



Fiona Marshall
Secretary to Aarhus Convention Compliance Committee

Environmental Affairs Officer
United Nations Economic Commission for Europe
Room 330, Palais des Nations
CH- 1211 Geneva 10, Switzerland

Organisation & Jura
J.nr. MST-109-00005
Ref. Morim
Den 1. november 2011

E-mail: fiona.marshall@unece.org , public.participation@unece.org

Questions from the Compliance Committee: ACCC/C/2011/C57 (Denmark)

In a letter dated 10. October 2010, Denmark received the following questions:

Further information requested from the Party concerned

1. Please provide details of the current fees for appeals to other comparable national administrative boards for example, those dealing with health or consumer issues.
2. Please provide details of the court fees that would be involved in bringing an environmental matter before the courts, rather than the Environment Appeals Board (EAB).
3. Please provide a copy of the Opinion of the Expert Committee charged with reviewing the workload of EAB (in English if available, or otherwise in Danish).
4. Please provide the sections of the following legislation setting out its objectives (in Danish and with an English translation):
 - a. Act amending the Act on the Nature and Environmental Appeal Board and other Acts (Act no. 1608 of 22 December 2010);
 - b. Statutory order no. 1673 of 22 December 2010 on fees on bringing complaints to the Nature and Environment Appeal Board.
5. Please provide the following statistics from 2005 (to give a data comparison before the 2007 Danish Livestock Act referred to during the discussion was enacted) to date:
 - a. How many cases annually are submitted to the EAB?
 - b. What percentage of these concern agricultural permits and other matters related to the Danish Livestock Act?
 - c. What percentage of the cases in (b) above are brought by NGOs? What percentage of the other cases before the EAB are brought by NGOs?
 - d. What percentage of the cases relating to (b) above brought by (i) NGOs; and (ii) by persons other than NGOs, are successful? What percentage of other cases before the EAB brought by (i) NGOs and (ii) by persons other than NGOs, are successful?
 - e. Please provide details of the average duration of proceedings of the cases before the EAB.

Question 1: Please provide details of the current fees for appeals to other comparable national administrative boards, for example, those dealing with health and consumer issues.

Board	Fee
National Agency for Patients' Rights and Complaints	0 DKK
The Energy Board of Appeal	0 DKK
The Energy Supplies Complaint Board	150 DKK
The Consumer Complaints Board	160 DKK
Danish National Tax tribunal	800 DKK
The Competition Appeals Tribunal	5.000 DKK.
The Public Contracts Appeals Board	10.000 DKK
Board of Appeal for Patents and Trademarks	4-8.000 DKK

Introduction

The Compliance Committee has asked for details of the current fees for appeals to other *comparable* national administrative boards, for example with regards to health and consumer issues.

Below are details of several boards of appeal or tribunals, with brief descriptions. The information has been taken from the relevant tribunals' websites and therefore varies in scope.

The issue in case ACCC/C/2011/57 is whether the fee of 3000 DKK for making a complaint *for others than private persons* to the Nature and Environmental Appeal Board is considered to be "prohibitively expensive" and thus, whether Denmark is in none-compliance with the Convention. "*Others than private persons*" include NGO's, public authorities, enterprises, farmers etc.

Therefore, it is important to underline that with regard to The Energy Supplies Complaint Board, The Consumer Complaints Board and The National Agency for Patients' Rights and Complaints, the complainant is typically a private person complaining in his/her private capacity (and thus not companies, organisations, public authorities and NGO's). Therefore, the fees for making a complaint to the mentioned boards does not seem comparable

since case ACCC/C/2011/57 deals with fees for *others than private persons*.

With regards to the Danish National Tax Tribunal, complaints are received from private persons as well as enterprises etc. The same goes for the Energy Board of Appeal.

Typically, the Competition Appeals Tribunal, the Public Contracts Appeals Board and the Board of Appeal for Patents and Trademarks hear appeals from enterprises and not private persons.

It seems that the closest comparable fees are those for appeals to the Competition Appeals Tribunal, the Public Contracts Appeals Board, the Energy Board of Appeal and the Board of Appeal for Patents and Trademarks, which all – apart from the Energy Board of Appeal – have fees, that are considerably higher than the fee of DKK 3,000 for appeals to the Nature and Environmental Appeal Board.

National Agency for Patients' Rights and Complaints¹

The National Agency for Patients' Rights and Complaints functions as a single point of access for patients who wish to complain about the professional treatment in the Danish health service.

The National Agency for Patients' Rights and Complaints also deals with complaints about the disregard of patient rights and complaints about the Patient Insurance Association's decisions over compensation.

The National Agency for Patients' Rights and Complaints is responsible for the administration of the system for reporting inadvertent incidents within the health service, and helps to make sure that the knowledge gained from these incidents and patient and liability suits is used preventatively.

The Energy Board of Appeal²

The Energy Board of Appeal is an independent board under the Danish Ministry of Climate, Energy and Building.

The Energy Board of Appeal is the final administrative board of appeal for rulings relating to legislation in the field of energy.

For example, certain rulings under the Act on the use of the subsoil in Denmark (lov om anvendelse af Danmarks undergrund) may be appealed according to the Act by persons with significant and individual interests in the ruling, and by local and national associations and organisations whose main purpose is the protection of nature and the environment (Article 9, Section 2 of the Convention) or whose purpose includes the management of significant recreational interests.

¹ Source: http://www.patientombuddet.dk/?sc_lang=en

² Source: <http://www.ekn.dk/>

No fee is payable to the Energy Board of Appeal in connection with appeals to the Board.

The Energy Supplies Complaint Board³

The Energy Supplies Complaint Board is established in co-operation between the Consumer Council and the Association of Danish Energy Companies, DONG (Danish Oil and Natural Gas), HMN Natural Gas, Natural Gas Funen and Danish District Heating Association.

The Board is composed of a neutral chairperson and four members. The chairperson is a city court judge. The Consumer Council appoints two members, and two members are appointed to represent the respectively energy trade area.

Consumer Law and Private Complaint Boards Division of the Danish Competition and Consumer Authority serves as secretariat to the Board.

The Board has a mandate to handle disputes arising from the contractual relationship between energy consumers and an electricity supply undertaking, natural gas supply undertaking and district heating supply undertaking.

The Energy Supplies Complaint Board will be able to deal with complaints from companies if the case has similarities with a complaint from a private person.

There are no thresholds as regards to the value of the dispute. The Board does not take up disputes settled by court judgement. On the other hand, shall a case, which is being dealt with by a Court of Law, be postponed and transferred to the Board.

The Board shall reject the complaint if

- The nature of the case implies that it cannot be adequately handled without oral statements from the parties given under liability to punishment or
- The case implies questions of evidence that are not likely to be clarified during a written procedure.

³ Source: <http://www.energianke.dk/english/>

The Consumer Complaints Board⁴

The Consumer Complaints Board is an independent complaints board which considers consumer complaints related to goods and services purchased from traders.

