

ANSWERS FOR EUFJE 2022 QUESTIONNAIRE

I Qualitative questions

1)

In Finland the specific climate change legislation is mainly based on the EU emission trading scheme (Act, 311/2011) and the national Climate Act (Act, 609/2015) and its action plans. There have been few appealings against decisions made by Energy Authority according to the emission trading Act. Instead, there have not been any appealings against decisions made by the government concerning action plans.

In addition, the climate change has been taken into account when other piece of legislation is applied by authorities, such as Environmental Protection Act (527/2014) concerning emissions, Water Act (587/2011) concerning water constructions and Planning and Building Act (132/1999)). For example, in Finland, the amount of precipitation is increasing which means that the flow of rivers will increase in future. This fact is taken into account when permit authorities have granted permits for industrial plants, dams and buildings, and when land use planning decisions are made. In some court cases requirements of appealings are based on this aspect. Consequently, the courts have to interpret how valid are the legal obligations to reduce emissions, which is the right derivation of dams or are some areas suitable for building if the risk for flooding is considerable etc.

Finland has banned use of coal in energy production from 1.5.2029 by Parliament Act (416/2019). Legislation which can theoretically cause violation of basic rights can cause legal disputes in courts. In this case, when the Law was enacted, the Constitutional Board of Parliament stated that the Law will not violate energy producer's constitutional protection of property and no compensation is needed.

2)

Finnish court lines are divided in general Courts (civil and criminal cases) and Administrative Courts. In principle, it has been discussed that material climate cases belong to the jurisdiction of Administrative Courts. Obviously, in these cases appellants are environmental NGOs or other associations which represent industry or producers.

Albeit, there has not been any material climate change cases in our administrative courts. However, it is possible for NGOs to raise an administrative litigation against the state. In theory, if state authorities are passive and they are not acting according to the law, it might be also possible to sue them in general court by a party whose rights are violated. In addition, if authorities are passive, everyone has right to make administrative complaint to ombudsmen (Chancellors of Justice and Parliamentary Ombudsman). They have possible to urge action of authorities if state does not obey law or international obligations.

3)

As mentioned above, it is not clear who or how to take legal proceedings for access to justice concerning material climate change issue. In order to get the case in administrative court, there must be a decision of authority. For example, decision on action plans according to the Climate Act (609/2015) is administrative decision and it is possible to appeal against the decision. The problem has been that the appealing right belongs only to party concern which means that you have to prove that decision affects directly to your rights or obligations. It has been proposed in the new governmental bill that locus standi/right of appeal belongs to e.g environmental NGOs. New provisions might make it possible that e.g. NGOs can challenge in Supreme Administrative Court if the government has taken our international obligations properly into account in action plans.

4)

Crucial problem has been that only party concern has had the right to appeal against action plans decision which the government have decided according to the Climate Act. The new Act will change the situation.

5)

So far there have not been any material climate cases in courts. The average time for cases is roughly 1 year in administrative court.

6)

Generally speaking, it is possible to require in the administrative court that the decision must be modified somehow. Despite this, the court may consider only if the decision is against the law. The court dismisses the decision (or part of it) and then returns a matter to the government for a new decision. Climate change actions are complex in nature and there are plenty of expedient consideration which belongs to the government and not to courts.

7)-8)

See answer 6

II Case identification and data collection

Finland is mentioned in three cases according to the databases. So far there are no other cases in international Courts/EU Court of justice. At national level there are no case law or pending cases concerning climate change.