

The Future of the Nordic Environment Protection Convention

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Abstract. The Nordic Environmental Protection Convention (NEPC) has been in force over 20 years. At present, however, its future depends very much on the coming into force of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention).

It is the purpose of this article to analyze the consequences of the coming into force of the Espoo Convention to the applicability of the NEPC. Of importance is to understand how much overlap exists between these two conventions, and review which rules govern this overlap. Although some norms of the NEPC will be replaced by the Espoo Convention, the practical influence of the NEPC to the management of transboundary pollution problems may actually increase. Also, as some already concretized cases show, the Espoo Convention provides a much more efficient way of handling the potential environmental conflicts between states.

1. Introduction

Much has been said about the Nordic Environment Protection Convention during the 23 years since its signing. Many times it has been mentioned as one of the most advanced inter-state instruments in environmental protection. Especially the non-discrimination principle, a norm which wipes away the political boundaries of contracting states with regard to transboundary pollution, has been much lauded over the years. However, as pointed out by various scholars, the practical influence of the principle on the management of transboundary pollution has been rather limited.¹

In this article, I will evaluate the future prospects of the Nordic Environment Protection Convention² (hereinafter the NEPC) especially in the light of the Convention on Environmental Impact Assessment in a Transboundary

¹ See, for instance, Phillips, C., "Nordic Co-operation for the Protection of the Environment against Air Pollution and the Possibility of Transboundary Private Litigation" (1986) *Transboundary Air Pollution*, pp. 153–180; and, Ebbesson, J., "Reflections on the 1974 Nordic Environment Protection Convention Two Decades after Its Signing" (1994) *The Legal Status of the Individual in Nordic Environmental Law*, pp. 63–83.

² Convention on the Protection of the Environment between Denmark, Finland, Norway and Sweden. The Convention was signed on 19 February 1974 and it entered into force on 5 October 1976. The text of the Convention is reproduced in 8 *I.L.M.* 591 (1974).

Context (hereinafter the Espoo Convention).³ First of all, I will place the Conventions under study here in the larger framework of efforts to regulate transboundary environmental problems in a typical situation. This “typical situation” is understood as a series of events in which the pollution from the origin state is detected in the affected state and can be traced back to an activity in the origin state.

Secondly, I will review the content of the two Conventions in terms of their alleged strategical relation to their object of regulation, namely, transboundary pollution. The scope of this article has been restricted to the development of international treaty law. Consequently, the effects of European Community law on the subject-matter of this article have not been examined.⁴ Thirdly, the future problems and possibilities in the application of the NEPC from the viewpoint of international law are dealt with. Some present problems are illustrated through one case study, the possible construction of the Vuotos reservoir. Finally, some tentative conclusions are drawn.

2. Management of the Typical Situation

One of the dilemmas of international environmental law is how to respond to situations in which an activity in the territory of the origin state causes or is about to cause significant environmental damage to the territory of a neighbouring state. Characteristic of this typical situation is that the origin state controls the activity in question, normally by an administrative permit system, and that natural resources are being exploited or an infrastructure project is being constructed in the origin state and the damage from these activities is detected and can be traced back to the activity in the origin state. Furthermore, a typical situation, as defined here, arises only if the states advance conflicting interests with regard to the transboundary pollution.⁵

³The Convention on Environmental Impact Assessment in a Transboundary Context was signed on 25 February 1991 in Espoo, Finland. It was prepared under the auspices of the United Nations Economic Commission for Europe and has not yet entered into force. The text of the Convention is reproduced in 30 *I.L.M.* 800 (1991).

⁴The effects of European Community law for the cross-boundary procedural rights of individuals in case of environmental damage are indeed important. See for instance, Juenger, K., “Environmental damage” (1996) *Transnational Tort Litigation: Jurisdictional Principles*; and, Galizzi, P., “Questions of Jurisdiction in the Event of a Nuclear Accident in a Member State of the European Union” (1996) 8 *Journal of Environmental Law* 1.

⁵In cases where the interests of the states concerned coincide with regard to the activity in question, it seems that the inter-state procedure might be discarded, for instance, because both states benefit from the activity located in the territory of one of them. This might happen, e.g., in the Arctic when mineral resources are being exploited for mutual benefit. The problem, especially from the viewpoint of the civil society, could be that no adequate evaluation is made

This typical situation can be seen as problematic from two perspectives. Since it places sovereign states and their interests against each other, it is normally addressed at the inter-state level in accordance with the rules of international law. From this viewpoint, the situation appears as a threat to the friendly relationship between two adjacent states. If a conflict is realized as a dispute between states, the affected state demands repair of some kind. The typical situation can be perceived as problematic also at the level of private actors. It places those private subjects of the affected state whose personal property has been injured against the private enterprise causing the transboundary environmental damage. Here the problem is transferred to the level of private international law.

General international law does not provide any detailed rules for managing this situation on the inter-state level. Those doctrines, principles and rules which it offers for the solution of these typical situations are variations of the structural principle of international law: sovereign equality of states.⁶ But sovereign equality prevents only unilateral use of the authority of either of the states concerned leaving the states considerable discretion in pursuing an equitable, context-dependent solution in the spirit of good faith. Consequently, as no accurate substantive rules exist in general international law, the attention turns to conventional arrangements. But the same lack of substance underlies conventional law. This so called "proceduralization" of the law seems thus to characterize both general international law and conventional arrangements with regard to the transboundary pollution. The law provides only a general framework for reaching a contextual political decision, encouraging states to strike an equitable compromise between the interests they advance.⁷

Conventional procedural rules offer various solutions to the inter-state problem of the typical situations. These regimes can be divided into co-operation procedures dealing with the damage already caused (regimes stipulating, for instance, notification in a case of accident or contingency plans) or more

of the environmental impact of the pollution harming the territory and the nationals of the affected state as the adversarial process between the concerned states has turned to the mutual benefit of the states. In short, the protective function of the affected state towards its nationals may be lost.

