repeating that the administrative judicial proceedings typically give rise to relatively low costs, and it is considerably more common that private parties claim no expenses in court than that they do so.

For **general court proceedings**, the following trial fees are charged from the plaintiff/appellant (as of the beginning of 2011), with corresponding or similar exemptions as in administrative court proceeding:

District court (incl. land court): 60–180 euro

Court of appeals: 182 euro (90 euro in criminal matters)

Supreme Court: 226 euro (113 euro in criminal matters)

Unlike in administrative court proceedings, the **loser pays principle** applies to civil disputes in the general courts. This means the party who loses the dispute is assigned responsibility for the reasonable costs of the necessary measures of the opposing party. The CJP also provides for some more specific grounds for exception from or reduction in liability, including frivolous lawsuits, a justifiable reason for pursuing the case that lost or circumstances that would make liability otherwise manifestly unreasonable. If the basis or reasonability of claimed expenses are challenged by the liable party, the court rules on the costs on a case-by-case basis.

According to research commissioned by the National Research Institute of Legal Policy, the **average legal expenses** in 2008 in civil dispute proceedings in district court were 6 543 euro on the part of plaintiffs and 5 554 euro on the part of the defendant. The average liability imposed on the losing party was 5 277 euro. The average (median) hourly rate charged for legal counsel was 160 euro, which is quite consistent with more general studies of fees for legal counsel.

XII Financial Assistance Mechanisms

In addition to categorical exemptions from the trial fee, which have been mentioned above, an **exemption can be granted on grounds of unreasonableness** on a case-by-case basis by the referendary/rapporteur, who assigns the fee. Although the trial fee is charged together with the decision of the court, it is **separately challengeable** through a request for reconsideration with the official who has assigned the fee. The decision of the official can be challenged by means of administrative appeal.

Legal aid at the expense of the state is available for persons who need expert assistance in a legal matter. Legal aid is provided for persons resident in Finland or another EU or EEA country. It is also provided irrespective of residence, if the recipient has a matter to be heard by a Finnish court or when there is special cause.

Legal aid is not available to NGOs or companies.

Legal aid is granted **based on the applicant's available means**. It is provided for free to persons without means, while other entitled persons are liable to co-pay for the aid.

The aid **covers legal advice as well as necessary measures and representation** before a court or other authority. For court proceedings, the applicant can choose between representation by a public legal aid attorney or a private attorney. In other matters, legal aid is provided solely by public legal aid attorneys. Persons who are granted legal aid are also exempt from trial fees. There are some exceptions as to when legal aid is provided, such as matters considered legally simple or of little importance to the applicant, as well as matters in which standing is based on municipal membership, for example.

In addition to the above, right to legal aid may be restricted in part or fully if the applicant has **legal expenses insurance** covering the matter at hand. This is relatively common, as such insurance is typically included in many kinds of insurance policies, such as home insurance, car insurance as well as trade union insurances. The financial assistance provided by legal expenses insurances vary according to the policy in question, which determines its scope as well as applicable deductibles and maximum compensations. Insurance conditions in common use stipulate a deductible of 15 % and a maximum compensation of 8 500 euro.

Legal aid is state administered and thus available according to the same preconditions on the **Åland Islands**.

Separate from legal aid, the defendant in criminal proceedings or pre-trial investigations may be entitled to a **public defender** regardless of available means.

Many law firms, especially bigger ones, do **pro bono legal work**, often in accordance to established pro bono programmes of their own. Associations of public utility, including also environmental NGOs, can be recipients of such pro bono legal assistance. There are no widely publicized pro bono programmes providing legal assistance for individuals in environmental matters, specifically. On the whole, pro bono work does not play a significant role in environmental judicial proceedings.

XIII Timeliness

The APA generally provides that an **administrative matter shall be considered without undue delay**. In environmental matters, specific time limits are more typically prescribed for parties than the authority, although there are exceptions, such as EIA procedure, where deadlines are provided for the authority as well. As environmental decisions are taken by a multitude of different administrative authorities, it is not possible to give a comprehensive account on **average pending times**. The authorities may provide average-based estimates on their internet homepages, and are also required by APA to provide a case-specific estimate upon request, as well as respond to queries as to the progress of the matter. In the RSA-agencies, which handle the major environmental permit matters, average pending times have varied around 11 to 16 months in recent years.

