

Yearbook
of
International Environmental Law
Volume 14
2003

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OXFORD
UNIVERSITY PRESS

Implementing such protection will require compensation of landowners, due to the constitutional protection of private property. Second, the scope of projects and plans that could be subject to an assessment under Article 6(3) was too narrow and did not include substantial changes in farming management, such as intensive grazing or use of fertilizers. To deal with these problems, draft legislation was sent to public hearing in October. After the hearing, a proposal for a new legislative act was presented in Parliament in January 2004. Whether these legislative initiatives will prevent the Commission from bringing Denmark before the ECJ is however not clear. Finally, it should be mentioned that the adoption of Ministerial Order No. 477 of 7 July 2003 on the designation and administration of sites subject to international nature protection was not intended to solve the substantial problems but only to reflect the latest proposals for designation of Natura 2000 sites suggested by the Danish government.

The final adoption of a parliamentary act on the biggest Danish river, Gudenaen (God's river) and the water power plant, Tangeværket, demonstrates the Danish problems with EC nature protection. Despite the fact that Tangeværket substantially affects protected salmon and might affect Natura 2000 sites, its licence to continue was renewed for five years in Act No. 1054 of 17 December 2002 on Use of Waterpower on the Gudenaen. As a result of the size and importance of the river, the act might easily cause new problems when Denmark later attempts to comply with the obligations under the Water Framework Directive as well as the Habitat Directive.

With respect to another aspect of water management, by Ministerial Order No. 557 of 29 September 2003 on Certain Persistent Organic Pollutants, Denmark has implemented EC Regulation No. 782/2003 of 14 April 2003 on the Prohibition of Organotin Compounds on Ships. The legislation intends to stop the pollution of the aquatic environment with organotin compounds by prohibiting the use of organotin compounds such as paint and other surface treatments on ships (organotin compounds are an active biocide in anti-fouling systems used on ships).

By Ministerial Order No. 21 of 8 January 2003 on National Quotas for Certain Atmospheric Pollutants, Denmark has implemented EC Directive 2001/81 on National Emission Ceilings for Certain Atmospheric Pollutants. However, in contrast to Article 14 of the directive, the Danish implementing legislation does not contain any penalty provision. So in this respect, Danish implementation does not comply with EC obligations.

(4) Lomborg Case

Björn Lomborg, political scientist and author of the book, *The Skeptical Environmentalist*, is probably the most internationally well-known Danish environmental scientist. On 6 January, the Danish Committee on Scientific

Dishonesty (DCSD) published its decision in the Björn Lomborg case concerning the book, *The Skeptical Environmentalist*, which was published by Cambridge University Press. According to the decision of the DCSD, Lomborg failed to comply with the guidelines for good scientific practice and acted with objective scientific dishonesty. However, in view of the subjective requirements of intent or gross negligence, Lomborg's publication did not fall within the bounds of this characterization. The decision has caused a heated debate in the media and among scientists on whether Denmark has returned to the dark Middle Ages in terms of scholarship. Lomborg appealed the decision to the ministry, which in December 2003 concluded that the decision of the DCSD in almost all aspects violates administrative law principles. First, the rule of law was violated because the DCSD decided on matters in which it has no competence. Second, the assessment was not founded on an evaluation based on political science standards. Third, the assessment was made by scientists not familiar with political science standards. Fourth, the assessment was not based on a careful review of the specific allegations of the complaints and Lomborg's responses. Fifth, the decision failed to comply with the most simple request for reasoning. Sixth, the decision claimed that the book was not subject to a prior pre-review in spite of the fact that the manuscript was reviewed by three internationally recognized scientists. Seventh, and finally, the way the decision was formulated gave the impression of bias of the DCSD members towards Lomborg. Based on this reasoning, the ministry concluded that the legal mistakes were substantial and returned the case to the DCSD for a new assessment. Although winning on almost all the legal objections regarding the decision of the DCSD, Lomborg has brought the decision of the ministry before the Danish ombudsman, asking for a formal annulment of the first DCSD decision.

