ADMINISTRATIVE JUSTICE IN EUROPE

- Report for Finland -

INTRODUCTION (History, purpose of the review and classification of administrative acts, definition of an administrative authority)

1. Main dates in the evolution of the review of administrative acts

Under the Constitution of Finland, the Supreme Administrative Court (SAC) is the court of final instance in administrative cases. In criminal and civil cases, the highest judicial powers are respectively vested in the Supreme Court. Both courts were established in 1918, but both were in fact successors to judicial traditions of the Grand Duchy era. (Finland gained independence in 1917.) Initially, the SAC mainly heard appeals directly against decisions of administrative authorities, while the administrative appellate jurisdiction at lower level (against decisions of state authorities under ministry level, or against municipal authorities) was vested in certain administrative authorities, *inter alia* in the then Provincial Offices, the decisions of which were appealed against before the SAC.

In the course of time the judicial appellate function of the Provincial Offices gradually evolved. In 1955 separate chambers within the Offices, called the Province Courts, were established. The factual independence of the Province Courts was strengthened in 1974, and in 1989 they also formally became independent regional courts, with no more administrative connection to the Provincial Offices. In 1999, the Province Courts were transformed into the present-day Regional Administrative Courts (RACs). In the Constitution Act of 1999 (731/1999), the constitutional status of the SAC and the administrative judicial procedure was explicitly defined and established (see 6 below).

An overall appealability covering the decisions of all authorities, the Cabinet and ministries included, was established in 1950. The present general regulatory framework for the procedure, the Administrative Judicial Procedure Act (586/1999), was enacted in 1999.

Two special Courts, the Market Court and the Social Insurance Court, mainly function as administrative courts and largely apply the procedural provisions for administrative judicial procedure.

In 2014, the number of the RACs was reduced from 8 to 6. In addition, there is a somewhat different RAC for the self-governed Åland.

2. Purpose of the review of administrative acts

The review by the administrative courts aims to submit to the rule of law. The protection of individual rights is one of the fundamental starting-points. According to the Constitution Act, Section 21 (*Protection under the law*), everyone has the right to have his or her case dealt with appropriately and without undue delay by a legally competent court of law or other authority, as well as to have a decision pertaining to his or her rights or obligations reviewed by a court of law or other independent organ for the administration of justice.

In general, any administrative decision (i.e. any measure by which a case has been resolved or dismissed) may be challenged by an appeal as provided in the Administrative Judicial Procedure Act (586/1996).

3. Definition of an administrative authority

In respect to appeals, the legal notion of administrative authority encompasses in practice all state administrative authorities, municipal authorities, authorities of the autonomous Åland, ecclesiastical authorities (of the Evangelical Lutheran Church or he Orthodox Church) and various independent institutions under public law. State enterprises, associations under public law and private parties when these are performing public administrative tasks are also included, though by specific legislation and not a general rule. In fact, all public legal entities and private legal entities exercising public authority are covered.

4. Classification of administrative acts

As appealable decision is regarded any measure by which a case has been resolved or dismissed. An internal administrative order concerning the performance of a duty or another measure shall not be subject to appeal.

Mere physical acts are not appealable.

As a rule, general normative acts are not regarded as appealable administrative decisions. However, should such an act have direct and individual legal effects, it would probably be regarded as challengeable. Municipal regulations (by-laws) are, however, generally challengeable as such. On the other hand, Section 107 of the Constitution provides that if a provision in a Decree or another statute of a lower level than an Act is in conflict with the Constitution or another Act, it shall not be applied by a court of law (or by any other public authority). Hence the courts have a general obligation to test the legality of such regulations before applying them. Regarding parliamentary Acts, a court shall give primacy to the provision in the Constitution, if the application of an Act would be in evident conflict with the Constitution (Section 106).

As administrative contract (Section 3 of the Administrative Procedure Act**,** 434/2003) is legally defined as a contract, within the competence of an authority, on the performance of a public administrative task, or a contract relating to the exercise of public authority. Pursuant to the Administrative Judicial Procedure Act, Section 69, a dispute concerning a fiscal liability or other public obligation or entitlement, as well as a dispute about an administrative contract, in which resolution is sought from an authority otherwise than by appeal (*administrative litigation*) shall be dealt with by a RAC.

According to present legislation, delay of decision-making and other passivity of administrative authority as such is not a sufficient basis for administrative judicial procedure. In cases where the authority has imposed an economic sanction to a party, and the length of the proceedings has been excessive, both the administrative stage and the court stage included, the amount may be lowered (Section 53 a of the Administrative Judicial Procedure Act). In addition, there are situations in sectoral (environmental etc.) law where a person or association may ask the competent authority to take administrative enforcement measures against another person. In this case also a decision by which the authority declares that no measures are taken is challengeable.

