

# AVOSETTA MEETING, STOCKHOLM, 2-3 OCTOBER 2009

## Recent developments in Environmental Law – FINLAND (2009)

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Year 2009 has been relatively "quiet" in Finland in the field of environmental legislation and jurisprudence. The amendments are not very significant and there has not been big surprises in case law. The end of the year will be much busier, because the government has promised to give at least two big legislative proposals to the Parliament. These are a new Water Act (in fact not revolutionary, but important) and a new Mining Act (very important, because of growing mining activities). At the moment Parliament is handling a minor amendment of the Environmental Protection Act (concerns only small activities, which are not IPPC size) and comprehensive change of regional administration in Finland, which will reform environmental administration totally - both permitting and general - as parts of general regional administration. The result will be 13 regional environmental authorities and 4 environmental permitting authorities.

In the beginning of year 2009 came into force amendment to the Land Use Planning and Building Act which introduced leave of appeal system. Leave of appeal (appeal to the Supreme Administrative Court) is now applicable in local detailed plan issues if there is a general plan and regional administrative court did not change the original decision of local municipality. However, this change is very important only from principal point of view, because it narrows participation rights, but in practice it is not very significant. The aim of the amendment was to speed up planning and permit procedures including the appeal phase, but in practice the effect is very limited.

First of July 2009 came into force the Act compensating certain environmental damages (laki eräiden ympäristölle aiheutuneiden vahinkojen korjaamisesta, 383/2009), which finally implemented directive 35/2004/CE on environmental liability with regard to the prevention and remedying of environmental damage. At the same time the Environmental Protection Act and Nature Conservation Act and couple of other pieces of legislation were amended.

The genetchnology Act (geenitekniikkalaki, 377/1995) was amended and the party whose right or interest the matter may concern and a registered association or foundation whose purpose is the promotion of environmental protection or the protection of health were given right to institute proceedings of section 23, which concerns procedures in order to avoid pollution or threat of pollution or nature damage. At the same time the above mentioned were given right of appeal. These changes came into force 1 July 2009.

The Supreme Administrative Court got the judgement of the EJC in Lahti Energia case C-317/07 which they asked 2007 (KHO 2007:45) on concept of waste ("gaseous waste", origin of gas is waste) and burning this gas - interpretation of directive 2000/76/EC. After the judgement Lahti Energia altered the permit application so that the gas would not be purified (originally they planned to purify it) and therefore the the Supreme Administrative Court (KHO 2009:51) asked again the opinion of the EJC: is the burning not purified gas waste burning and if it is not what is the importance of waste properties or particle content or other impurities.