The Consumer Complaints Board consists of a chairman and consumer and business representatives. The chairman must be a judge by profession and may not have any particular relations to consumer or business organisations.

The consumer and business representatives are appointed for a four-year term by the Minister for Economic and Business Affairs upon nomination by the relevant organisations.

The Consumer Agency acts as the secretariat of the Consumer Complaints Board.

The Consumer Complaints Board considers complaints from private consumers related to goods, work and services purchased from traders. The Board does not accept complaints from traders or public authorities or institutions. Consumers may complain of traders only if an action concerning the issues at stake can be brought before the Danish courts against the relevant trader under the general rules of Danish law. The Ministry of Economic and Business Affairs has laid down rules on the scope of authority of the Agency. These rules imply that a number of goods and services are exempted from the Agency's scope of authority.

Consideration of complaints by the Board is subject to a fee of DKK 160. If the Board makes a decision in favour of the consumer or the case is settled, or if the complaint is dismissed as irrelevant, the complaint fee will be repaid.

Traders must cover the legal costs incurred by the Consumer Agency in connection with the consideration of a complaint by the Consumer Complaints Board if the consumer complaint is successful or if the complaint is settled.

The Consumer Complaints Board will consider a complaint if the consumer has already attempted in vain to solve the problem with the trader. The Board considers complaints in writing, and the parties are therefore not present at Board meetings.

The Danish National Tax Tribunal⁵

⁴ Source: <http://www.kfst.dk/en/forbrugerforhold/complaints/the-consumer-complaints-board/>

⁵ Source: <http://www.uk.landsskatteretten.dk/92/>

The Danish National Tax Tribunal is the supreme administrative appeals authority for cases involving taxation, VAT, duties, customs duty and property valuation. The National Tax Tribunal is not a court, although there are many similarities. The tribunal consists of a president, three chairmen and 30 members. Nineteen tribunal members are appointed by the Minister of Taxation while eleven are elected by the Danish parliament. At least 11 tribunal members meet the conditions for being judges and will normally be employed by either the two regional High Courts (Østre and Vestre Landsret) or one of the District Courts. The other members widely represent the Danish society. In cases about weight duty and motor tax on motor vehicles, four further expert members are appointed.

The tribunal consists of seven offices in which lawyers prepare the cases. The National Tax Tribunal decides on about 4,000 cases concerning tax and duties, and about 500 cases concerning property valuation each year.

There is a fee of DKK 800 when submitting the complaint. The fee will be refunded if the complaint is fully or partly sustained.

There is a right to conduct own case. There is no requirement that the case should be conducted by an accountant or a lawyer, or other experts but if it is decided to do so 50% of the cost will be refunded. However such expert costs will be fully refunded if the claim is either fully or largely upheld.

Public Contracts Appeals Board⁶

The Public Contracts Appeals Board is an independent administrative tribunal – a so-called ‘court-like complaints board’ – which is not subject to any power of direction. The rulings of the board may be brought before a court of justice.

The rulings of the board may not be brought before another administrative authority.

The main task of the board is to hear complaints concerning infringements by a public contractor of the EU regulations on tender procedures. The board is appointed to fulfil Denmark’s obligations with regard to the so-called control directives.

The rules governing the obligations of public contractors are contained in two directives relating to public procurement, i.e., the Public Procurement Directive and the Utilities Directive.

Moreover, the board hears complaints with regard to infringement of the Act on tenders, i.e., the law on invitations to tender for certain public contracts

⁶ Source: <http://www.klfu.dk/sw21708.asp>

and contracts that receive public subsidies (lov om indhentning af tilbud på visse offentlige og offentligt støttede kontrakter).

The board also has certain tasks relating to other acts, e.g., the Act on ferry services (lov om færgefart), the Act on subsidised private youth residences (lov om støttede private ungdomsboliger) and the Act on railways (lov om jernbane).

Any person with a legal interest in the case is entitled to submit a complaint to the board. A fee of DKK 10,000 is payable at the time of submitting a complaint to the board.

Furthermore, the Danish Minister for Business and Growth has granted access to the board for certain organisations and authorities. The Danish Competition and Consumer Authority may also bring complaints.

The Competition Appeals Tribunal⁷

The Competition Appeals Tribunal hears appeals on rulings passed by the Competition Council where this is provided for in the Act on competition (konkurrenceloven).

The fee for an appeal is DKK 5,000.

Rulings may be appealed by the person to whom the ruling is addressed and to persons who have individual significant interests in the case.

Board of Appeal for Patents and Trademarks⁸

The Board of Appeal for Patents and Trademarks hears appeals against the rulings by the Danish Patent and Trademark Office.

Fees for appeals are DKK 8,000 for patent cases, DKK 5,000 for utility models and DKK 4,000 for other matters. No fee is payable for complaints relating to the access to public records.

If a complaint is refused, the fee is reimbursed. If the appeal is successful, the board of appeal may order full or part repayment of the submitted fee. In general, however, the fee cannot be reimbursed unless special circumstances are involved. This is because the fee relates to a modest portion of the expenses connected with the processing of the appeal.

Question 2: Please provide details of the court fees that would be involved in bringing an environmental matter before the courts, rather than the Environment Appeals Board (EAB).

The Danish Ministry of Justice is able to provide the following information in answer to the above:

⁷ Source: <http://www.eogs.dk/sw27837.asp>

⁸ Source: <http://www.pvanke.dk/pvanke/indhold/sagsbehandling/#s2>

The rules governing *court fees* are laid down in the Act on court fees (retsafgiftsloven). In general, court fees are payable in connection with bringing proceedings in the courts and for trial proceedings or for handling of written legal cases that replace proceedings.

There is a basic fee of DKK 500 on bringing proceedings before the courts. In cases concerning money or a monetary value and where the value exceeds DKK 50,000, a further DKK 250 is payable on bringing proceedings, together with a supplement of 1.2 percent of the portion of the value above DKK 50,000, cf. the Act on court fees Section 1, subsections 1 and 2. In cases examining the exercise of authority, the maximum payment is however DKK 2,000, cf. the Act on court fees Section 1, subsection 4.

In cases concerning money or a monetary value and where the value exceeds DKK 50,000, a further fee is payable for trial proceedings or for the handling of written legal cases that replace proceedings. This fee is DKK 750 with a supplement of 1.2 percent of the portion of the value above DKK 50,000, cf. the Act on court fees Section 2, subsections 1 and 2. In cases examining the exercise of authority, the maximum payment is however DKK 2,000, cf. the Act on court fees Section 2, subsection 3.

The rules governing *legal costs* are laid down in the Administration of Justice Act (retsplejeloven) Chapter 30.

