



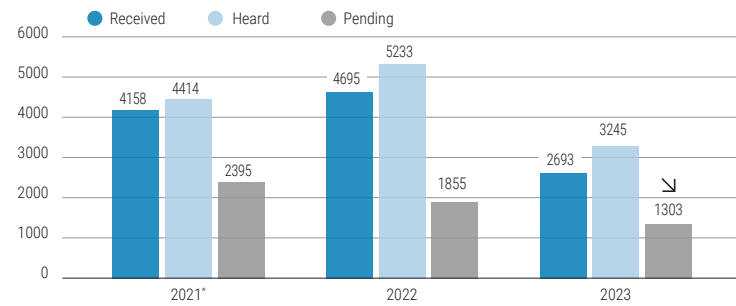
SUPREME ADMINISTRATIVE COURT OF LITHUANIA

2023

Annual Report

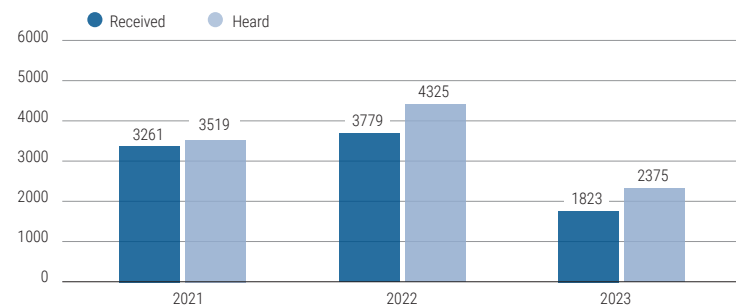
Statistics on the activities of the Supreme Administrative Court of Lithuania in 2023

Total number of administrative cases received and heard

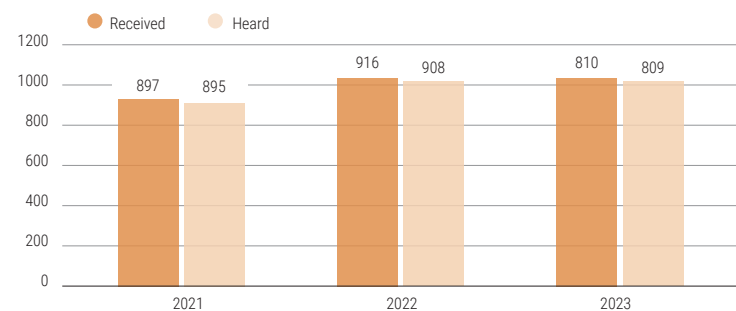


* Cases pending in the beginning of 2021 – 2662
 ↘ Cases pending in the end of 2023 decreased by 29,76% in comparison to 2022

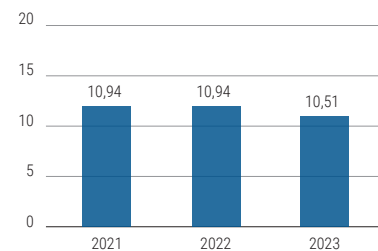
Administrative disputes cases received and heard



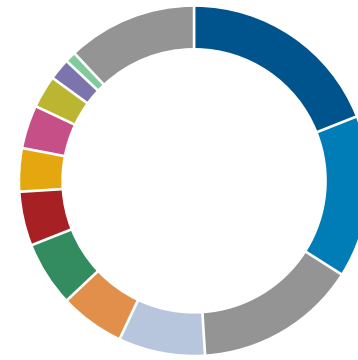
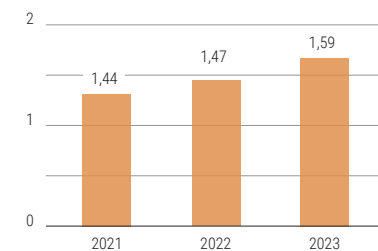
Requests for reopening of proceedings and appeals against first instance court rulings on procedural issues received and heard



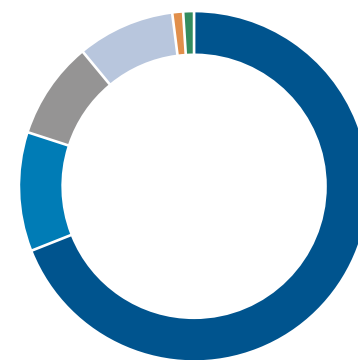
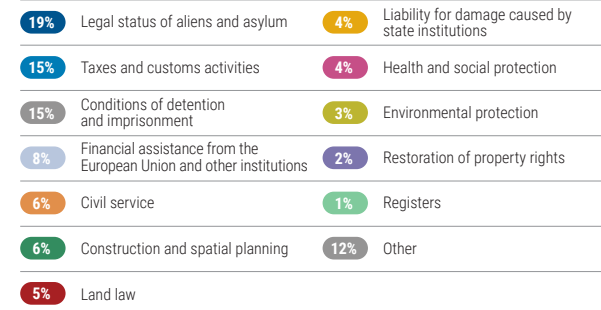
Average duration of proceedings in administrative disputes cases (in months)



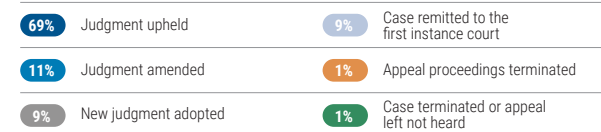
Average duration of proceedings concerning appeals against first instance court rulings on procedural issues (in months)



Breakdown by category of appeals in administrative cases heard



Outcomes of appeals against judgments of regional administrative courts

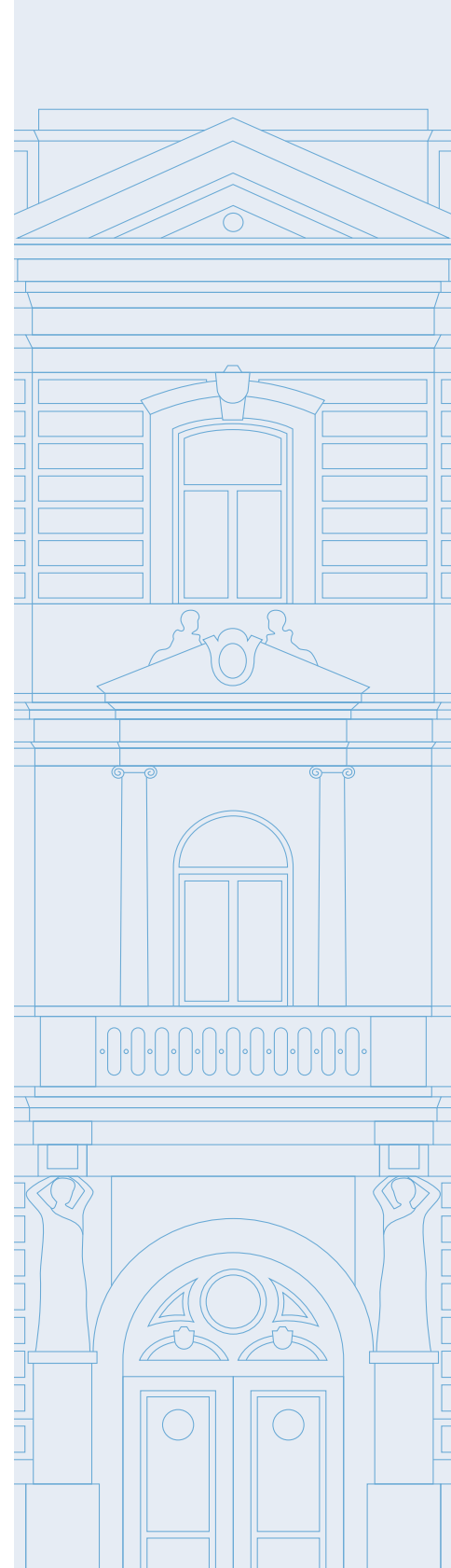


Other figures of 2023

- 34** — the number of complaints received against decisions or omissions of the Central Electoral Commission
- 18** — the number of requests (applications) received in 2022 to investigate the legality of normative administrative acts adopted by central state institutions
- 12** — the number of cases heard on appeals against first instance court judgments regarding the legality of normative administrative acts adopted by territorial or municipal institutions
- 5** — the number of cases reopened following a final judgment or ruling
- 11** — the number of cases that ended with a court settlement. Court settlements were reached in the areas of financial assistance, restoration of property rights, environmental protection
- 33** — the number of rulings on case jurisdiction issues that were referred to the Special Chamber of Judges to resolve questions on case falling within the competence of a general jurisdiction court or an administrative court (18 disputes (54%) were declared to be within the general courts' jurisdiction)
- 27** — the number of administrative cases heard by Extended Composition Chambers
- 154** — the number of cases heard by a judge-rapporteur
- 303** — the number of cases heard on average by a judge as a member of a judge panel

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Dear All,

We are pleased to present the Annual Report of the Supreme Administrative Court of Lithuania. In addition to statistical data on the Court's performance, the 2023 Annual Report focuses on recalling the Court's main jurisprudence, as well as reviewing other significant activities.

The Supreme Administrative Court of Lithuania can be said to have gradually returned to the normal performance of a court with a balanced caseload in 2023, of course, as far as possible in the current geopolitical situation in the face of a variety of threats. After several years of exceptionally high volumes of cases received and dealt with by the Court in the areas of the legal status of aliens and asylum, the past year has been marked by a decrease in the number of cases received. At the same time, we can be pleased with the decrease in the backlog of cases pending before the Court and the reduction in the duration of administrative disputes to 10.5 months.

Compared to last year, the number of requests for the examination of the lawfulness of regulatory administrative acts was higher than in the previous year. A significant number of cases were also referred to the extended chambers of judges this year. The sustainable implementation of justice is well illustrated by the decision of the extended chamber of judges on the lawfulness of the reduction of kindergarten fee which was linked solely to the declared place of residence of the parents and the child. This rule was found to be discriminatory, *inter alia*, on the basis of the jurisprudence of the 2003 Plenary Session of the Court. Last year the Court has examined the lawfulness of regulations imposed by ministers in the fields of the environment, renewable energy sources, education and other areas. The Court's judgments in cases regarding regulatory administrative acts have highlighted a number of important aspects, ranging from environmental regulatory issues to the requirements of the implementation of European Union law: the legality of the procedure for calculating compensation for environmental damage has been upheld, the extension of coastal protection zones and buffer strips has been found to be lawful in the light of environmental and recreational interests, and the procedure for the issue



Skirgailė Žalimienė

President of the Court

of visas has been found to be incompatible with the principle of good administration, as it does not provide for a procedure on how to state more detailed grounds for the refusal of a national visa. All this shows the diversity and complexity of the legal issues addressed by the Supreme Administrative Court of Lithuania and confirms the importance of cooperation between all branches of the state power in the legislative field, ensuring the requirement of consistency of legal regulation. Coherent regulation and its application are important not only in the sense of the national legal framework, but also in the context of the Republic of Lithuania's international obligations, in particular those arising from its membership of the European Union. In Luxembourg in 2023, together with our colleagues, the judges of the Court of Justice of the European Union, we discussed the importance of our cooperation and our contribution not only to the effective and harmonious development of national law, but also to the effective and harmonious development of European Union law. I would also like to welcome the publication "European Union Law and Lithuanian Administrative Justice", published in 2023 by the Supreme Administrative Court of Lithuania in cooperation with the Faculty of Law of Vilnius University, to commemorate the 20th anniversary of the Supreme Administrative Court of Lithuania. This collection of articles by Lithuanian legal scholars and practitioners provides an overview and assessment of the development of the Lithuanian administrative court system and administrative law, as well as insights into its intersection and interaction with European Union law.

