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**CONSULTATIVE COUNCIL OF EUROPEAN JUDGES  
(CCJE)**

**Questionnaire with a view of the preparation of Opinion No. 14 on the non-materialisation of the judicial process and the use of IT by judges and court staff**

**QUESTIONNAIRE**

**FINLANDE**

## Questionnaire with a view of the preparation of Opinion No. 14 on the non-materialisation of the judicial process and the use of IT by judges/court staff

### 1. Access to courts

- a) May legal proceedings be instigated by electronic means?

Yes, they can. An application for summons, answer and different documents can be sent by electronic means. A project concerning legal aid applications by electronic means is being piloted in two district courts.

- b) Act on Electronic services and Communication in the Public Sector 13/2003 with later amendments. The scope of the Act is as follows:

#### Section 1- *Objective*

The objective of this Act is to improve smoothness and rapidity of services and communication as well as information security in the administration, in the courts and other judicial organs and in the enforcement authorities by promoting the use of electronic data transmission. The Act contains provisions on the rights, duties and responsibilities of the authorities and their customers in the context of electronic services and communication.

- c) What are the main requirements for instigating legal proceedings by electronic means? (multiple choice possible)

- The parties must submit the claim with a qualified electronic signature  
 The parties must fill in a downloadable form to be submitted electronically  
 Other, please specify.

- d) To what extent are legal proceedings instigated by electronic means in practice?

In criminal cases the main rule is that the prosecutor sends the indictment to the court in electronic form. Paper version is made later and sent to the accused person.

In civil law cases only very rarely. One reason is the outdated data processing systems, which makes the simultaneous correspondence between the parties and the court quite demanding.

### 2. Procedure within courts

- a) Once a claim has been issued electronically, does the procedure differ from a traditional procedure?

No, it does not.

- b) Does the electronic procedure differ according to the type of case (civil, criminal, administrative, etc.)?

No, it does not

c) How does the court communicate with the parties:

<i>With parties who use electronic means themselves:</i>	<i>With other parties:</i>
<input type="checkbox"/> by traditional means?	<input checked="" type="checkbox"/> by traditional means?
<input type="checkbox"/> by using electronic communication?	<input type="checkbox"/> by using electronic communication?
<input checked="" type="checkbox"/> both?	<input type="checkbox"/> both?

d) Do specific electronic means exist for the communication between lawyers and courts? Please specify.

Emails are used in this purpose.

e) Do electronic files exist?

- If an electronic file exist, is there a paper file as well?

Yes, there is. At present there is a project going on in the administration of justice the aim of which is to create a system of an electronic file for all the material relating to a case. Results of this project have to waited till 2014-15.

- If both exist, which is the "authentic" file?

At present, the paper file.

f) If yes, is there relevant legislation?

See above under 1. b)

g) What are the main requirements with respect to electronic files?

They need to be attachments.

h) Are there special regulations and safeguards with respect to electronic files containing particularly sensitive information (e.g. health information, information concerning secret services)?

Electronic files are printed out and put up in a secret folder. Sensitive information is sent in a coded email.

i) What happens when the authenticity of an electronic document is doubtful/controversial among the parties?

To our knowledge, there have been no such cases.

j) If parties wish to submit documents which are **not** in an electronic form (e.g. documents on paper), what procedure will the parties and the courts follow?

Documents are delivered by ordinary mail or by registered mail. In some cases the parties may use private delivery service.

k) Must paper documents be kept? If yes, how long?

As a rule, yes. Time depends on the nature of the document.

- l) What is the procedure when a judge's or court clerk's hand signature is prescribed? Does digital signature exist?

No, it does not exist.

- m) Do parties have access to the complete court file:

- Yes, always  
 Yes, but only with specific conditions

It is an important part of fair trial that the parties have access to the complete file. However, the deliberations of the court are kept confidential and so are the possible P.M:s made by the court preparing the decision. In some special cases the State's public safety may demand that some information is kept confidential.

- No

Please indicate, if appropriate, the relevant legislation.

Code of Judicial Procedure, Act on the Publicity of Court Proceedings in General Courts (370/2007); a translation of the Act 370/2007 is attached to the delivery of these answers, see especially Sections 1, 9 and 12.

