

The administrative courts

This audit examined the administrative courts' practices and procedures in order to determine the reasons behind courts' different operational performance and variations in case processing times. The audit also examined how the administrative courts had developed procedures in response to the increasing volume and broader range of cases, what steps they had taken to shorten case processing times and how operational efficiency and case processing times had developed. Attention was also paid to the management of the administrative courts and possible needs to amend the Administrative Judicial Procedure Act.

The administrative courts' operational expenses totalled 27,384,327 euros in 2006 and 28,831,022 euros in 2007. Finland has eight regional administrative courts. The administrative court of the autonomous Åland Islands, which operates in connection with the Åland District Court, was not included in the audit.

The audit found that the administrative courts' practices and procedures vary considerably. The audit was not able to obtain a clear picture of the effect of these differences on the administrative courts' operational performance or case processing times, however, or to make an evaluation of this matter. Making an evaluation was complicated by the fact that a particular court's success in improving its productivity or economy indicators or case processing times did not necessarily mean that other indicators or the court's overall situation had improved.

Evaluation was made even more difficult by the fact that practices and procedures varied a great deal from one section to another even in the same administrative court. The audit did not observe any attempt to find, develop and apply best practices between different administrative courts or between sections of the same administrative court. The administrative courts emphasised their own solutions on the basis of their own development work.

Differences in operational performance and case processing times between the administrative courts are due partly to differences in the structure of cases and personnel. Their effect has not been studied, however, nor has this type of information been available in performance management in allocating resources to the administrative courts. The Ministry of Justice has focused on comparing each administrative court's situation with the years before instead of comparing the administrative courts with one another. The National Audit Office emphasises that this type of comparison does not produce information that can be used to reveal, reduce or eliminate existing differences between administrative courts. In the opinion of the National Audit Office, sufficient resources should be directed to the Ministry of Justice's administrative sector and within the administrative sector to produce research data that is needed as the basis for deciding on the allocation of resources so that differences related to citizens' equal treatment and access to justice can be reduced or eliminated between different administrative courts or case categories.

The productivity indicator used in the administrative courts' performance management, decisions/person-years, does not take into account differences between case categories and decisions, partly because weights have not been calculated for different types of cases. The cases handled by the administrative courts cover a broad spectrum, however, and the amount of work required to decide a case can vary to a large degree, along with cases' complexity. The indicator describing average case processing times, on the other hand, is substantially influenced by decisions multiple cases. Consequently the average case processing time does not give a very realistic picture of how long it takes to handle matters and how long an appellant has to wait for a decision. To ensure the right to a fair trial as laid down in the Constitution and international human rights conventions, it is also important to develop information systems and operational indicators in order to study the total length of time required to handle cases in a way that covers every level of the court system. The case structure and changes in it, along with the number of cases awaiting processing, are important factors describing promptness and risks with regard to this and the right to a fair trial. The case structure and the complexity of cases also have substantial

significance in examining the productivity and economy of an administrative court and the entire administrative court process.

The National Audit Office considers that the Ministry of Justice should take care of starting planning and development work in order to develop measuring systems and indicators as the basis for evaluating the performance and effectiveness of the administrative courts' activities as well as the quality of activities. It is necessary to develop indicators that also take into account the case structure and differences in cases' complexity. This requires the further development of information systems as well as indicators.

According to audit data, all the administrative courts had developed practices and procedures, with particular attention being given to the preparation and ?? of cases. Development measures differed greatly among the administrative courts and their sections, however. The vagueness of the terms used to describe procedural stages made it difficult to obtain an overall picture of the development work carried out by different administrative courts and to evaluate and compare development measures. It also hampers cooperation among the administrative courts to identify and approve best practices.

Several administrative courts emphasised the priority given to the preparation and early ?? of cases or material process management. It remained somewhat unclear, however, how the administrative courts actually proceeded in the preparation state and ??. It was also unclear how the administrative courts strove to ensure that cases that involve more complex legal issues or for some other reasons require longer to process can be screened from other cases on the docket. Audit data obtained from questionnaires and interviews did not fully support the administrative courts' own view that material process management had been particularly and adequately attended to.

In the opinion of the National Audit Office, the administrative courts should more concretely pay attention to improving material process management. Efficient material process management would have positive effects on the administrative courts's productivity and case processing times. The equal treatment of parties and authorities and legal security require that there should not be large differences between different administrative courts and certainly not between different sections of the same administrative court in the manner and level of material process management. Over the long term the

careful preparation and ?? of a case would also appear to be one of the most effective tools in reducing and preventing backlogs.

According to audit data one common factor was that the administrative courts had introduced a procedure that also allowed judges to present cases or had expanded such a procedure. Another common factor was the objective of increasing the number of judges in relation to clerks and thus change the personnel structure to give judges more weight. A statistical analysis of the administrative courts' performance data that was conducted in the audit was not able to pinpoint the effects of measures taken by the administrative courts to develop practices and procedures, but the ratio of judges to clerks appeared to have a statistically significant effect on case processing time. Considering the reservations inherent in such an analysis, the results suggest that case processing times could be shortened if the personnel structure were changed by increasing the ratio of judges to clerks. Conversely, the increase in the number of office personnel that accompanies the increase in the ratio of judges to clerks was not studied in the analysis or the audit in general. In the opinion of the National Audit Office it is important to make sure that changes in the personnel structure bring changes in practices that support the improvement of productivity and the shortening of case processing times. This means changes in traditional practices concerning collegial work and the reevaluation of an individual judge's independent position and activities as a member of the collegium.

In the opinion of the National Audit Office, the administrative courts should be encouraged to develop their practices and procedures, to establish the results of development work and actively to seek and adopt best practices. The independent administrative courts themselves are in a key position, but the Ministry of Justice should support the administrative courts in development work and prepare monitoring tools that are not in conflict with the administrative courts' independence.

Although conclusions could not be drawn on the basis of audit data concerning the effects of differences in the management of the administrative courts on operational performance and case processing times, in the opinion of the National Audit Office the data impress the need for the administrative courts to pay more attention to the fair and equal treatment of personnel and to share the work load

as equally as possible between sections. These should also be constantly monitored.

The chief judge as head of the administrative court should have the means to influence the prompt handling of matters and the arranging of work tasks, and this should not be looked upon as interfering with a judge's independence. Nor does a judge's independence entitle a judge to refuse to implement measures of a managerial nature. In the opinion of the National Audit Office, a chief judge cannot use judicial independence as an excuse for circumventing his or her responsibility and need to intervene in the practices and procedures of sections and individual judges if they do not correspond to what efficiency, effectiveness and the achievement of shared objectives require.

According to audit data, performance objectives were not set except for presenting judges even in those administrative courts where employees were given personal objectives. The National Audit Office recommends that the possibility of giving other judges besides presenting judges personal objectives or joint objectives together with a presenter should be considered. This procedure would strengthen joint responsibility for an administrative court's operational performance and case processing times and would tighten the monitoring of the achievement of performance objectives, since this significant part of work influencing results would be within the scope of objective setting and monitoring.

During the audit noteworthy viewpoints were presented regarding the amendment or reform of the provisions in the Administrative Judicial Procedure Act. The National Audit Office considers the measures taken by the Ministry of Justice to study the need to reform the Administrative Judicial Procedure Act's content and procedures a step in the right direction and very necessary.