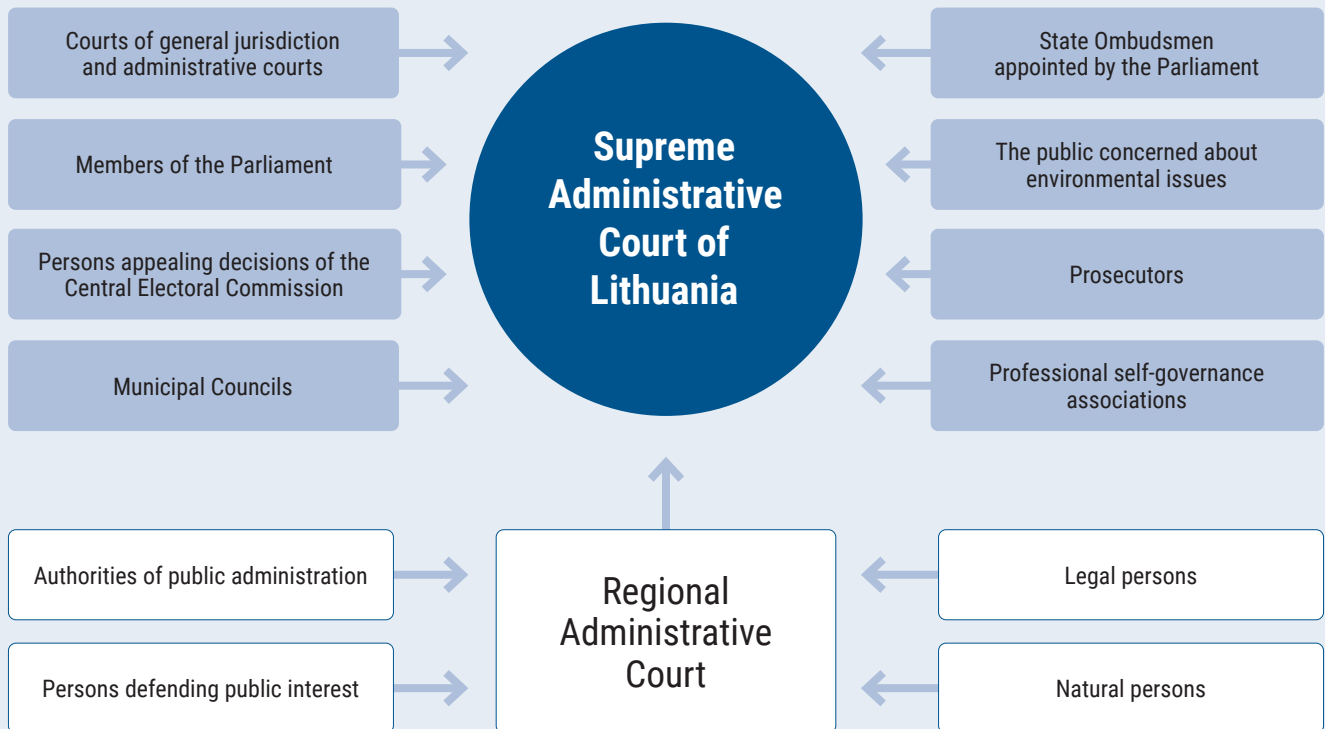
Each year we actively participate in the Association of Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-Europe), which provides an opportunity to exchange experience and knowledge in various areas of administrative justice. I must also mention the visit of the Court's judges to the Polish Supreme Administrative Court in 2023. Together we discussed the issues and tasks faced by the Lithuanian and Polish Supreme Administrative Courts and shared trends in the development of case law in relevant areas. Close international cooperation with foreign courts and international organisations contributes significantly to the development of the legal thought and the quality administration of justice.

Looking ahead to 2024, we can confidently say that it will be an exceptional year. As of 1 January 2024, the Regional Administrative Court will replace the two District Administrative Courts. I believe that already in the first year of the Regional Administrative Court's work, the workload of the judges of the first instance administrative court will become more even, the processing of cases will be faster and it will be easier and more convenient for individuals to seek justice. With three elections taking place in Lithuania this year, it is likely that the number of electoral cases reaching the Court will be significantly higher. There will also be plenty of joyful occasions - on 1 May we will celebrate the 20th anniversary of Lithuania's accession to the European Union. In addition, the spring will mark the 25th anniversary of the establishment of the Lithuanian administrative court system: on 1 May 1999 specialised administrative courts began to operate in Lithuania under the Law on the Establishment of Administrative Courts of the Republic of Lithuania. It should be noted that Lithuania's strong aspiration to become a member of the European Union also prompted the state to decide more quickly to establish an independent system of administrative courts. The establishment of administrative courts was linked to the final stage of the establishment of a democratic court system in Lithuania, i.e. the establishment of specialised administrative courts as provided for in the Constitution. The adoption of these laws has filled a significant gap in our judicial system, which has been repeatedly pointed out by EU experts. At the same time, it means that the guarantees for the judicial protection of human rights and freedoms in Lithuania have been considerably strengthened, as this is the main purpose of administrative courts. Today, the country has a modern and efficient system of administrative courts, which ensures the effective protection of individual rights in the field of public administration.

When dealing with cases, we should keep in mind that the administration of justice must not be merely a formal process that takes place in a courtroom. It must be accessible and visible to the public. Justice is meaningful not only when it is carried out, but also when its results are transparent, clear and easy to understand. It is not only a legal imperative, but also a social responsibility that ensures the effectiveness of the justice system and public confidence.

Supreme Administrative Court of Lithuania

Supreme Administrative Court of Lithuania is the institution that administers justice on behalf of the Republic of Lithuania in administrative cases. Judgments of the Supreme Administrative Court of Lithuania (hereinafter – the Court, SACL) are final and not subject to appeal. The Supreme Administrative Court of Lithuania has two missions – to resolve disputes between citizens and public authorities and to guarantee respect for the rule of law in the area of public administration.





Corrects possible errors of the first instance court in administrative cases

- hears appeals from first instance administrative courts
- hears appeals from district courts in migrant detention cases



Guarantees respect for the rule of law in cases regarding lawfulness of legislation, election, referendum, violation of oath of office by local government members and mayors

- is the sole and final instance court in cases concerning lawfulness of regulatory administrative acts adopted by state-level public administration bodies
- is the final instance court in cases concerning complaints for breaches of the Electoral Code
- is the sole and final instance court in cases concerning complaints for breaches of the Constitutional Law on Referendum
- is the sole and final instance court in cases concerning requests by a municipal council for a ruling on whether a member of a municipal council, a mayor, for whom a procedure for the loss of office has been initiated, has violated their oath of office and (or) has failed to exercise the authority conferred on them by law



Hears cases on requests for reopening of proceedings in administrative cases which have been closed by a final judgment or ruling

- proceedings in a closed case are reopened in exceptionally rare cases for the purpose of ensuring uniform administrative case-law, rectification of an obvious and fundamental error of substantive law, after examination of a constitutional complaint, after a judgment of the European Court of Human Rights, and in other cases provided for by law



Establishes uniform case-law of administrative courts in interpreting and applying laws and regulations

- interpretations of laws and regulations contained in the Court's judgments and rulings are taken into account by public authorities and other institutions, as well as by other persons, when applying the same laws and regulations.
- in order to develop and ensure uniform interpretation and application of the law in administrative courts, the Court analyses case-law of national, European Union and international courts, other sources of law, prepares summaries and reviews of case-law, and publishes information on its activities.



Skirgailė Žalimienė
President of the Court



Artūras Drigotas
Judge



Beata Martišienė
Judge



Arūnas Dirvonas
Judge



Ernestas Spruogis
Vice-President of the Court



Dalia Višinskienė
Judge



Arūnas Sutkevičius
Judge



Laimutis Alechnavičius
Judge



Jolanta Malijauskienė
Judge



Audrius Bakaveckas
Judge



Iveta Pelienė
Judge

Self-governance institutions in which judges of the SACL participate

- Judicial Council
- Judicial Court of Honour
- Judicial Ethics and Discipline Commission
- Commission for the Examination of Candidates to Judicial Office
- Association of Judges of the Republic of Lithuania
- Judicial System Awards Commission

Judges, President and Vice-President of the Supreme Administrative Court of Lithuania are appointed by the President of the Republic of Lithuania on advice of the Judicial Council.

President and Vice-President of the Supreme Administrative Court of Lithuania are appointed for a period of five years.



Veslava Ruskan
Judge



Dainius Raižys
Judge



Rasa Ragulskytė-Markovienė
Judge



Ramūnas Gadliauskas
Judge



Gintaras Kryževičius
Judge



Virginija Volskienė
Judge



Egidijus Šileikis
Judge



Milda Vainienė
Judge



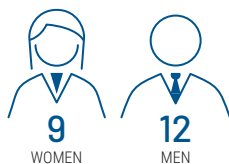
Ričardas Piličiauskas
Judge



Rytis Krasauskas
Judge

Judges of the
Supreme Administrative
Court of Lithuania

21
JUDGES



43%

57%

54
YEARS

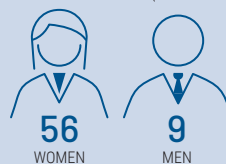
average age
of judges

8

PhDs in
social sciences

Employees of the
Supreme Administrative
Court of Lithuania

65
EMPLOYEES
(EXCLUDING JUDGES)



86%

14%

42
YEARS

average age
of employees

5

PhDs in
social sciences

Questions referred to the CJEU in 2023

1. On the interpretation of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing as regards the application of administrative sanctions

The case concerned a dispute on a decision of the Bank of Lithuania to impose a sanction on the applicant, an electronic money institution. The SACL referred the case to the Court of Justice of the European Union (hereinafter “CJEU”, “Court of Justice”) for interpretation of Article 59 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. The SACL asked the Court of Justice to clarify whether that Article should be interpreted as precluding national legislation under which, where the competent national authority finds, in the course of a single inspection, (a) several infringements of different sets of requirements and (b) infringements of the same set of requirements, each of the infringements is considered to constitute a separate systematic infringement, and for each of them separate fines are calculated, taking into account the maximum level of the fine laid down in the national law implementing the Directive - if the answer to at least one of the above questions is in the affirmative, which criteria should be taken into account in order to determine whether an infringement is systematic within the meaning of Article 59 of Directive 2015/849.

Administrative case No eA-40-822/2023
CJEU case No C-671/23

2. On the interpretation of the provisions of Regulation (EU) No 952/2013 laying down the Union Customs Code concerning the method of customs valuation based on the transaction value

The case concerned a dispute on a part of an inspection report of the Kaunas Territorial Customs Office in which the applicant, a private limited liability company, was ordered to pay default interest in respect of import VAT. The SACL referred the case to the CJEU for an interpretation of Article 70 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code. The SACL asked the Court of Justice to clarify whether that article may be interpreted as meaning that paragraph 1 thereof does not apply in a case such as the present one, where, at the time of acceptance of the customs declaration and on the basis of the sale occurring immediately before the goods were brought into the customs territory, only the price provisionally payable is known, which is subsequently (that is to say, after the declaration has been lodged and the goods have been released for free circulation) adjusted upwards or downwards in the light of circumstances beyond the control of the parties to the transaction and unknown at the time of lodging the declaration. The SACL also asked to clarify whether Article 173(3) of that regulation must be interpreted as meaning that the declarant is not under an obligation to apply to the customs authorities for an adjustment of the customs value determined and declared in accordance with Article 74 of that regulation where, as in the present case, the price actually payable for the goods, as referred to in Article 70(1) of that regulation, which was not and could not have been known at the time of

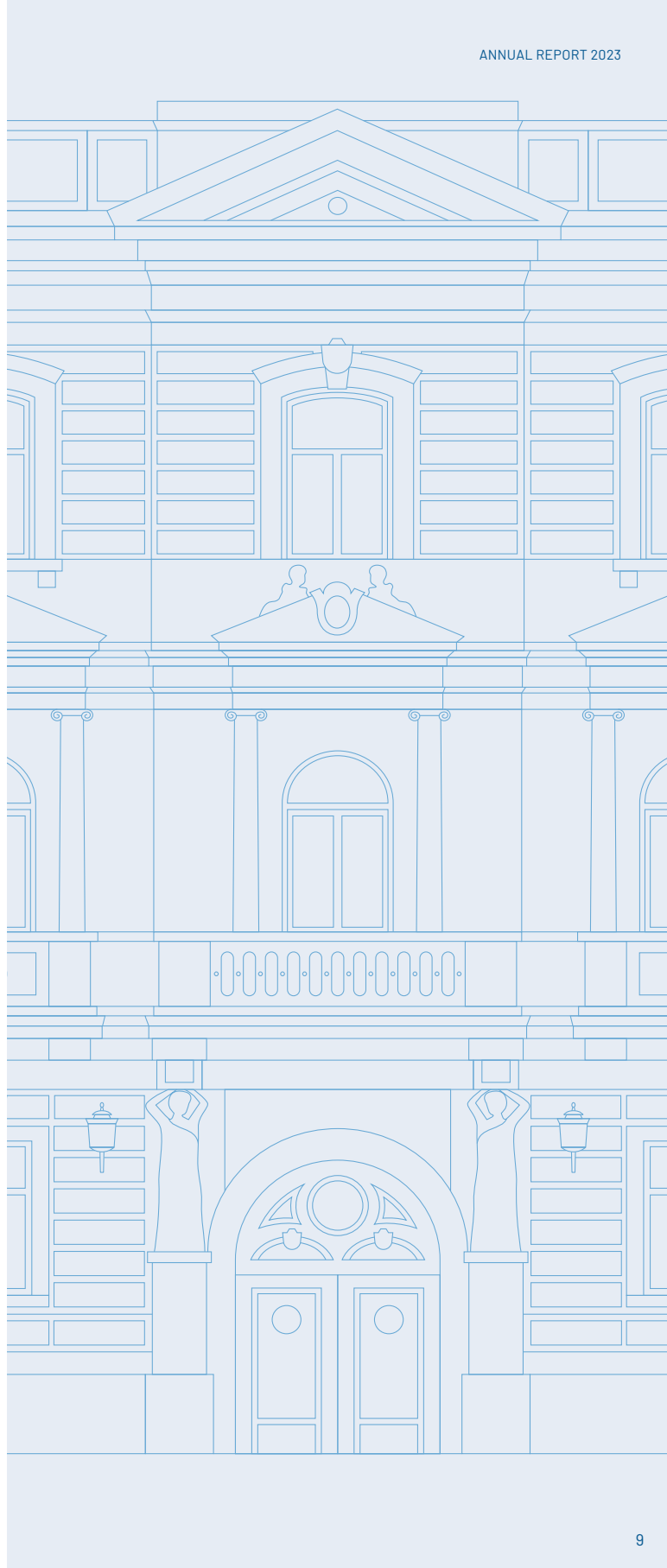
lodging the declaration, becomes apparent after those goods have been released for free circulation.

