



Organising for EU Enlargement

A challenge for member states and candidate countries

MULTILEVEL GOVERNANCE

Complaints, Farmers on Hunger Strike, Flying Squirrels
The Implementation of the Habitats Directive in Finland

OEUE PHASE II
Occasional Paper 3.3 – 08.04

Jussi Kinnunen

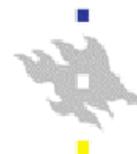
Centre for European Studies
University of Helsinki



FIFTH FRAMEWORK PROGRAMME



Dublin European Institute
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CENTRE FOR EUROPEAN STUDIES
UNIVERSITY OF HELSINKI

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Series Editor

Mary Browne
assisted by Colin Shaw
Dublin European Institute
University College Dublin

Organising for EU Enlargement Project

European Commission
Community Research Fifth Framework Programme
(Socio-Economic Research)

Project forms part of the
Governance Research Programme
Institute for the Study of Social Change
University College Dublin

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Published as part of
EU Framework V
Organising for EU Enlargement Project
Coordinated by University College Dublin, Ireland

Project banner
Dry Design
Dublin

Printed by
Copi-Print
Library Building
University College Dublin
Dublin 4
Ireland

ORGANISING FOR EU ENLARGEMENT: Challenge for the Member States and the Candidate Countries

The Dublin European Institute, University College Dublin,¹ was awarded, in 2001, a research contract under the EU's Fifth Framework Programme² to carry out a comparative study of the impact of the EU on the structures and processes of public policy in six small countries: **Ireland, Greece, Finland, Estonia, Hungary** and **Slovenia**. The Project's partnership, under the direction of Professor Brigid Laffan, Dublin European Institute, University College Dublin³, includes: Professor Dr. Wolfgang Drechsler, University of Tartu; Professor Teija Tiilkainen, University of Helsinki; Professor Calliope Spanou, University of Athens; Professor Attila Ágh, Budapest University of Economic Sciences and Public Administration; and Professor Danica Fink-Hafner, University of Ljubljana.

The aim of the research project was to deepen our understanding of the processes of Europeanisation in a number of the existing member states and some of the candidate states.

The research project encompassed the following three objectives:

- The conduct of research which offers immediate policy relevance to key stakeholders in the enlarging Union;
- The conduct comparative, theoretical and empirical research on the management of EU public policy making in three existing member states – Ireland, Greece and Finland – and three candidate states – Estonia, Hungary and Slovenia;
- The shedding light on the capacity of smaller states to adjust and to adapt to the increasing demands of Europeanisation on their systems of public policy-making and thus to identify the barriers to effective, efficient and accountable management of EU business.

Research Strategy

The research design consisted of two phases and within each phase, two levels of analysis. **Phase I** analysed the management of EU business at the macro level of the core executive and was complemented by a micro case study of a recent policy negotiation using decision analysis. **Phase II** of the research broadened the analytical focus to encompass other levels of government – the EU and sub-state – through multi-levelled governance. Here attention was centred upon the emergence of policy networks and the interaction between public actors and the wider civil society in specific, discrete policy sectors.

¹ National University of Ireland, Dublin (University College Dublin).

² European Commission, Community Research Fifth Framework Programme (Socio-Economic Research).

³ This project forms part of the Governance Research Programme, Institute for the Study of Social Change, University College Dublin, www.ucd.ie/issc/ and www.ucd.ie/govern/intex.htm.

Methodology

The study employed two specific methodologies: historical institutionalism and rational institutionalism in a new and innovative fashion. The use of combined perspectives provided a theoretically innovative and new approach to the study of the Europeanisation process. Both approaches could be used as they were applied to different elements of the empirical research.

Academic and Policy Implications

This study's findings provide insight into the manner in which diverse state traditions, institutions and political and administrative cultures influence national adaptation to EU governance and how the interface between national policy processes and the Brussels arena is managed. It is expected that these findings will assist those making and managing policy, thus facilitating adjustments to the changing European Union while also contributing to the growing academic debate on Europeanisation.

At various stages during the course of this project the research findings and analysis were presented to a range of stakeholders and academics to facilitate feedback and enhance the analytical process. Further details about the Organising for EU Enlargement (OEUE) project are available on the project web site www.oeue.net, along with i) the Project Report, ii) the OEUE Occasional Papers and iii) a selection of papers by the research partners which draw on various aspects their project research.

AUTHOR

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ABSTRACT

Finland is an environmentally progressive country. In many ways it has the features of a pace setter among the EU states. Nonetheless, Finland has had trouble in implementing the Habitats Directive. The two environmental problems Natura 2000 and the flying squirrels represent classic multi-level governance cases where issues raise from local to the EU level. Creation of Natura 2000 network of protected sites lead to the worst environmental conflict in Finland's history. The misfit was caused by a mixture of factors: poor dissemination of information, lack of transparency in preparations, politicising the problem for finding a new meaning for interest representation and legalistic nature of Finnish society. Selection of areas generated some 14, 000 complaints and their handling caused significant delays in adaptation. The Commission had a significant role in keeping up the pressure for change. The conflict did not generate significant changes to the politico-administrative system. Existing legislation was amended and the administration learned from its mistakes by improving dissemination of information. New forms of compensation have been created for land-owners. Although issues are still battled in court, the conflict seems to be finally subsiding.