The regional legislation regulating **administrative procedure of the Åland Islands** (see section IV) resembles the APA with regard to requirements of timeliness and providing estimates of pending time. However, it also includes a general obligation to decide matters within three months of initiation, when feasible, and further provides that accountable officials must compose a yearly report on the grounds of delay for matters exceeding this time limit. Naturally, environmental matters may very well take a longer time than this to process. With regard to matters decided by the principal regional environmental authority (Ålands miljö- och hälsoskyddsmyndighet), authorization for lesser activities (miljögranskning) is regularly decided within 6 months, while pending times for environmental permits for major activities (e.g. IPPC) are on average 15 months.

There is currently no fully effective legal remedy against **delays or passivity** on the part of the administrative authority. The administrative court is not competent to intervene in an administrative procedure before the final decision has been taken by the authority. Passivity in this context should not be confused with an issued decision not to take enforcement measures, however, which can ordinarily be subject to challenge by appeal (see section V). Also legislation addressing the issue of delay is being considered. Likewise, there is no general regime with regard to sanctions for delays. In accordance to what has been described above (section VI), overseeing authorities are competent to issue official reprimands as well as initiate criminal prosecution in serious cases. In certain cases, an overseeing state authority may also have the competence to order a municipality to fulfil its obligations within a set period of time. Authorities are also subject to general tort liability, but damages awards for delay are infrequent.

With regard to **appeals proceedings in the administrative courts**, there are no prescribed time limits for the majority of matters. The Constitution provides everyone with the right to have his or her case dealt with without undue delay in a court of law. In addition, certain categories and types of appeal matters are prescribed urgent by law, which translates in practice to prioritization in the order of resolution. Examples of such **statutorily urgent environmental matters** are detailed master plans for land use and plans for public roads, when they are considered of communal importance. Although there are no specific provisions with regard to requests for injunctive relief, such are typically processed urgently and can even be resolved in a matter of days or less, in extreme cases. There is no sanction mechanism in place with regard to undue delays, but the courts are subject to the same oversight by the supreme overseers of legality as administrative authorities, as well as possible criminal and tort liability.

The **pending times for appeals proceedings** in the regional administrative courts have in recent years (2009–2011) averaged around 10 months in the category of land use and building matters and slightly above 12 months in other environmental matters. In the Supreme Administrative Court the corresponding pending times were approximately 12 and 13 months, respectively.

The procedural legislation governing proceedings in the **general courts** include more detailed provisions on timeliness for specific stages of the proceedings. The average pending times (2009–2010) in district courts were slightly above 8 months in full-scale civil disputes and around 3,5 months in criminal cases. In courts of appeal, average pending times for appeal proceedings were around 6,5 months. In the Supreme Court, the averages were around 4,5 months for refused leaves to appeal and 16 months for decisions on the merits.

For the general courts, there is also a **compensation regime** in place for undue delays, regulated by the Act on Compensation for Excessive Length of Judicial Proceedings (362/2009). The act provides that a claim for compensation can be filed with the same court considering the main issue at hand, and sets a premise value for compensation at 1 500 euro/year of delay. In administrative court proceedings, similar taking account of delays is currently possible only when dealing with monetary administrative sanctions, but a general compensation regime for administrative judicial proceedings is under preparation.

XIV Other Issues

While participation in the administrative procedure of environmental matters may be possible at relatively early stages, **access to court review is ordinarily available only after the final administrative decision** has been taken in the matter. Procedural errors during the preparatory stages of decision-making can usually instead be invoked against the final decision. Certain environmental procedures can include such "final decisions" at multiple stages, in which case each such decision can normally be challenged in court. Different levels of land use plans together with subsequent building and/or activity permits are examples of this. Sometimes the legislation may set restrictions for subsequent court review, like in the case of public road planning under the Highways Act (503/2005).

The AJPA requires that **appeals instructions** be enclosed with all decisions qualifying for appeal, informing parties where and how the decision can be challenged as well as the appeal period. Alternatively, the legal basis for a prohibition against appeal must be indicated. The AJPA further provides that appeals shall not be dismissed due to incorrect lodging by reason of lacking or faulty appeal instructions. Therefore, an appellant acting in accordance with appeal instructions that indicate an incorrect appeal period, for example, should not have his/her appeal dismissed because of exceeding the appeal period. Comprehensive **information on access to justice** is not available for environmental matters specifically. General information about administrative (and general) court proceedings is available on the website of the Finnish justice system (a link is provided at the end of the document) and legislation is available in the FINLEX database (link provided at end). The general website of the environmental administration provides information on different environmental procedures, including some on access to court (link provided at end). The websites of the four RSA-agencies competent in environmental and water permit matters include registers on pending permit matters and permit decisions (links provided at end). Further information on specific environmental procedures and access to justice may be provided on the websites of municipalities, for example.