Administrative case No eA-335-442/2023
CJEU case No C-782/23

3. On the interpretation of Article 21(1) of the Treaty on the Functioning of the European Union regarding the registration of marriage contracts concluded in a foreign State

The case concerned a dispute regarding a decision of the Centre of Registers refusing the applicant's application for registration of a marriage contract concluded abroad because it did not contain the personal identification number of one of the spouses. The SACL referred the case to the CJEU for clarification as to whether Article 21(1) of the Treaty on the Functioning of the European Union should be interpreted as precluding national legislation under which a marriage contract concluded in another Member State of the European Union (hereinafter "the EU") may not be recorded in the Register of Marriage Contracts if the marriage contract does not contain the personal identification number of at least one of the parties to that contract, as provided by the Population Register of the Republic of Lithuania, where, in circumstances such as those of the present case, the competent authorities of the Member State in which the marriage contract was concluded refuse to provide an extract from that contract supplemented by the relevant personal identification data.

Administrative case No eA-834-662/2023
CJEU case No C-789/23



Questions referred to the Constitutional Court in 2023

1. On the constitutionality of the provision of the Law on Social Insurance against Accidents at Work and Occupational Diseases, which does not allow the court to individually assess the right to social support after an accident happened while drunk

By its ruling of 15 March 2023 in administrative case No *eA-744-1047/2023* the Supreme Administrative Court of Lithuania decided to refer to the Constitutional Court of the Republic of Lithuania a request to examine whether Article 7(3) of the Law on Social Insurance against Accidents at Work and Occupational Diseases of the Republic of Lithuania (the wording of the law in force from 1 July 2020 to 1 January 2022) which lays down legal rules of the State guarantee of social assistance in the event of accidents on the way to or from work, which imperatively precludes the court from individualising the exceptional necessity of the just guarantee of social assistance in the event of a fatal traffic accident, in the absence of a causal link between the insured person's drunkenness and the road traffic accident which caused their death, and if the other person who caused the accident was found guilty in court, is compatible with Article 29(1), Article 52 and Article 109(1) of the Constitution, and with the constitutional principles of justice and the rule of law.

Administrative case No eA-50-1047/2024

2. On the constitutionality of the provision of the Law on the Heat Sector on the indefinite pricing of heat production after benefiting from the European Union financial support

By its ruling of 22 March 2023 the Supreme

Administrative Court of Lithuania in administrative case No *eA-1431-415/2023*, decided to refer to the Constitutional Court of the Republic of Lithuania a question on whether Article 10(3)(1) of the Law on the Heat Sector of the Republic of Lithuania (as amended by Law No XIII-3123 of 25 June 2020), which provides that the compulsory pricing of heat production shall be applied for an indefinite period of time to independent producers of heat, when they have benefited from the European Union's financial support for the construction or modernisation of a heat production facility that is owned or held by them on another basis, without a possibility for differential treatment of such undertakings, is in compliance with the principle of the rule of law as enshrined in the Preamble to the Constitution, as well as with Article 46 of the Constitution.

Administrative case No eA-291-415/2024

3. On constitutionality of the provisions of the Law on Renewable Energy Resources

By its ruling of 17 April 2023 in administrative case No *eI-8-1188/2023* the Supreme Administrative Court of Lithuania decided to refer to the Constitutional Court of the Republic of Lithuania a request to examine whether Article 13(10) of the Law of the Republic of Lithuania on Renewable Energy Resources (as amended by the law of 23 June 2022) in so far as the newly introduced legal regulation radically changes and narrows the initial conditions for state-encouraged economic activity, which gave rise to the relevant legal relations and legitimate expectations of the persons concerned, legal certainty and security, trust in the State and its law, as well as creates legal preconditions for radical

changes in the regulation by means of subordinate legislation, of the public administration procedures related to the assessment of the applications (projects of economic activity promoted by the State) already submitted by the persons concerned, is compatible with Article 46(1) of the Constitution, with the constitutional principle of responsible governance and with the constitutional principle of the rule of law.

Administrative case No eI-1-1188/2024

The Constitutional Court adopted a ruling on 7 November 2023. This ruling of the Constitutional Court of the Republic of Lithuania is to be officially published in the Register of Legal Acts on 2 May 2024.

4. On the constitutionality of the provision of the Penalty Enforcement Code, which does not allow prisoners serving a life sentence to attend the funeral of a relative

By its ruling of 22 November 2023 in administrative case No **TA-626-968/2023** the Supreme Administrative Court of Lithuania decided to request the Constitutional Court of the Republic of Lithuania to examine whether Article 67(1) of the Code of the Execution of Sentences of the Republic of Lithuania (as amended by law of 28 June 2022) in so far as convicted persons serving a life sentence are not allowed to attend the funeral of a relative in any situation and in absolute terms, irrespective of their behaviour during the execution of the sentence and of the low risk of criminal behaviour of the convicted person, as individually assessed by an officer authorised by a director of the penitentiary institution, solely on account of the length of the custodial sentence imposed on them, is not contrary to Article 21(2) of the Constitution and to the principle of equal treatment enshrined in Article 29 of the Constitution.

Administrative case No TA-19-968/2024



Judgments of the European Court of Human Rights

Every country that has ratified the European Convention on Human Rights (hereinafter “the Convention”) must effectively implement the provisions of the Convention (or its Protocols) in order to fully comply with its obligations under it. This general requirement is directly linked to the development of administrative courts’ case-law based on respect for the human rights defined in the Convention or its Protocols. In 2023, six judgments of the European Court of Human Rights were published concerning judgments of the Supreme Administrative Court of Lithuania adopted in 2017–2019. Following the finding of violations in two of them, the case-law of the administrative courts is being developed, in particular to ensure consistency and coherence with the interpretations of the European Court of Human Rights.

1. Judgment of the European Court of Human Rights of 17 January 2023 in the case of *Hoppen and trade union of AB Amber Grid employees v. Lithuania* (Application No 976/20)

The consent of the State Labour Inspectorate to the dismissal of a person who is an employee representative contributes to effective protection against discriminatory dismissal.

In this case, the applicants, a former employee and a trade union, complained that the dismissal of a trade union member by the joint-stock company Amber Grid violated Article 14 of the Convention (prohibition of discrimination), read in conjunction with Article 11, and the freedom of association of trade unions (Article 11 of the Convention). This case concerned the requirements for the procedures applicable to the dismissal of a trade union member. It was unanimously held that there had been no violation of Article 11 of the Convention and of Article 14 of the Convention read in conjunction with Article 11.

The Supreme Administrative Court of Lithuania, in its final judgment of 26 June 2019 in administrative case No *eA-4601-415/2019*, held that there was no legal basis to find that the dismissal of the applicant was related to the employee representation activities or that the employee was discriminated against on the basis of his employee representation activities or trade union membership. The Court noted that, in order to ensure that the right of employee representatives to carry out their functions is effectively exercised and that they enjoy effective protection within the undertaking against hostile acts, including dismissal, on account of their status or their activities as employee representatives within the undertaking (Article 28 of the Social Charter), such administrative legal control (the consent of the State Labour Inspectorate to the dismissal of a person who is a representative of the employees) was justified in the light of the objectives pursued and was considered by the SACL to be an effective means of ensuring the application of the Social Charter.

2. Judgment of the European Court of Human Rights of 4 April 2023 in *UAB Kesko Senukai Lithuania v Lithuania* (application No 19162/19)

Article 8 of the Convention should not be interpreted as requiring ex post facto judicial review in all cases of the Competition Council's actions. However, its availability is particularly important in cases where an investigation is terminated and, as a consequence, no procedure has been conducted in respect of the Competition Council's final decision, where the company would be able to raise its complaints about possible violations of its rights.

In this case the European Court of Human Rights unanimously found a violation of Article 8 of the Convention (right to respect for private and family life) when the national courts refused to examine a company's complaint against the actions of the Competition Council's officials, who, in the course of a price-fixing investigation, had seized and copied a very large amount of information, without verifying whether it related to the subject matter of the investigation. The national courts took the position that the complaints against these actions taken by the Competition Council officials during the inspection were of an interim nature and the company would be able to appeal against the final decision of the Competition Council or to initiate court proceedings for damages. However, the investigation of the infringement was eventually terminated and the right to complain against the Competition Council's actions remained not exercised. In this context, the European Court of Human Rights held that the absence of an assessment by an independent and impartial body of the issues raised by the company concerning the documents seized during the inspection and the restrictions on the rights of the applicant and its employees meant that there were no adequate and effective safeguards against abuse and arbitrariness by the officials that carried out the inspection.

The Supreme Administrative Court of Lithuania has repeatedly referred to this decision of the

European Court of Human Rights in 2023, when deciding on the applicants' right of access to a court and emphasising the importance of reviewing the legality of the decisions and actions of the Competition Council. In administrative case No. *eAS-400-520/2023*, it was recognised that the company had the right to appeal against the decision of the Competition Council on termination of the investigation of an infringement related to the requirements of the Law on Prohibition of Unfair Practices of Retailers. Moreover, in accordance with the provisions of the decision of the European Court of Human Rights, it has been clarified in administrative case No. *eAS-415-552/2023* that an undertaking which considers that the investigation of the Competition Council in respect of an alleged infringement of the Law on Competition has been initiated unlawfully, has the right to challenge, on the aforementioned grounds, the decision of the Competition Council closing the investigation of the alleged infringement of the Law on Competition. The Court emphasised that this would effectively ensure *ex post facto* control of the Competition Council's actions.

3. Judgment of the European Court of Human Rights of 13 June 2023 in the case of *UAB AmberCore DC and UAB Arcus Novus v. Lithuania* (application No 56774/18)

When, inter alia, on the basis of classified information, decisions are taken regarding the compliance of legal persons (investors) with national security interests, the substance of the grounds on which such decisions are based must be clearly disclosed to those persons.

In this case the European Court of Human Rights unanimously held that there had been no violation of Article 6(1) of the Convention (the right to a fair trial). The case concerned a refusal to allow the applicants to build a data centre on the ground that the investors did not comply with the national

security interests of Lithuania. The Supreme Administrative Court of Lithuania had adopted decisions on the companies in 2018 (administrative case No [eA-4143-442/2018](#) and administrative case No [eA-3729-415/2018](#)). In this context, the European Court of Human Rights found that the national courts had offset the restrictions on the companies' right to adversarial proceedings and equality of arms in such a manner that did not undermine the right to a fair hearing and the fair balance between the parties.

4. Judgment of the European Court of Human Rights of 13 June 2023 in the case of *UAB Braitin v. Lithuania* (application No. 13863/19)

When, inter alia, on the basis of classified information, decisions are taken regarding the compliance of legal persons (investors) with national security interests, the substance of the grounds on which such decisions are based must be clearly disclosed to those persons.

As in *UAB AmberCore DC and UAB Arcus Novus v Lithuania*, in this case the European Court of Human Rights unanimously held that Lithuania had not violated the right to a fair hearing of the investment company Braitin (administrative case No [eA-4548-502/2018](#)).

These decisions of the European Court of Human Rights have become an integral part of the consistent case-law of the Supreme Administrative Court of Lithuania. For example, in its judgment of 8 November 2023 in administrative case No [eA-393-520/2023](#), the Supreme Administrative Court of Lithuania stated that the contested decision essentially disclosed the main data on the basis of which the applicant was found to be not in compliance with the interests of national security, that is to say, it indicated the links of specific persons which implied that the applicant poses and may pose a threat to the interests of the State

or public security in an economic sector important for the security of the State and of the society and, therefore, the applicant had every opportunity of arguing that the decision is unfounded or illegal. It was also pointed out that the contested decision was not based on classified information relating to circumstances not mentioned in the decision, which would constitute a separate ground for finding that the applicant poses and may pose a threat to the national security of the State. There was sufficient unclassified information in the file, disclosed to the applicant, that justified the decision.

5. Judgment of the European Court of Human Rights of 18 July 2023 in the case of *Paslavičius v. Lithuania* (application No. 15152/18)

When dealing with civil service cases, the court must assess whether it was necessary for a public entity to be represented by a lawyer.

In this case the European Court of Human Rights did not find a violation of Article 6 of the Convention (right to a fair trial). The applicant complained that the national courts had unreasonably ordered him to pay the costs incurred by the Trakai District Municipal Administration, represented by a lawyer, in the course of a dispute concerning civil service. The Supreme Administrative Court of Lithuania had adopted decisions concerning the applicant in 2017 (administrative cases No [AS-809-438/2017](#), No [AS-889-552/2017](#), No [AS-386-756/2017](#)).

The European Court of Human Rights noted that the national courts, when examining the applicant's complaints, had taken into account the guidelines laid down by the extended chamber of judges of the Supreme Administrative Court of Lithuania in 2008, namely that a public entity, such as a municipality, is not precluded by law from having recourse to the assistance of a lawyer, and that, when deciding whether to award legal costs and the amount of those costs, the court has to assess whether the

representation of a lawyer is necessary in the light of certain criteria. According to the European Court of Human Rights, the Supreme Administrative Court of Lithuania clearly took these criteria into account and applied them when assessing the nature of the applicant's case (an employment dispute) and the circumstances of the case.

