Access to Justice in matters of environmental law

Report on Estonia

A. General Questions

1. **Question:** What was the influence on your national legal order, if any, of the recent developments in the case law of the Court of Justice of European Union (CJEU) on standing of individuals and/or NGOs (cases C-237/07 *Janecek*; C-263 *Djurgarden*; C-115/09 *Trianel*; C-240/09 *Slovak Brown Bear*; C-416/10 *Krizan*). Have environmental laws been amended? Please illustrate.

A special provision (§ 292) was included in the Code of Administrative Court Procedure (*Halduskohtumenetluse seadustik*) that regulates the right of recourse to administrative courts in environmental matters from 5 March 2011. This provision is applicable to environmental organisations. § 292 (1) of the CACP provides that in case of a non-governmental organisation contesting an administrative act issued or administrative measure taken in the environmental field, it is assumed that such organisation has a legitimate interest in the matter or that its rights have been infringed, provided that the contested administrative act or measure is related to the environmental organisation's environment protection aims or to its hitherto sphere of activity in the protection of the environment.

For the purposes of § 292 (2) of the CACP, a non-governmental environmental organisation is:
1) a non-profit association or a foundation (i.e. legal person), in whose articles of incorporation protection of the environment is provided as an aim of the association or foundation and whose work promotes protection of the environment;
2) an association of persons which does not possess legal personality and which, pursuant to a written agreement between its members, promotes protection of the environment and represents the views of a significant proportion of the local population.

The protection of an element of the environment as a means to ensure the health and well-being of humans, as well as research and popularisation of nature and of natural heritage, is also deemed to constitute promotion of protection of the environment (§ 292 (3) of the CACP). In assessing promotion of the protection of the environment, the capability of the association to realise the aims provided in its articles of incorporation must be reckoned with by considering its hitherto work or, where this is not applicable, the organisational structure of the association, the number of its members and the preconditions for membership established in the articles of incorporation.

The regulation is mainly based on international legislation (the assessment of the effects on the environment directive (85/337/EEC, amended by Directives 97/11/EC and 2003/35/EC), Directive 2008/1/EC concerning integrated pollution prevention and control and the Aarhus Convention, in which the right of recourse of environmental organisations is required to be expanded.

Even before § 292 of the CACP became into force, the right of appeal in environmental matters of an association of persons (civil law partnership) that are not a legal personality was recognised in court practice by referring to Article 9 of the Aarhus Convention. The Administrative Law Chamber of the Supreme Court has found that civil law partnerships, i.e. associations of persons that act to achieve a common objective under an appropriate civil law partnership, can be considered associations of persons as referred to in Article 2 (4) of the Aarhus Convention, provided they meet the definition of § 580 of the Law of Obligations Act.[1]
In general, it can be said that Estonian national law is in compliance with Article 9 of the Aarhus Convention. According to the practice of the Supreme Court, national right of appeal is derived from national legislation, but it must be interpreted in agreement with the objective of the Aarhus Convention.[2] (See specific examples from Estonian court practice in the response to question No. 2.)

2. **Question:** Have there been any changes in the jurisprudence of the national courts concerning standing of individuals and/or standing of NGOs as a result of CJEU's recent judgements?
   Have the courts in your country relied on the principle of effective judicial protection or used arguments about CJEU case law in order to widen up standing for individuals and/or NGOs in environmental procedures since the signing/ratification of the Aarhus Convention? If so, please illustrate.

When Estonian courts give substance to the right to contest in environmental matters they refer to the practice of the European Court of Justice and the Aarhus Convention. We do not see a conflict between the current national court practice and ECJ judgements. In the matter of access to justice in environmental matters, Estonian court practice has recognised a broad approach. For example, the Supreme Court has noted that when identifying the right to make a complaint, the general objective of the Aarhus Convention must be taken into account, which is expanding the opportunities for the public to participate and to access justice in environmental matters, and the sources of the right to make a complaint must be interpreted in a wider sense.[3]

The Administrative Law Chamber of the Supreme Court has explained that the rights of environmental associations referred to in case No. C-240/09 *(Slovak Brown Bear)*, including the rights from the Habitats Directive together with Article 9 (3) of the Aarhus Convention cannot be applied to natural persons. Article 9 (3) of the Aarhus Convention has no direct effect upon Estonian or the Union's law (judgement on Union's law in case No. C-240/09, p 52). Article 9 (3) of the Aarhus Convention clearly stresses the right of each Party to decide the criteria for defining who are the members of the public that have the right to make a complaint. As regards environmental organisations, their interest must be considered justified and they must be assumed to have environmental rights (the second and third sentence of Article 9 (2) of the Aarhus Convention). This does not extend to natural persons. A Party may restrict their access to justice based on additional criteria, and this also in the context of the Habitats Directive (judgement in case No. C-115/09 *Trianel*, p 45–49). The direct and real