Peter Pagh

B. Finland

(1) Major Policies Concerning Environmental Issues

One of the concerns in Finland in relation to international environmental policy was the increased transport of oil on the Baltic Sea. The Russian Federation has constructed new oil terminals on the Gulf of Finland, prompting fears that oil transport in the area will intensify. Factors increasing the risk of accidents include the difficult winter conditions and the brisk passenger ship traffic across the Gulf of Finland between Finland and Estonia. Finland's concern largely focuses on the use of single-hull oil tankers, which, as was recently shown by the sinking of the *Prestige*, are

much more prone to oil spills than double-hull tankers. In fact, in the case of an inland sea such as the Baltic, which has very difficult ice conditions in winter, the risk of an accident is very great. Finland has therefore been working actively on both the international and European levels for the phasing-out of single-hull tankers.

Finland has also sought to have the Baltic Sea designated a particularly sensitive sea area (PSSA) by the International Maritime Organization (IMO). The matter was discussed at the Baltic Marine Environment Protection Commission (Helsinki Commission) ministerial meeting in June. All parties, with the exception of the Russian Federation, decided to start preparations for making as extensive an application for PSSA status as possible, with Finland and Sweden acting as the lead countries. Just recently, on 5 December, a group of experts from Estonia, Finland, Germany, Russia, and Sweden agreed on a set of measures to ensure the safety of winter navigation in the Baltic Sea area. The draft recommendation developed by this Expert Working Group on Ice will be submitted to the Helsinki Commission Maritime Group meeting in January 2004.

(A) Signature of International Agreements

After five years of negotiations, the Agreement on the Multilateral Nuclear Environmental Programme in the Russian Federation (NEPR) was signed in Stockholm on 21 May between the European Community (EC), Euratom, and certain Western donor countries, including Finland. The agreement contains in Article 18 the provisions on its entry into force, but it will be applied provisionally upon its signature (Article 18.7). The NEPR establishes a comprehensive legal framework for nuclear-related projects carried out by Western countries in northwest Russia. The agreement deals with environmentally sensitive nuclear issues such as nuclear safety, the dismantling of nuclear submarines, and the handling of radioactive wastes. An associated Protocol on Claims, Legal Proceedings and Indemnification aims to settle issues of liability arising from activities undertaken in this context. Finland has also signed the protocol. During the fifth Ministerial Conference "Environment for Europe," which was concluded in Kiev on 23 May, three protocols to conventions of the United Nations Economic Commission for Europe (UN ECE) were adopted and opened for signature: They include the Protocol on Strategic Environmental Assessment to the UN ECE Convention on Environmental Impact Assessment in a Transboundary Context; the Protocol on Civil Liability and Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters to the UN ECE Convention on the Transboundary Effects of Industrial Accidents and on the Protection and Use of Transboundary Waters and International Lakes; and the Protocol on Pollutant Release and Transfer Registers to the UN ECE Convention

on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). Finland is a party to the first three UN ECE conventions mentioned above, but has not yet ratified the Aarhus Convention. However, it did sign all three protocols at the Kiev conference.

(B) Conclusion of Interim International Agreements

In 1971, Finland and Sweden concluded the Agreement Concerning Frontier Rivers, which aims to regulate the different uses of the rivers flowing along the border between the two countries. The agreement came into force on 1 January 1972. As it now stands, the agreement covers issues relating to construction in water areas, environmental protection, and fisheries management. The body that was established to apply the agreement is the Frontier River Commission, which acts as a permit and administrative authority for water and fisheries issues. The agreement has attracted a great deal of attention among those individuals interested in the law relating to transboundary watercourses, because the powers of the commission are extensive (for example, it is the sole permit authority for a large number of water construction projects).

Even though the agreement has worked quite well, both states parties have felt that there was a need to revise it to reflect the changes in the international and EC legal systems, especially after their accession to the EC in 1995. Clearly, the biggest change lies in the sphere of EC law, given that the river area was transformed from a transboundary watercourse into an internal river area within the EC. In 1999, the parties began to prepare informally for the revision of the agreement and have agreed on most areas of regulation, except for certain issues relating to fisheries management. Accordingly, they have, via an exchange of notes, decided to establish on a provisional basis a Finnish-Swedish water management area in order to prepare for the eventual conclusion of the new, revised agreement and, more specifically, to implement the requirements of the EC Directive 2000/60 Establishing a Framework for Community Action in the Field of Water Policy. The 1971 agreement and the Frontier River Commission will continue to operate until the conclusion of the new agreement. The interim agreement, as mandated through the exchange of notes, binds the parties from 2 November 2003.

