

LIETUVOS VYRIAUSIASIS
ADMINISTRACINIS TEISMAS

METINIS PRANEŠIMAS 2009



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Deputy President of the Supreme Administrative Court,
Acting President of the Court

The Introductory Word of the President of the Supreme Administrative Court of Lithuania

Dear All,

In the year of 2009 we marked ten years since Lithuania joined progressive and modern states where one is able to protect his (her) rights against the powerful state mechanism before specialised administrative courts. We can bravely say that during this decade administrative courts have not only established themselves, but also became a vitally important chain of courts, while the fact of their establishment, as well as the functions they perform were positively evaluated by international experts.

In 2009, while implementing its mission to protect the rights of individuals against unauthorised actions of public bodies (officials), the Supreme Administrative Court of Lithuania consistently strived to ensure that the system of administrative courts served the idea of the protection of basic human rights and freedoms. The constantly increasing stream flow of cases received by the Court shows that more and more individuals trust the Court and see it as a place to reach justice.

However, the recent years have also been challenge for the Supreme Administrative Court of Lithuania because of rapidly growing amounts of received cases and its increasing workload. The following figures demonstrate the complicated situation: while a total of 4 004 cases were filed before the Court in 2005, 5 579 cases in 2006, 5 946 cases in 2007, 8 177 cases in 2008, and as much as 8 448 cases in 2009. Consequently, during the last five years the workload of the Supreme Administrative Court of Lithuania more than doubled (from 4 004 to 8 448 cases).

Due to the growing number of cases heard, the workload of an average judge in 2009 also grew by 33 percent. Presently, there are fifteen judges at the Supreme Administrative Court of Lithuania – the latter number has been the same since 2005. Therefore, only by joint mobilised effort of all of the Court's staff, in 2009, for the first time during the last five years, the Supreme Administrative Court of Lithuania heard and resolved more cases than it received during that year, i.e. in 2009, a total of 8 723 cases was decided, compared to 8 448 cases received.

Such performance was achieved through maximum increase of work efficiency of judges and other Court staff and the implementation of different measures of management. However, though we also seek to ensure the right of an individual for his (her) case to be heard during the shortest possible time in the future, a further increase of the workload of judges is not possible. The cases received at the Supreme Administrative Court are becoming more and more complicated. They require more time for analysis, as well as application of both, national, European Union law and the European Convention on Human Rights. For example, in 2009, the Supreme Administrative Court of Lithuania formulated important rules concerning the conformity of the national law, prohibiting the advertisement of tobacco products, with the relevant law of the European Union; when investigating the question of administrative liability for the affixing of tinted film to the windows of motor vehicles, the Supreme Administrative Court concluded that such a prohibition which was to be applied without any reservations and without taking into account the light transmission of the windows, constituted a measure having equivalent effect to a quantitative restriction on imports, and therefore, infringed primary EU law. In this regard it is also worth mentioning that the Supreme Administrative Court of Lithuania was the first of Lithuanian courts to address the European Court of Justice in request for a preliminary ruling. In 2009, in response to one of its requests, the Court of Justice adopted a particularly important ruling for Lithuania in the case C-119/08 *Mechel Nemunas*, in which the legality of the so-called “road tax” and its conformity with the European Union Law was investigated.

The fact that the cases in the Supreme Administrative Court of Lithuania are becoming more and more complicated is also evidenced by the appearance of new categories of administrative cases relating to, for example, complex matters of the allocation and administration of financial assistance of the European Union. Furthermore, in comparison with the previous year, in 2009, the number of complicated disputes in the area of construction and territorial planning grew by even 36 percent.

While investigating cases of administrative disputes and administrative offences, the administrative courts often have doubts about the conformity of applicable legal acts with the Constitution of the Republic of Lithuania. To eliminate these doubts the administrative courts apply to the Constitutional Court of the Republic of Lithuania requesting to investigate such compliance of the applicable legislation (its constitutionality). For example, the Supreme Administrative Court of Lithuania applied to the Constitutional Court asking