- n) Do the parties or their lawyers have the possibility to follow the state of the proceedings via internet (secured)?

No, there is no such possibility.

- o) Is the access to electronic files within the court regulated? Please specify.

Yes, it is. The so-called Kyösti –inquiry data system is covered by the Act on the nationwide data system of the judicial administration.

- p) Have judges/court staff access:

<i>Judges</i>	<i>Court staff</i>
<input checked="" type="checkbox"/> to all court files?	<input type="checkbox"/> to all court files?
<input type="checkbox"/> only to files within their jurisdiction?	<input checked="" type="checkbox"/> only to files within their jurisdiction?

### 3. Oral hearing

- a) Are there oral hearings based on electronic means (e.g. judges act based on electronic files accessible in computer)?

Yes, they are.

- b) Are the expertise, the draft decision written by the rapporteur and personal notes accessible for judges in computer?

If a draft decision is written by the rapporteur, then the draft and the notes are accessible for judges in computer.

c) Is the complete file accessible for the parties or their lawyers during the hearing (also in computer)?

No, it is not.

d) Has technical equipment been installed in courts enabling to project documents on screens visible to judges, parties and audience?

Yes, to some extent.

e) Are oral hearings audio or video recorded?

Yes, they are audio recorded.

f) Is video conference in public hearing used:

for the hearing of witnesses?

for the hearing of experts?

for the hearing of parties?

other? Please specify.

Please indicate the relevant legislation as well as the restrictions, if appropriate.

Code of Judicial Procedure, Chapter 17. See, for example

**Section 34a (360/2003)**

(1) A witness, another person to be heard for probative purposes or a party may be heard in the main hearing without his or her appearance in person with the use of a video conference or other appropriate technical means of communication, where the persons participating in the hearing have an audio and video link with one another, if the court deems that this is suitable and

(1) the person to be heard cannot, due to illness or another reason, appear in person in the main hearing, or his or her personal appearance in proportion to the significance of the testimony would cause unreasonable costs or unreasonable inconvenience;

(2) the credibility of the statement of the person to be heard can be reliably assessed without his or her personal appearance in the main hearing;

(3) the procedure is necessary in order to protect the person to be heard or a person related to him or her in the manner referred to in chapter 15, section 10, subsection 2 of the Criminal Code, from a threat directed at life or health; or

(4) the person to be heard has not reached the age of 15 years or he or she is mentally incapacitated.

(2) A party shall be reserved an opportunity to put questions to the person being heard.

(3) In the cases referred to above in subsection 1(1) and 1(2), however, also a telephone may be used in the hearing.

g) If possible, please detail how many courts have been equipped with an adequate and sufficient electronic equipment to assist judges, court clerks and parties during oral hearings?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic files access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

jurisprudence				
Screen projectors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet access	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video conferencing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Audio conferencing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Video recording	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Audio recording	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### 4. Information services for judges

Are there central databases accessible for judges containing:

<i>Database run by State</i>	<i>Database run by a private institution</i>
<input type="checkbox"/> national legislation	<input checked="" type="checkbox"/> national legislation
<input type="checkbox"/> European legislation	<input type="checkbox"/> European legislation
<input type="checkbox"/> national case-law	<input checked="" type="checkbox"/> national case-law
<input type="checkbox"/> international case-law	<input checked="" type="checkbox"/> international case-law
<input type="checkbox"/> law review articles	<input checked="" type="checkbox"/> law review articles

Please specify the private institution.

The Finlex service and Edilex service, the latter of which also comprises law review articles, are provided in cooperation with **Edita**, which is a public limited company owned by the Finnish state.

#### 5. Practical court work

- a) What is the work of the judge:
- in writing the documents? Documents that are directly connected with the court's decision are written by the judge. Other documents are often written by the court staff.
  - in delivering the documents? The delivery is made by the court staff.
  - in registering the documents? Documents are registered by the court staff.
- b) What is the work of the court staff:
- in writing the documents? See above.
  - in delivering the documents? See above.
  - in registering the documents? See above.
- c) Is there enough staff to do this work? Please specify.