[1] Administrative Law Chamber of the Supreme Court 28.11.2006 judgement No. 3-3-1-43-06, p 24 and 19.03.2012 ruling No. 3-3-1-87-11, p 26-27.
[2] Administrative Law Chamber of the Supreme Court 19.03.2012 ruling No. 3-3-1-87-11, p 21.
[3] Administrative Law Chamber of the Supreme Court 29.01.2004 judgement No. 3-3-1-81-03, p 23 and 25; and 19.03.2012 ruling in an administrative case No. 3-3-1-87-11, p 21.

contiguity requirement applicable in Estonian court practice may also serve as such a criterion.[4]

The Supreme Court has stressed that contiguity does not mean only that a present or planned activity will affect a person, but the impact must be significant and real. A real impact means, among other things, that there must be a causal relation between the act under discussion and its alleged result, and the appellant must show that the occurrence of the alleged result is likely.[5] The requirement of material and real contiguity also excludes filing an appeal on environmental grounds in public interests (i.e. *actio popularis*), except for in the case an act directly provides for such right. An appeal filed on the grounds of contiguity shall not be deemed equivalent to an *actio popularis*.[6] There is a codification process of environmental law currently in progress in Estonia. It is intended to establish the right to health and well-being needs for a particular environment and associate the creation of the right with material contiguity in the General Part of the Environmental Code.

Furthermore, the Administrative Law Chamber of the Supreme Court has explained that the definition of „the public" used in Article 9 (2) of the Aarhus Convention also means a single natural person. This provision may be interpreted to mean the members of or each member of the relevant public interested in the matter. Consequently, a natural person under Article 9 (2) does not have to prove that he/she represents other local residents when filing an action. However, a village cannot be considered a non-governmental environmental organisation for the purposes of the Aarhus Convention. A village is part of a rural municipality, i.e. a structural unit of a local authority. Although a village elder or village council cannot be considered a representative of the public interested in the matter, a situation where the residents of a village form a non-governmental environmental organisation in certain cases is not excluded.[7]

The Administrative Law Chamber of the Supreme Court agreed that according to the ECJ practice the owners of registered immovables have no right to make a complaint to ECJ on a decision of the European Commission with which a list of areas of the Union's importance is approved, because a decision of the Commission imposes an obligation only on a Member State that has to take further measures to impose a protection regime. Efficient protection is ensured by a person making a complaint to a national court regarding the further measures taken by the relevant Member State to protect the area and the legality of the Commission's decision will be challenged thereby. In order to follow the principle of loyal cooperation, the courts are required to interpret and apply national provisions regarding court proceedings in a manner that enables persons to challenge a national decision that is related to the application of the Communities` legislation on them by annulling the decision and asking the court to ask for a preliminary ruling of the ECJ. If a Member State's court agrees that the legality of the Commission's decision is questionable, it has to demand a preliminary ruling by the ECJ on the Commission's decision (see e.g. ECJ decisions T-136/04, p 47–55; T-137/04, p 60–68; C-362/06, p 32-34 and 43).[8]

[4] Administrative Law Chamber of the Supreme Court 12.01.2012 judgement No. 3-3-1-68-11, p 33.
[5] Administrative Law Chamber of the Supreme Court 12.01.2012 judgement No. 3-3-1-68-11, p 22; 28.02.2007 judgement No. 3-3-1-86-06, p 16 and 19.03.2012 ruling No. 3-3-1-87-11, p 17.
[6] Administrative Law Chamber of the Supreme Court 19.03.2012 ruling No. 3-3-1-87-11, p 30 and 12.01.2012 judgement No. 3-3-1-68-11, p 22.
[7] Administrative Law Chamber of the Supreme Court 19.03.2012 ruling No. 3-3-1-87-11, p 21-25.
[8] Administrative Law Chamber of the Supreme Court 26.11.12 judgement No. 3-3-1-58-12, p 12.

3. **Question:** What are, to your opinion, the main challenges for **judges** in your national legal system when it comes to **access to justice** in the field of environment and the development of the CJEU's case law?

