

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.