Dostęp do wymiaru sprawiedliwości w sprawach dotyczących środowiska

Finlandia

Więcej krajowych informacji na temat dostępu do wymiaru sprawiedliwości w sprawach dotyczących środowiska można znaleźć na stronach poniżej:

1. Dostęp do wymiaru sprawiedliwości na poziomie państwa członkowskiego
2. Dostęp do wymiaru sprawiedliwości wykraczający poza zakres dyrektywy w sprawie oceny oddziaływania na środowisko, dyrektywy dotyczącej zintegrowanego zapobiegania zanieczyszczeniom i ich kontroli/dyrektywy w sprawie emisji przemysłowych, dyrektywy w sprawie dostępu do informacji oraz dyrektywy w sprawie odpowiedzialności za środowisko
3. Inne istotne przepisy dotyczące odwołań, środków zaskarżenia i dostępu do wymiaru sprawiedliwości w sprawach dotyczących środowiska

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Za wersję tej strony w języku danego kraju odpowiada właściwe państwo członkowskie. Tłumaczenie zostało wykonane przez służby Komisji Europejskiej. Jeżeli właściwy organ krajowy wprowadził jakieś zmiany w wersji oryginalnej, mogły one jeszcze nie zostać uwzględnione w tłumaczeniu. Komisja Europejska nie przyjmuje żadnej odpowiedzialności w odniesieniu do danych lub informacji, które niniejszy dokument zawiera, lub do których się odnosi. Informacje na temat przepisów dotyczących praw autorskich, które obowiązują w państwie członkowskim odpowiedzialnym za niniejszą stronę, znajdują się w informacji prawnej.

Access to justice at Member State level

1.1. Legal order – sources of environmental law

1) General introduction to the system of protection of environment and procedural rights of persons (natural, legal, NGOs) in the specific national order

According to the Constitution of Finland (731/1999) the **legislative powers** are exercised by the Parliament, which has also adopted all the **Acts** that form the most important part of the **environmental legislation.** These main provisions are listed under point 3 in this same section.

The President of the Republic, the Government and a Ministry may issue **Decrees** on the basis of authorisation given to them in another Act and according to the Constitution. However, the principles governing the rights and obligations of private individuals and the other matters that under the Constitution are of a legislative nature are governed by Acts.

In the environmental legislation it is common to have authorisations for the Government or a Ministry to issue Decrees on more technical issues. There are several Governmental Decrees that are important for understanding the environmental legislation and also some Ministerial Decrees such as Decrees of the Ministry of Environment. In addition, state agencies can give guidance or even decisions on technical issues related to the environmental legislation.

In addition to the above, the autonomous **Åland Islands** must also 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, currently undergoing a general reform). Other areas, such as the court system and proceedings, remain governed primarily by state law, which means the state acts are applied to judicial proceedings.

According to the Constitution the exercise of public powers must be based on an Act. In all public activity, the law must be strictly observed. The law providing competence for the decision-making also defines the **procedural rights** of persons and which type of appeal the decision of the authority is subject to. 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.

Generally, authority decisions can be challenged by lodging an **administrative appeal** with the **regional administrative court**, as prescribed by the Administrative Judicial Procedure Act (AJPA, 808/2019). 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 in the regional administrative courts. The municipal appeal is generally regulated in the Local Government Act (410/2015). 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 decisions on the organisation of waste transport), which are reviewed based on municipal appeal.

The main difference between the two appeal 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 administrative court's decision can be further appealed to the **Supreme Administrative Court**. In the Supreme Administrative Court a leave to appeal is required after the decision of a regional administrative court, but in some other cases a leave to appeal is not needed. Decisions of the Government (expropriation permits, for example) are generally challenged by appeal directly with the Supreme Administrative Court.

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). Environmental tort and criminal cases are dealt with by the general courts. Environmental tort cases include cases under the Act on Compensation for Environmental Damage (737/1994) and other cases of private environmental liabilities. In real property and easement cases appeals are lodged with specialised **land courts** that operate as an adjunct to a number of the district courts. The decision of a district court can be appealed to a court of appeal, but full consideration of the appeal requires a qualified interest or, alternatively, grant of a separate leave for continued proceedings. Challenging the decision of a land court or a court of appeal requires leave to appeal from the Supreme Court, which is primarily an instance for judicial precedents.

The autonomous **Åland 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.

2) Constitution – main (content of + including references) provisions on environment and access to justice in the national constitution (if applicable) including procedural rights

The Constitution of Finland (731/1999) 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 must endeavour to guarantee everyone the right to a healthy environment and the ability to influence decisions that concern their own living environment.

Access to justice is regulated under Section 21, entitled “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.
The abovementioned rights to the environment and to access to justice as well as other basic rights guaranteed in the Constitution can seldom be relied on directly. The observance of the rights stipulated in the Constitution has to be guaranteed by the public authorities (Section 22 of the Constitution). There is no constitutional court in Finland. While constitutional supervision is practised primary 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 must give primacy to the provision in the Constitution (Section 106 of the Constitution). And if a provision in a Decree or another statute at a lower level than an Act is in conflict with the Constitution or another Act, it may not be applied by a court of law or by any other public authority (Section 107).
The obligation of the public authorities to guarantee everyone the possibility to influence decisions that concern their own living environment stipulated in Section 20 of the Constitution has been mentioned several times in the case law of the Supreme Administrative Court, and has influenced the widening of access to justice in environmental matters.

3) Acts, Codes, Decrees etc.

All the Finnish legislative instruments can be found in Finnish and in Swedish in the FINLEX database, which also contains English translations of most of the central environmental statutes. The English translations are unofficial and may not include the latest amendments.
As mentioned before, **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 APA also contains in its Chapter 7a provisions on the procedure for requesting an administrative review.
The Administrative Judicial Procedure Act (AJPA, 808/2019), which prescribes the **administrative appeal**, is a central statute with regard to access to justice in general and also in environmental matters.
The other type of appeal, the **municipal appeal**, is regulated in general in the Local Government Act (410/2015). Most of the environmental statutes contain a reference to the AJPA and the administrative appeal, but many of them have also include special provisions on judicial appeal, and in some cases, there is a reference to both the administrative and municipal appeal.
The most central national environmental statutes are listed here beginning with some generally applicable statutes followed by several sectoral acts that are applied only to certain activities:
The **Act on Environmental Impact Assessment Procedure** (252/2017) has in its Section 37 a general reference to both the AJPA and the sectoral statutes concerning the different permit procedures that can be relevant in connection to the project. This means in practice that the provisions on judicial appeal concerning the environmental impact assessment depend on the case and the sectoral legislation applicable to the project in question.
The **Act on the Remediation of Certain Environmental Damages** (383/2009) contains in its Section 17 a reference to several sectoral statutes concerning rules on administrative enforcement procedures that have to be followed in case of a significant environmental damage. These acts are also listed in Section 2 of the Act on the Remediation of Certain Environmental Damages.
The **Environmental Protection Act** (EPA, 527/2014) has in its Chapter 19 provisions on administrative appeal and enforcement of a decision. The provisions cover e.g. right of appeal of individuals, NGOs and state and municipal authorities defending environmental interests, request for an administrative review of certain decisions, hearing of views on an appeal concerning an environmental permit decision and the procedure in the appellate court.
The **Water Act** (587/2011) contains in its Chapter 15 provisions on administrative appeal and enforcement of a decision that are very similar to the abovementioned provisions of the EPA.
The **Land Use and Building Act** (132/1999) has in its Chapter 25 provisions on judicial appeal and rectification issued by an authority. These provisions cover e.g. request for rectification, administrative and municipal appeal as well as the right to appeal depending on the type of appeal and the decision in question.
The **Nature Conservation Act** (1096/1996) contains in its Chapter 9 provisions on administrative appeal and the right to appeal depending on the type and scope (national, regional or local) of the decision in question.
The **Climate Change Act** (609/2015) lays down the general framework for the planning of climate change policy in Finland and the monitoring of its implementation.
The **Mining Act** (621/2011) has in its Chapter 17 provisions on administrative appeal and right to appeal concerning decisions by the mining authorities. There are also special provisions on appeal against decisions made in the proceedings establishing a mining area, which are lodged in the land courts that operate in annex to certain district courts.
The **Waste Act** (646/2011) contains in its Chapter 14 provisions on judicial appeal covering both the administrative and municipal appeal and right to appeal depending on the type of the appeal and decision in question.
Also e.g. the Land Extraction Act, the Transport System and Highways Act, the Railways Act, the Gene Technology Act, the Hunting Act and the Act on the Organisation of River Basin Management and Marine Strategy include provisions on the right of appeal of environmental NGOs against certain decisions, which can be considered relevant in this context.

4) Examples of national case-law, role of the Supreme Court in environmental cases

The right to environment as guaranteed in Section 20 of the Constitution has been applied several times in the case law of the Supreme Administrative Court, often in the interpretation of provisions on right to appeal. Since the addition of Section 20 to the Finnish Constitution in 1995 the decisions of the Supreme Administrative Court have gradually moved towards emphasising the enhancement of participatory rights in environmental matters in cases where the national legislation has left room for interpretation (see KHO 2003:99, KHO 2004:76 and KHO 2011:49).
Since the year 2004 and the ratification of the Aarhus Convention in the Finnish legislation the convention and the connection to the European Union environmental legislation have also been referred to several times in the jurisprudence of the Supreme Administrative Court. As an example, some of the cases in the Supreme Administrative Court concerning the national legislation transposing Habitats and Birds Directives lead to amendments in the provisions on right to appeal in the Hunting Act (see KHO 2004:76 and KHO 2007:74).
Summaries of selected precedents of the Supreme Administrative Court can be found in English on the website of the court. One of the latest decisions concerning right of appeal in an environmental matter to be found on the website is case KHO 2019:97 on the right of appeal of a Polish foundation against a decision granting a water permit for gas pipes on the bottom of the Baltic Sea.

5) Can the parties to the administrative procedure directly rely on international environmental agreements, or can only the national and EU transposing legislation be referred to?

As a general rule, the applicability of international agreements is reliant on their implementation in national law. Approval of the Finnish Parliament is needed for the ratification of international agreements containing stipulations falling within the scope of national law. The international agreement must also be

implemented into national law after it has entered into force. In the ratification process the competence of the European Union has also to be taken into consideration.
In published case law, the Aarhus Convention has been applied a few times, in order to redress an inconsistency in the right of appeal for non-governmental organisations (NGOs) through a broader interpretation of the applicable national law (see KHO 2011:49 and KHO 2018:1). The legislation of the European Union and especially the case-law of the European Union Court of Justice concerning the union-wide transposition of the Aarhus Convention has also played an important role in Finnish jurisprudence on access to justice in environmental matters.

1.2. Jurisdiction of the courts

1) Number of levels in the court system

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 specialised 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.

2) Rules of competence and jurisdiction – how is it determined if there is jurisdiction of the court, cases of conflict between different national tribunals (in different Member States)?

As environmental matters are generally decided in first instance by public authorities, environmental disputes typically end up with the administrative courts. The law providing competence for the decision-making prescribes which type of appeal the decision is subject to, the two main categories being administrative and municipal appeal. There are some notable exceptions, namely real property and easement cases, in which appeals are lodged with specialised land courts that operate as an adjunct to a number of the district courts. In addition, environmental tort and criminal cases are dealt with by the general courts.
The Åland 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. Moreover, the centralisation of judicial review of environmental matters does not apply to environmental matters on Åland, i.e. the Administrative Court of Åland deals with such matters on the Islands.
Within the administrative court system, a major part of all environmental cases on the Finnish mainland (not covering the Åland Islands) has been centralised 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, 527/2014) and the Water Act (587/2011), which make up for roughly one fourth of environmental cases in administrative courts nationwide. The remaining environmental cases are handled by the regionally competent administrative court, which is usually the court for the judicial district that includes the geographical area of operations of the authority that issued the administrative decision. An appeal against the decision of an authority operating throughout the country must be addressed to the administrative court to whose jurisdiction the decision has the closest link by virtue of that jurisdiction containing most of the territory or property affected by the decision. The geographical jurisdiction of the regional administrative courts is described in detail in Section 10 of the Administrative Judicial Procedure Act. Overall, the abovementioned 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.

3) Specialities as regards court rules in the environmental sector (special environmental tribunals), laymen contributing, expert judges

Within the administrative court system, a major part of all environmental cases on the Finnish mainland (not covering the Åland Islands) has been centralised 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) and the Water Act, which make 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.
Expert judges in Vaasa administrative court and in the Supreme Administrative Court (SAC) participate in the consideration of cases on the basis of the Water Act and the Environmental Protection Act. In Vaasa administrative court the expert judges work full time, and in the SAC there are part-time environmental expert judges. In Vaasa administrative court there can be one or two expert judges in the composition with two legally trained judges, depending on the expertise needed in the case. In SAC there can be one expert judge in the composition with three legally trained judges when a leave to appeal is decided on, and there are always two expert judges in the composition with five legally trained judges when the final decision is made. The expert judges as well as other members of the court assess the materials in the case file on the basis of their own expertise. An expert judge must have an appropriate Master's degree in technology or in the natural sciences. In addition, he or she must be familiar with the duties falling within the scope of the applicable legislation.

