**Report on the Stay at the Supreme Administrative Court of Finland (Korkein Hallinto-oikeus) in Helsinki from 2nd to 13th October**

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The Supreme Administrative Court of Finland had prepared a **comprehensive programme** for my stay which allowed a deep insight not only into the work of the court itself and some of its lower courts but also into different fields of the Finnish legal system as a whole.

On the first day of the visit I was welcomed by the President of the Court, Mr Pekka Vihervuori, and made acquainted with the building and its facilities by Mrs. Hannele Klemettinen. The court provided for perfect working conditions with a room for the exchange judge and a computer with internet access.

I was made acquainted with the information on the court and the Finnish legal system that can be found on the internet.

In particular, there is a **Finlex Data Bank** accessible via internet that contains a lot of information also in English (and even other languages like French or German) on the Finnish legal system as a whole and the Korkein Hallinto-oikeus in particular.

First of all there are hundreds of unofficial translations of Finnish Acts (approximately 600 full-text translations). Those translations contain a text that includes also amendments to the original law but obviously in general not the latest version.[[1]](#footnote-1)

In addition, Finlex contains a Glossary of legal terms in which there can be found the Swedish and English equivalent for Finnish legal expressions. This Glossary seems to be of practical use especially for Finnish lawyers, as the starting point for a search is the Finnish expression.

The rest of the contents of Finlex (especially the case law of the administrative courts, the data base on secondary legislation and on Government bills and the list of references to court decisions in Finnish legal literature or the Guidelines on law drafting) is available only in Finnish.

Moreover, I was provided with printed copies of the most relevant provisions on administrative procedure, the court procedure, the organisation of the Supreme Administrative Court and some other important issues for public administration.

On Tuesday of the first week I could visit the Helsinki Administrative Court and the Market Court. Those Courts are courts of first instance, their decisions can be appealed against before the Supreme Administrative Court (and in the case of the Market Court partly before the Supreme Court).

The **Helsinki Administrative Court** (Helsingin Hallinto-oikeus) is the Court of First Instance for the Helsinki region. There are 6 regional courts throughout Finland and one court on Ǻland. Those courts are competent in general administrative matters that are not attributed to one of the specific courts (the Market Court, the Insurance Court and the Labour Court).

The Helsinki Administrative Court up to 2016 was the only court in Finland dealing with Asylum and immigration cases. Therefore the workload of the court increased enormously in 2016.[[2]](#footnote-2) As a consequence the competence for asylum and immigration cases was divided amongst four courts. The figures of new cases have gone back therefore.

Administrative courts in Finland receive complaints against the decisions of public authorities, special agencies, the tax administration and municipalities as well as of the Churches (Church Act 1054/1993). Concerning the administration of municipalities there is a specific situation with regard to the legal standing before the courts as anyone who thinks there is a misuse of power is entitled to bring an action against the municipality (see also below in the context of State aid).

The members of the court explained in brief the procedure before the court from the lodging of the appeal to the taking of the decision and its serving to the parties. Judge Juha Rautiainen and Judge Essi Kääkäainen moreover gave an insight into the practical side of the drafting of the judgments. As a specific feature of the Finnish system has to be mentioned, that usually a referendary is responsible for the drafting of the decision. Interestingly, Judge Kääkäainen with regard to one of the cases she presented spoke of her part as acting “as a kind of referendary”.[[3]](#footnote-3)

At the Helsinki Administrative Court the correction function of the word programme is used. So each judge of the competent chamber can give his or her comments and make proposals for the wording directly in the document. Judge Rautiainen nevertheless conceded that there also can be the necessity for longer statements so that there also is the habit of adding a kind of “pro memoria” with fundamental explanations to the case or the draft.

Mrs Kääkäainen also gave the figures of cases that were registered in the last years and to which extent the court rejected, dismissed, revised or returned the appeal (or the case, respectively). As a consequence of the necessity to employ a large number of new members of the staff within the authority competent for asylum and immigration cases (that had no experience in this field) the number of cases in which the decision had to be revised has risen significantly. Moreover, as a consequence of new arguments used by the applicants in recent times (concerning the conversion to Christianity or the sexual orientation) it nowadays is necessary to return the case to the administrative instance (to complete the procedure) more often.

