



**Economic and Social
Council**

Distr.
GENERAL

ECE/MP.PP/2005/18/Add.11
18 February 2005

ORIGINAL: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25-27 May 2005)

IMPLEMENTATION REPORT

Finland

Based on the reporting format annexed to decision I/8

1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.

This report was prepared by the Ministry of the Environment on the basis of a government bill (165/2003) through a transparent and consultative process involving the public. The draft report was submitted for comments to: the Ministry of Justice, the Ministry of Defence, the Ministry of Trade and Industry, the Ministry of Transport and Communications, the Ministry of Agriculture and Forestry, the Ministry of Social Affairs, the Ministry for Foreign Affairs and the Prime Minister's Office. In addition, the draft report was submitted for comments to several non-governmental organizations (NGOs), representing, for instance, the environmental, business, agricultural and labour sectors.

The outcome of the public consultation was taken into account, as much as possible, but in those instances where there was a difference of opinion, the official government position, reflected in the government bill (165/2003), was used as the basis for the answers. In its comments, the

Finnish Association for Nature Conservation pointed out that there was still a need to implement some of the provisions of the Aarhus Convention in the Finnish legislation. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

According to the Constitution (sect. 94), the approval of Parliament is required for such treaties and other international obligations that contain provisions of a legislative nature. Pursuant to this provision, a government bill (165/2003) for the ratification of the Aarhus Convention was submitted to Parliament in December 2003. The final decision to ratify the Convention was taken by the President after the approval of Parliament.

In Finland, the implementation of an international convention is a prerequisite for its ratification. Therefore, the necessary amendments to legislation have to be approved prior to the ratification of the convention. Even though the prevailing legislation fulfilled most of the requirements of the Aarhus Convention, a need for certain amendments to the legislation was, nonetheless, identified. These legislative amendments were submitted to Parliament for its approval in the same government bill (165/2003) as the proposal to ratify the Aarhus Convention. After the approval by Parliament, two amendments were made to the legislation: an amendment to the Nuclear Energy Act (779/2004) and a new Act on Expropriation Permits Required by Certain Projects with Environmental Impacts (768/2004). In addition, the provisions of the Aarhus Convention were transposed into Finnish legislation by presidential decree (866/2004).

As provisions of an international convention are implemented in the substantive legislation before the ratification of such convention, there is usually no need to apply directly the provisions of the convention. This is also the case with regard to the Aarhus Convention.

ARTICLE 3

2. List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.

- (a) **The Administrative Procedure Act** (434/2003, sect. 8) states that an authority shall provide to its customers the necessary advice within its competence, for taking care of administrative matters, as well as for responding to the questions and queries about its service. Advice shall be given free of charge. This Act entered into force on 1 January 2004 and repeals the Act of 6 August 1982 (598/1982), as amended.

The Act on the Openness of Government Activities (621/1999) also contains provisions on information management practices. Under the Act (sect. 18, subsect. 4) the authorities shall "plan and realize their document and information administration and the information management systems and computer systems they maintain in a manner allowing for the effortless realisation of access to the documents...". Pursuant to this Act (sect. 19, subsect. 2), the authority shall also, when requested to do so, provide access to information (orally or by another convenient means) on the stage of consideration,

alternatives and impact assessments, as well as on the opportunities of private individuals and corporations to exercise an influence on matters.

b) Under the **Act on the Openness of Government Activities**, the authorities shall produce documents describing their activities and ensure that these documents are easily accessible, for example, in data networks and libraries. The Act also imposes on the authorities the obligation to inform the public of their activities.

Environmental authorities promote environmental education and environmental awareness among the public. Information to this end is available on the web site of Finland's environmental administration (<http://www.environment.fi>). In addition, information on access to justice in environmental matters is available on the web site of Finland's Ministry of Justice (<http://www.oikeus.fi>).

The Supreme Administrative Court has its own web site (<http://www.kho.fi>). Furthermore, general information on legal practice is available in the FINLEX databank (<http://www.finlex.fi>).