4) Level of control of judges in case of administrative appeals, concept of own motion, what are its limits? Rules on court action on its own motion.

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.
The AJPA requires that the appellant states the reasoning for the claims in the appeal, 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 appeal procedure provides more leeway for complementing one's appeal during the proceedings.

1.3. Organisation of justice at administrative and judicial level

1) System of the administrative procedure (ministries and/or specific state authorities)

The environmental administration in Finland consists of the Ministry of Environment and the Finnish Institute for Environment at the national level, four Regional State Administrative Agencies and 13 Centres for Economic Development, Transport and Environment (so called ELY or ETE Centres) at the regional level and the municipal environmental administration at the local level. In addition to these authorities there are several authorities e.g. under the Ministry of Agriculture and Forestry, Ministry of Transport and the Ministry of Economic Affairs and Employment making decisions on the use of natural resources or transport infrastructure where this is relevant for the environment.

Environmental permits are needed in Finland for all activities that pose a risk of environmental pollution covering widely different types and sources of emissions to into air, water or onto land. No permits can be granted to activities causing contamination of the soil or pollution of groundwater since these are strictly prohibited in the legislation. Water permits are needed for other activities affecting constructions in waters or the water supply. Permits may be granted to individuals or companies. Depending on the activity and its scale the most central permit authorities are the four Regional State Administrative Agencies and local environmental authorities in the municipalities. Finland's 13 Centres for Economic Development, Transport and the Environment act as supervisory authorities concerning the permit procedure and are also responsible for areas like nature conservation and water management planning.

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 complementary. 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 addition to the APA. In addition to its own regional substantive legislation on 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.

Typically, the substantive law prescribes who is to be specifically notified or heard during the administrative procedure as well as whether or not a wider public consultation of some sort is to be arranged prior to decision-making. If the procedure is not specifically regulated, the general provisions of the APA are applied. The APA grants standing, as party to an administrative matter, to anyone who has rights, interests or obligations 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 should also give 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 substantive law provides for wider standing and consultation. In environmental permit matters, for example, the EPA grants standing (right to be specifically heard) to anyone whose rights, interests of 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 granted standing during administrative procedures, which means they are generally able to participate during public consultations, when these are provided for as part of the procedure.

2) How can one appeal an administrative environmental decision before court? When can one expect the final ruling?

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 Land Use and Building Act 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.

According to the Administrative Procedure Act, appeal instructions must be enclosed with a decision qualifying for appeal (APA, Section 47). The appeal instructions must indicate the appellate authority, the authority with which the appeal document is to be lodged and the appeal period and the date when the said period begins to run. In most of the environmental decisions the appeal period is thirty days and the appellate authority is the regionally competent administrative court or in case of environmental and water permits according to Environmental Protection Act (EPA) and Water Act the Vaasa administrative court. 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 law does not set many formal requirements for the appeal or other stages of the proceedings.

The pending times for appeal proceedings in the regional administrative courts have in recent years (situation in January 2020 according to the common website of the administrative courts) 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 11 and 10 months, respectively.

3) Existence of special environmental courts, main role, competence

Within the administrative court system, a major part of all environmental cases on the Finnish mainland (not covering the Åland Islands) has been centralised 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, 527/2014) and the Water Act (587/2011), which make 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. 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.

4) Appeal against environmental administrative decisions delivered by competent authorities and appeal against Court orders and decisions (levels)

As mentioned above the 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.

The substantive law providing competence for the decision-making also prescribes which type of appeal the decision is subject to, the two main categories being administrative and municipal appeal. Both the administrative and the municipal appeal are lodged in the regionally competent administrative court, or in the case of environmental and water permits under the Environmental Protection Act and the Water Act on the Finnish mainland (not covering the Åland Islands), in the Vaasa administrative court, which is specialised in environmental matters.

The administrative court’s decision can be further appealed to the Supreme Administrative Court. The general rule is that a leave to appeal is required at the Supreme Administrative Court, but in some cases a leave to appeal is not needed.

In addition to ordinary appeals, there are a number of particular forms of remedy, such as administrative litigation (hallintoriita, förvaltningstvistemål), material tax appeal (perustevalitus, grundbesvär) and church appeal (kirkollisvalitus, kyrkobesvär), which are not especially relevant with regard to environmental justice.

5) Extraordinary ways of appeal. Rules in the environmental area. Rules for introducing preliminary references.

The AJPA provides for two means of extraordinary appeal concerning decisions that have become final:

request for restoration of lapsed time (menetetyn määräajan palauttaminen, återställande av försutten fatalietid), lodged with the Supreme Administrative Court
request for annulment of a final decision (purku, återbrytande), lodged with the Supreme Administrative Court.
Lapsed time may be restored to a person who has a lawful excuse or who for another very serious reason has been unable to within a time limit to file a request for an administrative review or request a judicial review of a decision by way of appeal or to take other measures in administrative procedure or in administrative judicial procedure (AJPA, Section 114). Where a lawful excuse is claimed in support of the application, the application must be made within 30 days of the cessation of the excuse. In the case of another extremely significant reason the time limit of 30 days is not applicable, but restoration of expired time must be applied for within one year of the end of the original time limit, at the latest.
A final decision may be annulled if a party has not been given the right to be heard, or some other procedural error has occurred in considering the matter, the decision is based on a manifestly incorrect application of law or on an error that could have materially affected the decision, new evidence has become available that could have materially affected the matter, and the failure to present the evidence at the time of the decision-making was not due to the applicant or the decision is so unclear or incomplete that it is not evident how the matter has been resolved (AJPA, Section 117).
There are no special rules for introducing preliminary references in the national legislation. The appellant can make a request for making a preliminary reference to the European Court of Justice, which will be considered by the national court.

6) Are there out of court solutions in the environmental area as regards solving conflicts (mediation, etc.)?

It is ordinarily not possible to officially confirm settlements in administrative court appeal matters, and mediation or other means of alternative dispute resolution are accordingly 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. There are no established forms of out of court solutions in the environmental area, but there have been some experimental and academic research projects on mediation in real estate and environmental disputes (like the SOMARI project at Aalto University by the Finnish Forum for Mediation in 2012).
The Finnish Forum for Mediation also offers up to date information on mediation in Finland.

7) How can other actors help (ombudsperson (if applicable), public prosecutor), accessible link to the sites?

In addition to directly challenging administrative decisions, the option of making an administrative complaint is also available. Complaints can be filed with municipal or state supervisory authorities, where 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 is worth 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 specialised 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.

Office of the Parliamentary Ombudsman
Office of the Chancellor of Justice
Ombudsman for Minorities

1.4. How can one bring a case to court?

1) Who can challenge an environmental administrative decision (relevance of the concept of concerned public and NGOs)?

Section 7 of the Administrative Judicial Procedure Act (AJPA, 808/2019) provides for a general right of appeal against administrative decisions. This right is granted to any person the decision is addressed to or whose right, obligation or interest is directly affected by the decision. 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 (Local Government Act, Sections 3 and 137). Other private legal entities usually have participatory rights and right of appeal according to the same rules as individuals.
An authority has the right to appeal if this is necessary because of a public interest overseen by the authority (AJPA, Section 7). State authorities, municipalities as well as municipal authorities may also have right of appeal under applicable substantive law. Typically, the right to appeal concerning environmental decisions is prescribed to the regional ETE Centre (Centre for economic development, transport and the environment) 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.
Apart from municipal appeal, there is no *actio popularis* with regard to access to court. Nor are there any general provisions on the right of appeal of NGOs. Right of appeal is provided for NGOs by substantive law in most significant environmental matters (see next section), complemented to a certain extent by case law as well.
The administrative court's decision can be further appealed to the Supreme Administrative Court, where a leave to appeal is required. The right to appeal against the decision of the administrative court follows the same principles as the right to appeal against the original administrative decision in question. The decision-making authority has the right to continued appeal when the administrative court has reversed or amended its decision (AJPA, Section 109).
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.

Legal Standing	Administrative Procedure	Judicial Procedure
Individuals and other legal entities	Obligation to hear parties during the administrative procedure is ordinarily regulated by the applicable substantive law (otherwise APA); others can participate through public consultation according to the applicable substantive legislation. Other private legal entities usually have participatory rights according to the same rules as individuals.	Right of appeal for directly affected parties as well as for others when prescribed by the applicable substantive law; all members of the municipality, in matters subject to municipal appeal. Other private legal entities usually have right of appeal according to the same rules as individuals.
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 substantive 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.
Ad hoc groups	Participation through public consultation; otherwise in the capacity of the individuals concerned.	No, i.e. only in the capacity of the individuals concerned.
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 the same provisions as for domestic NGOs, i.e. typically based on field of operation, taking into account possible obligations arising from frontier or other treaties.
Any other	The applicable substantive law may provide that state authorities, municipalities and/or municipal authorities have to be consulted prior to decision-making.	State authorities, municipalities as well as municipal authorities may have right of appeal under applicable substantive law or based on AJPA.

2) Are there different rules applicable in sectoral legislation (nature conservation, water management, waste, EIA, IPPC/IED, etc.)?

Substantive environmental legislation often includes superseding provisions, which typically prescribe a wider right of appeal than Section 7 of the AJPA. Thus, the Environmental Protection Act (EPA), for example, provides a general right of appeal for all persons whose rights or interests may be affected by the matter, while the Land Use and Building Act (LUBA) lays down a more detailed framework for right of appeal against different types of building and land use permits under its regime.

Provisions on the right to appeal of environmental NGOs have been introduced in the sectoral legislation under a longer period of time starting with the Nature Conservation Act (Section 61) in 1996 and LUBA (Sections 191 and 193) in 2000. Now there are provisions on the right of appeal of NGOs also in e. g. the EPA, Water Act, Waste Act, Mining Act, Land Extraction Act, Transport System and Highways Act, Railways Act, Hunting Act, Gene Technology Act, Flood Risk Management Act and the Act on the Organisation of River Basin Management and Marine Strategy. The provisions of the EPA are applicable to the installations under the Industrial Emissions Directive. The provisions in the abovementioned acts can differ in e.g. in whether both national and local NGOs have a right to appeal or if the right is only prescribed to local and regional NGOs.

The Act on Environmental Impact Assessment Procedure as well as the Act on the Remediation of Certain Environmental Damages have a general reference to both the AJPA and the sectoral statutes concerning the different permit procedures that can be relevant in connection to the project or activity concerned. This means in practice that the provisions on right to appeal concerning the environmental impact assessment or environmental liability depend on the case and the sectoral legislation applicable to the project or activity in question.

3) Standing rules applicable for NGOs and individuals (in administrative procedure and at judicial level, for organisations with legal personality, ad hoc groups of representatives of the public, standing for foreign NGOs, etc.)

With a few exceptions, there are no specific provisions on standing during the administrative procedure, i.e. NGOs can generally participate through public consultation in decision-making procedures that include public consultation. Right of appeal is provided for NGOs by substantive 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. 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 safeguarding 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 organisation are usually consulted to resolve right of appeal. There are no requirements pertaining to duration of activity or number of members.

4) What are the rules for translation and interpretation if foreign parties are involved?

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 such as pupils or students using Romani or sign language (see Language Act for Sámi 1086/2003 and Basic Education Act 628/1998). With relevance to foreigners, Section 6 of the Constitution provides that everyone is equal before the law, and that no one may, 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) contains 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 (see AJPA, Section 52).

The stipulations described above mean 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, it also applies to required translation and interpretation costs. Translations in transboundary environmental matters are dealt with below (see section 1.8.4).

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 regarding 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.

1.5. Evidence and experts in the procedures

1) Evaluation of evidence – are there any limits in obtaining or evaluating evidence, can the court request evidence on its own motion?

With regard to review of facts, the AJPA provides that the court must obtain evidence on its own motion to the extent that the impartiality and fairness of the proceedings and the nature of the matter require (Section 37). The court can, for example, request specific evidence from the parties, obtain expert statements or arrange an oral hearing or viewing to establish the facts of the case.

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 ensure that the matter is examined on the court.

The aim is to establish the objective facts of the matter. The court fulfils 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. The parties have to be heard of all new evidence provided to the court.
Corresponding with this principle of judicial investigation, there are no explicit general rules regarding burden of proof with regard to the parties of appeal 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 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 site visit, inspection 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 even though the court is bound by the claims of the parties when deciding on the final resolution. 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.
The general courts have the same principal competence to evaluate evidence, but it is worth 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.