It has to be stressed, that Finland reacted to the situation caused by the migrant movement since 2015 by appointing a considerable number of temporary judges.[[4]](#footnote-4) By this way it is tried to cope with the challenges caused by the latest developments.

At the **Market Court** I was welcomed by Mr Reima Jussila, judge at the Market Court. He gave a comprehensive overview on the tasks of the court. This court has to deal both with administrative law questions and with civil law cases. Appeals against its decisions consequently have to be addressed either to the Supreme Administrative Court or the Supreme Court.

The Market Court is one of the specialized courts below the Supreme Administrative Court, beside the **Insurance Court** and the **Labour Court**. It is competent in Intellectual Property Right cases, in public procurement cases, competition law, in cases concerning unfair business practice, consumer protection and copyright cases. In intellectual property matters cases concerning registrations belong to the administrative sphere, whereas IPR disputes resort to civil law.

The court receives 500 to 600 public procurement cases a year, some of them concerning a volume of some hundred Mio Euros. Judge Jussila gave several examples on recent cases in the different fields of the competence of the Court. In competition cases the procedure regularly is started at the initiative of the Competition Authority. Judge Jussila mentioned the example of a merger that was ordered not to be carried out by order of the Competition Authority. The Market Court had shared the view of the authority, but the SAC had ruled that the relevant market (in the field of construction and environmental piping) had to be seen wider so that the share of the company then would be much smaller. In another case concerning the problem of “slaughtering a main rival” the decision of the court (upholding a 70 Mio Euro fine) was confirmed by the SAC.

Judge Jussila explained that the composition of the deciding collegium in the cases differ very much. There are decisions taken by a single judge as well as in chamber composed of two or three judges, as well as in chambers with three judges and 1, 2 or 3 expert judges. If the chief judge so decides there can also be a decision in an enlarged panel of 7 judges. Judge Jussila also pointed out that expert judges were not involved in the process of preparation of decisions but only attended the meeting of the relevant chamber.

On Wednesday there were arranged talks on two of the topics I had named as fields of my specific interest. Mrs Kaisa Pärssinen-Knight, Judicial Secretary, informed me on **State aid cases** and Justice Pekka Aalto gave a survey on the practice concerning the **implementation of EU law in general**.

Mrs Pärssinen-Knight, who was working with the Commission before starting to work as a referendary at the Korkein Hallinto-oikeus, explained that most of the State aid cases the court has to deal with arise in the municipal administration. There have not been, so far, cases e.g. in the field of taxes. Moreover, there seems to be no discussion on private enforcement of EU State aid law with regard to possible State aid by measures of taxation.

Mrs Pärssinen-Knight described a recently decided case where the applicant had lodged an appeal against a municipality on several grounds but had not relied on State aid law before the administrative authority or in the appeal to the Administrative Court. Only in a second statement during the procedure before the court the applicant also raised the question of State aid. As there is a specific provision with regard to appeals against acts of the municipality administration (providing for a kind of “preclusion”) the SAC dismissed the appeal as the legal ground concerning conformity with EU State aid law had not been raised in time.

Mrs Pärssinen-Knight agreed that the case could raise interesting questions concerning the application of national procedural rules (to which the SAC referred in the case) as the ECJ with regard to State aid law also deviates from its general line concerning the application of national procedural rules on the binding force of decisions of the court (cf the judgments in the cases *Lucchini, Frucona* and *Klausner Holz Niedersachsen GmbH[[5]](#footnote-5)*). As the appellant in the case had not been a competitor of the (potential) beneficiary there should not be a problem in the very case with regard to the application of the preclusion rule. It might be different with regard to complaints of persons that could be seen as a competitor.

I had a very interesting discussion with Mrs Pärssinen-Knight on the work of the Chamber in which she is working as this chamber is also competent for cases concerning agricultural subsidies, a field of administration where State aid problems might arise as well (cf. CFI T-375/04, ECLI:EU:T:2009:445, *Scheucher Fleisch GmbH*).