In general, more staff would be very welcome, but the situation changes from court to court. No exact figures can be given.

d) Do judges write their decisions themselves on their computer?

Yes, they do. Secretaries may modify the documents.

e) Do judges use specific technics (e.g. voice recognition, structure or model of decision available in a database)? Please specify.

Yes, there are document templates in the diary data system which judges can make use of.

f) Is modern technology used to monitor the length of proceedings and for case flow management within the court (eg. alert system)?

Yes, in some courts but not in all.

g) Are data concerning the work of each judge contained in a database which can be used for statistics, evaluations, etc.? Please specify

Yes, there are such databases. They are used for statistical purposes but not for evaluation of individual judges.

## **6. Internet**

a) Is internet accessible for each judge in his/her office? Is this access limited ? Please specify.

Yes, it is and it is not limited.

b) Do all courts have their own website? Please specify which court and the content of the website.

There is [www.oikeus.fi](http://www.oikeus.fi) for all courts, [www.kko.fi](http://www.kko.fi) for the Supreme Court and [www.kho.fi](http://www.kho.fi) for the Supreme Administrative Court.

## **7. Use of private personal computers/laptops by judges and court staff**

a) May a judge use his private PC/laptop for professional purposes (e.g. at home or on the way home and back?)

A judge may work on his own computer and save the document on a usb-device for further elaboration in court. See below c).

b) May e-mails be send from the court to a judge's private e-mail address and vice versa containing professional information ?

No, it is forbidden for data protection purposes.

c) Does this require special technical safeguards (e.g. excluding access by third persons, family members, etc.)? Please specify.

Usb-devices are checked when installed on Courts computer. Judges have at their disposal "official" laptops that can build a connection to Courts data systems via a secure Virtual Private Network –client.

d) Is the situation the same for all court staff?

For judges and referendaries, yes. This far only judges have "official" laptops.

## 8. Use of data

e) Is the data contained in the procedure used for another aim than the procedure itself?

No, it is not.

f) Is this data used for statistics?

Yes, it is.

g) If yes:

- who produces these statistics?

Business Intelligence –data warehouse run by a state data center called Oikeushallinnon tietotekniikkakeskus and also by court staff.

- how and by whom are these statistics used?

Statistics are used for various needs, for example by the Ministry of Justice to follow the general situation and work load of different courts and by the court presidents to follow the different aspects of their own court. Statistics may also used by the court staff in general for different purposes.

## 9. Data security

a) Does legislation exist to protect personal data processed through the electronic infrastructure of a court?

Yes  
 No

b) If yes, are there requirements applicable to processing data in courts?

rules on access to data by the person concerned or other persons/institutions  
 correction and deletion requirements  
 other. Please specify.

c) If there is a general Data Protection Commissioner, has he or she already dealt with IT at the judiciary?

Yes, to both questions.

- d) Is there a special Data Protection Commissioner in each court (e.g. a judge with this additional task)?

Yes, there is.

### **10. Participation of judges**

Who decides about the electronic infrastructure of a court? Are judges implicated in the relevant decisions concerning the implementation of IT in courts?

The strategic decisions are made on Ministry level. Preparatory work is often made by working groups in which judges are represented. The voice of judges is also heard during the implementation.

### **11. Conclusion**

Please give your opinion on the advantages and disadvantages of the development of IT in courts?

Easy access to all material and speediness are valuable advantages, but we still have a long way to go. Lack of financial resources and competent personnel are slowing down the process. I am not sure that feasible results are at hand as planned 2014-15.

## **APPENDIX**

**NB: Unofficial translation  
Ministry of Justice, Finland**

### **Act on the Publicity of Court Proceedings in General Courts (370/2007)**

#### **Chapter 1 – General provisions**

##### **Section 1 – *The principle of publicity***

Court proceedings and trial documents are public unless provided otherwise in this or another Act.

##### **Section 2 – *Scope of application of the Act***

(1) This Act provides for the publicity of court proceedings and trial documents in the High Court of Impeachment, the Supreme Court, the Court of Appeal, the District Court, the Labour Court and the Military Court.