The Administration of Justice Act Section 312, subsection 1, states that the unsuccessful party must pay the expenses incurred by the counterparty in connection with the case unless the parties have agreed otherwise. Subsection 2 of the provision states that the court may however rule that the unsuccessful party shall not pay or shall pay only a part of the expenses incurred by the counterparty, where there is a special reason for this. Under the interpretative notes of the provision, special reasons may exist if, for example, the case raises issues of principle or has a far-reaching significance and if the successful party is, for example, a public authority. If the successful party is, for example, a public authority and the case has been open to doubt and raises issues of principle, the interpretative notes state that it is especially appropriate to consider dispensing with all or part of the obligation of the unsuccessful party to pay the legal costs of the case.

If one party has been granted *legal aid*, that party is released from paying court fees and the state covers that party's expenses in connection with the case. The aim of legal aid is to ensure the individual citizen's access to the courts by granting persons with fewer economic resources the possibility of bringing proceedings in the courts to the same extent as persons with more economic resources.

Legal aid is granted to persons that fulfil certain stipulated economic criteria if the person in question is deemed to have reasonable cause for bringing proceedings, cf. the Administration of Justice Act Sections 325 and 328 and Statutory Order no 1428 of 14 December 2010 on legal aid (bekendtgørelse

nr. 1428 af 14. december 2010 om fri proces). Legal aid may, for example, involve the appointment of legal counsel paid by the state, dispensation from court fees and dispensation from the requirement to pay the legal costs of the counterparty, cf. the Administration of Justice Act Section 331, Subsection 1.

Under the Administration of Justice Act Section 329, a person may receive legal aid if special reasons indicate that this is appropriate, even if the general conditions of Sections 325 and 328 of the Administration of Justice Act are not met, including, for instance, when the person in question is not a natural person but is a legal person. Under Section 329 of the Administration of Justice Act, legal aid may be given in cases raising issues of principle or cases that concern the interests of the general public or that have a significant bearing on the social or business situation of the applicant, cf. subsection 2 of the provision.

Legal aid may not normally be granted to persons who have insurance that covers the costs of a specific legal case. Before applying for legal aid, a request must be made to the insurance company concerning the possibility of insurance cover. If the insurance company refuses insurance cover, an application for legal aid can be made.

Question 3: Please provide a copy of the Opinion of the Expert Committee charged with reviewing the workload of the EAB (In English if available or otherwise in Danish)

Attached as annex in Danish only.

Question 4: Please provide sections of the following legislation setting out its objectives (In Danish with an English translation)

Introduction: In this section the following legislation is listed:

- A) The Act amending the Act on the Nature and Environmental Appeal Board and other acts (relevant abstracts are translated into English and marked with yellow)
- B) The bill to the abovementioned Act (only relevant explanatory notes from the bill are translated into English and marked with yellow. The legal text in Danish is the same as text in Section A).
- C) Statuary Order on fees bringing complaints to the Nature and Environmental Appeal Board (In English)
- D) The report of The Environment and Regional Planning Committee dated 8. December 2010 (Translated into English except the annexes and marked with yellow.). Reference is made to email to Fiona Marshall dated the 25. October 2011.

Ad A)

Act to amend the Act on the Nature and Environmental Appeal Board and the Act to amend the Nature Protection Act, the Environmental Protection Act and various other acts

(Differentiated appeal fee)

BE IT KNOWN that the Folketing has enacted, and We, Margrethe the Second, by the grace of God, Queen of Denmark, have given Our Royal Assent to the following Act:

Section 1

Act No. 483 of 11 May 2010 on the Nature and Environmental Appeal Board shall be amended as follows:

1. *Section 18* shall be worded as follows:

»18(1) For the consideration of appeals submitted to the Board, including applications for resumption, private citizens shall be liable to pay a fee of DKK 500. If appeals are submitted by others, including enterprises, organisations or public authorities, the fee shall be DKK 3,000.

(2) Notwithstanding subsection (1), no fee shall be payable for appeals against preservation decisions pursuant to section 40 of the Nature Protection Act.

(3) Notwithstanding subsection (1), no fee shall be payable for appeals against compulsory purchase decisions pursuant to section 60 of the Nature Protection Act, section 23 of the Forest Act, rules laid down pursuant to section 60a of the Nature Protection Act, section 27 of the Raw Materials Act, section 47 of the Planning Act, section 33 of the Act on protection of the outer polders in Tøndermarsken (the Tønder marshlands), section 40 of the Water Supply Act, section 22(2) and (4) of the Soil Contamination Act, section 52(1) of the Environmental Objectives Act, section 71 of the Watercourses Act and section 58 of the Environmental Protection Act, and appeals against decisions made pursuant to section 82 of the Environmental Protection Act where those decisions concern cases under section 58.

(4) Notwithstanding subsection (1), no fee shall be payable for appeals against decisions pursuant to sections 19d-19f of the Nature Protection Act.

(5) Notwithstanding subsection (1), no fee shall be payable for appeals against decisions pursuant to sections 19-21 of the Forest Act.

(6) Notwithstanding subsection (1), no fee shall be payable for appeals solely concerning refusals of access to information pursuant to the Open Administration Act, the Public Administration Act and the Act on access to environmental information.

(7) The Minister for the Environment may lay down rules regarding the practical procedure of payment, including rules regarding electronic payment or giro payment and rules on the refunding of fees for the consideration of appeals.«

2. § 20, *stk. 1* affattes således:

»Loven træder i kraft den 1. januar 2011.«

§ 2

I lov nr. 484 af 11. maj 2010 om ændring af lov om naturbeskyttelse, lov om miljøbeskyttelse og forskellige andre love. (Ændringer som følge af lov om Natur- og Miljøklagenævnet m.v.) foretages følgende ændring:

1. § 28, stk. 1, affattes således:

»Stk. 1. Loven træder i kraft den 1. januar 2011 jf. dog stk. 2.«

§ 3

Stk. 1. Loven træder i kraft den 1. januar 2011.

Stk. 2. Klager over afgørelser truffet før den 1. januar 2011 behandles efter de hidtil gældende regler, jf. dog stk. 3.

Stk. 3. Uanset bestemmelsen i stk. 2 finder § 18 i lov om Natur- og Miljøklagenævnet som affattet ved denne lovs § 1, nr. 1, anvendelse på alle klager over vandløbsmyndighedernes afgørelser efter kapitel 2-4 i bekendtgørelse om vandløbsregulering og -restaurering m.v., som påklages til Natur- og Miljøklagenævnet efter lovens ikrafttræden.

§ 4

Loven gælder ikke for Grønland og Færøerne, men kan ved kongelig anordning sættes helt eller delvis i kraft for Grønland med de ændringer, som de grønlandske forhold tilsiger.

Givet på Marselisborg Slot, den 22. december 2010

Under Vor Kongelige Hånd og Segl

MARGRETHE R.

/ Karen Ellemann

Ad B)

Fremsat den 17. november 2010 af miljøministeren (Karen Ellemann)

Forslag

til

Lov om ændring af lov om Natur- og Miljøklagenævnet og lov om ændring af lov om naturbeskyttelse, lov om miljøbeskyttelse og forskellige andre love (Ændringer som følge af lov om Natur- og Miljøklagenævnet m.v.)