It is ordinarily not possible to officially confirm **settlements** in administrative court appeals matters, and mediation or other means of alternative dispute resolution are correspondingly not available in administrative environmental matters. In civil matters, different methods of dispute resolution are available. Court mediation is offered by the general courts, and it is also possible to confirm out-of-court settlements. Legal aid can be applied for.

XV Being a Foreigner

Rights of individuals to use the **two national languages**, Finnish and Swedish, as provided by Section 17 of the Constitution, are laid down in the Language Act (423/2003). **Additional language rights** are provided for the indigenous Sámi, especially, as well as other groups. Relevant with regard to foreigners, Section 6 of the Constitution provides that **everyone is equal before the law**, and that no one shall, without an acceptable reason, be treated differently from other persons on the ground of origin or language, among other things. The Ombudsman for Minorities supervises compliance with prohibitions against ethnic discrimination and works to advance the status and legal protection of ethnic minorities and foreigners.

The **legislation covering administrative and court procedure** (APA, AJPA, CJP and CPA) contain additional provisions on language rights. Additional provisions are included for certain specific procedures, but typically not for environmental procedures. In administrative matters, translation and interpretation can be provided for parties under certain conditions, mainly in authority-initiated matters, but it is also possible for guaranteeing the rights of parties in other matters. General language rights in administrative judicial proceedings correspond with the above, but provide for an unconditional right to interpretation when being orally heard. In criminal matters, language rights are naturally more pronounced. In civil disputes, a party who does not speak Finnish, Swedish or Sámi is ordinarily responsible for translation at his/her own expense, unless the court rules otherwise due to the nature of the case. In addition to the above, both administrative authorities and courts are under obligation to ensure that citizens of the other Nordic countries receive the language assistance they require.

The above means that individuals with a language foreign to the Nordic countries wishing to take part in an environmental matter will typically have to **cover their own translation expenses**. However, when legal aid is available (see section XII), it also applies to required translation and interpretation costs. Translations in transboundary environmental matters are dealt with below (section XVI).

Unlike the rest of Finland, the autonomous **Åland Islands are monolingually Swedish**. This applies both to regional and municipal authorities as well as state authorities on the Islands, including courts. The Act on the Autonomy of Åland includes provisions with regard to rights to use Finnish in regional state authorities and courts, and the regional act on administrative procedure (Förvaltningslag för landskapet Åland) contains provisions similar to the state legislation on provision of interpretation and translation in regional and municipal authorities.

XVI Transboundary Cases

In order to transpose the Espoo EIA Convention and other international obligations, the Finnish EIA Act contains provisions with regard to **projects likely to have significant environmental impacts to the territory of another country**. The Act requires that the competent EIA authority notifies the Ministry of the Environment, which is responsible for coordination with other concerned states.

States concerned are notified of the pending project and provided information about its transboundary impacts as well as assessment and consent procedure. This generally includes translations at least to the extent required to understand the matter at hand, as well as information on possible public hearing events in the target country or in Finland. A time limit is provided for authorities and the public to notify the Ministry of their wish to participate in the assessment procedure. **Public consultation** corresponding with the domestic EIA procedure is then arranged in the neighbour country, ordinarily by a contact authority belonging to the state in question. The geographic scope of notification for the consultation is not specified in the Act, but neither is the right to comment restricted. The developer is responsible for the costs of required translations. The Ministry of Environment is also responsible for coordinating public consultation and communicating the views of Finnish participants in cases where Finland is likely to be affected by a foreign project.

The Act on the Assessment of the Effects of Certain Plans and Programmes on the Environment (SEA Act, 2005/200) contains similar provisions with regard to **strategic environmental assessment** of plans and programmes.

Frontier treaties or other agreements between states together with corresponding legislation may include **more detailed provisions** on transboundary assessment procedure (e.g. the Agreement between Estonia and Finland on transboundary EIA), as well as provisions on standing and participation in environmental matters that do not entail an EIA (e.g. the Nordic Environmental Protection Convention or the Frontier treaty between Finland and Sweden). In accordance with the **Act on the Autonomy of Åland**, the state has principal legislative authority in matters relating to foreign affairs. Although the regional act on EIA contains some provisions on delivery of information in case of transboundary impacts, international hearing is arranged through the Ministry of Environment.

