
ELECTRONIC TOOLS FOR CRIMINAL JUSTICE IN FINLAND – BEST PRACTICE CASE

1. INTRODUCTION

Finland was selected as a case study from the Scandinavian countries because of its exceptionally developed technical infrastructure and relatively cheap telecommunications. Finland has one of the highest numbers of internet users per capita in the world and well developed registers.

Finnish and Swedish are the two official languages in Finland and citizens can communicate with the public authorities in both languages. The Finnish legal system is based on the Scandinavian and European tradition.

The Finnish system assesses the court's performance using productivity, economy and effectiveness indicators. Productivity is calculated in terms of the number of decisions per judge or per unit of administrative staff. The principal indicator of the economy or efficiency of the court is the cost per decision, calculated by dividing the annual budget of a particular court by the number of decisions made by its judges. The calculation of effectiveness is more complex. It is based on the assumption that expeditious proceedings are fundamental to the judicial process and their rights of the citizens. Consequently case processing times are taken as the key measure of effectiveness.¹

2. THE FINNISH SYSTEM OF (CRIMINAL) JUSTICE²

The Finnish Constitution guarantees all people the right to have their case heard appropriately and without undue delay by a court or other public authority. All citizens have the right to any decision affecting their rights and duties being reviewed by a court or other judicial body.

In addition, the Constitution contains basic provisions for fair trials and good governance. These provisions are guaranteed with public proceedings, the right to be heard, the right to receive a decision containing reasoning, and the right to appeal against the decision.

¹ European Commission for the Efficiency of Justice (CEPEJ), 2010, Quality management in courts and in the judicial organisations in 8 council of Europe member states, Phillip M. Langbroek, p. 44.

² All information on the Finnish system of justice is taken from the brochures of the Ministry of Justice, www.om.fi, "The Judicial System of Finland, Criminal Procedure Act 689/1997".

The independence of the judiciary is constitutionally guaranteed. The courts are under the sole obligation to apply the law in force.

General Courts in Civil and Criminal Matters

District Courts

Finland is divided into a number of judicial districts, each with a District Court (*käräjäoikeus*). The districts vary greatly in size, both in terms of population and area. A District Court is made up of a Chief Judge (*laamanni*) and a number of other professional judges (*käräjätuomari*).

In civil cases, proceedings start with a pre-trial phase, after which the case is adjourned to the main hearing. The case also can be resolved in the course of the partly written and partly oral pre-trial procedure.

In criminal procedure the principles of orality, directness, and concentration of the trial are stressed upon. The main hearing is divided into the opening statements of the parties, the presentation of evidence and the conclusions.

The rights of the accused are respected as stated in the European Convention of Human Rights. In Finland, the victim has the right to claim damages from the accused in connection with the criminal proceedings and it is the public prosecutor's duty in certain situations to present the claim for damages on behalf of the victim.

In criminal cases, and in some cases concerning family law, the court is composed of one presiding professional judge and three lay members (volunteers elected by the municipal councils). Minor cases are tried by one judge alone.

Courts of Appeal

The second instance in an ordinary case is the Court of Appeal (*hovioikeus*), which hear civil and criminal appeals.

All decisions by the District Courts may be appealed to the Court of Appeal. The parties have a right to refer both to questions of fact and questions of law.

In the Courts of Appeal, three judges hear the cases. The Court of Appeal first carries out a screening procedure, where the presiding Judges determine whether or not to consider the matter further. If the Court of Appeal considers that the decision has been correct already in the district court, the Court will not entertain the appeal.

The appeal procedure is similar in both civil and criminal cases. After preliminary preparation, the case can be resolved either after hearing or in a written procedure. Unless the appeal is clearly without merit, the

Courts of Appeal must arrange an oral hearing if the Court evaluates case evidence again or upon request of a party.

The Supreme Court

The third and final instance is the Supreme Court (*korkein oikeus*), seated in Helsinki. Its most important task is to establish precedents, thereby giving guidelines to the lower courts on the application of the law.

The Supreme Court hears both civil and criminal appeals, however, cases are admitted only under certain conditions.

