

# Administrative Judicial Procedure Act

(586/1996; AMENDMENTS UP TO 435/2003 INCLUDED)

## PART I — GENERAL PROVISIONS

### Chapter 1 — **Scope and precedence**

#### Section 1 — *Scope*

- (1) This Act shall apply to judicial procedure in general administrative courts.
- (2) This Act shall also apply where an administrative decision is challenged by way of appeal or extraordinary appeal in an administrative authority, an appellate board or another comparable special authority.

#### Section 2 — *Scope restrictions* (435/2003)

- (1) Sections 37—50 of this Act shall apply only to procedure in courts.
- (2) In other authorities, oral hearings, testimony and viewings shall be subject to sections 37, 38, 40, and 42 of the Administrative Procedure Act (434/2003).

#### Section 3 — *Precedence*

If another Act, or a Decree issued before the entry into force of this Act, contains provisions contrary to those in this Act, they shall apply instead of this Act.

### Chapter 2 — **Right of appeal and appellate authority**

#### Section 4 — *Right of appeal*

An administrative decision may be challenged by an appeal as provided in this Act.

#### Section 5 — *Admissibility*

- (1) Any measure by which a case has been resolved or dismissed may be challenged by an appeal.
- (2) An internal administrative order concerning the performance of a duty or another measure shall not be subject to appeal.

#### Section 6 — *Appellant*

- (1) 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.
- (2) In addition, an authority may appeal against a decision pursuant to an express provision in an Act or if it is essential to exercise the right of appeal to protect a public interest supervised by the authority.

#### Section 7 — *Appeal against the decision of a State administrative authority*

- (1) Appeal against a decision of the Council of State or a Ministry shall be lodged in the Supreme Administrative Court. The appeal may only be founded on the illegality of the decision.
- (2) Appeal against a decision of an authority subordinate to the Council of State shall be lodged in an Administrative Court. (433/1999)

Section 8 — *Appeal against the decision of a municipal authority, an Åland authority or an ecclesiastical authority*

- (1) The Municipalities Act (365/1995) contains provisions on appeal against the decision of a municipal authority.
- (2) The Act on the Autonomy of Åland (1144/1991) contains provisions on appeal against a decision of the Government of Åland and an authority subordinate to it, as well as the decision of a municipal authority in Åland.
- (3) The Church Act (1054/1993) contains provisions on appeal against a decision of the Evangelical Lutheran Church and an authority of a parish or an association of parishes thereof. The Act on the Orthodox Church of Finland (521/1969) contains provisions on appeal against a decision of the Orthodox Church and an authority of a parish thereof.

Section 9 — *Appeal against the decision of an Administrative Court (433/1999)*

Appeal against a decision of an Administrative Court shall be lodged in the Supreme Administrative Court.

Section 10 — *Appeal against other decisions*

The right to challenge by an appeal other decisions than those referred to in sections 7–9 is subject to specific provisions.

Section 11 — *Appellate authority in submission cases*

In cases subject to submission to a superior authority the appeal shall be addressed to the authority to whom the case is submitted.

Section 12 — *Jurisdiction of the Administrative Court (433/1999)*

- (1) An appeal shall be addressed to the Administrative Court in whose jurisdiction the authority whose decision is being challenged operates. If this basis cannot be used, the appeal shall be addressed to the Administrative Court in whose jurisdiction the authority whose decision is being challenged has its headquarters or, if also this basis cannot be used, to the Administrative Court in whose jurisdiction the decision has been made.
- (2) Notwithstanding the provisions in subsection (1), an appeal against the decision of an authority operating throughout the country shall be addressed to the Administrative Court to whose jurisdiction the decision has the closest link by virtue of that jurisdiction containing most of the territory or property affected by the decision, or that jurisdiction containing the municipality of domicile of a person or the municipality of headquarters of a corporation mainly affected by the decision.
- (3) If no Administrative Court has jurisdiction in the matter by virtue of subsections (1) and (2), the appeal shall be addressed to the Helsinki Administrative Court.

Section 13 — *Restriction of the right of appeal*

Specific provisions in an Act shall define the cases where the decision of an authority referred to in sections 7–9 may not be challenged by an appeal and where leave is required for appeal in the Supreme Administrative Court.

