KORKEIN HALLINTO-OIKEUS
HÖGSTA FÖRVALTNINGSDOMSTOLEN
THE SUPREME ADMINISTRATIVE COURT

President Pekka Vihervuori
The Supreme Administrative Court of Finland

Introductory questions

1. Regarding public law litigation, there are no general provisions on alternative procedures. Hence, there are no definitions. There is no case law in respect to distinguishing, either.

2. No. There are no legislative plans, either. Within some administrative sectors, there are some plans and practices within procedures in administrative bodies, but they do not affect or intervene in the litigation stage in administrative courts.

I The goals and the scope of alternative procedures

1. See above.

2. See above.

3. To a large extent, both substantive and procedural provisions in public law are legally binding, without freedom of contract.

4. Procedures in administrative bodies and municipal etc. self-government bodies, requests for rectification included, are regulated in the general Administration Act and in several sectoral laws. Provisions on appeals against administrative decisions before Administrative Courts, certain special administrative courts and the Supreme Administrative Court are regulated in the Administrative Judicial Procedures Act, complemented by several sectoral laws.

5. Pursuant to Article 1, the Directive applies, in cross-border disputes, to civil and commercial matters except as regards rights and obligations which are not at the parties´s disposal under the relevant applicable law. It shall not extend in particular, to revenue, customs and administrative matters or to the the liability of the State for acts and omissions in the exercise of State authority (acta iure imperii).

This provision makes the Directive legally irrelevant in respect to Finnish public law in practice, maybe with minor possible exceptions in some marginal situations.

II The stakeholders in alternative procedures

1. See above.

2. No.

3. See 2.

4. No. No.

5. No. In practice the workload of the judges would probably be heavier within an alleged mediation option (which does not exist), compared to the common litigation procedures in administrative courts. In most cases, ordinary administrative litigation entirely or mainly takes place in writing only, and is largely regarded as efficient and less formal in comparison to civil procedure.

In many categories, such as appeals in environmental permits, land use planning and public procurement, there may be several public and private parties with their variable interests involved in an administrative court procedure at the same time.

The binding nature of the applicable provisions of law would anyway be a problem, as well the obligation of all public bodies set forth by the Constitution Act to treat all individuals equally. This is a very central criterion e.g. in taxation.

III The procedures of alternative procedures

1. See above.

2. Depending on the field of public law at stake, a request for rectification to an administrative body (the one who has made the basic administrative decision, or a higher body, or a special body, such as boards of adjustment in taxation matters) may be mandatory before first appeal to an administrative court. New grounds and new reasoning may be presented to the court. Also other parties than the one who had made the original request for rectification may appeal in the court, if the basic decision has been rectified (repealed or amended) in favor of the one who had made request.

3. Due to the lack of regulated alternative procedures, there are no provisions on this, either.

4. Due to the same reason, no suspension or effect on time limits for appeal exist.

5. Due to the same reason, no court functions exist here.

IV The efficacy of alternative procedures

1. No. See II.5 above.

2. Insignificant.

3. No formal status.

4. Not relevant, no provisions.

5. No.