REPORT

Identification of the participant

Nationality: Finnish

Functions: Justice in the Supreme Administrative Court of Finland

Length of service: 3 years

Identification of the exchange

Hosting jurisdiction/institution: The Supreme Administrative Court of Sweden

City: Stockholm

Country: Sweden

Dates of the exchange: 12.9.-23.9.2011

I Programme of the exchange

The programme of my exchange was planned beforehand. The subjects I had special interest in were taken into consideration. During the exchange the programme naturally developed and also changed a little.

The exchange took place mainly in the Supreme Administrative Court of Sweden. I had an opportunity to follow court sessions on several days and take part in staff meetings. During my exchange I also had many discussions with judges/justices, secretary general, judge referees, judicial secretary and other personnel. I had a work room of my own and an access to the judicial databases. In addition to this the programme included a visit to the Land and Environmental Court at the Court of Appeal.

During my exchange the court had its annual recreation day in which I also participated. Then I had with all the others an opportunity to visit the parliament.
II The hosting institution

In Sweden there are three kinds of courts: the general courts, the general administrative courts and the special courts. The general administrative courts are administrative courts (förvaltningsrätter), administrative courts of appeal (kammarrätter) and the Supreme Administrative Court (Högsta förvaltningsdomstolen).

There are twelve administrative courts in Sweden and they are situated throughout the country. They deal as first instance with cases which usually relate to disputes between private persons and the authorities, for example tax cases and social insurance cases. The administrative courts make also decisions upon applications for the taking into care of, for example, young people. If you are dissatisfied with the decision of the administrative court, you can normally appeal to the administrative court of appeal. In Sweden there are four administrative courts of appeal.

The Supreme Administrative Court is the supreme general administrative court and it considers determinations on appeals from the administrative courts of appeal. However, all appeals will not be taken into consideration because the main rule is that only those cases where the Supreme Administrative Court grants leave to appeal will be considered. Leave to appeal is granted only in one per cent of cases. In practice, the administrative courts of appeal are the final instance in most cases.

The most important function of the Supreme Administrative Court is to create precedents through its determinations in concrete cases. The Supreme Administrative Court can also under certain circumstances examine whether a decision made by the government is in contravention of a rule of law.

There are approximately 100 employees at the Supreme Administrative Court. The personnel, apart from justices, is divided into three preparation units and one administrative unit. The preparation units are responsible for various specific cases. The most common types of cases are cases which concern taxes and social insurance. However, in total the court deals with approximately 500 types of cases. The justices are assisted by judge referees, who prepare and present cases. Judge referees are lawyers and they are employed for a fixed term. Some of them work from a distance. They can be present under sessions through video.

III The law of the host country

Nowadays the importance of the secrecy cases has been recognized. These cases generally refer to issues of whether someone is entitled to gain access to an official document.
It was interesting to compare legislation and legal praxis concerning these matters. For example, Swedish legislation presupposes that if there is something which should be kept secret in a court's decision, it must also be appointed or affirmed in that decision. In Finland, the main rule is that the secrecy of a decision or another document is decided not until someone claims that he or she is entitled to gain access to that document.

IV The comparative law aspect in the exchange

The jurisdiction of the Supreme Administrative Court of Finland is to some extent different. We have also cases that concern environment and immigration, whereas we don’t have social insurance cases. Another difference is the fact that only in approximately 30 per cent of our cases a leave to appeal is necessary.

These circumstances reflect inevitably to working methods and judicial arguments.

V The European aspect of the exchange

During my visit to the Land and Environmental Court at the Court of Appeal, I had a possibility to discuss environmental cases. In these cases, different interests are often in collision, and it can also be difficult to decide who is the party concerned. Sometimes, these questions are related to Human Rights and EU-law. If a case concerns a project which has large environmental impacts, EU-law is also often applied. We had many similar experiences of these kinds of cases.

VI The benefits of the exchange

The exchange was a great experience professionally. During the exchange, I had the possibility to follow the work in the court extensively. During that time, I also realized that the same goal can be reached in different ways. About my experience concerning the organization and working methods, I have already discussed with my colleagues in Finland.

At the same time, I had the opportunity to improve my language skills and hopefully that will be useful for me also in Finland. The exchange strengthened my impression that our countries share a long history also in legal thinking.

In addition to all these benefits, I perhaps appreciate most of all the personal contacts with other EU-judges. I felt very welcome during the entire exchange and I really felt like part of the staff.

VII Suggestions

The planning of the programme affected perhaps the most to the success of my exchange. Knowing the language of the court was also very important.
The exchange took place in the Supreme Administrative Court of Sweden and lasted for two weeks (12.9.-23.9.2011). During the exchange I had an opportunity to follow court sessions and have discussions with the personnel.

The Supreme Administrative Court is the last instance of the general administrative jurisdiction in Sweden. In the Supreme Administrative Court the most common types of cases are cases which concern taxes and social insurance. Leave to appeal is necessary in approximately 90 per cent of the cases. The most important function of the Supreme Administrative Court is to create precedents.

The Supreme Administrative Court has changed its organization and working methods during the last years. The results of the changes have been positive which gave a good reason to consider and compare our own practices.

I was especially interested in legislation and legal praxis concerning secrecy cases and had many interesting discussions about the matter. When I was visiting the Land and Environmental Court of Appeal I had also an opportunity to discuss legal matters which had common interest.

The exchange was in many ways a great experience professionally. Especially I appreciate the open atmosphere during the discussions and the entire exchange.
ANNEX
GUIDELINES FOR DRAFTING THE REPORT

I- Programme of the exchange

Institutions you have visited, hearings, seminars/conferences you have attended, judges/prosecutors and other judicial staff you have met…

The aim here is not to detail each of the activities but to give an overview of the contents of the exchange.

If you have received a programme from the hosting institution, please provide a copy.

II- The hosting institution

Brief description of the hosting institution, its role within the court organisation of the host country, how it is functioning…

III- The law of the host country

With regard to the activities you took part in during the exchange, please develop one aspect of the host country’s national law that you were particularly interested in.

IV- The comparative law aspect in your exchange

What main similarities and differences could you observe between your own country and your host country in terms of organisation and judicial practice, substantial law..? Please develop.

V- The European aspect of your exchange

Did you have the opportunity to observe the implementation or references to Community instruments, the European Convention of Human Rights,...? Please develop.
VI- The benefits of the exchange

What were the benefits of your exchange? How can these benefits be useful in your judicial practice? Do you think your colleagues could benefit of the knowledge you acquired during your exchange? How?

VII- Suggestions

In your opinion, what aspects of the Exchange Programme could be improved? How?