## Chapter 3 — **Appeal instructions**

Section 14 — *Enclosure of appeal instructions with the decision*

- (1) Appeal instructions shall be enclosed with a decision qualifying for appeal.
- (2) The appeal instructions shall indicate:
  - (1) the appellate authority;
  - (2) the authority with whom the appeal document is to be lodged; and
  - (3) the appeal period and the date when the said period begins to run.
- (3) The appeal instructions shall lay down the provisions on the contents and appendices of the appeal document and on its delivery.
- (4) If leave to appeal is required in the matter, the appeal instructions shall indicate the same, as well as the relevant legal provision and the grounds on which leave may be granted.

Section 15 — *Notice of prohibition of appeal*

In cases where appeal is been prohibited by virtue of a specific provision, the decision shall contain a notice of the prohibition. The notice shall indicate the provision on which the prohibition is based.

Section 16 — *Amendment of the appeal instructions*

- (1) If no appeal instructions have been given or if a false notice of prohibition of appeal has been given, the authority shall give new lawful appeal instructions.
- (2) If the appeal instructions are erroneous in a manner other than that referred to in subsection (1), the authority shall give new appeal instructions if this is requested within the appeal period that has been provided or indicated in the appeal instructions.
- (3) The appeal period shall begin to run upon service of the new appeal instructions.

Chapter 4 — **Right to be heard**

Section 17 — *General provision on the right of a legally incompetent person to be heard* (446/1999)

The right of a legally incompetent person to be heard shall be exercised by his guardian, custodian or other legal representative, unless otherwise provided below in this chapter.

Section 18 — *Right of a legally incompetent person to be heard*

- (1) A legally incompetent person shall be entitled to alone exercise his right to be heard in a matter relating to such income or property that he has the right to administer.
- (2) A legally incompetent person who has attained the age of 18 years shall himself alone exercise his right to be heard in a matter relating to his person, if he can understand the significance of the matter. (446/1999)
- (3) A minor who has attained the age of 15 years and his custodian or other legal representative shall both be individually entitled to exercise the right to be heard in a matter relating to the person or personal interest or right of the minor.

Section 18a — *Right of the guardian to be heard* (446/1999)

- (1) A guardian appointed for an adult shall have an independent right to be heard, in addition to the ward, in matters that fall within the guardian's competence. If the guardian and the ward have differing opinions when they are heard, the opinion of the ward shall prevail, if he can understand the significance of the matter.
- (2) If the competence of the ward has been restricted otherwise than by declaring him incompetent, the guardian shall have the exclusive right to be heard in a matter beyond the competence of the ward. However, the guardian and the ward shall have a joint right to be heard in a matter on which they are to decide together.

Section 19 — *Hearing of the ward and his guardian or custodian* (446/1999)

When the guardian, custodian or other legal representative exercises the right to be heard, also the ward shall be heard and when the ward exercises the right to be heard also the guardian, custodian or other legal representative shall be heard if this is necessary in the interest of the ward or for the purpose of clearing up the matter.

Section 19a — *Appointment of a guardian for purposes of judicial proceedings* (446/1999)

- (1) If a party is incapable of looking after his interests in judicial proceedings owing to illness, a mental disorder, diminished health or another comparable reason, the court where the matter is pending may on its own motion appoint a guardian for purposes of the judicial proceedings. The guardian shall be subject to the provisions of the Guardianship Act (442/1999).
- (2) Unless the court decides otherwise, the appointment of the guardian shall be in effect also in a superior court, if the matter is referred there by way of appeal.

Section 20 — *Attorney and counsel*

- (1) A party may use an attorney and counsel. An advocate or another honest and otherwise suitable and capable person of age who is not bankrupt and whose competence has not been restricted may act as attorney or counsel. However, a person who has participated in the consideration of the matter in the authority or acted in it as the attorney or counsel of the opposing party shall not act as attorney or counsel. (446/1999)
- (2) The provisions in chapter 15, section 17 of the Code of Judicial Procedure shall apply to privilege between an attorney, a counsel or their assistant and the client. In addition, chapter 15, section 3(2) and section 10a of the Code of Judicial Procedure shall apply to an attorney and counsel.

Section 21 — *Power of attorney*

- (1) An attorney shall produce a power of attorney, unless the client has orally retained him before the appellate authority. In the absence of a power of attorney an opportunity for its production shall be granted, but the consideration of the matter shall not for this reason be delayed. An advocate and a lawyer providing public legal aid need to produce a power of attorney only if the appellate authority so orders.
- (2) An attorney shall not without the consent of his client assign a power of attorney made in favour of a named individual.