(c) **The Constitution** (731/1999, sect. 20, subsect. 2) states that the public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment. In addition, the following acts contain detailed provisions on access to justice by NGOs: **the Environmental Protection Act** (86/2000), **the Land Use and Building Act** (132/1999), **the Nature Conservation Act** (1096/1996), **the Nuclear Energy Act** and the amendment (779/2004) and **the Act on the Expropriation Permits Required by Certain Projects with Environmental Impacts** (768/2004).

(d) Finland has promoted the principles of the Aarhus Convention in international environmental decision-making processes, in international organizations and in the preparation of European Community legislation.

(e) The question of whether a party shall be liable to compensate the other party for his legal costs is decided pursuant to **the Administrative Judicial Procedure Act** (586/1996, sect. 74). Under this Act a private individual shall not be held liable for the costs of a public authority, unless the private individual has made a manifestly unfounded claim.

The Act on Criteria for Charges Payable to the State (150/1992) contains provisions on the general criteria for charging for services by State authorities and for the size of the charges made for said services, and for other criteria related to charges. A special law contains provisions applicable to courts and other legal authorities (Act 701/1993, available only in Finnish, no English translation).

3. Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.

4. Provide further information on the practical application of the general provisions of the Convention.

5. Give relevant web site addresses, if available:

The portal for public sector services contains general information on how the public sector operates ([http:// www.suomi.fi/](http://www.suomi.fi/)).

The FINLEX databank is a comprehensive database of Finnish legislation and it also contains the international treaties ratified by Finland (<http://www.finlex.fi/en/>).

More information on the Act on the Openness of Government Activities (621/1999) is available on the Ministry of Justice's web site (<http://www.om.fi/23955.htm>).

ARTICLE 4

6. List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

The Act on the Openness of Government Activities provides that everyone shall have the right of access to an official document in the public domain (sect. 9, subsect. 1). For the purposes of the Act, the terms "official documents" and "authorities" have been defined in the Act (sects. 4 and 5). These definitions correspond to those spelled out in article 2 of the Convention.

Furthermore, **the Environmental Protection Act** emphasizes that monitoring data and information on emissions and the state of the environment are not confidential (sect. 109).

The Constitution (731/1999) guarantees basic rights and liberties to everybody living under Finnish jurisdiction regardless of whether they are Finnish citizens or not. These basic rights include the right to access to information, public participation in decision-making and access to justice in environmental matters. According to section 33 of the **Act on the Openness of Government Activities**, the decision of an authority shall be subject to appeal, as provided in the **Act on Administrative Judicial Procedure**.

- (a) (i) According to the **Act on the Openness of Government Activities** (sect. 13, subsect. 1), the person requesting access need not identify himself nor provide reasons for the request, unless this is necessary, e.g. for determining if the person requesting access has the right of access to the document;
- (ii) According to the **Act on the Openness of Government Activities** (sect. 16, subsect. 1), access to an official document shall be provided by explaining its contents orally to the requester, by giving the document to be studied, copied or listened to in the offices of the authority, or by issuing a copy or a printout of the document;
- (iii) According to the **Act on the Openness of Government Activities** (sect. 16, subsect. 1), access to the public contents of the document shall be granted in the manner requested, unless this would unreasonably inconvenience the activity

of the authority owing to the volume of the documents, the inherent difficulty of copying or any other comparable reason.

(b) Pursuant to **the Act on the Openness of Government Activities**, requests for documents shall be considered without delay and access to a document in the public domain shall be granted as soon as possible, and in any event within two weeks from the date when the authority received the request. If the number of the requested documents is large, if they contain secret parts or if there is any other comparable reason for the consideration and the decision of the matter requiring special measures or otherwise an irregular amount of work, the matter shall be decided and access to the document granted within one month of the receipt of the request for access by the authority (sect. 14, subsect. 4 and sect. 37, subsect. 2).

The Administrative Procedure Act also provides that a matter shall be considered without undue delay and, upon request, the authority shall supply the party with an estimated time of issue of a decision and respond to queries as to the progress of the consideration of the matter (sect. 23).

(c) **The Act on the Openness of Government Activities** contains definitions of which documents are deemed not to be official documents and are thus exempted from requests (sect. 5). Section 15 provides that if access is requested to a document prepared by another authority or pertaining to a matter under consideration by another authority, the request may be forwarded to be dealt with by the authority that has prepared the document and is responsible for the consideration of the matter as a whole.

