

”Preventing Backlog in Administrative Justice

Supreme Administrative Court of Finland

1. Techniques for limiting the number of appeals

1.1. No. A party may use an attorney or counsel but there is no obligation thereto.

The Supreme Administrative Court applies the Administrative Judicial Procedure Act. The Act contains a provision placing the authorities, i.e. the administrative courts, under an obligation to ensure proper examination of the case. Thus, the parties to the proceedings are usually able to pursue their cases without professional legal help, also in practice.

1.2. The Supreme Administrative Court’s jurisdiction is not limited to points of law. It shall review all evidence available and determine on which grounds the decision can be based.

1.3. There is an unlimited right to appeal to the Supreme Administrative Court unless the right to appeal is restricted by law. In certain types of matter, appeal to the Supreme Administrative Court depends on leave. In this event, the Supreme Administrative Court hears and decides the appeal only if itself first grants a leave to appeal. The most important categories requiring leave to appeal are taxation, immigration and asylum, building permits, and certain social welfare and health care matters. In 2009 the Supreme Administrative Court considered 1 470 applications for leave to appeal. A leave was granted in 16,7 percent of these cases.

Specific provisions in an Act define the cases where the decision of an administrative court may not be challenged at all. A ban applies e.g. to parking ticket matters and certain social welfare matters and other minor matters.

1.4. There are no penalties for abuse of appeals.

1.5. See also above 1.3.

The majority of the categories of cases handled by the Supreme Administrative Court are not subject to the requirement of leave to appeal. As a rule, therefore, the parties have a right to appeal, and the Supreme Administrative Court issues a decision on merits.

Although there are several modifications in sectoral law, in pursuance of the general rule the Supreme Administrative Court has to grant leave to appeal, if

- 1) it is important to bring the case before the Supreme Administrative Court to apply the law in other similar cases or for the sake of the uniformity of judicial practice,
- 2) there is particular reason to bring the case before the Supreme Administrative Court because of an evident mistake occurred in the case,
- or 3) there is other reason of importance.

The leave may be granted or refused by a quorum of three members instead of the normal five. There are no formal time limits for decision-making. The request for leave to appeal may appear in the same document as the appeal itself.

2. Techniques to speed up proceedings

- 2.1. There are no provisions concerning accelerated procedures either in the Administrative Judicial Procedure Act or in the Supreme Administrative Court Act. However, the Court may give precedence to certain urgent cases. Thus, the urgency may be taken into account when preparing the case.
- 2.2. If a case is for example clearly unfounded or inadmissible, the case will be decided without hearing the parties. The matter may be resolved without a hearing of the party if his/her claim is dismissed without considering its merits or immediately rejected or if the hearing is for another reason manifestly unnecessary.
- 2.3. See above 2.2.
- 2.4. No. Having a single judge is possible only for interim relief.
- 2.5. According to the Administrative Judicial Procedure Act (53 §), a statement of reasons shall be included in the decision. The statement shall indicate which facts and evidence have affected the decision and what legal grounds it is based on. However, according to the established practise of the Supreme Administrative Court, the statement of reasons might only refer to the reasons given in the decision of the lower court if the Supreme Administrative Court totally agrees with those reasons. The Supreme Administrative Court might also refer to the reasons given by the lower court and at the same time make minor amendments to the reasons given by the lower Court without writing the reasons in its entirety. This technique is available if the clarity of the decision does not demand reasons written out as a whole.

When the leave is refused no detailed grounds are normally presented (see above 1.5.).

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

Where necessary, an oral hearing shall be conducted for purposes of establishing the facts of the case. In this respect, there is a margin of discretion. In practise, oral hearings are arranged only in rare occasions. (*appeal against a decision of an administrative court*)

Where the Supreme Administrative Court considers *an appeal against the decision of an administrative body* 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.

- 2.7. Yes in some respect. If a party who has been summoned under threat of fine to appear in an oral hearing fails to heed the summons, the execution of the fine may be ordered and another more severe threat of fine may be imposed.
- 2.8. Not normally. Depends on the case and the situation in question.

2.9. The exact time limit for lodging an appeal is laid down in the legislation. Otherwise the parties shall be given a reasonable time limit for his/her comments. Here the urgency or degree of difficulty of the case can be taken into account.

2.10.

Yes.

2.11.

The appeal must be submitted in strict accordance with the time limit. Otherwise, statements and documents can be submitted until the case is decided without the case being inadmissible.

2.12.

There are no limits. Additional statements and written submissions and documents can be submitted until the case is decided.

2.13.

No.

2.14.

Yes. See above 2.11.

2.15.

After the end of the appeal period, the appellant in a pending matter may put forward a new *demand* only if it is based on a change in circumstances or a fact that has become known to the appellant after the end of the appeal period. After the end of the appeal period, the appellant may present new *grounds* in support of his appeal, unless the matter as a result changes nature. (Administrative Judicial Procedure Act 27 §)

However, where the so-called municipal appeal is applied, any member of the municipality can appeal in addition to those individually affected. In these cases the appellant needs to present all grounds within the appeal period. New grounds cannot be presented either in the appeal to the Supreme Administrative Court or later on.

2.16.

See above 2.15

2.17

No. The parties may always ask for the case to be dealt accelerated but there is no formal procedure for that.

2.18

It depends on the nature of the case. An average length of proceedings is about 10 months.

3. Performance criteria

- 3.1 There is statistical data which includes the number of cases dealt by each referendary and judge. However, as the cases vary in nature, the number of cases is not a proper indicator of the performance.

There are two new instruments introduced lately which both aim to better performance and are worth mentioning:

The Supreme Administrative Court has laid down in 2009 for its internal work *a guidance concerning the administration of justice* (Lainkäyttöohjeisto 2009). Without being strictly binding, the guidance outlines a working method which illustrates good performance both in qualitative and quantitative respect. The key idea is to diminish the workload where possible and to concentrate the efforts on more difficult cases.

From January 2010 the Supreme Administrative Court has developed a new system for *quarter year planning*. The aim is to name the cases or group of cases where special attention is needed (for example urgent cases or delayed cases).

- 3.2 There is statistical data on the average length of proceedings in the Supreme Administrative Court and separately in the administrative courts. The system of calculating the length of proceedings from the court of first instance to the final decision by the Supreme Administrative Court is not yet in use.
- 3.3 Yes, there are significant differences in the lengths of proceedings, depending on the nature of the case. The average duration in the year 2009 was 10,2 months, varying from some 5 months up to 16 months depending on the nature of the case.
- 3.4 No.
- 3.5 The number of cases decided each year is about 4000. There are 20 judges and the President of the court. As every case is decided in the quorum of five members, or in case of the refusal of the leave for appeal three members, every judge takes part in some 900 cases yearly.
- 3.6 The Supreme Administrative Court consists of the President and twenty Justices. The Supreme Administrative Court has about 40 (lawyer) referendaries and 40 other employees 21/40/40.
- 3.7 Yes, there is. 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 five judges and two part-time expert members having competence in the relevant field.