(Differentieret klagegebyr)

§ 1

I lov nr. 483 af 11. maj 2010 om Natur- og Miljøklagenævnet, foretages følgende ændringer:

1. § 18 affattes således:

»§ 18. For behandling af klager, der indbringes for nævnet, herunder anmodninger om genoptagelse, betaler privatpersoner et gebyr på 500 kr. Hvis klager indgives af andre, herunder af virksomheder, organisationer eller offentlige myndigheder er gebyret 3.000 kr.

Stk. 2. Uanset stk. 1 betales ikke gebyr for klager over fredningsafgørelser efter naturbeskyttelseslovens § 40.

Stk. 3. Uanset stk. 1 betales ikke gebyr for klager over ekspropriationsbeslutninger efter naturbeskyttelseslovens § 60, skovlovens § 23, regler fastsat i medfør af naturbeskyttelseslovens § 60 a, råstoflovens § 27, planlovens § 47, Tøndermarsklovens § 33, vandforsyningslovens § 40, jordforureningslovens § 22, stk. 2 og 4, miljømålslovens § 52, stk. 1, vandløbslovens § 71 og miljøbeskyttelseslovens § 58 samt klager over afgørelser truffet i medfør af miljøbeskyttelseslovens § 82, når disse afgørelser vedrører sager efter § 58.

Stk. 4. Uanset stk. 1 betales ikke gebyr for klager over afgørelser efter naturbeskyttelseslovens §§ 19 d-19f.

Stk. 5. Uanset stk. 1 betales ikke gebyr for klager over afgørelser efter skovlovens §§ 19-21.

Stk. 6. Uanset stk. 1 betales ikke gebyr for klager, der udelukkende vedrører afslag på aktindsigt efter lov om offentlighed i forvaltningen, forvaltningsloven og lov om aktindsigt i miljøoplysninger.

Stk. 7. Miljøministeren kan fastsætte regler om den praktiske fremgangsmåde for betaling, herunder regler om elektronisk overførsel eller giroindbetaling og regler om tilbagebetaling af gebyr for behandlingen af klager.«

2. § 20, stk. 1, affattes således:

»Loven træder i kraft den 1. januar 2011.«

§ 2

I lov nr. 484 af 11. maj 2010 om ændring af lov om naturbeskyttelse, lov om miljøbeskyttelse og forskellige andre love (Ændringer som følge af lov om Natur- og Miljøklagenævnet m.v.), foretages følgende ændring:

1. § 28, stk. 1, affattes således:

»Stk. 1. Loven træder i kraft den 1. januar 2011, jf. dog stk. 2.«

§ 3

Stk. 1. Loven træder i kraft den 1. januar 2011.

Stk. 2. Klager over afgørelser truffet før den 1. januar 2011, behandles efter de hidtil gældende regler, jf. dog stk. 3.

Stk. 3. Uanset bestemmelsen i stk. 2 finder § 18 i lov om Natur- og Miljøklagenævnet, som affattet ved denne lovs § 1, nr. 1, anvendelse på alle klager over vandløbsmyndighedernes afgørelser efter kapitel 2-4 i bekendt-

gørelse om vandløbsregulering og -restaurering m.v., som påklages til Natur- og Miljøklagenævnet efter lovens ikrafttræden.

§ 4

Loven gælder ikke for Grønland og Færøerne, men kan ved kongelig anordning sættes helt eller delvist i kraft for Grønland med de ændringer, som de grønlandske forhold tilsiger.

Explanatory notes to the Bill

<i>General notes</i>	
Table of contents	
1.	Introduction
2.	Current law
3.	Main contents of the Bill
4.	Financial and administrative consequences for the government sector
	4.1. The central government
	4.2. The regional authorities
	4.3. The local authorities
5.	Financial and administrative consequences for the business sector, etc.
6.	Administrative consequences for citizens
7.	Environmental consequences
8.	Relationship to the Aarhus Convention and EU law
9.	Consultation
10.	Summary table

1. Introduction

The Government, the Danish People's Party and the Christian Democrats have agreed to differentiate the fee for appeals to the Nature and Environmental Appeal Board as part of the agreement on the Budget for 2011. Hence, the appeal fee is proposed to be DKK 500 for private citizens and DKK 3,000 for enterprises and organisations. This will enable the Nature and Environmental Appeal Board to focus more on the most important cases. The proposal should be seen as part of continuing efforts to speed up case processing times, thereby ensuring fast and efficient consideration of all appeals. Further initiatives with this objective include the allocation of DKK 10 million for external assistance for a targeted effort by the Nature and Environmental Appeal Board, aiming to reduce the number of old, unfinished cases from the beginning of the year. In addition, the parties behind the political accord agree to set up a fast-working external expert committee to prepare an overall reform of the appeals system in the environmental sector. The object is to establish an appeals system that ensures fast and

efficient consideration of appeals so that no one will have to wait years for a decision.

2. Current law

The fee for appeals to the Nature Protection Board of Appeal is currently fixed pursuant to a large number of acts. The current fee is DKK 500, which is refunded if the appeal is entirely or partly successful. Other appeals to the Nature Protection Board of Appeal and all appeals to the Environmental Board of Appeal are currently exempt from fees. The current fee rules are laid down in Executive Order No. 950 of 16 September 2004 on fees for submitting appeals to the Nature Protection Board of Appeal.

The two boards of appeal were merged under Act No. 483 of 11 May 2010 on the Nature Protection and Environmental Board of Appeal. It is assumed that the merger will take effect as from 1 January 2011.

It should be noted that appeals against watercourse regulation submitted to the Agency for Spatial and Environmental Planning are currently subject to a fee of DKK 7,760. These cases will be transferred to the Nature Protection and Environmental Board of Appeal as from 1 January 2011 under Act No. 483 of 11 May 2010 on the Nature Protection and Environmental Board of Appeal and Act No. 484 of 11 May 2010 to amend the Nature Protection Act, the Environmental Protection Act and various other acts (Amendments as a consequence of the Act on the Nature Protection and Environmental Board of Appeal, etc.).

3. Main contents of the Bill

The Bill entails that, as a principle rule, a fee is set for appeals to the Board of Appeal in all cases eligible to be brought before the Board of Appeal in accordance with legislation. Under the Bill, a fee is also set for those categories of cases against which appeals could previously be submitted to the Environmental Board of Appeal, and decisions under other legislation against which appeals can be submitted to the Nature Protection Board of Appeal, but for which there was previously no authority to lay down rules on appeal fees. The fees are proposed to be set at DKK 500 for private citizens and DKK 3,000 for all other appellants, including enterprises, organisations and public authorities. However, it is proposed that certain categories of cases be exempt from appeal fees, including, for example, appeals in cases of compulsory purchase, preservation and access to information.

Based on the Bill, rules will be laid down on the refunding of fees, including where the decision appealed against is revoked or amended, or where the appeal is entirely or partly successful.