6. Judgment of the European Court of Human Rights of 12 September 2023 in the case of *Eigirdas and VJ "Demokratijos plėtos fondas" v. Lithuania* (applications No. 84048/17 and No. 84051/17)

When deciding on breaches of the requirements of journalists' and publishers' ethics, assertions about matters of public interest may, in appropriate circumstances, constitute value judgments rather than statements of fact. Moreover, Article 8 of the Convention does not impose a mandatory requirement of pre-notification of a forthcoming publication in order to give a person the right to respond to critical information prior to its publication.

The European Court of Human Rights examined whether the applicants' freedom of expression had been violated when the applicants, a journalist and a magazine publisher, were obliged to publish the decisions of the Public Information Ethics Commission, which found that the applicants had breached the requirements of journalists' and publishers' ethics by making statements in their articles about Mr V. M., who subsequently became the mayor of Kaunas.

The European Court of Human Rights disagreed with the assessment of the Supreme Administrative Court of Lithuania that the disputed statements in the articles in question were statements of fact, recalling that, in the relevant circumstances, statements on matters of public interest may be regarded as value judgments rather than as statements of fact, and that, in any event, journalistic freedom also covers possible recourse to

a degree of exaggeration, or even provocation. The Court considered that the disputed statements were within the limits of permissible criticism.

In the light of the national courts' findings that the right to reply to critical information under national law arises prior to the publication of that information, the European Court of Human Rights noted that Article 8 of the Convention does not impose a legally binding pre-notification requirement. The Court also observed that there was a discrepancy between Lithuanian law and the Council of Europe Recommendation (2004)16, one which the Court found difficult to reconcile with the requirements of Article 10, at least in the circumstances of this particular case.

The European Court of Human Rights held that there had been a violation of Article 10 of the Convention in so far as it had not found that the interferences complained of corresponded to a "pressing social need", were proportionate to the legitimate aim pursued, and that the reasons given by the national authorities to justify them were relevant and sufficient.

In 2023, the Supreme Administrative Court of Lithuania, when deciding whether a particular statement was a statement of fact or a value judgment, systematically assessed the published statements, their wording, the context in which they were made (ruling of 7 June 2023 in administrative case No. [eA-734-815/2023](#)), and their link to the public interest (ruling of 22 November 2023 in administrative case No. [A-1010-815/2023](#)).

Overview of judicial activity

An overview of judicial activity in cases from a wide range of areas of law shows that the case-law of the Supreme Administrative Court of Lithuania reflected the most important issues of public interest in 2023. In addition to the issues of the legal status of foreigners, the cases dealt with tax, competition, consumer protection disputes and the lawfulness of ministerial regulation, particularly in the areas of environmental protection, renewable energy resources and education. Cases were also received relating to financial law, personal data protection, registers, social security and, as usual, the civil service.

Anyone familiar with the Court's case-law can notice the breadth and diversity of the topics analysed and the work assigned to the Court. Over 3 000 administrative cases heard clearly show that the Court is entrusted with a wide range of issues of importance to citizens, businesses and the State. A number of important jurisprudential trends have emerged from the judgments adopted throughout the past year.

The first trend, which is a continuous one, concerns cases involving complex questions of application and interpretation of European Union law. Given the complexity of such issues, these cases are usually decided by extended chambers of judges. In accordance with the interpretations of the Court of Justice of the European Union (hereinafter "CJEU"), in 2023 the Supreme Administrative Court of Lithuania decided on the refusal to register the ownership rights to immovable property on the basis of the submitted European Certificate of Succession (administrative case No [eA-1195-662/2023](#)), on the restriction of registration of vehicles registered in the Schengen Information System (administrative case No [eI-2-492/2023](#)), on the asylum seeker's well-founded fear of persecution on ground of political opinion (administrative case No [eA-1191-624/2023](#)), on the obligations incumbent on payment service providers sorting and distributing euro banknotes to the public (administrative case No [A-1204-822/2023](#)). In three other administrative

cases, it was decided to request the Court of Justice of the European Union to give preliminary rulings in disputes arising in the areas of registers (administrative case No [eA-834-662/2023](#)), customs (administrative case No [eA-335-442/2023](#)) and financial supervision (administrative case No [eA-40-822/2023](#)). Indeed, in administrative cases, references for a preliminary ruling are particularly important to facilitate the proper functioning of the internal market and to remove obstacles to the free movement of persons who have difficulties in exercising their rights in cross-border cases.

The second trend in the work of the Supreme Administrative Court of Lithuania is not entirely new either. Although the amount of these cases is decreasing, the number of cases on the legal status of foreigners before the Supreme Administrative Court of Lithuania is still unusually high. In 2023, the number of cases heard in this category was about four times higher than in 2020. This shows that issues related to the legal status of foreigners remain relevant and require consistent attention. While the main issues remained related to the lawfulness of the detention of aliens, new aspects have emerged in the geopolitical context. The problem of assessing the threat to national security posed by certain foreign nationals has become particularly important (administrative case No [eA-1770-968/2023](#)). In addition, other important issues were dealt with in 2023, such as the assessment of the legality of the

procedure for issuing national visas (administrative case No. *eI-5-662/2023*, administrative case No. *A-1249-968/2023*), the grounds for issuing an alert in the Schengen Information System for refusal of entry of an alien into the territory of the Member States (administrative case No. *eA-2433-442/2023*), etc.

The third trend can be seen when looking at electoral cases. The new electoral law, the Electoral Code, which entered into force on 1 September 2022, has had a particular impact on the number of disputes concerning the 2023 elections of municipal councils and mayors. The short period between the entry into force of this legislation and the elections has led to a number of uncertainties at different stages of the electoral process, from the registration of candidates (administrative case No *R-4-575/2023*) to the vote counting procedures and the organisation of the rerun elections (administrative case No *eR-28-502/2023*). Thus, the cases examined by the Court not only supplemented the existing case-law, but also had a significant impact on the development of new lines of the Court's jurisprudence in the field of electoral law. This experience has helped the Court to develop consistent and clear provisions that adapt to the new electoral legal relations and ensure transparency and fairness in the electoral process.

Finally, it is necessary to mention the advances in jurisprudence that have been made in the cases concerning financial assistance from the European Union and national institutions. Given that financial assistance relates to a wide range of projects of national and international importance, in 2023, assistance cases were dealt with as a matter of priority before the Supreme Administrative Court of Lithuania. The disputes in this area were distinguished by the wide range of legal relations in the field of financial assistance. Due to the close connection with European Union law, the large number of different types and instruments of support and the large number of institutions

administering this support, the subject matter of the cases was diverse, covering public matters such as employment promotion, improvement of health services, management of public spaces, as well as various forms of support to private natural and legal persons. Furthermore, disputes arising from state aid to specific economic activities in the light of the economic and financial consequences of the COVID-19 outbreak are ongoing (e.g. administrative case No *eA-386-1188/2023*). In the year under review, the Court issued important clarifications on the scope and balance of the rights and obligations of beneficiaries of aid and the authorities administering the aid (administrative case No *eI-11-822/2023*, administrative case No *eA-527-629/2023*). It has consistently stressed the importance and impact of the principles of proportionality, fairness and the objectives of support measures.

All of the above suggests that the Supreme Administrative Court of Lithuania actively and effectively contributes to the interpretation of legal norms and the resolution of disputes of fundamental importance to society, business and the state. The Court's activities are inseparable from ensuring transparency in state governance and legal security, and its judgments and the development of its jurisprudence determine the country's legal environment and the standard of protection of human rights, which is pursuing harmony with European law.

As every year, this chapter provides an overview of the main trends in the development of case-law in the following areas: lawfulness of regulatory administrative acts, social protection, legal status of foreigners, environmental protection, taxes, competition, protection of personal data, etc.



Legislation

The Supreme Administrative Court of Lithuania plays an important role in ensuring the legality of the administrative law-making process. The Court is empowered to check how ministers and municipal councils exercise the legislative power conferred by the law. A clear and stable regulatory framework for citizens and businesses are the cornerstones of case law on lawfulness of regulatory acts. Over the past years, the decisions of the Supreme Administrative Court of Lithuania have highlighted various important aspects, ranging from environmental regulatory issues to the requirements of implementing European Union law.

Validity of the procedure for calculating compensation for damage caused to the environment has been confirmed

The Court examined the lawfulness of the provisions of the Methodology for Calculating the Amounts of Compensation for Damage Caused to the Environment, approved by Order of the Minister of the Environment, which establishes formulae to calculate the damage caused to a specific element/component of the environment. The Court

considered that this legal framework is the method established for the assessment of environmental restoration measures and acknowledged that it is compatible both with the provisions of higher-ranking national legislation and with European Union Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage.

*Judgment of the extended chamber of 5 July 2023
in administrative case No I-9-415/2023*

Enlarging coastal protection zones and protection belts declared lawful, taking into account environmental and recreational interests

The Supreme Administrative Court of Lithuania held that the Minister of the Environment's order enlarging the coastal protection zones and revising the protection belts did not violate the constitutional principles of legitimate expectations and responsible governance, the freedom of economic activity enshrined in the Constitution and other provisions of higher-ranking legal acts. The Court noted that agricultural activities are not entirely prohibited on agricultural parcels falling within coastal protection zones and protection belts. The restrictions on economic activities in specific areas derive from the law and pursue constitutionally justified objectives, in particular environmental objectives, which fall within the public interest and constitutionally justify the interference with the freedom of economic activity. Moreover, the establishment of protection zones and coastal protection belts for surface water bodies also pursues other objectives of general interest, including the creation of favourable conditions for recreation and the guarantee of the public's right to use the water bodies and to walk along their coastlines.

Judgment of the extended chamber of 20 December 2023 in administrative case No eI-12-556/2023

In accordance with the interpretations of the Court of Justice of the European Union, it has been decided that it is justified to restrict the registration of vehicles entered in the Schengen Information System

The Court has heard a case concerning the prohibition of the Minister of the Interior on the registration of vehicles in the Register of Road Vehicles of the Republic of Lithuania until they have been deleted from the Lithuanian national

Schengen Information System. In the light of the CJEU's interpretations, the Court has noted that the State carrying out a search in the Schengen Information System must take due account of the information provided by the Member State which issued the alert, and that the Member States have a wide margin of discretion in that regard, and that, consequently, provisions of national law under which the competent authorities are obliged to execute an alert entered into the system in respect of an object are not precluded. Furthermore, before the alert is issued, it is determined whether provision of the information is adequate, relevant and sufficiently important, subsequently, such data is constantly updated, its accuracy and legality are ensured, and the limited duration of the alert issued is established, as well as the liability of the Member States for damages resulting from the unlawful retention of the data entered. In those circumstances, the Court has held that the national provision adopted by order of the Minister of the Interior, which establishes the prohibition at issue in the case, does not contradict the constitutional principle of the rule of law.

Judgment of the extended chamber of 11 April 2023 in administrative case No eI-2-492/2023

The obligation to control financial assistance stems from European Union law

The Supreme Administrative Court of Lithuania has held that the Minister of Agriculture, by its order establishing the right of the National Paying Agency to take a decision on the recovery of unlawfully paid and/or used European Union funding, has not infringed the constitutional principle of the rule of law and the Law on Public Administration. In this case, the Court emphasised that the legal rules of the European Union lay down a clear obligation for the Member States to control the European Union's financial assistance funds, to protect the European Union's financial interests effectively and

to take measures to recover sums lost as a result of infringements or negligence. Also, according to the European Union law there must be a paying agency (department or body) responsible for the management and control of the expenditure of such support in a Member State.

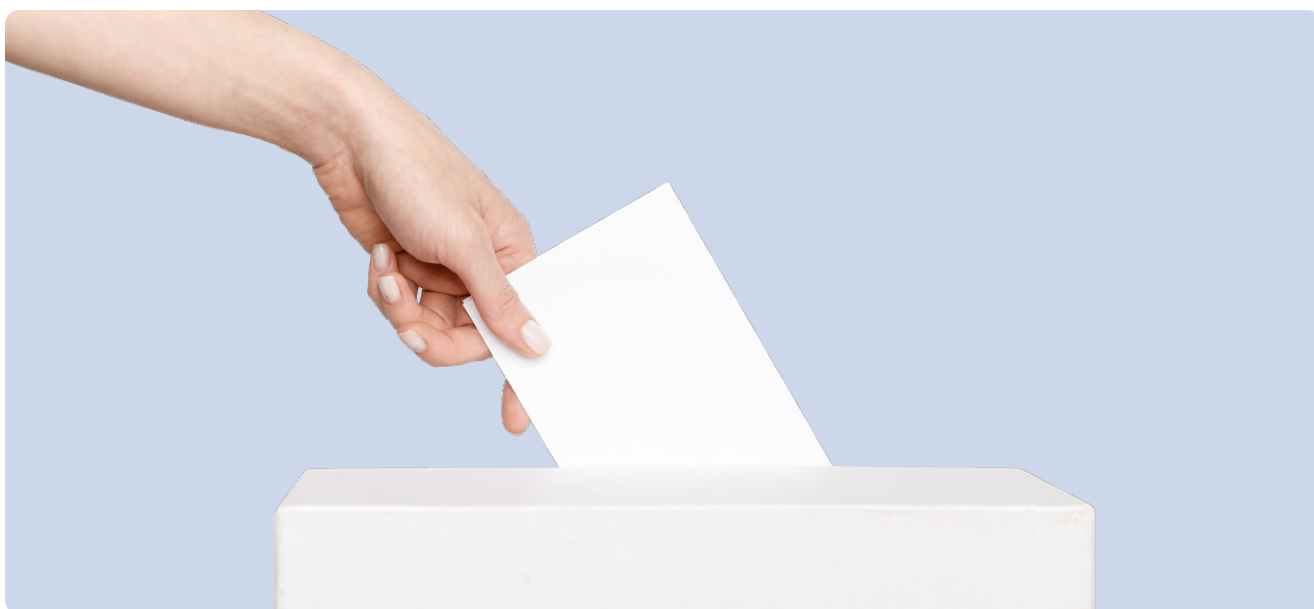
Judgment of the extended chamber of 22 November 2023 in administrative case No eI-11-822/2023

The procedure for issuing visas, which did not establish a more detailed procedure for providing grounds for refusal to issue a national visa, was found to be inconsistent with the principle of good administration

The Supreme Administrative Court of Lithuania assessed the lawfulness of the provisions of the legal act adopted by the Minister of the Interior and the Minister of Foreign Affairs establishing the procedure for issuing visas. The Court held

that this regulation constituted a legislative omission contrary to the provisions of the Law on Public Administration and incompatible with the principles of good administration and responsible governance. The contested act did not regulate the discretion of the civil servants of the Visa Service, when adopting decisions to refuse a national visa, to provide more detailed grounds which led to the decision in question, and the conditions and procedure for exercising that discretion. The Court therefore concluded that, in that respect, the social relations in question developed not in accordance with law. Such incomplete regulation did not allow to conclude that, in each case, the decision to refuse a national visa (whether as a single document or as a set of several documents) would in fact satisfy the imperative requirements of providing grounds laid down in the Law on Public Administration applicable to an administrative decision.