Mrs Pärssinen-Knight also mentioned a case that had arisen in Finland some years ago (pertaining to a contract on the transportation of patients by an ambulance service) where in the context of a public procurement case there also were raised doubts with regard to the conformity with State aid law. She spoke of problems arising from the fact of parallel proceedings dealing with the same facts and concerning questions of conformity with Union law. She also was of the opinion that as a consequence of the State aid modernisation with the changes of GBER and the reduction of the ex ante control mechanisms the number of domestic cases might rise in the future.

Justice Pekka Aalto, former head of the cabinet of Advocate General Jääskinen and later working with the Commission, shared his views concerning the problems of implementation of EU law. He expressed his opinion that it is of some advantage that in Finland Parliament is involved in the legislative process at an early stage. Although it were sometimes a bit cumbersome to the government to report on the topical issues to Parliament it nevertheless could help to improve the acceptance of EU regulation.[[6]](#footnote-6) He explained that it has become normal daily routine for the Finnish judge to apply Union law and especially to interpret national law in accordance with Union law if need be. We had an interesting discussion on the difficulties arising from the case-to-case method of deciding by the ECJ. Mr Aalto showed considerable interest on the Austrian experience with regard to potential conflicts of Austrian gambling law with Union law and the Austrian experiences concerning State aid law.

On Thursday, 5th October, I was informed on the work of the Korkein Hallinto-oikeus in the field of **subsistence allowances and the work of the referendaries** of the Court on the whole by Mrs. Marja-Liisa Judström, Referendary Counsellor.

Mrs. Judström especially explained the Finnish system of referendaries that have a position like a judge (with independence from the administration and the parties as well as from the judges of the court). There are almost fifty referendaries working at the court at the moment. In each case it is the referendary who is the “master of the procedure” and it is the referendary that drafts a proposal both on the decision to grant leave of appeal or not and the final decision in the substance of the case. The judges nevertheless make their proposals on the wording of the text of the decisions and they alone decide (in the case of granting of leave of appeal in a chamber of three). The referendary even can add a dissenting opinion if the judges did not follow his or her proposal. Mrs. Judström explained that the salary of a referenary at the Korkein Hallinto-oikeus is equal to that of a judge at a lower administrative court.

In the afternoon I had the opportunity to be instructed on **public procurement cases, competition cases and patent cases** by Justice Niilo Jääskinen, former Advocate General at the ECJ. He also explained the procedure and the handling of cases within the court. The draft of the decisions is worked out by the referendaries who are completely independent in this capacity. Justice Jääskinen also explained the system of the formation of the chambers in the individual case which is very flexible in Finland.[[7]](#footnote-7)

The **meeting of the chamber** I could attend on **Friday morning** was reserved for proposals of Mrs Judström and another referendary concerning the question of **leave of appeal**. In such a meeting the court decides in a chamber of three judges whether leave of appeal should be granted or not. The cases in that meeting concerned the question of bearing the costs for child care in cases where there were two municipalities involved and two cases coming from the **Insurance Court**. In those latter cases the procedural law **only** provides an appeal **on grounds of a severe breach of procedural rules**. In one case the chairman made use of his power to take the case from the list to refer it to a chamber of five as there arose a tricky question concerning the requirement of a breach of procedural rules. The court will have to decide whether the question whether an appeal has been brought in in time also constituted such a “breach of a procedural rule”.

On Friday afternoon I attended the panels of the **Conference of the International Association of Tax Judges** that took place in Helsinki on 6th and 7th October[[8]](#footnote-8). In the first part a panel under the chair of Mrs. Davies (Australia) discussed the problem of using the decisions of courts of other countries in the work of judges. The discussion remained on a very basic level.

In the second part Finnish colleagues presented the Finnish system of tax administration and administrative judiciary in tax matters.

On Monday morning I was informed by Justice Kari Kuusiniemi on the work of the SAC in the field of **environmental protection** in general. As Justice Kuusiniemi recently had met an Austrian judge of the Federal Administrative Court of first instance who had been involved in the case concerning the construction of a third runway at the Vienna International Airport in Schwechat we also discussed the problem of **transposing obligations arising from international treaties into the national legal system.** According to Justice Kuusiniemi Finnish courts obviously would decide the matter similarily to the Austrian Constitutional Court that had quashed the decision of the Federal Administrative Court (which had denied to grant the permission to establish the runway because of an unjustified increase of CO2 emissions in Austria) because of a lack of a legal basis in the applicable Act on aviation.