## PART II — LODGING AND CONSIDERATION OF APPEAL

### Chapter 5 — **Lodging of appeal**

Section 22 — *Appeal period*

An appeal shall be lodged within 30 days of notice of the decision. When calculating this period, the day of notice shall not be included.

Section 23 — *Form and content of the appeal*

- (1) An appeal shall be lodged in writing. The appeal document, which shall be addressed to the appellate authority, shall indicate:
  - (1) the decision challenged;
  - (2) the parts of the decision that are challenged and the amendments demanded to it; and
  - (3) the grounds on which the challenge is based.
- (2) If leave to appeal is required in the matter, the appeal document shall indicate why leave should be granted.

Section 24 — *Personal information and signature*

- (1) The appeal document shall indicate the name and domicile of the appellant. If the right of the appellant to be heard is exercised by his legal representative or attorney or if the appeal document has been drawn up by someone else, the document shall indicate also his name and domicile.
- (2) The appeal document shall further indicate the postal address and telephone number where the notices relating to the matter can be served on the appellant.
- (3) The appellant, his legal representative or attorney shall sign the appeal document.

Section 25 — *Appendices of the appeal document*

- (1) The following shall be appended to the appeal document:
  - (1) the decision challenged, in the original or as a copy;
  - (2) a certificate on the date of notice of the decision or other evidence on the date when the appeal period began to run; and
  - (3) the documents on which the appellant relies in support of his demand, unless these have already earlier been delivered to the authority.
- (2) An attorney shall append his power of attorney to the appeal document, as provided in section 21.

Section 26 — *Delivery of the appeal document to the authority*

- (1) The appeal document shall be delivered to the authority within the appeal period.
- (2) If the appeal document was by virtue of a specific provision to be delivered to some other authority than the appellate authority, but it has been delivered to the appellate authority within the appeal period, the appeal shall not for this reason be dismissed.
- (3) An inmate of a closed institution may also hand the appeal document over to the director of the institution within the appeal period. He shall without delay forward the appeal to the appellate authority or, if the appeal document is by virtue of a specific provision to be delivered to some other authority, to the said authority.

Section 27 — *Alteration of the appeal*

- (1) 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. The appellant may also request a stay of execution and make other subsidiary demands.
- (2) 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 in nature.

Section 28 — *Supplement procedure*

- (1) If the appeal is defective, the appellant shall be reserved an opportunity to supplement it, unless such supplementation is unnecessary for the consideration of the matter.
- (2) A reasonable supplementing period shall be granted to the appellant, who shall at the same time be informed of how his appeal is defective.

Section 29 — *Transfer of the matter*

- (1) If the appeal has by obvious error or ignorance been lodged in an authority that is not competent to consider it, that authority may transfer the appeal to the competent authority. If the issue of competence is manifestly clear, no decision on dismissal need be made. The transfer shall be notified to the appellant.
- (2) The appeal shall be deemed to be in time if it arrives to the competent authority within the appeal period.

Section 30 — *Effect of defective appeal instructions*

- (1) If the appeal has been defectively lodged by reason of non-existent or defective appeal instructions, the appeal shall not for this reason be dismissed.
- (2) If the appeal has for the reason referred to in subsection (1) been lodged in a wrong authority or if the appeal document has been delivered to the wrong authority, that authority shall transfer the appeal document to the competent authority. The transfer shall be notified to the appellant.

## Chapter 6 — **Effect of appeal on the enforcement of the decision**

Section 31 — *Enforceability of the decision*

- (1) A decision qualifying for appeal shall not be enforced before it has become final.
- (2) However, the decision may be enforced before it has become final if there is a provision to this effect in an Act or a Decree, if the decision is of a nature requiring immediate enforcement, or if its enforcement cannot be delayed for reason of public interest.
- (3) If leave to appeal is required in the matter, an appeal shall not preclude enforcement.

Section 32 — *Execution order by the appellate authority*

- (1) When an appeal has been lodged, the appellate authority may prohibit the execution of the decision, order a stay or issue another order relating to the execution of the decision.
- (2) In a decision concluding the consideration of the matter the appellate authority shall, where necessary, rule on the validity of the execution order. If the decision

qualifies for appeal, it may order that the execution order is to be valid until the decision has become final or until a superior appellate authority otherwise orders.

- (3) If the appellate authority overturns a decision and returns or transfers the matter for a new consideration, it may at the same time order that the overturned decision is still to be complied with, until the matter has been resolved or the considering authority otherwise orders.