Judgment of the extended chamber of 19 April 2023 in administrative case No eI-5-662/2023



Elections

The 2023 elections for municipal councils and mayors were the first elections organised in accordance with the Electoral Code, which entered into force on 1 September 2022. The Supreme Administrative Court of Lithuania, when dealing with electoral disputes, has emphasised the need for voters to have access to important information about the candidates, and has also ruled on the prohibition of unlawful restrictions on the passive right to vote. The Court stressed that the electoral process must comply with the principles of transparency, fairness and justice, and that infringements of electoral rules may jeopardise the legitimacy of the election results.

The Chief Electoral Commission has a duty to inform candidates of the deficiencies in their application documents and to give them the opportunity to remedy them

The Supreme Administrative Court of Lithuania has heard a dispute concerning the exclusion of some candidates nominated by a political party from the electoral lists due to failure to submit their biographies. The Court emphasised that the Chief Electoral Commission, having established that not all the application documents referred to in the

Electoral Code have been submitted or that they contain deficiencies, must notify the political party's election agent and set a deadline for remedying the deficiencies. This obligation, laid down in the Electoral Code, is mandatory. Otherwise, the passive electoral right of candidates, as enshrined in the Constitution and the Convention for the Protection of Human Rights and Fundamental Freedoms, is disproportionately restricted.

Judgment of 27 January 2023 in administrative case No R-4-575/2023

The exclusion of a candidate must be based on clear restrictions resulting from the penal measure

The Supreme Administrative Court of Lithuania has annulled the decision of the electoral authority to exclude a candidate from the elections due to lack of sufficient legal grounds. The Court noted that the restriction imposed on the candidate by a criminal conviction – the deprivation of the right to work in the civil service for 4 years – was not clear and could not be unambiguously understood as limiting the applicant's right to stand as a candidate or to hold the office of a member of a municipal council or mayor. In such a case, the decision of the electoral authority should have been based on a procedural ruling adopted in accordance to the Code of Criminal Procedure, removing any doubts or uncertainties as to the limitations imposed on a candidate by a criminal measure.

Judgment of 14 March 2023 in administrative case No eR-20-602/2023

After the Court had held that the candidate's exclusion from the second ballot was unjustified, the decision of the Chief Electoral Commission to reinstate the candidate in the elections which had started, was a reasonable attempt to remedy the shortcomings in the organisation of the elections

The Supreme Administrative Court of Lithuania emphasised that the Chief Electoral Commission must take active steps to ensure the clarity of the electoral process. It should also address the infringements of the right to stand for election and take measures to restore the protection of voters' rights. The Court therefore regarded the decision of the Chief Electoral Commission to declare voters which had voted not to have cast their votes, when the re-run of elections had already started, and the candidate who had obtained a majority in the first vote and who had been unlawfully excluded, was reinstated on the list of candidates, as a reasonable, though not ideal, attempt to remedy the

shortcomings in the organisation of the elections and to protect the rights of those exercising their active right to vote. Voters who were declared not to have cast their votes were given the opportunity to vote two days before and on the day of the second ballot.

Judgment of 23 March 2023 in administrative case No R-27-463/2023

Unjustified restriction of a candidate's right to participate in a political election campaign led to the invalidity of the election results

The Supreme Administrative Court of Lithuania found that during the second ballot of the mayoral elections of the municipality of Visaginas, due to the applicant's exclusion from the elections and the subsequent reinstatement of her registration, the applicant's right to participate in the political election campaign and to electioneer was restricted. This significantly affected her ability to exercise her right to stand for election. This situation, in which the applicant was excluded and then reinstated in the elections after a certain period of time, undoubtedly created the conditions for misleading the voters and did not ensure that they were adequately informed about the candidates on the second ballot. The exceptional legal situation undermined the fairness of the elections and the guarantee of the full exercise of the right to vote, the transparency of the elections and their legality. In the Court's view, such infringements could have had a significant impact on the voters' decision to vote for one or other candidate. It was therefore not possible to establish the true will of the voters and to determine the results of the elections on the basis of the vote counting protocols. This constituted grounds for annulling the results of the second round of the elections and for obliging the electoral authority to organise them anew.

Judgment of 3 April 2023 in administrative case No eR-28-502/2023



Social security

Social protection measures promote the well-being of the population, maintain economic stability, reduce social exclusion and contribute to guaranteeing security in the context of accidents, disease, unemployment and other risks. The Supreme Administrative Court of Lithuania, in its judgments, seeks to ensure that social security measures are distributed fairly, taking into account the needs and situations of different people.

A person who works in another job during a sick leave is entitled to sickness benefit if the fact of non-compliance with the doctor's instructions for treatment is not established

The Supreme Administrative Court of Lithuania upheld the rights of the individual and annulled the decision of the social security institution not to grant sickness benefit to the applicant. The applicant was accused of breaching the rules of conduct by working in another job during the period of official sick leave. The Court clarified that, in order to establish a breach of the rules of conduct during a sick leave, it must be assessed whether the person's work was in breach of

the doctor's instructions. The law does not prohibit a person from pursuing a self-employed activity at the same time as working under an employment contract, and the nature of a person's work may vary from one job and/or self-employed activity to another, just as a person's incapacity for work may be caused by illnesses and/or injuries of various kinds. Therefore, when assessing whether the work of the person declared temporarily unfit for work was in breach of the doctor's orders, it is important to take into account the nature of the work and the person's illness and the interaction between them. The Court found that the institution failed to take these circumstances into account and failed to disclose the

breach of the doctor's instructions during the period of the applicant's sick leave.

Judgment of 11 January 2023 in administrative case No eA-564-502/2022

Refusal to grant compensation for special working conditions cannot be based solely on the title of the post held

In a case concerning a decision of a social security institution refusing to grant the applicant compensation for special working conditions, the Supreme Administrative Court of Lithuania upheld the applicant's rights by referring the case back to the court of first instance for a fresh examination. The applicant sought to have the period from 1 January 1990 to 12 September 1990, when he was appointed as a chief foreman, included in the period of work for the purpose of obtaining compensation. The Court emphasised that, in the field of social security, priority cannot be given to the form of the law (the title of the post in the list of factories, workshops, professions and posts that was in force in Lithuania), without taking into account the content of the legal provision, and its purpose (the nature, conditions, harmfulness and duration of the work actually performed). A person cannot be prevented from obtaining compensation for special working conditions in this way.

Judgment of 5 April 2023 in administrative case No A-528-442/2023

The right of a person who has completed professional military service to a state pension may not be denied on the ground that he or she committed a deliberate criminal offence prior to the commencement of his or her military service

The Supreme Administrative Court of Lithuania has provided an important clarification in a

case concerning the granting of an officers' and servicemen's state pension to an applicant who was convicted of a deliberate criminal offence prior to his military service. The applicant entered the professional military service after the expiry of his previous conviction, was accepted for that service, served for 14 years and was dismissed from that service due to ill-health. In those circumstances, the Court clarified that the fact that a person has been convicted of a deliberate criminal offence is relevant when the deliberate criminal offence was committed during the period of professional military service. The Court held that the applicant has a constitutional right to be treated equally with other servicemen who have joined professional military service and left the service due to ill-health. The Court therefore upheld the applicant's right to claim that the State should fulfil its statutory obligation to pay such persons a state pension of an established amount.

Judgment of the extended chamber of 17 May 2023 in administrative case No eA-627-624/2023

For the purposes of deciding on the allocation of a state pension, the beginning of a judge's service is linked to the date of his or her election as a judge

The Court has clarified Article 5 of the Law on State Pensions for Judges, which states "the person has served as a judge". The applicant was refused a state pension for judges because he had not served as a judge for 5 years. The institution considered that the applicant's service as a judge had started from 1 August 1990 (when the applicant was included in the list of judges of the Klaipėda Regional District Court by an order of the Ministry of Justice) and had ended on 28 July 1995 (the last working day of the applicant as established by an order of the Minister of Justice). The Supreme Administrative Court of Lithuania stated that the beginning of a judge's service must be linked to the date of his election as a judge (12 July 1990) by a competent body (in the case in

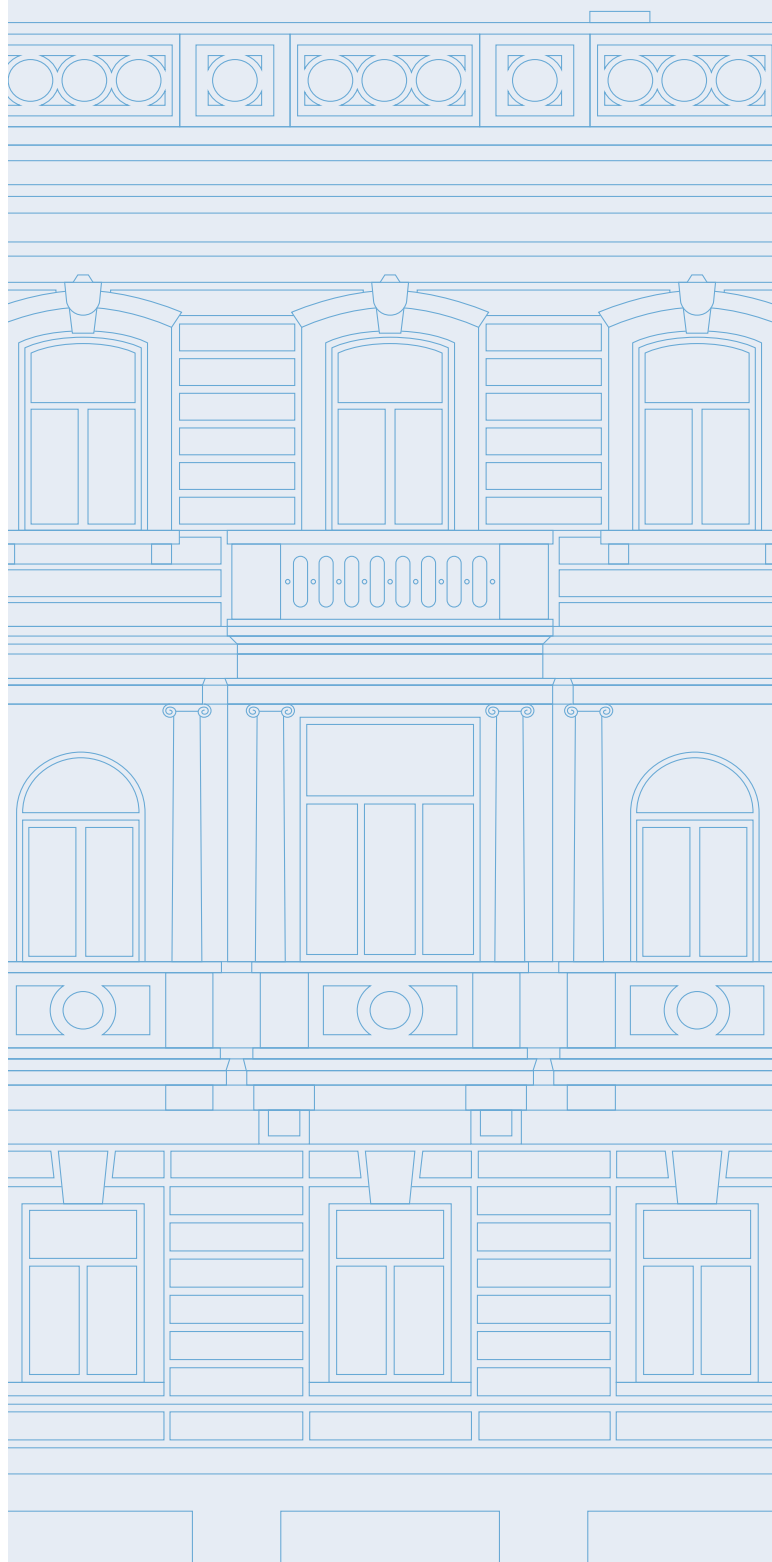
question – the Lithuanian Supreme Council) and not to his inclusion in the list of judges of a particular court by an institution with executive powers. Clear criteria for determining the start and the end of a judge’s term of office, in other words, the duration of his or her service as a judge, are relevant to guaranteeing the duration of the term of office, which is determined by the principle of judge’s independence, as well as the social (material) guarantee of a state pension. Having stated that the applicant has been a judge since his election to the office of judge, it was determined that the applicant has completed five years’ service as a judge.

