

THE PANEL'S REPORT ON THE CLIMATE CHANGE ACT

(October 2012)

The report discusses the necessity of a Finnish Climate Change Act and options for its implementation.

The current model law of climate regulation has shown significant shortcomings and weaknesses. These issues have been particularly prominent in climate change mitigation as well as in the planning and coordination of the operations of public authorities to adapt to climate change. It will be attempted to solve these problems by applying an alternative climate act model to regulate monitoring, reporting and planning concerning climate change. In addition to the current model law and a framework model law, the report introduces the British climate change act, and a climate model law drafted for the Finnish Ministry of the Environment by members of the 2012 Panel, Aki Ekroos, Professor of Environmental and Energy Law, and Matias Warsta, Doctor of Technology.

The report assesses the strengths, weaknesses, opportunities and threats of the different model laws. The current model of climate regulation guiding public authorities is strategy-driven and somewhat ineffectual compared to the substantive climate regulation which guides private actors. National climate policy has several legislative gaps, but these could be covered by a Climate Change Act coordinated by the Finnish Government.

Long-term and short-term targets should be set for climate change mitigation and adaptation. These targets would then be coordinated through policy programmes to become an effective part of public action. Additionally, it would be possible to regulate the implementation of these measures and the monitoring of GHG emissions. Simultaneously, parliamentary scrutiny of climate policy could be increased.

The Climate Change Act and the targets to be recorded therein will increase the predictability of climate change policy and unify fragmented regulation. Registration of policy instruments under their own section would strengthen their role in decision-making processes.

In addition to the emissions trading sector and the non-emissions trading sector, the Climate Change Act should cover the land use in the LULUCF sector (Land Use, Land Use Change and Forestry). The targets and scope of the Act must be defined precisely yet allow some flexibility regarding future obligations set by international and EU courts.

Constitutional problems can be avoided if the Climate Change Act is used to set targets and establish policy programmes solely for public authorities. We recommend using a framework model law which would include links to substantive regulation, i.e., special enactments. The regulatory methods recorded therein would be centred on administrative information guidance. Regulations concerning private stakeholders would be implemented in current special enactments of environmental law and, when needed, in current special enactments concerning existing legislative gaps. These enactments include the existing Emission Trading Act and possibly new laws concerning national climate change adaptation measures.

Based on the framework model law, a Climate Change Act would manage climate change legislation most efficiently and address the existing knowledge gaps to ensure that public officials could have an overall picture of the key sectors and measures involved in climate change mitigation and adaptation. Connecting special enactments and appointing responsible officials in the framework model law would thus create better opportunities to take different sectors into account, to proportion them to one another and implement any required measures in the appropriate sectors.

The transparency of national climate policy to the public would improve significantly with the increased participation opportunities provided by the Climate Change Act. It would also make political actions more acceptable to the public. It would be prudent to keep the Panel as an advisory body; however, it would be necessary to strengthen its position and secretariat with the introduction of the Climate Change Act. In conclusion, it is necessary to emphasise that it is counter-productive to treat climate change adaptation and climate change mitigation separately. Planning, reporting and monitoring of climate change adaptation should be included in the same Climate Change Act as climate change mitigation.