This Act also defines when a document prepared by an authority enters the public domain (sect. 6) and when a document delivered to an authority enters the public domain (sect. 7). Access to a document which is not yet in the public domain shall be granted at the discretion of the authority (sect. 9, subsect. 2). When discretion is exercised, access to information on the activities of the authority shall not be unduly or unlawfully restricted, nor more restricted than what is necessary for the protection of the interests of the person protected, and the persons requesting access shall be treated on an equal basis (sect. 17). Unless otherwise follows from the secrecy provisions, an authority shall keep available the documents which contain information on plans, accounts and decisions on pending matters of general importance (sect. 19).

- (i) Section 24 of **the Act on the Openness of Government Activities** lists exemptions from requests on account of the secrecy of the official documents requested (subsects. 1-6, 9, 10, 14, 15, 17, 19, 20 and 26). Secrecy of documents can also be provided for under special law;
- (ii) The objectives of **the Act on the Openness of Government Activities** are to promote openness and good practice in information management in government, and to provide private individuals and corporations with an opportunity to monitor the exercise of public authority and the use of public resources, to freely form an opinion, to influence the exercise of public authority, and to protect their rights and interests.

According to sect. 24, subsect. 20, documents containing information on a private business or professional secret or other comparable private business information, shall be secret, if access would cause economic loss to the private business, provided that the information is not relevant to the safeguarding of the health of consumers or the conservation of the environment or to the protection of the interests of those suffering

from the activities of the business, and that it is not relevant to the duties of the business and the performance of those duties.

(d) According to **the Act on the Openness of Government Activities**, if access is requested to a document prepared by another authority or pertaining to a matter under consideration by another authority, the request may be forwarded to be dealt with by the authority that has prepared the document and that is responsible for the consideration of the matter as a whole (sect. 15, subsect. 1).

(e) **The Act on the Openness of Government Activities** (621/1999) provides that, when only a part of a document is secret, access shall be granted to the public part of the document if this is possible without disclosing the secret part (sect. 10).

(f) According to **the Act on the Openness of Government Activities** matters shall be considered without delay (sect. 14, subsect. 4). If an official refuses to grant the requested access, he or she shall inform the person requesting access of the reason for the refusal and inform the person requesting access that he or she may have the matter decided by the authority (sect. 14, subsect. 3). The decision of an authority shall be subject to appeal, as provided in **the Act on Administrative Judicial Procedure**.

(g) **The Act on the Openness of Government Activities** states that information provided by an authority may be subject to a charge (sect. 34). Further provisions on this matter are given by **the Act on Criteria for Charges Payable to the State**. In addition, the Ministry of the Environment has issued decrees on charges relating to environmental protection (1240/2003 and 1237/2003).

7. Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

8. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

9. Give relevant web site addresses, if available:

ARTICLE 5

10. List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

- (a) (i) According to **the Act on Environmental Administration** (55/1995, English translation not available), the environmental authorities must be in possession of the updated information necessary for the performance of their duties. The Ministry of the Environment has overall responsibility for producing and disseminating environmental information. Other ministries are responsible for producing and disseminating information relating to their specific spheres of

activity. The Finnish Environment Institute (SYKE) monitors and evaluates the state of the environment and pollution loads, carries out environmental research, and manages and develops environmental information systems;

(ii) **The Environmental Protection Act**, states that regional environment centres and the Finnish Environment Institute maintain an environmental protection database containing the necessary data on, for instance environmental permits and notifications (sect. 27). Further provisions on the duty to notify and on the making of entries into the database are given in chapter 10 of this Act;

(iii) The definition of rescue services in **the Act on Rescue Services** (486/2003, English translation not available) includes warning the population in emergencies (sect. 43). Further provisions are given by **the Government Decree on Rescue Services** (787/2003, English translation not available), which requires that each district operates an alarm system to alert the population in an emergency (sect. 5). Provisions on the duty of authorities to disseminate information are given in three acts: **the Act on the Openness of Government Activities**, **the Act on Rescue Services** and **the Act on Emergency Response Centres** (157/2000, English translation not available). **The Chemicals Act** (744/1989) and **the Act on Explosives** (263/1953, English translation not available) regulate the handling and storage of dangerous substances and chemicals. **The Government Decree on the Handling and Storage of Dangerous Substances and Chemicals** (59/1999, English translation not available) contains provisions on the duty of the operator to prepare security reports and to inform the public of potential risks (sects. 26 and 29).