The Bill also includes commencement provisions for Act No. 483 of 11 May 2010 on the Nature Protection and Environmental Board of Appeal, and Act No. 484 of 11 May 2010 to amend the Nature Protection Act, the Environmental Protection Act and various other acts (Amendments as a consequence of the Act on the Nature Protection and Environmental Board of Appeal, etc.).

4. Financial and administrative consequences for the government sector

4.1. The central government

4.1.1. Financial consequences

The fact that several categories of cases will be subject to fees, and the fact that the fee for enterprises and organisations is set at DKK 3,000, is expected to generate government revenues of the order of DKK 1.7 million.

The expected proceeds from fees will be allocated to the funds for general tax concessions, cf. the fee policy principles.

Rules will be laid down on the refunding of fees in accordance with the Government's fee policy.

4.1.2. Administrative consequences

Charging and refunding of fees and the decision-making process in connection with differentiation are expected to cause an increase in the administrative burden on the secretariat of the Nature and Environmental Appeal Board. At the same time, however, the number of appeals submitted by organisations and enterprises is expected to decrease.

4.2. Regionerne

Forslaget har ingen økonomiske eller administrative konsekvenser for regionerne.

4.3. Kommunerne

Lovforslaget vurderes at ville have positive økonomiske og administrative konsekvenser for kommunerne som en følge af forventet nedgang i antallet af klager, som indgives til kommunerne som følge af de foreslåede ændringer af gebyrerne.

5. De økonomiske og administrative konsekvenser for erhvervslivet mv.

Der skal betales for flere sagstyper og gebyret forhøjes på nær klager over vandløbsreguleringer, hvor gebyret mere end halveres.

6. De administrative konsekvenser for borgerne

Forslaget har ingen administrative konsekvenser for borgerne.

7. De miljømæssige konsekvenser

Forslaget har ingen miljømæssige konsekvenser.

8. Relationship to the Aarhus Convention and EU law

For the purpose of implementing Article 9, paragraphs 2 and 4, of the Aarhus Convention, Article 16 of Directive 2008/1/EC concerning integrated pollution prevention and control, and Directive 85/337/EEC on the assessment on the effects of certain public and private projects on the environment, as amended by Directive 2003/35/EC, provides that there must be access to a review procedure before a court of law or other independent and impartial body established by law to challenge decisions under the two Directives.

Within the remit of the Ministry of the Environment, these provisions are implemented by the access to appeal to the Environmental Board of Appeal and the Nature Protection Board of Appeal, respectively.

In addition, Article 9, paragraph 3, of the Aarhus Convention includes a requirement for "access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment." This provision has not been implemented by an EU Directive and its scope is not clear, but the provision, like appeals covered by the IPPC Directive and the EIA Directive, is applicable to appeals to the Nature Protection and Environmental Board of Appeal.

Furthermore, it follows from Article 9, paragraph 4, of the Aarhus Convention and the Directives that the procedures shall be fair, equitable, timely and not prohibitively expensive.

The Nature and Environmental Appeal Board, in line with the two existing boards, meets the requirements of the Convention and the Directives, always provided that the fees for appeals to the Board of Appeal are proposed to be set at such an amount as to comply with the requirement of the Directives that the procedures shall not be prohibitively expensive.

Similarly, access to appeal to the two boards is part of the implementation of the rules on challenging decisions on access to environmental information in Article 6, paragraph 1, of Directive 2003/4/EC on public access to environmental information, implementing parts of Article 9, paragraph 1, of the Aarhus Convention. Article 6, paragraph 1, of the Directive provides, *inter alia*, that the procedure shall be expeditious and either free of charge or inexpensive. Parts of the Directive are implemented by the Act on access to environmental information; cf. Consolidation Act No. 660 of 14 June 2006. The proposed Nature Protection and Environmental Board of Appeal, in line with the two existing boards, meets the requirements of the Convention and the Directive, always provided that the fees for appeals to the Board are proposed to be set at such an amount as to comply with the requirement that the procedure shall be free of charge or inexpensive.

As mentioned above, the Aarhus Convention and the Directives require the procedures to be timely. This is assumed to imply reasonable processing times, among other things.

Finally, it should be noted that Article 13 of the Environmental Liability Directive (Directive 2004/35/EC of 21 April on environmental liability with regard to the prevention and remedying of environmental damage) also includes provisions on review procedures and access to justice. However, the Directive does not contain express provisions stating that the procedures shall be fair, equitable, timely and not prohibitively expensive. The Bill contains no further aspects of EU law.

9. Høring

Lovforslaget er inden fremsættelsen sendt i høring hos følgende myndigheder og organisationer:

Beskæftigelsesministeriet, Finansministeriet, Forsvarsministeriet, Indenrigs- og Sundhedsministeriet, Justitsministeriet, Kirkeministeriet, Klima- og Energiministeriet, Kulturministeriet, Ministeriet for Fødevarer, Landbrug og