to investigate the constitutionality of Article 36(1) of the Law of the Republic of Lithuania on Elections to the European Parliament, also paragraph 68 of the Regulations of Sickness and Maternity Social Insurance Allowances. It should be mentioned that in 2009, following an application from the Supreme Administrative Court in an administrative offense case concerning the non-return of a vehicle towed away for wrong parking, the Constitutional Court confirmed the doubts of the Supreme Administrative Court of Lithuania and concluded that the provision of Article 269(7) of Code on Administrative Offences of the Republic of Lithuania was unconstitutional. The latter provision, stating that “the recovery of a vehicle which has been towed away shall be allowed (except in cases of attachment of a vehicle) only upon payment of the imposed fine and performance of the administrative arrest” was declared unconstitutional to the extent that it established that the recovery of a vehicle towed away for wrong parking is possible only after the imposed fine has been paid or an administrative arrest has been carried out. Attention should be paid to the fact that administrative courts are one of the main “employers” of the Constitutional Court. In 2009, administrative courts filed 20 applications before the Constitutional Court of the Republic of Lithuania requesting to investigate the compliance of legal acts with the Constitution (out of a total of 52 applications filed that year). Exactly half of the 10 decisions adopted by the Constitutional Court in 2009 were adopted upon applications filed by administrative courts.

It is also to be noted that the administrative courts themselves control the legitimacy of normative acts adopted by bodies of public administration. In this regard the competence of administrative courts resembles that exercised by the Constitutional Court. In 2009 alone, the Supreme Administrative Court of Lithuania, acting as the so-called “*minor constitutional court*”, investigated twenty complicated cases concerning the legitimacy of normative administrative legal acts. In four of such instances the latter acts were declared to be in conflict with the laws and, therefore, are considered as invalid.

Despite an increased workload and reduced financing, in 2009 the Supreme Administrative Court of Lithuania launched different initiatives aimed at increasing the publicity and openness of the activities of the Court. For the purpose of guaranteeing the transparency of the allocation of cases to the judges, a computerised system for the allocation of cases was introduced at the Court, with the help of which the cases are allocated on the basis of objective criteria, the criterion of randomness being of the decisive value. The

court also organised “Open Doors Days” during which everyone interested was invited to visit the Court and ask questions about activities of the Court. Yet another novelty was the particularly favourable conditions offered to communicate with the President of the Court. Individuals have since been able to address the President in a manner chosen and acceptable to them: by arriving at the court, by phone, by e-mail or by using an internet-based video calls system. The possibility for everyone to express his (her) opinion and ask questions was also provided during the meetings of representatives of the Court with the residents of the Districts of Panevėžys and Švenčionys, during which members of the society, lawyers, as well as representatives of public and private institutions expressed their views on the activities of administrative courts, the advantages and disadvantages of the system of administrative justice, the problems it faced and the possible ways of resolving them. The Supreme Administrative Court of Lithuania organised round-table discussions with representatives of public organisations, other active members of society, media representatives, as well as public authorities and courts, during which topical matters pertaining to human rights, use of evidence constituting state secret and protection of public interest were discussed.

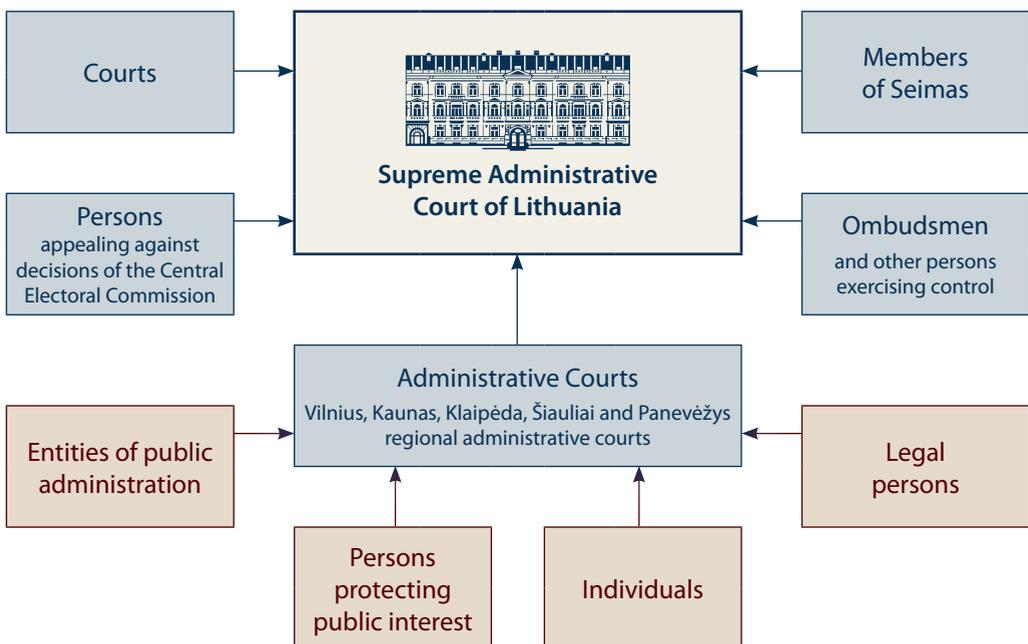
Hoping to fulfil the demands of those interested in the Court and its daily activities, as well as important legal practice, a new updated internet website of the Court has been launched. The website regularly posts information relating to the newest legal precedents of the Court and offers the possibility to find detailed and comprehensible information on how to apply to administrative courts, annual reports and press releases of the Court, as well as find out the stage of the proceedings of his (her) case. The website also publishes the Bulletin of the Supreme Administrative Court of Lithuania - “*Administrative Jurisprudence*”.

