SUPREME COURT
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Answers to questionnaire: Finland

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Due process

A.

1. YES and NO. There are no generally applicable means for procedural simplification. The Finnish administrative court system is a two-layer one. The procedure before administrative courts most often (statistically) takes place in writing (traditional or electronical) only. Ordinary procedure is normally as swift as possible so that no special means are desired. The general procedural provisions are flexible and may be adjusted according to the needs of each case category and case.

In the apex court, the Supreme Administrative Court (SAC), leave of appeal is needed, depending on the material case category at stake, in an increasing part of all appeals. The leave threshold today covers clearly more than half of all incoming cases. While the ordinary session composition in the SAC is 5 justices, leave of appeal can be decided on by only 3. If leave is not granted, other parties to the case are (normally) not heard at all. The reasoning by the court is in those cases short and formal.

Regarding the procedure before the (lower) administrative courts, and (if leave of appeal is not required, and after granted leave) also before the SAC, the parties shall be reserved an opportunity to comment on the demands of other parties and on any material that may affect the outcome of the matter. However, the case may be resolved without a hearing of a party or any party, if the claim at stake is dismissed without considering its merits or immediately rejected or if the hearing is for another reason manifestly unnecessary.

Material laws often include procedural specialities. E.g., leave of appeal in cases regarding asylum or other international protection may in the SAC be decided upon by 2 justices instead of the ordinary 3. (But if leave is granted, then the normal 5 are required also here.) In the lower administrative courts, the normal composition of judges may, depending on the category and type of the case, be 2 or even 1.

Extraordinary appeal before the SAC may be rejected by 3 justices only (instead of 5). A repeated effort may be dealt with by 1 justice only, normally without any examination of the merits. 3 justices instead of 5 are possible also in a few additional situations. On alien law and taxation law cases 1 justice may temporarily, while the main case is pending, forbid the enforcement of the appealed decision.

Because there is no overall concept or manifestation of simplified proceedings, the questions 2–4 cannot be properly answered in more detail than above.

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B.

1. The core of proceedings, i.e. correspondence with parties and, via the court, between parties, is always in writing (or in electronical format). Oral hearing may additionally be required. Where necessary, an oral hearing may be conducted for purposes of establishing the facts of the case. This applies to all administrative courts. An 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.

In addition, a lower court shall conduct an oral hearing if a private party so requests. The same applies to the SAC in those exceptional cases where appeal is made there directly against a decision of an administrative body (e.g. the Cabinet). 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. Additionally, there is no right to request oral hearing if the standing of the requesting party is (where applicable) based on membership of a municipality or another community only. If a party requests an oral hearing, he or she shall state why oral hearing is necessary and what evidence he would present in the oral hearing. The borderline between facts and law is not directly relevant here. The case law of the European Court of Human Rights is taken into account.

It is quite common that oral hearing is not requested at all before any court instance. If an oral hearing takes place, also all the various written documents of the case remain relevant. Due to the last-mentioned, YES is not a fully appropriate answer here.

2. As stated above, proceedings in writing only is the starting point and the main practice. Hence there are no special requirements for this normal state of affairs. But, on the contrary, those situations are specified by law where oral hearing is anyway necessary (see 1 above). In practice, oral hearings are statistically very uncommon before the SAC. In the (lower) administrative courts, their relative number is larger, but they still take place only in a clear minority of all cases. Nevertheless, oral hearings are rather common in (public law) child care cases, in certain sub-categories of alien law cases and in cases regarding dismissal of public officials.

In addition to oral hearings, the courts may arrange site inspections (where also the various parties have right to be present). Inspections take place mainly in environmental, land use and construction cases.

3. In practice YES, although there are explicit provisions regarding administrative judicial procedure only for the hearing of witnesses (those who cannot be heard in person). Regarding a party, videoconferencing has at times been used, depending on a total assessment of the case and procedure at stake.

4. YES, at the discretion of the court. Mental health care institutions are a typical example. Connected to site inspections, oral hearings have sometimes been held in suitable premises in the neighbourhood of the sites.