Fiskeri, Ministeriet for Videnskab, Teknologi og Udvikling, Skatteministeriet, Statsministeriet, Transportministeriet, Økonomi- og Erhvervsministeriet, Økonomi- og Erhvervsministeriet. Grønlands selvstyre, 3F Fagligt Fælles Forbund, 92-gruppen 3F Fagligt Fælles Forbund, Advokatrådet/Advokatsamfundet, Affalddanmark, Arbejderbevægelsens Erhvervsråd, Akademiet for de tekniske videnskaber, Asfaltindustrien, Batteriforeningen, Bekæmpelsesmiddelrådets medlemmer, Benzinformandernes Fælles Repræsentation, Bilfærgernes Rederiforening, Branchearbejdsmiljørådet Jord til Bord, Brancheforeningen SPT, Bryggeriforeningen, By & Havn, Campingrådet, Central organisationen af industriansatte i Danmark (CO-industri), Centralorganisationernes Fællesudvalg (CFU), COOP Danmark, DAKOFA (Dansk komité for affald), Danmarks Apotekerforening, Danmarks Cykel Union, Danmarks Fiskeindustri- og Eksportforening, Danmarks Fiskeriforening, Danmarks Idræts-Forbund, Danmarks Jægerforbund, Danmarks Lak- og Farveindustri, Danmarks Miljøundersøgelser, Danmarks Motorunion, Danmarks Naturfredningsforening, Danmarks Rederiforening, Rederiforeningen af 1895 og Bilfærgernes Rederiforening, Danmarks Sportsfiskerforbund, Danmarks Turistråd (nu Visit Denmark), Danmarks Vindmølleforening, Dansk Botanisk Forening, Dansk Akvakultur, Dansk Arbejdsgiverforening, Dansk Amatørfiskerforening (formand), Dansk Autogenbrug, Dansk Byggeri, Dansk Camping Union, Dansk Cyklistforbund, Dansk Energi, Dansk Energi Brancheforening, Dansk Entomologisk Forening, Dansk Erhverv, Dansk ErhvervsFremme, Dansk Fritidsfiskerforbund att. Anders Sydney Jensen, Dansk Galvanisør Union, Dansk Gartneri, Dansk Gasteknisk Center, DI – Organisation for erhvervslivet, Dansk Journalistforbund, Dansk Juletræsdyrkerforening, Dansk Kano og Kajak Forbund, Dansk Land- og Strandjagtforening, Dansk Metal, Dansk Navigatørforening, Dansk Ornitologisk Forening, Dansk Planteværn, Dansk Retspolitisk Forening, Dansk Skovforening, Dansk Textil og Beklædning, Dansk Transport og Logistik, Dansk Vand- og Spildevandsforening, Dansk Vandrelaug, Danske Advokater, Danske Fjernvarme, Danske Grus- og Stenindustri, Danske Havne, Danske Maritime, Danske Regioner, DASU (Dansk automobil sports union), De danske skytteforeninger, De Økologiske Råd, Delta, Den Danske Dommerforening, Det Jordbrugsvidenskabelige Fakultet, Det Økonomiske Råd, DHI Institut for Vand og Miljø, Dommerfuldmægtigforeningen, DONG Energy, Dyrenes Beskyttelse, Ellen Margrethe Basse, Elretur, Emballageindustrien, ENERGINET. DK, Erhvervs- og Selskabsstyrelsen, Nationale høringer, Forbrugerrådet, FORCE Technology, Foreningen af Bioteknologiske Industrier i Danmark, Foreningen af Danske Brøndborere, Foreningen af Danske Privathavne, Foreningen af Danske Ral- og Sandsugere, Foreningen af lystbådehavne, Foreningen af miljø-, plan- og naturmedarbejdere i kommunerne (ENVINA), Foreningen af Registrerede Revisorer, Foreningen af Rådgivende Ingeniører, Foreningen af Statsautoriserede Revisorer, Foreningen af Vandværker i Danmark, Friluftsrådet, Fritidshusejernes Landsforening, Genvindingsindustrien (GI), Grafisk arbejdsgiverforening, Green Network, Greenpeace Danmark, Grønne familier, GTS (Godkendt Teknologisk Service), HORESTA, Håndværksrådet, Ingeniørforeningen Danmark, Kalk- og Teglværksforeningen, KL, Kommunalteknisk Chefforening, Kommunekemi A/S, Kyst, Land & Fjord, Københavns Universitet, Peter Pagh, Helle Tegner Anker, Landbrug & Fødevarer, Landbrugsrådet,

Landsforeningen af Danske Anlægsgartnere, Landsforeningen Danske Maskinstationer, Landsforeningen Levende Hav, Landsorganisationen i Danmark (LO), Mærsk Olie & Gas A/S, Natur og Ungdom, NOAH, Oliebranchens Fællesrepræsentation (OFR), Plastindustrien i Danmark, Rederiforeningen for Mindre Skibe, Reno Sam, Returbat, RUC (Roskilde Universitetscenter), Skovdyrkerforeningerne, Småskovsforeningen Danmark, Spildevandsteknisk Forening, Syddansk Universitet, Teknologirådet, Teknologisk Institut, Træ – industri – Byg, Uniscrap, WEEE-System, WWF – Verdensnaturfonden, Økologisk Landsforening, Aalborg Universitet, Århus Universitet

10. Sammenfattende skema		
	Positive konsekvenser/ mindre udgifter	Negative konsekvenser/ merudgifter
Økonomiske konsekvenser for staten	1,7 mill. Kr.	
Økonomiske konsekvenser for regionerne	Ingen	
Økonomiske konsekvenser for kommunerne	Lille fald i administrationsomkostninger	
Administrative konsekvenser for staten	Færre sager	Administration af differentierede gebyrer
Administrative konsekvenser for regionerne	Ingen	
Administrative konsekvenser for kommunerne	Færre sager	-
Økonomiske konsekvenser for erhvervslivet		Øgede udgifter til gebyrer
Administrative konsekvenser for erhvervslivet	Ingen	Ingen
Administrative konsekvenser for borgerne	Ingen	Ingen
Miljømæssige konsekvenser	Ingen	Ingen
Forholdet til EU-retten	Vurderes at leve op til EU retlige krav i medfør af Århuskonventionen	

Explanatory notes to the individual provisions of the Bill

Re. section 1

Re. no. 1.

This provision implements parts of the agreement between the Government, the Danish People's Party and the Christian Democrats on the Budget for 2011.

It introduces a general duty to pay a fee for the submission of appeals to the Nature and Environmental Appeal Board, including applications for re-

sumption. In connection with this, a notice of appeal concerning several decisions is regarded as several appeals, and a fee will be charged for each decision appealed against.

The fee is set at DKK 500 for private citizens and DKK 3,000 for others, including enterprises, organisations and public authorities. The fee amount is set taking into consideration differences in the ability to pay, typically applying to different categories of those entitled to appeal under the various acts concerning the planning, nature and environmental sectors. In future, appeals against watercourse regulation will be considered by the Nature and Environmental Appeal Board, and it is proposed that the existing fee of DKK 7,760 for the consideration of an appeal by the Agency for Spatial and Environmental Planning be replaced by the new fee.

Private citizens will include landowners and others entitled to appeal as citizens under the relevant laws, including several citizens submitting a joint appeal. An appeal will also be regarded as being submitted by private citizens when they are represented by advisors, including by lawyers. Appeals submitted by homeowners' associations or other associations which are solely regarded as being entitled to appeal as representatives of private citizens who are entitled to appeal, will fall under the rule on fees payable by private citizens. It is presupposed in connection with this that the association is able to prove that it represents private citizens who are entitled to appeal.

Enterprises are businesses registered in the Danish central business register (CVR) which are entitled to appeal under the relevant laws. This applies to both sole operators and companies. In connection with this, it is immaterial how the enterprise is represented in the appeal, e.g. whether by its management, board of directors or advisors. Furthermore, it has no bearing on the fee rules whether the enterprise appeals as the addressee of the decision appealed against, or whether it is entitled to appeal on other grounds.

Organisations are those associations etc. which are entitled to appeal under the relevant laws. This concept also includes appeals submitted by associations etc. on behalf of citizens who are entitled to appeal where the association is entitled to appeal the case. Local associations that are entitled to appeal under the various laws will also fall under the rules concerning organisations.

Under this Bill, public authorities such as local councils, regional councils or central government authorities are placed on the same footing as enterprises and organisations and are consequently liable to pay a fee of DKK 3,000.

If several appellants submit a joint appeal, they will be liable to pay a single fee. If one of the appellants is an enterprise, an organisation or a public authority, the fee will be DKK 3,000.

Subsections (2)-(6) propose that certain categories of cases be exempt from paying fees, including that the existing exemptions from payment of fees to the Nature and Environmental Appeal Board be maintained as provided for in the explanatory notes to section 18 of Bill L103 on the Nature and Environmental Appeal Board.