As regards the practice of the ECJ, it is difficult to keep up with the constantly renewing and extensive court practice, and this does not concern solely national environmental law. Specialisation is difficult because of the small number of Estonian Administrative Courts and judges: there are two administrative courts of first instance with altogether 26 judges in Estonia. Altogether, 12 judges work in the Administrative Law Chambers of two circuit courts on the appellation level and 5 judges work in the Administrative Law Chambers of the Supreme Court. So judges must be ensured continued training abroad[9] and national training courses.

4. **Question:** Taking into account that access to justice in environmental matters is required to not be prohibitively expensive (cf. Art 25.4. IED; Art.11.4. EIA Directive, both reflecting Art. 9.4. Aarhus convention): How do you, all in all, evaluate the system of access to justice in your country when it comes to costs and liability for costs (e.g. court fees, lawyer's fees, costs for administrative procedure, expert fees)? Do costs have a chilling effect in environmental litigation?

In the Estonian context, it is appropriate to mention challenge proceedings, environmental control and judicial proceedings:

- Out of court proceedings are free of levy and security for a person. Hence, challenge proceedings are free of charge for a person in Estonia. (The objective of challenge proceedings is to allow a quick procedure for reviewing a decision and give the administrative body an opportunity to amend its errors.) As a rule, challenge proceedings are not compulsory (except for challenge proceedings provided for in the Environment Fees Act and Environmental Responsibility Act) and the person may file an action directly.
- A person cannot demand a supervisory body to perform an inspection but it can draw the attention of an administrative body to a circumstance that requires an environmental inspection to be carried out.
- In administrative cases, procedure expenses include legal costs and extra-judicial expenses (CACP § 101 (1)). Legal costs include the state fee, the security payable in relation to certain proceedings, and the costs essential to proceedings (CACP § 101 (2)).

According to the State Fees Act § 57^1 (1), a state fee of 15 euro shall be paid upon the filing of an action with an administrative court (the same amount upon filing of an appeal against a judgement of an administrative court, State Fees Act § 57^1 (7)). In the Supreme Court, a security of 25 euro must be paid upon filing an appeal against a court ruling or an appeal in cassation or an application for revision.
The most significant of extra-judicial costs in environmental matters are the costs of representatives and advisers of participants of proceedings (CACP § 103 (1) (1)).

[9] The cooperation partner that enables training abroad is the European Institute of Public Administration (EIPA) that offers environmental law related trainings to judges and prosecutors. The judges should always have an opportunity to participate in training courses on environmental topics by the European Judicial Training Network (EJTN) and also in training courses of other countries within the framework of EJTN Catalogue+ project.

The objective of the State Legal Aid Act is to find a common solution to economically least privileged persons and non-governmental environmental organisations that operate in public interests to ensure free legal aid. A special provision of the State Legal Aid Act § 6 (3) states that a non-profit association or foundation which has been entered in the list of non-profit associations or foundations benefiting from income tax incentives or is equal thereto, which is insolvent and applies for state legal aid in the field of environmental protection or consumer protection, or there is other predominant public interest for the grant of state legal aid, may receive state legal aid to prevent possible damage to the rights of a large number of people which are protected by law.
The Estonian Environmental Law Centre (SA Keskkonnaõiguse Keskus), a non-governmental non-profit organisation, has been operating 2007; the Centre implemented a project for analysing environmental cases in 2008−2010, during which period free legal aid was provided to non-governmental organisations and natural persons in environmental matters (related to various permit proceedings and participation in the environmental impact assessment procedure as well as filing actions). The Estonian Environmental Law Centre (SA Keskkonnaõiguse Keskus) continues to provide legal aid: http://www.k6k.ee/activities/legal-services.

When deciding how to distribute judicial costs in administrative matters between the participants of proceedings, the Supreme Court en banc has expressed an opinion that it must be taken into consideration that in addition to resolving a legal dispute the administrative court system must also apply the principle of separation and balance of powers. As the judicial power controls also the activity of the executive and legislative power, a participant in administrative proceedings shall not bear the costs incurred in the course of a court case review in full, but in part only.[10]

A. Examples

Example 1: The competent authority has adopted an **action plan on air quality** that will not adequately reduce the risk of exceeding EU air quality limits (contrary to relevant secondary EU law).

B.1. What are the possibilities open for the public to legally challenge **the plan** and to ensure that an **adequate plan** is adopted and implemented? If any, who (individuals, NGOs, other) is entitled to challenge the plan?