## Chapter 7 — **Consideration and review**

### Section 33 — *Scope of review*

- (1) The appellate authority is responsible for reviewing the matter. Where necessary, it shall inform the party or the administrative authority that made the decision of the additional evidence that needs to be presented.
- (2) 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.

### Section 34 — *Hearing the parties*

- (1) Before the resolution of the matter, the parties shall be reserved an opportunity to comment on the demands of other parties and on evidence that may affect the resolution of the matter.
- (2) The matter may be resolved without a hearing of the party if his claim is dismissed without considering its merits or immediately rejected or if the hearing is for another reason manifestly unnecessary.
- (3) Separate provisions shall apply to the restrictions of a party's access to official documents that are not public.

### Section 35 — *Time limit for comments*

A party shall be given a reasonable time limit for his comments. At the same time he shall be notified that the matter can be resolved after the expiry of the time limit even if no comments have been made.

### Section 36 — *Statement of the authority*

- (1) The appellate authority shall obtain a statement from the administrative authority that made the decision in the matter, unless this is unnecessary.
- (2) For purposes of obtaining evidence a statement may be requested also from an authority other than that referred to in subsection (1).
- (3) A time limit shall be set for the issue of the statement.

### Section 37 — *Oral hearing*

- (1) Where necessary, an oral hearing shall be conducted for purposes of establishing the facts of the case. The parties, the authority referred to in section 36, witnesses and experts may be heard and other evidence received in the oral hearing.
- (2) The 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.

### Section 38 — *Oral hearing on the request of a party*

- (1) An Administrative Court shall conduct an oral hearing if a private party so requests. The same applies to the Supreme Administrative Court where it is considering an appeal against the decision of an administrative authority. 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. (433/1999)
- (2) The provision in subsection (1) shall not apply if the standing of the requesting party is based on membership of a municipality or another community.
- (3) If a party requests an oral hearing, he shall state why the conduct thereof is necessary and what evidence he would present in the oral hearing.

#### Section 39 — *Hearing of witnesses*

- (1) Witnesses who have been called by a party or the administrative authority that made the decision or the hearing of whom the appellate authority considers necessary may be heard in the oral hearing. If written evidence of a private nature is relied on in the matter, the witness shall be heard in person, unless this is unnecessary or unless there is a special impediment for the same.
- (2) A party may be heard under oath concerning circumstances that have special relevance to the resolution of the matter.
- (3) Otherwise the provisions of chapter 17, sections 18—39 of the Code of Judicial Procedure shall apply on the hearing of witnesses and the provisions in sections 62—65 of the same chapter shall apply to the hearing of a party under oath.

#### Section 40 — *Expert opinions*

- (1) The appellate authority may obtain an opinion from an individual expert on a matter requiring special expertise; the provisions of chapter 17, section 46(2), as well as sections 47, 48 and 49—52 of the Code of Judicial Procedure shall apply to the same.
- (2) If a party calls an expert not appointed by the appellate authority the provisions on the hearing of witnesses shall apply.

#### Section 41 — *Inspection*

An inspection may be carried out for purposes of clearing up the matter. The provisions in this Act on oral hearings shall apply, to the extent appropriate, to inspections.

#### Section 42 — *Production of documents and objects*

The provisions in chapter 17, sections 11b—14 and section 15(2)—(3) of the Code of Judicial Procedure on documentary evidence and section 57(1) of the same chapter on the production of objects before a court for inspection shall apply to the production of documents and objects in the appellate authority.

### Chapter 8 — **Supplementary procedural provisions**

#### Section 43 — *Summons to oral hearing*

- (1) The appellate authority shall summon to the oral hearing the parties, the representative of the administrative authority that made the decision and the other persons whose presence it considers necessary. If the oral hearing has been limited as referred to in section 37(2), the parties whose presence is as a result manifestly unnecessary need not be summoned.
- (2) A party or his legal representative shall be summoned under threat that their absence will not preclude the consideration and resolution of the matter. A party may be summoned to appear in person in the oral hearing if this is necessary for the clearing up of the matter. In this case a threat of a fine may be imposed.
- (3) The provisions of the Administrative Procedure Act on service of documents shall apply on the summons of the persons referred to above in subsection (1) as well as of witnesses and experts to an oral hearing. A party may be summoned to an oral hearing also by posting the summons to him at the service address indicated by him. (435/2003)

#### Section 44 — *Absence of a party*

- (1) If a party or his legal representative who has been summoned, under threat of a fine, to appear in person in an oral hearing, fails to heed the summons or appears by way of attorney, the appellate authority shall, if it still considers the presence of the party indispensable, order the execution of the fine and impose another, more severe threat of a fine. The execution of the threat of a fine shall not be ordered if the matter is considered and resolved in the absence of the party.
- (2) If a legal excuse for the absence of the party or the legal representative is made or known to exist, or if there is reason to believe that such an excuse exists, the

consideration of the matter shall be cancelled or postponed. In this case the execution of a threat of a fine for the personal appearance of the party or his legal representative shall not be ordered, unless it becomes clear before the end of the consideration of the matter that no legal excuse in fact existed.