⁶At least the following candidates have been suggested in the literature of international environmental law: the principle of due diligence, the doctrine of non-harmful use of territory, the doctrine of *sic tuo utere*, doctrines of good neighbourliness or good faith or reasonableness, the doctrine of abuse of rights. Clearly, all these principles and doctrines are but repetitions of the underlying principle of equality of sovereigns. Because there is no prohibitive rule of international law, and because the equality of states prevents states from abusing the claim of absolute sovereignty, an equitable balance of interests seems the best answer. As these proposed candidates are all of such a general nature, context-dependent equity may operate within their framework.

⁷See, for instance, Koskenniemi, M., "Peaceful Settlement of Environmental Disputes" (1991) 60 *Nordic Journal of International Law*.

importantly in the context of this article, rules which obligate states to co-operate before the construction or execution of an activity. Advanced examples of these kind of procedures are the regimes of the NEPC and the Espoo Convention.

The NEPC provides for a two-level co-operation procedure on the inter-state plane: co-operation between higher-level and lower-level authorities. Furthermore, it contains a novel solution, for it accords a procedural right to the public authority of the affected state to participate in an internal decision-making procedure of the origin state. The Espoo Convention stipulates an elaborate inter-state system where as much data about the possible transboundary damage is delivered to the permit authority of the origin state. Thus, it is the permit authority of the origin state which acts also as a permit authority concerning the transboundary pollution.

The typical situation can also be seen as a relation between the private legal subjects of the states concerned. Normally, these typical situations are dealt with on the inter-state level, but sometimes a treaty regime such as the NEPC is concluded and a solution is thus sought on another level as well. The NEPC includes two such arrangements: first, it accords a right for all the Nordic private legal subjects whose personal property has been or is about to be injured by the transboundary pollution to use the judiciaries and administrative procedures of other Nordic states. Then it completes its mission by harmonizing the national conflict of law rules in respect of these transboundary private litigations, thus preventing the national judiciaries to apply less favourable law to the foreign private legal subjects. Also the Espoo Convention addresses the need to take into consideration the opinions of private legal subjects of the affected state, either through direct participation or indirectly via state machinery.

3. Strategies of the NEPC and the Espoo Convention

The concept of “strategy” is used here to denote the means by which the convention achieves its objectives. These normative instruments, such as the NEPC and the Espoo Convention, are seen as products of a goal-oriented human action reflecting concern for the state of the environment. I will approach these two Conventions from this perspective which, I think, will highlight their essence.

The NEPC can be viewed as containing a two-fold strategy for achieving its objective, namely, the improvement of environmental protection in the inter-state context. The preventive approach aims at mitigating, or perhaps precluding, possible transboundary harm before it is even produced. The means are co-operative obligations of the concerned states and comprehen-

sive procedural rights accorded to the actors of the affected state. The rules of the reparative approach are perceived as indirectly preventing the actors from causing future transboundary environmental damage; the negative consequence for the responsible actor in the form of monetary compensation for instance is seen as having a deterrent effect on future behaviour. The means here are transboundary procedural rights of public and private actors to appeal against administrative decisions and to initiate civil proceedings in order to obtain compensation. Another way to analyze the NEPC is to view it in terms of the following strategies:

1. Strategies related to the non-discrimination principle. This form of regulation is highly unusual in international conventions since the state's internal decision procedures are opened up to the legal subjects of another state. It must be kept in mind, however, that the non-discrimination principle implies only rights similar to those enjoyed by the actors of the origin state.⁸ There are three distinguishable mechanisms connected with the non-discrimination strategy of the NEPC.

1a. Procedural rights of the private legal subjects of the affected state (hereinafter foreign subjects) in the origin state's administrative procedures. Here, these foreign subjects are entitled to participate in the internal administrative procedure by which the permissibility of the activity is decided, and, possibly, the decision is reviewed. Thus, if this is possible in the origin state, these foreign subjects are entitled, for instance, to seek an order for the prevention of the activity, to participate in the EIA procedures, to participate in the permit procedures, and, finally, to appeal against an administrative decision.⁹ Moreover, as provided by the Protocol to the Convention, the foreign subjects are entitled to demand that the affecting state purchase their real property.¹⁰

1b. Procedural rights of foreign subjects in the origin state's civil procedures. This includes primarily a right to initiate a claim for compensation against the company in charge of the activity.¹¹

1c. Procedural rights of the public authorities of the affected state in the internal administrative procedure of the origin state. The system of the NEPC accords this right to a so-called supervisory authority, which normally means the environmental ministries of the Nordic states. These rights include, if the corresponding authority in the origin state possesses these rights, a possibility to demand a permit for the activity, to institute and participate in proceedings

⁸This is explicated in every respective provision according rights to foreign private legal subjects. See Articles 3, 4 and 6 of the NEPC, *supra* note 2.

⁹See Article 3 of the NEPC, *supra* note 2.

¹⁰See the Protocol to the NEPC, para 2, reproduced in 8 *I.L.M.* 597 (1974).

¹¹See Article 3(2) of the NEPC, *supra* note 2.

before courts and administrative authorities and to appeal for a review of the administrative decision.¹²

2. Strategies related to inter-state co-operation. The NEPC contains two differing co-operation procedures.

2a. The co-operation procedure between the permit authority of the origin state and the supervisory authority of the affected state. These public bodies are required to exchange information concerning activities which "... may entail nuisance of *significance* in another Contracting State" (emphasis mine).¹³ Consequently, the procedure in question is triggered by the standard of potential significant transboundary environmental impact. In addition, this procedure contains the following options: meeting of parties, on-site inspection to examine the transboundary environmental effects and informing the public of the affected state.¹⁴

2b. The co-operation procedure between the central governments of the concerned states. If the transboundary environmental impact can be viewed as considerable and the government acts as an examining authority, consultations between the concerned states shall be held if the affected state so requests. In these cases, both governments are entitled to request an opinion from the inquiry commission as to the considerableness of the transboundary impact in question.¹⁵

The Espoo Convention, which is not yet in force, approaches these environmentally problematic situations primarily through a traditional inter-state co-operation strategy: placing rights and obligations mainly on the governmental level with the exception of the public participation. I will briefly review the procedure provided in the Espoo Convention by dividing it into chronological phases.

1. Initiation of the procedure. The inter-state procedure is triggered by the decision of the origin state as to whether the possible impact of the activity in question may be significant. The Convention contains a dual mechanism for the commencement of the procedure. Appendix I to the Convention comprises an instructive list of inherently dangerous projects to which a comprehensive mechanism is applicable¹⁶; with regard to these projects, the affected state is

¹² See Articles 4 and 6 of the NEPC, *supra* note 2.