The special provision § 292 of the CACP came into force on 5 March 2011 that regulates the right of recourse to administrative courts in environmental matters. This provision applies only to environmental organisations (see also the response to question 1). No special provisions have been included in the CACP regarding the rest of appellants. According to § 44 (1) of the CACP, a person may have recourse to an administrative court only for the protection of his or her rights. However, court practice has recognised a more extensive right of recourse of persons in environmental matters.

The Administrative Law Chamber of the Supreme Court has found that in cases dealing with decisions in environmental matters, it is not possible to give substance to the right of recourse only by a breach of subjective right as is common in regular administrative cases. In environmental matters, a breach of subjective right may exist, but not always. Therefore,

[10] Supreme Court en banc 29.11.2011 judgement No. 3-3-1-22-11, p 29.2.

according to court practice, the grounds for recourse to court in environmental matters may not only be a breach of rights but the contiguity of the appellant in regard to the administrative act or action to be challenged, i.e. the right to make a complaint has been extended to persons whose interests the challenged administrative act or action concerns. (See about the essence of contiguity in detail in response No. 2).

The right of recourse to an administrative court via an *actio popularis* is not usually recognised in Estonian legal order. A person may only have recourse to a court for the protection of the rights of another person or protection of a public interest in the cases provided for in the law (§ 44 (2) of the CACP). As an exception, § 26 (1) of the Planning Act provides for filing an *actio popularis* that gives every person who finds that a decision to adopt a spatial plan is in conflict with the act or other legislation or that his or her rights have been violated or freedoms restricted by the decision a right to contest a decision on an adoption of a plan in an administrative court.

Is the appellant/plaintiff required to provide evidence on potential harm/damage and to specify the measures that should have been taken?

The burden of proof is regulated in the administrative law procedure by § 59 of the CACP, section 1 of which states that the appellant generally must prove the factual assertions on which his or her submissions are founded. The Supreme Court has stressed that if the court so demands, a participant of proceedings may be required to prove the circumstances in relation to which it can be assumed that the participant has an access to the appropriate proof. In case of doubt, the court or administrative body must, based on the principle of investigation, gather additional evidence about the circumstance or imposing the obligation of presenting evidence on participants of the proceeding (§ 2 (4) (1) of the CACP).[11]

Example 2: The competent authority has issued a permit for an infrastructural construction project (e.g., a motorway, a power line or a funicular). Part of the site concerned is situated in a Natura 2000 area. In spite of a negative assessment of the implications for the Nature 2000 site, the competent authority agreed to the project for imperative reasons of overriding public interest (Art. 6.4. Habitats Directive).

B.2.1. Who (individuals, NGOs, other) is entitled to challenge this decision by legal means? In what way do individuals need to be affected by the decision in order to have standing? With regard to standing rules for individuals and NGOs, does it make any difference whether the project in the example is subject to on EIA or not?

In Estonia, an option to file an *actio popularis* is provided for in § 26 (1) of the Planning Act that gives every person who finds that a decision to adopt a plan is in conflict with an act or other legislation or that his or her rights have been violated or freedoms restricted by the decision, the right to contest the decision in an administrate court. (About the right of recourse in environmental matters, see more in response B.1).

When resolving court cases regarding Natura 2000, Estonian courts have mainly dealt with problems such as:
1) in which cases the impacts of developmental activity on the areas belonging to Natura 2000 network must be assessed (so-called Natura assessment must be performed);

[11] Administrative Law Chamber of the Supreme Court 03.06.2013 judgement No. 3-3-1-13-13, p 17.

2) in which cases developmental activities can be allowed on Natura 2000 areas.

According to the Supreme Court practice, the so-called Natura assessment must always be performed if, based on objective information, it is likely that the designed activity, either individually or in combination with other plans or projects, may harm the objective of Nature area protection.[12]
The requirement to assess the environmental impact of activities on areas that belong to Natura 2000 network arises from Article 6 (3) of EU Directive 92/43/EEC (Nature Directive). This provision has been interpreted by the European Court several times (one of the best known relevant case No. C-127/02, so-called Waddenzee case has been referred to also in Estonian court practice). The requirement to assess a significant environmental impact on Natura 2000 areas has been transposed by § 3 (2) and § 33 (1) (4) of the Environmental Impact Assessment and Environmental Management System Act[13].

