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E-services in the courts in Finland

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Finland has one of the highest numbers of Internet users per capita in the world. In it's article the author describes the system of e-services in the courts in Finland.

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I. Profile of the judicial system

1. Overview of the courts

[Rz 1] The courts of law in Finland can be divided into the general courts, for civil and criminal matters, and the administrative courts, for administrative matters. There are also certain special courts, such as the Land Courts and Water Courts.

[Rz 2] The general courts consist of the courts of first instance, i.e., the District Courts (63), the Courts of Appeal (6) and the Supreme Court. This report deals mainly with the technology in use in the general courts, although it should be mentioned that a reform is in progress also in the administrative courts in Finland.

[Rz 3] The Finnish legal system is based on the Scandinavian and European tradition. The proceedings in the general courts have been based on the 1734 Code of Judicial Procedure, which has undergone numerous partial reforms, especially during the 20th Century. In the past 10 years, however, the general courts and the proceedings in both civil and criminal cases have been reformed fundamentally. In this reform, technology has played an important part.

[Rz 4] A specific mention should be made of one particular principle of the Finnish legal system, namely the principle of free evaluation of evidence. This principle was adopted in the 1940's. The pertinent provision in the Code reads: «After carefully considering all facts that have come to its attention, the court shall decide what is to be considered the truth». As a consequence of this principle, an electronic «document» can in many cases be as valid as evidence as a paper document or the testimony of a witness.

II. Technology profile

1. First steps in using technology

[Rz 5] The use of technology in the work of the courts dates back to the 1980's in Finland. The legal data bank *Finlex* was introduced in the beginning of that decade. The Court Decision System and the Real Estate Information System were implemented in some courts in 1986; at the same time, some courts began to use the first docket or case management systems. By the end of the 1980's all courts in Finland had installed personal computers, to be

used mainly for word processing and for accessing the mainframe systems.

[Rz 6] Thus, the first systems the courts used, besides the Finlex databank, were the Real Estate Information System and the Court Decision System. Both were designed in the beginning of the 1980's and implemented in the later half of the decade.

[Rz 7] The Court Decision System is still in use; notifications processed in that system are at present sent electronically to the prison administration, the enforcement service for the collection of fines, the criminal record, the motor vehicle authority (withdrawal of the right to drive), the customs authorities, as well as Statistics Finland. Certain information is also passed to the police for recording into their systems. It should be emphasised that the System is also used in the production of the hard copy decision of the court, at the same time as the notification is produced.

[Rz 8] When the Real Estate Information System was brought into operation in the courts, it was also necessary to carry out a legislative amendment concerning the handling of the applications to register title or mortgage. The pertinent court decision is nowadays made by making an entry into the Real Estate Information System.

2. The basic infrastructure and registers in Finland

[Rz 9] In order to use technology in the courts to the full extent, a basic infrastructure in the country is required so as to service the information needs of the courts. It is also essential that the other agencies and public authorities that are in interaction with the courts have the same level of technology and, most important of all, the same basic standards and codes in use.

[Rz 10] The technical infrastructure in Finland is one of its greatest assets. Telecommunications come relatively cheap, as there is a genuine competition between many different service providers. Thus, for instance, Finland has one of the highest numbers of Internet users per capita in the world.

[Rz 11] It is important to keep in mind that the basic registers in Finland are at a very high level. The basic registers are data systems on the basic units of the society, that is:

- natural persons
- companies and associations
- properties (real estate)
- buildings and houses
- physical communications networks (roads and railways)
- the natural environment.

[Rz 12] The basic registers are characterised by comprehensiveness, reliability, versatility of use and strict protection of personal data. Comprehensiveness means that all units in a given category are recorded and provided with an individual official code (identifier). Reliability is guaranteed by the fact that the basic registers are kept by the authorities. The principle of versatility of use means that the data is collected only once, after which it should be available to other authorities and information consumers by means of information service. The protection of personal data means that access to and delivery of the data in basic registers are strictly regulated to ensure privacy.

[Rz 13] The core of the basic registers is the standardised code system, e.g. the personal identity number and the real estate ID code. This allows the systems to communicate and change data. It presents also a challenge to the protection of privacy, as it is quite possible to make undesired combinations of the data.

[Rz 14] The basic registers in Finland meeting the above criteria are:

- The Population Register System
- The Building Register System
- The Real Estate Information System
- The Enterprise Register System

[Rz 15] The courts in Finland take the full advantage of these basic registers; in most cases to the benefit of their customers. The District Courts update the Real Estate Information System as they register titles or mortgages over real property. A person who applies for the registration of his/her title only has to render the deed to the court, which then can get all the other information required from the Population Register and the Real Estate Information System. Later, a bank manager can access the information on the real estate and the mortgages on his/her computer while negotiating a loan with a customer. The information on divorces, custody, paternity and adoptions is updated to the Population Register by the courts. Information on the addresses of the persons to be summonsed to court can be retrieved from the Population Register.

[Rz 16] The main connecting key between autonomous systems is a person's identity number, which is given to every citizen at birth. The number stays unchanged throughout life. Privacy protection legislation restricts and controls the use of the identity number and registration and delivery of sensitive personal data.

[Rz 17] The Real Estate Information System, for its part, uses a standardised real estate code. Only using a standardised code can the co-operation between the county survey offices, the towns and the courts be possible and the information needs of taxation, census, mapping and geographical information systems, the banks and brokers and a number of private enterprises be fulfilled.

3. Integration strategies

[Rz 18] Data systems in the courts cover the whole field of actions in judicial administration. The oldest systems in use date from the 1980's. Nevertheless, the integration of systems has been self-evident from the beginning. The tools and technologies have changed during the years, but the systems have been designed and programmed keeping in mind that the information, once registered in a system, should flow through the whole chain of activities and other organisations serving every user, both in the courts and other authorities, and also benefit the public.

[Rz 19] The main concern in the data administration for the courts at present is the use of different technologies. The mainframes of the 1980's will eventually become obsolete. Integration of the mainframes of the past and the (2-tier or 3-tier) client-servers of today is a key issue. The same applies to the other agencies the courts interact with.

[Rz 20] It is essential that the systems are planned in co-operation with users and other public or private agencies. It is also important to make full use of both technical standards and standardised code systems. The Commission for Information Management of the Public Administration in Finland has done important work in forming the standard code system for the public sector.

III. Technology in the judicial system

1. Case management systems

1.1. Case management in the new court procedure in civil matters

[Rz 21] During the planning of the new civil procedure in Finland (entry into force in 1992), it was realised that the most numerous cases would be simple, undisputed debt-recovery cases. If the claim were contested, the procedure could continue in an oral preliminary hearing. A separate procedure for debt-recovery cases would be not needed. It was also obvious that even the cases brought to court as disputes, would in most cases not be contested, if the application was well argued and the evidence submitted already at this stage. Therefore, all civil cases could start the same way and most of them (about 90 per cent) could be decided in written proceedings. As the decision given by the court in the written proceedings would in most cases be based on the fact that the defendant does not contest it, the decision could be rendered summarily by the clerks in the court; a judge would not be needed.

[Rz 22] It was deemed essential to install an automated case management system for the new procedure was, as there were about 350,000 summary cases pending just before the reform. The procedure was also adapted to make it possible to take full advantage of the possibilities of automation and electronic communication.

[Rz 23] In Finland the use of IT is very common in banking and commerce. Debt collection is also concentrated to few companies owned by banks or financial institutions. They all use IT systems in their invoicing and in debt collection. The information, the data in their systems, as in most similar systems in commerce, is basically the same as the data required for summary applications in court – and therefore could be used also in the case management system in the courts. These facts were observed in the planning of the procedure and the case management system to support the procedure. The procedural provisions were also adjusted for the use of information technology. In this, the main obstacles in the legislation were the requirements of original signature and submission of paper documents.

[Rz 24] In the new procedure, the plaintiff in a summary case is not required to submit written evidence to the court as long as it (an agreement, invoice etc.) is specified in the written application. This means that, as the original document is not needed, the application can be transmitted to the courts electronically (e-mail, fax).

1.2. The TUOMAS and SANTRA systems

[Rz 25] The rules mentioned made it possible to use IT extensively in the written preliminary hearing. Two systems were developed, the TUOMAS case management system and the SANTRA electronic transfer system. The courts get about 40,000 applications a year electronically by way of the SANTRA system. Also electronic mail or fax can be used.

[Rz 26] Plaintiffs using SANTRA transfer daily the data on all of their applications to the common «mailbox» of the courts. The data is usually an ASCII file, but other formats are also allowed as long as the file meets certain standards. The SANTRA system then forwards the applications to the individual mailboxes of the courts. The courts, then, up-date their own TUOMAS systems on the basis of data in their mailboxes.

[Rz 27] It is also possible to send the application to the courts by electronic mail. The text of the application can then be used by the court during the process.