I –ORGANIZATION AND ROLE OF THE BODIES, COMPETENT TO REVIEW ADMINISTRATIVE ACTS

A. COMPETENT BODIES

5. Non-judicial bodies competent to review administrative acts

In certain categories of matters (e.g. agricultural and rural subsidies, patents and trade marks), a sector specific independent appellate board has functioned as the first-place appellate body, instead of the RAC.

But also in these cases the SAC (or, in certain categories of matters in the social insurance sector, the Social Insurance Court) has been the final instance. In 2013 and 2014 the boards for rural activities and for patents and trade marks have been closed down, and their tasks have been transferred to the Market Court or the RACs.

6. Organization of the court system and courts competent to hear disputes concerning acts of administration

Pursuant to the Constitution Act of Finland, the judicial powers are exercised by independent courts of law, with the Supreme Court and the SAC as the highest instances (Section 3). The Supreme Court, the Courts of Appeal and the District Courts are the general courts of law. The SAC and the RACs are the general courts of administrative law (Section 98). Justice in civil, commercial and criminal matters is in the final instance administered by the Supreme Court. Justice in administrative matters is in the final instance administered by the SAC. The highest courts supervise the administration of justice in their own fields of competence (Section 99).

Courts for civil and criminal matters have no power to review administrative decisions.

There is no separate constitutional court.

For a clear majority of all cases where an administrative decision is appealed against, the competent RAC is the first-place appellate body. Regarding a minority of cases, consisting mainly of cabinet or ministry decisions, the appeals are heard directly by the SAC. For competition and public procurement law, the competent courts are firstly the Market Court and finally the SAC. The same holds true also regarding patents and trade marks. As for social insurance cases, the appeals are firstly heard by specific appellate boards and finally by the Insurance Court. All these appellate bodies apply the Administrative Judicial Procedure Act as the basic procedural regulation.

Before the SAC, need to have leave of appeal depends on the applicable sectoral legislation. Today, leave is required in about a half of the incoming cases.

B. RULES GOVERNING THE COMPETENT BODIES

7. Origin of rules delimiting the competence of ordinary courts in the review of administrative acts

The dualistic structure of the judiciary is explicitly provided in the Constitution Act.

8. Existence and origins of specific rules related to the competence and duties of the administrative courts or tribunals

The existence of administrative courts is explicitly required by the constitution. The proper rules on the organization, competence and duties are set out in parliamentary Acts.

C. INTERNAL ORGANIZATION AND COMPOSITION OF THE COMPETENT BODIES

9. Internal organization of the ordinary courts competent to review administrative acts

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10. Internal organization of the administrative courts

The SAC consists of the president and twenty justices, as well as a few justices nominated for a fixed period. The SAC has about forty (lawyer) referendaries and forty other employees. They are headed by the Secretary General. The cases before the SAC are heard by three chambers, the ordinary quorum of each being five judges. In cases referred to in the Water Act and the Environmental Protection Act as well as in cases concerning certain intellectual property rights such as patents, the chamber is composed of (normally) five judges and two part-time expert members having competence in the relevant field. The various categories of subject-matters are as a main rule divided between the chambers, but depending of the work situation etc., all chambers may, however, may examine any types of cases falling within the Court's jurisdiction. There are as many as 180 different categories of cases.

When refusing leave to appeal, and in a limited group of less complicated appellate decisions, a chamber may be composed of three judges. On the other hand, cases involving a significant judicial interest may be decided by a composition of all the judges of the Chamber or even by the SAC as a plenary court.

Each of the eight (or nine, if the Administrative Court of the autonomous Åland is taken into account) RACs consists of the head judge and judges, the number of which varies. Also in the RACs there are (lawyer) referendaries and other employees. The total amount of employees in the RACs is 430. The normal quorum of the RACs is three judges, except for certain routine decisions, for which the quorum is one judge.

For certain matters in the social and health sectors, there are also part-time members with special expertise on the sector at stake. In these cases the normal minimum quorum of the RAC is two judges and one expert member.

In the RAC of Vaasa, which exclusively hears the Water Act and the Environmental Protection Act cases, there are also ordinary judges with special expertise (technical and scientific) other than legal. In these cases the minimum quorum is provided separately.

D. JUDGES

11. Status of judges who review administrative acts

There are no particular categories of judges. The legal status and tenure of all judges is similar.

12. Recruitment of judges in charge of review of administrative acts

According to the Constitution Act, Section 102, tenured judges are appointed by the President of the Republic in accordance with the procedure laid down by an Act. Provisions on the appointment of other judges are laid down by an Act.

