

## Corona-Jurisdiction in Finland

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- What kind of provisions, if any, regulating emergencies/exceptional situations existed in your country at the onset of the Covid-19 crisis? Have they been helpful and sufficient?

Emergency Powers Act 29.12.2011/1552 includes some rules on the administration but nothing about judiciary, which is good. It is namely important that the fair trial and other guarantees of the rule of law are followed even and especially in exceptional situations.

The judiciary in general function as normally as possible even in a crisis.

- Are any particular rules or practices problematic in the current situation?

No, because the possibilities to use technology is quite wide even normally. It is also possible to use these possibilities wider in the current situation.

Also, the enforcement service continues to serve its clients normally. Most enforcement matters can already be dealt with in the e-services.

- Have any new statutes been enacted, any rules amended, as a response to the Covid-19 crisis? What has been changed and why? What is the impact of these regulations?

No. So far, there is only regulations.

- Is technology available in courts both regarding equipment (videoconferencing, recording witness statements, laptop computers for judges) and regarding programs (case management systems, systems for digital signatures, systems for filing cases, etc.)? Have technological limitations had an impact on the response to the current situation? If so, how?

Yes, this is the main tool to tackle the exceptional situation. The remote trials and other possibilities of e-services are widely used to protect the health of the personnel and clients at courts.

First of all, the primary modes of contacting the judicial authorities are the telephone, email and electronic services.

The courts have moved exceptionally quickly to electronic case management. Operation via remote connections has been more successful than expected. The courts are constantly looking for ways to develop their operations, e.g. so that the decision-making process and part of the oral proceedings could be held remotely. However, digitisation does not preclude so-called ordinary court hearings.

The National Courts Administration has published a guide for all courts on using remote connections at a trial. The guide has been drawn up only for the current exceptional situation, and it is not intended to change existing policies, instructions or

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recommendations. The goal of using remote connections more effectively is to minimise health risks by avoiding gatherings of several people. The aim is to lower the threshold of using remote connections and offer information based on experience on how to solve any practical problems that may arise.

Even in normal circumstances, the legislation allows fairly extensive use of remote connections. Regulations on issues such as the obligation to appear, quality of the remote connection in each situation, taking of evidence and publicity remain in force unchanged.

It must be considered separately in each case whether the case can be heard via remote connections. Remote sessions require planning and preparation in advance with all participants of the hearing. The chair of the trial decides if the conditions for a remote hearing are met.

Usually, remote presence at a trial requires that the person heard via a remote connection consents to the procedure and has access to the technical equipment required to participate. The person in question must receive sufficient information on when and how the remote participation will take place and what is required of them. In some cases, a remote hearing from another agency or court of law may be necessary. The publicity of an oral hearing via remote connection must always be ensured.

- Do Covid-19 related cases raise any interesting procedural issues?

Courts may have to postpone hearings and cancel some already scheduled hearings. These changes in the operating environment may unfortunately lengthen the duration of consideration.

The courts will inform the public about any changes in their activities on their websites. Persons summoned to a hearing will be personally informed of any cancellations and changes to the hearing.

There are challenges involved in using remote connections. Their use is limited by factors such as data protection and information security, as well as technical issues and the requirements of publicity. The most important thing is, however, that no-one's health or safety is endangered even during remote sessions.

Oral sessions are postponed at the low threshold if parties are ill.

The coronavirus epidemic also affects the functioning of the courts indirectly and in the longer term. Extensive social impacts are inevitable. Strong restrictive measures always also have negative effects. They will appear in due course in court cases. The number of certain cases will inevitably increase due to exceptional circumstances. For example, an economic downturn would increase insolvency issues. Incidents related to child protection may also increase.

Once the crisis has eased, the courts have an important role to play in supporting a return to normalcy and economic recovery by resolving cases as expeditiously and safely as possible.

The bar association recommends that the plea bargaining system would be used more during the crisis.

The National Prosecution Authority has closed its all customer service points. It is possible to contact them by phone or email only.

**Sources (all visited 20 April 2020):**

<https://www.kho.fi/fi/index/ajankohtaista/tiedotteet/2020/04/khojakkovahvaoikeusvaltiokantaaylikriisiajan.html>

<https://www.kho.fi/fi/index/ajankohtaista/tiedotteet/2020/03/hallintotuomioistuimetturvaavatkansalaistenoikeudetpoikkeusoloissakin.html>

<https://www.kho.fi/fi/index/ajankohtaista/tiedotteet/2020/03/koronaviruksenvaikutuskhontoimintaan.html>

[http://www.tuomioistuinvirasto.fi/fi/index/loader.html.stx?path=/channels/public/www/tuomioistuinvirasto/fi/structured\\_nav/ajankohtaista/2020/zBDhWgDxU](http://www.tuomioistuinvirasto.fi/fi/index/loader.html.stx?path=/channels/public/www/tuomioistuinvirasto/fi/structured_nav/ajankohtaista/2020/zBDhWgDxU)

[http://www.tuomioistuinvirasto.fi/fi/index/loader.html.stx?path=/channels/public/www/tuomioistuinvirasto/fi/structured\\_nav/ajankohtaista/2020/457pl2pTQ](http://www.tuomioistuinvirasto.fi/fi/index/loader.html.stx?path=/channels/public/www/tuomioistuinvirasto/fi/structured_nav/ajankohtaista/2020/457pl2pTQ)

[http://www.tuomioistuinvirasto.fi/en/index/loader.html.stx?path=/channels/public/www/tuomioistuinvirasto/en/structured\\_nav/ajankohtaista/2020/KULLC6zB6](http://www.tuomioistuinvirasto.fi/en/index/loader.html.stx?path=/channels/public/www/tuomioistuinvirasto/en/structured_nav/ajankohtaista/2020/KULLC6zB6)

<https://asianajajaliitto.fi/2020/04/suomen-asianajajaliiton-ehdotukset-riita-ja-rikosasioiden-kasittelyn-jarjestamisesta-koronapandemian-aikana-ja-suositukset-etayhteyksien-kayttamisesta/>

<https://syyttajalaitos.fi/en/frontpage>