(C) Preparing for the Ratification of International Conventions

Finland's ratification of the UN ECE Aarhus Convention has taken much longer than was expected at the beginning of the process. Even though the prevailing legislation fulfilled a major part of the requirements of the convention, a need for some amendments to legislation was, nonetheless, identi-

fied. The government proposal for ratification of the Aarhus Convention and for certain legislative amendments was submitted to Parliament on 18 December. The ratification process will in all likelihood be completed by the end of 2004.

(D) Conventions Entering into Force

The 1998 Protocol on Persistent Organic Pollutants (POPs) to the Convention on Long-Range Transboundary Air Pollution (LRTAP Convention) was adopted on 24 June 1998. Even though Finland had already accepted the protocol as binding on 3 September 2002, the protocol became legally binding on Finland on 23 October 2003, because it was on this date that the protocol itself came into force. Now Finland is party to all the protocols to the LRTAP Convention that have entered into force.

(E) Implementation of International Conventions

Joint implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change allows Annex I parties to implement projects that reduce emissions in other Annex I countries. Emission reductions generated by such projects can then be used by investing Annex I parties to help meet their emissions targets. This form of implementation of the obligations under the Kyoto Protocol was designed to take place between developed countries and the countries of the former Soviet Union and Central and Eastern Europe. In 1999, the government of Finland started a pilot program to prepare for the implementation of the Kyoto Protocol and its project-based mechanisms. As part of this program, Finland signed a project agreement with Estonia on 10 October for joint implementation of a new power plant in the town of Paide. This power plant, which was delivered by Wärtsilä Finland Limited Biopower, has replaced the old one, which used oil as fuel. According to the agreement, the reduction in greenhouse gas emissions in Estonia that will be achieved by bringing the new wood-chip power plant online will be transferred to Finland. The agreement entered into force on 20 October. The countries also signed a more detailed emissions reduction agreement, according to which Finland will buy from OÜ Pogi, the company operating the plant, 100,000 tonnes of carbon dioxide emission reductions during the years 2003–12.

(F) Non-Compliance with International Conventions

Finland faced certain problems in complying with its obligations under the 1991 Geneva Protocol Concerning the Control of Emissions of Volatile Organic Compounds or Their Transboundary Fluxes to the LRTAP Convention. According to the protocol, Finland had the obligation to take effective measures to reduce its national annual emissions by at least 30 per

cent by 1999 using 1988 as its base year. In 2001, Finland made a self-submission to the Implementation Committee of the LRTAP Convention, which oversees the implementation of all the protocols to the LRTAP Convention, stating that it had not been able to comply with its obligations under the protocol. Based on the recommendation made by the Implementation Committee, the executive body adopted a decision concerning compliance by Finland (Decision 2001/2). In its decision, the executive body urged Finland to fulfil its obligations as soon as possible and submit a progress report to the Implementation Committee. The committee reviewed Finland's progress in its meetings in 2002 and 2003. The emission calculations of March 2003 submitted by Finland showed that, while emissions had been 27 per cent below 1988 (base year) emissions in 1999, they had been reduced by 30 per cent by 2000 and by 31 per cent by 2001. These numbers demonstrated that in 1999 Finland was in non-compliance, but that it had measures in place to achieve compliance in the years 2000 and 2001. On the basis of the recommendation by the Implementation Committee, the executive body decided in its twenty-first session in December that there was no reason for the Implementation Committee to continue to review Finland's submission. The principal explanation for Finland's non-compliance in the year 1999 was that the road transport sector, which is the largest source of volatile organic compound emissions in Finland, had not developed as expected. This result was attributed to the economic recession in the beginning of the 1990s and its negative impact on the renewal of the car fleet, in particular, the continued low number of cars with catalytic converters. In addition, uncertainties in the emission data made it difficult to accurately calculate emissions.

Timo Koivurova

C. Norway

(1) Ratification of, and Accession to, Treaties

In 2003, Norway ratified the following treaties:

- the International Convention on the Control of Harmful Anti-Fouling Systems on Ships;
- the Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean;
- the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes;
- the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention);