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## **Commission II**

Cadre juridique du droit de l'environnement pour la production agricole  
– **Legal framework of environmental Law for agricultural production** – Umweltrechtliche Rahmenbedingungen für die landwirtschaftliche Produktion

### **National report for Finland**

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## Summary

The agricultural production in Finland has traditionally consisted of small farms. During past 10 or 20 years, the size of the agricultural units has risen and the production has become more intense. Nonetheless extremely sizeable farms with great amount of livestock are still rare in Finland – even though the amount of them is constantly rising.

The main challenge agriculture brings to environment and biodiversity is the diffuse water pollution it causes. This is one of the main reasons why the Baltic Sea is in such a severe condition as it is – many of its riparian states have vast amounts of agriculture. Finland is also said to be ‘land of a thousand lakes’ – this causes also challenges to the water pollution protection of the agricultural units.

Another specialty regarding agricultural production in Finland is the harsh environmental conditions in the country. Even though also other European countries are situated in the north – e.g. Sweden and Norway – in Finland the agricultural production takes place also in the northest parts of the country. In addition to the relatively cold temperatures this means short growing seasons.

More on the consequences of these aspects can be read below.

## Part 1. Presentation of the national legal structure

### **1. Integration of agricultural production in the constitutional system (economic and civil law rights, human rights)**

The Constitution of Finland grants everybody the right to work and freedom to engage in commercial activity<sup>1</sup>. Regarding agricultural production this *freedom of occupation* is one of the most relevant human rights. In the Constitution ‘commercial activity’ is interpreted broadly, including all the ways for one to earn ones living: in the Finnish text of the Constitution it states “...right to earn a living with any work, profession or livelihood according to ones choice”<sup>2</sup>.

Also the constitution-based *proprietary rights* can be seen belonging to the human rights relevant to the agricultural production<sup>3</sup>. The restrictions to the proprietary rights must be enacted in an Act, i.e. they must be approved by the Parliament. The protection of the property is nevertheless unrestricted in a meaning that all kinds of usage would be protected by the Constitution. Some years ago there was award-winning research done on the paradigm of ‘unrestricted proprietary rights’ in Finnish legal system and the flaws of this paradigm. The research proved that the proprietary rights have never been as unrestricted as some interest groups might want them to present.<sup>4</sup>

Among the various types of proprietary rights, *the ownership of the land* is naturally of great importance when it comes to agricultural production. In the wide interpretation material produced by the Constitutional Law Committee<sup>5</sup>, the ownership has been given rather a broad meaning: all the rights that can have economical value are

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<sup>1</sup> The Constitution of Finland, 18 §.

<sup>2</sup> The Constitution of Finland, 18.1 §. Attention can be paid to the way this paragraph is formulated. Finland has adopted the civil law legal system instead of common law system. With it comes the understanding that all the words in legal texts are meaningful and synonyms are not normally used. One interpretation is that since here the synonyms are used there has been an attempt to pay attention to the various ways of earning a living.

<sup>3</sup> The Constitution of Finland, 15 §.

<sup>4</sup> Tapio Määttä, *Maanomistusoikeus: Tutkimus omistusoikeusparadigmoista maaomaisuuden käytön ympäristöoikeudellisen sääntelyn näkökulmasta* (Suomalainen lakimiesyhdistys 1999).

<sup>5</sup> Finland lacks a separate Constitutional Law Court. The Constitutional Law Committee of the Parliament uses the same kind of interpretative power than the Constitutional Law Courts in some other countries.

included. Thus, protection of property extends to restricted land use rights, rented areas and so forth.

The agricultural production is affected by one more paragraph in the Constitution: *everyone's responsibility for the environment*.<sup>6</sup> This responsibility is not restricted to the ownership of the land or to limited land use rights, but is laid to everyone. The scope of this responsibility is yet somewhat vague, since the Constitution was enacted at year 2000 and this obligation was a novelty in it.<sup>7</sup>

## **2. Integration of agricultural production in the constitutional system (liabilities of actors; public authorities and civil rights)**

Regarding civil rights the answer to the Question #1 is referred. The above-mentioned freedom of occupation is naturally of great importance when it comes to civil rights.

When it comes to public authorities the authorities acting at community and regional level are the most relevant to the agricultural production. Even though the production in the whole does not require an environmental permit reserved for point source polluters, separate parts of production call on different permits or fulfilment of notification procedures. These are usually granted by Regional State Administrative Agencies (i.e. AVI's).

Agricultural production meets the network of public authorities also in the field of various subsidies and financial aid. The distribution of these is managed by Agency for Rural Affairs, which is supervised by the Ministry of Agriculture and Forestry. The surveillance of the payments and subsidies is conducted either by the Agency for Rural Affairs or by the Centres for Economic Development, Transport and the Environment (i.e. ELY's).

## **3. The structure of specialized bodies and courts**

Regarding the agricultural production, different kinds of financial support play significant role. Even though the Agency of Rural affairs manages the financial aid, the decision-making on the subsidies is conducted in two instances.

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<sup>6</sup> The Constitution of Finland, 20 §.

<sup>7</sup> Before the separate Constitution was given the so-called 'constitutional material' in Finnish legislation was scattered around in four different acts. The paragraphs on human rights date back to the reform that was made to one of these acts in 1995.

The municipal rural business authorities located at the community level decide some of the applications for the financial subsidies or direct financial aid. On the regional level, the Centres for Economic Development, Transport and the Environment make decisions regarding the economic issues of agricultural production.

The decisions of the authorities can be brought to the administrative courts. The decisions of the administrative courts can be appealed to the Supreme Administrative Courts.<sup>8</sup> There is also a separate appeal body for the agricultural issues, Board of Appeal for the Agricultural Industry (i.e. maaseutuelinkeinojen valituslautakunta). The range of cases it can handle is wide but it mostly deals with cases concerning different financial subsidies.<sup>9</sup>

The civil and criminal cases concerning agricultural or rural territory issues are brought first to the district courts. In ordinary cases one can appeal from the district court to the courts of appeal, then to the Supreme Court – provided that the Supreme Court grants leave to appeal.

## Part 2. Regulation and control of agricultural production

### **4. Describe briefly the national legislation on the position and responsibilities of agricultural operators**

In Finland the agricultural operators are seen as private entrepreneurs irrespective of their field of work: animal or plant production, horticulture or else. These agricultural entrepreneurs are defined in the statute on their pension, Agricultural Entrepreneurs' Pension Act<sup>10</sup> 3 §. According to it a person is considered as agricultural entrepreneur if he or she 1) conducts agriculture 2) on his or her own behalf or on somebody else's behalf 3) taking part in the work him- or herself. The required land area for the farm tells its own tale of Finland's history – and to some extent, also current reality – of small agricultural units: the minimum requirement for land is five hectares.

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<sup>8</sup> The precondition of granting the leave to appeal is needed in some areas of the jurisdiction of the Supreme Administrative Court.

<sup>9</sup> The work of the Board is regulated by Act of the Board of Appeal for the Agricultural Industry (1203/1992), available only in Finnish at <http://www.finlex.fi/fi/laki/ajantasa/1992/19921203> (accessed 15 May 2013).

<sup>10</sup> In Finnish Maatalousyrittäjien eläkelaki (1280/2006), available unfortunately only in Finnish at <http://www.finlex.fi/fi/laki/ajantasa/2006/20061280> (accessed 15 May 2013).

In Finland the practices of agricultural operators are thoroughly regulated. Even though agricultural production as a whole does not require for example an environmental permit according to Environmental Protection Act (later EPA)<sup>11</sup>, the different parts of production can require a separate permit.

For example livestock shelters require an environmental permit according to EPA if only they are sizeable enough. When it comes to cows, a shelter for at least 30 cows need a permit, for pigs 210 finishing pigs is the dividing line, for laying hens 2,700 heads and for broiler hens 10,000 heads mark the borderline.<sup>12</sup>

The obligation to gain a permit applies also to the fur farms. Fur production is a highly debatable field of agricultural production conducted mainly in Western Finland. In early 2013 a citizens' initiative aiming at discontinuing the fur industry was given to the Parliament.<sup>13</sup>

When it comes to the manure storages a notification procedure is in use. According to the so-called Nitrates Degree<sup>14</sup> 4.3 § agricultural producer must inform municipal rural business authorities of any deviation regarding the manure storages or their use.

Also the financial aid and subsidies granted to the operators bring along responsibilities. As generally known, the subsidies necessitate detailed, even meticulous reporting. It belongs to the obligations of the operator to give these announcements in time. In this respect the producers can benefit from the help of municipal rural business authorities of each community.

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<sup>11</sup> Environmental Protection Act (86/2000), available in English at <http://www.finlex.fi/fi/laki/kaannokset/2000/en20000086.pdf> (accessed 15 May 2013).

<sup>12</sup> Environmental Protection Degree, 1 § subsection 11) (169/2000). Available in English online at <http://www.finlex.fi/en/laki/kaannokset/2000/en20000169.pdf> (accessed 15 May 2013).

<sup>13</sup> Citizens' initiatives are a novel way in Finnish parliamentary democracy for people to get initiatives in their interest to be handled in the Parliament. An initiative needs 50,000 signatures to be admitted to the handling of the Parliament. The citizens' initiative on fur industry was the first to reach the required amount in November 2012.

<sup>14</sup> Government Decree on the Restriction of Discharge of Nitrates From Agriculture into Waters (931/2000), available in English at <http://www.finlex.fi/en/laki/kaannokset/2000/en20000931.pdf> (accessed 15 May 2013).

**5. Is there a legal distinction between traditional farms and industrially organized units in relation to the control of environmental impacts?**

Shortly put: no. The answer becomes more varied if the sizes of the units are taken under scrutiny.

As stated above, an environmental permit is needed for livestock shelters if the amount of animals is high enough. Hence it can be said that there is a distinction between small and big units. Nonetheless this distinction is mainly theoretical: farms with less than 30 milking cows are nearly extinct nowadays.

Thus the control over environmental impacts takes place when the environmental permits are granted. Procedurally the practice for all the environmental permits is the same irrespective of the size of the undertaking. Naturally a smaller unit might get its permit with less thorough investigation than a bigger one.

**6. The general environmental rules and principles concerning agricultural production**

First, the environmental issues in agricultural production are tied to the restrictions coming along with different financial subsidies and aids. Second, when it comes to parts of the production – e.g. livestock shelters or manure storages – requiring environmental permit of their own, the environmental impacts are taken into consideration during the permit process.

The first mentioned aspect, environmental protection conducted with the subsidies' conditions, is generally understood as the most important curb to the diffuse water pollution from agriculture. More on this can be read below from the answer to the questions #7 and #9.

Regarding the second aspect, environmental permits for some individual parts of the production, the rules and principles are most likely quite familiar in the European context, since the regulation is based on the IPPC and IED Directives. The polluter pays principle and the precautionary principles are applied, along with the other familiar principles.

The aim in the adjudication process is to balance the conditions of the permit and the level of the pollution caused in such a manner that the

permit could be granted. Thus it is rarely a question of whether a project would get a permit or not, but with which conditions the permit is given. Naturally the end result may be permit conditions unbearable to the producer and the undertaking is thus called off.

#### **7. The environmental impact of subsidies of the CAP on agriculture and forestry**

As said above, the financial subsidies are one of the main regulative tools for the diffuse water pollution from agriculture. Due to the harsh growing conditions – long, cold winter and short growing season – the whole of Finland has been classified as less-favored area in the CAP system. This means that most of the Finnish farmers receive agri-environmental support, partly or completely funded from CAP.

The bulk, i.e. 90 %, of the direct support from the EU is paid according to single farm payment scheme. To receive single farm payments, producers are required to keep their land in good environmental condition and to comply with regulations regarding plant health.

Unlike most of the European countries, at 2008 Finland gained a permission to continue coupling some of its direct support to production. This exception was granted due to the above-mentioned harsh environmental conditions. Hence farmers who practice environmentally important forms of agriculture can receive this special support to compensate for their special problems. This is where the remaining one tenth of the direct support for Finland goes.

All in all, the CAP ought to benefit also the environment since most of its payments are linked to reasonable environmental practices. More on this in the answer #8.

Environmentally speaking, one of the most crucial environmental dare to the agriculture in Finland is the eutrophication it causes, first to the surface inland waters and eventually to the Baltic Sea – after all, the Baltic Sea has the dubious honor of being one of the most polluted sea in the world. Anyhow, according to a research published at 2010 – and hitting the headlines at once – the given agri-environmental support has not been as influential as one would assume. According to the study, Finnish Agri-Environmental Program has not been very effective in its aim to curb the nutrient load to the Baltic Sea. The social cost-benefit analysis came out with even negative net effect, i.e. benefits from

reduced nutrient loading are lesser than the support payments have been.<sup>15</sup>

### **8. How do those subsidies take into account the safeguard of biodiversity?**

Safeguarding biodiversity within the CAP system is conducted via the *reasonable environmental practices* mentioned in the answer #7. Farmers are obliged to apply the reasonable practices in order to get the subsidies and payments from the CAP.

As said, most of the CAP based funding is given among single farm payment scheme. So-called cross-compliance conditions are supposed to guarantee – among other things – that the farmers receiving the subsidies employ environmentally acceptable practices. Especially the responsibilities on keeping the land in good agricultural and environmental condition and meeting the standards on plant health and food safety are biodiversity-wise noteworthy.

*Rural Development Programme*<sup>16</sup> is essential for safeguarding the biodiversity. Even though the subsidies paid according to these programs are not strictly speaking within the CAP subsidy system – the EU and Finland fund the Rural Development Programme jointly – they are taken under scrutiny here due to their importance to the subject matter.

Within the Rural Development Programme specific agri-environmental payments are granted. The aim of them is to encourage the farmers to employ measures promoting biodiversity and curbing the harmful load of nutrients to the waters. Most of the Finnish farmers receive *agri-environmental payments*: some 90 % of the farmers – which equals with 95 % of the cultivated land area – are committed to the scheme. The producers sign the contracts of agri-environmental support for periods of five to ten years.

The agri-environmental support is supposed to cover the extra costs and losses that the measures cause. The measures in agri-environmental support are twofold: basic and additional. The basic measures include such as letting the fields lie fallow (i.e. set-aside), widening the edges of

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<sup>15</sup> Lankoski & Ollikainen 2010. Available in English at <http://www.helsinki.fi/taloustiede/Abs/DP56.pdf> (accessed 15 May 2013).

<sup>16</sup> There are actually two Rural Development Programmes, one for the mainland Finland and another for the autonomous island Åland.

the fields in order to use them as buffer zones or sustaining the biodiversity and traditional landscapes. Additional measures comprise of e.g. reduced usage of fertilization; more defined use of nitrates in the fields; keeping the fields vegetated also during the winter and cultivating it less; and committing to follow the development of nutrient balance in the fields.

In nutrient balancing the amount of nutrients in the fields is monitored. During the follow-up an action plan can be drafted in order to apply the nutrients more precisely. There are also even more specific measures available for some of the subvention areas.

Also another aspect in the Rural Development Programme is crucial to the safeguarding of biodiversity. Aside with the agri-environmental support producers can apply for *support for non-productive investments*. The aim of these is especially to support the producers to fence and clear areas designated as traditional agricultural biotopes valuable for biodiversity; the form of support aims also to encouraging the farmers to establish wetlands that could be ecologically speaking beneficial. As with the agri-environmental support, the support for non-productive investments is meant to compensate the farmers for any costs or loss of income originating from the approved measures taken.

### Part 3. Specified environmental rules for agricultural production

#### **9. The position of agricultural production in the framework of environmental pollution control**

When it comes to diffuse emissions caused by human activities, the environmental pollution protection system in Finland is less structured than it is regarding point source pollution. Diffuse emissions from agricultural activities to rural waters cause eutrophication, the most serious problem in the Finnish coastal waters. Proceedings comparable with the permission system used in the IPPC Directive do not exist in the prevention of non point source pollution.

The most important instrument in protecting rural waters is the agricultural environmental aid system financed by national funds and the EU. The aim of agri-environmental support is to encourage framers to take measures that promote biodiversity and reduce the harmful impacts of nutrients in runoff from farmland on inland waters and

(eventually) the sea. Approx. 90 % of Finnish farmers has committed themselves to the scheme.

Through the scheme farmers bind themselves to carry out basic agri-environmental sub-measures, additional measures defined on a farm-specific basis, and in some cases also special sub-measures covered by special agreements. The actions supported in special agreements are e.g. establishing and managing riparian zones to protect water bodies, management of traditional biotopes and runoff water treatment methods.

Alongside with the environmental aid system rural waters are also protected by the implementation of the Nitrates Directive<sup>17</sup>. The Directive is implemented as the Nitrates Degree<sup>18</sup>. Degree is binding regardless the farmer's position in the environmental aid system.

#### **10. Planning provisions and mandatory licenses for the location of production units**

The land use planning system in Finland consists of three levels. The two most precise plans – local detailed plans and local master plans – are applied to urban areas only. The most general ones – regional land use plans – include also agriculturally suitable areas. The system is hierarchical: higher-level plans steer lower plans.

There is also national level in the land use planning. Council of State approves these national land use guidelines. The national land use guidelines are not actually part of the land use planning system but they should be taken into account when making decisions on land use at the regional or local level. Issues of national importance are thus filtered into the more precise planning levels: aims such as economically and ecologically sustainable development and favourable living environment are considered in the national land use guidelines.

The regional land use plans are thus the level of planning system that can have an impact on the agriculturally suitable areas. In them the aims of the national land use guidelines are transformed to the local level.

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<sup>17</sup> Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources.

<sup>18</sup> Government Decree on the Restriction of Discharge of Nitrates From Agriculture into Waters 931/2000, available in English at <http://www.finlex.fi/en/laki/kaannokset/2000/en20000931.pdf> (accessed 15 May 2013).

National land use guidelines themselves are drafted in such a small scale that agricultural areas are not separately identified in them.

The regional land use plans can be drafted in three forms: they can be (a) *comprehensive* covering all major planning issues in the area, (b) *phased* covering certain specific planning issues during each planning phase or (c) *sub-regional* covering smaller sub-regions or coherent areas, e.g. river systems.

Among things to be considered in regional land use plans are ecological sustainability of the actions planned and needs of economical activity in the area. Both of these aims require paying attention the agricultural areas. E.g. when it comes to ecological sustainability the condition of water resources must be considered in land use planning. Similarly, agricultural units are part of the economical structure of the area and thus their needs must be met in the regional land use plans. At the simplest this means that in the planning the vitality of the agricultural entities is not unnecessarily restricted.

In regional land use plans, areas suitable for agriculture are not separately identified. Nevertheless, special development areas can be specified. One form of the special development area is a rural development area. In this type of area the need for development occurs from the needs of agricultural activities. Thus agricultural activities and their challenges can be met in this phase of land use planning.

Regarding the mandatory licences please see answers #4–6.

#### Part 4. Mechanisms of environmental law

##### **11. Please describe briefly existing measures for**

##### **- The national transposition of the Nitrates Directive 91/676/EEC**

The Nitrates Directive has been implemented in Finland mainly with the Government Decree on the Restriction of Discharge of Nitrates From Agriculture into Waters (931/2000), generally referred as *the Nitrates Degree*.<sup>19</sup> The mandate to give the Degree is taken from the Environmental Protection Act.<sup>20</sup> The Degree includes regulation on

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<sup>19</sup> The Nitrates Degree is available in English at <http://www.finlex.fi/en/laki/kaannokset/2000/en20000931.pdf> (accessed 15 May 2013).

<sup>20</sup> EPA 11 §. The Environmental Protection Act is available in English online at <http://www.finlex.fi/en/laki/kaannokset/2000/en20000169.pdf> (accessed 15 May 2013).

manure storage, application of manure to the fields, fertilizer amounts and on nitrogen analysis, as well as on some smaller issues.

The Degree was given at 2000 and is *currently being reformed*.<sup>21</sup> The main reasons for the reformation are that the Degree is seen as unclearly formulated – the Ministry of the Environment has given several directions in order to clarify the Degree – more on one of these below. It has also turned out that the concepts used in the Degree are quite far apart from the ones used elsewhere in the environmental regulation. The Degree has also been seen as ‘heavily built’ i.e. the regulatory instruments in use are not the mildest or easiest ones to employ.<sup>22</sup>

At 2007 the Ministry of the Environment gave *separate guidelines for the regional environmental authorities* for storing of animal manure (Guidelines for Storing of Animal Manure, YM6/401/2007)<sup>23</sup>. The ministries in Finland, especially the Ministry of the Environment, have on several occasions received feedback on giving this kind of guidelines or directions, since their position among the sources of law is questionable; as is their fulfilment of main democratic principles – guidelines do not need parliamentary approval. It seems that at least in this respect this critique has fallen to deaf ears. It might be that this choice was unavoidable due to the previous choices. *The Nitrates Directive is after all implemented as a degree, not as a law* – what is left for a lower-level piece of legislation is guidelines or directions.<sup>24</sup>

All the environmental measures that are commingled with the subsidies oblige only the farmers who have joined the schemes or programmes. The Nitrates Degree makes an exception to this pattern: the regulations of the Degree oblige *all the farmers in the country*.

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<sup>21</sup> The most recent deadline is June 30<sup>th</sup> 2013. Basic information on the reformation is available in Finnish at [http://www.hare.vn.fi/mHankePerusSelaus.asp?tVNo=1&h\\_id=17811](http://www.hare.vn.fi/mHankePerusSelaus.asp?tVNo=1&h_id=17811) (accessed 15 May 2013).

<sup>22</sup> Presentation of civil servant Minna Mättö at 2011, available only in Finnish at [https://syke.etapahtuma.fi/eTaika\\_Tiedostot/2/TapahtumanTiedostot/447/Mika\\_nitraattisetukse\\_ssa\\_takkuilee\\_Minna\\_Mattö.pdf](https://syke.etapahtuma.fi/eTaika_Tiedostot/2/TapahtumanTiedostot/447/Mika_nitraattisetukse_ssa_takkuilee_Minna_Mattö.pdf) (accessed 15 May 2013).

<sup>23</sup> Ympäristöministeriön ohje karjalannan patteroinnista (YM6/401/2007). Available only in Finnish at <http://www.ymparisto.fi/download.asp?contentid=72608&lan=fi> (accessed 15 May 2013).

<sup>24</sup> The main difference in the drafting procedure between a law and a degree is that a law needs a distinct and open access drafting paper – Proposition of the Government – to explain it, while a degree does not. A law must also be handled in the Parliament while a degree can e.g. be given directly from the ministry to the lower-level administration, as was the case here.

- **The regulation of water and soil based nutrients**

The regulation of nutrients is mainly done via the Nitrates Degree and the directions given by the Ministry of the Environment. The aim of these is to decrease the amount of nutrient run-offs from fields to the waters. The measures adopted are firstly restrictions on times of the year in which farmers can apply manure to the fields.<sup>25</sup>

Second, there are restrictions on where the manure can be applied: the application is prohibited in the areas closer than five meters to a waterway. In the next five meters the application is prohibited if the field slope exceeds two per cent. Irrespective of how far from the watercourses the field is the application of manure is forbidden in the cases where the average field slope exceeds ten per cent.<sup>26</sup>

There are also restrictions on how much manure the producers can apply. Amounts depend on which animal's manure is in question and whether the application takes place during spring or autumn.<sup>27</sup>

- **The treatment and disposal of farm-based sludge**

There are detailed regulations on how farmers can treat the sludge (or manure, as referred here) originating from their own livestock.

In general, each farm must have manure storage that big that it can contain the manure accumulated in the farm during 12 months. These storages must be watertight and built in such a manner that no leakage takes place when the storage is emptied and the manure transferred to the fields. The Annex 2 of the Nitrates Degree includes guidelines according to which the storages must be built.

Deviations of the main obligations are possible under some specific circumstances caused by hygienic or technical reasons. Farmers must inform municipal environmental protection authority in advance if they plan to deviate from the general obligations. Concretely speaking deviations mean storing the manure in the fields in stacks (clamps) – the field must be the one on which the manure is eventually planned to be applied. Ordinarily it is forbidden to storage manure anywhere without

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<sup>25</sup> The Nitrates Degree, 5 §.

<sup>26</sup> The Nitrates Degree, 5 §.

<sup>27</sup> The Nitrates Degree, 5 and 6 §.

watertight base structure. In any case storing manure in stacks is never allowed in groundwater areas or areas sensitive to flooding.<sup>28</sup>

All in all, the general idea is that farm-based manure is used in the fields of the farm. The manure can be transported to another location if the municipal environmental protection authority is informed of it.

## **12. Supervision system of nuisances to neighborhood (smell, noise, pesticides, insects)**

Livestock most often causes the nuisances of smell and noise. The issue is handled in the environmental permission procedure among with other environmental harms the shelter might cause. As explained in the answer #4, building shelters requires a permit, when the amount of animals in it exceeds certain limits. Thus it is possible that shelters for smaller amount of livestock cause nuisances that cannot be taken into consideration in an environmental permit.

The Environmental Protection Act of Finland follows the same pattern as the rest of the European environmental protection acts implementing IPPC / IED Directives. Thus the undertaking requiring a permit cannot cause nuisances to neighbors in excess amount – during the permitting procedure the conditions of the permit are defined in such a manner that the livestock shelter does not cause unbearable emissions of noise or smell.<sup>29</sup>

The supervision of nuisances from pesticides is seen to come jointly with the application restrictions of pesticides. Finnish Safety and Chemicals Agency (Tukes) preapproves the pesticides taken into use in Finland. The Plant Protection Products Act regulates the procedure and usage of pesticides.<sup>30</sup> The restrictions of use are printed into the

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<sup>28</sup> Spoiling the groundwater is absolutely forbidden in Finland according to the groundwater pollution prohibition in EPA 8 §, available in English at <http://www.finlex.fi/fi/laki/kaannokset/2000/en20000086.pdf> (accessed 15 May 2013).

<sup>29</sup> See EPA 41 § (The principles of permit consideration), 42 § (The preconditions for granting a permit) and 43 § (The permit regulations). The permit consideration is commonly conducted in such a manner that the permit conditions regulated in 43 § are made so tight that the preconditions according to 42 § are fulfilled. See Environmental Protection Act (86/2000), available in English at <http://www.finlex.fi/fi/laki/kaannokset/2000/en20000086.pdf> (accessed 15 May 2013).

<sup>30</sup> Unfortunately the Act is not officially translated but the website of Tukes explains the obligations thoroughly, also in English, see <http://www.tukes.fi/en/Branches/Chemicals-biocides-plant-protection-products/Chemicals-and-the-environment/Plant-Protection-Products-and-the-environment/> (accessed 15 May 2013). The Act itself can be found in Finnish at <http://www.finlex.fi/fi/laki/ajantasa/2011/20111563> (accessed 15 May 2013).

packages in which the pesticides are sold i.e. there are no restrictions in the buying of them.

The usage is supervised by controlling the amounts of pesticides left in the soil.<sup>31</sup> Traditionally there has been high-level protection of the groundwaters from harmful substances in Finland. All the pollution on them is strictly forbidden – the regulation can nowadays be found from the Environmental Protection Act 8 §. During the implementation of the Water Framework Directive the surveillance of harmful substances in the surface waters has also been enhanced: the information gathered for the river basin management plans includes also information of substances originating from the usage of pesticides.<sup>32</sup>

### **13. Zones of protection**

#### **- Coastal and waterfront protection**

Coastal and waterfront protection is mainly managed via the obligation to use buffer zones in the application of nutrients. (See answer #11 on this). The same kinds of restrictions apply to the application of pesticides – the aim of the both is to avoid direct run-offs to the waters from the freshly applied nutrients or pesticides.

#### **- GMO-free areas; others?**

There are no distinct GMO-free areas in Finland. Nonetheless, of the GMO plants approved for cultivation by EU only potato could be grown in Finland. According to the authority conducting the surveillance, Finnish Food Safety Authority or Evira, it has not yet been taken into cultivation in Finland.

Fodder given to livestock includes GMO soya and corn also in Finland. Evira and the customs supervise that the packages are properly marked. According to Evira food including GMO's is not yet sold in Finland. In compliance with the European standards this means that no products including more than 0,9 % of GMO are in the market.

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<sup>31</sup> For the data see <http://www.biodiversity.fi/en/> (accessed 15 May 2013).

<sup>32</sup> The Water Framework Directive or Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:327:0001:0072:EN:PDF> (accessed 15 May 2013).

- **How is participation organized in those situations?**

The authority responsible for the supervision of GMO products, Evira, informs the public openly on the situation of GMO products sold in Finland.

Since the cultivation of GMO plants has not yet been in agenda there is no experience of how the participation would be arranged in those cases. Since the ban of GMO from certain areas has not been approved in the EU level it is difficult to believe that opposing cultivation would bring any success even if some method of participation would be arranged.

It can be said that currently the situation is unsolved and waiting for new openings to bring any certainty.

(Optional) Part 5. Legal issues

14. Available court procedures for solving agro-environmental issues
15. Producers liability for environmental damage
16. Liability for diffuse water pollution and eutrophication
17. Applicability of the Environmental Liability Directive 2004/35/EC