*Judgment of the extended chamber of 14 June 2023
in administrative case No A-686-1047/2023*

The Supreme Administrative Court of Lithuania referred a question to the Constitutional Court of the Republic of Lithuania, on the legality of the legislation which led to the refusal to recognise a fatal accident on the way from work as an insured event because the person was drunk

In its ruling by which a question was referred to the Constitutional Court, the Supreme Administrative Court of Lithuania emphasised that in the case in question, a person’s right to social assistance had been denied without any consideration of whether the insured person’s condition (e.g. drunkenness) had caused the accident. The Chamber of Judges which heard the case had doubts as to whether such legislation, which was the basis for the contested refusal in the present case, was compatible with Article 52 of the Constitution, which guarantees the right of citizens to receive disability pensions, as well as social assistance in the event of unemployment, sickness, widowhood, and the loss of the breadwinner.

*Judgment of 15 March 2023 in administrative case
No eA-744-1047/2023*





Education

Education and its accessibility are crucial to the social, economic, cultural and civic development of every society. The administrative cases heard in 2023 show that municipal institutions which are responsible for implementing education and training policies together with state institutions, have not paid sufficient attention to this area to ensure equal possibilities to access early childhood education.

Kindergarten fee reduction linked solely to the declared place of residence of the parents and the child is discriminatory

The Supreme Administrative Court of Lithuania declared unlawful the reduction of kindergarten and pre-school fee, established by the Kaunas City Municipal Council, linked exclusively to the declared place of residence of the parents (adoptive parents) of such children in Kaunas. The Court stated that the declared place of residence of the child or his/her parents is not an objective criterion for full or

partial exemption from the kindergarten fee. The establishment of such a criterion is discriminatory and has a direct impact on the children's ability to attend the relevant educational institutions, which is inconsistent with the international obligation of the Republic of Lithuania under the Convention on the Rights of the Child to give priority to the rights and legitimate interests of the child in all cases.

Judgment of the extended chamber of 11 January 2023 in administrative case No eA-591-629/2022

Higher amount of compensation provided by the municipality for attending private kindergarten if the child attends a private kindergarten in that municipality, is contrary to the principle of equal treatment

The procedure for reimbursement of fees for attending nursery and pre-primary school in private educational institutions, approved by the Klaipėda Region Municipal Council, has been declared unlawful. In this case, the amount of the compensation was linked to the location of the educational institution, with a higher compensation being granted to the parents of children attending a private educational institution in the territory of the Klaipėda Region Municipality. The Court noted that decisions taken in the interests of the municipal community must not infringe the rights of individual residents, in particular children, guaranteed by law. The primary purpose of the compensation was to cover the costs incurred by the inhabitants of the Klaipėda Region Municipality, which arose due to the lack of places in nurseries and pre-primary educational institutions of the municipality. The legal regulation assessed in this case was found to be contrary to the principle of equal treatment enshrined in the Constitution.

Judgment of 28 June 2023 in administrative case No eA-727-463/2023

Non-public schools have the right to receive funding for education programmes supplementary to formal education

The Court also held that the provisions of the procedure for the allocation of education funds approved by the Vilnius City Municipal Council which did not provide for the possibility for non-public schools to receive education funds, were contrary to the provisions of higher-ranking legal acts.

It was established in the case that the Law on Education and the Description of the procedure for the calculation, allocation and use of education funds, approved by a government resolution which implemented the Law on Education, lay down the obligation of municipalities to allocate funds to both municipal and non-public schools to finance education programmes supplementing formal education.

Judgment of 18 October 2023 in administrative case No eA-1050-415/2023

The Court will examine the legality of the Life Skills Framework Programme

On 20 December 2023 the Supreme Administrative Court of Lithuania has received a request from a group of members of the Seimas to examine whether the Life Skills Framework Programme, which is referred to in the programme approved by the Order of the Minister of Education, Science and Sport of the Republic of Lithuania, is in conformity with Articles 41(1) and 26(5) of the Constitution of the Republic of Lithuania. A group of members of the Seimas applied to the Court inquiring whether the programme in question does not impose compulsory pupils' upbringing, whereas allegedly according to the Constitution, only education is compulsory for persons up to the age of 16. The applicants also questioned whether such a programme should not be regarded as children's upbringing, *inter alia*, shaping their moral attitudes, whereas, according to the applicants, the Constitution guarantees the parents' right to take care of their children's moral upbringing without restriction. The case initiated by the members of the Seimas will be heard by an extended chamber of judges of the Supreme Administrative Court of Lithuania already in 2024.

Judgment of 23 December 2023 in administrative case No I-23-525/2023



Legal status of foreigners

The legislator has categorised administrative disputes relating to the legal status of aliens as urgent cases. Administrative courts are obliged to deal with complaints concerning the granting of asylum, residence permits in Lithuania and other issues related to the legal status of foreigners urgently – within 2 months. A special urgency procedure applies in cases where the issues are related to restrictions on the freedom of movement of foreigners. The Supreme Administrative Court of Lithuania examines an appeal against a decision to detain a foreigner not later than within 10 days.

In 2023, the Supreme Administrative Court of Lithuania continued to hear an unusually high number of disputes concerning the legal status of aliens (four times more than in 2020). In addition to issues related to the lawfulness of the detention of foreigners, in the year under review, administrative cases repeatedly dealt with issues related to the assessment of threats to national security posed by foreign nationals.

According to the CJEU's interpretations, an asylum seeker's political views must be interpreted broadly to include, *inter alia*, attempts to defend himself by legal means against non-state actors influencing the State through corruption

In the course of examining the lawfulness of the Migration Department's decision to refuse to grant international protection to an alien, the Court had doubts about the interpretation of the concept of "political opinion" and referred the question to the Court of Justice for a preliminary ruling. In accordance with the interpretation given by the Court of Justice in its judgment, the extended chamber of the Court held that the concept of political opinion as a "conventional" ground of persecution is not limited to an asylum seeker's opinion, thought or belief directly linked to politics, in the traditional understanding of that term. The perspective of the actors of the persecution must be taken into account, namely whether the asylum seeker's act or omission is perceived by the actors of the persecution in the specific case in question as opposition or resistance as part of a matter related to those actors or their policies and/or methods. In order to adequately reveal the perspective of the actors of the persecution, the general context of the country of origin of the applicant for refugee status, including political, legal, judicial, historical and sociocultural aspects, is undoubtedly relevant and significant. In accordance with the Court of Justice's clarification, the extended chamber of the Court held that the Migration Department had misinterpreted the notion of political opinion, which could have led to an incorrect decision regarding the applicant's asylum, and therefore, the contested decision was annulled, and the defendant was ordered to reconsider the asylum application in question.

Judgment of the extended chamber of 14 June 2023 in administrative case No eA-1191-624/2023

The decision to enter in the Schengen Information System an alert on the prohibition of the entry of

an alien into the territory of the Member States must respect the grounds for entering an alert as laid down in European Union law

In this case a decision of the Migration Department to enter in the Schengen Information System an alert on the prohibition of the applicant's entry and stay in other Member States of the European Union for a period of 3 years was challenged. That decision was taken on the basis of Article 24(3) of the SIS II Regulation. In accordance with that provision of EU law, an alert shall be entered if an alien has been the subject of a decision to expel or refuse entry on the grounds of non-compliance with the national rules on the entry or stay of third country nationals. The contested decision of the Migration Department did not refer to those circumstances. Thus, the Supreme Administrative Court of Lithuania also disagreed that the established threat to the security of the State posed by an alien constitutes a ground for entering an alert in the Schengen Information System if the conditions for entering an alert laid down in EU law are not established.

Judgment of 29 November 2023 in administrative case No eA-2433-442/2023

According to EU law, a ban on entry is not a ground for refusing to examine a third-country national's application for family reunification

The Supreme Administrative Court of Lithuania annulled a decision of the Migration Department refusing to examine an alien's application for permission to submit documents concerning an application for a temporary residence permit on the basis of family reunification. In adopting that decision, the Court relied on the case-law of the Court of Justice of the European Union, according to which a competent national authority may not refuse to examine an application by a third-country national for a right of residence for the purpose of family reunification with a citizen of the Union who

is a national of the Member State concerned, on the sole ground that that third-country national is subject to a prohibition of entry into the territory of that Member State.

Judgment of 24 May 2023 in administrative case No eA-1689-463/2023

The decision to refuse a national visa must be reasoned

A question was raised in the case regarding the obligation of the competent authorities to state reasons for a decision to refuse to issue a national visa where no such requirement was expressly prescribed by law. Having regard to the fact that the administrative decision to refuse a national visa addressed to the alien did not contain the arguments or reasons which had led to that decision, and that the free-format decision of the competent authority which disclosed such reasons was not made available to the alien, the Supreme Administrative Court of Lithuania held that the contested decision in the case could not be regarded as lawful and well founded. In reaching this decision, interpretation made by an extended chamber of the Court in administrative case No *eI-5-662/2023* regarding a regulatory administrative act was followed, where it was recognised that legal rules which do not prescribe the obligation to state reasons for decisions taken are incompatible with the principles of good administration and responsible governance and makes it difficult to implement the principle of the authorities' accountability to the public.

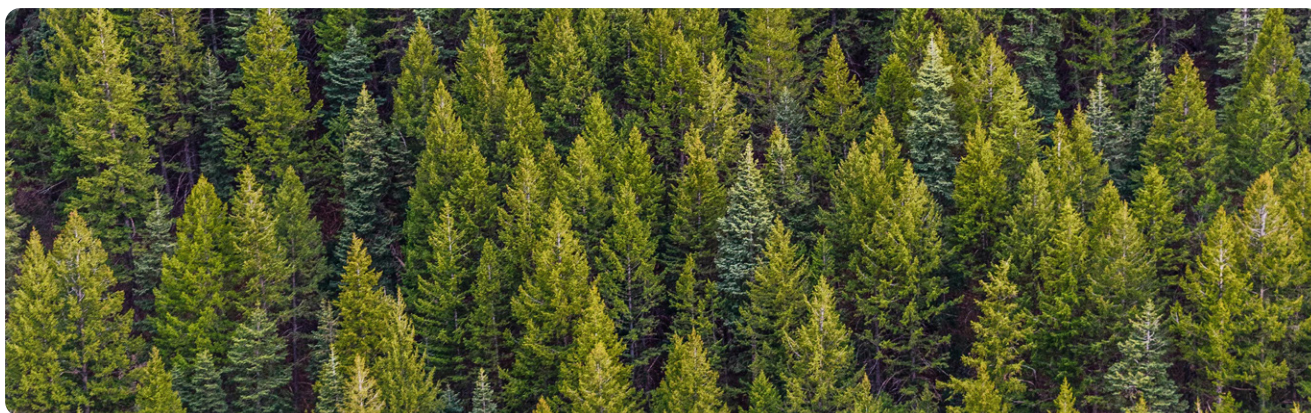
Judgment of the extended chamber of 8 November 2023 in administrative case No A-1249-968/2023

Foreigners' attitudes towards Crimea's affiliation to Russia – an important factor for national security

The Court decided on the assessment of the threat to national security posed by a foreigner. In

her answer to the questionnaire of the Migration Department asking “In your opinion, whom does Crimea belong to?”, the foreigner ticked the box “Russian Federation” and provided explanations in that regard, therefore, the competent authorities concluded that she posed a threat to national security. As a result, the foreigner was refused renewal of a temporary residence permit in the Republic of Lithuania. In these circumstances, the Supreme Administrative Court of Lithuania emphasised that, due to the well-known circumstances relating to the threat posed by Russia to the security of the State of Lithuania, at least for as long as the threat is real, Russian nationals, in particular those seeking to be granted a temporary residence permit in Lithuania, may be subject to a standard of stricter scrutiny, *inter alia*, in view of the fact that they belong to a group of politically vulnerable persons (who are likely to demonstrate favourable beliefs with regard to Russia's acts and policies) and, therefore, the risks posed by them are specific. Consequently, the question of whom does Crimea (i.e. the territory of Ukraine annexed by Russia) belong to, may also be related to general prevention, whereby individuals, by making their beliefs public, likely, prevent the development of their ties with Russia, thus reducing the potential threats to state security of their lives in Lithuania. According to the Court, the foreigner's conscious position in justifying the illegal annexation of the territory of Ukraine by the State of which she is a citizen constituted a sufficient basis for assessing that her temporary residence in Lithuania could pose a threat to the security of the Lithuanian State, and that she, by expressing her support for the pro-Kremlin regime, was also a potential recruitment target for the regime's power structures, which seek to gather information through the persons residing in Lithuania, or to use such persons to ensure the operations of the Russian power structures in foreign states.