The appointment procedure of all judges (irrespective of the type of the court) is regulated by one single parliamentary Act (the Act on the appointment of judges, 205/2000). The presidents and justices of the two Supreme Courts are appointed by the President of the Republic, a reasoned proposal by the respective Court having prior to that been made. All other judges are appointed by the President of the Republic on the basis of proposal for decision put forward by the Government, but only after the Judges Appointment Board has examined the applicants, received an opinion of the court at stake and made a proposal. All lawyers who meet the general qualifications set forth in the Act, may apply. There is no formal training programme for judges, but the referendary tasks in lower courts make up kind of training in practice (see also 13). In administrative courts, circulation between various lawyer careers has been encouraged.

13. Professional training of judges

The most common background of the judges of RACs is former referendary and temporary judge of a RAC, but there are also former judges of other courts and former administrative officials etc.

As for the SAC, the background of justices is more variable. Among the justices there are former judges of the RACs or other courts, former professors of law, former senior government officials etc. Traditionally, some of the justices have at some stage of their career served as referendaries in the SAC.

14. Promotion of judges

There are no organized career structures.

15. Professional mobility of judges

It is possible to move from a court to a different court or from administration or from private professions to court or vice versa. Such moves are, however, not too common, but they are more frequent in the administrative courts than in other courts. A judge may not have other occupations

without permit. In practice, only e.g. (minor scale) lecturing in universities etc. is allowed in administrative courts. This does not prevent judges from becoming members of governmental committees etc. Temporary judges may preserve their ordinary occupations in administration, being on leave from those.

Pursuant to the Constitution Act, Section 103, a judge shall not be suspended from office, except by a judgement of a court of law. In addition, a judge shall not be transferred to another office without his or her consent, except where the transfer is a result of a reorganisation of the judiciary.

E. ROLE OF THE COMPETENT BODIES

16. Available kinds of recourse against administrative acts

An administrative court can overrule a challenged administrative decision. In most cases it can also be modified, depending on the nature of the case and the scope of discretion of the administrative body at stake. Especially permits in the environmental, water and land-use sectors are, where necessary, directly modified, instead of returning the case.

The more there are "non-judicial" discretionary elements, the less may direct changes come into the question. As environmental decision-making is rather completely regulated by substantive law (albeit partly by general notions of law), this is the foremost field where various direct amendments take place. E.g., the administrative court may come to the conclusion that the challenged emission permit shall next time be reviewed within 8 years and not within 4 or 12 years, as the permit body had ordered. Or the allowed amount of fish to be raised in a fish farm shall be e.g. 6,000 units, not 4,000 or 10,000. Or the allowed maximum concentration of phosphates, nitrates etc. in sewage emission to a lake shall be X, not Y. Or the allowed annual/daily etc. amount of groundwater intake shall be X, not Y. Or the maximum dimensions of a watercourse construction (a pier, a filling area etc.) shall be X, not Y. Or the allowed noise in a defined area shall be X, not Y. In all these cases it is of course always possible to return the case to the permit authority, but it is quite often also possible to make a direct amendment. This may save a significant period of delay, not least from the viewpoint of the operator (permit applicant) and the impacted parties. Also certain minor rights may be granted directly by the appellate courts, but it is very unusual that a whole permit (after total refusal before an administrative permit body) is directly granted by an administrative court.

The main exception is the so-called municipal appeal (pursuant to the Municipalities Act 365/1995), which is as a main rule applied to decisions of municipal authorities. Here modification is not allowed.

Claims for damages for harmful administrative acts are exclusively heard by courts for civil and criminal matters. However, compensations for environmental or water law damages (from permit holder to victims) are largely dealt with by administrative bodies and appeals respectively by administrative courts, as an accessory to the proper permit procedure.

Resolution sought in dispute about an administrative contract (see under 4 above) is dealt with by the competent RAC in an *administrative litigation* procedure.

Compensation based on state liability in EU law may be claimed either before the RAC in administrative litigation procedure (SAC 2012:104) or before civil court (Supreme Court 2013:58) depending on the basis of the claim. There are no explicit provisions on this.

17. Existence of mechanisms for the delivery of a preliminary ruling apart from the procedure under the Article 234 of the EC Treaty

A Finnish civil or penal court is not entitled to repeal or invalidate any administrative decision. However, it may sometimes be necessary - as a question preliminary to a civil or penal ruling - for a civil or penal court to take a stand on the legality of a related administrative act or decision. This, however, has no impact as such on the validity of the administrative decision at stake. (Another thing is that the outcome of the civil or penal trial may sometimes, depending on the circumstances, give reason to extraordinary appeal pursuant to the Administrative Judicial Procedure Act).