Section 45 — *Minutes*

Minutes shall be kept on an oral hearing; they shall indicate the persons present, the matter and the other information and demands made during the hearing, the decisions made and an account of the course of the proceedings.

Section 46 — *Recording*

- (1) The hearing of a witness, an expert and a party under oath shall be recorded.
- (2) If recording is not possible or, owing to the shortness of the statement, it is manifestly unnecessary, a verbatim account of the statement shall be entered into the minutes. The statement, as entered, shall be immediately repeated to the person who made it; that person's opinion of whether the account is correct shall be entered into the minutes.

Section 47 — *Record*

- (1) A recorded statement shall be transcribed if the appellate authority or, if its decision has been appealed against, the higher appellate authority considers this necessary. The record may be copied or transcribed also if a party or someone else so requests.
- (2) The record shall be kept in archive for at least six months after the resolution of the matter. However, if an appeal has been lodged in the matter, the record shall be kept in archive until the decision in the matter has become final.

Section 48 — *Hearing by judicial assistance*

- (1) The appellate authority may for a special reason order that the hearing of a witness or a party, as referred to in section 39, shall be conducted by the Administrative Court or District Court where it is the most suitable. (433/1999)
- (2) The provisions in section 43 on the summons of witnesses and parties to the oral hearing shall apply correspondingly to the summons to a hearing by judicial assistance. The appellate authority shall designate the parties, witnesses and other persons who are to be summoned to the hearing and state whether the parties are to appear in person and whether a threat of a fine is to be imposed. The authority extending judicial assistance shall see to the summons; the provisions of the Administrative Procedure Act on service of documents shall apply. (435/2003)
- (3) A party shall have the right to put questions to the person being heard and to state his opinion on the testimony.

Section 49 — *Compensation for witnesses*

- (1) A witness shall have the right to a reasonable compensation for his travel and subsistence expenses and for loss of income.
- (2) A witness called by the appellate authority on its own initiative and a witness called by the state as a party shall be compensated from state funds as separately provided on compensation for witnesses from state funds.
- (3) A party shall compensate a witness called by him. The witness shall be entitled to an advance on his travel and subsistence expenses. The provisions in chapter 17, section 40(4)–(5) of the Code of Judicial Procedure shall apply, to the extent appropriate, to advance compensation.
- (4) A witness referred to above in subsection (3) who has been called by a party other than the state may be compensated from state funds if his testimony has been necessary for the clearing up of the matter.

Section 50 — *Compensation of other costs of evidence*

- (1) An expert shall be reasonably reimbursed for his work and compensated for his necessary expenses from state funds. The appellate authority may order that an advance on the compensation or a part thereof be paid to the expert.

- (2) When a person other than a party has been ordered to produce a document or an object in the appellate authority, the resulting expenses shall be compensated in accordance with the provisions in section 49 on compensation for witnesses.

## Chapter 9 — **Decision-making**

### Section 51 — *Resolution*

- (1) The appellate authority shall in its decision resolve all the demands made in the matter. It shall review all evidence available and determine on which grounds the resolution can be based.
- (2) If an appeal has not been lodged within the prescribed time limit or if there is another impediment for the resolution of the matter or a demand made therein, the appeal or the demand shall be dismissed without considering its merits.

### Section 52 — *Voting*

- (1) Where there is no consensus among the members participating in the decision, a vote shall be taken. In the vote the result that has the support of a majority of the members shall prevail.
- (2) In case of a tie, the chairman shall have the casting vote. However, in case of a tied vote in a disciplinary matter, a matter relating to a penal fee and a matter relating to the execution of a threat of a fine, a fine or another special sanction imposed to safeguard the progress of the procedure, the result that is more lenient to the person concerned shall prevail.
- (3) The provisions on voting in general courts shall otherwise apply, to the extent appropriate.