(b) Chapter 5 of **the Act on the Openness of Government Activities** and chapter 1 of **the Decree on the Openness of Government Activities and on Good Practice in Information Management** (1030/1999) contain provisions on the duty of the authorities to promote access and good practice in information management. Access to the environmental information referred to here is free of charge (**Act on the Openness of Government Activities**, sect. 34).

(c) The web site of Finland's environmental administration contains basic information in electronic format on various aspects of the state of the environment in Finland. Various environmental programmes and plans and environmental acts and decrees are also available on the web site in electronic format. Furthermore, the FINLEX databank, operated by the Finnish Ministry of Justice, is a comprehensive reference database of Finnish legislation. The international treaties signed by Finland are also available in the database. In addition, the web site of the Ministry of Justice has some useful information pertaining to the implementation of the Aarhus Convention (the web site addresses are listed below).

(d) Extensive reports on the state of the environment were published in Finland in 1992, 1996 and 2003. In addition, a CD-ROM on Finnish Nature was published in 2000. A review of Finland's natural resources and the environment is published annually as background material for the annual State budget proposal of the Finnish Government. It is prepared jointly by Statistics Finland and the Ministry of the Environment. The latest review "Finland's Natural Resources and the Environment 2004" was published in September 2004 and it is available in English on the web site of Statistics Finland.

Statistics Finland also collects environmental statistics annually for publication. Reports on the state of the environment are included in the Ympäristö-lehti magazine, published jointly (in Finnish only) by SYKE and the Ministry of the Environment. A special Finnish set of sustainable development indicators was published in 2000 by SYKE.

(e) **The Act on the Statutes of Finland** (188/2000) is applied to implement the provisions of paragraph 5. The Statute Book of Finland has a separate part (Treaty Series) for the publication of treaties and other corresponding instruments containing international obligations binding on Finland. The Statute Book of Finland also contains the acts of Parliament and the decrees of the President, of the Government and of the ministries, as well as parliamentary decisions on State finances. Official orders, decisions and communications can also be published in the Statute Book of Finland. Further provisions on the publication of official orders are given in a separate act (**189/2000**, English translation not available). In addition, according to **the Act on Environmental Administration**, it is the obligation of the environmental authorities to produce and disseminate environmental information.

(f) In the 1990s, more and more Finnish industrial enterprises started to adopt voluntary environmental management systems (EMS), such as the International Organization for Standardization (ISO) 14001 Standard and the European Union's Eco-Management and Audit Scheme (EMAS). In November 2003, there were altogether 1,059 ISO 14001 and 39 EMAS registrations in Finland.

(g) The environmental authorities produce and disseminate environmental information referred to in paragraph 7 (a) - (c). For instance, environmental services are listed on the web site of Finland's environmental administration.

(h) The Swan eco-labelling scheme was set up in November 1989 by the Nordic Council of Ministers to provide reliable information on the environmental impacts of products. The aim of the Swan eco-label is to assist consumers in choosing, from within specific product groups, the particular products which cause the lowest environmental impacts at all stages of the products' life cycle. Another objective of the Swan scheme is to steer product development towards more environmentally friendly products. The European Union's "flower" eco-label is based on Regulation (EC) No. 1980/2000 (repealing regulation No. 880/1992) of the European Parliament and of the Council of 17 July 2000. The EU flower is similar to the Swan in that it is based on the environmental impacts of products throughout their life cycle.

(i) **The Environmental Protection Act** states that regional environment centres and the Finnish Environment Institute shall maintain an environmental protection database containing the necessary data on, e.g. environmental permits, notifications, reporting and monitoring required by environmental permits. (sect. 27).

Finland signed the Protocol on Pollutant Release and Transfer Registers on 21 May 2003 in Kiev together with 35 other States and the European Community. A government proposal concerning its implementation will be given to Parliament separately.

11. Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

12. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

13. Give relevant web site addresses, if available:

The web site of Finland's environmental administration: <http://www.environment.fi/>

The FINLEX databank is a comprehensive reference database of Finnish legislation:

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

The web site of the Ministry of Justice: <http://www.om.fi/>

The web site of Statistics Finland: http://www.stat.fi/tk/tt/ymparisto_en.html

Further information on Finnish sustainable development indicators can be found on the web site of Finland's environmental administration:

<http://www.ymparisto.fi/default.asp?node=12282&lan=EN>:

Further information on the EU's Eco-Management and Audit Scheme (EMAS) in Finland can be found on the web site of the environmental administration:

<http://www.ymparisto.fi/default.asp?contentid=115102&lan=FI>

Further information on eco-labelling in Finland can be found on the web site of the

environmental administration: <http://www.ymparisto.fi/default.asp?node=7318&lan=EN>

ARTICLE 6

14. List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

(a) The provisions of this paragraph are taken into account in **the Act on Environmental Impact Assessment Procedure** (EIA, 468/1994), **the Environmental Protection Act**, **the Environmental Protection Decree** (169/2000) and **the Land Use and Building Act**, as well as in certain other special laws:

(i) The activities listed in annex I to the Convention have been implemented in Finland with **the Act on Environmental Impact Assessment Procedure**, **the Decree on Environmental Impact Assessment Procedure** (286/1999), **the Environmental Protection Act** and the **Environmental Protection Decree**. The provisions of the Environmental Protection Act and Decree cover most of the items on the list in annex I. The provisions of **the Water Act** (264/1961, chaps. 2, 4, 9 and 17) cover some of the projects listed in annex I to the Convention. A special law applies to transport routes, electrical power lines and gas pipelines that cross national frontiers;

(ii) Finnish legislation allows for public participation even in activities not listed in annex I to the Convention. For example, the definition of activities covered by **the Environmental Protection Decree** is broader than the definition in annex I.

(b) The provisions of **the Environmental Protection Act** (sect. 37) and of **the Environmental Protection Decree** (sect. 16) correspond to this paragraph. Section 37 of the Act states that, before passing a decision on a permit, the permit authority shall provide those whose rights or interests might be concerned (stakeholders) with an opportunity to lodge a complaint

regarding the matter. Persons other than stakeholders shall be provided with an opportunity to state their opinion. Similar provisions exist in other environmental laws. The existing legislation enables the authorities to subject even draft decisions to a hearing of the parties, but this is not the normal mode of operation in Finland.

(c)-(e) The provisions of **the Act on Environmental Impact Assessment Procedure, the Environmental Protection Act, the Environmental Protection Decree and the Land Use and Building Act**, in addition to certain special laws, meet the requirements set in paragraphs 3, 4 and 5 on public participation procedures and their time frames.

(f)-(g) According to **the Administrative Procedure Act** (434/2003, repealing the earlier Act (598/1982), as amended), before the matter is decided, a party shall be given an opportunity to express an opinion on the matter and to submit an explanation of the demands and information which may have an effect on the decision (sect. 34). Equivalent provisions exist in certain other special laws.

(h)-(j) The provisions of **the Environmental Protection Act** (sects. 41, 54 and 58) meet the requirements set in paragraphs 8, 9 and 10. No new legislation is needed, although the possibility of an authority reconsidering an already granted permit is covered more extensively only in the **Environmental Protection Act** and in **the Water Act**.

(k) Provisions on public information and consultation are contained in **the Gene Technology Act** (377/1995 and amendment 847/2004; English translation not available). According to section 36 (b), the Board for Gene Technology (competent authority) shall post a public notice to inform the public and to invite public comment prior to making a decision on the proposed deliberate release of genetically modified organisms (GMOs) for any purpose other than for placing them on the market. In the case of placing GMOs on the market, as a product or in products, the European Commission is responsible for the public information and consultation, according to Directive 2001/18/EC.