INTRODUCTION

This paper examines Europeanisation caused by adoption of Council Directive (92/43/EEC) on the conservation of natural habitats of wild flora and fauna in Finland. More specifically the focus is on misfits in creation of the Natura 2000 network of sites and on the flying squirrels as a special case. By the term misfits in this paper is referred to gaps in implementation of the Habitats Directive. As Falkner points out 'misfit with the given situation has been highlighted as the crucial explanatory factor for implementation performance in much of the recent literature (2003).'⁴ The aim of the Habitats directive is to protect certain animals and plants in addition to the election of habitat types. The directive required creation of the so called Natura 2000 network of sites by June 1998. Natura 2000 includes both Special Protected Areas (SPAs) below the wild Bird Directive as well as sites proposed by the member states below the Habitats Directive. Finland has under the Birds Directive 452 sites covering 28.373 km² and 1.665 sites covering 47.932 km² under the Habitats directive (Natura Barometer as of 16/10/2003). Selection of the areas and implementation of the programme caused the worst environmental conflict in Finland's history, a complete clash of the local and international (see Oksanen 2003)

Adoption of the Habitats directive causes Europeanisation that can be defined as processes of '*a) construction b) diffusion and c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, "ways of doing things" and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies.* (Radaelli 2000:4.) Although focus here is on adaptation, Europeanisation is not a one way street. As Börzel puts it: "*member states have an incentive to "up-load" their policies to the European level to minimize the costs of "down-loading" them at domestic level (2001:1)*". In other words, Europeanisation evolves European institutions by setting new rules, norms and practises. The member states then adapt to these novelties in their institutions and practises. Thus, member states both create new policies and adapt to them.

Divergent cultures, politico-administrative settings, legal system, economical situation and national preferences lead the member states to different strategies in both creation and implementation of the EU policies. Börzel (2001, 2002) divide member states' strategies in to three categories 1) *pace setting*, i.e. pushing policies at the EU level according to the member state's policy preference and taking into account the implementation costs 2) *foot dragging*, i.e. blocking or delaying costly policies in order to prevent them or to receive compensation 3) *fence sitting*, i.e. forming tactical coalitions in negotiations with both previously mentioned groups in order to find the best outcome from the national point of view.

In environmental matters Finland is often regarded as a pace setter with Austria, Sweden, Denmark, the Netherlands and Germany (Börzel 2001, 2002). If one thinks of culture, the

⁴ See also e.g. Börzel 2000, Knill & al. 2000.

citizens' attitude is strongly favourable to environment protection and act accordingly. The Eurostat polls on environmental attitudes confirm the pro-environment stance: Finns were the best informed (63%), most confident that their actions make a difference (66%) and have the most altruistic type of tendencies (24%) to make a difference in environmental matters. The poll also conformed that Finland is in the group of pace setters in the sense that Northern countries are more informed, more trusting on institutions and less worried about environmental problems (See Eurobarometer 58/2002, also Tilastokeskus 2002:1). Moreover, in an international comparison Finland has had high rankings for sustainable environment policy. In 2002 Environmental Sustainability Index (ESI) of the World Economic Forum Finland was at the top.⁵ This was especially because Finland has succeeded in three key areas of the environmental protection, namely in minimising air and water pollution, developing high institutional capacity to address environmental problems and producing quite low levels of greenhouse gases.⁶

Environmental concerns and civil activism are channelled both through the political party system and interest groups. The Green League was established in the early 1980's. It has stabilized its position in the Finnish party system to the point that it has been in the Cabinet. In the 2003 elections the Green League received 8% of votes and 14 seats (out of 200) parliamentary elections. It was the fifth largest party after Centre (24,7%, 55 seats), SDP (24,5%, 53), National Coalition (18,6%, 40) and the Left Alliance (9,9%, 19). Moreover, the Green League held the Minister of Environment's post in two Lipponen's (SDP) "rainbow" governments (1995-2003) and the main representative of the land-owners, the Centre Party, was in the opposition. This is an important background factor for understanding the Natura 2000 conflict. It is also noteworthy that citizens' pro environment stance together with establishment of the Green League has caused the other parties to 'turn green'. By internalizing – at least the environmental lip service – other parties aim to catch voters from the greens. Moreover, all major international environmental organizations like Greenpeace, BirdWatch and WWF have branches in Finland. In addition to these there are domestic organisations like Finland's Nature Association (SLL) and new ones are created – sometimes more radical like in the case of flying squirrels – if a need should arise.

Even if Finland in many respects qualifies as a pace setter, there is also conflicting information. In order not to give a too rosy picture here, the interest groups (read the SLL) have repeatedly criticised the Finnish government for fence-sitting in e.g. creation of the novel EU legislation on waste (interview). Also a look at the Commission's non-conformity statistics (see Figure 1.) would suggest that Finland is rather a fence sitter than a pace maker. Indeed, there are more misfits to be found for Finland than for the other pace makers. However, Finland together with Austria and Sweden has been a member for a relatively short period of time and that should be taken into account. But obviously there are at least sector misfits.

⁵ The study was carried out by Universities of Yale and Columbia in the US.

⁶ See Joe Brady's article and links at <http://virtual.finland.fi/info/English/enviro.html>

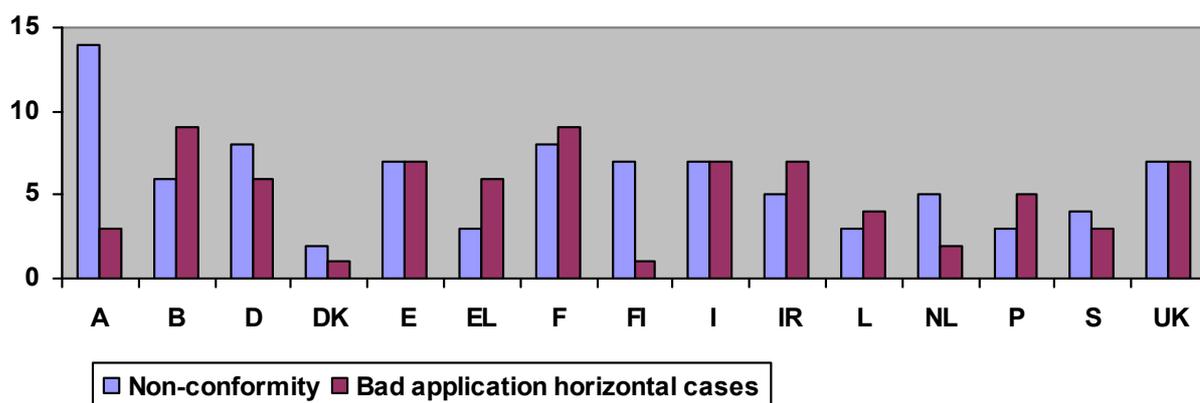


Figure 1. Non-conformity and bad application (horizontal) environmental cases by member states in 2002