¹³ See Article 5 of the NEPC, *supra* note 2.

¹⁴ See Articles 5, 7, 8, 9 and 10 of the NEPC, *supra* note 2. The final paragraph of the Protocol to the NEPC is also relevant, *supra* note 10.

¹⁵ See Articles 11 and 12 of the NEPC, *supra* note 2.

¹⁶ The following activities are presumed to be more dangerous than others and are thus included in the Appendix I: crude oil refineries, thermal power stations, installations designed for production of nuclear fuels, installations for the smelting of cast-iron, installations for the extraction of asbestos, integrated chemical installations, construction of motorways, large-diameter oil and gas pipelines, trading ports, waste-disposal installations, large dams and

entitled to initiate a process in the Inquiry Commission even without the consent of the origin state. Thus, the Convention tries to influence how the origin state uses its discretion when deciding whether the possible transboundary impact can be significant. Although the decision of the Inquiry Commission is not binding, it puts pressure on the origin state.¹⁷

Unilateral initiation of the Inquiry Commission procedure is not available if the project in question is not on the list in the Appendix I. In such cases, the affected state is only entitled to ask for negotiations with the origin state. In short, the commencement of the procedure depends on the consent of the origin state. If it consents, Appendix III provides criteria for determining the significance of the possible transboundary impact.¹⁸

2. Environmental impact statement. After the initiation of the procedure, the origin state has to deliver an EIA statement to the affected state. The Espoo Convention stipulates the minimum requirements for the statement, which is normally made by the company in charge of the activity;¹⁹ if these requirements are not fulfilled, the origin state has to demand adjustments from the EIA statement of the company. It is interesting that the affected state is entitled to provide its own statement about the environmental effects on its own environment if the origin state so requests.²⁰

3. Participation of the affected state's private legal subjects. The public of the affected state has two possibilities to participate in the EIA procedure of the origin state. First of all, they have the right to participate directly in the internal procedure of the origin state; they may submit comments and participate in the public hearings in the origin state.²¹ Or they can participate from the direction of their own state. Both of the states concerned are required to organize the delivery of information to the public of the affected state, to

reservoirs, groundwater abstraction activities, pulp and paper manufacturing, major mining, offshore hydrocarbon production, major storage facilities for petroleum and deforestation of large areas.

¹⁷ See Article 3 paragraphs 1, 7 and Appendix IV of the Espoo Convention, *supra* note 3.

¹⁸ See Article 2(5) and Appendix III to the Espoo Convention, *supra* note 3.

¹⁹ Sweden, Finland and Norway have an EIA system where the proponent is obligated to have the environmental impact study made. However, in Denmark, it is the governmental authority which is in charge of making the environmental impact statement. Information obtained from a leaflet produced by the Finnish Environment Institute for the meeting of the working-group on the arctic environmental impact assessment.

²⁰ See Articles 3(6), 4 and Appendix II of the Espoo Convention, *supra* note 3.

²¹ This right can be derived from Article 2(6) of the Espoo Convention: "... and shall ensure that the opportunity provided to the public of the affected party is equivalent to that provided to the public of the party of origin". Thus, if the concerned states fail in arranging similar participating rights also to the public of the affected state, they have a right to participate in the internal EIA procedure of the origin state.

gather their comments, and to forward these comments to the permit authority of the origin state.²²

4. Consultation. The Espoo Convention obligates states to organize a meeting where the problematic situation can be addressed. Although there are no binding norms as to what kind of solutions ought to be found in the negotiations, the Convention provides guidelines for the execution of the consultations.²³ Also, the results of the environmental impact statement and the comments from the public of the affected state surely influence the direction of these negotiations.

5. Final decision. It is the competent internal authority of the origin state which decides on the permissibility of the activity in question also in regard to its transboundary impacts. The Convention requires that the environmental information provided by the internal EIA statement and possibly the statement made by the affected state, as well as the comments of the public of the affected state and the outcome of any consultations, be taken into account when the final decision is made. Furthermore, the final decision and the “reasons and considerations on which it was based” have to be delivered to the affected state.²⁴ It is important to realize that this arrangement places the final responsibility on the company benefiting from the harm-causing activity and thus reinforces the polluter pays principle; after all, it is the conditions of the permit by which the states concerned try to mitigate the possible transboundary damage.

6. Post-project analysis. The states concerned shall determine whether a co-operation procedure is needed for monitoring the occurrence of the concretized transboundary damage. If mutually agreed, and especially if actual transboundary damage has been found, new consultations between the states concerned shall be held.²⁵ Again, the Convention tries to avoid any difficult questions of state responsibility, opting to establish a co-operative framework for a flexible solution.

²² See Articles 2(6), 3(8) and 4(2) of the Espoo Convention, *supra* note 3.

²³ Article 5 of the Espoo Convention provides the following guidelines: “. . . consultations may relate to a) Possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of the Party of origin; b) Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and c) Any other appropriate matters relating to the proposed activity . . .”.

²⁴ See Article 6 of the Espoo Convention, *supra* note 3.

²⁵ See Article 7 of the Espoo Convention, *supra* note 3.

4. The Future of the NEPC

The NEPC is still formally in force. There are some future occasions, however, which will question its formal validity in regard to its preventive rules. On the other hand, there also exist new possibilities for the successful exploitation of some of its norms. In particular, the coming into force of the Espoo Convention will result in some future changes.²⁶

4.1. *The Problem of the Overlapping Scope of Application*

Evidently, the NEPC and the Espoo Convention overlap considerably in their scope of application.²⁷ At the moment, the Espoo Convention is not yet in force, but will be in the near future. Thus, it is important to clarify which treaty will govern the relations between the Nordic states as contracting parties when the Espoo Convention enters into force.

The main provision for the resolution of this conflict of successive treaties relating to the same subject-matter is Article 30 of the Vienna Convention.²⁸ Because all the Nordic states are also parties to the Espoo Convention, paragraph 3 applies:

When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

²⁶The Espoo Convention will enter into force “on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession” (Article 18 of the Espoo Convention). On 16 December 1996, there were 13 ratifications of the Espoo Convention. Out of four contracting states of the NEPC, only Denmark had not ratified the Convention. Information obtained from the Finnish Ministry for Foreign Affairs.