Actually, situations where such a preliminary stand is needed do quite seldom occur in practice, mainly due to the high probability of a prior appeal having been made to an administrative court against such an administrative decision. Moreover, Chapter 3, Section 4 of the Damages Act provides that if a person who has suffered injury or damage owing to an erroneous decision by a state or municipal authority has without an acceptable reason failed to appeal against the said decision, he/she shall not be entitled to damages from the state or the municipality for injury or damage that could have been avoided by appealing.

As for damages litigation, the outcome described above is also due to the rule in Chapter 3, Section 5 of the Damages Act, pursuant to which no action in damages can be brought for injury or damage caused by an administrative decision, if the decision has been appealed against in the Supreme Administrative Court, insofar as the decision has been allowed to stand. Regarding Cabinet or Ministry decisions, no action for damages can be brought for injury or damage caused by such a decision, unless the decision has been amended or overturned (i.e. by the Supreme Administrative Court) or unless the person committing the error has been found guilty of misconduct or rendered personally liable in damages.

There is no mechanism of preliminary rulings between different courts of justice.

18. Advisory functions of the competent bodies

The administrative courts have no formal advisory role vis-à-vis the executive or the legislature. However, pursuant to the Constitution Act, Section 99, the highest courts (the Supreme Court and the SAC) supervise the administration of justice in their own fields of competence. They may submit proposals to the Government for the initiation of legislative action. In practice, their opinions are often asked in the preparation of new legislation.

19. Organization of the judicial and advisory functions of the competent bodies

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F. ALLOCATION OF DUTIES AND RELATIONSHIP BETWEEN THE COMPETENT BODIES

20. Role of the supreme courts in ensuring the uniform application and interpretation of law

The rulings of the SAC of course aim at uniform interpretation and application, and are generally

followed in practice. In cases where leave to appeal to the SAC is required, the need to clarify interpretation of law in administrative and court practice is one of the main criteria for granting a leave (see 26 below).

II – JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

A. ACCESS TO JUSTICE

21. Preconditions of access to the courts

With the exception of administrative litigation (see 4 above), the procedure is always initiated by an appeal against an existing administrative decision. In some cases it is either possible or compulsory to ask an administrative body (that one who has made the decision, or a higher one) to review the decision before an appeal to RAC (or, in some cases, to a special court) is made.

22. Right to bring a case before the court

The general rule is expressed in the Administrative Judicial Procedure Act, Section 6, pursuant to which any person to whom a decision is addressed or whose right, obligation or interest is directly affected by a decision may appeal against the decision. In addition, an authority may appeal against a decision pursuant to an express provision in an Act or if it is essential to exercise the right of appeal to protect a public interest supervised by the authority.

In practice, the rules and situations vary strongly, and there are numerous specific, more or less divergent rules in sectoral legislation. Especially in cases in the environmental, water and land-use sectors the scope of standing is large, and there may be a large number of appellants and opposing parties: persons of various types, associations, authorities of the state and of the municipalities. On the hand, it is typical e.g. for the welfare and health sectors, aliens law etc. that there is only one appellant. It is also the main rule that the administrative body whose decision has been challenged is not regarded as a formal party, although the same is anyway heard and often also has the right to appeal against the decision of the RAC.

23. Admissibility conditions

Concerning the Administrative Judicial Procedure Act, Section 6, see 22 above. No prove on infringement of rights is required for admissibility.

Where the so-called municipal appeal is applied, any member of the municipality can appeal, in addition to those individually affected.

24. Time limits to apply to the courts

Pursuant to the Administrative Judicial Procedure Act, Section 22, an appeal shall be lodged within 30 days of notice of the decision. When calculating this period, the day of notice shall not be included.

For extraordinary appeal by means of procedural complaint, restoration of expired time or annulment there are specific appeal periods.

25. Administrative acts excluded from judicial review

Specific provisions in an Act shall define the cases where the decision of an administrative authority may not be challenged by an appeal. In practice such cases very seldom occur. Pursuant to the Constitution Act, Section 21, provisions concerning the right of appeal shall be laid down by an Act. This effectively prevents situations where a decision which is relevant to someone's rights would not be challengeable.

26. Screening procedures

The main rule is that there is no screening either before the RAC or before the SAC.

However, in several categories of matters leave to appeal to the SAC is required. These situations, which among others include major part of cases in the sectors of taxation, social welfare, aliens law and rural subsidies, are strictly defined by law. Leave application and proper appeal are lodged simultaneously. Generally, hearing only takes place when a leave has been or is going to be granted.