The Supreme Court may grant a leave to appeal in cases in which a precedent is necessary for the correct application of the law, a serious error has been committed in the proceedings before a lower court or another special reason exists in law.

Normally, two members decide whether leave should be granted. If leave is granted, the case is decided in a panel of five members. If the matter is important in principle and has far-reaching consequences, it is decided in a plenary session or in a reinforced panel of eleven members.

Usually, the Supreme Court decides cases on the basis of written materials; however, the Court also conducts oral hearings and inspections.

Special Courts handling criminal cases

The High Court of Impeachment (*valtakunnanoikeus*), which has been convened only a few times, hears criminal cases relating to offences in office allegedly committed by a member of the Council of State, the Chancellor of Justice, the Parliamentary Ombudsman, a member of either the Supreme Court, or the Supreme Administrative Court. In such cases, the Prosecutor General, the Chancellor of Justice, or the Parliamentary Ombudsman is responsible for prosecution.

The Prison Court (*vankiloikeus*) makes decisions on the isolation of dangerous repeat offenders and orders young offenders to serve their sentence in juvenile prisons.

Prosecutors

The Prosecutor General (*valtakunnansyyttäjä*) is appointed by the President and is the highest prosecuting authority in Finland. As the director of the prosecution service, the Prosecutor General manages and supervises its operation and work.

The State Prosecutors (*valtiosyyttäjä*) who work in the Office of the Prosecutor General, appraise the evidence and decide whether charges should be brought in cases with wider national significance. The State Prosecutors have the right to act throughout the country and are appointed by the Government.

The Prosecutor General appoints the Finnish District Prosecutors (*kihlakunnansyyttäjä*) who serve as local prosecuting authorities.

The prosecutors must base their decisions to bring charges on the preliminary investigations of the police department; it is their duty to appraise the available evidence and determine whether there is a *prima facie* case. If not, the prosecutor will make a decision not to prosecute. Prosecution may similarly be refused in cases, for instance, where the alleged offence is of minor significance.

Finland is a member of Eurojust, established by the European Union Member States in 2002 to support cooperation between prosecuting authorities and investigation of serious international crimes.

Shortly, district courts determine first degree criminal cases in Finland. Criminal cases include theft, drunken driving and acts of violence. District court decisions can normally be appealed to the Court of Appeal. An appeal can be lodged with the Supreme Court against a Court of Appeals judgment, however, only in cases where the Supreme Court grants a leave to appeal.

An offence is reported to the police who start a criminal investigation if there is reason to believe that a crime has been committed. Not all offences reported to the police lead to criminal investigation.

3. CASE MANAGEMENT SYSTEMS AND EXCHANGE OF INFORMATION AMONG THE AUTHORITIES

The use of technology in the courts in Finland dates back to the early 1980s when the legal databank, *Finlex* was introduced. In 1986, some courts implemented the Court Decision System, in criminal cases only, the Real Estate Information System, and case management systems. By the end of the 1980s, all courts in Finland had installed personal computers, mainly for word processing and to access the mainframe system. The first court systems were distinct from *Finlex* (the law database, www.finlex.fi), the Real Estate Information System, and the Court Decision System.

The evolution of case management systems was introduced for the management of civil cases and then for the criminal cases' management that followed. Since the criminal case management system was based on civil cases, hereby the civil cases' management systems are also presented.

During the planning of the new civil procedure in Finland which entered into force in 1992, it was realised that the most numerous civil cases would be effectively dealt with through 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. With 350,000 summary cases pending before the reform, it was deemed essential to install an automated case management system for the new procedures. The procedure was adapted to take full advantage of the possibilities of automation and electronic communication. This technological adaptation made it possible to use IT extensively in written preliminary hearings.

