

Finnish wind power projects and its legal survey in expropriation procedure

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Key words: Expropriation, legal survey, wind power, Finland

SUMMARY

In the past few years there has been a growing number of new wind power constructions in Finland. The aim of this paper is to describe the procedure related to wind power projects, its contract practice, land use planning, expropriation permit procedure, and finally the legal survey in expropriation procedure in Finland. In Finland, wind power companies lease the land from private landowners mostly through long-term contracts instead of buying the land. Before constructing the wind power plant, the area must be zoned for that purpose and an expropriation permit is needed. After the permit, a legal survey in expropriation procedure is performed where compensations to the landowners are determined. Upon approval of the legal survey, and compensations are paid, the cadastre is updated to complete the expropriation.

YHTEENVETO

Viime vuosina Suomessa on rakennettu runsaasti tuulivoimaloita ja uusia on suunnitteilla. Tämän esityksen tarkoituksena on kuvailla tuulivoimahankkeita Suomessa sekä niihin liittyvää sopimuskäytäntöä, maankäytön suunnittelua ja kaavoitusta, lunastuslupakäytäntöä sekä lopuksi lunastustoimitusta ja siihen liittyviä seikkoja. Suomessa tuulivoimayhtiöt eivät yleensä omista rakentamiseen tarvittavaa maata, vaan vuokraavat tuulimyllyille tarvittavan maan yksityisiltä maanomistajilta usein pitkäaikaisin vuokrasopimuksin. Ennen rakennustöihin ryhtymistä alue tulee kaavoittaa tuulivoimaloille ja lisäksi lunastuslupa vaaditaan. Lunastusluvan myöntämisen jälkeen käynnistetään lunastustoimitus, jossa mm. päätetään maanomistajille tulevista korvauksista. Kun lunastustoimitus on saatu päätökseen ja korvaukset maksettu, tehdään tarvittavat rekisterimerkinnät kiinteistörekisteriin.

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1. INTRODUCTION

In the past few years there has been a growing number of new wind power constructions in Finland. Many more are being planned. In the year 2019 share of foreign ownership of the wind farms was 31 %. By the end of June of the year 2023 the share of foreign ownership has increased up to 56 % of the cumulative capacity partly due to the lack of domestic capital.

Majority of wind power projects are on-shore wind power, but also several offshore wind power projects are under way. One of the main reasons for the increase in wind power construction is to obtain clean fossil-free renewable energy and to improve energy self-sufficiency. The wind power projects are concentrated to the western part of the country since due to the vicinity of Russian border to the east, permission of the Ministry of Defense is needed. The aim of this paper is to describe the procedure related to wind power projects, its land use planning, and the legal survey in expropriation procedure in Finland.

Installed cumulative capacity (MW)

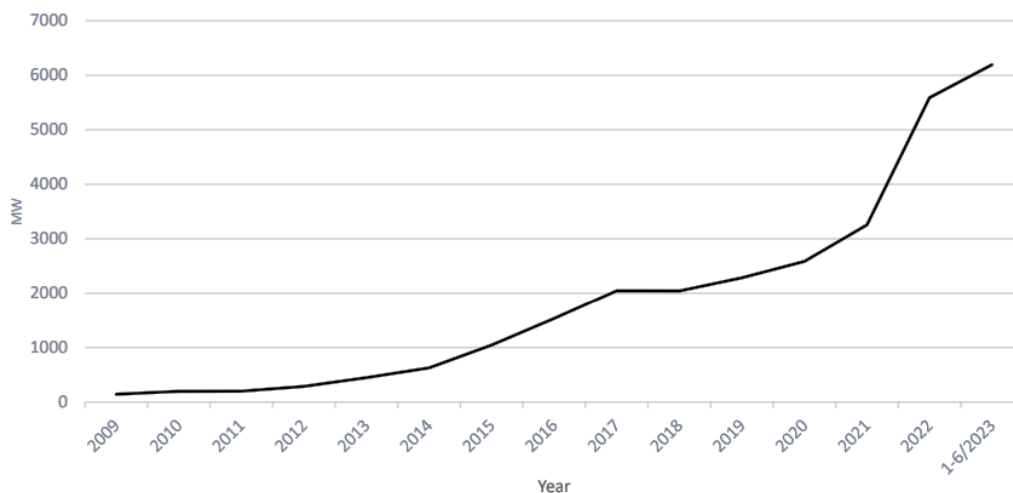


Figure 1. Shows the installed cumulative capacity of wind power in Finland.
(Reference: Finnish Wind Power Association)