Although there are several modifications in sectoral law, in pursuance of the general rule the SAC has to grant leave to appeal, if (1) it is important to bring the case before the SAC to apply the law in other similar cases or for the sake of the uniformity of the application of law, (2) there is particular reason to bring the case before the SAC because of an evident mistake occurred in the case, or (3) there is other reason of importance. When the leave is refused, no more detailed grounds than those above are normally presented.

The leave may be granted or refused by a quorum of 3 members (instead of the normal 5). There are no formal time limits for decision-making.

The average total length of proceedings in certain matter categories of the SAC illustrates roughly the length of the leave procedure in such groups of matters where the leave requirement is valid in the majority of cases within the group. Hence the average length of proceedings in the cases decided in 2013 was 5.6 months for social welfare and 8.2 months for immigration and asylums. The average length of all cases in 2013 was 12.1 months.

27. Form of application

There are no specific forms. The formal requirements are few. Finnish or Swedish (or one of the Saami languages) may be used, as provided in the language legislation. In practice, also English is accepted in aliens law cases in practice.

Appeal instructions shall be enclosed with every single (appealable) administrative decision. Pursuant to the Administrative Judicial Procedure Act, Section 14, the appeal instructions shall indicate: (1) the appellate authority; (2) the authority with whom the appeal document is to be lodged; and (3) the appeal period and the date when the said period begins to run. The appeal instructions shall lay down the provisions on the contents and appendices of the appeal document and on its delivery.

According to Section 23, an appeal shall be lodged in writing. The appeal document shall indicate:

the decision challenged; the parts of the decision that are challenged and the amendments demanded to it; and the grounds on which the challenge is based. If leave to appeal is required in the matter, the appeal document shall indicate why leave should be granted. According to Section 24, the appeal document shall indicate the relevant contact information and signature(s). Pursuant to Section 25, the following shall be appended to the appeal document: (1) the decision challenged, in the original or as a copy; (2) a certificate on the date of notice of the decision or other evidence on the date when the appeal period began to run (although this may be unnecessary in evident cases; cf. 24 above); and (3) the documents on which the appellant relies in support of his demand, unless these have already earlier been delivered to the authority (or included in the case documents of the administrative body, which are always ex officio delivered to the appellate court). An attorney shall append his power of attorney to the appeal document.

28. Possibility of bringing proceedings via information technologies

E-mail can be used.

29. Court fees

There is no pecuniary charge for lodging an appeal or an application for leave to appeal. Instead, the applicant is required to pay a fee after the final decision has been made (see 47 below). There are, however, extensive exceptions.

30. Compulsory representation

The parties to the proceedings are often able to pursue their cases without professional legal help. With the exception of child welfare cases, a representative, where any, is formally not required to meet legal professional standards.

31. Legal aid

The access depends on the applicant's financial resources. Aid is granted and often also performed by independent administrative bodies for legal aid. Refusal to grant legal aid can be challenged before administrative court.

32. Fine for abusive or unjustified applications

No.

B. MAIN TRIAL

33. Fundamental principles of the main trial

As a starting-point, the procedure takes place in writing. There is consequently no oral main hearing or final pleading.

Pursuant to the Administrative Judicial Procedure Act, Section 37, an oral hearing shall, where necessary, be conducted for purposes of establishing the facts of the case. The parties, the authority that made the decision in the matter, witnesses and experts may be heard and other evidence received in the oral hearing. The oral hearing may be limited to concern only a part of the matter, to clarify the opinions of the parties or to receive oral evidence, or in another comparable manner.

According to Section 38, a RAC shall conduct an oral hearing if a private party so requests. The same applies to the SAC where it is considering an appeal directly against the decision of an administrative authority. The oral hearing requested by a party need not be conducted if the claim is dismissed without considering its merits or immediately rejected or if an oral hearing is manifestly unnecessary in view of the nature of the matter or for another reason. The provision above shall not apply if the standing of the requesting party is based on membership of a municipality or another community. If a party requests an oral hearing, he shall state why the conduct thereof is necessary and what evidence he would present in the oral hearing.

These rules mean in practice that oral hearings are more common in the RACs than in the SAC. Oral hearings take place especially in alien law cases and in cases where a decision to take a child into care has been challenged.

The proceedings, including all the documents and correspondence, are public, with the exception of certain protected interests or circumstances defined the by law. The judgment is made public in writing, without an oral pronouncement. The decision always includes a statement of reasons.

34. Judicial impartiality

In respect to administrative courts, the provisions in chapter 13 of the Code of Judicial Procedure on the disqualification of a judge shall apply, to the extent appropriate, to the disqualification of a judge of an administrative court.

Every judge is obliged to make a confidential report on his or her economic and other commitments to the Ministry of Justice.

35. Possibility to rely on the new legal arguments in the course of proceedings

As a rule yes, provided that the applicant already in his appeal shortly expresses his intent to do that.