When deciding whether an activity is allowed in Natura 2000 area, the purpose of the area is the primary criterion in Estonian court practice, meaning that an activity may be allowed in Natura 2000 area if it does not harm the area's protection purpose. In its decision of 19 June No. 3-3-1-27-09, the Administrative Law Chamber of the Supreme Court has explained, referring to the practice of the European Court, that a Member State has an obligation to protect preselected areas that have been included in the list presented to the European Commission (see decisions of the European Court No. C-117/03: Dragaggi; No. C-244/05: Bund Naturschutz). After a Natura 2000 preselected area has been defined, the state has an obligation to ensure the preservation of natural values. At the same time, a special conservation area protection regime does not exclude building and other economic activities, but during these activities the conservation of favourable state of the species and habitats protected in the area must be maintained. The same condition arises from the protection regime of the Natura 2000 network.[14]

B.2.2. Does an administrative appeal or an application for judicial review automatically have a "suspensive effect" on the decision at stake? In case there is no automatic suspension in your national legal order: Under which conditions can the appellant obtain a suspension of the permit decision for the infrastructural project? Are there other measures of interim relief available to prevent negative harm to the environment until the final decision has been taken? In case of an automatic suspension: Can the developer of the infrastructural project as for a "go-ahead-decision" in your national legal order?

In Estonian legal order, making a complaint to an administrative court shall not have suspensive effect, i.e. it shall not suspend the validity of an administrative act an shall not restrict execution of a valid administrative act or performing a planned action. As a rule, the provisions of application of provisional protection of the CACP extend to environmental disputes.

The CACP stipulates the principle that an application for interim relief may be made to the administrative court also during challenge proceedings (§ 249 (2) of the CACP). Consequently, persons have a more effective protection option available already before court proceedings.

[12] Administrative Law Chamber of the Supreme Court 06.12.2012 judgement No. 3-3-1-56-12, p 14.
[13] Environmental Impact Assessment and Environmental Management System Act. 22.02.2005. – State Gazette I 2005, 15, 87; State Gazette I, 21.12.2011, 1.
[14] Administrative Law Chamber of the Supreme Court 19.06.2009 judgement No. 3-3-1-27-09, p 13.

In general, applications for provisional protection are common in building and planning disputes and in other so-called environmental issues, under which heading the complaints against the activity of the Environment Information Centre, as well as disputes about the acts of the Ministry of Environment can also be classified.

For example, according to the courts` information system, in 2011, the Tallinn Circuit Court resolved a total of 45 provisional protection applications, among which 15 provisional protection applications were filed in court proceedings where a participant of proceedings was the Ministry of Environment (these were environment law disputes).

According to § 249 (1) of the CACP, provisional protection may be applied on the basis of an application of the applicant which states its reasons, or a court of its own motion.
As in case of application of provisional protection, so in case of environmental matters the impact of application or non-application of a measure of protection on different persons must be weighed and the public interest and the rights of the appellant and people concerned must be considered. When applying provisional protection, the interests and rights of persons should not be excessively prejudiced, i.e. only to the extent that is reasonable in respect of the justified right of the appellant and the circumstances of the case. Therefore, the Supreme Court has found that it is possible to suspend the validity of a decision approving a detailed plan also partly if it is possible to distinguish individual parts of the plan.[15]

Although no explicit special provisions exist for applying provisional protection in environmental cases, § 249 (1) of the CACP states the following: "In the case of a person who by virtue of the law enjoys the right to bring an action in the administrative courts on grounds other than the protection of his or her own rights, interim relief measures may be applied provided that, in the contrary case, attainment of the aim of the action by means of the judgement may be rendered significantly more difficult or impossible." As in the current Estonian law, such cases where an action is filed to protect own rights are cases where every person has the right to contest a decision to adopt a spatial plan (§ 26 (1) of the Planning Act) and the environmental organisations have the right to contest (§ 292 of the CACP), there may be seen some special regulation for environmental disputes.

Example 3: The competent authority has issued a permit and established permit conditions for an installation falling under the scope of the Industrial Emission Directive – IED (e.g., a waste treatment facility or a tannery). The national permit procedure had been carried out in accordance with requirements on public participation (Art 34 IED).

B.3.1. Are individuals in your country entitled to challenge the permit decision on the grounds that permit requirements of the IED have not been met: say, the best available techniques have not been applied and energy is not used efficiently?