²⁷The Espoo Convention covers all the possible activities which may cause significant adverse transboundary impact on the territory of another contracting state. Thus, in terms of activities, the Espoo Convention covers all the activities to which the NEPC is applicable as the NEPC applies to activities causing “nuisance of significance”. Their fields of application differs in other respects, as explained below.

²⁸Out of the four contracting states of the NEPC, Norway is the only one not party to the Vienna Convention on the Law of Treaties. The Vienna Convention is, however, largely declaratory of the present state of customary international law. For instance, Villiger concludes his study by claiming that: “All in all, there is a certain probability that the VCT rules are declaratory; the probability is higher regarding rules not embodied in Part V”, Villiger, M., “Customary International Law and Treaties” (1985) p. 310. Similarly, Brownlie states: “Nonetheless, a good number of articles are essentially declaratory of existing law and certainly those provisions which are not constitute presumptive evidence of emergent rules of general international law”, Brownlie, “Principles of Public International Law” 4th edition (1990). Consequently, Norway is seen as bound by customary international law as reflected in the rules of the Vienna Convention. See the text of the Convention, 8 *I.L.M.* (1969).

But will the NEPC be terminated or suspended when the Espoo Convention enters into force? Article 59 of the Vienna Convention states:

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:
 - (a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or
 - (b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.
2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

First, it is clear that the NEPC will not be terminated when the Espoo Convention enters into force. This can be concluded from Article 8 of the Espoo Convention:

The parties may continue existing or enter into new bilateral or multilateral agreements or other arrangements in order to implement their obligations under this Convention . . .

The relationship between the two conventions after the coming into force of the Espoo Convention is quite straightforward. As the parties' intentions are decisive in this context, and the Espoo Convention allows for the operation of already existing conventions, it can be concluded that the NEPC applies only to the extent that its provisions are compatible with the Espoo Convention.

Although the Espoo Convention is not yet in force, it has already influenced state practice. This is nothing extraordinary. Under the international law of treaties, the very act of signing a convention carries legal consequences. After signing, a state has a duty not to defeat the object and purpose of a treaty until it has expressed its intention of no longer being party to it.²⁹ More importantly in this context, states may agree on a provisional application of a treaty. According to Article 25(1) of the Vienna Convention:

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:
 - (a) the treaty itself so provides; or
 - (b) the negotiating States have in some other manner so agreed.

²⁹ See Article 18 of the Vienna Convention on the Law of Treaties, *supra* note 28.

The question arises whether the signatories to the Espoo Convention have agreed to apply the Convention provisionally by adopting a resolution that the signatories:

Resolve to strive for the entry into force of the Convention as soon as possible and to seek to implement the Convention to the maximum extent possible pending its entry into force³⁰;

Can this paragraph of the resolution be interpreted as an agreement between the signatories of the Convention to apply the Convention provisionally? First of all, the Convention itself does not provide for such a possibility. Secondly, the Convention contains two expressions to the contrary: “resolve to strive” and “resolution”. It seems clear that to call the document a “resolution” and “resolve to strive” for the speedy application of the Convention do not equate with establishing an agreement in the meaning of Article 25(1b) of the Vienna Convention.

In any case, on three occasions Finland has initiated procedures with a foreign power on the strength of the Espoo Convention: the cases of the Vuotos reservoir, Outokumpu Ltd. and Vattenfall Ltd.³¹ The Vuotos case is worth looking into more closely as many problems of treaty conflict between the NEPC and the Espoo Convention are most visible in it.³²

³⁰ Paragraph 1 of the resolution of the signatories of the Espoo Convention. ECE/ENVWA/19.

³¹ The extension of Outokumpu Ltd.’s construction activities came within the ambit of the Finnish EIA law. Thus, Outokumpu prepared an assessment programme, and it was submitted for the opinion of the coordination authority, in this case the Environment Centre of Lapland. As the activity was located very near the Swedish border, the Ministry of the Environment, in accordance with Section 14 of the Finnish EIA Act, informed Statens Naturvårdsverket of the possible impacts on Swedish territory. Statens Naturvårdsverket, in turn, delivered the information to Swedish authorities on the provincial level. Vattenfall Oy Ab plans to build a large gas power plant in Imatra, near the border of Finland and Russia. Russia was notified by the Finnish Ministry of the Environment. In the notification, Russia was asked whether it wants to participate in the Finnish procedure, but it failed to respond within the time-limit fixed in the notification (15 December 1996). Both of these notifications were made by virtue of Article 3(1) of the Espoo Convention. Information obtained from the Environment Centre of Lapland and the Finnish Ministry of the Environment.

³² The Vuotos case has had many interesting aspects from the standpoint of international and European Community law. First of all, a complaint has been lodged with the European Commission of Human Rights. See, for instance, Mustavuori, J., “Vuotoksen tekoaltaan pitkä varjo: Onko laki niin kuin sitä luetaan”, *Oikeus* 3/1995. Secondly, the Finnish euro-parliamentarian Heidi Hautala has made a complaint to the Commission of the European Communities on the basis of the failure of the Finnish government to implement two environmental protection directives. Because Finnish state is a majority share holder in the Kemijoki Ltd., it has the power to decide whether Kemijoki Ltd. may proceed with the Vuotos project. According to Hautala, if Finland allows Kemijoki Ltd. to construct the Vuotos reservoir, it will violate its duties towards the European Communities by not having implemented these two directives. See Hautala’s complaint on the internet: (http://sll.fi/vuotos/Hautala_complaint.html).

4.2. *The Construction of the Vuotos Reservoir*

To illustrate how this complicated procedure has advanced, it is important to separate between two procedures: the procedure executed by the Finnish Water Act and the procedure orchestrated by the Finnish Ministry of the Environment. The traditional procedure, by virtue of the Finnish Water Act, was seen by the Ministry as deficient especially in the light of the requirements of the Espoo Convention. I will first explain the traditional procedure, and how the Vuotos case advanced accordingly, and then review the responses by the Ministry of the Environment.