36. Persons allowed to intervene during the main hearing

The opposite parties to the applicant, where any, are heard ex officio on all relevant material. E.g. in environmental, land-use and water law cases the cross hearing of different subjects may be rather complex.

Under certain preconditions and in certain situations it is also possible to intervene in the case without being a party.

37. Existence and role of the representative of the State (“ministère public”) in administrative cases

In some categories of matters (especially taxation) the administration is represented by an official (appointed representative of the tax-receiving public bodies). In some other categories the relevant administrative bodies as such may function in the same way as the parties and also have the right to appeal.

38. **Existence of an institution or a person with a role analogous to the French «Commissaire du gouvernement »**

No. But the referendary of the case (he or she always being involved in the SAC and as a main rule also in the RACs) prepares independently a proposal to a decision, and takes part in the deliberations of the court, as a "semi-judge". The referendary also has a right to dissenting opinion. His/her proposal remains secret. (See also 66)

39. Termination of court proceedings before the final judgment

Withdrawal of appellant is the most common reason. In cases of death, the type of ending partly depends on the matter category.

40. Role of the court registry in serving procedural documents

Technical check and initiation of cross-hearing.

41. Duty to provide evidence

According to the Administrative Judicial Procedure Act, Section 33, the appellate court is responsible for reviewing the matter. Where necessary, it shall inform the party or the administrative authority that made the decision of the additional evidence that needs to be presented.

The court shall on its own initiative obtain evidence in so far as is the impartiality and fairness of the procedure and the nature of the case so require. Pursuant to Section 36, the appellate authority shall obtain a statement from the administrative authority that made the decision in the matter, unless this is unnecessary. For purposes of obtaining evidence a statement may be requested also from another authority. A time limit shall be set for the issue of the statement.

In order to establish the facts of the case, the court may arrange an on-site inspection. In practice, inspections take place especially in land-use planning, building and environmental cases, both in the RACs and the SAC.

42. Form of the hearing

Before the resolution of the matter, the parties, according to the Administrative Judicial Procedure Act, Section 34, shall be reserved an opportunity to comment on the demands of other parties and on evidence that may affect the resolution of the matter. The matter may be resolved without a hearing of the party if his claim is dismissed without considering its merits or immediately rejected or if the hearing is for another reason manifestly unnecessary. Pursuant to Section 35, a party shall be given a reasonable time limit for his comments. At the same time he shall be notified that the

matter can be resolved after the expiry of the time limit even if no comments have been made.

All hearings take place in writing, except for where oral hearing is held (see 33 above).

43. Judicial deliberation

The members of the court take part in the deliberation. The referendary is also present. Before the examination and deliberation of the case, the referendary has elaborated in writing the questions of law and the facts of the case and prepared a non-public proposal, also in writing and often in the form of a draft decision.

No need to modify the rules has appeared.

C. JUDGMENT

44. Grounds for the judgment

Except for the decision on granting a leave to appeal (where applicable), a statement of reasons shall be included in the decision. The statement shall indicate which facts and evidence have affected the decision and on which legal grounds it is based (Section 53 of the Administrative Judicial Procedure Act).

45. Applicable national and international legal norms

References to national enactments below the Constitution are referred to in practically every decision. Constitution law was formerly only exceptionally referred to, but the present Constitution Act is nowadays every now and then used in the grounds, depending on the case and the appeals at stake, particularly where the constitutional norms on fundamental rights and obligations may affect the interpretation of ordinary law. Because the Constitution Act largely covers the obligations set forth in the European Convention for the Protection of Human Rights, the latter is in practice more seldom referred to. References to European Union law are rather often used, e.g. where EU-based national enactments have to be interpreted. Jurisprudence is only very seldom directly referred to. Personal conviction as such does not occur in the grounds.

46. Criteria and methods of judicial review

Generally, the outcome depends on the applicable norms, particularly on the scope of discretion vested in the competent administrative authority in a given situation. The variety of norms is remarkable. The scopes of administrative discretion and court review may even be identical, but the scope of review may also be clearly narrower, e.g. in order to respect municipal self-government. However, e.g. the constitutional norms on fundamental rights and obligations may also here require and justify an extensive scope of review. See also 16 above.

47. Distribution of legal costs

Court decision fees are based on detailed norms. Regarding certain categories of matters, certain

categories of applicants and certain outcomes, there is no fee or the fee is reduced. The competence to decide on the fees is vested in the referendary of the case (with a possibility to the applicant to ask review). According to the basic rule, the fee for the decisions of the RAC is 97 euro and for the SAC 244 euro.