Justice Kuusiniemi moreover explained the two **cases** with which Chamber 1 had to deal with on Tuesday, 10th October. They were not typical for the work of the Chamber, nevertheless just because of this of particular interest: they dealt with **reindeer farming** and the **problems of self-governance** within the so called **palliskunta** (that could be described as **a kind of rural cooperative society** composed of the owners of reindeer farms or even former reindeer farmers). In one case there arose the question whether the administrative procedure act provisions on the abstention from the vote in cases which pertained to the person concerned could be applied. There is no specific provision on the taking of votes in those societies (palliskunta). The court of first instance (which in these reindeer cases always is the Pohjoinen Suomen Hallinto-oikeus, competent for the most northern parts of Finland) had held this provision applicable. There were, however, severe doubts as to the plausibility of this view, as this would mean to exclude certain members of the society from deciding in matters of the internal management of the society. Such matters of internal management always concern more or less the rights and obligation of each member of the society (in the case it had to be decided on the value of work that had been carried out by some of the members [instead of pecuniary contributions]) so that the exclusion of certain members would mean to give the others the power to decide alone on the value of the work and thus also deciding in a matter concerning themselves (as the contribution to the funds of the society of those voting depended on the outcome of the vote).

In the second case it had to be decidedon the legality of a decision of the Pohjoinen Suomen Hallinto-oikeus on the distribution of an obligation to reduce the number of reindeers raised by the society. There had been issued a decree of the State authority on the maximum number of reindeers for the palliskunta as a whole. This decree had to be implemented (as a matter of self-government) on the basis of a decision of the members of the palliskunta. This decision had been appealed against and the judgment of the court of first instance had been appealed against before the SAC.

In such cases, Justice Kuusiniemi erxplained, there was no leave of appeal necessary. In the meeting of the chamber on the other day therefore the substance of the appeal had to be dealt with.

On Tuesday morning I could attend this meeting (as long as the above mentioned cases were dealt with). The chamber in the composition of five judges (Justice Kuusiniemi in the chair) decided upon the proposal of referendary Tuire Taina. She explained before the meeting that there were only four or five of such reindeer cases a year.

What strikes the foreign visitor is the fact that there is no judicial clerk besides the referendary and the judges present. It was explained that the referendary takes down the result of the vote on the proposal. Moreover the reporting judge also can prepare a memorandum that is added to the file. **The final version of the judgment is drafted by the referendary along the lines of the discussion (and result of the vote) in the chamber** and especially using the formulations already to be found in the memorandum of the reporting judge (if the chamber followed his deliberations). This draft then is finally approved by the chairman.

The court this time also **decided to publish the first of the two reindeer decisions** on the website of the SAC.

In the afternoon I followed the proposal to attend to the **Plenary Session of the Finnish Parliament** (Eduskunta) that was held on that day.

On Wednesday I could pay a visit to the **Ministry of Justice**, where Mrs Tuula Pääkönen presented the work of the Ministry of Justice (MoJ). She described the aims of the Ministry amongst which the promotion of the **access of the people to the courts** and the **information of the people on their rights** is one of the foremost. The MoJ is responsible for the administration of the judiciary in Finland as a whole, comprising both the civil and criminal judiciary and the administrative judiciary.

The MoJ furthermore fulfils the task of **supervising the whole legislative process carried out by the other ministries**.[[9]](#footnote-9) It therefore has three Departments, one for Law Drafting, one Department of Judicial Administration and one for Criminal Policy.

There is no **Judicial Council** at the moment but there is going on a strong **debate on the creating of such a body** that could take over the responsibility for the functioning of the judiciary from the MoJ. Mrs Pääkönen explained the development (establishing a Committee that made a proposal, positive reactions among the stakeholders) and stressed that the recently appointed Minister of Justice only on Friday, 6th October, had announced that he was backing the reform process.

At the moment the overall budget of the MoJ comprises **917 Mio €, 1/3** of which has to be spent for the **running of the courts** (civil and administrative courts).

