Traditional Legal Definitions of Forest in Finland and the Pressure from the EU to Their Amendments

*K. T. Kokko and J. Uitamo**

Abstract

Finland, as Europe's most heavily forested country, represents about 11–13 per cent of the forest area in Europe (210 million ha). Forests, as defined by the FAO, cover about 74 per cent of the total Finnish land area. They have long been and still are important to the Finnish society and economy.

The Forest Act is the most important statute for steering the management and sustainable utilisation of forests. It is applied in areas classified as forestry land. However, its provisions do not include a definition of the forest as such. The Act on a Temporary Forestry Incentive Scheme is the main source of law for the legal definition of 'forest'. In this Act the term 'forestry land' is divided into four parts on the grounds of its wood production potential. These four parts are well established in the national forest inventory system and forestry. In common language, forest takes on diverse forms in Finland. The traditional legal definition is not very serviceable in unmanaged forests, such as in wilderness or nature conservation reserves, or in forests as carbon sinks. Our analysis shows that it is only a matter of time before the terminology of Finnish standard language and of EU legislation causes the traditional legal definitions of forest to evolve for multiple and new purposes in Finland, and the core of the legal definition of 'forest' becomes neutral with regard to forest in the FAO's classification, and disengages itself from traditional forestry and especially from wood production targets.

Keywords: Sustainable Forestry; Forestry Law; Forest Land; Scrub Land; Waste Land; Forestry Land

1. Introduction

1.1 Background

Finland, as Europe's most heavily forested country, represents about 11–13 per cent of the forest area in Europe (210 million ha). Forests, as defined by the FAO, cover at least 23 million hectares or about 74.2 per cent of the total Finnish land area. The FAO classification defines forest land as land with a tree crown cover of more than 10 per cent. The forest area must be at least 0.5 hectares with trees higher than 5 meters. In practise, all Finnish forest lands fall under the forest definition of FAO. However, unlike the Finnish classification, the FAO definition excludes 1/3 of 'scrub land', meaning forest land of low productivity, and all 'waste land', meaning non-productive land, from the category of forest. Based on Finnish classification, forestry land covers 26.3 million hectares, about 86 per cent, of the total Finnish land area (30.6 million hectares).[1]

Forests in Finland belong almost entirely to the cool boreal coniferous forest type. The forests are dominated, especially in the uplands, by

* Faculty of Law, University of Helsinki and Finnish Forest Centre, kai.kokko@helsinki.fi, janne.uitamo@metsakeskus.fi.

[1] See Luke (2020), s. 18. See also Metla (2014), pp. 33, 37; Corona (2022); Food and Agriculture Organization of the United Nations (2012), p. 3 and (2018), p. 4; Rantala S (ed.) (2011), p. 20.

pine (Pinus sylvestris) and spruce (Picea abies). As regards broadleaves, birches (Betula) and alders (Alnus), for example, flourish in this kind of boreal forest.

Forests have long been exceptionally important to the Finnish society and economy. In 2014, 3.6 per cent of the gross national product was generated in the forest sector and forest industries' share of the export of manufactured goods was about 20 per cent.[2] In 2022, the share was still 18 per cent.[3] Finnish forests are traditionally characterised by private ownership. Individual persons, undistributed estates and non-industrial companies own 53 per cent of forestry land and 61 per cent of productive forest land, in which the poorly and non-productive forest areas are not included.[4] Private forest estates are quite small, about 30 hectares on average.[5]

All in all, in Finland forest-related concepts are well established in inventories, forestry, nature protection and other social contexts. However, it is not self-evident that this social understanding is fully included in or can be identified in legal definitions of forests, or that these social concepts have equivalents in legal definitions in effective law.

1.2 Finnish forest type classification

Finnish forest (vegetation) type classification provides an opportunity to assess and value forests and their growth capacity for forestry. This kind of information is important in the formation, division and trade of forestry lands. The Finnish forest type system is based on classifying potential site productivity based on the actual vegetation cover, which is typical to certain climatic and edaphic site conditions.[6] Forest types are identified with regard to the species composition of the forest vegetation, its overall appearance, and growth habits. Certain typical species of indicator plants have been chosen to determine the particular forest type.[7] The effect of tree species composition and recent intensive silvicultural measures on the vegetation pattern have probably been underestimated in the original theory.[8] Despite this criticism, forest types find varied and comprehensive use, especially in forest inventories and management but also in forest ecological studies.[9]

In statutory law, the site quality classes and corresponding forest types have been used in connection with defining the prerequisites of regeneration felling and the measures needed to fulfil forest regeneration obligations, as well as defining what constitutes a sufficient stand after intermediate felling.[10] One central objective of the Finnish forest legislation has traditionally been to make use of the full productive capacity of the site. In this respect, the optimal tree species and density of the growing stock vary according to the fertility and geographical location of the area.[11] However, the classification clearly reveals that the focus in Finnish forests has been in timber production for wood processing and other uses. It indicates how forest as a social concept turns into a legal definition in Finland.

[2] Metla (2014), p. 328 and 361.
[3] Ministry of Agriculture and Forestry of Finland (2024).
[4] Metla (2014), p. 35.
[5] Metla (2014), p. 35.

[6] Cajander (1909); Cajander and Ilvessalo (1921); Cajander (1926).
[7] Rantala (2011), p. 25. See also Government Decree (VNA metsien kestävästä hoidosta ja käytöstä 1308/2013), annex.
[8] See Kuusipalo (1983).
[9] See more about the types in Hotanen et al. (2013 and 2008) and Tonteri et al. (1990).
[10] See about felling and regeneration obligation the Forest Act (Metsälaki 1096/1996) section 5 and 5 a.
[11] See about fulfilling regeneration obligation and tree species the Forest Act sec. 8, 8 a and 9. See also Government Decree (1308/2013) sec. 11–15.

1.3 Research questions, method and article structure

Legal definitions or concepts usually arise in a legislative process as a social construct[12] to describe the field of application of regulations. The background may be a very long historical development. Legal definitions involve some kind of pre-understanding of the society and the values that prevail in the legislative process. The choice of definitions is not neutral. It is the exercise of power. For example, understanding the forest as a natural resource, an ecosystem or a carbon sink will guide the search for a responsible background in various sectors of environmental law. As social constructs, legal definitions may take on different meanings than they do in the natural sciences.[13]

As mentioned above, forestry has been an important factor in the improvement of Finnish national economy and wellbeing. One central objective of the Finnish forest legislation has been to make use of the full productive capacity of the site. Even the forest type classification has been developed to support the forestry. In this article, we study 1) what are and mean the traditional definitions of forest in Finnish legislation and legal practice, particularly in case law? and 2) can the European Union's green deal regulation somehow challenge the traditional Finnish legal definitions?

The first question is answered using legal dogmatics and conceptual analysis as the main research methods. The forest definitions and their interpretive content are identified from legislation and legal practice. Although we analyse concepts, our methodical view differs from the old Finnish conceptual law research tradition of environmental law as it is represented, for example, in the doctoral dissertation *General use as a water law concept* by Manner (1953). We understand that from the legal definitions alone one cannot draw very far-reaching conclusions about their use in administrative practise.

Our research focus is mainly on the first question. A broad conceptual analysis for the second question is not possible in this article. For example, Sasso et al. have described the forest jigsaw in the Fit for 55 Package[14] so that it includes the 2023 LULUCF regulation from the EU's climate law and policy[15], the Regulation establishing a certification framework for carbon removals[16], and sustainability criteria concerning the use of forest biomass under the 2023 Renewable Energy Directive[17]. Moreover, a range of instruments, while not directly addressing climate law and policy, are relevant to the forest sector. These include the Biodiversity Strategy[18],

[12] The key tenet of social constructionism is that our knowledge of the world, including our understanding of human beings, is a product of human thought rather than being grounded in an observable, external reality. See Burr (2015), p. 222.