(2) This Act also applies to those cases considered by the Market Court to which the Administrative Judicial Procedure Act (586/1996) does not apply.

(3) The provisions of the Act on the Openness of Government Activities (621/1999) apply in court to the extent not provided otherwise in the present Act.

##### **Section 3 - *Definitions***

(1) As used in the present Act:

(1) *court proceedings* refers to oral and written proceedings and to deliberations by the court;

(2) *oral proceedings* refers to the main hearing, the preparatory session, judicial review or other court proceedings where a party has the right to be present or where someone is heard in person;

(3) *written proceedings* refers to written presentation or another stage of court proceedings that is based solely on written trial documentation;

(4) *deliberations by the court* refers to the deliberations by the members of the court and the referendary for the purpose of reaching a decision;

(5) *trial document* refers to a document referred to in section 5, subsections 1 and 2 of the Act on the Openness of Government Activities, which has been submitted to the court or prepared in court for court proceedings; however, notes or drafts prepared in court or other documents which the draftsperson has not yet given for written presentation or other consideration of a case are not trial documents.

(2) What is provided in this Act regarding a trial document applies correspondingly to the publicity of an object.

#### **Chapter 2 – *Information regarding court proceedings***

##### **Section 4 – *Publicity of basic information regarding court proceedings***

Information regarding the court considering a case, the specific nature of a case, the stages of the consideration of a case, and the time and place of oral proceedings as well as the information necessary for identifying a party is public. However, in the situations referred to in section 6 the court may order that information regarding the identity of an injured party or an asylum seeker shall be kept secret.

##### **Section 5 – *The time at which basic information regarding court***

### ***proceedings become public***

(1) The basic information referred to above in section 4 regarding court proceedings become public immediately, unless provided otherwise in subsection 2.

(2) In a case concerning coercive measures referred to in chapter 5(a) of the Coercive Measures Act (450/1987), a police measure referred to in section 32(b) of the Police Act (493/1995) or a customs measure referred to in section 20(f) of the Customs Act (1466/1994), where the person who is the subject of the coercive measure or other measure need not be heard when considering the claim, basic information does not become public until the latest time at which the suspect in the offence or the subject of the coercive measure or other measure is to be notified of the use of the coercive measure or other measure, unless the court decides that the basic information becomes public at an earlier stage.

### ***Section 6 – Ordering that identity be kept secret***

(1) The court may order that the following be kept secret:

(1) the identity of the injured party in a criminal case that concerns a particularly sensitive aspect of his or her private life; or

(2) the identity of an asylum seeker in a case concerning taking into custody, unless it is apparent that releasing the information would not endanger the safety of the asylum seeker or of a person close to him or her.

(2) However, on the request of the party in question the information referred to in section 1 concerning his or her identity is public.

### ***Chapter 3 – Trial documents***

#### ***Section 7 – Publicity of trial documents***

(1) A trial document is public after the time referred to in section 8, unless it is to be kept secret in accordance with section 9 or unless the court orders it to be kept secret in accordance with section 10.

(2) Every person has the right to receive information from a public trial document.

#### ***Section 8 – The time at which a trial document becomes public***

(1) Unless the secrecy of a trial document is provided for in or on the basis of this Act, a trial document becomes public as follows:

(1) for a case being considered in the first court instance, a trial document submitted to court other than in a criminal case referred to in paragraph

(2) becomes public when the case has been considered in oral proceedings or, if no oral proceedings are to be held in the case, when a decision is issued on the principal claim;

(2) a trial document submitted to court in the written proceedings referred to in chapter 5(a) of the Criminal Procedure Act (689/1997) becomes public when the consent of the defendant to consideration of the case in such proceedings has arrived at the District Court;

(3) a trial document submitted to court in cases other than those referred to in paragraph (1) becomes public when the court considering the case has received it;

(4) a trial document containing the decision of the court becomes public when it has been issued or it is made available to the parties;

(5) a presentation memorandum prepared in court for the members of the court and a comparable other trial document drafted for the preparation of

a case becomes public when consideration of the case has been concluded in the court in question;

(6) another trial document drafted in court becomes public when it has been signed or confirmed in a corresponding manner.

