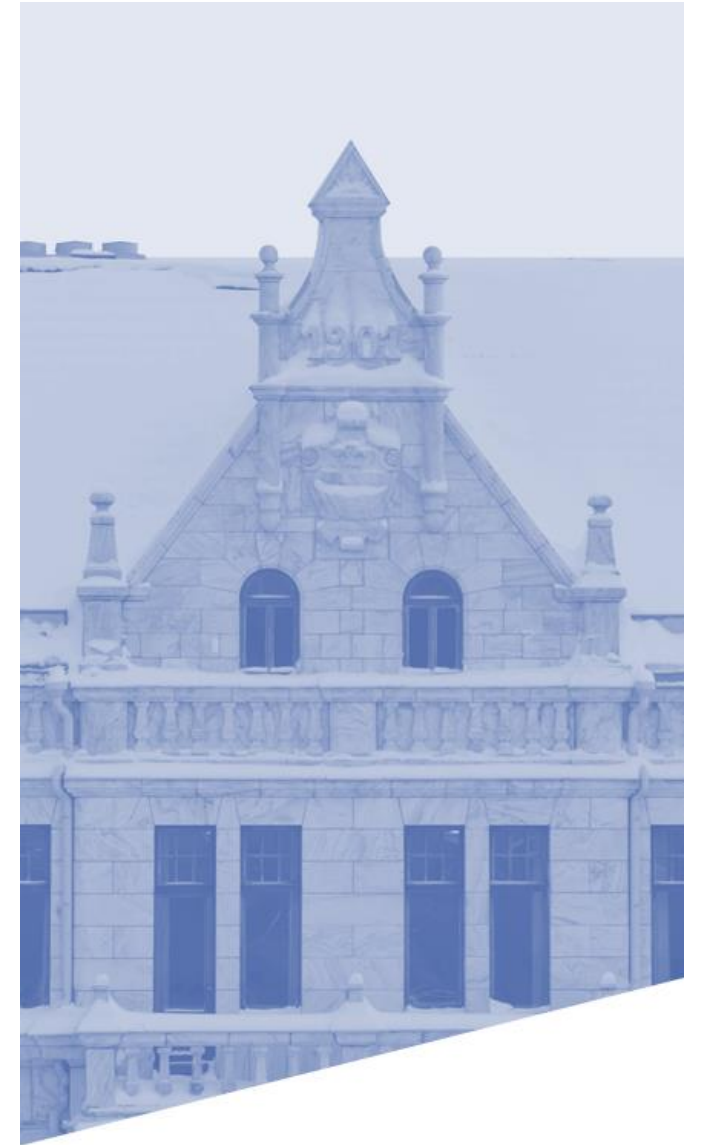


# Interim Relief

Kari Kuusiniemi, President, Supreme Administrative Court of Finland

ACA Europe, Protection of Private Subjects: Actions and remedies, etc.  
Rome 23.5.2022



Korkein hallinto-oikeus  
Högsta förvaltningsdomstolen  
Supreme Administrative Court of Finland

# General Remarks

- Division of administrative law appeals
    - Municipal appeal → no suspensive effect → the Court may issue interim relief
    - Administrative appeal → suspensive effect main rule, but exceptions → a decision that is not final may be enforced if:
      - 1) the law so provides;
      - 2) the nature of the decision is such that it must be enforced immediately;
      - 3) enforcement of the decision cannot be postponed due to a public interest.
- the Court may issue interim relief



# Topical examples: Regional Administrative Courts

- The Communicable Diseases Act (Covid-19)
  - “Decisions referred to above in sections 16, 57, 58, 58 b, 58 d, 58 f, 58 g, 59, 60–67 ja 69–71 may be enforced immediately regardless of appeal.”
- The Hunting Act (derogations to kill wolves)
  - The Finnish Wildlife Agency may grant derogations from the protection of, e.g., the wolf under the preconditions laid down in the Habitats Directive
  - Derogations valid typically for four weeks or so, and the Agency (always) orders that the decision may be enforced immediately
- The Court’s role?



# Examples: SAC

- The SAC: leave to appeal necessary → the Regional Administrative Court's decision is immediately enforceable, unless SAC prohibits the implementation of the decision
- Enforcement may nevertheless not be undertaken if it renders the appeal useless
  - Covid-19 orders: closing down a gym → immediate enforcement → losses can be compensated >< people getting sick or even pass away; proportionality assessment
  - Temporary prohibition to sell alcoholic beverages in a restaurant ← violations of legislation, sanction → the role of appeal if the sanction has been enforced?
  - Derogation to kill protected animals?
  - Animal welfare: order to euthanize an animal whose care has been neglected, continuation of the suffering?
  - Permit to demolish a building?
  - Environmental permits? → construction>< polluting activity → possibility to restore



## Examples: SAC ctd

- The Aliens Act: seven days rule
  - If a decision on denial of admittance or stay has been made under section [inadmissible, accelerated procedure], a petition against the prohibition or suspension of enforcement shall be submitted within seven days of the decision being served on the applicant. The time limit includes at least five weekdays. The decision shall also be made in seven days
  - In SAC one justice decides (on proposal of a referendary) whether the enforcement shall be stayed or not
    - The same applies to other decisions concerning interim relief, but most often a panel of three justices decides the application
- Appeal against RACs decision on interim relief → only linked to the procedure in the main proceedings