Finland has undergone several reforms of the organisation of the District (civil) Courts, so that at the moment there are acting 27 District Courts (instead of 51 in 2008). There is going on a new reform project with the aim of reducing them to 20. The philosophy behind the concept is to strengthen the courts (to improve their ability to cope with their tasks and to avoid problems in case of illness of judges at courts composed only of few members) as there are great differences at the moment in the performance of the courts. Here, too, the MoJ sees its task in ensuring a uniform access to the courts and granting equal quality of the service for the people throughout Finland.

Mrs Pääkönen described also the topical ICT project of the MoJ, called HAIPA. This project is designed to install an **electronic case management for all administrative courts**. It has been started in 2014 and under the leadership of Tuula Kivari currently on a very good way. There is a kind of sportive competition between the projects on electronic case management for the civil courts on the one hand and the administrative courts on the other hand. It is expected that the system could finally work in 2020.

In the afternoon I had talks with the **Head of the Legal Unit of the Finnish Migration Service**, Hanna Helinko, and Tuomas Koljonen, a Senior Specialist of the Service. They gave a precise description of the development in the field of immigration over the last two years and described the tasks of the Migration Service. This authority is competent in all matters concerning applications for asylum, for residence permits and for citizenship. Since there have been several changes in the last years with regard to the competence (the authority took over tasks previously fulfilled by the police departments) there also had to be carried out organisational changes. The authority now also has branches throughout Finland as the immigrants are also housed all over the country.

On Thursday, 12th October, I could attend an **oral hearing of the 3rd Chamber** (Chair: Justice Niilo Jääskinen) in a case on the replacement of a civil servant from his function as so called head of a unit within the National Audit Office. The chamber (as I was informed by Mrs. Klemettinen who had briefed me the day before and also functioned as a kind of interpreter during the hearing) was especially interested in establishing whether this replacement had had effect on the “position and salary” of the person concerned. The case was unique in many ways, as there was the possibility to **directly apply to the SAC** in this case without a former decision of a lower administrative court.[[10]](#footnote-10)

The court obviously tried to establish how the organigram of the National Audit Office looked like and on which bases the work was carried out. It heard a witness that had fulfilled the same function (acting in a parallel unit at the National Audit Office) as the applicant and according to a first information by Mrs Klemettinen after the hearing it had described the chamber how the work was carried out at the National Audit Office.[[11]](#footnote-11)

One of the issues of the case also was that the applicant obviously wanted to rely on a contract that had been concluded when he had taken up work at the unit. It was not clarified whether this contract only pertained to the fact of the employment of the applicant or whether it also contained provisions on his tasks (or the function from which he had been removed). Moreover, Mrs. Klemettinen explained that it had been mentioned that there had been a clause in the contract according to which the task (or the function?) could be ended (without giving reasons) at any time. Given that this was true, it was not quite understandable what the applicant wanted to derive for his position from this contract.

In the afternoon Mr Ari Koskinen gave additional information on the Finnish Aliens Act, the granting of legal aid to asylum seekers and the work of the SAC in general. He stressed that in the last years the character of the work at the SAC had changed insofar as nowadays approximately 50 % of the work were concerning asylum cases.

Friday noon I had a final meeting with President Vihervuori and a concluding lunch with Mrs. Klemettinen.

**Final remarks**

The visit has been prepared carefully and extremely professional by the hosting court, the Supreme Administrative Court of Finland. The dialog partners have been chosen with utmost care and the talks therefore proved to be very fruitful. The insight in the Finnish system that could be gained was much deeper as one could have expected. The visiting judge was welcomed at all of the institutions very warmly and there was provided precise information.

The stay therefore proved to be of high value as I could get a thorough insight in the system of administrative justice in Finland. It was of specific interest to get to know the working methods of the administrative courts in Finland. The aim of the program to improve the knowledge of other legal systems and promote the understanding amongst the judges of the judiciary of the Member States of the EU has clearly been achieved.

The most significant difference of the Finnish system compared with other European countries seems to be the referendary system used at the administrative courts. The independent preparation of the decisions under the sole responsibility of a referendary not subject to any instructions by the members of the court seems to be very unique throughout Europe.

Finally it has to be mentioned that another remarkable experience of the visit was to get to know that Finland has made use of the instrument of appointing judges (only) for a fixed period of time to cope with the enormous workload caused by the migration crises that let the figures of cases go up enormously also in Finland (temporary judges).