In this framework *two systems were developed, the TUOMAS case management system and the SANTRA electronic transfer system.*³ These two systems work in combination as follows:

The courts receive applications electronically by way of the SANTRA system or through electronic mail and fax. **Plaintiffs using SANTRA transfer the data on all their applications to the common “mailbox” of the courts. The SANTRA system then forwards the applications to the individual mailboxes of the courts. The courts then update their own TUOMAS systems on the basis of data in their mailboxes.**⁴ The court summons the defendant, typically through the postal system. The Finnish Post operates an electronic posting service (EPS), which the court can use, **as the Court is not required to receive signed summons,**⁵ and the Court need not send the original document of the application in most cases.⁶ **The TUOMAS system produces the documents or files required for summonses. Sending the files to the Finnish Post is automated both in TUOMAS and in SANTRA.** TUOMAS will track the deadlines given to defendants for contesting. If the deadline has passed, TUOMAS will produce the decision of the court based on the data in the application and summons. **In many cases the court will contact the plaintiff by email or fax if the plaintiff has informed the court that the address to send the message is an electronic mail address. The Court will** use electronic mail and calendar software in later phases of civil proceedings to schedule hearings and summon parties. In most of the contested cases, the judge makes a summing-up at the conclusion of the preliminary stage. TUOMAS stores and tracks all the documents in a case, forming an electronic database for future use. **Testimony received in the main hearing is usually audiotaped.** Minutes of the hearing are produced, but the Court no longer uses verbatim transcripts of hearings. Instead, the Court indicates what has transpired during the hearing. **If a person wants to know what a witness has said, he or she can listen to the tape.** Naturally, the court decision is still a written document. The judge can use the texts of the application and the summing-up in writing the decision if stored in the TUOMAS system. **In debt collection cases, a plaintiff using SANTRA will also receive the decision back to its data-systems via SANTRA.** That court can use this data to apply for enforcement. The automated enforcement system of the pertinent authorities can make a direct use of that data.

³ Information on SANTRA and TUOMAS is taken from *Kari Kujanen CIO of the Ministry of Justice, E-services in the courts in Finland*, Jusletter 8 November 2004.

⁴ http://www.rechtsinformatik.ch/Tagungsband_2004/kujanen.pdf p. 4-6.

⁵ The document submitted to court 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.

⁶ Judge sends online the particular document to the Finnish Post. Finnish Post prints this document and delivers it to the addressee.

A hard copy of that decision is posted to the plaintiff, because it is still needed for the formal filing of the request for enforcement.⁷

Case management system in criminal cases is more complicated as more parties and public authorities are involved; the police, the prosecutor, the injured parties and the courts. **The SAKARI case management system covers the workflow of the prosecutors and the courts, with link to the system that police use.** The new system has roughly the same case management features as the Tuomas system in civil cases, but more emphasis has been given to the management of the cases in the court. **Since late 1999 the new Sakari system has been utilised in some 60% of all criminal cases.**⁸

More on SAKARI case management system⁹

Sakari system has been used since 1996. On 31.3.2009, Ministry of Justice set up a project to develop the criminal judgment application system including the Sakari system. The term for the nominated committee is 1.4.2009 – 31.12.2011.

The Ministry of Justice may give orders to courts and prosecutors records (“diaari”), also about the application of Sakari system. The most recent order is given on 14.10.2005 (9/39/2005) to Prosecutor Offices as well as to the District Courts. The purpose of the order is that all the Prosecutor Offices and the District Courts register criminal cases following the new rules of registering. The aim is to assist the flow of information between police, prosecutor and district court. A uniform way of registration procedure is an instrument to improve comparison between different units (in prosecutor or district court) in the amount of caseload and workload for the purposes of supervision of work, statistics and control management.

Criminal cases based on the Criminal Act constitute the main part of the recorded cases in the Sakari system.

Several features of SAKARI case management system are the same as the TUOMAS case management system for civil cases due to the similar history. SAKARI case management dates back to 1990s, when the prosecutors’ office and the district courts had to implement case tracking system to provide information about basic data of the person involved in the crime, suspected crimes committed as well as issuance of the related decisions. This case tracking system was implemented before the criminal reform – the uniform penalty system. This reform established

⁷ http://www.rechtsinformatik.ch/Tagungsband_2004/kujanen.pdf

⁸ M. Fabri, F. Contini: Justice and Technology in Europe: How ICT is changing the Judicial System, 2001, Kluwer Law International, Hague, ISBN 90-411-1694-X