Liability (of another party or of authority) for costs incurred by a party is regulated in Section 74 of the Administrative Judicial Procedure Act and decided upon by the court in the final decision.

48. Composition of the court (single judge or a panel)

It is clearly more usual that the case is decided by a number of judges (see 10 above).

49. Dissenting opinions

Dissenting opinions are always allowed, also to the referendary, where any. There is no difference between the RACs and the SAC.

50. Public pronouncement and notification of the judgment

The decision is always delivered in writing. The language of the decision is Finnish or Swedish, according to specific rules. See also 33 above.

D. EFFECTS AND EXECUTION OF JUDGMENT

51. Authority of the judgment. *Res judicata, stare decisis*

In general, the decisions produce effects for the parties only. *Stare decisis* does not exist, but, in spite of that, especially the publicised decisions of the SAC are in practice taken into account in similar cases.

52. Powers of the court in limiting the effects of judgment in time

In general, there is no such possibility. But where already the administrative decision (e.g. a permit) at stake is or should be time-limited, the same rules on time limitation may also be applicable before the appellate court.

53. Right to the execution of judgment

In Finnish legal and administrative culture, non-compliance of the decisions of administrative courts has never appeared to be a problem, although there are no overall rules of execution of various types of decisions. As for taxation and several other sectors, general legislation on execution is applied, but all kinds of decisions of administrative courts are not covered by this system.

Injunctions and other coercive procedures, the availability of which always depends on the applicable sectoral legislation, are normally in the first place decided on by (another) authority, the

decision of which may be appealed against before an administrative court.

If the appellate authority overturns a decision and returns or transfers the matter for a new consideration, it may at the same time order that the overturned decision is still to be complied with, until the matter has been resolved or the considering authority otherwise orders (Section 32 of the Administrative Judicial Procedure Act).

54. Recent efforts to reduce the length of court proceedings

The quorum rules (see 10 above) have recently been modified in order to gain more flexible procedure. Further development on the work practices is going on both in the SAC and the RACs.

E. REMEDIES

55. Sharing out of competencies between the lower courts and the supreme courts

With the exception of those matters where leave to appeal is required in the SAC, the functions and scopes of decision-making of the RACs and the SAC are the same.

56. Recourse against judgments

The decisions of the RACs are fully subject to appeal to the SAC, with the exception of those matters where leave to appeal is required. Review by the SAC covers both facts and law). In those cases where the appeal against a (governmental or administrative) decision has to be lodged directly to the SAC (see 6 above), only extraordinary appeal (before the SAC) is available against the decision of the SAC.

F. EMERGENCY AND SUMMARY PROCEEDINGS / APPLICATIONS FOR INTERIM RELIEF

57. Existence of emergency and/or summary proceedings

When an appeal has been lodged, the appellate body may, according to Section 32 of the Administrative Judicial Procedure Act, prohibit the execution of the decision, order a stay or issue another order relating to the execution of the decision. In a decision concluding the consideration of the matter the appellate authority shall, where necessary, rule on the validity of an execution order, where any. If the decision qualifies for appeal, it may order that the execution order is to be valid until the decision has become final or until a superior appellate authority otherwise orders. The interim decisions on execution may in the SAC be decided by a quorum of three justices.

58. Requests eligible for the emergency and/or summary proceedings

See 57 above.

Administrative authorities are obliged to deliver to administrative courts all necessary documents.

As a main rule this obligation also covers confidential and secret documents.

59. Kinds of summary proceedings

No.

III – NON-JUDICIAL SETTLEMENT OF ADMINISTRATIVE DISPUTES

60. Role of administrative authorities in the settlement of administrative disputes

Depending on the matter and the situation at stake and provided that binding regulations cause no obstacle, and taking into account the obligation to act impartially and the equality of the various other stakeholders in the same matter, where any, this may to some extent occur in practice in certain sectors.

61. Role of independent non-judicial bodies in the settlement of administrative disputes

There are no such bodies.

62. Alternative dispute resolution

Regarding administrative court cases, no.

IV – ADMINISTRATION OF JUSTICE AND STATISTIC DATA

A. FINANCIAL RESOURCES MADE AVAILABLE FOR THE REVIEW OF ADMINISTRATIVE ACTS

63. Proportion of the State budget allocated to the administration of justi

The total sum of appropriations proposed for the Ministry of Justice´s sector of ministration in the Government's draft budget for the year 2014 EUR 895,689,000.

The proportion allocated to all courts for the year 2014 EUR 277,250,000 (estimated).

Year 2013: EUR 273,861,000 (estimated)

Year 2012: EUR 265,207,000 (realized)

The sum for the general administrative courts for the year 2014 is EUR 57,719,000.