2) Can one introduce new evidence?

There are no strict time limits for introducing new evidence, and introducing new evidence is therefore usually accepted during the procedure. According to the Administrative Judicial Procedure Act the appellant may present new reasoning for his or her claim after the time allowed for appeal has expired, provided that this does not change the matter itself (Section 41). One can introduce also new evidence in the administrative court, but evidence that could have been presented in the first instance may be disregarded during appeal proceedings. Accordingly, parties should not wait until the appeal stage before introducing evidence relevant to the case, when they have the opportunity to do so already during the administrative procedure.
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 for 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.

3) How can one get expert opinions in the procedures? Publicly available lists and registries of experts

3.1) Is the expert opinion binding on judges, is there a level of discretion?

The expert opinion is not binding on judges, the court can freely consider all the evidence presented in the case (so called free assessment of evidence).

3.2) Rules for experts being called upon by the court.

The administrative court of Vaasa, with nation-wide competence in appeal matters under the Environmental Protection Act (EPA) and Water Act, makes use of judges trained in natural and technical science in order to provide it with sufficient expertise for such consideration. Also, the Supreme Administrative Court has appointed expert judges who participate in the decision-making in cases concerning EPA and Water Act.
A member of an administrative court, other than a legally trained member, who participates in the consideration of cases on the basis of the EPA and Water Act must have an appropriate Master's degree in technology or in the natural sciences. In addition, he or she must be familiar with the duties falling within the scope of the applicable legislation. The expert judges are equal members of the court with independent decision-making powers and voting rights and can therefore independently define the scope of the scientific evidence they deem to be relevant.
Court-appointed experts are also possible in every sort of case (not only environmental), but quite rare.

3.3) Rules for experts called upon by the parties.

A party may turn to an expert he/she prefers. Professors (even on the field of law) and researchers are sometimes used. There are no public registers with contact details of environmental experts.

3.4) What are the procedural fees to be paid and when in relation to expert opinions and expert witnessing?

According to the Administrative Judicial Procedure Act, a party to judicial proceedings must be liable to compensate another party for that party's costs in whole or in part if, particularly in view of the ruling issued in the matter, it is unreasonable for the latter party to be required to meet its own costs (AJPA, Section 95). It is still quite common that the parties bear their own costs. 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 required to compensate witnesses that they have called.

1.6. Legal professions and possible actors, participants to the procedures

1) Role of lawyers, compulsory or not, how to contact, publicly accessible internet link to registry or website of the bar, perhaps of specialised lawyers in the environmental field

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 (AJPA, Section 30). The only exception for this is the case of extraordinary appeal in the Supreme Administrative Court. To lodge an appeal for annulment of a final decision or judgement the services of an attorney or licensed legal counsel must be used by other applicants than a public authority according to Section 118 of the AJPA.
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 undergraduate and postgraduate degrees. Nonetheless, there are lawyers and law firms of various sizes that offer environmentally specialised 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 specialised law firms or lawyers available. NGOs do not typically advertise legal services. 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 Åland Islands as well.

1.1 Existence or not of pro bono assistance

Many law firms, especially bigger ones, do pro bono legal work, often in accordance with 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 publicised 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.

For legal aid see section 1.7.3.

1.2 If pro bono assistance does exist, what are the main elements of the procedure to receive it (perhaps links to forms, court or agency in charge, address, telephone, email, ways to contact, etc.)?

Private law firms offering pro bono assistance have established their own pro bono programmes and criteria for assistance, but there are no widely publicised programmes in environmental matters specifically.

1.3 Who should be addressed by the applicant for pro bono assistance?

When looking for law firms offering pro bono assistance the Finnish Bar Association can be contacted.

2) Expert registries or publicly available websites of bars or registries that include the contact details of experts

There are no public registers that might hold contact details of environmental experts. The Finnish Bar Association has an attorney search engine.

3) List of NGOs who are active in the field

The following NGOs are active at a national level in Finland but there are also several local or regional organisations that can actively take part in environmental decision-making in their municipality or region. The national NGOs can help you find contact with some of the local associations.

Finnish Association for Nature Conservation

Finnish Society for Nature and Environment

4) List of international NGOs, who are active in the Member State

There are several international NGOs, who are also active in Finland:

BirdLife Finland

WWF Finland

1.7. Guarantees for effective procedures

1.7.1. Procedural time limits

1) Time limit to challenge an administrative environmental decision (not judicial) by an administrative body (either superior or same level).

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. The administrative review procedure follows the rules stipulated in the Administrative Procedure Act (APA, 434/2003, Chapter 7a). If a review procedure is provided for, it cannot be bypassed by directly lodging an appeal with the court. As an example, the Land Use and Building Act (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 30 days according to the APA, but it can also be shorter, and the authority may be obliged to give priority to processing the request as well. According to the Section 187 of the LUBA the request for administrative review, also called the request for rectification, has to be made in writing within 14 days of the decision. 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.

2) Time limit to deliver decision by an administrative organ

The APA generally provides that an administrative matter must be considered without undue delay. In environmental matters, specific time limits are more typically prescribed for parties than for the authority, although there are exceptions, such as EIA procedure, where deadlines are provided for the authority as well. New national legislation has also been approved to transpose the directive on the promotion of the use of energy from renewable sources (2018/2001 /EU) containing provisions on the duration of the permit-granting processes, and it will enter into force by 30 June 2021. This legislation covers the administrative permits to build, repower and operate plants for the production of energy from renewable sources.

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 websites 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 Regional State Administrative Agencies, which handle the major environmental permit matters, average pending times have varied around 9 to 12 months in recent years.

The regional legislation regulating administrative procedure of the Åland Islands 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), authorisation for lesser activities (miljögranskning) is regularly decided within 6 months, while pending times for environmental permits for major activities (e.g. IPPC/IED) are on average 15 months.

3) Is it possible to challenge the first level administrative decision directly before court?

Administrative procedure does not include a general stage of internal review, i.e. reconsideration by the decision-maker or a superior administrative body. This means that usually the administrative decisions concerning environment can be challenged directly before court. However, substantive law can prescribe such administrative review procedures (also called request for rectification). Typically, internal reviews are not used in cases with multiple parties, so most of the decisions under environmental law are challenged directly before a court. If a review procedure is provided for, it cannot be bypassed by directly lodging an appeal with the court.

4) Is there a deadline set for the national court to deliver its judgment?

With regard to appeal 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 as urgent by law, which translates in practice to prioritisation 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, these 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.

An administrative court must, on request, provide an estimate of the time required to consider a matter (AJPA, Section 55).
The pending times for appeal proceedings in the regional administrative courts have in recent years (situation in January 2020) 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 11 and 10 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 (2018) in district courts were slightly above 9 months in full-scale civil disputes and around 4.2 months in criminal cases. In courts of appeal, average pending times for appeal proceedings were around 6 months. In the Supreme Court, the averages were around 4.3 months for refused leaves to appeal and 18.7 months for decisions on the merits.
There has been since 2009 also a compensation regime in place for undue delays in the general courts, regulated by the Act on Compensation for Excessive Length of Judicial Proceedings (362/2009). The Act was amended in 2013 to cover also administrative court proceedings. The Act provides that a claim for compensation can be filed with the same court considering the main issue at hand and sets a default value for compensation at 1,500 euros per year of delay. The maximum sum of compensation is 10,000 euros. In administrative proceedings the right to compensation is limited to those individuals who are directly affected by the matter decided in the court, which means that e.g. NGOs can usually not claim for compensation.

5) Time limits applicable during the procedure (for parties, submitting evidence, other possible deadlines, etc.)

The court has wide discretion when deciding upon time limits during the procedure, but these time limits should be reasonable. When a party is given a time limit for his written comments, he or she has to be also notified that the matter can be resolved after the expiry of the time limit even if no comments have been made. A usual time limit for written comments in an administrative court can be 3-4 weeks. A party can always ask for prolongment of the time limit, if he or she has difficulties in keeping it.

1.7.2. Interim and precautionary measures, enforcement of judgments

1) When does the appeal challenging an administrative decision have suspensive effect?

According to general provisions regarding enforceability, an administrative decision qualifying for appeal may not be enforced before (ordinary) means of challenge have been exhausted, i.e. the decision has become final or gained “legal force” (saanut lainvoiman, vunnit laga kraft, AJPA, Section 122). This entails that lodging an appeal against a decision ordinarily automatically delays its execution. The same applies also for a request for an administrative review if such a review process is prescribed in the substantive law, but in the case of the municipal appeal lodging of the appeal does not automatically delay the execution of the decision.
Appeal to the Supreme Administrative Court must nevertheless not prevent enforcement of a decision in a matter in which leave to appeal is required. Enforcement may nevertheless not be undertaken if it renders the appeal useless.
Environmental and other permit regimes often provide for an option to request the right to commence work or activities in accordance with the permit decision irrespective challenges against it (see question 4).

2) Is there a possibility for an injunctive relief during the administrative appeal by the authority or the superior authority?

As explained above the main rule is that an appeal or a request for an administrative review against a decision automatically delays its execution. In Finland the 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, the competences of the authority or the superior authority to order an injunctive relief are usually prescribed in the substantive law as well. The appeal authority may prohibit the implementation of the decision if a right to commence work or activities has been granted (see for example Section 202 of the Land Use and Building Act).

3) Is there a possibility to introduce a request for such a measure during the procedure and under what conditions? Possible deadline to submit this request?

There are no separate deadlines for submitting a request for an injunctive relief, but since the time limits for a request for an administrative review and also for processing such request are usually quite short, the request should be made as early in the process as possible. There are no specific conditions in the law for an injunctive relief, but if the request for administrative review would become futile due to the execution of the administrative decision, this supports ordering an injunctive relief.

4) Is there immediate execution of an administrative decision irrespective of the appeal introduced? Under what conditions?

Environmental and other permit regimes often provide for an option to request the right to commence work or activities in accordance with the permit decision irrespective of challenges against it. As the conditions for granting such right to commence are laid down by the applicable substantive 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 lodges 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.
There are also some types of decisions that are directly enforceable before they have become final, i.e. despite appeals, unless the appeal 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 Administrative Procedure Act provides for a general possibility of execution before legal force (APA, Section 49f). 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. Such an order is also reviewable by the administrative court.

5) Is the administrative decision suspended once challenged before court at the judicial phase?

As explained above the main rule is that an appeal or a request for an administrative review against a decision automatically delays its execution. If leave to appeal is required in the matter, an appeal will not preclude enforcement. However, even in this case the enforcement may not begin if the appeal would become futile due to the enforcement, or if the Supreme Administrative Court denies enforcement.
If the administrative authority has granted an operator a right to commence work or activities in accordance with the permit decision irrespective challenges against it, 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.

6) Is there a possibility for the national tribunals to provide injunctive relief (conditional upon a financial deposit)? Is there separate appeal against this order on the injunctive relief or the financial deposit?

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 appeal court (e.g. under the Water Act) or where it is possible for the appeal court to issue such an order together with rejecting appeals against the permit decision (e.g. the Environmental Protection Act, the EPA).
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.

1.7.3. Costs - Legal aid - Pro bono assistance, other financial assistance mechanisms

1) How can one calculate what costs will be involved when one intends to initiate a procedure - administrative costs, judicial costs, costs for filing a case, experts' fees, lawyers' fees, cost of appeal, etc.

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeal stage (as of the beginning of 2019):
Administrative court: 260 euros
Supreme Administrative Court: 510 euros.
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 or her challenge.
There are no additional court fees for any further 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.
For general court proceedings, the following trial fees are charged from the plaintiff/appellant (as of the beginning of 2019), with corresponding or similar exemptions as in administrative court proceeding:
District court (incl. land court): 65–510 euros
Court of appeal: 510 euros (260 euros in criminal matters)
Supreme Court: 510 euros.
According to a research commissioned by the National Research Institute of Legal Policy, the average legal expenses in 2008 in civil dispute proceedings in district court the average liability imposed on the losing party was 5,277 euros. There has not been made a more recent study covering the whole country, but according to some studies made in certain district courts the average liability has clearly gone up, even though the variation in legal expenses is big.
According to a study of the Finnish Bar Association the average (median) hourly rate charged for legal counsel was 200 euros.

2) Cost of injunctive relief/interim measure, is a deposit necessary?

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.

3) Is there legal aid available for natural persons?

Legal aid at the expense of the state is available for persons who need expert assistance in a legal matter according to the Legal Aid Act (257/2002). Legal aid is not commonly used in environmental matters where the costs of the administrative judicial procedure are usually relatively low.
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 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, the 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 10,000 euros.
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.

4) Is there legal aid available for associations, legal persons, NGOs with legal personality and without legal personality? If yes, how to request legal aid? Is there pro bono assistance?