(2) The court may order that a trial document referred to in subsection 1, paragraph (1) or (2) becomes public at an earlier stage if it is apparent that making the document public shall not cause detriment or suffering to participants in the case or if there is a weighty reason for making the document public.

(3) The court may order that a trial document referred to in subsection 1, paragraph (3) or (6) becomes public at a stage later than provided, however, at the latest during the oral proceedings in the case or, if no oral proceedings are held in the case, at the latest when a decision is issued on the principal claim. A condition for this is that making the trial document public earlier than ordered by the court

(1) would probably cause detriment or suffering to a participant and there is no weighty reason for making it public earlier than ordered by the court;  
or

(2) would prevent the court from exercising its right to order on the secrecy of the trial document.

#### **Section 9 – Trial document that is to be kept secret**

(1) A trial document shall be kept secret to the extent that it contains

(1) information which if made public would probably endanger the external security of the State or cause significant damage or detriment to the international relations of Finland or Finland's ability to engage in international cooperation;

(2) sensitive information regarding matters relating to the private life, health, disability or social welfare of a person;

(3) information regarding the victim of an offence if providing the information would violate the victim's rights or offend his or her memory or persons close to him or her;

(4) information regarding a forensic psychiatric examination of the mental health of a person charged with an offence, a social inquiry report regarding a young offender, a plan for the enforcement of juvenile punishment, assessment of the suitability of community service as a replacement for a sentence of imprisonment, a statement issued for the purpose of the release proceedings of long-term prisoners or a criminal record;

(5) contact information referred to in section 11(2)(7) or section 24(1)(31) of the Act on the Openness of Government Activities; or

(6) information regarding the deliberations of the court.

(2) On the basis of a weighty public or private interest connected with the case or on the request of the person whom the information concerns, the court may decide that trial documents which are to be kept secret in accordance with the provisions of subsection 1(2)-(5) are public in part or in full.

(3) The information referred to above in subsection 1(2) shall not however be kept secret in a criminal case to the extent that it is essentially connected with the act referred to in the charges or to its assessment under criminal law, unless the court orders on the basis of section 10 that this is to be kept secret.

#### **Section 10 – Order regarding secrecy**

The court may, on the request of a party or also for a special reason, decide that a trial document shall be kept secret to the extent necessary if it contains information which is to be kept secret on the basis of the provisions of another Act and revealing this information would probably cause significant detriment or harm to the interests that said secrecy obligation provisions are to protect.

### **Section 11 – *Period of secrecy***

(1) The period of secrecy of a trial document to be kept secret as provided in section 9(1)(2) and 9(1)(4) above is 60 years, and the period of secrecy of a trial document to be kept secret as provided in section 9(1)(6) above is 80 years. The period of secrecy of another trial document to be kept secret as provided in section 9 is 25 years.

(2) The period of secrecy of the trial document ordered secret under section 10 above and of the decision ordered secret under section 24 is at most 60 years when the order has been given in order to protect private life and at most 25 years when the order has been given on the basis of another reason.

(3) The period of secrecy is determined from the time that the case became pending in court.

(4) If even after the end of the secrecy obligation, making a trial document public would probably cause significant detriment to those interests which are to be protected by the provisions or the order on the secrecy obligation, the court that has last considered the principal claim may extend the period of secrecy by at most 60 years on the basis of an application from the person concerned by the information.

### **Section 12 – *Right of a party to be informed***

(1) Subject to the provisions of subsection 2, a party has the right to be informed about the contents of trial documents other than public trial documents.

(2) A party does not have the right referred to in subsection 1

(1) to contact information referred to in section 11(2)(7) of the Act on the Openness of Government Activities;

(2) to trial documents prepared in the court, before the date referred to in section 8;

(3) in a case concerning coercive measures referred to in chapter 5(a) of the Coercive Measures Act, a police measure referred to in section 32(b) of the Police Act or a customs measure referred to in section 20(f) of the Customs Act, where the person who is the subject of the coercive measure or other measure need not be heard when considering the claim,

(4) to trial documents to the extent that they contain information on the deliberations of the court.