As in other European countries the legislator and the administration reacted to the challenges arising of the development in the immigration sector of the year 2015. With regard to the organisation and competences of the courts it was especially provided for that the competence in Asylum matters (that had been concentrated in the Helsingin Hallinto-oikeus before) was split up amongst now four courts of first instance. In addition, there have been, on the other hand, issued more restrictive regulations in alien law.

Martin Köhler

**Annex**

**Survey on the Administrative Judiciary in Finland and the tasks of the Supreme Administrative Court**

The Administration of Justice is provided for in Chapter 9 of the Finnish Constitution.

The Supreme Administrative Court (SAC) has been established in 1918 (and therefore there is its 100 year anniversary next year).

According to Section 98 of the Constitution the Supreme Administrative Court and the regional Administrative Courts are the general courts of administrative law. Special courts of law can be provided for in defined fields by an Act. According to Section 99 of the Constitution the Supreme Administrative Court is acting “in the final instance” in administrative matters.

The Finnish Supreme Administrative Court decides on appeals against decisions of the administrative courts (Section 9 of the Administrative Judicial Procedure Act, 586/1996) and thus is responsible for all administrative cases and competent in a large variety of cases, comprising the field of general administrative cases, tax matters as well as competition cases or cases concerning municipality administration or matters of the Churches. In municipality matters the question of legal standing is solved differently from all the other legal fields as everyone in the municipality can bring cases concerning the local administration.

The Court is the court of last resort in administrative cases. There is a requirement of leave of appeal, as a rule. As has been explained by the members of the staff especially in asylum cases a very high percentage of appeals are not granted leave of appeal.[[12]](#footnote-12)

There is also a specific Supreme Administrative Court Act (1265/2006 as amended, in the English version the last amendment included is 892/2015) that defines the tasks of the SAC as exercising judicial power as the final instance in administrative judicial procedure matters. These “administrative judicial procedure matters” according to Section 2 of the Act are “those appeals and extraordinary appeals which fall under its jurisdiction according to provisions laid down otherwise by law”. Therefore, there is no general definition of the term “administrative judicial procedure matters” but it serves as a notion for all judicial competences imposed on the SAC by explicit provisions of law. Moreover, there has been issued a Courts Act very recently that contains provisions for all courts in Finland (673/2016)[[13]](#footnote-13)

Besides its judicial function the SAC according to Section 3 of the Supreme Administrative Court Act can give statements on Acts submitted by the President of the Republic and considers other matters related to the administration of justice if it is provided for by “statue” or “elsewhere”. According to Section 4 (2) of the Supreme Administrative Court Act the SAC may even submit proposals to the government for initiation of legislative action. Those proposals according to section 8 (1) of the Supreme Administrative Court Act have to be considered in a plenary session.

The SAC handles approximately 4.000 cases a year, the majority of cases coming from migration law, tax matters and social welfare and health care.

The administrative courts apply the Administrative Judicial Procedure Act (Section 1 para 1 of the Act).[[14]](#footnote-14) The Act shall also apply in appeal procedures before authorities, an appellate board or another comparable special authority (Section 1 para 2 of the Act).[[15]](#footnote-15) The procedure of the administrative authorities is governed by the Administrative Procedure Act (2003).

The organisation of courts and the role and duties of judges are settled in a recently issued Courts Act, 673/2016, that regulates both the organisation of the civil courts and the administrative courts. The Act contains provisions on the appointment of judges, the duties of the courts and the lay judges.

Chapter 4 Section 2 of the Act provides for the decision of the administrative courts upon submission of a referendary. Thus, the referendary system is applied at all administrative courts in Finland. According to Chapter 4 section 5 para 2 of the Courts Act an administrative court has expert members in the fields expressly listed there.

According to the website of the Supreme Administrative Court the Act imposes the “authorities, i.e. the administrative courts,” the “obligation to ensure proper examination of the case”. Thus, the parties to the proceedings were usually able to pursue their cases without professional legal help, according to the description at the website. Thus, the lodging of appeal and access to legal remedies should be facilitated.[[16]](#footnote-16)

Section 5 of the Act provides for the admissibility of cases. According to this provision “any measure by which a case has been resolved or dismissed may be challenged by an appeal.”

According to Section 6 of the Act “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”.

The Supreme Administrative Court decides upon a draft (“Memorandum”) of an independent referendary. Decisions on the granting of leave of appeal are taken in a chamber of three judges (in Asylum cases with two judges[[17]](#footnote-17)), decisions on the substance of a case are usually taken in a chamber of five judges. According to Chapter 2, section 7 of the Supreme Administrative Court Act, there may, however, also be a reference of a matter to a plenary session (of all members of the court) or to a composition of all members of the chamber. Such a decision is made by the President of the court (for a plenary session) or by the chairperson of the competent chamber.

Oral hearings are held not very often, but if the appellant applies for a hearing in a case where the SAC can directly be addressed the hearing usually is held.

If a case has already been decided by one chamber and after the quashing of the decision of the lower court there is a new decision that is appealed against again, the case is referred to another chamber (not to the very one that had decided for the first time). This obviously is the consequence of a very strict interpretation of the requirements of Art. 6 ECHR.

1. The „Consolidated legislation“ data base, that is updated each week is available only in Finnish and Swedish. The Administrative Judicial Procedure Act can be found with the amendments up to 435/2003. In other acts there can be found also references to amendments up to recent years, but it is not to be seen whether those obvious updates of the text comprise all amendments up to the presence. [↑](#footnote-ref-1)
2. Finland received approximately 32.000 applications of asylum seekers in 2015. [↑](#footnote-ref-2)
3. Unfortunately there was no possibility to come back to this remark later so that this hint remained to be unclear. [↑](#footnote-ref-3)
4. Such temporary judges are also acting at the Supreme Administrative Court. [↑](#footnote-ref-4)
5. ECJ C-119/05, *Lucchini*, ECLI:EU:C:2007:434, Rn 60 ff, EuGH C-507/08, *Kommission/Slowakei* (Frucona), ECLI:EU:C:2010:802, Rn 60., and 11. 11. 2015, C-505/14, *Klausner Holz Niedersachsen GmbH*. [↑](#footnote-ref-5)
6. For the Austrian situation see The Act on the Information in EU-matters (EU-Information Act), Fed Gazette I 2011/113 and Art 23f para 3 FCL. [↑](#footnote-ref-6)
7. There is no fixed composition of the chamber, there are more than four judges attributed to each chamber. [↑](#footnote-ref-7)
8. The time of the stay had been planned to enable this participation. [↑](#footnote-ref-8)
9. In this respect the competent Department of the MoJ can be compared to the Constitutional Service in Austria, that is part of the Federal Chancellery and serving the task of supervising the proper drafting of legislation as well. [↑](#footnote-ref-9)
10. In fact there was no detailed explanation for which group of cases this applied and which was really the reason for the legal standing at the SAC without any prior decision of an administrative court of first instance. [↑](#footnote-ref-10)
11. The function “head of staff” obviously did not mean that the holder of this title was responsible for the whole office personnel within the authority but it seems to have been the function of leader of a smaller unit within the Audit Office. [↑](#footnote-ref-11)
12. On the other hand on the official website of the court can be found the following information: “The majority of the categories of cases handled by the Supreme Administrative Court are not subject to the requirement of leave to appeal.” It might well be the case that the stress in this sentence lies on “the categories of cases”, which must not necessarily represent the majority of cases the court receives (as certain categories obviously nowadays prevail). [↑](#footnote-ref-12)
13. According to Chapter 24 section 2 of this act it “repeals” a number of organisational acts, such as on the District Courts, the Court of Appeal, the Market Court or the Insurance Court, but not the Supreme Administrative Court Act. It, however, repealed the Act on the Expert Members of the SAC, 1266/2006. [↑](#footnote-ref-13)
14. The general courts apply the Code of Judicial Procedure (4/1734; last amendment included in the English translation 732/2015). [↑](#footnote-ref-14)
15. Thus the situation can be compared to the one in Austria to some extent, as the [↑](#footnote-ref-15)
16. Cf. Chapter 7 (Consideration and review) section 33 para 2 of the Administrative Judicial Procedure Act: “The appellate authority 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.” [↑](#footnote-ref-16)
17. If the second judge does not share the view of the reporting judge, the case is assigned to a chamber composed of three or more judges. [↑](#footnote-ref-17)