The Supreme Administrative Court of Lithuania as a court of highest instance

The Lithuanian system of administrative courts consists of the Supreme Administrative Court of Lithuania and five district administrative courts, located in Vilnius, Kaunas, Klaipėda, Šiauliai and Panevėžys. The Supreme Administrative Court, the highest judicial instance in administrative cases, is responsible for forming a uniform practice of administrative courts in the area of interpretation and application of laws and other legal acts. As a rule, individuals, persons protecting public interest and everyone else, filing

applications against unauthorised actions of public authorities (officials), first apply to the courts of first instance, the decisions of which may then be appealed against to the Supreme Administrative Court. The decisions and rulings of the latter Court are final and irrevocable.

However, in some cases, determined by law, certain persons apply directly to the Supreme Administrative Court. For example, members of the Parliament of the Republic of Lithuania (Seimas), ombudsmen, national audit officers and prosecutors are entitled to submit applications and requests to investigate the legitimacy of normative administrative acts of central administrative authorities directly to the Supreme Administrative Court. Furthermore, the investigation of cases concerning violations of the laws on elections or referendums is also assigned to the competence of administrative courts, and persons specified in the Law on Presidential Elections and Elections to the Seimas, the Law on Referendum and Law on Elections to Municipal Councils are entitled to file petitions concerning decisions of the Central Electoral Commission directly to Supreme Administrative Court of Lithuania. In such cases the Court adopts decisions as a court of sole and final instance.



The Law on Courts of the Republic of Lithuania delegates to the President of the Supreme Administrative Court of Lithuania the duty of supervising the administrative activities of district administrative courts. Whereas transparency and impartiality are the main principles which can ensure trust in courts, in 2009 the Supreme Administrative Court of Lithuania performed the functions assigned to it by carrying out complex checks of administrative activities of all five district administrative courts to determine whether they observe the requirements of the provision of Article 36(10) of the Law on Courts regarding the allocation of cases to the judges using the computer programme. The checks performed facilitated the assessment of the implementation of the principles of transparency in all administrative courts of Lithuania.

As part of ensuring uniform judicial practice in 2009, the Supreme Administrative Court of Lithuania published two issues of “*Administrative Jurisprudence*”. The Bulletin presented the most distinguished court decisions in the areas of constructions, taxation, social security, public service, as well as a review of decisions of the Court of Justice of the European Communities and decisions of certain foreign courts, which may be significant or of interest to those specialising in the field of administrative law.

Composition and structure of the Supreme Administrative Court of Lithuania

In 2009 the Supreme Administrative Court of Lithuania was composed of 15 justices. One fourth of the justices of the Supreme Administrative Court of Lithuania have a doctoral degree in the area of social sciences (legal profile). The average age of a judge is 48 years.

The justices of the Supreme Administrative Court of Lithuania implement their functions with the assistance of the Court staff consisting of legal and administrative personnel. At the end of 2009, the court had 60 employees, 56 of which were civil servants, while 4 people were employed under employment contracts. The legal personnel of the Supreme Administrative Court of Lithuania is comprised of the advisors and assistants of the President of the Court, assistants of justices, consultants and specialists of the Judicial Practice Department. At the end of 2009, the legal personnel consisted of 33 employees. All of them had a master degree in law, two of them were doctors of social sciences (legal profile), and four were doctoral candidates.