### Section 53 — *Statement of reasons*

A statement of reasons shall be included in the decision. The statement shall indicate which facts and evidence have affected the decision and on which legal grounds it is based.

### Section 54 — *Contents of the decision*

- (1) The decision shall contain:
  - (1) the name of the appellate authority and the date of the decision;
  - (2) the name of the appellant and the decision appealed against;
  - (3) to the extent necessary, an account of the course of the previous proceedings;
  - (4) an account of the claims of the parties and, to the extent necessary, the grounds on which they are based;
  - (5) to the extent necessary, an account of the evidence given in the matter;
  - (6) a statement of reasons and the final resolution; and
  - (7) the names of the persons participating in the decision-making and, if a vote has been taken or the referendary has entered a dissenting opinion, a notification of the same; in this case the dissenting opinions shall be appended to the decision.
- (2) An account referred to above in subsection (1) may be fully or partially replaced by appending to the decision a copy or an extract of the decision of the lower authority, the appeal document or another document, provided that the clarity of the decision is not thereby compromised.

### Section 55 — *Service of decisions and other documents (435/2003)*

- (1) Where an appeal period or some other set period affecting the rights of the parties begins from the service of a decision, that decision shall be verifiably served on the recipient as provided in section 60 of the Administrative Procedure Act. Verifiable service may be used also otherwise, if for some other reason necessary for the safeguarding of the rights of the parties. Section 63 of the Administrative Procedure Act governs the service of documents abroad.

- (2) In other respects, the service of documents shall be subject to the provisions of the Administrative Procedure Act. However, a document may be served by way of public notice only if the service cannot be effected in any other manner.
- (3) The electronic service of decisions and other documents shall be governed by the provisions of the Act on Electronic Services and Communication in the Public Sector (13/2003).

## Chapter 10 — **Rectification**

### Section 56 — *Rectification of errors*

- (1) The appellate authority shall rectify any typographic errors, miscalculations and other obvious errors in its decision. However, an error shall not be rectified if the rectification would have an unreasonable result for the party.
- (2) In a multi-member appellate authority also the chairman of the hearing where the matter was considered and, where he is prevented from attending to his duties, a legally qualified member of the appellate authority may decide on the rectification of errors.

### Section 57 — *Rectification procedure*

- (1) If the decision to be rectified has been appealed against, the appellate authority shall be informed of the opening of the rectification procedure; the resulting decision shall be delivered to it.
- (2) When considering the rectification of an error, the appellate authority may prohibit the execution of its decision or order a stay.
- (3) An entry on the rectification shall be made into the archival copy of the decision and into the decision issued to the party. If the decision issued to the party cannot be recovered, he shall be issued a copy of the rectified decision free of charge.
- (4) A decision by which the appellate authority has rejected a request for rectification shall not be subject to appeal.

## PART III — OTHER FORMS OF ADMINISTRATIVE JUDICIAL PROCEDURE

## Chapter 11 — **Extraordinary appeal**

### Section 58 — *Means of extraordinary appeal*

An administrative decision that has become final may be subject to extraordinary appeal by means of procedural complaint, restoration of expired time or annulment.

### Section 59 — *Procedural complaint*

- (1) A decision may be set aside on the basis of a procedural complaint:
  - (1) if the person concerned has not been provided an opportunity to be heard and the decision violates his right;
  - (2) if another procedural error which may have had a relevant effect on the decision has been committed; or
  - (3) if the decision is so unclear or defective that it does not indicate how the matter has been resolved.
- (2) No procedural complaint shall be lodged on a decision if a material tax appeal can be lodged against it on the same basis.

### Section 60 — *Lodging a procedural complaint*

- (1) A procedural complaint shall be lodged with the authority to whom a regular appeal is made in accordance with this or another Act or a Decree. If there is no such authority, the procedural complaint shall be lodged with the Supreme Administrative Court.

- (2) In a case referred to in section 59(1)(1) the procedural complaint shall be lodged within six months of the date when the complainant received notice of the decision and in a case referred to in section 59(1)(2) within the same time of the date when the decision became final.

Section 61 — *Restoration of expired time*

Expired time may be restored to a person who has a legal excuse or who for another extremely significant reason has been unable to observe a prescribed time limit in:

- (1) lodging an application for a payment from public funds, based on an Act or a Decree;
- (2) lodging an appeal against a decision; or
- (3) undertaking other measures in administrative procedure or in administrative judicial procedure.