[13] Kokko (2019), p. 82.

[14] Commission, 'Fit for 55': delivering the EU's 2030 Climate Target on the way to climate neutrality' (Communication) COM(2021) 550 final, 14 July 2021.

[15] Regulation (EU) 2023/839 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out targets of the Member States for 2030, and Regulation (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review [2023] OJ L107/1 (2023 LULUCF Regulation).

[16] Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 establishing a Union certification framework for permanent carbon removals, carbon farming and carbon storage in products.

[17] Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652.

[18] Commission, 'EU Biodiversity Strategy for 2030. Bringing nature back into our lives' (Communication) COM(2020) 380 final, 20 May 2020.

the Forest Strategy[19], the Forest Monitoring Law[20], the Forest Product Regulation[21], the Nature Restoration Law[22], and the Common Agricultural Policy[23].[24] We limit our work by taking only some examples from the EU's legislation and its legal forest definitions to answer the second question.

In the following, we analyse traditional legal definitions of forest, considering Finnish statutory law (chapter 2) and case law (chapter 3). After that, we study with some examples the pressure from new EU legislation to diversify the legal forest definitions in Finland as a Member State (chapter 4). Moreover, we discuss the future trends of forest definition based on the legal literature (chapter 5). Finally, we conclude with our main remarks (chapter 6).

2. Legal definitions of "forest" in statutory law

2.1 Legal sources, forestry administration in Finland, and approach to legal study

The primary source of law in Finland is statutory, especially the Constitution, Acts, and Decrees. According to section 20(1) of the Constitution on nature and biodiversity, the environment and the national heritage are the responsibility of everyone.[25] The words nature, biodiversity, environment, and national heritage can all have, depending on context, connotations of forest. The idea of responsibility for renewing forests is old in Finland, since as early as the Forest Act of 1886 there has been some sort of prohibition on destroying forests. Since then, the content of the obligations has varied. In the applicable law, the key element of economic sustainability is the forest regeneration obligation.[26] The effective Forest Act (1093/1996) aims, according to its section 1, to promote not only economically but also ecologically and socially sustainable management and utilisation of forests in order that the forests produce a good output in a sustainable way while their biological diversity is preserved.

In general, the environmental legislation is based on sectoral enactments, which include policy instruments in achieving particular settled objectives. Forestry and forest management are regulated in special forest legislation. The main policy instruments in the legislation are the forest use declaration for monitoring forest use (logging and management practices) and

[19] Commission, 'New EU Forest Strategy for 2030' (Communication) COM(2021) 572 final, 16 July 2021.

[20] Commission, 'Proposal for a Regulation of the European Parliament and of the Council on a monitoring framework for resilient European forests' COM(2023) 728 final, 22 November 2023, 2023/0413 (COD). See also Ministry of Agriculture and Forestry (23.9.2024): The EU Commission's proposal on forest monitoring needs further work – For Forest+ Group presents a way forward, https://valtioneuvosto.fi/en/-/1410837/the-eu-commission-s-proposal-on-forest-monitoring-needs-further-work-for-forest-group-presents-a-way-forward.

[21] Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 [2023] OJ L150/206 (Forest Product Regulation).

[22] Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869 [2024] OJ L2024/1991.

[23] Consolidated text: Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No. 1307/2013 [2021] OJ L435 (02021R2115–20,240,525).

[24] Sasso et al. (2025), p. 3.

[25] The Constitution of Finland (Suomen perustuslaki 731/1999).

[26] See the Forest Act (metsälaki 1093/1996), section 5a and 5. See also Kiviniemi (2015), p. 32, 333.

state subsidies for forestry.[27] Besides forest legislation, Acts concerning nature protection and land use planning, for instance, have effects on the management of forest resources.[28] With both Acts, forest habitats and species can be protected in principle. However, while the focus in the Nature Conservation Act is on nature protection, the land use planning in the Area Use Act balances different interests. Some forest areas can be conserved in land use planning. At the same time, some other forest areas can be reserved for forestry. Municipalities are in charge of local land use planning. Land use in municipalities is organized and steered through the use of local master plans and local detailed plans.[29] In the Nature Conservation Act and the Area Use Act, the competent ministry refers to the Ministry of the Environment, whereas the Ministry of Agriculture and Forestry is responsible for the steering and supervision of the enforcement of the Forest Act and for the preparation of forest policy in general. The Finnish Forest Centre is the competent authority that enforces forest legislation and is also in charge of giving general guidance for sustainable forest management.[30]

Legal definitions of forest are looked at from four different angles in this chapter. Firstly, their existence and content have been mapped from Finnish legislation. Secondly, the nature of forest definitions has been clarified. The nature usually tells something about the purpose behind the concepts. The legal definitions are not as neutral as they seem to be at first sight. Thirdly, it has been necessary to identify different types of forest definitions. The types set the definitions in proportion to their field of application and help to answer the second research question concerning EU legislation. Finally, extensions and restrictions of the definitions illustrate their possible use in legal practise.

2.2 Existence and Content

In Finland, the Forest Act is the most important statute in steering the management and sustainable utilisation of forests. For this purpose, the Act is applied in areas classified as forestry land.[31] According to the Government proposal, land can be classified as forestry land, agricultural land, built land, and traffic areas. Furthermore, forestry land is explained to mean 'forest land' (metsämaa), 'forest land of low productivity' (kitumaa), and 'waste land' (joutomaa).[32]

Thus, on the basis of the preparatory works, forestry land includes all areas that have not been put to other use as agricultural land or built and traffic areas. The same idea of forest as a kind of residue is manifested in sec. 3(1), according to which the Forest Act does not prevent forestry land from being adopted for other purposes. The scope of application of the Forest Act, however, does not cover forest land in principle suitable, but in practice unavailable, for forestry, when it is located for instance in a protected area accord-

[27] See the Forest Act (metsälaki 1093/1996), especially sec. 14, and The Act on a Temporary Forestry Incentive Scheme (laki metsätalouden määräaikaisesta kannustejärjestelmästä 71/2023). See also Kiviniemi (2015), pp. 376–383 and 426–495.

[28] See the Nature Conservation Act (luonnonsuojelulaki 9/2023) and the Area Use Act (alueidenkäyttölaki 132/1999).

[29] See the Area Use Act, sec. 4.

[30] See the Nature Conservation Act, sec. 9, the Area Use Act, sec. 17 and the Forest Act (metsälaki 1093/1996), sec. 24 and 25. The Act on Finnish Forest Centre (laki Suomen metsäkeskuksesta 418/2011) sec. 8 and the Government Decree on Ministry of Agriculture and Forestry (VNA maa- ja metsätalousministeriöstä 1267/2014), sec. 1.

[31] The Forest Act (metsälaki 1093/1996), esp. sec. 2(1).