⁹ F. Contini, G. F. Lanzara: ICT and Innovation in the public sector, PALGRAVE MACMILLAN, 2009, p. 122, Online http://books.google.com/books?id=duEjQHFk7bUC&pg=PA122&dq=functions+of+the+SAKARI+system+in+Finland&hl=en&ei=YJZ4TfWsBcGswaa0NDhBw&sa=X&oi=book_result&ct=result&resnum=3&ved=0CDcQ6AEwAg#v=onepage&q&f=false

that all the possible criminal offences committed by one suspect would be considered as one single case and will be processed by one judge. The prosecutors could share all gathered information among each other and based on the outcome they could decide before which court the case is to be filed. This was the case when suspect had committed several crimes, with several separate ongoing investigations under separate jurisdiction. This procedure of course required sufficient technological equipment, computers, emails etc.

The subjects benefiting from by SAKARI system are the police, the prosecutors, the district courts and the prisons. The system manages documents relating to a criminal case electronically as well as the editing of documents needed for a trial.

The information flow goes into the following direction: police → prosecutor → court. After the decision is made, it goes the other way around – from the court to the prosecutors' office. After investigation is completed, the information figured out is being processed from police electronically managed system into SAKARI case management system in standard structured document, which a prosecutor can use or edit in.

The police and the prosecutors' office communicate via email and they also exchange important documents such as witness statements electronically. In case these documents are in hard copy form only, these will not be scanned. Once the form is filled and put into the system, through SAKARI one can search on cases pending with the same suspect, if under any circumstances he/she has committed a crime elsewhere within the country, to unify pending proceedings in one that is brought before the judge. The communication between the prosecutor and the judge is online, using the same intranet which has to fulfil certain security standards. The prosecutor can also see the court's calendar. The prosecutor releases the application for criminal summons in the Sakari system. However all the papers are also delivered (by post or otherwise) in hard copy to the District Court. Through Sakari the Prosecutor can send information to the District Court e.g. information on urgency of the case (e.g. imprisonment, travel ban, under 18 years).

After the decision is taken, the prosecutor can find out the basic information in SAKARI case management system and the ruling itself is sent to the prosecutor electronically. The prosecutor can visit the Court Decision system¹⁰ to obtain basic information about the sentence. An appeal against the ruling can be sent via email and the communication with the court of appeal can be implemented in an electronic way as well.

In the District Court Sakari contains important information along the whole case such as all possible dates, phases of handling, parties, contact details, representatives, methods of service, decisions and final judgment, notice of discontent to the judgment, secrecy.

¹⁰ For the Court Decision system, see below.

Benefits

A well-kept case-tracking system database contains “virtually all the important information ... [concerning] every action, cause or matter filed in the court, including parties’ particulars, the nature and quantum of the claim, the document filed and the outcome of hearings, etc. Having all this data in electronic format opens up a number of options to further enhance the efficiency of the court. Office automation functionalities have been developed to allow the user to automatically fill standard documents, (e.g. notification tickets), extracting data directly from the database, (e.g. the date of the event that is notified, names and addresses of lawyers and parties). This not only reduces the workload of personnel but also the probability of making mistakes. In most cases, once generated, these documents are printed, signed and sent by mail or by other means of transmission. In **Finland**, the documents are sent electronically to the post office in the area where the addressee lives, then printed and delivered physically.¹¹

“The initial registration without double or triple filings has reduced data entry errors and helped the data support staff to proceed quickly, thanks also to the fact that prosecutors and judges were using the applications themselves to prepare their own documents thus saving the administrative staff time.” The more complete the fulfilment of the application by the police is, the less work is needed by the prosecutors.

SAKARI is being updated on a regular basis by a group of professionals – representatives of the organisations that deal with the fight against crime. This group defines the priorities and future development of the SAKARI case management system for its better use.

The Court Decision System

Using the **Court Decision System**, notifications processed in that system are sent electronically to the prison administration, the enforcement service for collection of fines, the criminal record, the motor vehicle authority (in charge of withdrawing the right to drive), the customs and the Statistics Finland. Some of this information is also passed to the police for recording into their systems. What is interesting is that the Court Decision System is also used in the production of the hard copy of the court decision at the same time the notification is produced¹².