2. CONTRACTS

Private landowners own over 60 % of the land area in Finland. The state of Finland owns about 30 % of the land area and the rest 10 % is owned by municipalities, churches, and companies. Most often wind power companies do not own the land under the windmills. So instead of buying the land, wind power companies lease the land from private landowners mostly through long-term contracts. Typically, this kind of leasing contracts can be valid for 30 years. For forest landowners, leasing of the land to wind power companies can be very profitable compared to what is generated from selling the wood from natural growth of the forest.



Figure 2. A windmill outside of the city of Pori. (*Photo taken by Markus Junttila*)

3. LAND USE PLANNING

Before constructing the wind power plant, the area must be zoned for that purpose. Nowadays new areas for wind power plants are actively zoned. Several zoning plans are pending for wind power. Landowners, citizens, and the Centre for Economic Development in Finland are involved in the land use planning proposal. Also, the evaluation of environmental impacts must take place. The evaluation of environmental impacts includes impacts to settlement, landscape, and birdlife.

The decision-maker in the planning is the Local Council of Municipality. It is possible to appeal the decision at the Administrative Court and even at the Highest Administrative Court in Finland.

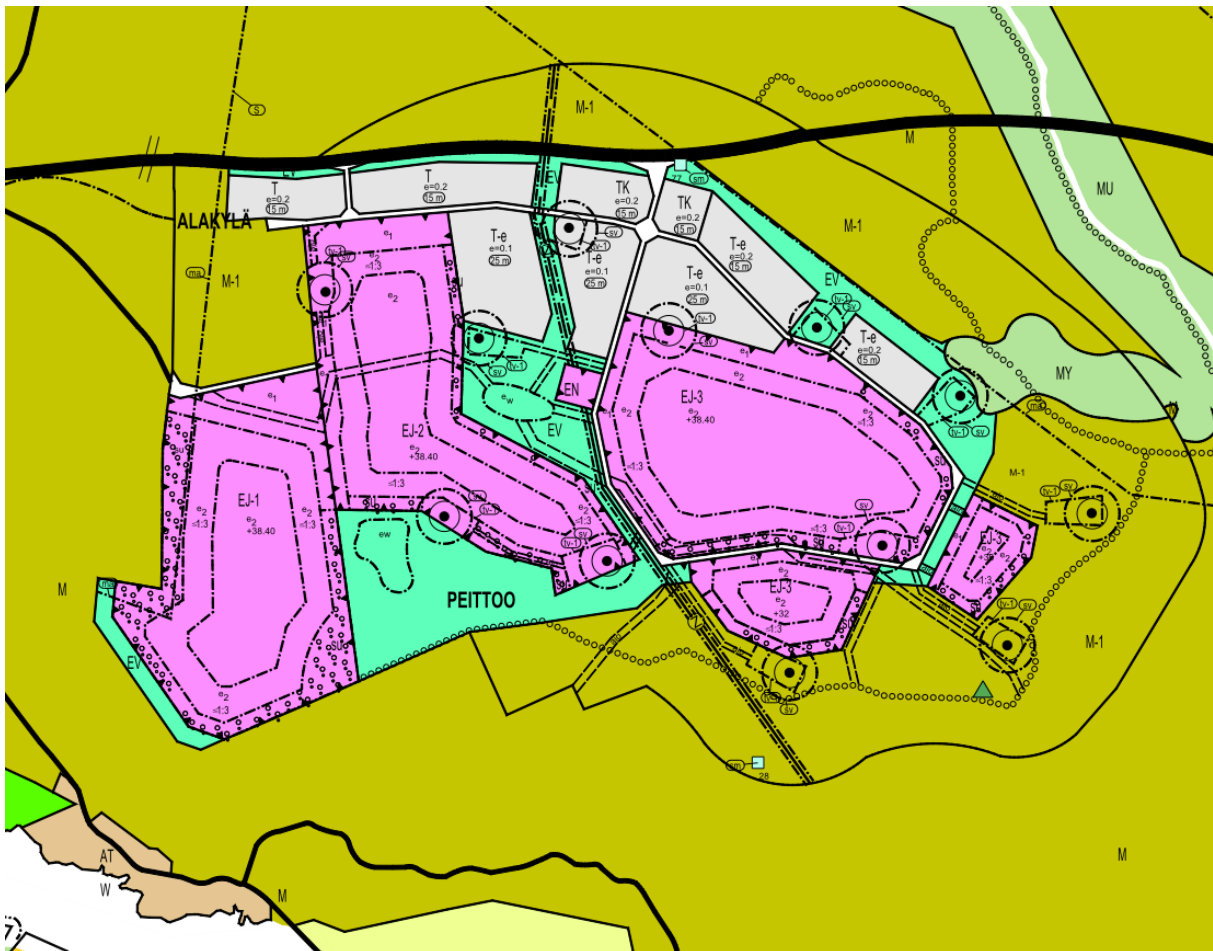


Figure 3. Example of zoning plan for 12 windmills at Peitto in Pori, Finland.
(Reference: www.kartta.pori.fi)

4. EXPROPRIATION PERMIT

During wind power projects, a permanent expropriate use right for electrical cables and its equipment is most likely needed. In order to obtain the expropriation permit, the wind power project must have a general communal need and for that matter, prove that the expropriation is necessary to its execution. The expropriation permit is granted by the Ministry of Employment and Economy of Finland in significant cases and by the National Land Survey of Finland in less significant cases. Generally, the Ministry of Employment and Economy grants the permit when the project requires building of new lines. If the case is about renewing old cables which does not need significantly new land area, or the case is about old cabling whose leasing contracts are about to expire, then these cases are decided by the National Land Survey of Finland. After the expropriation permit has been legalized, the legal survey expropriation procedure can be put into practice.

5. LEGAL SURVEY IN EXPROPRIATION PROCEDURE

In Finland, through the Expropriation Act, one can be obtaining fee simple estate or use right; for land or water areas and existing buildings on those areas. The act also sets limitations on the afore-mentioned properties. Power line expropriations usually expropriate use rights of certain areas and the limitation associated to that area, but the ownership of the land does not change.