Legal aid is not available to NGOs or companies.
Many law firms, especially bigger ones, do pro bono legal work, often in accordance with 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 publicised 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.

5) Are there other financial mechanisms available to provide financial assistance?

Apart from the legal aid and pro bono legal assistance offered by certain law firms, an insurance covering legal expenses is relatively common in Finland. There is no information available about the use of legal expenses insurance in environmental cases.

6) Does the 'loser party pays' principle apply? How is it applied by courts, are there exceptions?

Traditionally the "loser party pays" principle has not played a central role in administrative judicial procedure, but since the renewal of the Administrative Judicial Procedure Act in 2020 the situation has changed somewhat. According to the AJPA a party has the obligation to bear the costs of another party, in full or in part, if it would be unreasonable in light of the outcome of the case that the other party would bear his or her own costs (AJPA, Section 95). 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 required to compensate witnesses that they have called.
With regard to 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 must be considered. Assessment of the reasonableness of a liability may also consider the legal ambiguity of the matter, the actions of the parties and the significance of the matter for a party. 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 not common in environmental cases for private parties to be required to pay other private parties' expenses. 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.

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.

7) Can the court provide an exemption from procedural costs, duties, filing fees, taxation of costs, etc.? Any other national characteristics linked to this topic?

In addition to categorical exemptions from the trial fee, such as when the appellant is successful in his or her challenges, an exemption can be granted on grounds of unreasonableness on a case-by-case basis by the referendary or 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.

1.7.4. Access to information on access to justice - provisions related to Directive 2003/4/EC

1) Where are the national rules on environmental access to justice available? Internet link to be provided. Are there other forms of structured dissemination?

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.

Information about the legislation is available in the FINLEX database.

The general website of the environmental administration provides information on different environmental procedures, including information on access to the courts.

The websites of the four Regional State Administrative Agencies competent in environmental and water permit matters include registers on pending permit matters and permit decisions.

Further information on specific environmental procedures and access to justice may be provided on the websites of municipalities, for example.

2) During different environmental procedures how is this information provided? From whom should the applicant request information?

According the Administrative Procedure Act the competent authority is obliged to provide advice on dealing with administrative matters and respond to questions and enquiries concerning the use of its services. Advice must be provided free of charge. In environmental legislation there are often more precise stipulations on the obligation of the authorities to provide with advice and information as described under the next questions.

3) What are the sectoral rules (EIA, IPPC/IED, regarding plans and programmes, etc.)?

The Administrative Procedure Act is generally applied also in environmental administrative procedures. Apart from the general obligations on administrative authorities to provide advice and respond to questions and enquiries there are more detailed obligations in some of the sectoral environmental acts. According to the Environmental Protection Act (EPA), which applies to e.g. installations under the IPPC and IED, the permit authority must provide information for the applicant in an electronic format necessary for applying an environmental permit and also anybody else interested in the ongoing procedures or decisions made in a certain area (Sections 39a, 45 and 86). This obligation concerns mainly the Regional State Administrative Agencies, and also the municipal authorities.

According the Act on Environmental Impact Assessment Procedure concerning the EIA, competent authorities are the Centres for Economic Development, Transport and the Environment (so called ETE Centres), which have also the general obligation to provide advice. These ETE Centres are also the national competent authorities with regard to the Water Framework Directive and provide information on the water management planning process.

4) Is it obligatory to provide access to justice information in the administrative decision and in the judgment?

Appeal instructions must be appended with a decision eligible for review by appeal. This applies both for an administrative decision and a judgement (APA, Section 47 and AJPA, Section 88). The appeal instructions must indicate the appellate authority, the authority with whom the appeal document is to be lodged and the appeal period and the date when the said period begins to run. Alternatively, the legal basis for a prohibition against appeal must be indicated. The Administrative Judicial Procedure Act further provides that appeals may not be dismissed due to incorrect lodging by reason of lacking or faulty appeal instructions (AJPA, Section 17). Therefore, an appellant acting in accordance with appeal instructions that indicate an incorrect appeal period, for example, should not have his or her appeal dismissed because of exceeding the appeal period.

5) Is translation, interpretation provided to foreign participants? What are the rules applicable?

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. With relevance to foreigners, Section 6 of the Constitution provides that everyone is equal before the law, and that no one may, 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) contains 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 an obligation to ensure that citizens of the other Nordic countries receive the language assistance they require.

The stipulations described above mean 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, it also applies to required translation and interpretation costs. 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.

1.8. Special procedural rules

1.8.1. Environmental Impact Assessment (EIA) - provisions related to Directive 2003/35/EC

Country-specific EIA rules related to access to justice

1) Rules on standing and access to justice relating to screening (conditions, timeframe, public concerned)

Environmental impact assessment (EIA) procedure is regulated by the Act on Environmental Impact Assessment Procedure (EIA Act, 252/2017) together with a complementary governmental decree (277/2017). The Act has in its Section 37 a general reference to both the AJPA and the sectoral statutes covering the different permit procedures that can be relevant in connection to the project. This means in practice that the provisions on judicial appeal including rules on standing concerning the environmental impact assessment depend on the case and the sectoral legislation applicable to the project in question.

Annex I to the Act includes a list of activities (thresholds), for which an 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). In the case of nuclear power plant projects, the competent authority is the Ministry of Economic Affairs and Employment. According to the EIA Act (Section 34) the ETE Centre has always a right to appeal against the final permit or other consent decision, if an assessment has been omitted altogether or if there are essential deficiencies in the assessment.

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 appeal 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 according to the applicable substantive legislation.

The procedural conditions, including right of appeal, are determined by how this consent decision can be challenged (see further questions 3 to 5).

EIA procedure on the Åland Islands is governed by a regional act (Landskapslag om miljökonsekvensbedömning, 2018:31) and decree (Landskapsförordning om miljökonsekvensbedömning, 2018:33). 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 for the state law. 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.

2) Rules on standing relating to scoping (conditions, timeframe, public concerned)

The Act on Environmental Impact Assessment Procedure has in its Section 37 a general reference to both the AJPA and the sectoral statutes concerning the different permit procedures that can be relevant in connection to the project. This means in practice that the provisions on judicial appeal concerning the environmental impact assessment depend on the case and the sectoral legislation applicable to the project in question.

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.

3) At what stage(s) can the public challenge the administrative decisions on environmental projects? Deadline to challenge decisions?

The Act on Environmental Impact Assessment Procedure has in its Section 37 a general reference to both the AJPA and the sectoral statutes concerning the different permit procedures that can be relevant in connection to the project. This means in practice that the provisions on judicial appeal including rules on standing concerning the environmental impact assessment depend on the case and the sectoral legislation applicable to the project in question (see next question). Apart from municipal appeal, there is no actio popularis with regard to access to court. Nor are there any general provisions on the right of appeal of NGOs. Right of appeal is provided for NGOs by substantive law in most significant environmental matters.

For example, in the case of the environmental impact assessment of a groundwater extraction project, the provisions of the Water Act on judicial appeal would be applicable. According to the Water Act the permit authority is the Regional State Administrative Agency and the appellate authority is the Vaasa administrative court. An appeal against the decision of the Regional State Administrative Agency to grand a permit to the groundwater extraction project in question can be lodged at the Vaasa administrative court within thirty days of publication of the decision, and the permit decision can be challenged also on the ground of deficiencies in the environmental impact assessment.

4) Can one challenge the final authorisation? Under what conditions, if one is an individual, an NGO, a foreign NGO?

Both the substantial and procedural legality of the screening decision can be reviewed in the court once the final consent decision has been made, and the court's powers of review accord with the review of the consent decision. Essential deficiencies in the assessment, which again covers both substantial and procedural shortcomings, can also be invoked against the final consent decision. The fact that an assessment has been omitted altogether can be invoked in a similar fashion, which, in accordance with established case law, means that the administrative court is competent to review the need for an EIA whether a screening decision has been issued or not, provided that it has established the necessary facts to resolve this question.

The procedural conditions, including right of appeal, are determined by how the consent decision can be challenged. This means in practice that the provisions on judicial appeal depend on the case and the sectoral legislation applicable to the project in question. Right of appeal is granted according to the general provisions of AJPA to any person the decision is addressed to or whose right, obligation or interest is directly affected by the decision. Substantive environmental law typically provides a wider right of appeal than the AJPA.

Right of appeal is provided for NGOs by substantive law in most significant environmental statutes such as the Nature Conservation Act, Land Use and Planning Act, Environmental Protection Act, Water Act, Waste Act, Mining Act, Transport System and Highways Act, Railways Act, etc. These provisions in substantive law can differ in e.g. whether both national and local NGOs have a right to appeal or if the right is only prescribed to local and regional NGOs. The same rules apply for foreign NGOs as for national ones, and the abovementioned differences in substantive law can lead to different outcomes when determining the right of appeal of a foreign NGO.

5) Scope of judicial review – control on substantive/procedural legality. Can the court act on its own motion?

Both the substantial and procedural legality of the screening decision can be reviewed in the court once the final consent decision has been made, and the court's powers of review accord with the review of the consent decision. Essential deficiencies in the assessment, which again covers both substantial and procedural shortcomings, can also be invoked against the final consent decision. 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.

6) At what stage are decisions, acts or omissions challengeable?

In cases where an EIA 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 appeal 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
In general, the substantive and procedural aspects of the EIA can be challenged in the context of a final permit or other consent decision according to the sectoral legislation concerning the project in question. The fact that an assessment has been omitted altogether can be invoked in a similar fashion in the context of a final permit or other consent decision in the matter.

7) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

In Finland 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 Land Use and Building Act 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. In general the substantive law rarely provides for an administrative review in case of those activities, for which environmental impact assessment is required.

8) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc., not meaning the requirement determined under point 12?

Participation in or during the environmental impact assessment (EIA) procedure is not a formal prerequisite for challenging either the consent decision or the EIA preceding it.

9) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

There are no specific provisions concerning a fair and equitable judicial procedure in the national legislation on environmental impact assessment (EIA). According the Administrative Judicial Procedure Act (AJPA) the appellate authority, or the administrative court, is responsible for leading the process and reviewing the matter. With regard to review of facts, the AJPA provides that the court must obtain evidence on its own motion to the extent that the impartiality and fairness of the proceedings and the nature of the matter require. The state is responsible for compensating witnesses and experts called by the court on its own initiative. The authority that has made the decision challenged by an appeal takes part in the administrative judicial procedure and is obliged to give equitable consideration to public and private interests when presenting the facts of the case to the court (AJPA, Section 37).

10) How is the notion of "timely" implemented by the national legislation?

There are no specific provisions concerning a timely judicial procedure in the national legislation on environmental impact assessment. With regard to appeal 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.

11) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to this sector apart from the general national provisions?

Enforceability and injunctive relief are governed by the procedure observed for the consent decision. In addition, the Act on Environmental Impact Assessment Procedure (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.

1.8.2. Integrated Pollution Prevention and Control (IPPC)/Industrial Emissions Directive (IED) - provisions related to Directive 2003/35/EC

Country-specific IPPC/IED rules related to access to justice

Competence to grant permits under the Environmental Protection Act (EPA) for activities that pose a risk of 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 covers activities from animal shelters to major industrial installations (IPPC/IED), and permits can also be integrated with ones under the Water Act. Permit decisions can be challenged through administrative appeal in the Vaasa administrative court, which has a nationwide jurisdiction in appeal matters under the EPA and expert judges trained in natural and technical sciences. 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 some special provisions regarding the court proceedings. The right of appeal is somewhat wider than under the standard provisions of the Administrative Judicial Procedure Act, 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 safeguarding of the environment and whose area of activity is subject to the environmental impact in question. Certain authorities are also entitled to appeal decisions under the EPA. Participation during the administrative permit procedure is not a prerequisite for standing in court.
The initial stages of the court proceedings in EPA appeal cases differ from the general appeal procedure in some cases. The court announces an appeal of an environmental permit decision by a permit applicant by posting a public notice of it for at least 14 days on the website of the administrative court, in order to allow responses to be submitted (Section 196 of the EPA and Section 62a of the APA). Information about the public notice should also be posted on the website of the municipality within the area impacted by the activity (Section 108 of the Local Government Act). The same applies to the decision of the court.

1) Standing rules, at what stages can one challenge decisions (if one is an NGO, a foreign NGO, a citizen)? Is the final decision challengeable?