### **Section 13 – *Methods of issuing a document***

(1) The provisions of section 16 of the Act on the Openness of Government Activities apply to the methods of issuing a trial document.

(2) However, information from a video recording or other comparable picture or sound recording can be given only by providing the recording for inspection in court if, considering the contents of the recording, there is cause to assume that provision of the information in another manner could result in violation of the privacy of the persons appearing in the recording.

## **Chapter 4 – *Oral proceedings***

### **Section 14 – *Publicity of oral proceedings***

(1) Oral proceedings in a case are public unless the court orders on the basis of

section 15 that the oral proceedings shall be held without the presence of the public.

(2) Everyone has the right to be present at public proceedings in a case unless provided otherwise in this or another Act.

(3) The court shall give notice of oral proceedings at the place where the court session is held, at the latest when the proceedings begin, by a docket that indicates the names of the parties with the exception of the name of the injured party in a criminal case brought by the public prosecutor, the specified nature of the case, the stage of the proceedings in the case, the time at which the oral proceedings begin, the place of the proceedings and the composition of the court when making a decision.

### **Section 15 – Closed proceedings**

The court may, on the request of a participant in the case or also for a special reason, decide that oral proceedings shall be held in full or to the necessary extent without the presence of the public if:

1) public proceedings in the case would probably endanger the external security of the State or cause significant damage or detriment to the international relations of Finland or Finland's ability to engage in international cooperation;

(2) sensitive information regarding matters relating to the private life, health, disability or social welfare of a person are presented in the case;

(3) a trial document that is to be kept secret on the basis of section 9 or ordered to be kept secret on the basis of section 10 is presented in the case or information that is to be kept secret on the basis of another Act is to be revealed and its consideration in public would probably cause significant detriment or harm to the interests that the provisions of the Act are designed to protect;

(4) public proceedings could endanger the safety of an asylum seeker or of someone close to him or her;

(5) a person below the age of 18 years is charged with an offence and closed proceedings would not be in violation of an exceptionally important public interest;

(6) a person below the age of 15 years or a person whose legal capacity is limited is heard in the case; or

(7) in the case

(a) a person is called upon to express a matter or bring for review an object or trial document, and the law provides the right to refuse to express the matter or bring the object or trial document for review;

(b) a person is called upon to answer a question, and the person could otherwise refuse to answer it; or

(c) the trial document to be presented contains a communication between the defendant and a person who is related to him or her in the manner referred to in chapter 17, section 20 of the Code of Judicial Procedure or something on which the person referred to in section 23 of said chapter may not testify in court proceedings or on which the person referred to in section 24 may refuse to testify.

### **Section 16 – Publicity of coercive measures cases**

(1) Subject to the provisions of this section, the provisions of this Act apply to the publicity of court proceedings and trial documents in coercive measure cases.

(2) The court may decide that oral proceedings concerning remand for trial, a travel ban and the presentation of evidence before the first consideration of the charges shall be held without the presence of the public, if the person presenting the request for coercive measures requests this for reasons related to the investigation, the suspect himself or herself requests this or the court otherwise deems there to be reason for this. The case may be considered against the request of the suspect in the presence of the public only for a weighty reason.

(3) For the reasons mentioned in subsection 2, the trial documents that have accumulated in the consideration of coercive measures or the receipt of evidence before the first consideration of the charges may, with the exception of the trial document containing the decision, be ordered to be kept secret at most until the charges are considered or until the case is dismissed without considering the merits.

(4) A case concerning coercive measures referred to in chapter 5(a) of the Coercive Measures Act, a police measure referred to in section 32(b) of the Police Act, or a customs measure referred to in section 20(f) of the Customs Act, where the person who is the subject of the coercive measure or other measure need not be heard when considering the claim, is considered and the decision thereon is pronounced without the presence of the public. A trial document containing a decision and other trial documents become public at the latest time when the person suspected of the offence or the subject of the coercive measure or other measure must be informed of the use of the coercive measure or other measure, unless the court decides for a special reason that the trial document becomes public at an earlier time.