Section 62 — *Application for restoration of expired time*

- (1) An application concerning the restoration of expired time shall be lodged with the Supreme Administrative Court.
- (2) Where a legal excuse is claimed in support of the application, the application shall be made within 30 days of the end of the excuse.
- (3) Restoration of expired time shall be applied for within one year of the end of the original time limit, at the latest. For a very significant reason the restoration may be granted also after that time.

Section 63 — *Annulment*

- (1) A decision may be annulled:
  - (1) if a procedural error which may have had a relevant effect on the decision has been committed;
  - (2) if the decision is based on manifestly erroneous application of the law or on an error which may have had an essential effect on the decision; or
  - (3) if new evidence which could have had a relevant effect on the decision appears and it is not the fault of the applicant that the evidence was not presented in time.
- (2) The decision shall not be annulled, unless it violates the right of an individual or unless it is deemed that it is in the public interest that the decision be annulled.
- (3) No annulment shall be applied for if a material tax appeal or a procedural complaint can be lodged against the decision on the same basis.

Section 64 — *Application for annulment*

- (1) The annulment of a decision shall be applied for from the Supreme Administrative Court. In connection of the resolution of a matter pending before the Supreme Administrative Court the pertinent decision may be annulled without an application or a proposal.
- (2) Annulment shall be applied for within five years of the date when the decision became final. Annulment without application or proposal shall take place within the same time limit. For very significant reasons the decision may be annulled also after that time.

Section 65 — *Appeal document*

- (1) An extraordinary appeal shall be lodged in writing.
- (2) The appeal document, which shall be addressed to the authority making a resolution on the appeal, shall state the demand and the grounds for it. The relevant decision shall be appended to the document in the original or as a copy, as shall the other documents on which the appeal is based.
- (3) The appeal document shall be delivered to the authority making a resolution on the appeal or to the authority that made the original decision.

Section 66 — *Order on execution*

An authority considering an extraordinary appeal may issue an order on execution applying, correspondingly, the provisions in section 32 on orders on execution by appellate authorities.

Section 67 — *Decision on extraordinary appeal*

- (1) A decision restoring expired time shall at the same time indicate how the applicant is to observe the restored time limit.
- (2) The decision may be annulled or, as a result of a procedural complaint, set aside as a whole or to the extent deemed necessary. If the case needs to be reconsidered, it shall be returned to the deciding authority. If that authority does not have jurisdiction, the case may be transferred to the correct authority.
- (3) As a result of a procedural complaint or when annulling a decision, the authority may make an immediate amendment of the decision, if the matter is found to be clear.

Section 68 — *Application of the provisions on appeal to extraordinary appeal*

Otherwise the provisions on appeal in this Act shall apply, to the extent appropriate, to procedure in extraordinary appeal.

**Chapter 12 — Administrative litigation and other matters of administrative judicial procedure**

Section 69 — *Administrative litigation (433/1999)*

- (1) A dispute concerning a fiscal liability or other public obligation or entitlement, as well as a dispute about an administrative contract, in which resolution is sought from an authority otherwise than by appeal (*administrative litigation*) shall be dealt with by an Administrative Court. (435/2003)
- (2) An application for the institution of proceedings by way of administrative litigation shall be submitted to the Administrative Court. The application shall state the action that is being sought and the grounds for the demand.

Section 70 — *Jurisdiction in administrative litigation (433/1999)*

- (1) A matter of administrative litigation shall be considered by the Administrative Court in whose jurisdiction the party subject to the demand has his domicile. If the party subject to the demand is the state, a municipality or another person under public law, the matter shall be considered by the Administrative Court in whose jurisdiction the authority or organ representing that party is located.
- (2) A demand of a private individual against the state may also be considered by the Administrative Court in whose jurisdiction that individual has his domicile.
- (3) If no Administrative Court has jurisdiction in the administrative litigation by virtue of subsections (1) and (2), the matter shall be considered by the Helsinki Administrative Court.

Section 71 — *Material tax appeals*

Appeals against the material basis of the assessment of taxes or public payments or the collection of the same shall be subject to the provisions of the Act on the Collection of Taxes and Public Payments by Distraint (367/1961).

Section 72 — *Other matters of administrative judicial procedure*

Matters of administrative judicial procedure other than appeal, extraordinary appeal or administrative litigation shall be initiated by submitting the relevant document to the authority that is competent to resolve the matter.

Section 73 — *Application of the provisions on appeal*

Otherwise the provisions in this Act on appeal shall apply, to the extent appropriate, to procedure in a matter referred to in this chapter.

