

The system of leave to appeal and effectiveness of procedure in the Supreme Administrative Court

Conference “Administrative Justice in Ukraine”

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The Structure of General Administrative Procedure in Finland

The Supreme Administrative Court
processes approximately 4,000 cases annually

Regional Administrative Courts,
process approx. 20,000 appeals annually

Authorities make approx. 20–30 million
administrative decisions annually



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Background of the System of Leave to Appeal

- Reform of the Administrative Judicial Procedure Act 2020
 - As a rule, appealing against the decision of a regional Administrative Court presupposes a leave to appeal to be granted by the SAC
 - The focal point of legal protection on the first court level; Administrative Courts very qualified
- Aim
 - To speed up the procedure as a whole
 - To give the SAC opportunity to concentrate on the hardest and most important cases (decisions on the merits), especially issuing of precedents, guiding administrative courts and administrative authorities



Grounds for Granting Leave to Appeal

- Leave to appeal **shall be** granted if:
 - 1) it is important to refer the matter for decision by the Supreme Administrative Court for the application of law in other **similar cases** or due to **uniformity of legal practice**;
 - 2) there is special cause for referring the matter for decision by the Supreme Administrative Court due to a **manifest error** that has occurred in the matter; or
 - 3) there are some **other serious grounds** for granting leave to appeal.
- The SAC is not purely a court of precedent (cf. The Finnish and Swedish Supreme Courts and the Swedish SAC) → a hybrid system, only two court levels



Advantages of the System of Leave to Appeal

- Some 85-90 per cent of cases under the LTA system end up to disallowing the application → effectiveness (in SAC processing time less than 6 months on an average), saving of the justices' capacity to the hardest cases, but rectifying decisions including manifest errors
 - Three judge panel (+ referendary), instead of five
 - Standardized decision
 - Decision on the basis of the application (+ all the materials from previous stages of procedure): no hearing of the other parties if the leave is not granted
 - Decision signed digitally immediately after the deliberation and typically handed down to the parties same day or soon afterwards



Reply to Critics

- Everyone has access to the SAC → the case is always studied meticulously in the deliberations, on the basis of the memo of the referendary and remarks of the reporting judge
- The ECHR presupposes only access to one court
- The requirement to reason a decision NOT to grant the leave would water down all the efficiency advantages of the system (cf EUCJ Kubera case)