As the internal EIA legislation was not yet in force when the Kemijoki Ltd. applied for the permit from the Water Court, the Finnish Water Act was applicable to the internal permit procedure of the Vuotos.³³ Thus, the following procedure was applicable:

1. Application for the permit from the Water Court by the proponent of the activity. Kemijoki Ltd. filed its application on 25.9.1992 to the Water Court of Northern Finland.³⁴

2. All large-scale projects have to be studied by the implementation of inspection proceedings in order to determine the impacts of the project and to draw up a proposal for the decision-making of the Water Court. For this task, the Water Court appoints a panel consisting of proceedings engineer and two trustees. In the case of Vuotos, this occurred on 11 May 1993.³⁵

3. Inspection proceedings include several studies on the impacts of the activity and the panel draws conclusions as to whether a permit should be granted for the activity and under which conditions.³⁶ This occurred on 24 May 1996

See also index of Vuotos: (<http://sll.fi/Vuotosindex.html#articles>). Information from Kemijoki Ltd. can be found from: (<http://www.Kemijoki.fi/kejoe.htm#valikko>) and from Vuotos from the viewpoint of Kemijoki Ltd.: (<http://www.Kemijoki.fi/Vuotose.htm>).

³³ Kemijoki Ltd. proposed that a voluntary environmental impact assessment of Vuotos should be carried out. It even had an environmental impact statement made by EKONO. Subsequently, The Water and Environment District of Lapland proposed to the Finnish Water and Environment Council that Vuotos could be handled through a voluntary EIA (27.8.1993). It also proposed that, because the internal EIA-legislation was still at the stage of preparation, an *ad hoc* coordination authority would be formed. This suggestion was, however, refused by the Finnish Water and Environment Council after the consultation with the Finnish Ministry of the Environment (1 July 1993). Information obtained from the copies of letters exchanged by the Finnish Water and Environment Council and Water and Environment District of Lapland.

³⁴ Information obtained from the Water Court of Northern Finland. In the application, there was no reference to any significant transboundary impacts to Swedish maritime areas. This information was obtained from Kemijoki Ltd.

³⁵ An additional proceedings engineer was appointed to the Vuotos procedure because of its large size. Information obtained from the Water Court of Northern Finland.

³⁶ A good English explanation of the procedure in the case of Vuotos is Hellsten, K., "Hydro-Power Plants in the North" (1994) *The Legal Status of the Individual in Nordic Environmental Law*, pp. 179–187.

when the persons responsible submitted their conclusions and proposal to the Water Court. In these conclusions, no significant transboundary impact from the construction of the Vuotos reservoir to the maritime area of Sweden was found.³⁷ The construction of the Vuotos reservoir was recommended.

4. After the inspection proceedings, various private persons and governmental authorities may present their comments on and objections to the conclusions and proposals of the inspection proceedings. The deadline for submitting these comments expired on 11 September 1996.³⁸

5. The Water Court as the examining authority of the NEPC is obligated to inform the supervisory authority of other Nordic states if it is possible that the project in question may cause significant transboundary impacts. After that procedure, the Water Court decides whether the project is to be granted a permit and under what conditions.³⁹

But the Finnish Ministry of the Environment was not satisfied with this procedure. Its responses were the following:

1. The Ministry of the Environment and the Water Court of Northern Finland discussed informally about how to organize the possible notification to Sweden. The Water Court, as the competent authority to notify by virtue of the NEPC, was of the opinion that in this early phase of the procedure, the Ministry of the Environment may notify Sweden by virtue of the Espoo Convention and the resolution of the signatories.⁴⁰

2. In a letter dated 1 July 1993, the Finnish Water and Environment Council informed the Water and Environment District of Lapland that Vuotos may cause environmental impacts on Swedish maritime areas. Also, it announced that the Finnish Environmental Ministry was the authority responsible for the notification to Sweden by virtue of the Espoo Convention.⁴¹

3. The Act on Environmental Impact Assessment Procedure entered into force on 1 September 1994; it grants the competence to notify and consult with the foreign states to the Ministry of the Environment.⁴² However, before the notification, the Ministry of the Environment has to consult with the

³⁷ Information obtained from the Environment Centre of Lapland.

³⁸ Information obtained from the Water Court of Northern Finland.

³⁹ When this article was written, at the end of December 1996, the procedure dealing with Vuotos was at the stage of decision-making. After the end of the time for comments and objections (11.9.1996), the Water Court evaluates the proposal of the inspection proceedings and those comments and objections to it, perhaps arranges oral hearings and, finally, decides whether the permit is to be granted and under what conditions. At the moment, this evaluation process is still pending. Information obtained from the Water Court of Northern Finland.

⁴⁰ Information obtained from the Finnish Ministry of the Environment.

⁴¹ Letter from the Finnish Water and Environment Council to the Water and Environment District of Lapland. Letter obtained from Kemijoki Oy.

⁴² Act on Environmental Impact Assessment Procedure, No. 468. The Act came into force on September 1, 1994.

Finnish Ministry for Foreign Affairs.⁴³ This consultation took place before the Ministry of the Environment notified Sweden about the possible trans-boundary impacts of Vuotos. In this informal consultation, the Ministry for Foreign Affairs urged that the Espoo Convention may be invoked provided it does not exceed the level of obligations set forth in a valid international treaty, the NEPC.⁴⁴

4. Notification to Sweden took place on 22 June 1995. In the notification, the Ministry of the Environment informed the Swedish point of contact, Statens Naturvårdsverket, that the construction of the Vuotos reservoir may result in an overload of phosphorus in the maritime area of Sweden in the Gulf of Bothnia.⁴⁵ While the Finnish Ministry of the Environment primarily referred to Article 3 of the Espoo Convention and the resolution of the signatories as the legal bases of the notification, it also invoked the NEPC.⁴⁶ Statens Naturvårdsverket was asked to respond before 1 September 1995.

5. Statens Naturvårdsverket responded on 30 August 1995 requiring environmental studies to be done on the possible impact on Swedish maritime areas.⁴⁷

6. The Ministry of the Environment responded to Swedish queries by collecting expert opinions on the matters requested by Sweden. This happened on 21 December 1995.⁴⁸

⁴³ Ibid., Section 14(3): "... The Ministry of the Environment shall request a Ministry for Foreign Affairs opinion on the matter".