In the Court of Appeal Turku it is possible for a client to use client PC which is connected to court PC. Clients or anyone can go to court “di-aari” database, there is all the cases pending in the court, names of the parties and dates of the case. But a client cannot get into it by his or her own PC and there is no access to the case papers itself. The case files have to be ordered separately from the courts “kirjaamo” client services and there is a cost based on the number of pages per paper. But the submissions can be done then electronically.

¹¹ See *M. Velicogna*, ICT within the Court in the E-justice era, www.effectius.com, Effective justice solutions, p. 4.

¹² *Kari Kujanen*, E-services in the courts in Finland, Jusletter 8 November 2004.

4. ACCESS OF CITIZENS TO CRIMINAL PROCEEDINGS IN FINLAND THROUGH ELECTRONIC TOOLS

The citizen's account

In the Report of Inspection of the District Courts 2008 (in the area of Turku Court of Appeal) done by the Inspector at the Court of Appeal in Turku it is stated: "...the use of e-mail (electronic transmission) as a delivery method of written pleadings to the court is very common. All the court, parties and their representatives use it. Very often e-mail has made things going easier to handle..."¹³

In Finland, every citizen can create his/her own account, while dealing with State Authorities. **Using Citizen's Account, a citizen can view the status of his/her affairs in process, electronically receive decisions and notifications concerning him/her, submit electronic documents to the authorities and manage his/her contact information.**

Citizen's account is a secure method for electronic communications, decisions and messages between the authorities and the citizens. The use of Citizen's account requires the citizen's permission. Identification to the service is done using either personal online bank identifiers or an electronic certificate card. Citizen's account lets him/her to:

- Receive in electronic form official decisions and statements concerning him/her;
- Deliver electronic documents to authorities;
- Maintain his/her own electronic contact information.¹⁴

The Citizen's service provides for specific rules and instructions concerning the safety of use of the electronic services.

Electronic tools for criminal justice through the Citizen's Service

Through the Citizen's Service of Finland (www.suomi.fi), a service of Finnish public administration for citizens, the Finnish citizen can do the following actions electronically:

- Download the form for claim for compensation (based on the Act of Compensation for Crime Damage), complete the online form and submit it to the Compensation Services of the State Treasury to the address mentioned on the form.
- Download the Legal Aid application form, complete and submit it. Legal aid extends to all legal matters including criminal cases. Under certain circumstances in criminal proceedings a defendant is guaranteed a publicly funded defense attorney, regardless of his or her financial standing. Victims of serious crimes of violence and sex crimes may be awarded publicly funded legal counsel, regardless of their income.

¹³ In Finnish the citation is: Turun hovioikeus, alioikeuksien tarkastajan tarkastuskertomus vuodelta, 2008, page 456.

¹⁴ https://www.suomi.fi/suomifi/english/eservices/information_about_citizens_account/index.html

From March 1, 2010, legal aid can be applied for electronically. The electronic application, in Finnish and in Swedish, can be found through the Ministry of Justice website (www.oikeus.fi) at the page *Oikeusavun asiointipalvelut* (Legal Aid e-Service) or directly on address <http://asiointi.oikeus.fi>.

The applicant needs a Finnish online bank user ID to apply electronically. If the electronic application is inaccessible to the applicant, he or she may apply for legal aid at a Public Legal Aid Office. Contact information for the Legal Aid Offices can be found on the web link of the Ministry of Justice.

- Moreover, one can apply electronically for a criminal record extract through www.suomi.fi as well as an international criminal record extract choosing also the language in which you prefer the extract to be issued (English, French, Spanish or German). The application is submitted electronically and the extract comes to the applicant's address together with the bill to be paid (cost 11 euro).

How to report a crime electronically

Since 2003, the Ministry of Interior has implemented a new strategy of **reporting crimes online**. This site was opened purely to improve the customer service, but it worked out and is commonly used in Finland.¹⁵

On the web page of Finnish police,¹⁶ one can find the necessary online documents that one needs to fill in, reporting crime online. Before pre-trial investigation can begin, the police need to have as detailed a description as possible of the offence and of the parties involved. The parties are the injured party (person/persons affected by the criminal act) and the suspect/s.