15. Describe any obstacles encountered in the implementation of any of the paragraphs of article 6.

16. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

17. Give relevant web site addresses, if available:

Further information on environmental impact assessments, including unofficial translations of the Act and Decree on Environmental Impact Assessment Procedure, can be found on the web site of Finland's environmental administration:

<http://www.ymparisto.fi/default.asp?node=8845&lan=en>

ARTICLE 7

18. List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

According to **the Act on Environmental Impact Assessment Procedure**, environmental impact shall be investigated and assessed to a sufficient degree when an authority is preparing policies, plans and programmes which may have a significant environmental impact once implemented (sect. 24). In 1998, the Ministry of the Environment issued guidelines for the environmental assessment of plans, programmes and policies (see link below). In some cases, the provisions of **the Administrative Procedure Act** also apply. Pursuant to this Act, if the decision in a matter may have a considerable effect over a wide area or on the circumstances of several people, then the fact that the matter is pending shall be announced publicly (sect. 41).

In November 2004, the Government issued a bill for an act on the assessment of the impacts of the authorities' plans and programmes on the environment. The act is supposed to come into force in spring 2005. The proposed new legislation, based on the Directive 2001/42/EC of the European Parliament and of the Council on the Assessment of the Effects of Certain Plans and Programmes on the Environment and the 2003 UNECE Protocol on Strategic Environmental Assessment, includes specific provisions on public participation during the preparation of plans and programmes which are likely to have significant environmental impacts.

19. Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

20. Describe any obstacles encountered in the implementation of article 7.

21. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

22. Give relevant web site addresses, if available:

Guidelines for the environmental assessment of plans, programmes and policies in Finland can be found on the web site of the environmental administration:

<http://www.ymparisto.fi/default.asp?contentid=86101&lan=EN>

ARTICLE 8

23. Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable

legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

In 1996, the Government started a legislative development programme (Government decision in principle of 30 May 1996). This programme applies to some extent also to the preparation of orders and regulations. It provides that the preparations include sufficient and appropriate hearing of the parties concerned.

24. Describe any obstacles encountered in the implementation of article 8.

25. Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

26. Give relevant web site addresses, if available:

ARTICLE 9

27. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

- (a) (i) Section 33 of **the Act on the Openness of Government Activities** states that "the decision of an authority shall be subject to appeal, as provided in **the Act on Administrative Judicial Procedure**". Appeals can also be lodged against the decisions of local or regional authorities and of institutions, corporations, foundations or private individuals exercising public authority. Instead of, or in addition to, lodging an appeal, a party can also make a renewed request for information to the authorities. The administrative decision to dismiss the earlier request has no *res judicata*. If the party can provide better arguments supporting his or her request, access is more likely to be granted. Section 50 of **the Administrative Procedure Act** also states that "if a decision is clearly based on erroneous or insufficient information or on obviously incorrect application of the law, or if a procedural error has occurred in the decision-making, the authority may annul its erroneous decision and decide the matter anew;"
- (ii) According to **the Administrative Judicial Procedure Act** a party shall be liable to compensate the other party for his legal costs in full or in part, if especially in view of the resolution of the matter it is unreasonable to make the latter bear his own costs (sect. 74, subsect. 1). The provisions may be applied also to the administrative authority that made the decision. When assessing the liability of a public authority, special account shall be taken of whether the proceedings have arisen from the error of the authority. A private individual shall

not be held liable for the costs of a public authority, unless the private individual has made a manifestly unfounded claim (sect. 74, subsections 2 and 3);

(iii) **The Act on the Openness of Government Activities** states that if an official refuses to grant the requested access, he or she shall inform the person requesting access of the reason for the refusal and inform the person requesting access that he or she may have the matter decided by the authority (sect. 14, subsection 3).

When an appeal has been lodged and the appellate authority has made its decision, a statement of reasons shall be included in the decision. The statement shall indicate which facts and evidence have affected the decision and on what legal grounds it is based (**Administrative Judicial Procedure Act**, sect. 53).

(b) Pursuant to this paragraph, an amendment was made to **the Nuclear Energy Act** (990/1987) in **act 769/2004**, which was implemented by **Government Decree 868/2004**. In addition, the new **Act on the Expropriation Permits Required by Certain Projects with Environmental Impacts** was adopted to regulate the construction of railway lines for long-distance railway traffic, pipelines for the transport of gas, oil or chemicals, and overhead electrical power lines.

Under **the Environmental Protection Act** (sect. 97), the "right of appeal pertains to:

- (1) Persons whose rights or interests may be affected by the matter;
- (2) Registered associations or foundations whose purpose is to promote environmental, health or nature protection or the general amenity of the environment and whose area of activity is subjected to the environmental impact in question;
- (3) The municipality where the activity takes place and other municipalities subjected to its environmental impact;
- (4) The regional environment centre and the environmental authorities of municipalities where the activity takes place or located in the area of impact;
- (5) Other authorities supervising the public interest in the matter.