[32] Government proposal (Hallituksen esitys Eduskunnalle metsälaiksi sekä laeiksi kestävän metsätalouden rahoituksesta ja rikoslain 48 luvun 1 §:n 3 momentin muuttamisesta 63/1996 vp), p. 24. See Määttä (2021 a) p. 8. According to the Forest Act, sec. 2.1, sentence 1 this Act applies to the management and utilisation of forests in areas classified as forestry land. Although this section has been amended (1085/2013), this sentence remained the same.

ing to the Nature Conservation Act (9/2023) or in a forest area that is not designated for agriculture and forestry in a local detailed plan but other purposes according to the Area Use Act (132/1999).[33]

When discussing the settled meaning of the legal expressions in statutes generally, it is possible to find their semantically unproblematic core and to show with standard language the cases having positive code-reference. In proportion, legal expressions empower to recognize the cases that have clearly negative code-references and fall outside the core area by using the normal meaning of standard language. However, in the penumbra area of meaning it is impossible to take a stand with standard language alone on different cases and whether they belong to the area of a particular legal expression. For example, what is meant by ”forest” in the Forest Act?[34] Although the Forest Act refers to forests situated on forestry land and their use, its provisions do not include a legal definition of 'forest' as such.[35] What is meant by forest in penumbra cases is a matter of interpretation. Thus, what 'forest' means in the Act and some other statutes is dependent on context, and it is still open to interpretation in practice as a legal definition.

In the applicable law, for example, the minimum amount of trees after intermediate felling is still given separately for some site quality classes and forest types.[36] Before the comprehensive amendment of the Forest Act that came into force in 2014, the minimum diameter and age for a stand which could be treated with regeneration felling and the measures associated with the establishment of a new tree stand were also separated between the forest types in detail.[37] However, most of these provisions were repealed after the 2014 amendment of the Forest Act, which left the steering task to more general forest management guidance.

Although the purpose of the Forest Act is to promote economically, ecologically, and socially sustainable management and utilisation of forests,[38] economically sustainable timber/wood production is still the primary purpose,[39]

[33] The Forest Act (metsälaki1093/1996), sec. 2(1). The remaining Land Use and Building Act was renamed the Area Use Act (alueidenkäyttölaki) when the new Construction Act (rakentamislaki) took effect in the beginning of year 2025.

[34] Laakso has stated that, when discussing the meaning content of linguistic expressions in regulatory information, different meaning zones can be distinguished based on their references. First, it is possible to demonstrate the semantically unproblematic core area of settled meaning. In this event, cases that clearly fall within the core area of settled meaning can be identified on the basis of standard language (positive code-reference). Second, situations that clearly lie outside the meaning content of an expression can be quite easily noticed (negative code-reference). The third category is formed by the marginal or penumbra areas (begreppsperiferi) of the meaning of the expression. It is not possible to determine, based on standard language alone, whether or not the concerned cases fall within the scope of the conceptual content of the expression in the penumbra area of meaning. Particularly, these cases are open to interpretation, and their analysis is at the heart of legal dogmatics. See Laakso (2012), p. 333.

[35] However, according to the preparatory works, the term forest in the Forest Act refers to the ecological entity of forest nature that consists of the living and inanimate parts and the interrelationships within and between these parts. In addition, forest biodiversity refers to the diversity and variability of all plants, animals, and microorganisms living in forests, and their habitats. Biodiversity manifests itself in the abundance and variety of species, their genetic heritage, and ecosystems. See Government proposal (63/1996 vp) p. 24 and Määttä (2021 a) p. 8.

[36] Government Decree (valtioneuvoston asetus kestävästä metsien hoidosta ja käytöstä 1308/2013), annex.

[37] Government Decree (valtioneuvoston asetus kestävästä metsien hoidosta ja käytöstä 1234/2010), annex.

[38] See the Forest Act (metsälaki 1093/1996), sec. 1.

[39] See e.g. Kokko (2009), p. 58. Based on the Supreme Administrative Court's decision (KHO 2008:66) Laakso (2009) states that, in order to achieve the objectives of the Act, the various aspects of forest use must be reconciled in practical forest management in such a way as to ensure the prerequisites for economically viable forestry practices. The Forest Act has been amended since

and provisions of the Act are mainly connected to the wood production potential of commercial forests.

The conclusion above can be confirmed by studying the Act on a Temporary Forestry Incentive Scheme.[40] According to sec. 2(4) 'forest' means in this Act 'forest land,' 'scrub land' denoting forest land of low productivity, 'waste land', and 'other land for forestry' (muu metsätalousmaa). These four concepts are well established in the national forest inventory system and forestry. The preparatory works of the Act note that the above-mentioned Forest Act does not include a legal definition for forest. However, the definition must be contained in the Act on a Temporary Forestry Incentive Scheme because of the state aid provisions of the European Union.[41] Thus, preparatory works explain that the definition is based on the term 'forestry land', which is divided into four parts on the grounds of wood production potential.[42] This Act brings together in the legal definitions of 'forest' and 'forestry land' the knowledge from Finnish forest type classification described in chapter 1.2 above. The Act is the main legal source of the existence of these concepts.

In forest land, potential wood growth per hectare is at least one cubic metre on average in one year based on 80–100 years' length of rotation. In scrub land the potential average wood growth per hectare is less than one but at least 0.1 one cubic metre, over a rotation of 100 years, and in waste land under 0.1 cubic metre in one year. Scrub land sites include, for example, nutrient-poor wetlands located especially in Northern Finland, while waste land has typically only sporadic trees with stunted and bushy vegetation. Waste land sites include, for instance, sparsely tree-growing rocky outcrops and treeless wetlands. Other forestry land covers forest roads, permanent storage points for forestry and game fields, and gravel pits when they belong to the forest entirely. These land sites do not yield wood as such.[43]

Thus, the definition of forest is based par excellence on the wood growth capacity of the site. Other features, like the size of the forest area in question or the qualities of the trees, are not considered. However, the substantial provisions of the subsidised measures must apply to forest areas, which meet the criteria set out. The measures must, for example, promote the growth of young stands or forest roads or other private roads required for wood transportation. In fact, most of the subsidies are limited to the most

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the above yearbook decision. Although the decision has been seen as a manifestation of a systematic and goal-oriented interpretation of the Forest Act, Määttä (2021 a) is skeptical that the purpose provision could have a material impact on the interpretation of the law.

[40] The Act on a Temporary Forestry Incentive Scheme (laki metsätalouden määräaikaisesta kannustejärjestelmästä 71/2023).

[41] See esp. articles 107 and 108 of the Treaty on the Functioning of the European Union (OJ 26.10.2012 C 326/47). See also European Commission (2022/C 485/01): European Union Guidelines for State aid in the agricultural and forestry sectors and in rural areas. According to sec. (33)31 'forest' means an area of land spanning more than 0,5 hectares with trees taller than 5 meters and a canopy cover of more than 10% or trees able to reach these thresholds in situ; and does not include land that is predominantly under agricultural or urban land use. A Member State or region may choose to apply another forest definition based on an existing national legislation or inventory system. Finland has chosen to apply the definition of forest which is based on its national legislation. The Member States or regions must provide such definitions in the notification, and when it relates to a rural development measure, it should be provided in the rural development programme.

[42] Government proposal (Hallituksen esitys eduskunnalle laeiksi metsätalouden määräaikaisesta kannustejärjestelmästä ja kestävän metsätalouden määräaikaisen rahoituslain 29 a ja 48 §:n muuttamisesta 167/2022), p. 44. The Act on a Temporary Forestry Incentive Scheme (71/2023) based on the proposal is in force 1st January 2024–31st December 2029.