Source: the Commission 31/12/2002

Horizontally Finland has performed well and there has been only one bad application case. Pace setters are economically sound industrial states that have strict and highly differentiated legal regulations as well as institutional means for both implementation and monitoring. Indeed, Finland is a strongly regulative country like Germany and similarly demonstrates an opposite problem-solving philosophy to the reactive model of, say, Great Britain (see Börzel 2001, Héretier 1996). The institutional capacity to handle environmental problems was developed at a relatively early stage. Ministry of Environment was founded in 1972. Moreover, most environmental legislation originates from the 1960's and 1970's. So, the Finnish government had both legislative means as well as administrative tools for addressing environmental concerns, although in institutional games the Ministry of Environment seldom held the strongest hand.

When Finland joined the EU in 1995, the country already had a strong legal background in the legislation. In other words, the old environmental legislation was amended to meet the EU demands. Finland's Nature Conservation Act (1096/1996, amended 492/1997 and 371/99) does meet most conservation needs and matches the demands of the EU Bird and Habitat directives. Legislation has needed amending thanks pressure from both national and international levels. The Act has a wide range of measures that can be used in nature conservation. It also includes the legislation necessary for development of the Natura 2000 areas and their surroundings. Moreover, it contains regulations for public information and participation during preparation. The Nature protection Decree (169/1997) list protected species, threatened species, species in need of special protection and species which need protection under the EU Habitats Directive. Ministry of Environment is responsible for the monitoring.

Currently environmental protection has a constitutional status. The environment is mentioned specifically in Section 20 of the Finnish Constitution (2000). The same Section was already in

the Amendment of the old constitution (1995). Section 20 of the constitution states:

Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone.

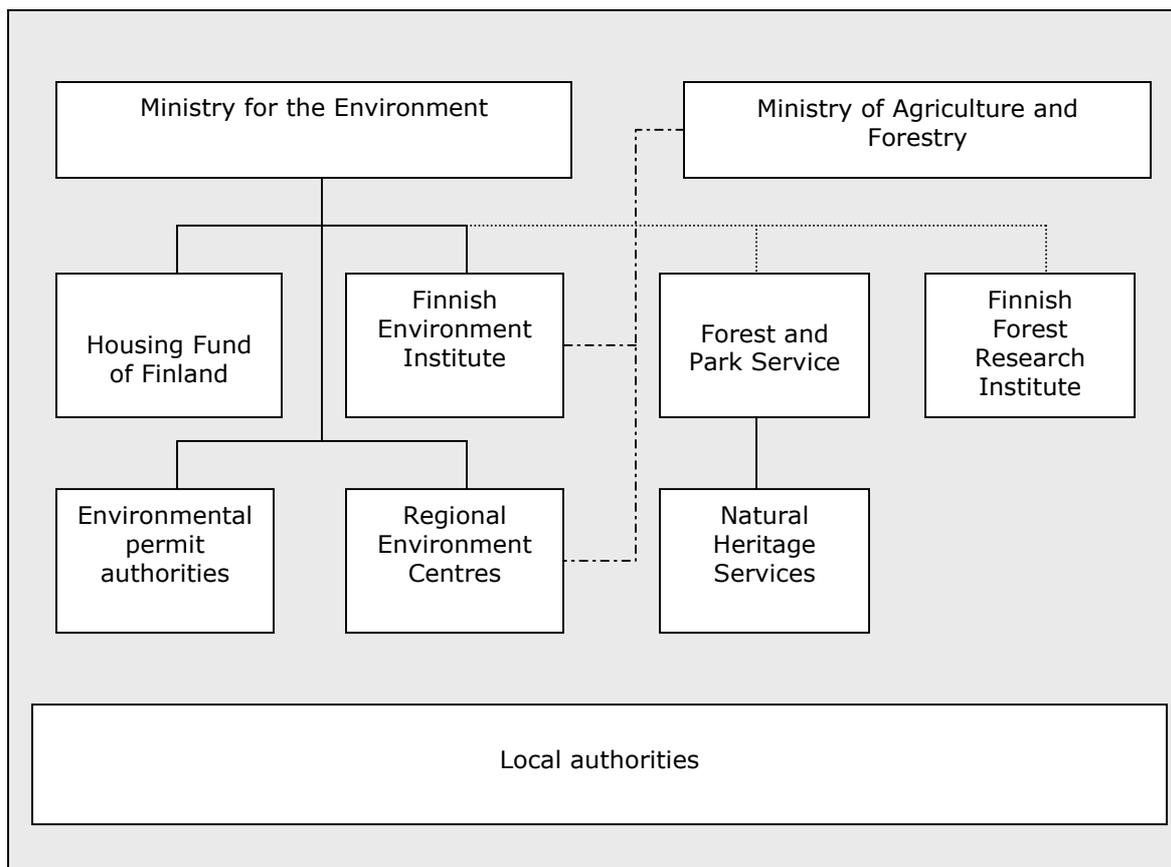
The public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.

KEY ACTORS IN IMPLEMENTATION OF ENVIRONMENTAL POLICY⁷

Role of central authorities is pivotal also in the environment sector. The Maastricht Treaty and the Amsterdam Treaty give explicit legal base for environmental policy of the EU. Consequently, environmental issues need to be taken into consideration in all decision-making. This makes the administrative domain of the *Ministry for the Environment (MoE)* extremely horizontal. The ME is responsible for making sure that environmental aspects are given proper consideration in international cooperation as well as on domestic arena at all levels of government and in the Finnish society as a whole. It is responsible for policy preparation, strategic planning, leadership and international cooperation for environment and housing policies. It is also responsible for relevant legislation and budgeting. Moreover, the *Ministry of Agriculture and Forestry (MAF)* is also involved in environmental administration. MAF supervises use and management of the water resources. It also is responsible (in part) of the Forest and Park Service. (See figure 2 below.)

⁷ The following passages on the structure of Finnish environmental administration are based on information provided by the Ministry of Environment at <http://www.vyh.fi/>

Figure 2. Finland’s environmental administration



Key:	
Overall Supervision	_____
Overall Supervision of use & management of water resources	- - - - -
Overall Supervision of nature conservation

Source: <http://www.vyh.fi/>

The Regional Environment Centres’ (RECs) (state’s regional offices) tasks include environmental protection and nature, supervision of land use and construction. Also preservation of architectural heritage and valuable landscapes falls to the competence of the RECs. The centres gather and provide information on pollution and state of the environment. Moreover, an important aim is also to increase environmental awareness in their regions. Ministry of Agriculture and Forestry supervises the work on use and management of water resources. Environmental permits are required for actions that have major environmental impacts, take place under the Water Act, or which have been instigated or supported by the Regional Environment Centres. The Environmental Permit Authorities give permits for these issues and also deals with most water pollution compensation claims.

The Finnish Environment Institute in turn is the national centre for environmental information, research and development. Its main functions include collection and providing of data on the environment, environmental trends and analysis of different phenomena. The institute is also involved in developing environmental strategies and implementation instruments. Moreover, the institute is an important hub for dissemination of information to the various interest groups involved in environmental issues. The Finnish Environment Institute is responsible for reporting that EU legislation or international agreements require - which is an important task.

The Housing Fund of Finland is responsible for financing of the state housing subsidies scheme (ARAVA) and other state financed schemes including housing renovation grants, for example. *The Forest and Park Service* administers most state-owned nature conservation areas, other protected areas, wilderness areas and outdoor recreational areas. It is responsible for administrative decision-making concerning these areas and national monitoring and protection of many threatened species. *The Finnish Forest Research Institute* manages certain conservation areas that belong to its own network of research sites. Finally, the *Finnish Oil Compensation Fund* operates in connection to the Ministry of Environment and it is for oil combating equipment, maintenance of the capacity and the costs for combating oil damages. The money comes from environmental charges for oil imports and transit transports. On the local level municipalities *local authorities* are responsible for implementation of the environmental policies.

THE MISFITS OF NATURA 2000 – MOUNTAINS TREMBLED AND OUT CAME A MOUSE?⁸

Without doubt one can say that Natura 2000 was the biggest environmental conflict in Finland during the 1990's. Although the emphasis was on state owned land, there were lot of private land and water area owners that were affected by the programme. The extent of the programme, poor dissemination of information, not hearing the landowners and confusion about the compensation were the key points for conflict but there were also other underlying factors. Natura 2000 was the first project after the EU accession where people could express their feelings about the EU and the project. In other words, Natura 2000 was a lightning rod for EU stress (interview, interest group). However, there was real concern for the people in rural areas about Agenda 2000 and agricultural reform, eastern enlargement and its impact on Finland. Natura 2000 could be seen as a piece in a larger bundle of concerns.

The tight timetable and poor dissemination of information lead the landowners to the impression that the whole process was unjust. Therefore, the hearing round in 1997 generated over 14.000 notifications and 1.000 statements. Some farmers even went to a hunger strike for a while in protest against the Natura programme. They felt the preparations were made in secret and that they were not heard. Indeed, nature activists helped with the inventories with a low profile. They were not active in public but carried out inventories of the forests in all silence. The

⁸ An expression used by an interviewee.

hunger strike showcases the extent and depth of the conflict in the early stages. Nonetheless, the Ministry of Environment learned to improve their information strategy and maps. At the same time the Commission put pressure on Finland for compliance of the directive. It meant the total collision of the international and local (see Oksanen 2003). On local level some municipalities were strongly against the programme and there were activist groups against the Natura.

There are three broad phases in the conflict. (For an alternative classification see Oksanen 2003.). For the first, there was a *silent phase* of preparation (1994-1997). One interviewee suspected that roots of the conflict were already in earlier law concerning protection of shores in the 1980's and that this was a "continuation war" (An interview, interest group). During the silent phase preparations took place in silence. For the second, around the time of the publication of the Natura 2000 proposal the conflict reached *high conflict stage* (1997-2002) which was highlighted by a storm of complaints from the landowners, some 14,000 in all. The conflict continued on the complementation rounds. Handling of the complaints slowed down the implementation process radically at first. The misfits in implementation caused the Commission to send Finland a reasoned opinion in January 1998 (Table 1). As you can see the big leap took place in 1998-1999 after pressure from the Commission. The government approved of the Finnish proposal in August 1998. But the real problem for the government was the court cases: how to inform the Commission? Should the disputed areas be included in information of the proposal - or excluded? Finland's final proposal could only be presented after all the complaints had been handled. Moreover, the court decisions created winner-loser situations that hardly are optimal ways to settle conflicts in the long run. About 1.600 cases reached the Supreme Administrative Court but only some 2.300 ha were taken off the Natura. At the same time environmentalists got more than ten times areas back to the protection programme. After the court cases have ended the number of SPAs rised rapidly as can be seen in Table 1. Finland also got condemnation from the European Court of Justice (ECJ) in May 2003 regarding the Birds Directive. The misfit is caused by the same problem. The Finnish government informed the Commission that the final proposal for the SPA could not be given before the court had given judgements on all the complaints. That is why Finland proposed only 15 sites at first. The Commission had little understanding for the Finnish justice system. From the Finnish point of view, being a strongly legalistic country matters needed to be addressed in the proper legal manner in order to get legitimacy for the decisions taken.

From the point of view of institutional arrangements there were only a few changes. In order to solve the problem of rising complaints from the regional level, the MoE created a minister level working group for Natura that handled complaints addressed to them at a huge speed. Complaints came straight to the ministers from the regional level and experts waited outside the meeting room in case someone had any questions. More changes were made to the information strategy and means for compensation. One important decision was reached in 2004 as the long lasting Vuotos dispute was settled – regarding water power and creation of an artificial water reservoir. The reservoir is not built.

Table 1. Progress in Implementation of the Directives

Newsletter		SPAs Birds Directive			Habitats Directive		
<i>Issue</i>	<i>Year</i>	<i>Sites</i>	<i>Area km²</i>	<i>% of land</i>	<i>Sites</i>	<i>Area km²</i>	<i>% of land</i>
Dec	1996	15	967		370	24.726	
Oct	1997	15	967		370	24.726	
Sept	1998	15	967		415	25.599	
Feb	1999	439	27.500	8.1	1380	47.500*)	13.9
Nov	1999	440	27.500	8.1	1381	47.154	13.9
Dec	2000	451	27.500	8.1	1381	47.154	13.9
Apr	2001	451	27.500	8.1	1381	47.154	13.9
May	2002	451	27.500	8.1	1381	47.154	13.9
Dec	2003	452	28.373	8.4	1665	47.932	14.2

*)estimate

Source: Commission Natura Newsletter 1996-2004

For the third, during *the subsiding conflict phase* the conflict has slowly melted away (2002-) as information flows were improved and many of the other stressful concerns like scares of the eastern enlargement were lifted. Also questions relating to compensation were also solved. The Environmental Administration can offer compensation or purchase areas that need protection. However, the landowners are advised not to accept these offers – and for a good reason. If the property is taken without the consent of the landowner, the administration is forced to use independent outside evaluators. As a rule the compensations have been substantially better. Nonetheless, the last chapter of the conflict is pending. There are legal battles of the use of Natura areas since the law allows use of the land unless species or nature is not harmed. Another conflict in progress is that the MTK wrote the Commission (May 2004) of demands after losing its court battle in the Supreme Administrative Court (April 2004). The list of demands that really sum up points of misfits: the MTK demands that the Commission stops handling of the Finnish Natura 2000 programme that deals with the Boreal belt, that the Finnish government provides the Commission a national proposal of areas that meet the Commission's demands areas in the Boreal belt and a new list of SPAs according to the Bird Directive, that the Commission gives MTK in electrical form the documents the Finnish government gave the Commission taking into account safety of the information on endangered species that the Commission requires of the Finnish government that grounds for selection of areas are included in the national legislation and finally that the Commission replies in two months (according to the Article 232 of the Founding Treaty). The MTK believes that it has good legal grounds for its complaints.

POLITICISING OF THE NATURA CONFLICT

Politicising an issue means that it emerges on the political agenda, has a conflict dimension, draws attention from the interest organisations, escalates upwards on the political hierarchy and gets attention of the media. Politicising of the Natura 2000 was intensive (of MTK see Kijärvi 2002). As far as interest groups are concerned, opposite the land owners' side's interest group (MTK) and in some other cases also industry's and labour organizations stood a united front of all major environmental interest groups coordinated by Suomen Luonnonsuojeluliitto (SLL). Apart from substance reasons one significant factor for MTK to politicize Natura was that it had lost lot of its previous functions as the farmers' interest group. It was searching for a new identity and legitimacy in the changed world. (Interview, interest group.)

Nature 2000 was also a large issue for the environmental groups and their legitimacy. Environmental interest groups supported Ministry of Environment (MoE) against other ministries but also confronted the MoE on occasions. Environmental organizations also kept the Commission up to date on events in Finland. Pressure provided by the Commission was pivotal for the timetable in which Natura advanced (see Appendix). On birds the Commission took Finland to the ECJ and won. Moreover, the Commission also gave guidance to the national level. From interest groups' point of view the Habitats forum was important on the EU level because all the significant groups were involved when areas were examined on the EU level.

Unique for the Finnish case is that almost all relevant political parties were in the government. During Lipponen's two rainbow governments the Minister of Environment came from the Green League. Needless to say, it was in the interests of the green minister to promote establishment of the Natura 2000 network. By contrast, the minister of Agriculture and Forestry did not come from any political party. Agriculture sector faced only negative issues and no political party wanted to take the responsibility. Thus, the 'civil minister' was a handy solution. Consequently the land-owners protests and cries relating to the Habitats directive did not backfire directly to any political party but rather on the Cabinet as a whole.

The Centre Party – traditionally representing the farmers – was not in the government. Since almost all other parties were in the government, the Centre Party had very little real power to make a change. The Centre Party took a rather moderate stand which can be seen in the relatively low number of parliamentary questions (Table 2). One reason for this might have been that the party did not want break bridges for the next negotiations round of government seats. Therefore, the biggest political controversies were solved within the government with little or no say of the opposition. Within the government the Green League and the National Coalition formed the opposite poles. Other parties were divided in between these two extremes. Decisive for the creation of the Natura 2000 network was the stance taken by the SDP and PM Lipponen especially. His viewpoint was that the Natura network is an EU matter that must be handled according to the nations' "pro Europe" position. The EU also provided a good card in the

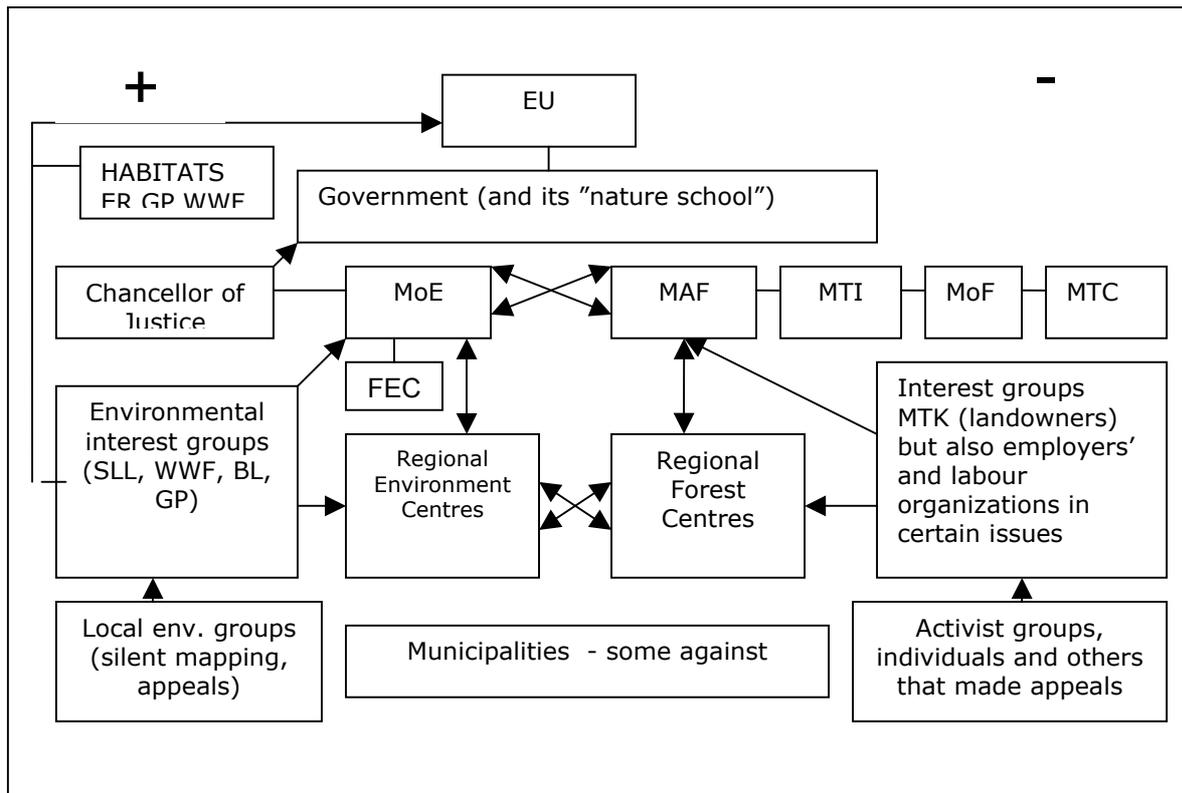
domestic games. Instead of addressing the concerns directly the responsibility, it enabled the government to use the EU card. In other words, the EU defines action and we abide.

Table 2. Written and oral questions on Natura 2000 programme

Year	Written questions to a minister or to the cabinet	Oral questions	Initiatives (for action, budget, law or other)
1996	0	0	1
1997	22	3	1
1998	17	5	0
1999	3	0	1
2000	5	1	0
2001	6	1	0
2002	2	0	0
2003	3	1	0
2004 (June)	5	0	2

Note: Data is based on computer search only with the term "Natura 2000" on the parliament's database. Therefore, the list might not be exclusive but it indicates clearly when the debate was most intensive!

Finally, although it is not scientifically examined, one of the interviewees mentioned that the media had a significant role in acceptance of the Natura programme. The largest newspaper in Finland, Helsingin Sanomat, was clearly in favour of the programme. Opposition came from regional news papers such as Lapin Kansa, Ilkka, Karjalainen and Savon Sanomat (Interview, interest group). The opposition got lot of media coverage but outcome of the Natura 2000 went much according to the plans of the MoE and environmentalists. (Interview, interest group.)



The Flying Squirrels of Konikallio

Next to Natura 2000 protection of the flying squirrels in Finland has been one of the most controversial issues in recent years. The flying squirrels are very strictly protected (Nature directive supplement II and 4a) which means that no stopping or resting places of the squirrels can be destroyed. One aspect of the controversy is that no one knows the extent of the population. There is a mapping project in progress that should be finished by 2005. If population is much larger than previously estimated, one can expect rush in the offices of permit giving authorities for derogations. Changing the Commission’s stand on protection of flying squirrels and moving it from the 4a list seems quite difficult, however. The controversy takes place at all available arena from local to international and has continued for many years. Particularly two areas have been problematic: construction of the E 18 road Turku-Helsinki and the area of Konikallio in Forssa, Häme. However, similar problems have surfaced in other parts of Finland: the regional environment and forest centres have estimated that there are about 650 cases of which approximately 95 % have to do with forestry (interview, central administration level). In other words, cases like Konikallio and E 18 are in minority.