⁴⁴ Information obtained from the Finnish Ministry of the Environment.

⁴⁵ Letter from the Finnish Ministry of the Environment to Swedish Naturvårdsverket. Enclosed in the notification is one quotation from the application: "Under de första åren ökar Vuotos-bassäng fosforbelastningen på Bottenviken med 110–150 kg/d, dvs. sammanlagt ca 50 ton per år. Detta betyder en årlig ökning på ca 12% av den nuvarande genomsnittliga ämnestransporten, som är ca 400 t/a. Övriga vattenkvalitetsparametrar är av mindre betydelse i vattendraget nedan om sjön Kemijärvi och har inte granskats i detalj i utredningen".

⁴⁶ The bases of the notification is described as follows: "Anmälan görs i enlighet med artikel 3 i konventionen om miljökonsekvensbeskrivningar i ett gränsöverskridande sammanhang som uppgjorts av Förenta Nationernas Ekonomiska Kommission för Europa (konvention E/EEC/1250 och deklaration om iakttagandet av konventionen innan den träder i kraft, undertecknat 25.2.1991) och i enlighet med det Nordiska Miljövårdsavtalet (19.2.1974)" (emphasis mine).

⁴⁷ The following studies were seen as important: "Utöver hittills översända uppgifter behövs särskilt uppgifter om: ökad fosforoch kvävebelastningen på Bottenviken sett över tiden; i vilka former – löst i vatten eller bundet i partiklar – de utökade utsläppen av fosfor som når Bottenviken förekommer; urlakning och uttransport av metaller till Bottenviken med anledning av dammens tillkomst; vilka effekter för Bottenviken tillskotten av näringsämnen, metaller och andra eventuella föroreningar kan bedömas medföra".

⁴⁸ Finnish Environment Institute established a working-group of experts responding to these questions. Information obtained from the Ministry of the Environment.

7. The Ministry of the Environment delivered the application of Kemi-joki Ltd. and the conclusions arrived at by the inspection panel to Statens Naturvårdsverket (10.6.1996).⁴⁹

8. At this stage, the procedure executed by the Ministry of the Environment coalesces with the internal procedure stipulated by the Finnish Water Act. As mentioned above, after the proposal by the inspection panel, various governmental and private parties may present their comments on and objections to the proposal. The objections of Sweden were sent to the Ministry of the Environment which, in turn, delivered these to the Water Court. These objections were primarily from the Statens Naturvårdsverket, but also from provincial governments, research centers and private environmental organizations. It is important to note that Statens Naturvårdsverket invoked the NEPC as a basis for its participation in the Finnish procedure.⁵⁰

The Water Court of Northern Finland faces a difficult task. The inspection proceedings concluded that no significant transboundary impact will be caused by the construction of the Vuotos reservoir. In principle, then, the Water Court may not have been legally bound to provide notification of the project to Sweden. However, the measures taken by the Ministry of the Environment placed the Court in a new position. Now, various parties from Sweden have presented their objections and the Water Court is bound to take them into consideration. What will happen in the future? Of course, it is possible that the Water Court will use its competence as an examining authority and start a new dialogue with the Swedish authorities, but this is improbable. In all likelihood, it will evaluate the costs and benefits of Vuotos now from the Swedish point of view as well, perhaps including this perspective in the permit conditions.

4.2.1. *Analysis of the Vuotos Process*

The problems in the Vuotos process are not so much international as internal. From the viewpoint of international law, and Sweden, Finland performed its duties in an excellent manner. Surely international law does not prevent the premature application of the Espoo Convention if this will discharge its international duties. Besides, it can be argued that the NEPC, a valid international treaty, provided a legal basis for the the Finnish Ministry of the Environment. The NEPC requires states parties, more exactly the examining authorities, to "send as soon as possible a copy of the documents of the case to the supervisory authority of the other State, and afford it the opportunity of giving its opinion". Clearly the action of the Ministry of the Environment,

⁴⁹ Information obtained from the Ministry of the Environment.

⁵⁰ Indeed, Article 4 of the NEPC accords this right. Information obtained from the Water Court of Northern Finland.

also justified in that they were in accordance with the NEPC, are also covered by the NEPC. It seems only rational that the Water Court and the Ministry of the Environment decided to live up to the obligations stipulated in the NEPC, and transfer the competence to the Ministry in order to act “as soon as possible”.

However, the internal competence to execute the obligations set forth in the NEPC was transferred to an organ other than that provided for by the NEPC. The NEPC accords this competence to the examining authority, in this case the Water Court, whereas the Espoo Convention accords it to the points of contact, in Finland to the Ministry of the Environment. Kemijoki Ltd. argues that this transfer of internal competence was illegal as the Espoo Convention was not yet in force.⁵¹ But is this coming into force of the Espoo Convention really that decisive in this context? What is really at stake here? As international law seems to commend Finland for the way it performed its international duties, attention turns to Finnish internal legislation. The pivotal question is: who has the internal competence to notify Sweden by virtue of the NEPC? According to the text of the NEPC itself, this authority rests with the Water Court, but the Water Court saw it fit to transfer this competence informally to the Ministry of the Environment. Surely the Ministry had better resources and know-how to handle the international process. This functional justification, however, does not constitute a legal basis for the Ministry’s exercising authority which, according to the NEPC, belongs to the Water Court.

Section 14 of the Act on Environmental Impact Assessment Procedure accords the competence to notify to the Ministry of the Environment. However, Section 27 of the same Act restricts the application of this Act to those activities initiated after 14 January 1994. As we saw earlier, the Vuotos reservoir was one of those activities not included. But does this exclusion apply to international procedure as well? It seems to me that although the Finnish EIA Act is not applicable internally to the Vuotos procedure, it is internationally. This is well shown by the wording of Section 14:

The provisions of this Act shall also apply . . . if enforcement of an international agreement binding on Finland requires an environmental impact assessment procedure to be arranged in cooperation with another state in the case of a project being carried out in Finland. The Ministry of the Environment shall see to notification and consultation functions connected with environmental impact assessment . . .