[43] See Rantala S (ed.) 2011, p. 20 and Metla (2014), p. 37.

productive portion of forests defined as 'forestry land.'[44]

In statutory law, the term forest land is also defined in the Act on Valuation of Assets for Tax Purposes.[45] According to sec. 7 (2) of the Act 'forest land' includes land used or intended to be used for growing trees which reach an average yearly growth of one cubic meter per hectare of stem wood with bark, when the rotation is optimal and the suitable site fully stocked. Less productive areas are regarded as waste land. In contrast to the definition used in the abovementioned Act on a Temporary Forestry Incentive Scheme, scrub land and waste land are not separated in this context. Both are covered by the concept of 'waste land' when assets are valued for taxation. The taxable value of waste land is zero.[46]

Also, the Forest Management Association Act contains a reference to the Act on Valuation of Assets for Tax Purposes and its forest land definition by stating that 'land available to forestry' means the same as 'forest land' in the Tax Act.[47] Forest societies can be established when at least 300 forest owners are in possession of at least 10,000 hectares of land for forestry.[48] Historically, the associations have played an important role in improving knowledge about economically sustainable forest management in private forests. Nowadays, they still have a special status as a particular kind of economic society. This status can be removed after a transition period so that they continue functioning as normal non-profit associations and their possible commercial activities are transferred to separate cooperatives or companies.[49] However, such provisions are not included in law in force. Thus, the Act confirms indirectly that the meaning of 'forest' lies in its management for wood production in land available to forestry by the members of the association. The main target in this Act seems to be economically sustainable forestry based on the concept of 'forest', not socially or ecologically sustainable forestry.

Moreover, the concept of 'forest land' is used to determine the object of real estate tax.[50] The tax is not paid on forest and agricultural land as part of a farm. According to the Real Estate Tax Act and implementation guidelines given by tax administration, the term 'forest' in the Tax Act means the same as the term 'forest land' in the Act on Valuation of Assets for Tax Purposes.[51]

The Act on Prevention of Forest Damages (1087/2013) is applied to forest damages emerging in 'forest', to terminal landings and mill-timber yards, and to logging areas and intermediate landings regardless of their location. The purpose of this Act (1087/2013) is to maintain the good health status of forests and prevent 'forest damages'. These damages are diseases and deterioration of tree growth or quality caused by invertebrates, fungi, bacteria, or viruses to trees growing in forest, which cause economic loss.[52] The Act includes a definition in section 2 by using the wording, 'in this Act forest means an area to which the Forest Act (1093/1996) applies.' The Forest Act basically applies in areas classified as

[44] See the Act on a Temporary Forestry Incentive Scheme (71/2023), sec. 1, 2(1), 13 and 17–19.
[45] See the Act on Valuation of Assets for Tax Purposes (laki varojen arvostamisesta verotuksessa 1142/2005).
[46] See the Act on Valuation of Assets for Tax Purposes (laki varojen arvostamisesta verotuksessa 1142/2005), sec. 31a.
[47] The Forest Management Association Act (laki metsänhoitoyhdistyksistä 534/1998), sec. 2(3).
[48] The Forest Management Association Act (laki metsänhoitoyhdistyksistä 534/1998), sec. 3(1).
[49] See Tuomi J (2016), pp. 86–87.
[50] The Real Estate Tax Act (kiinteistöverolaki 654/1992), sec. 3(1).
[51] Guidelines for application the Real Estate Tax Act (kiinteistöverolain soveltamisohje VH/674/00.01.00/2025), chapter 3.1.2. See also KHO 2015:90 and Määttä 2017 p. 1.
[52] The Act on Prevention of Forest Damages (laki metsätuhojen torjunnasta 1087/2013), sec. 1 and 2.

forestry land.[53] However, the above-mentioned scope of application and purpose of the Act on Prevention of Forest Damages clearly show that, in fact, the definition concerns not only commercial forests and the above-mentioned forestry land. Moreover, preparatory works state that it is also possible to make fellings in areas external to the Forest Act, for example, on electricity lines or road lines or, in exceptional cases, in nature protection reserves. The Act on Prevention of Forest Damages also applies to the logging of timber from areas of this kind.[54] In other words, the main purpose of the act is to secure the production of timber that underlies the concept of 'forest', even outside 'forestry land'. In fact, this means that the scope of damage prevention extends over 'forestry land', and the legal definition of 'forest damage' remains flexible by interpretation.

In the Northern part of Finland there are so-called timberline forest areas. In these areas, forests must be managed and used with special care to prevent the retreat of the timberline.[55] These areas are lands for forestry where the regeneration of forest needs special attention. The Forest Act also includes some protection of forest habitat types, such as luxuriant herb-rich forest patches and the immediate surroundings of springs, brooks, and rivulets. Moreover, a special protection zone of forest can also be formed in other parts of Finland if it is necessary, for example, to protect settlement or cultivated areas from the winds on the islands and shores or the highlands. Except for the timberline forest area, the scale of these zones is quite small and the use of forests in them can be constrained only for the needs of preservation.[56] However, these forms of protection in commercial forests do not bring any amendments to the definition of forest itself. The special protection areas or zones are still, albeit with some restrictions, part of forest and available for forestry.

Real property with forest land must be evaluated for forming and conveyance. In real estate formation, land use types are divided into agricultural, forest, scrub, waste, and other land. Forest land comprises pieces of forestry land (metsätilus), which are mainly used for production of wood.[57] In traditional partitioning (halkominen), pieces of forestry land have been evaluated on the grounds of different forest types.[58] In the context of average wood growth, the forest types legally define the content of forestry land and allow the valuation of forests for various purposes. It is, however, questionable how appropriate this traditional valuation is, for example, when the main targets of trade are nature values or other forest-related products instead of growing and selling wood.

Wilderness protection has originally had different purposes in Finland than in Anglo-American legal cultures. In Finnish legislation, wilderness is not simply a category of protected area but also encompasses people and nature-based use.[59] The twelve wilderness reserves listed in the Act on Wilderness Reserves, which cover about 1.5 million hectares in total, fall under this conventional idea.[60] Thus, originally the establishment of the Finnish wilderness reserves aimed to balance the protection of wilderness

[53] See the Forest Act (metsälaki 1093/1996) sec. 2(1).
[54] Government proposal (Hallituksen esitys eduskunnalle laiksi metsätuhojen torjunnasta ja eräiksi siihen liittyviksi laeiksi 119/2013), p. 29. Määttä (2021 b) pp. 2–3.
[55] See the Forest Act (metsälaki 1093/1996) sec. 12 and Government decision (VNp suojametsistä 844/1998).
[56] See the Forest Act (metsälaki 1093/1996), sec. 10–11.
[57] The Real Estate Formation Decree (kiinteistönmuodostamisasetus 1189/1996), sec. 54(1).
[58] The Real Estate Formation Act (kiinteistönmuodostamislaki 554/1995) sec. 197(2). See e.g. Vitikainen (2011), pp. 34–36.
[59] See Kokko, Oksanen (2016), pp. 322–323.
[60] The Act on Wilderness Reserves (erämaalaki 62/1991), sec. 1 and 3.

characteristics with the human use of nature as a source of livelihood or based on Sámi culture. Nature-based use is an integral part of wilderness as long as it does not harm the wilderness characteristics of the reserves. At present, the wilderness reserves are mainly protected also as a part of the Natura 2000 network. Thus, the status of the reserves as nature protection areas has been promoted. The reserves are controlled by the Metsähallitus (as a state authority) and owned by the state. According to section 7(2) of the Act, the forests of wilderness reserves are retained in a 'natural state', or 'natural' forestry is practiced in them. In practice, this means that the Metsähallitus manages the areas in accordance with a plan that it creates and submits to the Ministry of the Environment for approval.