The court personnel are comprised of 78 percent women and 22 percent men. The average age of personnel is 33 years.

International cooperation

Since 2004, the Supreme Administrative Court of Lithuania is a member of the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union (*Association des Conseils d'Etat et des Juridictions administratives suprêmes de l'Union européenne*). Members of this Association are courts of the European Union Member States that serve as the courts of final instance for administrative cases (in some Member States these functions are performed by the State Councils). The main purpose of the Association is to promote exchanges of views and experience concerning their judicial and/or advisory functions, particularly with regard to Community Law. In 2009 the Colloquium of the General Assembly of the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union was held in Luxemburg in which Supreme Administrative Court of Lithuania was represented by one of its justices.

Since 2005, the Supreme Administrative Court of Lithuania has also been a full member of the International Association of Supreme Administrative Jurisdictions (*L'Association internationale des hautes juridictions administratives*) established in 1983. The purpose of the latter Associations is to encourage cooperation between the highest judicial authorities investigating administrative legal disputes. At the end of last year, the Deputy President, Acting President of the Court, participated in the workshop organised in Brussels (Belgium) by the Association and the European Union Member States.

In commemoration of the first decade of establishment of administrative courts, in 2009, the Supreme Administrative Court of Lithuania, along with the other administrative courts of Lithuania, Vilnius University, Vytautas Magnus University, Mykolas Romeris University and administrative courts of Germany organised an international conference, called "*Administrative Courts in Lithuania: Today's Challenges*", during which reports were presented by representatives of the Supreme Administrative Court of Lithuania, the Constitutional Court, administrative courts of Lithuania and Germany, scientists from the universities of Lithuania and Germany. During this event the representatives of the Lithuanian and German administrative courts discussed about the development of administrative courts, the solutions to current and future challenges, analysed problematic legal situations and the reasons for such quantitative increase of disputes with the state.

Last year, cooperation was further developed with foreign administrative courts. In 2009, the Supreme Administrative Court of Lithuania was visited by representatives from administrative courts of Germany, Kyrgyzstan and Turkmenistan. In January 2009, the judges of the Supreme Administrative Court of Lithuania met with experts of the Group of States against Corruption (GRECO) set up by a resolution of the Committee of Ministers of the Council of Europe and investigating the transparency of financing of political parties. During the meeting experts of the GRECO delegation were interested in the practice of the Supreme Administrative Court of Lithuania, especially in the cases relating to the financing of political parties. Discussions took place relating to the legal acts regulating the financing of political parties, bodies imposing sanctions on political parties, electoral candidates, elected representatives or other individuals who have violated the rules of financing of political parties and the types of sanctions imposed.

Pursuing cooperation with the Court of Justice of the European Union, the Deputy President of the Supreme Administrative Court of Lithuania, Acting President of the Court, Mr. Ričardas Piličiauskas participated in the symposium organised by the Court of Justice of the European Union on the “Deliberations of the Preliminary Ruling Procedure” and presented a report on the “Preliminary Ruling Procedure: Individual Improvements or Review of the System at Large”.

In 2009, Mr. Virgilijus Valančius, Justice of the Supreme Administrative Court of Lithuania, was invited to participate in the jury of the competition of Crystal Scales of Justice organised by the European Commission and the European Council. The prize of the Crystal Scales of Justice for innovative, advanced, perspective and socially oriented institutional practice in the area of implementation of justice was awarded during the European Union Justice Forum II held in Brussels in 2009.

Upon the invitation of the then member of the European Parliament Aloyzas Sakalas, the justices of the Supreme Administrative Court of Lithuania, for a second consecutive year, attended a meeting with members of the European Parliament and judges of the European Court of Human Rights held in Strasbourg (France).

Statistical data concerning the activity of the Supreme Administrative Court of Lithuania 2009

In 2009, 8 448 cases were filed at the Supreme Administrative Court of Lithuania, while the number of adopted decisions reached 8 723.