The Environmental Protection Act (EPA) includes some special provisions regarding the court proceedings. The right of appeal is somewhat wider than under the standard provisions of the Administrative Judicial Procedure Act, belonging to persons whose rights or interests may be affected by the matter. The right of appeal is also provided for environmental NGOs, meaning registered associations or foundations whose purpose is to promote environmental, health or nature protection or general safeguarding of the environment and whose area of activity is subject to the environmental impact in question. The same rules apply for foreign NGOs. Certain authorities are also entitled to appeal decisions under the EPA.
The permit authority announces the permit application by posting a public notice of it for at least 30 days on the website of the authority, in order to allow responses to be submitted (Section 44 of the EPA and Section 62a of the APA). Information about the public notice should also be posted on the website of the municipality within the area impacted by the activity (Section 108 of the Local Government Act). The state environmental permit authority must also publish a summary of the permit application for the public on its website, along with other essential contents of the application.
The parties concerned can lodge an objection to the matter and other parties can also express their opinions. 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.

2) Rules on standing and access to justice relating to screening (conditions, timeframe, public concerned)

There are no provisions on screening related to IPPC/IED installations specifically. The screening procedure follows the general rules of the environmental impact assessment (see section 1.8.1). This means that the provisions of the Environmental Protection Act (EPA) on standing and access to justice described above apply when a decision related to screening of an IPPC/IED installation is challenged.

3) Rules on standing relating to scoping (conditions, timeframe, public concerned)

There are no provisions on scoping related to IPPC/IED installations specifically. The scoping procedure follows the general rules of the environmental impact assessment (see section 1.8.1). This means that the provisions of the Environmental Protection Act (EPA) on standing and access to justice described above apply when a decision related to scoping of an IPPC/IED installation is challenged.

4) At what stage(s) can the public challenge the administrative decisions on environmental projects? Is there a deadline to challenge decisions?

The permit authority must announce the permit application by public notice posted for at least thirty days on the authority's website and on the websites of municipalities within the area impacted by the activity. The state environmental permit authority must also publish a summary of the permit application for the public on its website, along with other essential contents of the application. The parties concerned can lodge an objection to the matter and other parties can also express their opinions. An appeal against the decisions of the permit authority under the Environmental Protection Act (EPA) can be lodged in the Vaasa administrative court within thirty days of publication of the decision.

5) Can the public challenge the final authorisation?

The right of appeal under the Environmental Protection Act (EPA) is somewhat wider than under the standard provisions of the Administrative Judicial Procedure Act, as described under question 2, but there is no actio popularis with regard to access to court. An appeal against the final authorisation or permit decision under the EPA can only be made by those who have standing according to Section 191 of the Act.

6) Scope of judicial review – control on substantive/procedural legality. Can the court act on its own motion? Is it possible to challenge decisions, acts or omissions?

The court's competence and responsibilities of review are the same as in other administrative appeal 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 provide the court with 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 Environmental Protection Act (EPA) or the Water Act, two jurist members of the court are joined by one or two of these specialist members, instead of the generally competent panel of three legally trained judges. As neither the national EPA nor the linked court specialisation applies to the Åland Islands, corresponding permit appeals are handled in accordance with 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, where a leave to appeal is required. 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.

With regard to acts and omissions and enforcement through a request to the competent supervisory authority, the EPA identifies the competent state supervisory authority as well as requiring the municipality to assign one of its committees as local supervisory authority. At state level, the ETE Centre is according to the EPA the competent supervisory authority in environmental matters. The Chapter 18 of the EPA defines the supervisory 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 an application to the permit authority for revocation of the permit. In principle, anyone can approach the authority with a request for such enforcement measures from the supervisory authority, although some environmental acts include specific provisions of entitlement. An appeal against the decision by the competent supervisory authority or the permit authority under Chapter 18 of the EPA can be lodged in the Vaasa administrative court.

7) At what stage are these challengeable?

An administrative appeal can be lodged against the decisions of the permit authority and the competent supervisory authority under the Environmental Protection Act (EPA) in Vaasa district court within thirty days of publication of the decision.

8) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

There are a few provisions on an administrative review procedure in the Environmental Protection Act (EPA) concerning the monitoring and control plans and fishery matters that are in first instance decided by the competent supervisory authority. The application for administrative review is in these cases made to the state permit authority. The operator may also submit a request for an administrative review of a decision by a state supervisory authority (the Centre for economic development, transport and the environment, ETE Centre) concerning permit review to the state environmental permit authority (the Regional State Administrative Agency) once the Commission has published its decision on the conclusions concerning the main activity of an installation covered by the IED. In this case a separate appeal against this decision of the ETE Centre is not possible. An appeal against a decision by the state environmental permit authority under the EPA can be lodged directly with the Vaasa administrative court.

9) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc., not meaning the requirement determined under point 12?

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.

10) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

There are no specific provisions concerning a fair and equitable judicial procedure in the in the Environmental Protection Act (EPA) or other national legislation on IED/EPPC installations. According the Administrative Judicial Procedure Act (AJPA) the appellate authority, or the administrative court, is responsible for leading the process and reviewing the matter. In the Vaasa administrative court, with nationwide competence in appeal matters under the EPA, there are judges trained in natural and technical sciences in order to ensure sufficient expertise. The Supreme Administrative Court has also appointed expert judges that participate in decision-making in cases under the EPA. With regard to review of facts, the AJPA provides that the court must obtain evidence on its own motion to the extent that the impartiality and fairness of the proceedings and the nature of the matter require. The state is responsible for compensating witnesses and experts called by the court on its own initiative. The authority that has made the decision challenged by an appeal takes part in the administrative judicial procedure and is obliged to give equitable consideration to public and private interests when presenting the facts of the case to the court (AJPA, Section 37).

11) How is the notion of "timely" implemented by the national legislation?

There are no specific provisions concerning a timely judicial procedure in the Environmental Protection Act (EPA) or other national legislation on IPPC/IED installations. With regard to appeal 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.

12) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to this sector apart from the general national provisions?

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 authorised activity until the appeal 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 in section 1.7.2.)

13) Is information on access to justice provided to the public in a structured and accessible manner?

Comprehensive information on access to justice is not available for environmental matters or IED specifically. General information about administrative (and general) court proceedings is available on the website of the Finnish justice system.

According to the Environmental Protection Act (EPA), access to information by means of electronic communications is promoted in the sense that anyone has the right to request to be informed of environmental permit matters initiated and permits granted in a specific area by means of electronic communications insofar as the authority's information systems are able to receive such requests and automatically send messages. The websites of the four Regional State Administrative Agencies competent in environmental and water permit matters include registers of pending permit matters and permit decisions and general information on access to justice.

General information on the environmental permit procedures and more precise information on how to lodge an appeal can be found on the common website of Finland's environmental administration (more information is provided on the Finnish website).

1.8.3. Environmental liability[1]

Country-specific legal rules relating to the application of the Environmental Liability Directive 2004/35/EC, Articles 12 and 13

1) Which requirements need to be fulfilled for natural or legal persons (including environmental NGOs) to have the decision taken on environmental remediation by the competent authority reviewed by a court or another independent and impartial body in accordance with Article 13(1) ELD?

In Finland, the Environmental Liability Directive has been implemented by the Act on the Remediation of Certain Environmental Damages (383/2009) which entered into force on 1 July 2009, i.e. the Environmental Liability Act, and the related changes introduced into the Nature Conservation Act, the Environmental Protection Act (EPA), the Water Act, the Gene Technology Act and the Act on Transport of Dangerous Goods. Based on the Environmental Liability Act, the government has also issued a Decree on the Remediation of Certain Environmental Damages (713/2009), or the Environmental Liability Decree.

The Environmental Liability Act includes provisions on necessary measures related to the remediation of significant damage to protected species, natural habitats and waters, and on liability to pay the costs of such measures. The EPA, the Water Act, the Nature Conservation Act and the Gene Technology Act contain provisions on how, in accordance with the Environmental Liability Act, authorities may issue orders to remedy significant environmental damage caused by activities falling within the scope of application of these acts. Provisions to be applied in such cases are those on administrative enforcement proceedings set out in the act concerned. Under the reference provision, the EPA applies to the remediation of damage caused by the transport of dangerous goods.

Appeals against the authority's decision concerning the imposition of remedial measures and liability for costs is prescribed in the act whose administrative enforcement procedures have been followed (Environmental Liability Act, Section 17). This means that the right of appeal is also prescribed in these acts and can vary depending on the act to be applied. In all of these acts the right of appeal is somewhat wider than under the standard provisions of the Administrative Judicial Procedure Act (AJPA). An appeal related to matters falling under the scope of the Water Act and the EPA is made to the administrative court of Vaasa. In matters falling under the scope of the Nature Conservation Act, such appeals are made in a regional administrative court. A decision made by the Board for Gene Technology pursuant to the Gene Technology Act is also open to appeal before the administrative court, as referred to in the Administrative Judicial Procedure Act.

More information on remediation of environmental damages and the implementation of ELD in the Finnish legislation can be found in a report of the Ministry of Environment "Remediation of Significant Environmental Damage" from 2012.

2) In what deadline does one need to introduce appeals?

Appeals against the authority's decision concerning the imposition of remedial measures and liability for costs are prescribed in the act whose administrative enforcement procedures have been followed (Environmental Liability Act, Section 17). An appeal related to matters falling under the scope of the Water Act and the Environmental Protection Act (EPA) has to be made to the administrative court of Vaasa within thirty days of publication of the decision. In matters falling under the scope of the Nature Conservation Act, such appeals are made in a regional administrative court within thirty days of notice of the decision. A decision made by the Board for Gene Technology pursuant to the Gene Technology Act is also open to appeal before the administrative court within thirty days of notice of the decision.

3) Are there requirements for observations accompanying the request for action pursuant to Article 12(2) ELD and if yes, which ones?

Anyone who observes environmental damage may inform or notify the supervisory authority, which is usually the nearest Regional Centre for Economic Development, Transport and the Environment (ETE Centre) or the Board for Gene Technology. In cases where the supervisory authority does not take action, the provisions on right to initiate (administrative enforcement) proceedings set out in the applicable act are applied. Administrative enforcement proceedings are initiated in writing, but there are no other requirements for the observations accompanying the request for action. Administrative enforcement proceedings related to environmental damage can be initiated by people concerned, NGOs or other state or municipal authorities.

The authority where the administrative enforcement proceedings are initiated is typically the same authority that must be informed of the damage. However, administrative enforcement proceedings falling under the scope of the Water Act are initiated by the Regional State Administrative Agency.

4) Are there specific requirements regarding 'plausibility' for showing that environmental damage occurred, and if yes, which ones?

There are no specific requirements in Finnish law regarding the plausibility of a claim of environmental damage. If there is justified cause to suspect that significant environmental damage has occurred, the competent authority, usually the regional ETE Centre, should be contacted. It is the duty of the competent authority to assess the scope and extent of the damage and, when necessary, to initiate administrative enforcement proceedings. Competent authorities may use the help of other expert authorities in assessing the significance of the damage.

In practice, to be able to issue administrative enforcement orders for remedial measures, the authorities must establish who the operator is that has caused the damage and show that there is a causal link between the damage and the operator's activity subject to administrative enforcement. If administrative enforcement proceedings related to environmental damage are initiated by a notification from a person concerned or a NGO, it is not their duty to establish this information, but in some cases it might not be possible for the competent authority to do it either.

5) Is a certain manner required and/or time limits set, and if yes, which ones, as regards the notification of the decision by the competent authority to the entitled natural or legal persons (including the entitled environmental NGOs)?

When assessing the significance of environmental damage and the necessary remedial measures, the authority must hear other affected parties, such as landowners and inhabitants. According to the administrative enforcement proceedings, the affected parties, including the entitled NGOs, have the right to be heard before the authority decides on remedial measures. Typically, the hearing focuses on the proposal for remedial measures that was prepared by the operator causing the damage.
According to the APA, any decision taken by the competent authority must be issued in writing and instructions for requesting an administrative review must be provided at the same time as the decision. An authority must serve its decision without delay on the party concerned and on other known persons who have the right to request an administrative or judicial review of the decision, including the entitled environmental NGOs. The decision is usually communicated to the address indicated by the person in question. There are no time limits in the substantive legislation for completing the administrative enforcement proceedings.

6) Does the MS apply an extension of the entitlement to request action by competent authority from damage to the environment in cases of imminent threat of such damage?

There is no extension of the entitlement to request action concerning the cases of imminent threat of a damage to the environment in the substantive environmental legislation, nor are these cases excluded from the scope of the administrative enforcement proceedings. Depending on the substantive law the competencies of different authorities and also the duties of operators differ in some ways in different cases of imminent threat of a damage.
According to the Water Act, an operator who has caused damage or harm or the imminent threat thereof must immediately notify the state supervisory authority (Regional Centre for Economic Development, Transport and the Environment, the ETE Centre) and take appropriate measures to prevent or minimise the damage or harm. A decision on the remediation, according to the Water Act cannot be made by the ETE Centre, which has to initiate administrative enforcement proceedings in the regional state administrative authority if the operator has not done so.
According to the Environmental Protection Act (EPA), the operator must notify the ETE Centre without delay of any substantial damage and the imminent threat thereof. In case of damage to nature the operator who has caused the damage or harm or the imminent threat of it must immediately notify the ETE Centre acting as the supervisory authority and take appropriate measures to prevent or minimise said damage or harm. In these cases the ETE Centre is competent to decide on both the immediate measures to prevent damage and the remediation measures.