#### **Section 17 – Presence in closed proceedings**

(1) In addition to the parties and their representatives and counsel, those persons whose presence the court deems necessary may be present at closed proceedings.

(2) When proceedings are ordered to be held without the presence of the public, the presence of the public may be restricted only to the extent that this is necessary in order to safeguard the interests to be protected.

#### **Section 18 – Secrecy obligation**

What is provided in section 23 of the Act on the Openness of Government Activities applies to the secrecy and use of information revealed in closed proceedings that is to be kept secret on the basis of this Act or on the basis of a secrecy order issued on the basis of this Act. The secrecy obligation and the prohibition against use apply to everyone present in the closed proceedings.

#### **Section 19 – Presentation of classified information during open proceedings**

(1) Information that is to be kept secret on the basis of the provisions of section 9 or on the basis of a secrecy order issued on the basis of section 10 may be presented orally or with auxiliary means in public proceedings to the extent that this is necessary for the consideration of the case.

(2) The information referred to above in section 9(1)(5) may not be considered in public unless there is a particularly weighty reason for this.

#### **Section 20 – Restriction of the presence of the public**

(1) The court may restrict the presence of the public during open proceedings if this is necessary to protect a witness, another person to be heard or a party or a person related to such person in the manner referred to in chapter 15,

section 10(2) of the Criminal Code (39/1889), against a threat to his or her life or health. The chairperson may restrict the presence of the public in open proceedings if this is necessary to avoid crowding.

(2) The court may prohibit the presence of a person below the age of 15 years in open proceedings if his or her presence may be detrimental to him or her.

### **Section 21 – Recording of the oral proceedings**

(1) In open proceedings, someone other than the court may take a photograph, tape record and in another manner record and transfer video and audio signals by technical means only with the permission of the chairperson and in accordance with his or her instructions.

(2) Permission for recording before the beginning of consideration of the case or when the decision of the court is pronounced may be granted if

(1) the recording does not cause significant detriment to the protection of the privacy of a party or another person and it does not endanger his or her safety; and

(2) there are no other weighty reasons comparable to those in paragraph 1 for refusing permission.

(3) Permission to record other parts of court proceedings may be granted if the conditions provided in subsection 2 have been met and in addition the recording causes no detriment to the undisturbed progress of the oral proceedings and the participants in the court proceedings consent to the recording.

### **Chapter 5 – The court decision**

#### **Section 22 – Publicity of the court decision**

(1) The court decision is public unless the court orders on the basis of section 24 that it be kept secret.

(2) The parties and the public have the right to be present when the decision is pronounced. The trial document containing the decision is public.

#### **Section 23 – Secrecy of deliberations of the court**

The deliberations and vote of the court shall be held without the presence of the parties and the public. The contents of the deliberations shall be kept secret.

#### **Section 24 – Ordering that a decision be kept secret**

(1) The court may order that the decision be kept secret to the necessary extent if the decision contains

(1) information which is to be kept secret in accordance with section 9;

(2) information which has been ordered kept secret in accordance with section 10; or

(3) information the secrecy of which was protected by the holding of oral proceedings without the presence of the public.

(2) Also in such a case the conclusions of the decision and the legal provisions applied are public. Unless the party in question requests otherwise, the court may nonetheless order that the following be kept secret:

(1) the identity of the injured party in a criminal case if said case concerns a particularly sensitive aspect of his or her private life; or

(2) the identity of an asylum seeker in a case concerning taking into custody unless it is apparent that giving the information does not endanger the safety of the asylum seeker or of someone close to him or her.

#### **Section 25 – Public report**

A public report shall be prepared regarding the decision to be kept secret on the basis of section 24(1), if the case has social significance or it has caused considerable interest in public. The public report contains a general account of the case and of the reasons for the decision. In addition, a public report of a particularly sensitive offence involving the private life of a person shall be published in a manner that does not reveal the identity of the injured party.

**Section 26 – Information to be kept secret in a public decision**

(1) Information referred to above in section 24(1) may be taken into the public decision to the extent necessary to justify the decision.

(2) Information referred to above in section 9(1)(5) may not be taken into the public decision unless there is a particularly weighty reason for this.