Wilderness protection regulation in Finland stresses that the forests in the reserves need balancing of multiple interests, and interest in forestry as a nature-based use is only one among them. According to Section 1(1) of the Act, the reserves have been established to preserve the wilderness character (erämaaluonne) of the areas, to safeguard Sámi culture and natural sources of livelihood, and to improve multiple use of nature and the prerequisites for such use. Thus, forestry is allowed only in limited parts of the reserves and only in accordance with special natural resource planning by the Metsähallitus.[61] As a conclusion, it can be noted that the wilderness reserves based on this Act include also productive forest land, which is not widely used for forestry. Thus, legal definition in the Act on a Temporary Forestry Incentive Scheme is only partly serviceable in this context. The incentive scheme itself is not applicable in the wilderness areas managed by the Metsähallitus.

Biodiversity protection and nature conservation also restricts forestry. According to article 49 of the Nature Conservation Act (9/2023), in a national park or strict nature reserve any action such as the removal or destruction of fungi, trees, or bushes, which alters the natural surroundings, is prohibited. Natura 2000 and other habitats and species protection areas also set their own limitations on forest use. Habitat type protection, as laid down in chapter 7 of the Nature Conservation Act, includes areas of wild woods rich in broad-leafed deciduous species and common alder woods. However, the Act does not truly illuminate the legal definition of forest. In any case, if a legal definition of forest is needed in the administration of nature protection, it must be interpreted case by case in this context. This kind of consideration is needed, for example, when the state expropriates private forest land in the public nature protection interest and public authorities must decide the amount of full compensation. The contextual interpretation of forest definition is also needed when, for example, trade legislation concerning forest cultivation material or tax and criminal legislation are applied.[62]

The above-mentioned Acts clearly show that forest definition is not exhausted in statutory law in Finland. Only one Act has a quite clear and fairly exhausted legal definition for forest while other Acts have no legal definitions for forest, or they are open to interpretation. Some Acts seek the content of forestry land definition from forest (vegetation) type systematisation.[63]

2.3 Nature

The nature of the above-mentioned traditional forest definition in Finnish statutory law is relative and strongly connected to potential wood

[61] Kokko, Oksanen (2016), pp. 319, 326–327.

[62] See Act on trade of material of forest cultivation (laki metsänviljelyaineiston kaupasta 241/2002), the Income Tax Act (tuloverolaki 1535/1992) and the Criminal Code of Finland (rikoslaki 39A/1889).

[63] See chapter 1.

production. Finland lacks a common legal definition of forest for all fields of environmental law. For example, nature protection is mainly regulated by using other legal definitions.[64] However, the national implementation of the EU Nature Restoration Regulation may amend this Finnish tradition by introducing the term 'forest ecosystem' into nature protection and nature restoration planning.[65]

Existing legal definitions of forest are generally based on forestry land and wood growth potential of the site, with some variation. For example, the Real Estate Formation Decree (1189/1996) has a slightly different explanation of the term forest land from the Act on a Temporary Forestry Incentive Scheme.

Interestingly, there is no special legal definition of forest as, for example, a plant community with particular characteristics. Although forest (vegetation and soil) types are sometimes used in administrative practice to fulfill the content of forest terminology, it seems that forest, as a common concept in Finnish standard language, is supposed to be known as such, even without specific legal definitions in the various Environmental Acts and Decrees.

2.4 Type

The legal term 'forest' in the Finnish legislation combines features from different types of definition: at least quantity-based, land-use based, and regulation-based definitions. Therefore, it can be described as a mixed-type definition. All three aspects can relate to the same forest area, depending on one's view. Firstly, commercial forest is managed on the forestry land, which is divided into forest land and some other categories based on its wood production potential. Secondly, the forest land is mentioned in real estate formation among agricultural and other forms of land use. Thirdly, the commercial use of forests is limited or prohibited in some parts of forestry land, especially protected areas and habitats of forests.

The protection of forest areas and habitats is usually based on the Forest Act (1093/1996), the Act on Wilderness Reserves (62/1991), or the Nature Conservation Act (9/2023). The protected areas and habitats in forests can be localised in specific administrative decisions or directly by law. A nature protection area can be, for example, so-called old-growth forest and the habitat, for example, luxuriant herb-rich forest patches where the characteristic features include herb-rich forest soil.[66] However, both example areas and habitats are still considered forests, although partly or totally excluded according to legislation from forestry, and their potential wood growth is no longer the main issue.

2.5 Extensions and Restrictions

As a preliminary conclusion, it can be stated that the national forest definition in the forest legislation does not distinguish in principle between natural (or native) forest and planted forest (or forest plantation), or between managed and unmanaged forests.[67] Division into 'forest

[64] See Nature Conservation Act (luonnonsuojelulaki 9/2023).

[65] See following chapter 4.

[66] The Finnish Government has issued decisions in principle on the six national nature conservation programmes. The one concerning old-growth forests set up in 1993, 2005, and 2006 and covering 320,000 hectares. The programmes are enforced according to the Nature Conservation Act (luonnonsuojelulaki 1096/1996). See the Act chapters 2 and 3. The habitat is mentioned in the Forest Act (metsälaki 1093/1996) section 10 (2) and is protected according to section 10a ja 10b of the Forest Act.

[67] However, EU legislation may change this traditional view. The Regulation (EU) 2023/1115 of the European parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 includes differ-

land', 'scrub land', 'waste land', and 'other forestry land' is based on potential wood growth per hectare. Although this 'forest' definition has more precise forms and classifications of site quality classes and corresponding forest types in management and valuation practice, it is not very serviceable in the valuation of protected forest areas, such as nature conservation and wilderness reserves, or in otherwise unmanaged forests. In nature protection areas, the value of forest depends on, among other things, the landscape and protected species and their habitats, not really wood production. Regardless, the forest definition and forest types are used when the value of forest is established for paying full compensation for the forest area when it is expropriated to state for nature conservation purposes.

The Act on Prevention of Forest Damages shows above that its scope of application extends over forestry land. Thus, the legal definition of forest may be flexible, depending on the context. The flexibility in the definition of forest allows the duties of the particular Act to be enforced in some areas other than forests. Considering the objective of the Act – to prevent forest damage from destructive insects – the exception from the normal scope of application of the forest definition is well grounded. Although the unconventional scope of application of forest definition will probably cause only minor challenges in legal practice, it is recommended to interpret such derogations narrowly.

While 'forestry land' is the key definition in allocating state subsidies, 'forest land' is the key term used in Finnish tax legislation. However, the later term again relates to commercial forests, while income from forestry forms the basis of taxation.[68] When 'forest' as a definition is used outside its main scope of forestry, it is notable that its open and context-based interpretation should stay narrow enough and in the core area without going into the penumbra area of meaning. Especially in criminal law, the principle of legality demands a narrow interpretation.

3. Legal definitions of "forest" in case law

In Finland, administrative courts function in parallel with courts of general jurisdiction. The general courts deal with private and criminal law cases, whereas the decisions of administrative authorities may be appealed to administrative courts and further to the Supreme Administrative Court.

The definition of 'forest' as such seems not to be dealt with in case law. The concept is mainly used to clarify the scope of the application of enactments regarding the use and management of forests. The legal question in these cases is not whether or under what conditions a particular area is regarded as 'forest', but which statute is applied to the forest in question. For example, in case (KHO 30.6.2006/1684) the Supreme Administrative Court has stated that the Forest Act is not applied to an area designated as a protection area according to the Land Use and Building Act.[69] Therefore the obligation of the Finnish Forest Centre laid down in the Forest Act (sec. 14b) to notify the nature conservation authority, landowner, and the owner of the felling right of a forest use declaration as regards a breeding and resting site of flying squirrels (Pteromys vo-

ent definitions of planted forest, plantation forest, and other wooded land in article 2. See following chapter 4.