7) Which are the competent authorities designated by the MS?

Regional Centres for Economic Development, Transport and the Environment (the ETE Centres) can issue orders in accordance with the Nature Conservation Act and the Environmental Protection Act (EPA), Regional State Administrative Agencies can issue orders based on the Water Act, and the Board for Gene Technology can issue orders in accordance with the Gene Technology Act. In ETE Centres, activities related to the remediation of environmental damage are part of the area of responsibility for the environment and natural resources, which is addressed at 13 regional ETE Centres. If there is justified cause to suspect that significant environmental damage has occurred, primary contacts include the regional ETE Centre, and in urgent cases, the local rescue authorities.

8) Does the MS require that the administrative review procedure be exhausted prior to recourse to judicial proceedings?

There are no provisions on administrative review procedures in connection with the administrative enforcement proceedings in the relevant environmental statutes. The appeal against a decision by the competent authority concerning the imposition of remedial measures and liability for costs can be made directly in an administrative court.

1.8.4. Cross-border rules of procedures in environmental cases

1) Rules on involving other countries? At which stage of the procedure is there a possibility to challenge environmental decisions?

In order to transpose the Convention on Environmental Impact Assessment (Espoo EIA Convention) and other international obligations, the Finnish EIA Act contains provisions with regard to projects likely to have significant environmental impacts on 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 with 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 geographical 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, 200/2005) contains similar provisions with regard to strategic environmental assessment of plans and programmes. The SEA Act transposes the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context. As far as land use plans are concerned, the Protocol has been transposed to Finnish legislation by Land Use and Building Act.
There are also some provisions concerning certain activities such as installations covered by the Industrial Emissions Directive (IED). According to the Environmental Protection Act (EPA), if the operations of an installation covered by the IED or of a waste facility for extractive waste posing a risk of a major accident are likely to cause significant harmful environmental impacts in the territory of another Member State of the European Union, the state environmental permit authority must provide the other state with information about the environmental permit application for the activity in question and any related documents at the same time as public notice of them is given and hearing of views is arranged. If necessary, the Ministry of the Environment must hold consultations with the competent authority of the other state before the permit matter is resolved to ensure that the environmental permit application and the related documents are made available to the public for an appropriate period in the state in question for possible comments.
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 Agreement between Finland and Sweden concerning transboundary rivers).
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.

2) Notion of public concerned?

The notion of public concerned does not make a distinction between the public in the country of the installation or the activity and the public in other affected countries. This is also explicitly formulated in some environmental statutes. According to Section 211 of the Environmental Protection Act (EPA), the environmental impacts of an activity referred to in the Act that extend into another state, must be taken into account in the same manner in which account would be taken of corresponding impacts in Finland. A similar provision about the impacts on a water body and groundwater can be found in the Water Act.

3) Do NGOs of the affected country have standing? When and to what court should they submit their appeals? What procedural assistance are they eligible for (legal aid, request for injunctive relief, interim measures, pro bono)?

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 an injunction, for example) apply regardless of nationality. As an example of the recent case law of the Supreme Administrative Court, see case KHO 2019:97 on the right of appeal of a Polish foundation against a decision granting a water permit for gas pipes on the bottom of the Baltic Sea.

Legal aid is not available to NGOs or companies. NGOs or 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. With regard to legal aid and language, see also sections above (1.7.3 and 1.7.4, respectively).

4) Do individuals of the affected country have standing? What procedural assistance are they eligible for (legal aid, request for injunctive relief, interim measures, pro bono)?

Individuals of the affected country have standing according to the same provisions as the individuals in the country of the operation or activity. Standing in interim relief proceedings corresponds with standing in the main proceedings.

Legal aid is provided for persons resident in Finland or another EU or EEA country (see section 1.7.3). There are no widely publicised pro bono programmes providing legal assistance for individuals in environmental matters specifically, but in principle individuals of the affected countries can also be recipients of pro bono legal assistance.

5) At what stage is the information provided to the public concerned (including the above parties)?

The substantive environmental acts have various provisions on providing information to the public concerned. If there are possible environmental impacts in another country the information should be provided to the public in that other country at the same time as in Finland. In practice the information especially on smaller scale activities or installations is in many cases published on the websites of the authorities only in Finnish or Swedish.

6) What are the timeframes for public involvement including access to justice?

The timeframes for public involvement vary depending on the substantive environmental law in question, but as an example a permit application under the Environmental Protection Act (EPA) has to be announced for at least thirty days on the website of the permit authority to allow for objections and opinions by the public concerned. In most of the environmental decisions the appeal period is thirty days.

7) How is information on access to justice provided to the parties?

Appeal instructions must be appended with a decision eligible for review by appeal. These instructions must indicate the appellate authority, the authority with whom the appeal document is to be lodged and the appeal period and the date when the said period begins to run.

8) Is translation, interpretation provided to foreign participants? What are the rules applicable?

NGOs or 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. With regard to language and translation, see also section 1.7.4.

9) Any other relevant rules?

If a project requires permits in two (or more) countries, individuals or NGOs may want/need to pursue their interests in proceedings 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.

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[1] See case C-529/15.

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Access to justice falling outside of the scope of EIA, IPPC/IED, access to information and ELD

1.1. Decisions, acts or omissions concerning specific activities falling within the scope of EU environmental legislation outside the scope of the EIA and IED Directives

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission and its content (in particular, the conditions to be fulfilled and any time-limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

The Habitats Directive and the Birds Directive have been transposed into Finnish law mainly by the Nature Conservation Act (1096/1996). The right of appeal according to the Nature Conservation Act is wider than under the standard provisions of the Administrative Judicial Procedure Act (AJPA), mainly in regard to certain NGOs. The right to appeal is granted to those whose rights or interests are affected by the matter in question. In matters other than compensation, the local authority also has the right of appeal. In matters other than compensation and those involving certain derogations from protection orders, the right of appeal is also granted to any registered local or regional association whose purpose is to promote nature conservation or environmental protection. A decision taken by the Government concerning the adoption of a nature conservation programme can also be appealed by a corresponding national organisation or any other national organisation safeguarding the interests of landowners.

In addition, anyone who incurs inconvenience, as well as the above-mentioned local or regional NGO,s has the right to request the environmental authority to take coercive measures against someone who is acting contrary to the Nature Conservation Act (Section 57.2). The authority may upon this request forbid that person from continuing or repeating the offence or instance of negligence and require that he correct the unlawful situation or redress his negligence. A decision by the authority not to take action can be challenged in the administrative judicial procedure by the party making the request.

The same rules apply in principle for domestic and foreign NGOs, but in practice foreign NGOs can rarely be considered as local or regional associations in the meaning of the above-mentioned provisions.

According to the Hunting Act similar provisions on standing and access to justice to those in the Nature Conservation Act apply also to decisions by the Finnish Wildlife Agency concerning derogations from certain prohibitions under the Habitats Directive and the Birds Directive.

For activities falling within the scope of the **Water Framework Directive,** the provisions of the Environmental Protection Act (EPA) and the Water Act are of importance (for the provisions on access to justice of the EPA see also section 1.8.2). These acts cover water related activities listed in Article 11 of the

Water Framework Directive and requiring prior authorisation or regulation. Both of these acts include some special provisions regarding the court proceedings. These provisions of the two acts are very similar due to the common history of water legislation and the fact that according to these two acts the permit procedures in the Regional State Administrative Agencies can be combined.
The right of appeal according to the EPA and the Water Act is somewhat wider than under the standard provisions of the AJPA, granted to persons whose rights or interests may be affected by the matter. The right of appeal is also provided for environmental NGOs, meaning registered associations or foundations whose purpose is to promote environmental, health or nature protection or general safeguarding of the environment and whose area of activity is subject to the environmental impact in question. The same rules apply to foreign NGOs. Certain authorities are also entitled to appeal decisions under the EPA and the Water Act.
In Finland, 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. In the above-mentioned statutes, there are only a few provisions on **administrative review** e.g. in the EPA and the Water Act concerning decisions on monitoring and control plans of activities that have already been granted a permit under those acts. This means that in most of the environmental decisions the **appeal** period is thirty days and the appellate authority is the regionally competent administrative court or in case of environmental and water permits according to EPA and Water Act the Vaasa administrative court.
The general provisions of Administrative Procedure Act (APA) and Administrative Judicial Procedure Act (AJPA) on access to justice are central also when assessing access to justice in environmental matters. However, there are numerous special provisions in the Finnish environmental legislation on access to justice and especially the standing of NGOs, which is a special feature of the environmental law. These special provisions have since the 1990s gradually widened to cover a large number of activities and decisions related to the environment. The provisions on standing and access to justice in different acts can differ in their details and a clear overall picture can therefore be difficult to obtain. As an example, in some cases only local and regional environmental NGOs have a right to appeal whereas the right to appeal in other cases covers also national NGOs. The Aarhus Convention and the case law of the Court of Justice of the European Union have played an important role in this development of the legislation and in the case law of the Supreme Administrative Court, but also the coherence of the national legislation has been emphasised in the national case law (see KHO 2004:76, KHO 2011:49 and KHO 2019:97). In light of the national case law, access to national courts in environmental matters is guaranteed in an effective way.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

In Finland, 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. The administrative appellate authority is competent to review both the procedural and substantive legality of decisions. The court's competence and responsibilities of review are the same as in other administrative appeal matters. Both the procedural and substantial legality of the challenged decision are liable to review, as well as underlying material and technical findings.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

In Finland, 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. 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 (Administrative Judicial Procedure Act, Section 7). An example of a provision concerning administrative review in the environmental matters described in this section is the decision of the fisheries authority to approve implementation plan for a fisheries obligation according to the Water Act; a request for administrative review has to be submitted to the permit authority, which is the Regional State Administrative Agency.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

Participation during the administrative procedure is not a prerequisite for standing in court.

5) Are there some grounds/arguments precluded from the judicial review phase?

There are no provisions precluding certain grounds or arguments from the judicial review phase. The administrative court 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. However, courts have to ensure adherence to claims in their decision-making.

6) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

There are no specific provisions concerning a fair and equitable judicial procedure in the national legislation concerning the environmental decisions described in this section. According the Administrative Judicial Procedure Act (AJPA) the appellate authority, or the administrative court, is responsible for leading the process and reviewing the matter. In the Vaasa administrative court, with nationwide competence in appeal matters under the Environmental Protection Act (EPA) and the Water Act, there are judges trained in natural and technical sciences in order to provide sufficient expertise. The Supreme Administrative Court has also appointed expert judges that participate in decision-making in cases under the EPA and Water Act. With regard to review of facts, the AJPA provides that the court must on its own motion obtain evidence to the extent that the impartiality and fairness of the procedure and the nature of the case so require. The state is responsible for compensating witnesses and experts called by the court on its own initiative. The authority that has made the decision challenged by an appeal takes part in the administrative judicial procedure and is obliged to give equitable consideration to public and private interests when presenting the facts of the case to the court (AJPA, Section 37).

7) How is the notion of "timely" implemented by the national legislation?

There are no specific provisions concerning a timely judicial procedure in the national legislation on the decisions falling within the scope of EU environmental legislation. With regard to appeal 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.

8) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The general rule in all administrative judicial proceedings, which applies also to environmental 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 decision described in this section, such as a water permit decision or a derogation from the prohibitions in the Nature Conservation Act, ordinarily suspends commencement of the authorised activity until the appeal 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 in section 1.7.2.)

9) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive, and do these include express statutory reference to a requirement that costs should not be prohibitive?

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeal stage (as of the beginning of 2019):
Administrative court: 260 euros
Supreme Administrative Court: 510 euros
There are no additional court fees for any further stages of the proceedings. The costs of legal counsel form a major part of the costs of an administrative judicial procedure but use of legal counsel is not always necessary. A party has the obligation to bear the costs of another party in full or in part, if it would be unreasonable in light of the outcome of the case, that the other party should bear his or her own costs. The administrative judicial proceedings typically give rise to relatively low costs. (For more information on costs see section 1.7.3.)

1.2. Decisions, acts or omissions concerning the administrative procedures to be followed to comply with national implementing legislation for the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[1]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

The content and procedure related to SEA can only be challenged in connection to the decision-making procedure of the plan or programme in question. This means in practice that the provisions on judicial appeal concerning the strategic environmental assessment depend on the case and the sectoral legislation applicable to the plan or programme. The SEA Act contains a similar general reference to the sectoral statutes with regard to strategic environmental assessment of plans and programmes as the EIA Act concerning access to justice.