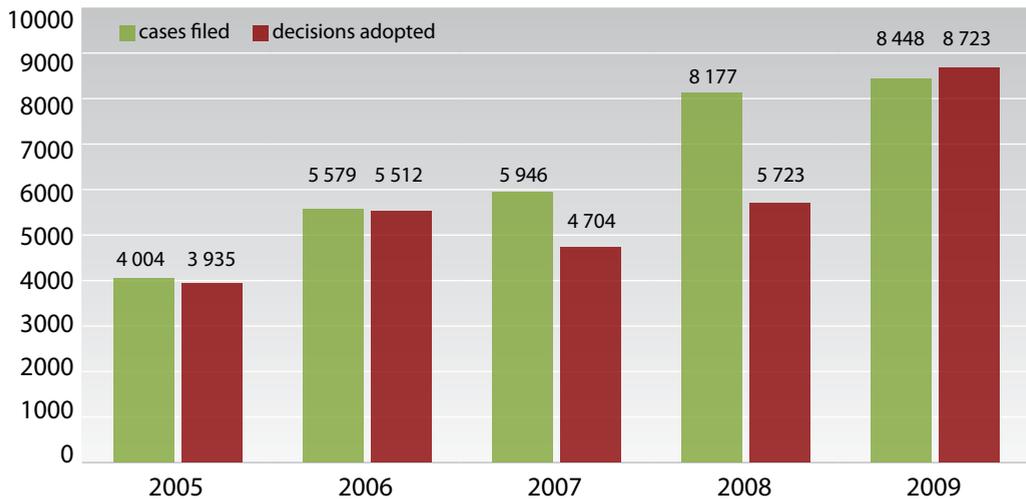
	Number of cases decided¹
Appeals on decisions of regional administrative courts	1 462
Appeals on interim rulings of regional administrative courts	765
Cases concerning the lawfulness of normative administrative acts	20
Cases concerning complaints against decisions adopted by the Central Electoral Commission or its omission	2
Requests for reopening of proceedings	270
Requests for the restoration of time-limit in administrative cases	106
Cases of administrative offences	5 989

¹ Including cases when, following the hearing, the appeal procedure was discontinued or a complaint was left unconsidered, and also the cases when the administrative case was disposed in conformity with the procedure prescribed in law without adopting any judicial decision.

As seen from the diagram below, the number of cases – both filed and heard – has grown steadily² over the last five years in the Supreme Administrative Court of Lithuania. Already in 2008, the number of all types of cases filed at the Court increased very significantly – by almost 40 percent, in comparison with the number of cases filed in 2007. 8 448 cases were filed at the Court in 2009, which is even 3 percent more than in 2008 (8 177 cases were filed at the Court in 2008).

However, the most significant change in statistical data is observed in the number of adopted decisions. In 2009, the Supreme Administrative Court of Lithuania decided a total of 8 723 cases. As may be seen from the diagram below (Diagram No. 1), in 2009, for the first time in five years, more cases were concluded than were filed at the Court in the corresponding year.

1. Cases filed and decisions adopted in the Supreme Administrative Court of Lithuania

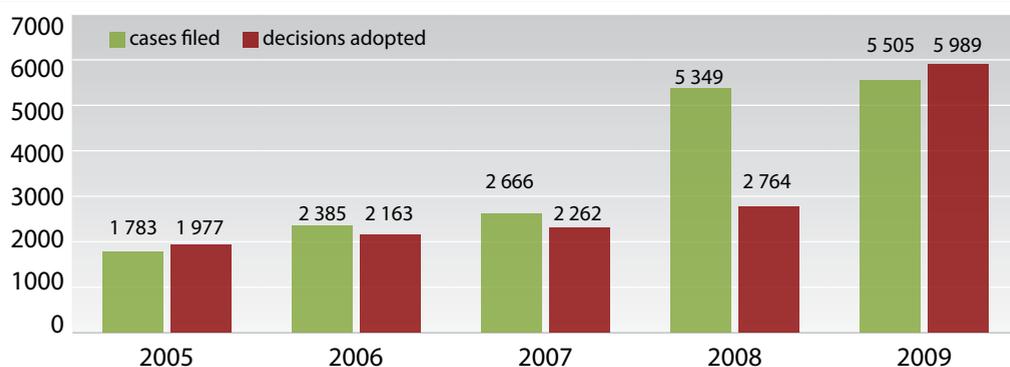


² In 2007, the number of cases decided by the Court is a little smaller because in the said year more than one fourth of positions intended for judges stayed vacant for almost a half of the year.