As presented on the police website, the following information is required when reporting an offence:

- description of what happened and how it happened;
- precise time and place of the events;
- name of the offender, if known;
- description of the offender (age, height, build, facial features, eye color, teeth, speech, hands, way of walking, dress);
- how and in which direction the offender fled;
- if the offender had a vehicle, the vehicle registration number and other means of identification (make, color, model);
- how dangerous the offender is (armed, state of mind, threats, substance abuse, etc.).

The police will enter the reported information in the Investigation and Legal Assistance System sub-file of the Data System for Police Matters.¹⁷

¹⁵ http://www.tonews.com/post/3516002/clari/online_crime_reports_a_success_in_finland.html

¹⁶ www.poliisi.fi

¹⁷ <http://www.poliisi.fi/poliisi/home.nsf/pages/A9CCC9A6A06501E1C2256BBA002D412E?opendocument>

In the police website the citizen can find standard forms of reporting the following crimes:

- Report of an offence concerning stolen property;
- Report of an offence concerning damaged property;
- Report of an offence concerning a stolen or lost firearm;
- Report of an offence concerning a stolen or lost document issued by the police.

The citizen fills in the form and delivers it personally to the police department in whose area the crime was committed. A list of the police departments is available on the website of the police.

Cyber crime

An internet tip-off system is in use in Finland for intervening in on-line threats. The Finnish internet tip off system is intended for intervening at least in on-line threats of violence and racist slander. The Ministry of the Interior enabled the set up of the Internet tip-off system by providing the police with additional resources for on-line activities.¹⁸

The Security Survey conducted in Finland indicated that more and more citizens value the online services of the police. Especially those under the age of 20 years were positive about the possibility of talking to the police in Internet chat rooms. For example, the police have been involved in IRC-galleria and Facebook. The police Internet tip-off system improved the Internet safety of young people in particular, as three out of four young people aged 12-15 visit discussion fora as a pastime and entertainment. The planning of the police Internet tip-off system gathered momentum after the school shootings in Jokela and Kauhajoki.

5. TRANSNATIONAL ISSUES

In Finland, everyone has the right to check data concerning him/her in the Europol Computer System. A request for scrutiny must be presented to the police, who forward the matter to the European Police Office (Europol). Europol sends the reply directly to the person who made the request. Everyone also has the right to request free of charge the Data Protection Ombudsman to verify that the National Bureau of Investigation stores and forwards data concerning him/herself to the Europol Computer System lawfully and that the data is used legally. The request can be made at the District Police. In addition, everyone has the right to request Europol's Joint Supervisory Body to verify that the collection, storage, processing and use of his/her personal data in the European Police Office is lawful and correct. A request to this end must be made

¹⁸ [http://www.poliisi.fi/poliisi/home.nsf/ExternalFiles/vuosikertomus_2009_e/\\$file/vuosikertomus_2009_e.pdf](http://www.poliisi.fi/poliisi/home.nsf/ExternalFiles/vuosikertomus_2009_e/$file/vuosikertomus_2009_e.pdf)

to the District Police or to the Data Protection Ombudsman, who must put the matter forward without delay to be processed by Europol's Joint Supervisory Body.¹⁹

Everyone has the right to know what data concerning him/her is stored in the national section of the Schengen Information System, which includes the same data as the Central Schengen Information System maintained by the technical support function.

Everyone has the right to request the Joint Supervisory Body, established for the supervision of the technical support function of the Schengen Information System, to verify that the collection, storage, processing and use of his/her personal data in the Central Schengen Information System is lawful and correct. A request for information or scrutiny must be presented to the District Police, from where the request must be forwarded without delay to the Data Protection Ombudsman. The request must be made in person to the District Police, and persons submitting such requests must prove their identity.²⁰

¹⁹ <http://www.poliisi.fi/poliisi/home.nsf/pages/0303EC85253ECD06C2256C29002A1C56?open&document>

²⁰ <http://www.poliisi.fi/poliisi/home.nsf/pages/B43B1F0D90C2998AC2256C29002A7DCE?open&document>