As noted above (section VII), **foreign NGOs** have in case law been granted right of appeal according to the same criteria as domestic NGOs. Once standing in court is established, the same basic procedural rights (to request for an injunction, for example) apply regardless of nationality. With regard to legal aid and language, see sections above (XII and XV, respectively).

If a project requires **permits in two (or more) countries**, individuals or NGOs may want/need to pursue their interests in procedures on both sides of the border. With regard to permit requirements and other public law liabilities, opportunities to choose in which jurisdiction to act are usually quite limited.

Transboundary civil law liabilities, on the other hand, are typically governed by bilateral or multilateral treaties and national and EU legislation transposing them. As an example, the Convention on the Protection of the Environment between Denmark, Finland, Norway and Sweden provides that claims for damages can be filed with the competent court of the state where the potentially damaging activity has taken place.

Related Links[http://158.167.220.151:8180/ejusticeportal/beta/300/EL/access_to_justice_in_environmental_matters?FINLAND&action=printContentPdfMS&clang=en&member=1&cdbPdf=1#_ftn2\[2\]](http://158.167.220.151:8180/ejusticeportal/beta/300/EL/access_to_justice_in_environmental_matters?FINLAND&action=printContentPdfMS&clang=en&member=1&cdbPdf=1#_ftn2[2])

FINLEX database (legislation, secondary legislation, translations, case law etc.):

Finnish: <http://www.finlex.fi/fi/>

Swedish: <http://www.finlex.fi/sv/>

English: <http://www.finlex.fi/en/>

Selected legislation (Swedish language version can be accessed through subsequent link in Finnish version; note that English translations are unofficial and may not include latest amendments):

- Constitution of Finland (731/1999)

Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1999/19990731>

English: <http://www.finlex.fi/en/laki/kaannokset/1999/en19990731>

- Administrative Procedure Act (434/2003)

Finnish: <http://www.finlex.fi/fi/laki/ajantasa/2003/20030434>

English: <http://www.finlex.fi/en/laki/kaannokset/2003/en20030434>

- Local Government Act (aka Municipalities Act; 365/1995)

Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1995/19950365>

English (provided by the Association of Finnish Local and Regional Authorities): https://www.finlex.fi/en/laki/kaannokset/1995/en19950365_20120325.pdf

- Act on the Openness of Government Activities (621/1999)

Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1999/19990621>

English: <http://www.finlex.fi/en/laki/kaannokset/1999/en19990621>

- Administrative Judicial Procedure Act (586/1996)

Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1996/19960586>

English: <http://www.finlex.fi/en/laki/kaannokset/1996/en19960586>

- Code of Judicial Procedure (4/1734)

Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1734/17340004000>

English: <http://www.finlex.fi/en/laki/kaannokset/1734/en17340004>

- Criminal Procedure Act (689/1997)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1997/19970689>
English: <http://www.finlex.fi/en/laki/kaannokset/1997/en19970689>
 - Legal Aid Act (257/2002)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/2002/20020257>
English: <http://www.finlex.fi/en/laki/kaannokset/2002/en20020257>
 - Act on Compensation for Excessive Length of Judicial Proceedings (362/2009)
Finnish (original form): <http://www.finlex.fi/fi/laki/alkup/2009/20090362>
English: <http://www.finlex.fi/en/laki/kaannokset/2009/en20090362>
 - Environment Protection Act (86/2000)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/2000/20000086>
English: <http://www.finlex.fi/en/laki/kaannokset/2000/en20000086>
 - Water Act (587/2011)
Finnish (original form): <http://www.finlex.fi/fi/laki/alkup/2011/20110587>
English transl.: not yet available
 - Land Use and Building Act (132/1999)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1999/19990132>
English: <http://www.finlex.fi/en/laki/kaannokset/1999/en19990132>
 - Nature Conservation Act (1096/1996)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1996/19961096>
English: <http://www.finlex.fi/en/laki/kaannokset/1996/en19961096>
 - Land Extraction Act (555/1981)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1981/19810555>
English: <http://www.finlex.fi/en/laki/kaannokset/1981/en19810555>
 - Mining Act (621/2011)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/2011/20110621>
English: not yet available
 - Act on Environmental Impact Assessment Procedure (468/1994)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1994/19940468>
English (provided by Ministry of the Environment):
<http://www.finlex.fi/en/laki/kaannokset/1994/en19940468?search%5Btype%5D=pika&search%5Bpika%5D=1994>
 - Act on the Assessment of the Effects of Certain Plans and Programmes on the Environment (200/2005):
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/2005/20050200>
English (provided by Ministry of the Environment):
<http://www.finlex.fi/en/laki/kaannokset/1994/en19940468?search%5Btype%5D=pika&search%5Bpika%5D=1994>
 - Act on the Remediation of Certain Environmental Damages (383/2009)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/2009/20090383>
English: <http://www.finlex.fi/en/laki/kaannokset/2009/en20090383>
 - Act on Compensation for Environmental Damage (737/1994)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1994/19940737>
English: <http://www.finlex.fi/en/laki/kaannokset/1994/en19940737>
 - Tort Liability Act (412/1974)
Finnish: <http://www.finlex.fi/fi/laki/ajantasa/1974/19740412>
English: <http://www.finlex.fi/en/laki/kaannokset/1974/en19740412>
 - Nordic Environmental Protection Convention (SopS 75/1976)
Finnish: http://www.finlex.fi/fi/sopimukset/sopsteksti/1976/19760075/19760075_2
- Other websites
- The Finnish judicial system (incl. information on court proceedings and legal aid as well as websites of individual courts and other offices):
<https://oikeus.fi/en/index.html>
 - Office of the Parliamentary Ombudsman:
<http://www.oikeusasiamies.fi/Resource.phx/eoa/english/index.htx>
 - Office of the Chancellor of Justice:
<http://www.okv.fi/en>
 - Ombudsman for Minorities
<https://www.syrjinta.fi/web/EN/frontpage>
 - The Finnish environmental administration (incl. information on environmental legislation and procedures):
<http://www.ymparisto.fi/en-US>
 - ECE-centers, environment and natural resources:
<https://www.ely-keskus.fi/web/ely/ymparisto>
 - RSA-authority (English language website under construction):
<http://www.avi.fi/>
 - Bar Association lawyer search engine:
https://www.asianajajaliitto.fi/en/legal_services/find_a_lawyer
 - Finnish Association for Nature Conservation:
<http://www.sll.fi/english>
 - WWF Finland (in Finnish):
<http://wwf.fi/>
 - Finnish Society for Nature and Environment:

<http://www.naturochmiljo.fi/malgrupper/english/>

- BirdLife Finland:

<http://www.birdlife.fi/english/index.shtml>

The Åland Islands

- Act on the Autonomy of Åland (1144/1991):

Swedish: <http://www.finlex.fi/sv/laki/ajantasa/1991/19911144>

English: <http://www.finlex.fi/en/laki/kaannokset/1991/en19911144>

- Regional legislation of the Åland Islands (in Swedish only):

<http://www.regeringen.ax/lag.pbs>

- Environmental and health protection authority of Åland (in Swedish only):

<http://www.regeringen.ax/landskapsregeringens-organisation/social-miljoavdelningen/miljobyran>

- Environmental office of the regional government of Åland (in Swedish only):

<http://www.regeringen.ax/socialomiljo/miljo/>

- Ålands Natur och Miljö (NGO, site in Swedish):

<http://www.anom.fi/>

http://158.167.220.151:8180/ejusticeportal/beta/300/EL/access_to_justice_in_environmental_matters?

FINLAND&action=printContentPdfMS&clang=en&member=1&cdbPdf=1#_ftnref1[1] This *category should include all those potential stakeholders that are not covered by the previous lines, e.g. do competent authorities have standing against decisions of other competent authorities, etc.?*

http://158.167.220.151:8180/ejusticeportal/beta/300/EL/access_to_justice_in_environmental_matters?

FINLAND&action=printContentPdfMS&clang=en&member=1&cdbPdf=1#_ftnref2[2] Please provide links to the following contents:

national legislation on access to justice in environmental matters (either in the official language(s) of the country or English, but preferably both)

publicly available lists and registries of environmental experts

publicly available lists and registries of environmental lawyers

bar associations

pro bono environmental law offices

list of national and international NGOs working in the country who are active in access to environmental justice

ombudsman offices, prosecutor offices

information on access to justice in environmental matters provided to the public in a structured and accessible manner

Last update: 14/09/2016

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