Apart from political there are also legal battles. The EU has demanded changes to both Finnish environmental protection and forest law in regard to the flying squirrel in the form of a reasoned opinion. The reasoned opinion originated from the E 18 case. The mis-fit in this case arises from the fact the administration on the national level perhaps did not originally realize how strict the EU legislation is. The protection law is in a process of reform and should be finalised by the end of summer 2004. At the preparation stage the Ministry of Agriculture did not allow an

environmental group (Suomen luontoliitto) participation in preparation, except in the form of a statement which is unusual. During summer 2004 changes to the law are debated in the Finnish Parliament. The final conflict deals with compensations given to the landowners. Starting from 1 July 2004 the landowners will get a right for compensation in cases when the flying squirrels protection causes significant nuisance.

Konikallio is the oldest controversy on the flying squirrels. It started as a family dispute over mining a cliff to rubble and selling trees of a forest close to the other relative's summer residence. The plan generated also wider local opposition. Flying squirrels were de facto instruments in battle for stopping the mining and forest cutting. By pure coincidence one of the local environmental activists noticed that there are flying squirrels in the forest, which gave the opposition tools for a complaint against the mining and forest cutting permits issued by the regional permit authorities. Environmentalists and landowners have battled the issue to court and both sides have interest groups in their support.

The Regional Environment Centre decided that 4,5 hectares is sufficient protection area for the flying squirrel in that particular forest. Nonetheless, the 4,5 hectares was not sufficient for the local residents and the environmentalists. They brought in their own experts and complained about the calculations done by the authorities. This was a battle of experts, environmentalists against the environmental authorities. A forest company wanted to cut down the trees and there were also plans for mining. At one point the one of the environmental interest groups paid the forest cutting contractor NOT to cut the trees. The MoE also made an offer to purchase the property but at this point the conflict had reached a matter of principle. Also within the environmental interest groups there was movement: one of the activists founded a more radical association because they felt that the larger group did not enough for their interest. Of course, the larger group's interest was not on the local level but setting a case example that had a principle meaning.

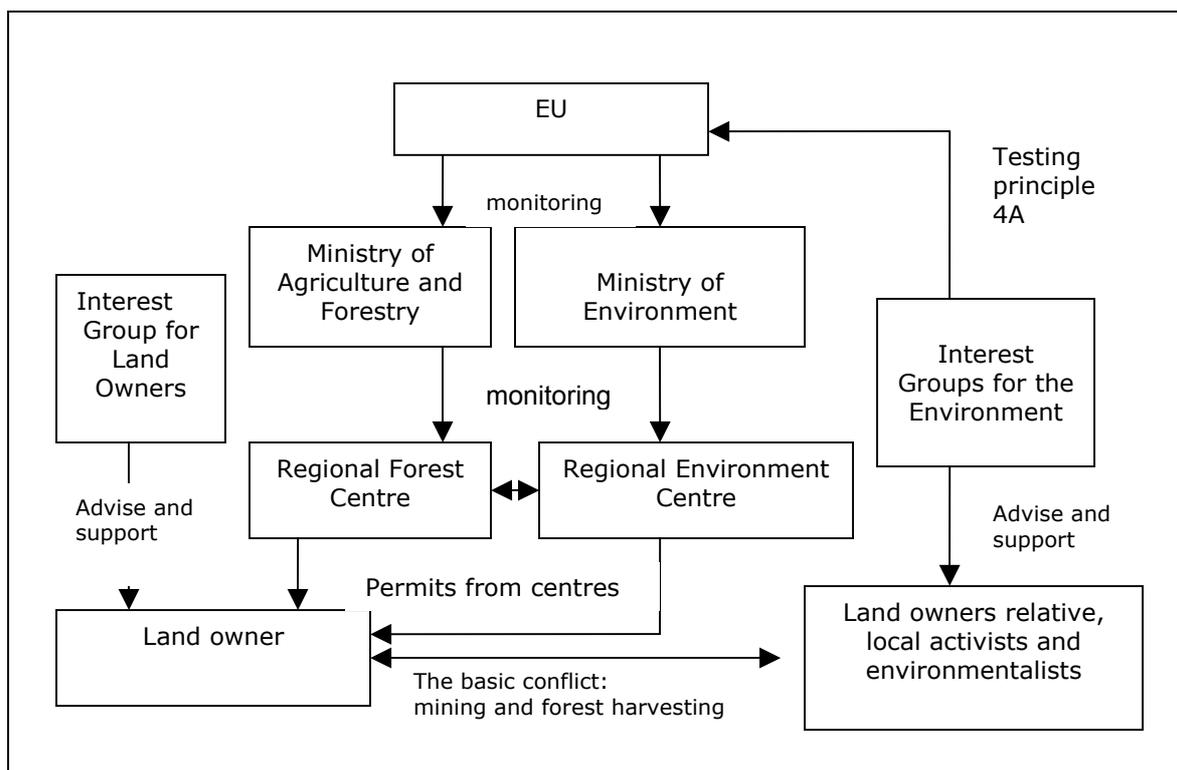


Figure 4. Basic roles of actors in the Konikallio -conflict on flying squirrels (minus courts)⁹

The issue was taken to court. Administrative court decided that mining was against the law and the decision of the Regional Environment Centre was overruled. Also the Supreme Administrative Court ruled that cutting the trees must stop before interpretation of the laws. In the case of the E 18 road the Supreme Administrative Court ruled against the environmentalists: the road is built. However, many changes were made to the original plans and a good number of other issues were raised in the process - relating, for example, to hearings of the participants.