In 2009, though not so dramatically, still the number of the cases of administrative offences filed at the Court grew up. There were filed 5 505 such cases at the Supreme Administrative Court of Lithuania (in 2008, the number reached 5 349 and in 2007 – 2 666).

In comparison with the number of the cases of administrative offences decided in the Court in 2008, the one increased even 107 percent in 2009 (in comparison with the number in 2007, the number in 2009 increased almost 165 percent).

2. Cases of administrative offences filed and decisions adopted in the Supreme Administrative Court of Lithuania

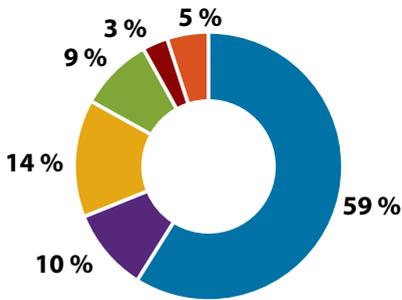


The amount of pending cases at the end of 2009 was stabilized for the first time in five years (Diagram No. 3).

3. The backlog of pending cases at the end of the reporting year

Year	Cases of administrative offences	Cases under the appeals in the administrative cases	In total
2005	557	1 210	1 767
2006	818	1 048	1 866
2007	1 222	1 831	3 053
2008	3 813	1 642	5 455
2009	3 357	1 822	5 179

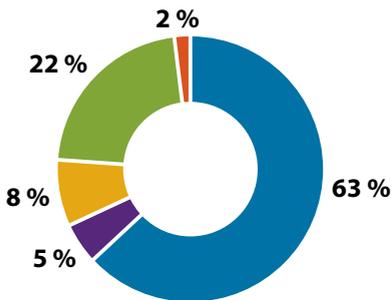
4. Outcome of hearings in 2009
(appeals on decisions of regional administrative courts)



- Decision upheld (59 percent)
- Decision amended (10 percent)
- New decision adopted (14 percent)
- Case referred to the court of the first instance for rehearing (9 percent)
- Case discontinued or appeal left unconsidered (3 percent)
- Appeal procedure discontinued (5 percent)

In total 1 462 cases decided

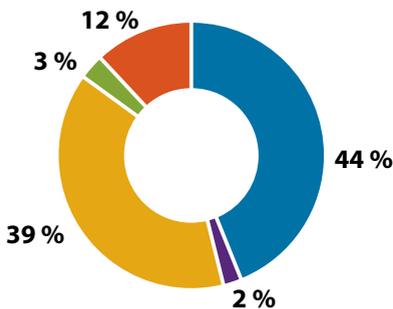
Outcome of hearings in 2009
(appeals on interim rulings of regional administrative courts)



- Ruling upheld (63 percent)
- Ruling amended (5 percent)
- Ruling annulled, and the issue decided on the merits (8 percent)
- Ruling annulled, and the issue referred for rehearing (22 percent)
- Appeal procedure discontinued (2 percent)

In total 765 cases decided

Outcome of hearings on the cases of administrative offences in 2009



- Decision upheld (44 percent)
- Decision annulled, and the proceedings discontinued (2 percent)
- Decision annulled, and the case remitted for reconsideration (reinvestigation) (39 percent)
- Decision amended by mitigating the penalty (3 percent)
- Other (appeal procedure discontinued, complaint left unconsidered, etc.) (12 percent)