[68] The income from the sale of wood is capital income from forestry. See the Income Tax Act (tuloverolaki 1535/1992) sec. 32. However, the profit that has been obtained from the delivery of real property will not be taxable income if the property is given to the state or to the state-owned business Metsähallitus as a nature reserve. See the Income Tax Act sec. 48(1) part 4.

[69] The Land Use and Building Act (maankäyttö- ja rakennuslaki 132/1999), nowadays the Area Use Act.

lans) was not applicable in an area designated as a protection area in the regional plan.

In case (KHO 28.2.2014/628) the Supreme Administrative Court maintained the decision of a lower court, in which the state subsidy for forest regeneration in a protection area was not granted. The reasoning refers to the scopes of application of the repealed Act on the Financing of Sustainable Forestry, the Forest Act, and the repealed Nature Conservation Act (1096/1996).[70] The Act on the Financing of Sustainable Forestry could not be applied since the forest regeneration in protected areas was not seen as a measure which promotes the sustainable management and use of forests according to the Forest Act.[71] Thus, the forest management in the protected area did not receive the subsidies because the meaning of forest, among other things, was defined narrowly based on the Forest Act in the provision. The scope of application was limited to forestry areas.

The obligation to pay real estate tax does not apply to forest land and agricultural land. When considering whether the area is forest land within the meaning of the Act, attention is paid to the actual use of the plot. In principle, real estate tax is not paid from forest land. In case (KHO 1997:21), a taxpayer's recreational house was located on a property with a shoreline of about 300 meters and a total area of 2.4 hectares. Moreover, 1.6 hectares of the area were classified as forest land, 0.6 hectares as wasteland and 0.2 hectares as building site. Taking into account the actual leisure-time use of the property as well as its position and shape in relation to the limited possibilities to engage in forestry, the Supreme Administrative Court stated that not even a part of the property could be considered forest land in the meaning of sec. 3(1) of the Act on Real Estate Tax.[72] Real estate tax had to be imposed.

In case (KHO 2015:90), however, a golf course company was considered to be practising forestry by the Supreme Administrative Court. Forest parcels that were located on the outer edge of the golf course and that were not part of the actual golf course area were forests within the meaning of forest in section 3(1), part 1 of the Real Estate Tax Act, whereas forest sites that were located inside an actual golf course area between the fairways were not that kind of forest. Thus, the decision meant that the real estate taxation did not extend to the forest parcels outside golf courses.

Habitats of species protected according to the Nature Conservation Act may in fact limit the size of a suitable area for forestry, although the Forestry Act is mainly applied to forestry areas. For example, habitats of flying squirrels (Pteromys volans) were spotted in the area of Konikallio where forest felling was planned. According to section 49(1) of the repealed Nature Conservation Act (1096/1996), the destruction and deterioration of breeding sites and resting places used by flying squirrels was prohibited. The corresponding prohibition is in section 78 (2) of the valid Nature Conservation Act (9/2023). In case (KHO 2003:38), the Supreme Administrative Court stated that the Forest Act would be applied primarily in the area of Konikallio (1093/1996) in the management and use of the forest when the regulations of section 2 (1) and (2) of the Act had been taken into consideration. Furthermore, according to section 2(3) of the Forest Act in the forest management and use, the particular provisions, including section 49, of the Nature Conservation Act must be followed. Thus, when considering the court decision, it is clear that protection of a particular species and

[70] Laki kestävän metsätalouden rahoituksesta (1094/1996) and Luonnonsuojelulaki (1096/1996).

[71] See Act on the Financing of Sustainable Forestry, sec. 1.

[72] Kiinteistöverolaki (654/1992) sec. 3(1).

its habitats according to the Nature Conservation Act may limit the use of commercial forests, although the definition of forest as such refers to forestry land and primarily to the application of the Forest Act. Moreover, it can be concluded from this case that the limited encumbrance caused to the forest owner without compensation because of the prohibition was not considered unreasonable during that time.

The Centre for Economic Development, Transport, and the Environment can forbid felling in specific areas by using coercive measures to protect species according to the Nature Conservation Act. The competence of the centre in coercive measures was quite recently confirmed in a decision by the Supreme Administrative Court (KHO 30.08.2023 t. 2451). The nature conservation organisations can apply coercive measures from the Centre and can appeal negative decisions by it.[73] Moreover, the protection of a Natura 2000 site may hinder felling before it is evaluated that it does not significantly affect the protected natural values.[74] These findings still apply while the new Nature Conservation Act (9/2023) is in force. However, nowadays, according to section 111 of the valid Nature Conservation Act (9/2023), the landowner can receive full compensation for limitations or significant harms (disadvantages) on forestry based on species and habitats protection. Interpretation of the similar compensation provision of the repealed Nature Conservation Act (1096/1996) was outlined in case (KKO 2008:73) by the Supreme Court. Thus, when the concept of forest is strongly linked to forestry, it is only logical to require full compensation payment for even the slightest forest use restrictions imposed for the sake of nature conservation. From the values behind nature conservation, this matter could be seen differently.[75] In national case law, nature conservation legislation clearly has an influence on forestry, but the case law does not directly reform the traditional 'forest' definition as such. Nature protection is based on its own terms, which broaden the perspective of sustainable forestry from wood production to forest habitats and species (biodiversity) protection.

The outcome of the case law study of legal forest definition was somewhat disappointing. Only a small number of cases relevant for forest definitions could be identified. The limited amount of case law does not give a proper answer as to how the forest definitions are used in legal practice. Further research should be made by interviewing personnel in Finnish forest administration. However, this kind of short case study shows that nature conservation law in particular may exert an influence on forestry and bring in other legal definitions concerning forests and their protection. The terms of biodiversity and nature protection challenge the traditional definition of forests even in the same forest areas.

4. Amendment pressures from new EU legislation – some examples

Even without proper EU competence in forestry policy[76], EU legislation may influence legal forest definitions in Finland. For example, the Nature Restoration Regulation (NRR)[77] is based on the Treaty on Functioning of the European Union (TFEU 2012/C 326/01), and in particular Article 192(1), thus EU environmental policy, and the regulation affects forest resource management. The Union and its Member States are

[73] The Supreme Administrative Court no longer grants retrial permits on this kind of matter (KHO 16.04.2021 H 1261).
[74] See KHO 2020:3.
[75] See chapter 5.
[76] See Onida (2020), p. 17 and Kokko et al. (2006), p. 10.
[77] Regulation (EU) 2024/1991 of the European parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869.

parties to the Convention on Biological Diversity. The Global Biodiversity Framework, adopted at the fifteenth meeting of the Conference of the Parties to the Convention on 7–19 December 2022 and the EU biodiversity strategy[78], set out action-oriented targets for 2030.

The EU's Nature Restoration Regulation is a tool to enforce these targets in the member states. Article 12 of the NRR guides the restoration of forest ecosystems. According to article 1(1) of the NRR, 'ecosystem' means a dynamic complex of plant, animal, fungi and micro-organism communities and their non-living environment, interacting as a functional unit, and includes habitat types, habitats of species, and species populations. Member states shall put in place the restoration measures necessary to enhance the biodiversity of forest ecosystems by using an obligatory common forest bird index. In addition, there are seven optional indexes, six of which are selected by each member country to best suit its circumstances and to assess the improvement in the state of forest nature. The Nature Restoration Regulation obliges member states to achieve an increasing trend and a satisfactory level of indicator development. These objectives apply to all forests.[79] Thus, forest ecosystem as a legal definition in the EU legislation will reform the traditional Finnish understanding of forestry and its social concepts.