The legal survey in expropriation procedure is executed by an expropriation committee, chaired by a land surveyor and in addition two trustees elected by the Local Municipal Council. In the legal survey, the site of the expropriation is consolidated, the list of properties is drawn up and finally compensations are determined. Concurrently, it is possible to make necessary land and private road consolidations.

Commonly, legal survey in expropriation procedure involves three survey meetings. After the first meeting and the day of possession, the power company has right to start the construction work at the site. When all the site work has been completed it is time for the second survey meeting. The landowners are given the time to demand compensations from the expropriated property as well as possible damages and costs. After receiving the claims, company may give its response.

At the final survey meeting the expropriation committee determines the compensations arising from the land use as well as vegetation on the property. If the expropriation causes a longer access to road, longer than before, that must also be compensated. For agricultural lands, if the electricity pylons cause hinderances to land cultivation, that must also be compensated. There might be also immissions such as increased noise level or decreased scenery value, which effects on the property value negatively. That kind of immissions might be compensated at the legal survey meeting.



Figure 4. A new cable line outside of the city of Pori in Finland, was built during the expropriation procedure. (Photo taken by Markus Junttila)

The compensation of the expropriated property is determined usually based on the sale prices of property. If this is not enough to cover the full losses during the expropriation, then the valuation is based on the profit that can be generated from the use of the property or the investment on the property.

One can appeal to the Land Court, the decision of the legal survey in expropriation procedure. It is possible to seek for permission to appeal to the Highest Court in Finland. When the decisions of the legal survey in expropriation procedure have been approved and all compensations have been paid then the cadastre is updated accordingly. This step completes the expropriation.

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BIOGRAPHICAL NOTES

Mr. Markus Aleksander Junttila has 20 years' experience working as Survey Engineer at National Land Survey of Finland in Pori in Satakunta region focusing on legal cadastral surveys. He graduated from the Helsinki University of Technology in 2002 with a MSc in Survey Engineering. Before graduation he has also worked as a trainee for 3 months in 1999 in Accra, Ghana, with Consolidated Properties Ltd.

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