⁵¹ Interview with the head of the legal department and the director of environmental affairs for Kemijoki Ltd. 2 December 1996.

It is of utmost importance to realize that this Act accords the Ministry of the Environment competence not only with regard to the Espoo Convention but also other international EIA conventions as well.⁵² Thus, after the coming into force of this Act, all those international treaties which require “an environmental impact assessment procedure to be arranged in cooperation with another state”⁵³ come within the competence of the Ministry. The NEPC is also such a treaty. Consequently, the internal competence of notifying Sweden by virtue of the NEPC is in the hands of both the Ministry of the Environment and the Water Court. As they agreed in the beginning of the procedure, the Ministry operates in the first phases of the procedure towards Sweden. This does not exclude the possibility that the Water Court will use its competence in the later stage of the proceedings.

The case of Vuotos happened to occur in an interim period. The outdated and poorly functioning inter-state co-operation mechanism of the NEPC⁵⁴ was in effect replaced already when the Espoo Convention was signed. Operating under the guidance of the UN ECE,⁵⁵ and through the well-defined and notified points of contact in each of the signatory state's, the Espoo Convention established a functional co-operation mechanism. But before its entry into force, the competence to act has to be derived elsewhere. In the Vuotos case, the NEPC offered such a valid legal framework.

Next, I will evaluate the future possibilities of the Espoo Convention for the rules of the NEPC. As mentioned above, when the Espoo Convention enters into force, the rules of the NEPC will apply only to the extent that they are compatible with those of the Convention. There are, however, many rules of the NEPC which the Espoo Convention leaves intact, especially those

⁵² In the Government Bill for an Act on Environmental Impact Assessment Procedure, two international conventions are mentioned in addition to the Espoo Convention: “This kind of conventions would be those referring to the environmental impact assessment procedure. The central Convention is the Espoo Convention but in addition the Convention on the Transboundary Effects of Industrial Accidents and the Convention on the Protection of the Baltic Sea may for instance be such conventions” (author's own translation). My argument is that as a Convention dealing factually with the international environmental impact assessment procedure, the NEPC is also included. To be sure, these two conventions were only examples, as is evident from the text of the Government bill.

⁵³ Section 14(1) of the Act on Environmental Impact Assessment Procedure, *supra* note 37.

⁵⁴ See Phillips and Ebbesson, *supra* note 1.

⁵⁵ The Espoo Convention was negotiated under the guidance and secretarial assistance of the ECE Environmental and Human Settlements Division. After the signature of the Convention, the signatories have convened in connection with the annual sessions of the Senior Advisers to ECE Governments on Environmental and Water Problems. This will continue after the Convention enters into force (Article 11). Also, the ECE has organized task forces on environmental impact assessment. Information obtained from the Finnish Ministry of the Environment and ECE Environmental and Human Settlements Division.

concerning the rights of the foreign subjects. Moreover, the Espoo Convention enhances the practical applicability of some of the norms of the NEPC.

4.3. *The Rights of the Supervisory Authority in the Light of the Espoo Convention*

As mentioned above, the supervisory authority of the affected state is entitled to participate in the internal administrative procedures of the origin state. These rights include various participation rights in the internal procedure before and after the permit decision has been taken. Of course, these rights are accorded only if similar authorities in the origin state possess these rights. It seems likely that the rights related to procedures before the permit decision is made will normally be replaced by the co-operation procedure of the Espoo Convention. This is due to the fact that the Espoo Convention covers comprehensively the co-operation procedure before the permit decision, both internally and between the concerned states. It would only seem odd if the affected state's authority demanded to participate in the internal procedure when the affected state is given various information and consultation rights by virtue of the Espoo Convention.

On the other hand, it is possible that the concerned states, for instance in a situation where the project is not listed in Appendix I, cannot agree on whether the project may cause significant transboundary environmental effects. In such cases the supervisory authority's transboundary right serves as a guarantee for at least some kind of participation by the affected state in the process.

More important are the supervisory authority's transboundary rights in the procedure after the permit decision has been made. Especially the possibility to appeal the permit decision still seems applicable. The Espoo Convention, as an instrument primarily concerned with traditional inter-state measures, only prescribes that the information about the transboundary effects and results of the consultation have to be taken into consideration when the permit decision is made.⁵⁶ It does not make any material requirements of the internal decision. Thus, the right to appeal against a permit decision, which does not prescribe any conditions for the execution of the activity in regard to transboundary pollution, seems a relevant measure from the point of view of the affected state. It must be remembered, however, that the existence of this right depends on whether the corresponding authorities in the origin state are guaranteed this right.

⁵⁶ See Article 6(1) of the Espoo Convention, *supra* note 3.

4.4. *The Exploitability of the Administrative Procedural Rights of the Foreign Subjects*

Foreign subjects' too have various rights connected to the internal administrative procedure whereby the permissibility of the activity is investigated. Especially the possibilities to participate in the internal EIA procedure of the origin state, to participate in the actual permit procedure, to appeal against the permit decision and to demand the purchase of real property seem to provide important protection to the foreign subjects if the co-operation procedure of the Espoo Convention proves deficient in some respects. As it seems that the rights to participate in the internal EIA procedure of the origin state are the most relevant here, a few extra words on these issues are in order.

According to the Espoo Convention, the states concerned are responsible for the arrangement of the public participation procedures in the affected state. However, the practical organization of the public participation is left to the discretion of the authorities of the affected state; they determine the contextual content of the concept "public".⁵⁷ Herein lies an important protection accorded by the NEPC to the subjects of the affected state: if the affected state interprets "public" restrictively, excluding the participation of certain groups of persons, the persons left out are entitled to participate in the internal EIA procedure of the origin state. In this way, the right of the latter group is decided in accordance with the internal rules and practices of the origin state. It can also be argued that the Espoo Convention itself contains this right. Article 2(6) reads:

The Party of origin . . . shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

Thus, if the co-operation procedure for the participation of the public of the affected state does not work, the foreign subjects may invoke this article as justifying their participation in the internal procedure of the origin state.