In total 5 989 cases decided

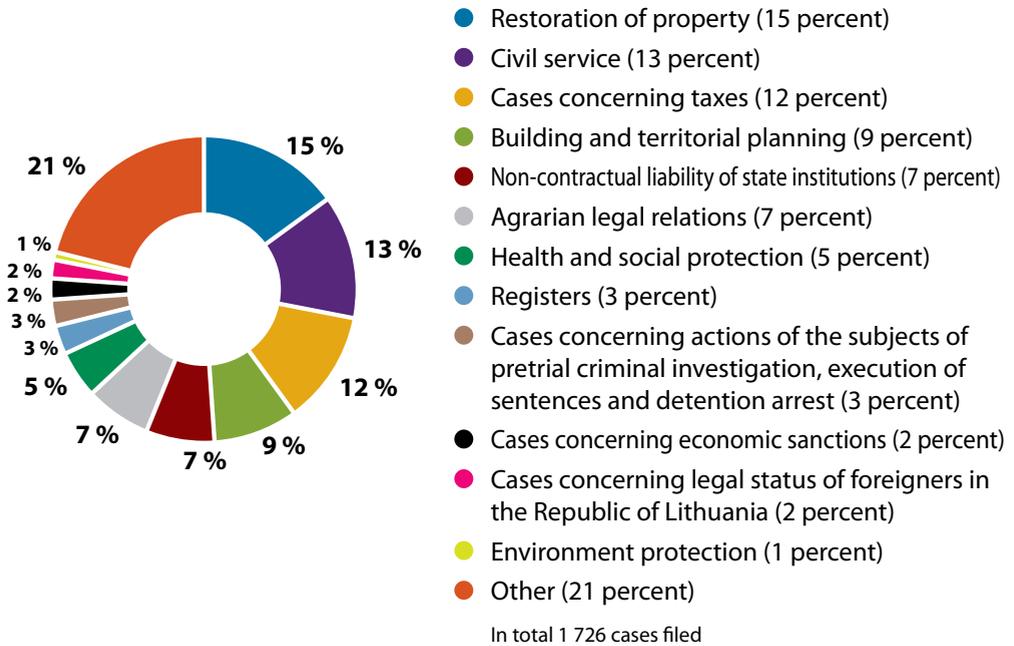
7. The number and results of appeals in administrative cases in 2009

	Decided cases			Judicial decisions appealed against					
	Administrative cases	Cases of administrative offences	In total	In administrative cases	In cases of administrative offences	In total	Percentage of appealed decisions in administrative cases	Percentage of appealed decisions in cases of administrative offences	Percentage of appealed decisions from the whole amount of decided cases
Vilnius regional administrative court	2 589	1 812	4 401	1 022	350	1 372	39	19	31
Kaunas regional administrative court	894	928	1 822	222	181	403	25	20	22
Klaipėda regional administrative court	440	608	1 048	154	122	276	35	20	26
Šiauliai regional administrative court	246	500	746	80	68	148	33	14	20
Panevėžys regional administrative court	282	420	702	80	66	146	28	16	21
In total	4 451	4 268	8 719	1 558	787	2 345	35	18	27

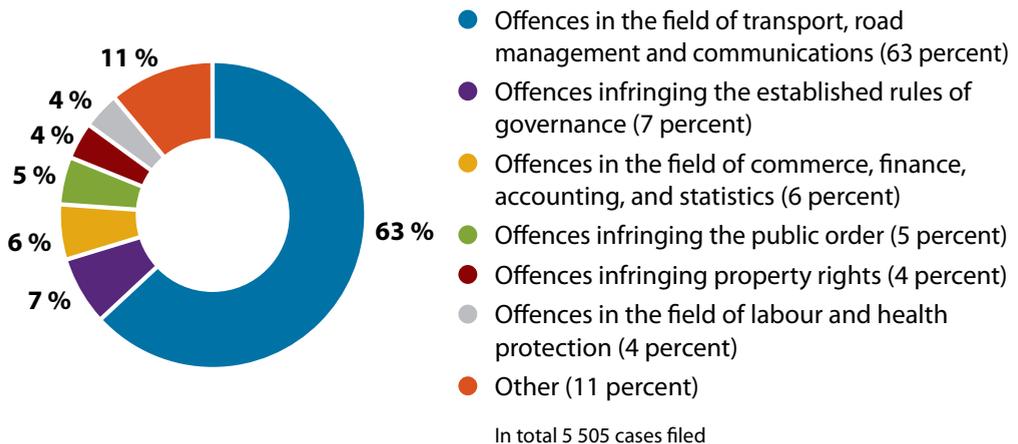
As seen from the table above (Table No. 7), 27 percent of all decisions of the regional administrative courts were appealed to the Supreme Administrative Court of Lithuania in 2009; on the average 35 percent of the judicial decisions in cases on disputes concerning public administration were appealed against and almost twice less (18 percent) of the judicial decisions in the cases of administrative offences.