The Governmental Decree on the Assessment of the Effects of Certain Plans and Programmes (347/2005) includes a list of plans and programmes, for which a strategic environmental assessment according to the SEA Act is always required. Some of these plans and programmes, such as the national land use objectives under the Land Use and Building Act, are adopted by the Council of State, and others, such as the flood risk plans, by a Ministry. An appeal against these decisions of the Council of State or a Ministry is made directly to the Supreme Administrative Court. Other plans and programmes are adopted at the regional level, such as the regional waste plans. According to the Waste Act, the regional waste plans are adopted by the ETE Centres (centres for economic development, transport and the environment). An appeal against these regional decisions is submitted to the regional administrative courts.

Right of appeal pertains to individuals affected by the decision. Apart from municipal appeal, there is no actio popularis with regard to access to court. Nor are there any general provisions on the right of appeal of NGOs. Right of appeal is provided for NGOs by most of the sectoral statutes applicable to the plans and programmes listed in the SEA Decree.

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

In addition to the above, also nationally active organisations 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 Administrative Judicial Procedure Act.

In the **Act on the Organisation of River Basin Management and Marine Strategy**, there is a reference to the SEA Act stating that provisions on the environmental report that must be presented as part of the river basin management plan and the marine strategy document, are laid down in the SEA Act. An appeal against the Government's decision to approve the river basin management plan or the marine strategy document can be lodged at the Supreme Administrative Court. The right of appeal applies to anyone whose right, obligation or interest may be impacted by the decision, the municipality concerned, an authority supervising the public interest, and a registered local or regional association or foundation whose function is to promote environmental protection or nature conservation and whose operating area the river basin management plan concerns.

In the **Flood Risk Management Act** there is a similar reference to the SEA Act as in the Act on the Organisation of River Basin Management and Marine Strategy concerning the environmental report in connection to the flood risk management plans. An appeal against the decision of the Ministry of Agriculture and Forestry to approve the flood risk management plan can be lodged at the Supreme Administrative Court. A decision may be appealed by a party whose right, obligation or benefit may be impacted by the decision, relevant municipality, Regional Council or regional rescue service, an authority supervising the public interest and a registered local or regional association or foundation whose purpose is to promote environmental or nature protection or use of water resources and in whose territory the flood risk management plan is applicable.

In the Transport System and Highways Act there is also a reference to the SEA Act concerning the **national plan for transport network**. The Government's decision to adopt the plan for transport network can be appealed to the Supreme Administrative Court.

SEA procedure on the **Åland Islands** is governed by the same regional act as the EIA procedure (Landskapslag om miljökonsekvensbedömning, 2018:31). The provision on SEA procedure in Chapter 3 of the Act are applied on plans and programmes adopted by the government and the municipalities of the Åland Islands. 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.

The Åland Islands have their own regional act governing plans and construction (Plan- och bygglag för landskapet Åland, 2008:102). The regional act provides two levels of plans: local master and detail plans. Like 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 is granted to organisations registered in the region when the matter concerns its sphere of activity.

The general provisions of the Administrative Procedure Act (APA) and the Administrative Judicial Procedure Act (AJPA) on access to justice are central also when assessing access to justice in environmental matters. However, there are numerous special provisions in the Finnish environmental legislation on access to justice and especially on the standing of NGOs, which is a special feature of environmental law. These special provisions have gradually widened to cover a number of plans and programmes related to the environment. The provisions on standing and access to justice in different acts can differ in their details and a clear overall picture can therefore be difficult to obtain. As an example, in some cases only local and regional environmental NGOs have a right to appeal whereas the right to appeal in other cases covers also national NGOs. In light of the national case law, access to national courts in environmental matters is guaranteed in an effective way.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The court's powers of review accord with the review of the decision to adopt the plan or programme. The fact that an assessment has been omitted altogether can always be invoked in the court according to Section 11 of the SEA Act.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

In Finland, 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. At the moment there are no such provisions concerning the plans and programmes covered by the SEA Directive.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

Participation during the administrative procedure is not a prerequisite for standing in court.

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The general rule in all administrative judicial proceedings, which applies also to environmental 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 decision described in this section, such as adoption of a nature conservation programme under the Nature Conservation Act, ordinarily suspends commencement of the authorised activity until the appeal 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 plan despite appeals. 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 in section 1.7.2.)

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeal stage (as of the beginning of 2019):
Administrative court: 260 euros
Supreme Administrative Court: 510 euros
There are no additional court fees for any further stages of the proceedings. The costs of legal counsel form a major part of the costs of an administrative judicial procedure but use of legal counsel is not always necessary. A party has the obligation to bear the costs of another party in full or in part, if it would be unreasonable in light of the outcome of the case, that the other party should bear his or her own costs. The administrative judicial proceedings typically give rise to relatively low costs. (For more information on costs see section 1.7.3.)

1.3. Decisions, acts or omissions concerning the administrative procedures to be followed to comply with the public participation requirements of Article 7 of the Aarhus Convention in respect of plans and programmes not submitted to the procedures set out in the Strategic Environmental Assessment (SEA) Directive 2001/42/EC[2]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedures for adopting the decision, act or omission (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

In Section 3 of the Act on the Assessment of the Effects of Certain Plans and Programmes on the Environment (SEA Act, 200/2005) there is a general obligation on the authorities to assess the effects of all plans and programmes that might have significant effects on the environment. This general obligation is not limited to the plans and programmes under the SEA Directive, which are listed in the Governmental Decree described in section 2.2. The SEA Act contains a similar general reference to the sectoral statutes with regard to strategic environmental assessment of plans and programmes as the EIA Act concerning access to justice. This means in practice that the provisions on judicial appeal concerning the strategic environmental assessment depend on the case and the sectoral legislation applicable to the plan or programme in question.

Apart from the plans and programmes covered by the SEA Directive and the Finnish SEA Act described in section 2.2 there are several plans and programmes that are relevant in connection to the question of access to justice in environmental matters. In general, the provisions of Administrative Judicial Procedure Act (AJPA) on standing and access to justice are applied to plans and programmes adopted by the state authorities and the provisions of Local Government Act on municipal appeal to plans and programmes at the local level of administration.

The Environmental Protection Act (EPA) lays down rules on the adoption of **air quality protection plans** according to the Directive on ambient air quality and cleaner air for Europe (2008/50/EC), **emission reduction programmes** according to the Directive on the reduction of national emissions of certain atmospheric pollutants (2016/2284/EU) and national **noise abatement action plans** according to the Directive relating to the assessment and management of environmental noise (2002/49/EC). The air quality protection plans are adopted by the municipalities (EPA, Section 145) and the national emission reduction plans are prepared by the Ministry of Environment and adopted by the Government (EPA, Section 149c). The noise abatement action plans are adopted by the municipalities or the Finnish Transport Agency depending on the areas concerned (EPA, Section 152). The provisions of public participation procedures guarantee all the persons and NGOs the right to participate in the preparation and modification or review of these plans (EPA, Sections 147, 149c, 152 and 204). There are no provisions on access to justice related to these plans in the EPA. This has been justified by the lack of a requirement for access to justice in the relevant EU directives and the nature of these plans as establishing a general framework for necessary national or regional measures. However, anyone can make a complaint to the Parliamentary Ombudsman or to the Chancellor of Justice if the relevant competent authorities fail to fulfil their responsibilities to prepare these plans or do not comply the public participation procedures or other relevant legal requirements while preparing these plans. The special provisions in the Finnish legislation on access to justice and especially the standing of NGOs in environmental matters have gradually widened to cover several plans and programmes related to the environment. This means in practice that the provisions on standing and access to justice differ in their details and a clear overall picture can therefore be difficult to obtain. In light of the national case law access to national courts in environmental matters is guaranteed in an effective way.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

In Finland, 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. The court's competence and responsibilities for review are the same as in other administrative and municipal appeal matters. When an administrative appeal has been lodged both the procedural and substantial legality of the challenged decision are liable to review, as well as underlying material and technical findings. When a decision taken by a municipal authority is challenged by means of municipal appeal, the court's review is more strictly confined to the grounds of illegality stated by the appellant.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

In Finland, 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. 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.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

Participation during the administrative procedure is not a prerequisite for standing in court.

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The general rule in all administrative judicial proceedings, which applies also to environmental 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 decision described in this section ordinarily suspends commencement of the authorised activity until the appeal 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 plan despite appeals. 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 in section 1.7.2.)

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeal stage (as of the beginning of 2019):
Administrative court: 260 euros
Supreme Administrative Court: 510 euros
There are no additional court fees for any further stages of the proceedings. The costs of legal counsel form a major part of the costs of an administrative judicial procedure but use of legal counsel is not always necessary. A party has the obligation to bear the costs of another party in full or in part, if it would be unreasonable in light of the outcome of the case, that the other party should bear his or her own costs. The administrative judicial proceedings typically give rise to relatively low costs. (For more information on costs see section 1.7.3.)

1.4. Decisions, acts or omissions also concerning plans and programmes required to be prepared under EU environmental legislation[3]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the content of the plan (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

Apart from the plans and programmes covered by the SEA Directive and the Finnish SEA Act described in section 2.2 there are several plans and programmes that are relevant in connection to the question of access to justice in environmental matters. In general, the provisions of Administrative Judicial Procedure Act (AJPA) on standing and access to justice are applied to plans and programmes adopted by the state authorities and the provisions of Local Government Act on municipal appeal to plans and programmes at the local level of administration.

In section 2.3 certain plans under the Environmental Protection Act (EPA) are mentioned, since the provisions of the EPA are applied to the adoption of **air quality protection plans** according to the Directive on ambient air quality and cleaner air for Europe (2008/50/EC), **emission reduction programmes** according to the Directive on the reduction of national emissions of certain atmospheric pollutants (2003/35/EU) and national **noise abatement action plans** according to the Directive relating to the assessment and management of environmental noise (2002/49/EC).

The Water Framework Directive and the Marine Strategy Directive have been transposed into Finnish law by the Act on the Organisation of River Basin and Marine Strategy. In this Act there is a reference to the SEA Act stating, that provisions on the environmental report that must be presented as part of the **river basin management plan** and the **marine strategy document**, are laid down in the SEA Act. An appeal against the Government's decision to approve the river basin management plan or the marine strategy document can be lodged at the Supreme Administrative Court. The right of appeal applies to anyone whose right, obligation or interest may be impacted by the decision, the municipality concerned, an authority supervising the public interest, and a registered local or regional association or foundation whose function is to promote environmental protection or nature conservation and whose operating area the river basin management plan concerns.

The **maritime spatial plans** according to the Directive establishing a framework for maritime spatial planning (2014/89/EU) are covered by the Chapter 8A of the Land Use and Building Act (LUBA). Drawing up the maritime spatial plans is the responsibility of the regional councils, which are in charge of other regional planning as well. The LUBA contains provisions on the planning procedure and the interaction with different stakeholders. However, the provisions on maritime spatial plans have been criticised because there are no clear stipulations on how the regional council's decision to approve a maritime spatial plan can be challenged. The content of a maritime spatial plan has not yet been the object of a case in the courts.

The **flood risk management plans** according to the Directive on the assessment and management of flood risks (2007/60/EC) are regulated under the Flood Risk Management Act, which contains provisions on the planning procedure and participation and communication during the process. An appeal against the decision of the Ministry of Agriculture and Forestry to approve the flood risk management plan can be lodged at the Supreme Administrative Court. A decision may be appealed by a party whose right, obligation or benefit may be impacted by the decision, a relevant municipality, Regional Council or regional rescue service, an authority supervising the public interest and a registered local or regional association or foundation whose purpose is to promote environmental or nature protection or use of water resources and in whose territory the flood risk management plan is applicable. The provisions of the Land Use and Building Act concerning the appeal and right to appeal a decision concerning the approval of local plans apply to the appeal of a decision by a municipality concerning the approval of a flood risk management plan for stormwater and meltwater flood risks.

The special provisions in the Finnish legislation on access to justice and especially the standing of NGOs in environmental matters have gradually widened to cover several plans and programmes related to the environment. This means in practice that the provisions on standing and access to justice differ in their details and a clear overall picture can therefore be difficult to obtain. In light of the national case law, access to national courts in environmental matters is guaranteed in an effective way.

2) Does the form in which the plan or programme is adopted make a difference in terms of legal standing (see also section 2.5 below)?

In general, the provisions of Administrative Judicial Procedure Act (AJPA) on standing and access to justice are applied to plans and programmes adopted by the state authorities. An appeal against the decision of the Council of State and also certain decisions by a Ministry to adopt a plan or a programme is lodged directly in the Supreme Administrative Court. An appeal against a decision by a regional state authority to adopt a plan or a programme is ledged in the regional administrative courts.

