

QUESTIONNAIRE – SEMINAR 27 SEPTEMBER 2017

ELECTRONIC ACCESS TO THE COURTS – THE SUPREME ADMINISTRATIVE COURT OF FINLAND

1. The implementation of your electronic document system

- What is hoped to be achieved through the digitization of proceedings?
 - Although electronic means are expandingly utilized in the Finnish administrative jurisdiction, there does not, as yet, exist an overall system guaranteeing electronic access to administrative courts.¹ The ministry of justice has set an electronic case and documentation management system project of administrative courts called HAIPA-project at the beginning of 2016. The basic aim of the HAIPA-project is to establish a new e-system that allows smooth cooperation between administrative courts, public authorities and parties to the case. HAIPA-project is to introduce more efficient and coherent working methods that among others enable administrative courts to handle cases as much as possible in electronic format. The new electronic case and documentation management project is estimated to be supplied in 2019 and the system should be introduced to operation by 2020.

- Must court documents be transmitted electronically?
 - as regard the parties to the case, there is no obligation to use electronic means to transmit documents to the court.
 - documentation regarding the decisions of Administrative Courts/Market Court that have been appealed against/of which leave to appeal is required is transmitted to the Supreme Administrative Court electronically.
 - the référéndaires/justices as well as the clerks of the Supreme Administrative Court/Administrative Courts have access to the documentation system of the Finnish Immigration Service (UMA) and may thus directly consult all electronic documentation concerning a migration/asylum case that is pending before the Court.
 - in taxation cases court documents and documents of the taxation authorities are transmitted electronically (HAKA).

- Can litigants consult their files and track their progress online?
 - The parties to the case do not have the opportunity to consult their files and track the progress of their case online.

- Are the application and the law firms' internal software interoperable? Is it envisaged to make them interoperable?
 - These are not interoperable and there does not exist any progressive plans to make these interoperable.

¹ The Supreme Administrative Court, six regional Administrative Courts & Administrative Court of Aland Islands, the Market Court and the Insurance Court.

2. Statistics

- What percentage of applications are filed electronically per annum?
 - approximately 85 per cent. Some applicants send their appeal/leave to appeal both electronically (o.e. e-mail) and by post.
- What percentage of users (law firms, authorities and litigants) now using this method (fr. téléprocédure)?
 - see reply to the above question. As of now electronic proceedings are not in place in the Supreme Administrative Court.
- Have you estimated the total cost of setting up an electronic working system in your court or your type of court.
 - the total costs of the HAIPA-project (2016–2020) are estimated to be some 23 million euros.

3. Observing the adversarial principle

- How does your system ensure that the parties' statements are exchanged?
 - The clerk has the responsibility of ensuring that the parties' court documents (application/leave to appeal, response of the party, response of the appellant) are being exchanged. Court documents are sent to the parties by post against an advice of receipt
- How are the parties and the court registry notified that a document has been filed or consulted by the opposing party?
 - the parties either send their court documents to the official e-mail-system of the Supreme Administrative Court from where these documents are being picked up by the clerks of the Supreme Administrative Court. In migration/asylum cases the electronic documentation system of the Finnish Immigration Service (UMA) is used. In the UMA-system the pending cases are organized in a line from which a specific case shall need to be picked up.
 - There is currently no online portal available for the parties which they could use in order to consult their court dossier (see also above).
- Is the authenticity of electronic documents ever challenged before the courts?
 - There does not seem to be any reported, specific difficulties regarding the authenticity of electronic documents. Power of attorney is required and requested if the party is being represented by a non-advocate.
- Can third parties also intervene in proceedings electronically?
 - Third party interventions are very rare in the administrative jurisdiction. However, such intervention could be initiated by sending a letter of intervention electronically to the e-mail-system of the Supreme Administrative Court.

4. The acceleration of proceedings and urgent proceedings

- Have you found that cases have been processed more quickly due to the introduction of the technology?/What have been the consequences, on the work of the courts, for the staff of the court registry, for the judges and other members of the court, and of the organization of the court?
 - As stated above, there does not exist an overall system guaranteeing electronic access to administrative courts. It is still premature to estimate whether the electronic system that has been introduced in migration/asylum matters shortens the pendency of these cases.

