

LaY: Reflektiivisyys ja responsiivisuus oikeudessa

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Otsikko:

Reviewing All Normative Decisions? Modelled Water Knowledge in Finnish Judicial Review

Kirjoittajat:

Tiina Paloniitty, Lapin yliopisto (1.4.2019 alkaen: HELSUS / Helsingin yliopisto) *esiintyjä*

Olli Malve, SYKE

Asiasanat:

Water governance, modelled knowledge, science and law interface, judicial review, administrative law

Abstrakti:

Modelling of complex environmental systems is an efficient but resource demanding way to evaluate environmental impacts, and models contain adaptive capacity tentatively not fully embraced by the legal system. Law's response to modelled knowledge can, however, influence greatly how *trias politica* becomes materialized: the production of modelled knowledge can include axiological decisions with normative impact not necessarily open to scrutiny in judicial review. Finland is promising legal system to examine these questions thanks to the broad scope of investigation and in-house expert judges emblematic of their administrative courts.

This paper examines how decisions employing modelled knowledge have been reviewed in the Supreme Administrative Court of Finland: how the Court has evaluated the uncertainties of models, the risk they assess, or the likelihood of certain detrimental consequences. We found that when reviewed, these uncertainties were dealt with the standard legal tools at the Court's disposal. The Court did not, though, debate the decisions the modellers are forced to make—the choice over competing models, selection of parameters, or the selection of methods to estimate predictive uncertainties—that may nonetheless have normative consequences. Thus it appears that judicial review does not cover all aspects of administrative action with normative influence.