4.5. *The Exploitability of the Civil Procedural Rights of the Foreign Subjects in the Origin State*

As far as I know, transboundary private litigation has occurred only once during the history of the Convention. This happened when a Swedish environmental organization, with its Norwegian counterpart, asked a Norwegian

⁵⁷The Espoo Convention defines "public" as one or more natural or legal persons (Article 1.10).

court to rule on compensation for non-licensed pollution. The Swedish organization was recognized by the court as possessing legal standing in the case by virtue of the NEPC.⁵⁸ It seems that this limited use of reparative transboundary rights stems from the difficulty of demonstrating the liability of the operator of the activity.⁵⁹ In addition, there has been insufficient awareness of the existence of this kind of possibility and also an understandable lack of trust in using the judiciary of a foreign country.

The NEPC accords a right to initiate a claim in the origin state's judiciary if this right is guaranteed to the legal subjects of the origin state also. Consequently, the rules on legal capacity and legal standing before the court are determined by the rules and practices of the origin state. Moreover, the NEPC harmonizes the national conflict of law rules of the Nordic states by providing that the court of the origin state can not decide the case by rules less favourable to the foreign subject. In this way, it is guaranteed that the legal subjects of the affected state are judged by the same rules as the legal subjects of the origin state.

Jonas Ebbesson lists several problems in the use of transboundary private litigation:

1. It is hard to demonstrate a causal link between the activity in the territory of the origin state and the damage occurring in the territory of the affected state. This is difficult *per se*, in a national context as well, but the problem takes on a new level of difficulty when the distance between the activity and its alleged effects is being examined.

2. The time-lag between the initial impacts and the manifestation of damage can be many years.

3. It is possible that these environmental effects cumulate, rendering it impossible to trace the impact back to any specific activity.

4. The national legislations of the Nordic states may require proof of negligence if the rule of strict liability has not yet been introduced. This means a very difficult burden of proof for the plaintiff.

5. The financial costs of the litigation may be too high for private legal subjects especially in environmental cases where the procurement of evidence requires much expertise, effort and money.⁶⁰

How can the Espoo Convention improve the situation? Perhaps the most important phase of the co-operation procedure in this context is the environmental impact assessment. As mentioned above, the Espoo Convention sets

⁵⁸ See Ebbesson, p. 67, *supra* note 1.

⁵⁹ Ebbesson feels that the prime reason for this is that the "private litigation regarding damage from environmentally harmful activities is quite uncommon in all the Nordic countries", p. 78, *supra* note 1.

⁶⁰ Ebbesson, pp. 78–79, *supra* note 1.

minimum standards for the environmental impact statement made normally by the project proponent. In other words, the company itself has to clarify the kind of environmentally harmful effects its activity may cause to the environment in neighbouring states. If the EIA statement, provided by the company, does not meet the demands of the Espoo Convention, the origin state itself has to make sure that these requirements are fulfilled by the company.⁶¹

All in all, this would mean that if the co-operation procedure is unable to prevent all the transboundary environmental impacts, the foreign subjects whose rights have been injured have a good chance of exploiting the EIA statement as evidence of the causal link between the activity and the damage that occurs. A document in which the defendant itself assesses the possible environmental effects to the neighbouring states would serve as an ideal starting-point for a successful litigation.

5. Concluding Remarks

It seems that the union between the NEPC and the Espoo Convention may provide many opportunities for those interested in environmental protection in the Nordic countries.

The inter-state co-operation procedure has been applied only a few times.⁶² This was mainly due to the insufficient awareness of the existence of the convention but also certain clear treaty violations were committed.⁶³ Now,

⁶¹ The following information has to be required from the EIA statement by virtue of the Espoo Convention: (a) A description of the proposed activity and its purpose; (b) A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative; (c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives; (d) *A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance* (emphasis mine); (e) A description of mitigation measures to keep adverse environmental impact to a minimum; (f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used; (g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information; (h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and (i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

⁶² For instance, Phillips lists only the following cases: Elkraft A.m.b.a. and Hesselö from Denmark; Pargas Kalk AB and Outokumpu Oy from Finland; Grong Gruber, Meraker Smeltverk, Kalkingsprosjekt, Tanavassdraget, Kynnefjell, Saugbruksforeningen, Halden and Sulitjelma from Norway; Reymersholmsverket, Barsebäck and Forsmarkslagret from Sweden. Phillips, pp. 157–164, *supra* note 1.

⁶³ The insufficient awareness of the NEPC was partly due to the fact that the obligation of notification was placed on the permit authorities. Consequently, this primary responsibility was channeled to a very heterogeneous group of internal authorities of the origin state making it hard to deliver the knowledge of the requirements of the Convention to all those institutions in

when the Espoo Convention is about to enter into force, the NEPC may be used as a guardian of the proper management of the co-operation procedure of the Espoo Convention. Ideally, this “joint venture” might produce a procedure where the inter-state co-operation would be handled by the mechanism of the Espoo Convention orchestrated by the respective environmental ministries; if deficiencies occurred, the procedural rights accorded by the NEPC to the actors of the affected state would guarantee the minimum quality of the procedure.

Transboundary private litigation has occurred only once during the 20 years existence of this possibility. One of the main reasons for its rare use is the difficulty in proving the causal connection between the damage and the activity in the origin state. As mentioned above, the EIA statement provided by the Espoo Convention offers a possibility for a successful transboundary private litigation. It has to be bear in mind, however, that without the national rules regulating strict liability from the environmental damage caused, the possibility of using the EIA statement loses its credibility. Fortunately, it seems that the Nordic states have guided their legislation into that direction in recent years.⁶⁴

charge. As was proven by the studies of Ebbesson (p. 77) and Phillips (p. 163), *supra* note 1. Of course, there were also some cases of conscious disregard of treaty obligations for instance the cases of Hesselö and Sulitjelma, Phillips, pp. 157–158 and 159–160. In the preparatory work of the Espoo Convention, these practical problems of the NEPC were known resulting in that the responsibility was accorded to the level of central government, normally to environmental ministries.

⁶⁴ See Hollo, Marttinen, *North European Environmental Law* (1995), especially the following articles: Bengtsson, B., “Liability for Damage to the Environment in Swedish Law”; Basse, E., “Introduction to Danish Environmental Law”; Vihervuori, P., “Finnish Environmental Law – An Overview”; Backer, I., “Norwegian Environmental Law – An Overview”.