- The system where the court documents are exchanged between the Supreme Administrative Court and the parties by e-mail shortens the time span of the written hearing of the case. This expedites the work of the référendaires, of the clerks and of the personnel of the registry and has thus some bearing in the pendency of the case.
- The opportunity to operate the decisions of the Supreme Administrative Court electronically has simplified the execution of the tasks of the Information Service of the Supreme Administrative Court. This concerns for instance anonymizing decisions containing secret information (e.g. social or child care cases, some aspects of taxation and competition cases).
- When a procedural time limit is subject to a limitation period, when does it begin to run?
 - As regards appealing/request for a leave to appeal of a decision of the Administrative Court or the Market Court to the Supreme Administrative Court, the time limit starts to run once the applicant has received the decision of the lower Court. This can be verified from the advice to receipt following the decision of the Court. The clerk of the registry of the Supreme Administrative Court first verifies whether the appeal/request for leave to appeal has arrived within the limitation period. This may sometimes cause difficult questions of interpretation that shall need to be decided by the Supreme Administrative Court (e.g. yearbook decisions of the Supreme Administrative Court 2014:99, 2014:100, 2014:101)

5. The technical aspects of your electronic documentation system

- Have you experienced any major technical malfunctions (e.g. non-availability of the application for several days)? How did you tackle the problem?
 - There have been single cases where on the basis of the exact time of entry of the appeal/request for leave to appeal to the e-mail-system of the Supreme Administrative Court has indicated that the appellant has not respected the obligatory time limit. When this information has been verified from the main server, it has been found out that the appeal/request for leave to appeal has entered on time. In this case, the decisive moment of defining whether the Supreme Administrative Court examines the case, is the moment of entry in the main server of the appeal/request for leave to appeal.
 - Lately there has been major technical problems that have had a negative impact on the functioning of the e-mail-system, the documentation management system and the intranet of the Supreme Administrative Court as well as external electronic links. In case of technical problems, the personnel of the Supreme Administrative Court is informed but once the e-mail-system and the intranet is being hit by technical problems, the circulation of such information is disturbed as well.
- What consequences can malfunctions have on the proper running of proceedings?
 - Such malfunctions may – on their part – cause some delays on e.g. electronic drafting of a decision.
- Have courts had to deal with disputes relating to the use of the electronic document system? Is so, what type?
 - As there does not yet exist electronic documentation system, such disputes has not been reported.

- If it is impossible for a party to file a statement or other documents for practical reasons, what does the court do with respect to the time limits within which documents must be submitted?
 - Concerning difficulties in the e-mail-system of the Supreme Administrative Court, see reply above.
 - If the party has not been capable of respecting the appeal period for *force majeure* -reasons (e.g. sudden, severe illness), the Supreme Administrative Court may on application of the party, revive the appeal period. The burden of proof of the existence of the *force majeure* -reason lies with the applicant.
 - The party may not have his/her appeal period revived on the basis of practical reasons, e.g. long holidays or lapse of memory, related to the party itself.

6. Keeping information secure

- How are the security, confidentiality, integrity and traceability of the exchanges ensured? How do you control access to the files and documents that pass through the system? Have you put in place degrees of authorization or clearance?
 - There is no portal between the parties and the Supreme Administrative Court. The exchange of information takes place either by e-mail or by post. The forthcoming electronic case management and documentation system based on the HAIPA-project shall possibly change this situation.
 - As stated earlier the exchange of court documents between the Administrative Courts/Market Court and the Supreme Administrative Court is managed by electronic system.
 - The information officer of the Supreme Administrative Court admits user rights to the documentation system to the personnel of this Court. No specific traceability system has thus far been introduced.
- Are judges and other members of the court able to access the electronic files in their own homes? On a dedicated professional computer or on a personal computer? From any location?/Are judges and other members of the court able to access all electronic files dealt with by their court?
 - Judges, référendaires and other personnel of the Supreme Administrative Court that have laptop (personal) computer and a so-called office card have access to all electronic files of the cases in the Court's documentation system from outside the Court (e.g. from home). The link is secured.

7. Notification of decision to the parties

- Are decisions notified through the court's electronic system? If so, when are the parties deemed to have taken cognizance of the decisions?
 - The decisions of the Supreme Administrative Court are not notified to the parties electronically. Since the decisions of the Supreme Administrative Court are final, there is no specific need to verify the reception of the decisions by the Supreme Administrative Court. The parties to the case are informed in advance, should the decision of the Supreme Administrative Court be published as a yearbook decision.
- Is it possible to bring an action for negligence if the court's electronic document service malfunctions?

- In such a case, the Supreme Administrative Court may on application of the party revive the appeal period (see reply above).

8. The influence of electronic document systems on the courts' operating methods

- Has electronic working contributed to a change in the role of the administrative courts?
 - Not particularly. It is possible that the public perception of the Supreme Administrative Court has become somewhat more modern. Furthermore, due to electronic access to the yearbook and other published decisions and bulletins of the Court it is more convenient for the public to follow the case law of this Court. For attorneys as well as public and private legal aides it may be more flexible and swift to handle cases pending before the Supreme Administrative Court.
- Has electronic working contributed to a change in the working methods of the administrative courts? Particularly collegial working?
 - Drafting decisions of the Supreme Administrative Court both by the référendaires and the justices by utilizing the electronic documentation system has made this task slightly more flexible and expedient. It has also made it more interactive and thus collegial as between the référendaires and the justices.