## PART IV — MISCELLANEOUS PROVISIONS

### Chapter 13 — **Costs**

#### Section 74 — *Liability for costs*

- (1) A party shall be liable to compensate the other party for his legal costs in full or in part, if especially in view of the resolution of the matter it is unreasonable to make the latter bear his own costs. The provisions in this section and section 75 on a party may be applied also to the administrative authority that made the decision.
- (2) When assessing the liability of a public authority, special account shall be taken of whether the proceedings have arisen from the error of the authority.
- (3) A private individual shall not be held liable for the costs of a public authority, unless the private individual has made a manifestly unfounded claim.

#### Section 75 — *Other provisions on costs*

- (1) The provisions in chapter 21, section 5 of the Code of Judicial Procedure shall apply, to the extent appropriate, to the special liability of a party and the provisions in section 6 of the same chapter to the liability of a representative, attorney and counsel.
- (2) Otherwise the provisions in chapter 21, sections 7—16 of the Code of Judicial Procedure shall apply, to the extent appropriate, to costs. However, the penalty interest provided for in chapter 21, section 8(2) of the Code of Judicial Procedure shall begin to accrue after one month of the date when the parties have had access to the decision.

### Chapter 14 — **Supplementary provisions**

#### Section 76 — *Disqualification (443/2001)*

- (1) The provisions in chapter 13 of the Code of Judicial Procedure on the disqualification of a judge shall apply, to the extent appropriate, to the disqualification of a person considering an appeal, to the filing of a plea of disqualification and to the consideration of such a plea.
- (2) In addition, the provisions in chapter 1, section 6, of the Code of Judicial Procedure shall apply to the consideration of a matter under appeal.

#### Section 77 — *Interpretation and translation*

- (1) The authority shall see to interpretation and translation if the person does not know the language used in the authority in accordance with the Language Act (423/2003) or cannot make himself understood for reason of a sensory or speech defect and:
  - (1) in a previous phase of the procedure the competent authority was to see to interpretation and translation by virtue of section 26(1) of the Administrative Procedure Act or another provision;
  - (2) the present authority is the first instance in a matter that has been initiated by a public authority; or
  - (3) the person is heard in person.
- (2) For a special reason the authority may see to interpretation and translation also in a case not referred to in subsection (1).
- (3) No one shall act as an interpreter or translator if he is in such a relationship with a party or the matter that his credibility may for this reason be compromised.
- (4) The authority shall see to that citizens of the other Nordic Countries receive the assistance in interpretation and translation necessary for the matters considered by it.

Section 78 — *Legal excuse*

- (1) The provisions in chapter 12, sections 28 and 29 of the Code of Judicial Procedure shall apply to legal excuses.
- (2) When a person is summoned to an appellate authority, the summons shall note that he is to inform the appellate authority of a legal excuse without delay.

Section 79 — *Appeal against interim decisions*

- (1) There shall be a separate right of appeal against decisions, made during the consideration of the matter, relating to:
  - (1) the right of a witness or another person to compensation or his liability;
  - (2) the prohibition of an attorney or counsel to appear;
  - (3) the execution of a threat of a fine, a fine or another special sanction imposed to safeguard the progress of the procedure;
  - (4) an order on the enforcement of the decision subject to appeal; or
  - (5) the imposition of a penalty for disturbing the procedure or for similar conduct.
- (2) The separate appeal shall not preclude the enforcement of the interim decision, unless the deciding authority or the authority considering the appeal decides otherwise.

Section 80 — *Maintenance of order*

The provisions in chapter 14, section 6 of the Code of Judicial Procedure shall apply to the maintenance of order. In addition, the penal provision in section 7 of the same chapter shall apply in a court.

## Chapter 15 — **Entry into force and transitional provisions**

Section 81 — *Entry into force*

- (1) This Act shall enter into force on 1 December 1996.
- (2) This Act shall repeal the Administrative Appeals Act of 24 March 1950/154 and the Act on Extraordinary Appeal in Administrative Matters of 1 April 1966/200, both as later amended.

Section 82 — *Transitional provision*

- (1) This Act shall not apply to an appeal or a submission made before the entry into force of this Act, nor to the consideration of an appeal on such a matter in a superior appellate authority.
- (2) A reference in another Act or Decree to the Administrative Appeals Act or the Act on Extraordinary Appeal in Administrative Matters shall after the entry into force of this Act mean a reference to this Act.