It consists of EUR 34,967,000 for the eight RACs, EUR 10,945,000 for the SAC,

EUR 3,554,000 for the Market Court and EUR 8,253,000 for the Social Insurance Court.

Approximately 80 % of the annual expenditure of the SAC is made up of salaries. The largest group of other expenses consists of real-estate rents.

64. Total number of magistrates and judges

In the year 2013, about 900 judges served in the Finnish courts of justice. Of these, about 249 judges served in the administrative courts, i.e. in the eight RACs, the Market Court, the Social Insurance Court and the SAC. In the criminal and civil courts, i.e. in the District Courts, the Courts of Appeal, the Labour Court and the Supreme Court, the total number of judges were about 650 (including trainee judges).

The number of employees in the SAC is 103, consisting of the president, 20 justices, 2 temporary justices, about 40 referendaries (called referendary counsellors or judicial secretaries) and 41 other employees (data service lawyer, head of the information service, information specialist, registrar, notaries, budget officer, data analyst, departmental secretaries, secretaries, head of the caretaker service and chief office caretakers).

65. Percentage of judges assigned to the review of administrative acts

See 64 above. In the year 2013 the judges working in the administrative courts made up approximately 27.6 % of all the Finnish judges.

66. Number of assistants of judges

TThere is a referendary system in the SAC, the RACs and the Social Insurance Court (see also 38). Referendaries are usually well experienced lawyers. In the year 2013 there were 178 referendaries in all administrative courts.

67. Documentary resources

The Library of the SAC has a collection of about 15,000 volumes, and it subscribes to 200 periodicals. By June 2014, the number of indexed monographs in the reference database was 6,500 and the number of articles respectively 16,000.

Official publications in the Library consist of Finnish statutes, codes of laws, collections of treaties, parliamentary documents and legal case collections. The library has a comprehensive collection of Finnish and also foreign judicial literature: general law, administrative law, constitutional law, environmental law, tax law and social law. Literature on European Union law, international law and human rights law in Swedish, English and French is also present. The library has access to foreign parliamentary, legislation and court databases.

68. Access to information technologies

Information technology is used comprehensively in the SAC, e.g. for the following purposes: case registry and processing, document handling, web databases, preparation of cases, information retrievals, library catalogue program, archives, customer service, e-mail, public relations, management and statistics. All employees of the SAC and other administrative courts have personal computers that are connected to the Court's intranet and to the Internet.

69. Websites of courts and other competent bodies

The SAC and all the administrative courts in Finland have own web sites. E.g. the most important decisions of each Court are publicised there. See e.g. http://www.kho.fi/en/

B. OTHER STATISTICS

70. Number of new applications registered every year

	SAC	RACs	Market Court	Social Insurance Court	Totally
2012	3,947	20,441	474	6,521	31,383
2013	4,126	20,824	694	6,696	32,340

71. Number of cases heard every year by the courts or other competent bodies

	SAC	RACs	Market Court	Social Insurance Court	Totally
2012	3,928	20,548	531	6,880	31,887
2013	4,303	20,187	558	6,000	31,048

72. Number of pending cases

	SAC	RACs	Market Court	Social Insurance Court	Totally
2012	3,960	12,708	266	5,956	22,890
2013	3,735	13,254	401	6,663	24,053

73. Average time taken between the lodging of a claim and a judgment

Average time to judgment

	SAC	RACs	Market Court	Social Insurance Court
2012	12.8	7.7	7.3	12.2
2013	12.1	7.9	6.4	12.6

74. Percentage and rate of the annulment of administrative acts decisions by the lower courts

RACs	percentage	rate (of appeals examined in substance)
2013	19.6 %	3,979

75. The volume of litigation per field

Volume of litigation per field year 2013, number of cases decided by the courts

	SAC	RACs
Governmental functions and general administrative law	399	1,880
Self-government	271	930
Immigration and asylum	1,004	3,265
Building	408	1,362
Environment	357	1,123
Social welfare and health care	783	6,238
Economic activities, transport and communication	418	2,391
Taxation	631	2,925
Others	32	73

Regarding civil and criminal law, the number of new applications in the Supreme Court in 2013 was 2,553. The Supreme Court heard 2,582 cases of which it granted a leave to appeal in 134 cases and issued decision on the merits of the case in 131 cases. Number of new applications in the Appeal Courts was 9,689 cases and those courts heard 9,675 cases. In the District Courts the number of new cases in 2013 was 570,831 and the courts heard 570,725 cases of which the number of criminal cases was 55,455, of civil cases 10,446 and of cases of summary proceedings 430,322.

C. ECONOMICS OF ADMINISTRATIVE JUSTICE

76. Studies or works concerning the influence of judicial decisions against the administrative authorities on public budgets

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