[Rz 28] The court summons the defendant. That will be mostly done by post. The Finnish Post operates an electronic posting service (EPS) which the court can use, as it is not required to sign the summons, and the original document of the application does not have to be sent in most cases.

[Rz 29] The documents or files needed for summonses are produced by the TUOMAS system, which is currently integrated to WordPerfect word processing software. Sending the files to the Finnish Post is automated both in TUOMAS and in SANTRA.

[Rz 30] TUOMAS will track the deadlines given to defendants for contesting. If the deadline has passed, TUOMAS and WP will be used to produce the decision of the court, which will be based on the data in the application and summons.

[Rz 31] In many cases the court will have to contact the plaintiff. That can be done using electronic mail or fax, if the plaintiff has informed the court that the address to send the message is an electronic mail address. In the later phases of the proceeding, in scheduling the hearing and summoning the parties to the hearing, electronic mail and calendar software can be used.

[Rz 32] In most of the contested cases, the judge will make an summing-up at the conclusion of the preliminary stage. TUOMAS stores and tracks all the documents in a case and if the document has been posted electronically, it can be used in later documents.

[Rz 33] Testimony received in the main hearing is usually audio taped. Minutes of the hearing will be produced, but they no longer are verbatim transcripts of every word said in the hearing. Instead, they indicate what has happened in the hearing. If one wants to know what a witness has said, one listens to the tape. Naturally, the end result of a trial, i.e., the decision is still a written document. The judge can use the texts of the application and the summing-up in writing the decision, if they were stored in the TUOMAS system. The video recordings are beeing tested and implemented in 2005.

[Rz 34] In debt collection cases, a plaintiff using SANTRA will also receive the decision back to its data-systems via SANTRA. That data can be used to apply for enforcement. The automated enforcement system of the pertinent authorities can make direct use of that data. Also a hard copy of the decision is posted to the plaintiff, because it is still needed for the formal filing of the request for enforcement. The entire enforcement legislation in Finland is due to be reformed in the near future; at that stage, electronic filing will be considered.

[Rz 35] The TUOMAS system, although mainly planned for summary civil cases, is at present extensively used for all types of civil cases. In 1993, the system only supported «regular» civil cases. There were only 14 standard court documents integrated to the system. Today there are some 200 (or 400, if both official languages are counted) different documents integrated to the system. Recent enhancements involve divorce, child custody, paternity and adoption cases, where notifications to the Population Register System are now sent electronically and not on paper forms. This frees the courts from filling in some 30,000 forms a year and the Population Register Centre from updating its systems manually.

1.3. The new criminal procedure and the SAKARI case management system

[Rz 36] The Act on Criminal Procedure entered into force on 1 October 1997. A case management system for criminal cases was then designed, for implementation in 2000. In criminal cases, case management is more complicated than in civil cases, as it involves the police, the prosecutor, the injured parties and the courts. The SAKARI case management system covers the workflow of the prosecutors and the courts, and links to the systems that the police use. It will also, in the next phase, cover the court decision system and the authorities linked thereto. The new system has roughly the same case management features as the TUOMAS system in civil cases, but more emphasis has been put to managing the information in a case (contrary to managing cases in the court).

2. E-services to the courts

2.1. Electronic data interchange

[Rz 37] A special Act on the use of telecommunications in judicial matters was enacted in 1993. This Act made the following possible:

- An application for a summons, a response and another comparable document may be delivered to a court by telefax or E-mail or by direct computer transfer into the data system of the court (*electronic message*).
- The Ministry of Justice may grant a party the permission to deliver the information required of an application for a summons by direct computer transfer into the data system of a district court.
- The electronic message has arrived to the court at the time it can be printed by the receiving device or when it has arrived to the court's system. In the case this time cannot be established the message is presumed to have arrived at the time, when it has been sent, if that time can be reliably established.
- The responsibility that the electronic message been delivered to the court lies on the sender (as it lies using normal post)
- The document does not need to be physically signed as long as there is sufficient information in the message to enable the court to contact the sender if it doubts the originality of the message.

[Rz 38] Of the other use of IT in the courts, the law states:

- The court has to make a hard copy of the message, if it is necessary according to the rules and regulations concerning the archives of the courts
- The court can send a notification to the parties in a case by sending an electronic message to the address given by a party
- the court does not have to sign the summons and the summons can be send by mail or given to a process server to be serviced

The new act on E-services in the public sector in Finland you find here:
www.weblaw.ch/jusletter/pdf/act-e-serviceFinland.pdf

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The slides of the presentation can be downloaded at
www.weblaw.ch/jusletter/content/BernPresentationKujanen.pdf.

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