For the purpose of safeguarding the public environmental protection interest, regional environment centres and municipal environmental authorities are also entitled to appeal Vaasa Administrative Court decisions amending or reversing decisions issued by them."

Equivalent provisions on the right of appeal are included in **the Water Act**.

According to **the Nature Conservation Act** (1096/1996), the right of appeal may be exercised by those whose rights or interests may be affected by the matter in question (sect. 61). In matters other than compensation, the right of appeal is also given to the local authority and 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 organization or any other national organization safeguarding the interests of landowners (sect. 61).

The **Land Use and Building Act** states that the right of appeal against decisions to approve a land-use plan or a building ordinance is based on **the Local Government Act** (365/1995, sect. 92). In addition, registered local and regional organizations are entitled, when the matter concerns their sphere of activity, to appeal decisions concerning the approval of a plan or building ordinance within the area in which they operate. Nationally active organizations are also entitled to appeal decisions to approve regional plans if they contravene national land-use objectives (Land Use and Building Act, sect. 191).

(c) According to **the Environmental Protection Act** persons whose rights or interests may be affected by the matter and registered associations and foundations have a right to take legal action in certain cases if legal action is not taken on the initiative of the supervisory authority (sect. 92). This provision can be applied when establishing the extent and degree of pollution in soil or groundwater and the need for treatment for the restoration of soil (sects. 77 and 79). It can also be applied when rectifying a violation or negligence (sect. 84), giving orders to prevent pollution (sect. 85) or suspending operations (sect. 86).

In addition, under **the Constitution** (731/1999) the Chancellor of Justice and the Parliamentary Ombudsman shall ensure that the courts of law, the other authorities and the civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of these duties, they monitor the implementation of basic rights and liberties and human rights (sects. 108 and 109). Further provisions on the duties of the Chancellor of Justice and of the Parliamentary Ombudsman are given in **the Chancellor of Justice Act** (193/2000, English translation not available) and in **the Parliamentary Ombudsman Act** (197/2002). Everyone is entitled to make a request to the Chancellor of Justice or the Parliamentary Ombudsman to monitor whether authorities are obeying the law.

In addition, the following provision (sect. 50) of **the Administrative Procedure Act** applies: "if a decision is clearly based on erroneous or insufficient information or on obviously incorrect application of the law, or if a procedural error has occurred in the decision-making, the authority may annul its erroneous decision and decide the matter anew."

(d) The possibility of receiving legal aid is one means of ensuring adequate and effective procedures that are not prohibitively costly. Under **the Legal Aid Act** (257/2002), legal aid shall be given at the expense of the State to a person who needs expert assistance in a legal matter and who for lack of means cannot pay the expenses himself to have the matter dealt with. Legal aid covers the provision of legal advice, the necessary measures and representation before a court of law and another authority, and the waiver of certain expenses for the consideration of the matter (sect. 1). Legal aid shall not be given to a company or a corporation (sect. 2, subsect. 3). Legal aid shall be given, on application, for free or against a deductible, on the basis of the means of the applicant (sect. 3).

(e) **The Act on the Openness of Government Activities** provides that if an official refuses to grant the requested access, he or she shall inform the person requesting access of the reason for the refusal. The official shall also inform the person requesting access that he can have the matter decided by the authority and inform the person requesting access of the charges involved in the consideration of the request (sect. 14, subsect. 3).

28. Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

29. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

The Ministry of Justice monitors access to justice in environmental matters as part of its guidance work of administrative courts. As a consequence of this work, different statistics on environmental justice are produced and included into different reports published by the Ministry of Justice. In addition, Statistics Finland (http://www.stat.fi/index_en.html) publishes statistics from administrative courts. These reports are available at the following website:
<http://statfin.stat.fi/>

In 2003, there were 21,241 cases in administrative courts, of which 2,569 cases were environmental or building matters.

30. Give relevant web site addresses, if available:

31. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

The Convention's objective is reflected in section 19 of the Constitution, according to which the public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.