The second example from EU legislation and its influence on Finnish forestry is the Renewable Energy Directive (with amendments RED III).[80] Article 1 of the directive establishes a common framework for the promotion of energy from renewable sources, sustainability, and greenhouse gas emissions saving criteria for biofuels, bioliquids, and biomass fuels. Biomass means, among other things, the biodegradable fraction of products, waste, and residues of biological origin from forestry and related industries. Moreover, forest biomass means biomass produced from forestry. The set targets, a general framework, and several measures of the directive aim to promote the sustainable production and consumption of renewable energy and advance the achievement of the EU's climate mitigation objectives. However, at the same time, the directive limits opportunities to use forest biomass as a renewable energy resource. For example, the principle of the cascading use of biomass refers to the resource-efficient use of materials in such a way that forest biomass is primarily used for products and materials rather than for energy use in the amended article 3 of the directive. Regarding forest biomass, the directive still includes so-called risk-based review, which is important for Finland. In the review, sustainability requirements related to forest biomass are demonstrated through national legislation. The risk-based review will also include certain prohibited areas from which forest biomass may not be purchased for energy use. These include primary forests, old forests, and other particularly biodiverse forest areas.[81] 'Primary forest' means naturally regenerated forest of native tree

[78] EU Biodiversity Strategy for 2030, COM(2020) 380 final.

[79] See the NRR 12 article and the Ministry of Environment 2024.

[80] Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652. The competence rules for the directive are articles 114, 192(1) and 194(2) of the TFEU.

[81] See the RED article 29 and työ- ja elinkeinoministeriö 2023. The report of RED III sustainability criteria working group was published on 28 October 2024 in Finland (työ- ja elinkeinoministeriö 2024). The working group estimates that Finland meets the country-level sustainability requirements of the directive. However, the working group was not unanimous, and a representative of the Finnish Association for Nature Conservation submitted a dissenting opinion in the report, in which she considered that, in the light of certain abuses, the current use

species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed.[82] This definition is tense in relation to the national legal concept of 'forest', which clearly aims at the production and use of wood through human activity.

The third relevant example is the EU legislation that sets out the commitments of Member States for the land use, land use change, and forestry ('LULUCF') sector, which contribute to achieving the objectives of the Paris Agreement[83] and meeting the greenhouse gas emission reduction target of the Union for the period from 2021 to 2030.[84] In this regulation, based on EU climate policy, particularly TFEU article 192(1), forests play an important role in climate change mitigation as carbon sinks. The EU's LULUCF legislation contains several terms that concern forests and forest management. Forest management is seen as a part of a wider category of land use activities. In the EU legislation, forest land is understood as land areas covered by forests and woody vegetation as defined by the national forest definition. Forest land areas may be temporarily without trees after harvest or storms if the trees will re-grow on these land areas.[85]

The fourth relevant example is the EU's deforestation regulation (EUDR), resting on environmental policy, TFEU article 192(1).[86] The fundamental purpose of the regulation is to minimise the Union's contribution to deforestation and forest degradation worldwide, thereby contributing to a reduction in global deforestation and reducing the Union's contribution to greenhouse gas emissions and global biodiversity loss. The regulation set rules regarding the placing and making available on the Union market as well as the export from the Union of relevant products, such as wood, to fulfil this purpose.

The deforestation regulation includes many legal definitions concerning forest in article 2: Deforestation means the conversion of forest to agricultural use, whether human-induced or not (section 3). Forest means land spanning more than 0,5 hectares with trees taller than 5 metres and a canopy cover of more than 10%, or trees able to reach those thresholds in situ, excluding land that is predominantly under agricultural or urban land use (section 4); forest degradation means structural changes to forest cover, taking the form of the conversion of: (subsection a) primary forests or naturally regenerating forests into plantation forests or into other wooded land; or (subsection b) primary forests into planted forests (section 7). Primary forest means a naturally regenerated forest of native tree species, where there are no clearly visible indications of human activities and the ecological

of forest biomass in energy production was not environmentally sustainable.

[82] See article 2 (8) of the Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No. 995/2010.

[83] United Nations 2015, Paris Agreement.

[84] See Regulation (EU) 2023/839 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out the targets of the Member States for 2030, and Regulation (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review; Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No. 529/2013/EU.

[85] See European Environment Agency 2024 p. 23.

[86] Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No. 995/2010.

processes are not significantly disturbed (section 8). Naturally regenerating forest means forest predominantly composed of trees established through natural regeneration; it includes any of the following: (a) forests for which it is not possible to distinguish whether they have been planted or naturally regenerated; (b) forests with a mix of naturally regenerated native tree species and planted or seeded trees, and where the naturally regenerated trees are expected to constitute the major part of the growing stock at stand maturity; (c) coppice from trees originally established through natural regeneration; (d) naturally regenerated trees of introduced species (section 9). Planted forest means forest predominantly composed of trees established through planting and/or deliberate seeding, provided that the planted or seeded trees are expected to constitute more than 50% of the growing stock at maturity; it includes coppice from trees that were originally planted or seeded (section 10). Plantation forest means a planted forest that is intensively managed and meets, at planting and stand maturity, all the following criteria: one or two species, even age class, and regular spacing; it includes short rotation plantations for wood, fibre, and energy, and excludes forests planted for protection or ecosystem restoration, as well as forests established through planting or seeding, which at stand maturity resemble or will resemble naturally regenerating forests (section 11). Under these terms, several Finnish forest areas could be planted forests, particularly for commercial purposes. However, it is often difficult to distinguish in practice what proportion of trees has been naturally regenerated or planted in a forest. It is especially difficult when non-native tree species are not significantly used in forest regeneration in Finland.

All in all, these new legal definitions from the EU regulation challenge traditional Finnish terms defining the meaning of forest and forestry. Although they come from outside the national competence on forestry from the EU's different policy fields, they reform definitions that establish the general understanding of what forests are for. Finally, they have an influence on the practice of forestry.

5. Discussion – trends in finnish forest use and legal studies

One clear trend is that forests are in multiple use, while wood production is only one objective[87] among others even in commercial forests. For example, reindeer herding, hunting, and tourism may be supplementary or sometimes even rival livelihoods to forestry. Within this discussion of multiple use also falls everyone's (everyman's) rights[88], including the right to pick mushrooms or berries from forests. When the definition of 'forest' is based on the (existing land use and) wood growth potential of the site, it may overlook values other than the economics of wood production, for example those relating to the multiple use of forests.[89]

Protection of biological diversity in forests has also been the target of many studies in Finnish legal scholarship.[90] Intensive forest management practices of commercial forestry have been seen as being among the primary causes of threat

[87] In fact, wood production as one common objective is a simplified description of the complex sustainable forest management discussion. Pappila (2010) has studied the forest legislation in particular and evaluated the forestry paradigm through the theory of disturbance dynamics. Moreover, she has looked at the water protection measures of forest management. Both assessments showed that the paradigm was too one-sided to reflect the complexity of forests or to protect biodiversity.

[88] Everyone's right is originally based on Nordic customary law. It allows undisturbed public access to any private or public owner's land with some restrictions in law.

[89] See for example Raitio (2008); Hovila (2012), Tuunanen et al. (2012).