Judgment of 21 June 2023 in administrative case No eA-1770-968/2023



Environmental protection

Environmental protection is integral to the well-being of our society. It ensures that the use of natural resources is sustainable and pollution is reduced to protect biodiversity and ensure a livable environment for future generations. The Supreme Administrative Court of Lithuania examined a wide range of issues in 2023, when dealing with disputes relating to decisions and actions taken by administrative authorities that have an impact on the environment. Administrative disputes in this area were mostly related to state control of environmental protection, assessment of environmental impact and consequences, rational use and protection of natural resources.

Impact of deforestation on Natura 2000 sites must be assessed

The Court has provided important clarifications in the area of environmental impact and effects assessment. The extended chamber of the Court held that, prior to the approval of an internal forest management project, it is mandatory to carry out an assessment of the significance of the impact of the planned deforestation on the designated and potential Natura 2000 sites, where the activities are planned to take place in these protected areas or in the immediate vicinity of these sites. It was declared that the order of the Director of the State Forest Service approving the Internal forest management project for the state forests of the Ignalina region was unlawful in so far as it provided for major deforestation in designated and potential European ecological network Natura 2000 sites and in the immediate vicinity of those protected areas.

Judgment of the extended chamber of 6 December 2023 in administrative case No eA-716-624/2023

An undertaking cannot be held liable for the contamination of the banks of the River Nemunas simply because it has acquired a plot of land in the area when another company that operated between 1862 and 1989 had contaminated it by chemical substances

Significant clarifications regarding the person responsible for environmental pollution were provided by the Court in an administrative case in which the applicant challenged a compulsory order issued by the Department of Environmental Protection to him, the owner of a plot of land, to draw up and submit for approval a management plan for a contaminated area on the banks of the Nemunas River in Kaunas. The Court held that the compulsory order obliging

the applicant to draw up a management plan for a plot of land contaminated by chemical substances in accordance with the Ecogeological Research Regulation on the sole ground that he is the owner of that plot of land cannot be regarded as lawful.

Judgment of 22 February 2023 in administrative case No eA-677-624/2023

The Municipal Council has rightly not approved the excavation of a new sand and gravel site in Kaunas region

The dispute arose regarding the decision of the Kaunas Region Municipal Council to disapprove the excavation of a new sand and gravel site in Kaunas Region, near the towns (resort areas) of Kačerginė, Kulautuva, Zapyškis and cultural heritage sites. The Court held that the evidence in the case confirmed the exceptional environmental and recreational significance of the Kaunas region where the planned economic activity was to be carried out, and that the circumstances and reasons set out in the contested decision therefore constituted grounds for the Kaunas Region Municipal Council, in exercising its discretion, to adopt a negative decision on the applicant's planned activity, taking into account the specific features of the area and the nature of the activity.

Judgment of 8 February 2023 in administrative case No eA-114-789/2023

A permit to cut down protected trees which was issued by a municipality in disregard of the requirements in the legislation was annulled

The protection of trees of conservation concern was the subject of a case in which a permit issued by the municipal administration of the Trakai district to cut down trees and shrubs of conservation concern on the shores of Lukos and Galvė lakes, on the islands of Karvinė and Bažnytėla, and on the streets of Vytautas and Karaimų has been annulled. The Court found substantial procedural infringements

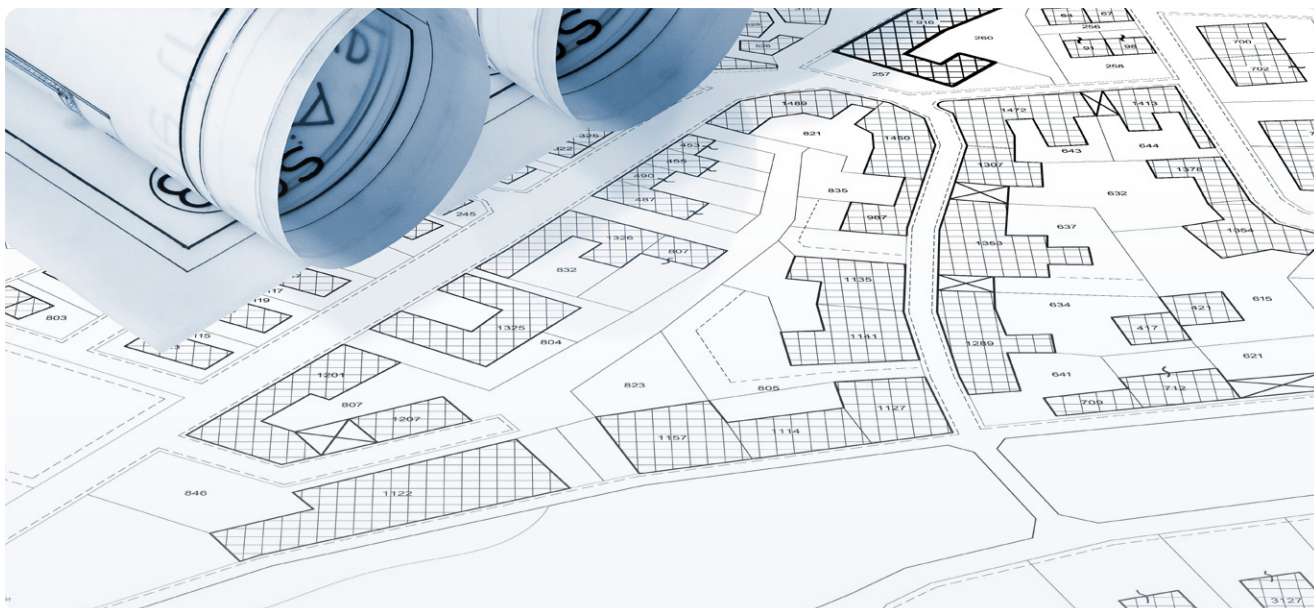
in the work of the Commission for the Protection and Supervision of Plantations and Green Areas, i.e. the matter under consideration was not agreed on with other competent authorities, the inspection of plantations was not carried out, the decisions taken in relation to the matters discussed were not clearly formulated, the required number of members of the Commission did not take part, and others. In view of the above, it was concluded that the Trakai District Municipality Administration issued the permit in violation of the legal requirements.

Judgment of 11 January 2023 in administrative case No eA-129-556/2023

Compulsory orders were rightly issued to the public body "Raubonių Parkas" for violations of the rules on keeping animals

An administrative case in which the public body "Raubonių Parkas" challenged compulsory orders issued to it by the Department of Environmental Protection has attracted public attention. The applicant objected to the first mandatory order for the unlawful keeping of prairie dogs and striped squirrels without the necessary permits, and sought to prove that it had been granted permission to set up a zoo. The Court found that the public body "Raubonių Parkas" did not have a permit to keep wild animals in captivity or a permission to set up a zoo, and that it had therefore kept those animals illegally. The second compulsory order to provide indoor facilities for the listed wild animals (e.g. owls, deer, meerkats, etc.) in enclosures or aviaries which comply with the requirements laid down in the Rules on the Use of Wild Animals was also considered justified. The Court, after examining the appeal against the third mandatory order, ruled that the public body "Raubonių Parkas" could not keep some of the wild animals because they were kept without legitimate acquisition documents, the necessary permits for keeping animals and commercial use certificates.

Judgment of 18 January 2023 in administrative case No eA-1210-520/2023



Spatial planning and other land legal relations

Spatial planning helps to create a cohesive and sustainable environment and to improve the living conditions of people. Administrative courts play an important role in interpreting legislation and resolving complex legal issues related to land use, spatial planning, permits for construction projects and environmental protection. Their judgments help to ensure that territorial development is carried out in the public interest and in accordance with the principles of environmental protection.

Information on a draft spatial planning document must be clear

The Supreme Administrative Court of Lithuania, when examining a dispute concerning the information on a draft spatial planning document, has emphasised that proper information on the preparation of such documents includes the proper and clear content of the information itself, which enables a clear understanding of the territory

being planned, the objectives of the project being prepared, the deadlines, and any other information that is necessary for interested parties to be able to exercise properly the rights guaranteed by laws and other legal acts in the process of spatial planning.

Judgment of 27 September 2023 in administrative case No eA-472-520/2023

The planning organiser must provide a clear and comprehensive response to the proposals made by individuals on a spatial planning document

The Court, in its discussion of the planning organiser's replies to the proposals of persons concerning the draft spatial planning document, emphasised that, where the organiser has taken a decision to reject the proposals, the reasons set out in the reply must, first of all, be in line with the arguments put forward by the persons who have submitted the proposals (be individualised), and must be sufficiently detailed so that the reasons for the decision (why the proposals submitted cannot be accepted) are clear for the parties to the legal relationship, the institutions that carry out state supervision of spatial planning process and the court (if such a dispute is subsequently initiated), and that the reply must show that the organiser has actually fulfilled its obligation to examine the proposals submitted to it, and has considered and assessed them.

Judgment of 20 December 2023 in administrative case No eA-1262-415/2023

The mere fact that a plot of state land is formed by a detailed plan or other document does not in itself create the right of the owner of a building on that plot to acquire the entire plot of state land without auction

When examining the legality of the provisions of the Methodology for the administration of plots of state land for other uses to be sold or leased without auction, approved by the Minister of Agriculture, the extended chamber of the Court, *inter alia*, emphasised that the mere fact that a plot of state land has been formed by a detailed plan or other document, does not in itself create the right of the owner of a building located on such a plot to acquire the entire plot of state land without an auction.

Such an interest can only be exercised if all the necessary conditions for the acquisition of state land by a preferential procedure (without an auction) established in the law are fulfilled, i.e., *inter alia*, if it is recognised that a plot of state land of the exact size as is formed by the the detailed plan is necessary for the operation of the buildings in question in accordance with their direct purpose.

Judgment of the extended chamber of 24 May 2023 in administrative case No eI-4-629/2023

The interests of the residents in relation to the lack of parking space must be taken into account when deciding on the question of the attachment of an intervening public land plot to a private land plot

The dispute in the case concerned the merging of an intervening area of public land to private land. It was established that the attachment of the disputed land plot to private land plot would deprive the occupants of an apartment building of the right and possibility to use the land plot as a parking lot. The Court emphasised the need to assess the balance between the interest of the residents of the building in the use of the land and the property interest of the third parties in this case in order to determine whether the public land should be attached to the private land as a matter of priority or whether it should be left for the use of the residents of the building, as a possible solution to the shortage of parking space next to the apartment blocks. In those circumstances, the appeal of the applicant, an association of the owners of a multi-apartment residential building, was upheld and the contested decision of the Vilnius City Municipal Administration concerning the approval of the land plot formation and conversion project was annulled.

Judgment of 29 November 2023 in administrative case No eA-2468-602/2023



Registers

The importance of registers for the State and society is indispensable, as they provide legal clarity, public order and efficient administration, helping to manage a wide range of areas such as finance, real estate, population data, etc. Although disputes relating to registers account for only a small proportion of the total number of cases dealt with by the Court each year, these cases increasingly raise complex issues of application and interpretation of the European Union law.

The European Certificate of Succession must indicate the details of the inherited immovable property located in Lithuania, as required by EU law

The Court ruled on the refusal to register ownership rights to immovable property on the basis of a submitted European Certificate of Succession which did not contain the data necessary to identify the immovable property. Following the interpretations given by the Court of Justice, the Supreme Administrative Court of Lithuania took the position that the European Certificate of Succession must indicate the property attributed

to the heir in respect of which the certificate is requested. In the present case, in order to register in the Lithuanian Real Estate Register the ownership right to immovable property located in Lithuania, the applicant submitted a European Certificate of Succession issued by a court of the Federal Republic of Germany, which did not contain any data on such property. The contested administrative decisions adopted by the Centre of Registers were found to be justified and lawful.

*Judgment of the extended chamber of 24 May 2023
in administrative case No. eA-1195-662/2023*

The refusal of the Centre of Registers to register a marriage contract concluded in the Italian Republic and the matrimonial property regime specified therein will be assessed following clarifications from the Court of Justice of the European Union

The applicant complained against the decision of the Centre of Registers to refuse to register the marriage contract concluded in the Italian Republic regarding the matrimonial property regime. The refusal to register such a contract was based on the provisions of the Regulations of the Register of Marriage Contracts, according to which a marriage contract concluded in a foreign State may be registered if it contains the personal identification number of at least one of the spouses. The marriage contract submitted by the applicant did not fulfil that requirement. In such circumstances, the Supreme Administrative Court of Lithuania referred to the Court of Justice of the European Union in order to clarify whether the prohibition to register a marriage contract concluded abroad in the Register of Marriage Contracts, where it does not contain the personal identification number of at least one of the spouses, violates the freedom of movement of EU citizens. Following the clarification of the Court of Justice of the European Union, the suspended administrative case will be reopened, examined on its merits, and a final judgment will be adopted.