Currently, no fee is payable for appeals against preservation decisions pursuant to section 40 of the Nature Protection Act or appeals against compulsory purchase decisions under the following provisions: section 60 of the Nature Protection Act, section 23 of the Forest Act, rules laid down pursuant to section 60a of the Nature Protection Act, section 27 of the Raw Materials Act, section 47 of the Planning Act or section 33 of the Tønder Marshlands Act. Furthermore, no fee is payable for appeals against decisions pursuant to sections 19d-f of the Nature Protection Act or sections 19-21 of the Forest Act. The proposed subsections (2)-(5) maintain these exemptions.

In addition, the proposed subsection (3) implies that appeals against compulsory purchase decisions in the new fields of law, which will be covered by the fee rules in future, will also be exempt from payment of fees. These include decisions pursuant to section 40 of the Water Supply Act, section 22(2) and (4) of the Soil Contamination Act, section 52(1) of the Environmental Objectives Act, section 71 of the Watercourses Act, section 58 of the Environmental Protection Act, and decisions made pursuant to section 82 of the Environmental Protection Act when those decisions concern cases under section 58.

Finally, it is proposed in subsection (6) that appeals solely concerning refusals of access to information be exempted from payment of fees, whether the decision is made pursuant to the Open Administration Act, the Public Administration Act or the Act on access to environmental information.

The authorisation in subsection (7) will be used to lay down more detailed rules on payment, including requirements for electronic payment of the fee. Rules will also be laid down on the refunding of fees, including where the decision appealed against is revoked or amended, or where the appeal is entirely or partly successful.

In connection with this, it should be noted that in many cases currently decided by the Environmental Board of Appeal, it can be expected that it will be open to question when an appeal is successful – particularly where there are several appellants, or where a decision is amended or revoked without this being related to a condition appealed against, for example. As a consequence, it is the assessment of the Environmental Board of Appeal that it will facilitate administration if the fee is refunded when the appeal leads to the decision being revoked or amended.

Til nr. 2

Lov nr. 483 af 11. maj 2010 om Natur- og Miljøklagenævnet indeholder i § 20, stk. 1, en bestemmelse om, at loven træder i kraft efter miljøministerens bestemmelse. For at sikre en samtidig ikrafttræden af reglerne foreslås det, at lovens ikrafttrædelse fastsættes i denne lov.

Til § 2

Til nr. 1

Lov nr. 484 af 11. maj 2010 om ændring af lov om naturbeskyttelse, lov om miljøbeskyttelse og forskellige andre love (Ændringer som følge af lov om Natur- og Miljøklagenævnet m.v.) indeholder i § 28, stk. 1, en bestem-

melse om, at loven træder i kraft efter miljøministerens bestemmelse. For at sikre en samtidig ikrafttræden af reglerne foreslås det, at lovens ikrafttrædelse fastsættes i denne lov.

Til § 3

I *stk. 1* foreslås det, at loven træder i kraft den 1. januar 2011.

De nye gebyrregler skal gælde for klager over afgørelser, der træffes efter lovens ikrafttræden 1. januar 2011. Klager over afgørelser truffet før 1. januar 2011 vil blive pålagt gebyr efter de hidtil gældende regler, bortset fra klager over vandløbsreguleringer, hvor nedsættelsen af klagegebyret foreslås at få virkning for alle klager, der indbringes for Natur- og Miljøklagenævnet efter 31. december 2010.

De hidtil gældende regler om gebyr til Naturklagenævnet, opretholdes for klager over afgørelser truffet før 1. januar 2011, som er indgivet til Naturklagenævnet inden denne dato, dog således at det bliver Natur- og Miljøklagenævnet, som administrerer reglerne, herunder spørgsmål om tilbagebetaling efter dette tidspunkt.

Der vil i bekendtgørelse fastsat i medfør af lovens § 18, stk. 7, blive fastsat overgangsregler herom i medfør af lovens § 20, stk. 2.

Til § 4

Lov nr. 483 af 11. maj 2010 om Natur- og Miljøklagenævnet indeholder i § 21 en bestemmelse om at loven kan sættes i kraft for Færøerne og Grønland. I det omfang det måtte ske, vil det være hensigtsmæssigt, at gebyrreglerne også kan sættes i kraft for de pågældende sager.

(annexes – not attached)

Ad C)

Statutory Order on fees for the submission of appeals to the Nature and Environmental Appeal Board, etc.

In pursuance of sections 18(7) and 20(2) of Act No. 483 of 11 May 2010 on the Nature and Environmental Appeal Board, as amended by Act No. 1608 of 22 December 2010, and section 28(7) of Act No. 484 of 11 May 2010 amending the Nature Protection Act, the Environmental Protection Act and various other acts, the following shall apply:

1(1) The appeal fee provided in the Nature and Environmental Appeal Board shall be charged by the Nature and Environmental Appeal Board.

(2) If several appeals against the same decision are submitted, a fee shall be charged for each individual notice of appeal.

(3) Appeal fees shall be payable by electronic transfer or giro payment.

(4) The Nature and Environmental Appeal Board of Appeal shall establish a deadline for payment of the fee. If the fee is not paid within the deadline, the appeal shall be refused.

2(1) A fee that has been paid shall be refunded if

1) the appeal leads to the decision appealed against being amended or revoked,

2) the appeal is entirely or partly successful, or if

3) the appeal is refused because the deadline for the appeal has been exceeded, because the appellant has no *locus standi*, or because the appeal falls outside the scope of authority of the Nature and Environmental Appeal Board.

(2) The fee shall not be refunded under subsection (1), no. 1, however, if the only amendment to the decision appealed against is an extension of the deadline for compliance with the decision due to the time spent by the Board of Appeal considering the case.

(3) The Nature and Environmental Appeal Board shall decide issues of payment and refunding of fees. The decisions of the Board of Appeal cannot be brought before another administrative authority.

3(1) This Statutory Order shall enter into force on 1 January 2011.

(2) This Statutory Order shall not apply to appeals against decisions made before 1 January 2011, but see subsection (3).

(3) Notwithstanding the provision in subsection (2), the rules in this Executive Order shall cover all appeals against the watercourse authority's decision under parts 2-4 of the Executive Order on the regulation and restoration of watercourses, etc. submitted to the Nature and Environmental Appeal Board after 31 December 2010.

Statutory Order No. 950 of 16 September 2004 on fees for the submission of appeals to the Nature Protection Board of Appeal is repealed. The rules shall continue to apply to appeals against decisions made before 1 January 2011, however, such that as from 1 January 2011 the Nature and Environmental Appeal Board shall charge the appeal fee and make decisions as regards refunding.

Ministry of the Environment, 22 December 2010

Karen Ellemann

/ Helle Pilsgaard

Ad D)

Summary (contents)

Annex 1

Full version

Report submitted by the Environment and Regional Planning Committee on
8 December 2010

Report

on the

Bill to amend the Act on the Nature and Environmental Appeal Board and the Act to amend the Nature Protection Act, the Environmental Protection Act and various other acts

(Differentiated appeal fee)

[by Minister for the Environment (Karen Ellemann)]

1. The Committee's work

The Bill was introduced on 17 November 2010 and given its first reading on 30 November 2010. After its first reading, the Bill was referred for debate in the Environment and Regional Planning Committee.