The provisions of Local Government Act on municipal appeal are applied to plans and programmes at the local level of administration. According to the Local Government Act the right of appeal is granted to all members of the municipality, in addition to directly concerned parties.

There is no regular review procedure concerning the decisions by a legislative body e.g. the Parliament of Finland or the Council of State when adopting normative instruments such as Acts or Decrees (see also section 2.5). There are some plans and programmes, such as the climate change policy plans and

the annual climate change report according to the Climate Change Act, that are reported to the Parliament, but at the moment there are no plans or programmes that would be adopted directly by the Parliament. According to Section 8 of the AJPA an appeal against a decision by the Council of State (the government plenary session) is lodged in the Supreme Administrative Court.

3) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The court's competence and responsibilities of review are the same as in other administrative appeal matters. Both the procedural and substantial legality of the challenged decision are liable to review, as well as underlying material and technical findings.

4) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

In Finland, 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. At the moment there are no provisions on a review procedure concerning plans and programmes required to be prepared under EU environmental legislation.

5) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

Participation during the administrative procedure is not a prerequisite for standing in court.

6) Are there some grounds/arguments precluded from the judicial review phase?

There are no provisions precluding certain grounds or arguments from the judicial review phase. The administrative court 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.

7) Fair, equitable - what meaning is given to equality of arms in the national jurisdiction?

There are no specific provisions concerning a fair and equitable judicial procedure in the national legislation on the environmental decisions described in this section. According to the Administrative Judicial Procedure Act (AJPA), the appellate authority, or the administrative court, is responsible for leading the process and reviewing the matter. The Supreme Administrative Court has appointed expert judges who participate in decision-making in cases under the Environmental Protection Act (EPA) and the Water Act and also the Act on the Organisation of River Basin Management and Marine Strategy. With regard to review of facts, the AJPA provides that the court must obtain evidence on its own motion to the extent that the impartiality and fairness of the proceedings and the nature of the matter require. The state is responsible for compensating witnesses and experts called by the court on its own initiative. The authority that has made the decision challenged by an appeal takes part in the administrative judicial procedure and is obliged to give equitable consideration to public and private interests when presenting the facts of the case to the court (AJPA, Section 37).

8) How is the notion of "timely" implemented by the national legislation?

There are no specific provisions concerning a timely judicial procedure in the national legislation on the decisions falling within the scope of EU environmental legislation. With regard to appeal 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.

9) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

The general rule in all administrative judicial proceedings, which applies also to environmental 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 decision described in this section ordinarily suspends commencement of the authorised activity until the appeal court has ruled on the matter. As an exception from this suspensive effect, some of the plans described in this section, like the water management plans, can be enforced despite appeals according to special provisions in the substantive law. The court is competent to suspend enforcement despite the special provisions if necessary. (This system of injunctive relief is described in more detail in section 1.7.2.)

10) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeal stage (as of the beginning of 2019):
Administrative court: 260 euros
Supreme Administrative Court: 510 euros
There are no additional court fees for any further stages of the proceedings. The costs of legal counsel form a major part of the costs of an administrative judicial procedure but use of legal counsel is not always necessary. A party has the obligation to bear the costs of another party in full or in part, if it would be unreasonable in light of the outcome of the case that the other party should bear his or her own costs. The administrative judicial proceedings typically give rise to relatively low costs. (For more information on costs see section 1.7.3.)

1.5. Executive regulations and/or generally applicable legally binding normative instruments used to implement EU environmental legislation and related EU regulatory acts[4]

1) What are the applicable national statutory rules on standing for both individuals and NGOs wishing to obtain a) an administrative review and b) a legal challenge before a national court in respect of the procedure for adopting or the content of the decision, act or omission of the national regulatory act (in particular, the conditions to be fulfilled and any time limits that apply to the submission of a challenge)? How effective is the level of access to national courts in light of the CJEU case law and any related national case law?

According to the Constitution of Finland (731/1999), the legislative powers are exercised by the Parliament, which has also adopted all the Acts that form the most important part of the environmental legislation. The President of the Republic, the Government and a Ministry may issue Decrees on the basis of authorisation given to them in the Constitution or in another Act. There is no Constitutional Court or other regular review procedure concerning the decisions by a legislative body e.g. the Parliament of Finland or the Council of State when adopting normative instruments such as Acts or Decrees. According to Section 74 of the Constitution of Finland, the Constitutional Law Committee of the Parliament must issue statements on the constitutionality of legislative proposals and other matters brought for its consideration, as well as on their relation to international human rights treaties.
If, in a matter being tried by a court of law, the application of an Act would be in evident conflict with the Constitution, the court of law must according to Section 106 of the Constitution give primacy to the provision in the Constitution. If a provision in a Decree or another statute at a lower level than an Act is in conflict with the Constitution or another Act, it may not be applied by a court of law or by any other public authority.
Normative instruments cannot usually be challenged directly by appeal in court. In order to obtain a court ruling on the implementation of an Act or Decree used to implement EU environmental legislation, a first instance decision from the authority applying that Act or Decree is generally required. In case of an omission of a national regulatory act, an individual can seek enforcement of environmental responsibilities based on EU law by approaching the competent

municipal or state authority with a request for enforcement measures. Upon review of the decision of the municipal or state authority the national administrative court has to consider the conformity of the national legislation with EU legislation and the need to seek a preliminary ruling from the Court of Justice of the European Union of the interpretation or validity of the EU law according to the Treaty on the Functioning of the European Union.

2) What is the scope of the administrative review (if applicable) and the judicial review (if applicable)? Does it cover both procedural and substantive legality?

The court's competence and responsibilities for review are the same as in other administrative appeal matters. Both the procedural and substantial legality of the challenged decision are subject to review, as well as underlying material and technical findings.

3) Before filing a court action, is there a requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures?

In Finland, 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. 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.

4) In order to have standing before the national courts is it necessary to participate in the public consultation phase of the administrative procedure – to make comments, participate at hearing, etc.?

Participation during the administrative procedure is not a prerequisite for standing in court.

5) Is injunctive relief available? If yes what are the procedural requirements in order to be eligible for this? Are there special rules applicable to each sector apart from the general national provisions?

Since the normative instruments cannot usually be challenged directly by appeal in court, the court is only competent to give execution orders concerning the decision of the authority applying the normative instrument in question. The general rule in all administrative judicial proceedings, which applies also to environmental 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 decision described in this section ordinarily suspends commencement of the authorised activity until the appeal court has ruled on the matter. (This system of injunctive relief is described in more detail in section 1.7.2.)

6) What are the cost rules to bring a challenge on access to justice in these areas? What are the possible consequences if one loses a case before court? What are the safeguards against the costs being prohibitive and do these include express statutory reference to a requirement that costs should not be prohibitive?

For administrative judicial proceedings, the following trial fee is charged from the appellant, according to appeal stage (as of the beginning of 2019):
Administrative court: 260 euros
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There are no additional court fees for any further stages of the proceedings. The costs of legal counsel form a major part of the costs of an administrative judicial procedure but use of legal counsel is not always necessary. A party has the obligation to bear the costs of another party in full or in part, if it would be unreasonable in light of the outcome of the case, that the other party should bear his or her own costs. The administrative judicial proceedings typically give rise to relatively low costs. (For more information on costs see section 1.7.3.)

7) Is it possible to bring a legal challenge before a national court concerning any related EU regulatory act with a view to a validity reference under Article 267 TFEU, and if so how?[4]

As explained above, normative instruments cannot usually be challenged directly by appeal in court. In order to obtain a court ruling on the implementation of an Act or Decree used to implement EU environmental legislation, a first instance decision from the authority applying that Act or Decree is generally required. The appellant can make a request to the national court to seek a preliminary ruling from the Court of Justice of the European Union (CJEU) on the interpretation or validity of the EU law according to the Treaty on the Functioning of the European Union. Upon review of the decision of the municipal or state authority, the national administrative court has to consider the need to seek a preliminary ruling. There are no provisions on requests for preliminary ruling from the CJEU in the national legislation.
The judgement of the CJEU of 26.10.2016 in case C-506/14, Yara Suomi Oy and Others, concerning Commission Decision 2013/448/EU on greenhouse gas emission allowance trading within the European Union, is an example of a case where certain provisions of the Commission decision were declared invalid by the CJEU after requests for preliminary ruling of the validity of that decision made by the appellants in the first hand to the Supreme Administrative Court in Finland and other national courts in several member states.

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[1] The SEA Directive relates to plans and programmes. These are also covered by Article 7 and Article 9(3) of the Aarhus Convention.
[2] See findings under ACCC/C/2010/54 for an example of a plan not submitted to SEA but subject to the public participation requirements of Article 7 of the Aarhus Convention.
[3] These fall within the scope of both Article 7 and Article 9(3) of the Aarhus Convention. See also relevant case-law of the Court of Justice of the European Union such as Case C-237/97, Janecek and cases such as Boxus and Solvay C-128/09-C-131/09 and C-182/10, as referred to under the Commission Notice C/2017/2616 on access to justice in environmental matters.
[4] Such acts come within the scope of Article 8 and Article 9(3) of the Aarhus Convention. An example of such an act concerns the decision of the national administration that featured in Case C-281/16, Vereniging Hoekschewaards Landschap, ECLI:EU:C:2017:774.

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Other relevant rules on appeals, remedies and access to justice in environmental matters

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.
With regard to enforcement through a request to the **competent supervisory authority**, the correct authority to approach is generally identified in the applicable substantive law or, in the case of municipal authorities, in municipal regulations issued on the basis of this law. Hence the Environmental Protection Act (EPA), for example, identifies the competent state supervisory authority as well as requiring the municipality to assign one of its committees as local supervisory authority. At state level, the ETE Centre (Centre for economic development, transport and the environment) is typically the competent supervisory authority in environmental matters.

The substantive law defines the **supervisory 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. The supervisory authority can usually also reinforce the prohibition or order that it has issued with a notice of a conditional fine or a notice that the activity that has been neglected must be carried out at the expense of the negligent party according to the Act on Conditional Fines (see e.g. Section 184 of the EPA). In principle, anyone can approach the authority and inform it about possible breaches of environmental law. The right to request for enforcement measures depends on the applicable substantive law. As an example in EPA the right to initiate proceedings is granted to parties concerned, environmental NGOs, certain municipal and state authorities and the Sámi Parliament (Section 186).

In order to obtain 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. When directly challenging an administrative decision is not possible due to the silence of the administration, also the option of making an **administrative complaint** is available (Administrative Procedure Act, Chapter 8a). Complaints can be filed with municipal or state supervisory authorities, where relevant, or the two supreme overseers, the Parliamentary Ombudsman and the Chancellor of Justice. A supervisory authority may in its decision draw the attention of the supervised entity to the requirements of good administration or inform it of the authority's understanding of lawful conduct. If this is not found sufficient, the supervised entity may be given an warning, unless the nature or severity of the act forming the subject of the complaint requires measures to institute a procedure provided in another act. The **supreme overseers** deliver their opinion on complaints lodged with them and are also competent to issue official reprimands as well as initiating criminal prosecution for malfeasance. The overseers can also initiate investigations on their own initiative (for the supreme overseers see also section 1.3).

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 that 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 substantive law. In most situations, neighbours and NGOs are entitled to appeal, at least if they have been involved in the process earlier.

The supervisory authorities must report any act or omission in breach of the environmental law to the police for preliminary investigation, unless the illegal conduct can be considered minor in view of the circumstances. **Penalties** for environmental offences are stipulated in Chapter 48 of the Criminal Code of Finland (39/1889). Chapter 40 of the Criminal Code covers offences in office including a violation of official duty, which could be relevant in connection with providing effective access to justice. There are no specific national rules on penalties to be imposed on the public administration for failing to provide access to justice.

If there is a decision of an authority or a judgement that is legally binding (meaning that it cannot be challenged by ordinary means of appeal), the police have an obligation to provide **executive assistance** to the environmental supervisory authorities so that the decision or judgement can be complied with.

Enforcement of **private environmental liabilities** is also possible. Compensation for damages resulting from environmental nuisance, such as property damage, health injuries or financial loss, can be sought in the general courts. 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 that it is possible to seek a court judgment regarding costs to restore one's property directly against the liable party, without requesting an order for clean-up or suchlike 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-authorised 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 administrative supervisory authority must be approached for such enforcement.

On the other hand, compensation for damages caused by exercise of public authority can, under certain conditions, be claimed directly in the general courts 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.

In the context of **criminal proceedings**, the public prosecutor is, upon request, required 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 specialised in environmental matters, who can be assigned, by special order, to cases outside their ordinary jurisdiction.

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 supervisory authorities on the Islands are the Environmental and Health Protection Authority of Åland, the regional government and municipal building supervision authorities.

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