CONCLUSION

Finland is an environmentally progressive country. In many ways it has the features of a pace setter among the EU states. Nonetheless, Finland has had trouble in implementing the Habitats Directive. The two environmental problems Natura 2000 and the flying squirrels represent classic multi-level governance cases where issues raise from local to the EU level. Natura 2000 was the biggest environmental conflict Finland has witnesses. However, apparently many aspects of the conflict had origins elsewhere than in than the natural world – rather in the nature of man. The central points of the conflict are:

- No major institutional or legal changes were required

⁹ This is a graphic illustration of the *roles* of actors not connections like in network analysis. This approach was chosen for the sake of clarity. The interest groups (MTK and SLL) form the opposite poles in escalation of the conflict.

- Selection of Natura 2000 areas was s a continuation war on protection of shores: the conflict had roots in the 1980's domestic battles
- In the beginning the government totally underestimated information needs
- Preparations were not transparent enough
- Selection of areas was not transparent enough
- Natura 2000 was a lightning rod for general EU criticism
- Natura 2000 was seen as a EU matter to be implemented rather than contested
- Opposition in the parliament was powerless, disputes were settled in the government
- Natura 2000 was a case through which interest groups searched new legitimacy for their existence
- Legalistic nature of Finnish politico-administrative system caused delays and was the main cause of misfits in implementation
- The Commission had a significant role in keeping up the pressure for change – to an extent at the cost of legitimacy
- The conflict subsided as the overall EU stress diminished and decisions on compensations were reached
- There are still legal battles about the used of land in Natura areas
- Environmental administration and pro-nature interest groups won the court battles – their goals were to a quite large extent reached
- Creation of winner-loser situations is not profitable in the long run.

The flying squirrels form a different and a special case in the sense that it is as much about environmentalists against environmental authorities as environmentalists against land owners and their interest group MTK. Originally the Konikallio -conflict had nothing to do with the flying squirrels, but the little creatures became a tool in an escalating chain of events. The flying squirrels can become a problem for regional environment and forest centres that give permits for different activities. It depends on the size of the flying squirrel population. It is already clear that the population is much larger than previously estimated. Nonetheless, both the E 18 and Konikallio cases have increased public awareness of flying squirrels and their protection. There is not a planner or forest owner in the country that would not know what a pile of flying squirrel droppings on their property means.

Table 1. History of the Finnish Natura 2000 programme

Year	Month	Action
1994	November	Ministry of Environment set Natura 2000 working group to follow preparation of the Finnish proposal
1995	June	Original dead line set by the Commission for proposals of the Member states
1996	January	Proposal concerning state owned land areas is finished and sent to the Commission
1996	March	Finnish environmental NGOs claim that preparation was too hasty and question extent of national budgeting for the programme
1996	April	Commission gives an official communication of implementation of the nature directive
1996	May	Instructions to regional environmental centres and other responsible authorities for selection of the Natura 2000 areas
1996	November	SLL: criticism of the preparation work
1996	December	Proposal of the Regional Environmental Centres to the ME that includes the private land areas. The proposal includes about 1600 areas.
1997	March	MTK starts a regional campaign for the land owners
1997	April	Proposal of the ME for the Natura network to be shown in communities. The Number of land areas is nearly 1500, area 5 million hectares of which land area about 3,5 million hectares.
1997	June	Over 14,000 complaints on the first round and over 1,000 statements. Of the complaints 9000 targeted the new areas. Regional Environment Centres handled the complaints and sent replies to both the complainers and to the Ministry of Environment. Minister level Natura working group is established. MTK requires new preparation and hearing rounds.
1997	July	Four farmers from Karvia go to hunger strike as a protest to Natura 2000 preparation. The EU supplements the official notification.
1998	January	Reasoned opinion from the EU for delay of the proposal
1998	January - February	Hearings of the complaints and statements of the proposed amendments.
1998	April	Natural proposal ready and checked by the ministers' working group. The proposal covers 1445 areas and the total area diminished about 8 % from the previous proposal. The Commission takes Finland to ECJ.

Table 1. History of the Finnish Natura 2000 programme (cont.)

Year	Month	Action
1998	May	Replies of the environmental administration leads to 6,000 more complaints. The complaints are taken to the ministers' working group and some are replied by the RECs. MTK proposed that the Natura proposal is divided into two phases. The state owned areas and undisputed private areas would be presented to the EU first, the other areas would go to new preparation.
1998	June	The National Coalition wants to propose only undisputed areas to the Natura network.
1998	July	The ministers' working group reaches agreement on nature values of the areas that would be included in the Natura network but there is no agreement on the actual extent. EIA of the network claims that the new proposal is extensive enough to satisfy the Commission's requirements. Official notification from the Commission on the implementation of the bird directive.
1998	August	Natura 2000 proposal to the Council of State and decision
1999	March	Council of State decision of Natura 2000 network
1999	July	Commission asks Finland to present new protection areas for 15 nature types and environment of 18 species.
1999	Autumn	Complementation work of the network started
2002	May	Council of State decision on complementation of the Natura 2000 network: total of 1804 areas covering 4,88 million hectares. The number of SCI areas was 1666 and SPA 451. In many areas SPA and SCI are overlapping.
2003-		Decision of the implementation in the EU, projects and plans at locations, follow-up of the network.
2003	March	ECJ decision on non-implementation of Birds Directive in Natura 2000 network
2004	January	Government decision on Kemihaara and Vuotos issue.
2004	April	Supreme Administrative Court decision against MTK complaint about the basis of Natura area selections
2004	May	MTK complains to the Commission about selection of the Natura areas and if necessary takes the matter to the ECJ

Sources: Verkkouutiset, Turun Sanomat, government documents, <http://www.ymparisto.fi>.

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Ministry of Agriculture and Forestry: <http://www.mmm.fi/>

Interest groups:

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

Newspapers – various articles

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

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