Meetings

The Committee has debated the Bill at two meetings.

Consultation

The Bill went out to consultation at the time of introduction. On 25 November 2010, the Minister for the Environment submitted the consultation responses that had been received and a memorandum on this subject to the Committee.

Written enquiries

In connection with its work, the Committee has received one written enquiry from the Green Contact Committee.

The Minister for the Environment has submitted her explanatory notes to the written enquiry to the Committee.

Deputations

Furthermore, the Green Contact Committee has delivered an oral statement to the Committee on its opinion of the Bill.

Questions

The Committee has put 16 questions to the Minister for the Environment to be answered in writing. The Minister for the Environment has answered all but questions 14-16, which are expected to be answered before the second reading of the Bill.

2. Recommendations and political comments

A Committee *majority* (V, DF and KF) recommends the Bill for *adoption with no amendments*.

A Committee *minority* (S, SF, RV, EL and IA) recommends the Bill for *rejection* in the third reading.

The members of the Social Democratic Party, the Socialist People's Party, the Social Liberal Party and the Unity List find that the proposed fee for appeals by private and green organisations against regulatory decisions concerning the environment is extremely problematic in both environmental and democratic terms.

In some instances, appeals used to be free of charge, in others the fee used to be DKK 500. In many cases, the Bill will result in a six-fold increase in the fee. This increase will affect individual citizens and organisations who rely on voluntary work and individual contributions of the order of DKK 50-100. The appeals system is an integral part of Danish democracy and participation should be free of charge. In a well-functioning democracy, all interests should have the opportunity to be heard. This is particularly true of interests that cannot speak up for themselves, such as nature. The green organisations and individual citizens safeguard this interest by appealing against dubious decisions by the authorities. Hence, the appeals system plays an important role in exposing impolitic legislation and administration.

With the proposed fee, the Minister limits those who can afford to appeal, rather than those who are formally entitled to appeal. In the parties' view, the result is the same, i.e. a limitation of the ability of citizens and organisations to check up on public institutions and test their decisions.

Moreover, the parties are of the opinion that the Minister has failed to document the grounds for the Bill. For example, when the green organisations win all their appeals relating to the Act on environmental approval of animal husbandry, which has given rise to many appeals of late, the increase in the number of appeals cannot be attributed to unwarranted appeals. In addition, the Legal Advisor to the Government has confirmed that the appeals are equitable. Finally, cf. the answer to question 8, the Minister has been unable to document that the number of unwarranted appeals will decline, but instead that the total number of appeals will be reduced, including the number of legitimate appeals. The parties find this highly problematic, a view which they also pointed out in the Committee's report on the Bill L 103/104 in the sessional year 2009-10.

Instead, the reason for the increase in the number of appeals is to be found in the basis for the decisions by the authorities, i.e. the sloppy environmental legislation passed by the Government, e.g. the Act on environmental approval of animal husbandry – legislation which prevents proper processing by the local authorities. This leads to dubious decisions which citizens and organisations appeal against to the boards of appeal. Consequently, rather than limiting the democratic right of citizens and organisations to appeal against the authorities' decisions, the Minister should review the legislation giving rise to the appeals.

Finally, the parties urge the Minister to assess in advance whether the Bill is in accordance with Denmark's international commitments. The Danish Centre for Environmental Assessment has stated very clearly that the Bill is in contravention of international agreements, and that the Bill should be submitted to the Court of Justice. Accordingly, the parties find that the Bill may conflict with the intentions of the Aarhus Convention.

At the time of submission of the report, Liberal Alliance, the Christian Democrats, Siumut (Greenland), Tjóðveldisflokkurinn and Sambandsflokkurinn (the Faroe Islands) were not represented by members in the Committee and thus did not have access to make recommendations or political statements in the report. An overview of the composition of the Folketing is reprinted in the report. It should be noted that a majority or a minority in the Committee will not always reflect a majority/minority of votes in the Chamber of the Folketing.

An overview of the composition of the Folketing is reprinted in the report.

Peter Juel Jensen (V) **vice-chairperson** Eyvind Vesselbo (V) Erling Bonnesen (V) Birgitte Josefsen (V) Hans Christian Thoning (V) Jørn Dohrmann (DF) Liselott Blixt (DF) Carina Christensen (KF) Tage Leegaard (KF) Torben Hansen (S) Mette Gjerskov (S) Flemming Møller Mortensen (S) Ida Auken (SF) **chairperson** Steen Gade (SF) Johs. Poulsen (RV) Per Clausen (EL)
Juliane Henningsen (IA)

Liberal Alliance, the Christian Democrats, Siumut (Greenland), Tjóðveldisflokkurin and Sambandsflokkurin (the Faroe Islands) were not represented by members of the Committee.

Venstre (Liberal Party) (V)	47
Socialdemokratiet (Social Democratic Party) (S)	45
Dansk Folkeparti (Danish People's Party) (DF)	24
Socialistisk Folkeparti (Socialist People's Party) (SF)	23
Det Konservative Folkeparti (Conservative Party) (KF)	17
Radikale Venstre (Social Liberal Party) (RV)	9
Enhedslisten (Unity List) (EL)	4
Liberal Alliance (Liberal Alliance) (LA)	3
Kristendemokraterne (Christian Democrats) (KD)	1
Inuit Ataqatigiit (Greenland) (IA)	1
Siumut (Greenland) (SIU)	1
Tjóðveldisflokkurin (Faroe Islands) (TF)	1
Sambandsflokkurin (Faroe Islands) (SP)	1
Outside the parliamentary groups (UFG)	2

Annex 1 – not attached

Question 5: Statistics

Please provide the following statistics from 2005 (to give a data comparison before the 2007 Danish Livestock Act referred to during the discussion was enacted) to date:

- a. How many cases annually are submitted to the EAB?
- b. What percentage of these concern agricultural permits and other matters related to the Danish Livestock Act?
- c. What percentage of the cases in (b) above are brought by NGOs? What percentage of the other cases before the EAB are brought by NGOs?
- d. What percentage of the cases relating to (b) above brought by (i) NGOs; and (ii) by persons other than NGOs, are successful? What percentage of other cases before the EAB brought by (i) NGOs; and (ii) by persons other than NGOs, are successful?
- e. Please provide details of the average duration of proceedings of the cases before the EAB.

Will be send shortly.

-----0-----

If the Compliance Committee has further questions please do not hesitate to contact us again.

Best regards


Morten Imer Møller
Head of Section
Organisation & Jura
Dir. tlf. : (+45) 72 54 43 54
E-mail: morim@mst.dk (or mst@mst.dk)

Danish Ministry of the Environment
Danish Environment Protection Agency
Strandgade 29
DK-1401 København K
Tlf.: (+45) 72 54 40 00