[90] See for example Huttunen (2014); Similä, Kokko (2009); Kokko (2009).

to forest species and habitats and thus biodiversity.[91] Legal studies show that the main objective of forest legislation is economically sustainable forestry and social and ecological sustainability comes after it.[92] Our analysis of the legal definitions of forest support these results. However, the EU's Nature Restoration Regulation, among other new nature protection regulations, has challenged this emphasis on economic sustainability.[93] While the social and ecological values of forests are to be promoted in society, the legal definition of forest also needs reassessment.[94]

Natural resources law has come up again as an important topic in Finland. It includes forestry, hunting and fishing, use of water, and the extraction industry. Natural resources law is not only a matter of public environmental law but may also include, for example, contracts for the possession of natural resources.[95] The basic values behind natural resources law are anthropocentric use values while, for example, biodiversity law more clearly recognises the intrinsic values of nature. The current legal definition of 'forest' is quite appropriate in the wider context of natural resources law, but it is not so easy to integrate into the purposes of biodiversity and nature protection law. However, new alternative measures for forestry planning and forest management are needed to protect clean water resources and to combine these two fields of natural resources law in a sustainable way in Finland.[96]

The EU's climate policy with carbon sinks and the European green deal with bioeconomy have brought up new economic interests in forests.[97] The current forest definition can only be partly useful in these issues. Growth of wood is only one aspect in the discussion of carbon sinks and the new bioeconomy, which may bring new ways of using commercial forests while the main traditional use has been in the timber, paper, and pulp industry. In fact, wood products can substitute for fossil fuel-based products in many ways and store carbon over centuries, for example in log houses. Moreover, forest ecosystems also need protection in bioeconomy. A clear trend is to study national forestry regulation in the light of these new interests.[98] For example, Romppanen and Turunen recognise in their article the need to handle forest circular economy and bioeconomy together in future regulatory studies under the term 'circular bioeconomy'.[99] Clearly, wood production is too narrow a view to support the 'forest' definition when new objectives such as circular bioeconomy define the sustainable use and protection of forests. These new trends in legal research challenge traditional legal definitions of 'forest' and 'forestry land'.

International initiatives like the attempt to create a Legally Binding Agreement on Forests in Europe[100] could bring out new aspects of national forest definitions if such an agreement is accepted someday. However, the present state

[91] Hyvärinen et al. (2019), p. 32. Huttunen (2014), p. 333; Rassi et al. (2010), p. 49; Similä, Kokko (2009), p. 81.
[92] Kokko (2009), p. 58.
[93] See chapter 4 above.
[94] The amendment of the legal definition is likely, although attempts have been made to delay it in Finnish society, for example by using the politicisation of environmental science. Kukkonen and Malkamäki (2024) argue that the so-called forestry coalition defends its point of view about increased logging with technical and national arguments and politicises the broad scientific consensus on its harmful environmental impacts. Technical arguments appeal to the common principles of technical efficiency, productivity, and expertise, while national arguments invoke shared, cultural ideas of Finnish forestry.
[95] Kokko (2012), p. 1124; Hollo (2004), p. 257.
[96] See Halonen et al. (2020) pp. 115–116.
[97] See for example Romppanen (2017) p. 39 and European Commission (2020). See chapter 4 above.
[98] See for example Melkas (2004); Mustalahti – Kusmin (2016) pp. 260–261; Laakso (2017) pp. 434–435.
[99] See Romppanen, Turunen (2019) pp. 61–62.
[100] Forest Europe (2011). See Evgenia et al. (2024).

of affairs in Europe does not support the acceptance of these initiatives.[101] The EU does not have special competence for forestry proper but it can use, for example, environmental, climate, renewable energy, and common agricultural policy to pass legislation concerning forests.[102] Using EU competence based on these policy sectors, the EU can formulate new legal forest definitions to regulate the member states.[103] However, in practice it can be partly avoided in the formulation of EU legislation. For example, European Union Timber Regulation (EUTR) regulations refer indirectly to legal 'forest' definitions of the country of harvest.[104] All in all, it can be concluded, as the examples mentioned in chapter 4 show, that the relevant new EU regulation will broaden legal definitions of forest and inevitably challenge the use of old Finnish forest definitions when the regulation is finally enforced at the national level.

6. Concluding remarks

The legal definition of forest in Finland was born to address the needs of traditional forestry and valuation and the exchange of forestry land and estates. Forests have long been and are still important for the Finnish society and economy. The definition of forest returns to the term of 'forestry land', which is divided into four parts on the grounds of its wood production potential. The division is 'forest land,' 'scrub land or forest land of low productivity', 'waste land', and 'other land for forestry.' Moreover, forest and site types can particularise the definition of forest in forest management and valuation practice.

In some cases, the scope of definition of forest extends even over forestry land areas. In these cases, our recommendation is to use a narrow context-based interpretation of the definition. Forest has its limitations as a current legal definition. It is not very serviceable in unmanaged (primary) forests, thus for example in nature conservation and wilderness reserves, where these forests have value apart from wood production.

Challenges to the current definition of forest come from multiple and new interests in forests. Commercial forests can also be used for example in reindeer herding and nature-based tourism as well as hunting, berry picking, and other kinds of recreation. Moreover, forests are essential in the protection of biodiversity and they can serve as carbon sinks or new kinds of resources for (circular) bioeconomy, which all reveal the need to develop forest definitions in Finland. In fact, terminology in standard language, such as landscape forest, old forest, game forest, forest park, forest energy, forest diversity, or forest as a carbon storage, already directs and defines the use or protection of forests in practice. The new EU regulation concerning other interests in forests than forestry has been an accelerator and has introduced new terms. While these terms are legal definitions, their national implementation should preserve the original meaning of EU law, for example in the mapping of protected forests. Otherwise, the implementation result may lead to conflict between EU law and national law in a way that is ultimately harmful to forestry. The Finnish implementation seems to overlook primary forests if they are not at the same time "old-growth". This interpretation is not quite in line with EU legislation. At least a reputation risk for Finnish forestry may appear if its pri-

[101] It is unlikely that the forest agreement is possible as long as war in Ukraine continues.
[102] Kokko et al. (2006), p. 10.
[103] See e.g. EUDR above in the chapter 4.
[104] See regulation (EU) no 995/2010 of the European parliament and of the council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (EUTR). For example, according to article 2 (g) of EUTR for the purposes of this Regulation, the following definitions shall apply: (g) 'illegally harvested' means harvested in contravention of the applicable legislation in the country of harvest.

mary forests are utilised for biomass or timber production due to the overly high demarcation criteria of protected forests.[105] Thus, it is only a matter of time before the terminology of Finnish standard language and of EU legislation causes traditional legal definitions of forest to evolve for multiple and new purposes, and the core of legal 'forest' definition becomes neutral, like forest in the FAO's classification, and disengages itself from traditional forestry and especially from wood production targets.

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[105] The Finnish government is excluding forests from protection, the saving of which would be the minimum requirement for saving forest biodiversity, says Leif Schulman, Director of the Finnish Environment Institute. "Finland poses a significant risk to its own forestry, as these demarcation criteria are drawn so high" (Helsingin Sanomat 20.10.2024). The programme of Prime Minister Petteri Orpo's Government 20 June 2023 clearly states that the EU must not restrict the use of Finnish forests, and national interpretations must not complicate the operating environment for economic activities (p. 145) and later that the Government will protect the remaining state-owned old-growth forests that are in their natural state and meet the national criteria (p. 171). In the Finnish text version, primary, old-growth forests are described as the same woodlands (p. 153). However, the EU Biodiversity strategy for 2030, COM(2020) 380 final, section 2.1, emphasises that "as part of this focus on strict protection, it will be crucial to define, map, monitor and strictly protect all the EU's remaining primary and old-growth forests". According to article 2 sec. 8 of the EU's deforestation regulation, 'primary forest' means naturally regenerated forest of native tree species, where there are no clearly visible indications of human activities and the ecological processes are not significantly disturbed.

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