As also seen, from the total amount of 5 505 that were filed at the Court against decisions of the regional administrative courts, only 787 appeals were submitted in the cases of administrative offences. This indicates that even 86 percent of appealed decisions in cases of administrative offences were adopted by the district courts of general jurisdiction.

8. Cases on appeals against decisions of regional administrative courts filed at the Supreme Administrative Court of Lithuania in 2009 (by subject matter)



9. Cases of administrative offences under appeals filed at the Supreme Administrative Court of Lithuania in 2009 (by subject matter)



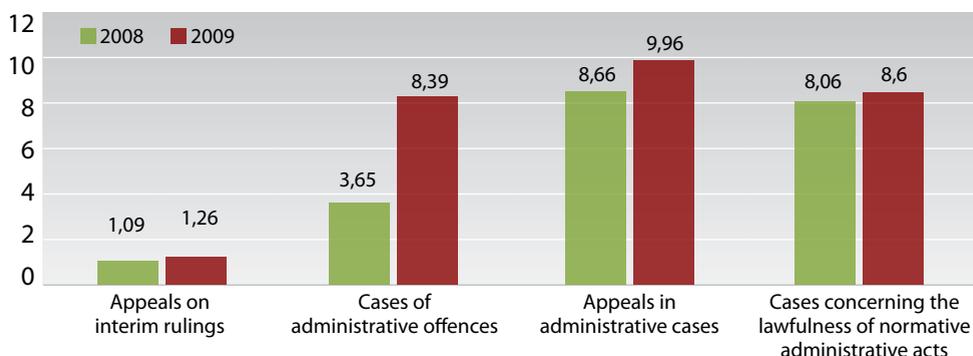
In 2009, in the Supreme Administrative Court of Lithuania:

- the mean period of hearing appeals on interim rulings of regional administrative courts was 1,26 month;
- the mean period of hearing a case of administrative offence was 8,39 months³;
- the mean period of hearing appeals on decisions of regional administrative courts was 9,96 months;
- the mean period of hearing a case concerning the lawfulness of normative administrative acts was 8,60 months.

In 2008, in the Supreme Administrative Court of Lithuania:

- the mean period of hearing appeals on interim rulings of regional administrative courts was 1,09 month;
- the mean period of hearing a case of administrative offence was 3,65 months;
- the mean period of hearing appeals on decisions of regional administrative courts was 8,66 months;
- the mean period of hearing a case concerning the lawfulness of normative administrative acts was 8,60 months.

10. Periods of hearing in the Supreme Administrative Court of Lithuania



³ It should be noted that because of inaccuracies in reports generated by the LITEKO system, in 2009, the average period of proceedings in cases of administrative offences was calculated by estimating the average duration of proceedings in cases (83) heard during the period that was chosen randomly (12-13 of December, 2009). For the mentioned reason, such great differences in the duration of proceedings are noticed in 2009, compared with the relevant data from 2008.

Case load of judges

The increasing number of cases heard has determined the fact that in 2009 the mean case load of judges also increased more than 33 percent. In 2009, one judge of the Supreme Administrative Court of Lithuania, serving as the reporting judge in the judicial panel (or in some cases when adopting a decision solely), decided an average of 600 administrative cases (in 2008 – 443 administrative cases) and took part in an additional 1 154 case hearings (in 2008 – 873 administrative cases)⁴ as the member of the judicial panel.

11. Appropriation for courts in 2009

Year	Total amount of appropriations	Appropriations for the courts	Appropriations for the administrative courts	Appropriations for the Supreme Administrative Court of Lithuania
2009	25 636 600 thousands (LTL)	184 509 thousands (LTL)	18 098 thousands (LTL)	5 319 thousands (LTL)
2008	26 572 862 thousands (LTL)	177 440 thousands (LTL)	21 817 thousands (LTL)	6 057 thousands (LTL)

In 2009, the appropriations for the courts amounted approximately to 184,5 millions Litass, i. e. 0,72 percent of the whole amount of appropriations. The administrative courts were allocated less than 1/10 of the latter amount (i. e. 9,8 percent of all appropriation for the courts). It should be noted that despite the increasing work load, the financing of administrative courts in 2009 decreased in 4 millions Litass, i. e. by 17 percent, in comparison with 2008.

⁴ For the purpose of precision of data, the case load of judges was determined by involving only the records about the case load of judges who served the whole working year.