**Section 27 – Informing a party of the decision**

If the case has social significance or it has caused considerable interest in public, and if necessary also otherwise, the court shall as far as it is able ensure that the party is informed of the contents of the decision before the public is informed of the document containing the decision.

**Chapter 6 – Procedural provisions**

**Section 28 – Decision on the publicity of court proceedings**

(1) A decision on the basis of this Act is made on request or when the court deems that the making of a decision is necessary or if a third party requests information regarding the contents of a trial document. A decision on the publicity of a trial document other than one containing the decision of the court may be made also after the court proceedings are no longer pending.

(2) After the court proceedings are no longer pending the court may decide, on the request of a party or of the person concerned in the case, on the secrecy of a trial document or a part thereof, only if said person could not have made the request when the case was pending or there had been another justified reason for failure to make the request.

(3) If so requested by the person requesting a trial document or basic information regarding court proceedings, or by a person heard in connection with such a request, the decision shall be made in writing in the composition provided in section 29.

(4) The decision on the publicity of court proceedings shall be justified. A written decision on the publicity of court proceedings shall be entered into the records or a separate document shall be drafted on it.

**Section 29 – Quorum**

The court may make a decision on the basis of this Act in a composition of one judge or in the composition which constitutes a quorum when the court considers the principal claim. However, the court may decide on a decision to be made in oral proceedings or on the publicity of oral proceedings only in the composition in which the oral proceedings are held.

**Section 30 – Hearing of a participant**

(1) Before the court or its chairperson makes a decision on the basis of this Act, the court or the chairperson shall reserve the person whose right is affected by the matter an opportunity to be heard. However, no hearing need be arranged if the hearing would cause unnecessary delay, taking into consideration the nature of the case, and failure to hear the person would probably not cause significant detriment or harm. In making the decision after the court proceedings are no longer pending, a separate hearing is no longer necessary unless there is a particular reason for this.

(2) A participant in the case need not be heard when the decision referred to in section 8(3) is made.

### **Section 31 – Interim order**

(1) The court may in pending court proceedings decide on the interim restriction of the publicity of a trial document or oral proceedings without hearing participants in the case, if it is necessary to make the decision at once and publicity would prevent the court from exercising its right to decide on the secrecy of a trial document or on the holding of oral proceedings without the presence of the public.

(2) The final decision shall be made at the latest in the oral proceedings or, if such proceedings are not held, when a decision is being made on the principal claim.

### **Section 32 – Rehearing**

(1) When court proceedings are pending or thereafter on the request of a party or also for a special reason, the court may decide again on the publicity of court proceedings or of a trial document not containing the decision of the court, if the circumstances have changed after the court had previously decided on the matter or there are otherwise weighty reasons for this.

(2) After court proceedings are no longer pending, the question of the publicity of a trial document not containing the decision of the court may be considered anew, if this is requested by a third party who is affected by the information contained in the trial document, and he or she had not been able to give a statement on the matter during the court proceedings.

(3) The competent court in a rehearing of a case is the court that is considering or was the last to consider the principal claim.

### **Section 33 – Appeal**

(1) A decision made by a court on the basis of this Act is subject to separate ordinary appeal following the procedure for the decision of the court on the principal claim. A decision on the publicity of oral proceedings is subject to appeal only by a participant in the case.

(2) The court decision shall be followed regardless of appeal. If the seeking of appeal would otherwise be frustrated, the court may when making its decision order that the decision shall not be enforced before it has become legally final, unless the appellate court orders otherwise.

(3) An interim order and the decision referred to in section 8(3) are not subject to ordinary appeal.

## **Chapter 7 – Miscellaneous provisions**

### **Section 34 – Penal provisions**

Violation of the obligation provided in section 9 to keep a document secret or the obligation ordered on the basis of section 10 or 24 to keep a document secret, and violation of the secrecy obligation provided in section 18 and 23, is punishable in accordance with chapter 38, section 1 or 2 of the Criminal Code, unless the act is punishable in accordance with chapter 40, section 5 of the Criminal Code.

### **Section 35 – Entry into force**

This Act enters into force on 1 October 2007.