For example, requirements for the establishment and operation of waste incineration plants or waste co-incineration plants have been established in the Industrial Emissions Act (§ 89 etc.) by which the directive 2010/75/EU on industrial emissions was mainly transposed. The legal ground for the operation of waste incineration plants or waste co-incineration plants is an integrated permit or a waste permit for incinerating waste. According to § 7 (1) of the Industrial Emissions Act, for the purposes of the Act, a permit means such a written document

[15] Administrative Law Chamber of the Supreme Court 20.09.2004 judgement No. 3-3-1-69-04, p 9.

which authorises the operation of all or any part of an installation, combustion plant, waste incineration plant or waste co-incineration plant. To contest the described permits, the judicial review is provided for by the CACP; therefore, please see the response to question B.1 concerning the right to contest of different persons.

B.3.2. Is an **NGO entitled** to judicial review of the permit decision, even if it did not previously take up the opportunity to participate in the decision-making procedure?

In Estonia, an NGO's right to contest does not depend on its activity in the decision-making procedure of making environmental decisions. The right of appeal of an NGO when appealing to an administrative court is regulated by § 292 of the CACP, according to which:
(1) In the case that a non-governmental organisation contests an administrative act issued or administrative measure taken in the field of the environment, it is to be assumed that such organisation has a legitimate interest in the matter or that its rights have been infringed, provided the contested administrative act or measure is related to the environmental organisation's environment protection aims or to its hitherto sphere of activity in the protection of the environment.
(2) For the purposes of the Code, a non-governmental environmental organisation is:
1) a non-profit association or a foundation, in whose articles of incorporation protection of the environment is provided as an aim of the association or foundation and whose work promotes protection of the environment;
2) an association of persons which does not possess legal personality and which, pursuant to a written agreement between its members, promotes the protection of the environment and represents the views of a significant proportion of the local population.
(3) For the purposes of subsection 2, protection of an element of the environment as a means to ensure the health and well-being of humans, as well as research and popularisation of nature and of natural heritage, is also deemed to constitute promotion of protection of the environment.
(4) In assessing promotion of protection of the environment, the capability of the association to realise the aims provided in its articles of incorporation must be reckoned with by considering its hitherto work or, where this is not applicable, the organisational structure of the association, the number of its members and the preconditions for membership established in the articles of incorporation.

Example 4: Citizens are concerned about a landfill that has been granted permission but is obviously operating in breach of permit conditions. Samples that have been taken by an NGO indicate that there is imminent danger of a drinking water source being contaminated. The competent authority is not taking any action.

Evaluate the possibilities of member of the public (individuals, NGOs) to ensure that (remedial) action is taken.

Concerning the right to contest in environmental issues, see the response to question B.1. An illustrative example can be found in Estonian court practice of a court case that passed through all three instances of court and concerned the establishment of a landfill (Veidenbaum and others vs. Nõo Rural Municipality Government and Kagu-Eesti Jäätmekeskus AS). The Estonian Fund for Nature (Eestimaa Looduse Fond[16]) (NGO) and Estonian Green Movement

[16] See more about the objectives of Estonian Fund for Nature: http://www.elfond.ee/en/about-elf

(Eesti Roheline Liikumine[17]) (NGO) had already presented suggestions and objections to the environment impact assessment report. The main objections were that when the assessment of environmental impact was carried out, other possible sites for the landfill should have been considered to identify which of the sites would be the best considering the current requirements. Disregarding the objections, the Council of the Rural Municipality adopted the detail plan of the landfill. The local residents filed an action with an administrative court for the annulment of the detail plan.[18] The court case passed through all three instances of court and in the final instance, the Supreme Court annulled the decision on adoption of the detail plan. This meant that the Supreme Court annulled the court decision of the circuit court (appellation court), keeping the order of the administrative court (court of first instance) in force by supplementing it with its own motivation.

The Administrative Law Chamber of the Supreme Court explained in their decision of 9 March 2005 that due to a significant public interest, the contesting of the detail plan on the grounds of the site selection being unlawful was justified. Establishment of a regional landfill is an activity with significant environmental impact that has significant public and state interests. One of the stages of establishment of a landfill is choosing its future site. A landfill must be established in a place where its environmental risk and negative environmental impacts are as small as possible. This requires the identification and consideration of reasonable alternatives before preparing the detail plan. The local authority must show due diligence upon initiating a detail plan and identify whether all the relevant preconditions of an initiation of a plan have been met.[19]

[17] See more about the objectives of Estonian Green Movement: http://www.roheline.ee/content/view/12/31/lang,en/

[18] The residents thought that their rights were violated because they were not involved in the process of choosing the site for the landfill and the environmental assessment report did not provide sufficient information about the impact of the establishment of a waste management facility.

[19] Administrative Law Chamber of the Supreme Court 09.05.2005 judgement No. 3-3-1-88-04, p 28.