Judgment of the extended chamber of 20 December 2023 in administrative case No eA-834-662/2023

Under EU law, a driving licence issued in a foreign country is not recognised if the right to drive is not restored

The dispute concerned the non-recognition of a driving licence issued in a foreign country. This driving licence was issued to a person who had not regained the right to drive in the Republic of Lithuania after his driving licence was withdrawn for committing an offence when drunk. The Court noted that, in implementing the provisions of European Union law, the Republic of Lithuania has established the conditions under which it refuses to recognise as valid a driving licence issued by another Member State. The applicant has not provided evidence that he has fulfilled the conditions laid down in the law for the restoration of the right to drive vehicles. The Court did not uphold the applicant's request for the annulment of the restrictions on the right to drive vehicles imposed on him in the Register of Administrative Offences.

Judgment of 6 December 2023 in administrative case No eA-1554-442/2023



Taxes

Taxes are the main source of State funding which allows to ensure the provision of public services, infrastructure development, social welfare and other important functions of the State. Disputes concerning taxes, levies and other compulsory payments to the state and municipal budgets, as well as the activities (or failures to act) of the tax administrator, which are part of the competence of the administrative courts, accounted for a significant number of the cases examined by the Court in the year under review, and the disputes themselves were characterised by a variety of issues raised.

Life insurance benefits are subject to personal income tax, with the individual benefiting from a tax deduction

The Court ruled on the liability to personal income tax of a cumulative life insurance benefit paid on the termination of an insurance contract, where the individual has exercised the option to reduce his taxable income each year by the amount of the premiums paid. In this context, it has been clarified that the taxpayer's right to deduct life insurance premiums from income in accordance with the procedure laid down in the law also gives rise to an obligation: once that right is exercised, to pay income tax upon expiry of the life insurance contract.

Judgment of 22 November 2023 in administrative case No eA-849-556/2023

A supplier in good faith is not liable to pay VAT if the acquirer fails to export the goods

The Court ruled on the assessment of the supplier's good faith for the purposes of holding him liable for payment of VAT where, in the course of intra-Community supplies, the acquirer fails to remove the goods from the territory of Lithuania. It was pointed out that, where the right to dispose of the goods in question as owner is transferred to the acquirer in the territory of the Member State of supply for the purpose of intra-Community supply, and where the acquirer undertakes to transport the goods to the Member State of destination, a supplier in good faith may not be held liable to pay VAT on that supply where the acquirer fails to fulfil its obligation to transport the goods. In other words, in such a case, the mere fact that the goods in question have not been actually (physically) removed from

the territory of the Member State of supply by the acquirer does not, of itself, render the supplier liable to pay VAT to the state budget in respect of that supply, but the supply must be assessed with respect to the requirements of good faith of that taxable person (the supplier).

Judgment of the extended chamber of 17 May 2023 in administrative case No eA-72-575/2023

Questions to the Court of Justice of the European Union regarding application of the transaction value method

The Court was hearing a tax dispute concerning a decision of a territorial customs authority which, *inter alia*, essentially held that the applicant (the importer) had infringed the provisions of the Union Customs Code by declaring the incorrect customs value of the imported goods (fuel). The Supreme Administrative Court of Lithuania, having doubts as to the validity of the transaction value method applied by the customs authorities, asked the Court of Justice of the European Union to clarify the application of the transaction value method of customs valuation in a case where, at the time of the submission of the declaration, only the provisional price payable to the supplier for the imported goods is known, and where the final price is determined after the release of the goods for free circulation. Following the clarification of the Court of Justice of the European Union, the suspended administrative proceedings will be reopened, examined on their merits, and a final judgment will be adopted.

Judgment of the extended chamber of 13 December 2023 in administrative case No eA-335-442/2023

A clarification has been provided regarding the period for which a tax overpayment (difference) can be refunded (set off)

The Court ruled on the new limitation periods for the calculation and recalculation of tax and

for the refunding (setting off) of the overpayment (difference), which came into force on 1 January 2020. It was clarified that, where a request for refunding an overpayment (difference) of tax arising before 31 December 2019 is submitted after that date, the limitation periods applicable from 1 January 2020 apply, unless the taxpayer has taken action before the new time limits came into force which demonstrated his knowledge of, and intent to recover, that overpayment (difference). However, such actions were not considered to be mere circumstances where the taxpayer declared an overpayment of the tax or applied to the tax administration for the reconciliation of mutual obligations, in the absence of other circumstances objectively demonstrating that such actions were aimed at initiating the refund (setting off) procedures in question. Moreover, the mere use of part of an existing overpayment to offset other tax liabilities, made before the entry into force of the new limitation periods, does not, in itself, constitute an act which indicates an intention to recover the remaining part of the overpayment (difference).

Judgment of the extended chamber of 29 March 2023 in administrative case No eA-1144-789/2023, Judgment of the extended chamber of 30 October 2023 in administrative case No eA-1680-968/2023 (dissenting opinions of judges have been given in these cases)

The tax authority's decision to recover tax interest must be reasoned

The Court assessed the actions of the tax administrator in recovering the arrears and found unlawful the tax administrator's decision to recover, without giving any reasons, an amount of interest on late payment of tax which was obviously higher than that indicated in the decision to approve the inspection report.

Judgment of 11 October 2023 in administrative case No A-601-602/2023



Competition

Competition supervision is important to ensure the fair and efficient functioning of the market, to promote competition between undertakings and to protect the interests of consumers and other market participants. In 2023, the Supreme Administrative Court of Lithuania in competition cases mainly dealt with issues related to the liability of the managers of undertakings that have committed competition infringements, and has provided clarifications regarding the procedure for notifying concentrations.

Restriction of the right to hold office was rightly imposed on the managers of driving schools which had entered into a prohibited agreement

In the administrative proceedings, the sanctions imposed on the managers of the driving schools which had entered into a prohibited agreement were individualised in accordance with the criteria laid down in the Law on Competition, including both

the general principles of fairness, reasonableness and justice, and the individual circumstances of the infringement. By entering into the agreement, the managers of the driving schools restricted price competition. The agreement involved a large number of undertakings operating in the markets of Vilnius and Kaunas and was aimed at influencing other undertakings (not parties to the agreement) to increase prices. The Court therefore concluded that

the nature and gravity of the infringement justified the imposition of a restriction on the right to hold office and the imposition of financial penalties.

The Court noted that arguments relating to the restriction of the right to hold office and the negative consequences that would result (loss of employment, restriction of the right to choose one's professional activities, worsened financial situation) as well as to age and existing financial obligations are not generally considered to be grounds to apply more lenient sanctions. Moreover, such a restriction on the right to choose a job does not preclude the right to choose a place of work and to work in general.

Judgment of 25 January 2023 in administrative case No eA-60-502/2023

The Competition Council was justified in refusing to initiate a merger review procedure, having found that the submitted notification of the merger clearly did not comply with the established requirements

The Supreme Administrative Court of Lithuania has noted that a merger control procedure is

initiated only after receipt of all the information relevant for the conduct of such procedure. The existing legal framework does not contain any provisions obliging the Competition Council to initiate a merger review procedure upon receipt of a notification of concentration that clearly does not comply with the established requirements. As the applicant did not provide all the information required by the applicable legal rules, the authority was justified in assessing that the notification of the concentration did not comply with the established requirements.

Judgment of 30 August 2023 in administrative case No eA-1222-624/2023



Supervision of financial markets

Financial market supervision is important to ensure the stability and safety of the financial system, to protect investors and other financial market participants, to contribute to the country's economic growth, and to build confidence in the financial market. During the year under review, the Supreme Administrative Court of Lithuania provided important interpretations on issues related to cash handling, investment activities and measures to prevent money laundering and/or terrorist financing.

EU law does not require a cash handler carrying out automated fitness checks on euro banknotes to ensure that the checks are carried out in accordance with the minimum standards laid down for manufacturers of banknote handling machines

The Bank of Lithuania, having detected infringements of legal acts, obliged the company to ensure that its banknote handling machines, when carrying out automated fitness checks on euro banknotes, do not incorrectly sort as fit for circulation more than 5 % of euro banknotes that are unfit for circulation. In this case, the Supreme Administrative Court of Lithuania referred questions to the Court of Justice of the European Union in order to clarify whether cash handlers are obliged to comply with the minimum standards for the automated checking of the fitness of euro banknotes by banknote handling machines. Taking into account the interpretations provided by the CJEU in its preliminary ruling, the Court stated that the above-mentioned minimum standards are not applicable

to the company and therefore the Bank of Lithuania had erred in deciding that the company had breached them. The Bank of Lithuania's decision was annulled for failure to state suitable legal basis.

Judgment of 16 November 2023 in administrative case No A-1204-822/2023

Liability for trading in investment funds for informed investors is governed by the Law on Collective Investment Undertakings for Informed Investors, not the Law on Financial Instruments Markets

The Bank of Lithuania imposed a fine of EUR 40,000 on a company for breach of legal acts on the grounds that the company was carrying out investment activities, although it was not allowed to carry out such activities as it did not have the necessary licence. The Supreme Administrative Court of Lithuania found that the company's activities, which were investigated by the Bank of Lithuania, were primarily regulated by the provisions of the

Law on Collective Investment Undertakings for Informed Investors. All investment funds whose units were bought and sold by the company were intended for informed investors. The Court found that the company did not trade in units of collective investment undertakings of which it was not the manager. Therefore, liability for infringements committed in the course of such activities had to be imposed under the Law on Collective Investment Undertakings for Informed Investors and not under the Law on Financial Instruments Markets. This constituted grounds to consider that the decision of the Bank of Lithuania was unfounded.

Judgment of 4 January 2023 in administrative case No eA-643-624/2022

Real estate brokerage companies are required to implement anti-money laundering and/or anti-terrorist financing measures when clients pay for real estate in cash in an amount equal to or exceeding EUR 10 000

The Supreme Administrative Court of Lithuania has not reduced the fine of EUR 8 265 imposed on a real estate brokerage firm. The fine was imposed on the company for failing to implement measures to prevent money laundering and/or terrorist financing in accordance with the Law on the Prevention of Money Laundering and Terrorist Financing, when four of its clients paid in cash an amount equal to or in excess of EUR 10 000 for real estate (apartments) sold directly to them. The director of the company also failed to inform about the person appointed to organise the implementation of the preventive measures. According to the Court, the Financial Crimes Investigation Service correctly found that the company had violated the requirements of the Law on the Prevention of Money Laundering and Terrorist Financing by such actions.

Judgment of 19 July 2023 in administrative case No eA-444-1188/2023

Reference has been made to the Court of Justice of the European Union for a preliminary ruling on the calculation of fines under Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing

The contested decision of the Director of the Financial Market Supervision Service of the Bank of Lithuania stated that the applicant, an electronic money institution, committed eight infringements of the Law on the Prevention of Money Laundering and Terrorist Financing (“the PMLTF Law”) and of the Instructions to Financial Market Participants, which are aimed at the prevention of money laundering and/or the financing of terrorism. In this context, the extended chamber of the Court had doubts whether the PMLTF Law correctly transposes the provisions of Directive 2015/849. The Supreme Administrative Court of Lithuania has referred questions to the Court of Justice of the European Union as to whether Article 59 of Directive 2015/849 must be interpreted as precluding national legislation under which, if the competent national authority finds several infringements of both the same and different sets of requirements under Article 59(1)(a) to (d) of Directive 2015/849 in the course of a single inspection, each of the infringements is considered to be a separate systemic infringement, and each of those infringements is subject to a separate fine having regard to the maximum fine laid down in the national law implementing Directive 2015/849. The Court also asked what criteria should be taken into account in order to determine whether an infringement under Article 59 of Directive 2015/849 is systematic, if such national provisions are not compatible with Article 59 of Directive 2015/849.

The administrative proceedings are suspended until the preliminary ruling of the Court of Justice of the European Union is received.

Ruling of the extended chamber of 8 November 2023 in administrative case No eA-40-822/2023



Tobacco and alcohol control

The Supreme Administrative Court of Lithuania hears disputes arising in the field of tobacco and alcohol control and decides on various issues related to restrictions of economic activity. In deciding on these disputes, it is particularly important to strike a balance between freedom of economic activity and reducing harmful consequences for human health.

Advertising of non-alcoholic beer does not in itself constitute advertising of alcoholic beer

The Supreme Administrative Court of Lithuania annulled the decision of the Department of Drugs, Tobacco and Alcohol Control to impose an economic sanction on a company for the dissemination of non-alcoholic beer advertisements allegedly encouraging the purchase of alcoholic products. The Court considered that the mere similarities in the layout, design and lettering of the cans of non-alcoholic beer and of the cans of alcoholic beer, and

the continuity of the themes of the advertising of alcoholic beer in the advertising of non-alcoholic beer, do not, in themselves, substantiate that, as a consequence of those similarities, the advertising of non-alcoholic beer indirectly increased the awareness of the alcoholic beer produced and distributed by the undertaking. It has not been refuted in the case that the company produces and sells non-alcoholic beer and that the advertising was intended to promote non-alcoholic beer. In the Court's view, there was no sufficient basis in the case to conclude that the average consumer, when

seeing a particular brand of non-alcoholic beer and its advertisement, would associate it with alcoholic beer of that brand.

*Judgment of 29 March 2023 in administrative case
No eA-237-968/2023*

Sale of alcoholic beverages from vending machines is prohibited in Lithuania

The Supreme Administrative Court of Lithuania has confirmed that the Department of Drugs, Tobacco and Alcohol Control has rightly imposed a fine on a company for selling alcoholic beverages from a vending machine and for selling alcoholic beverages at prohibited times. The company was not licensed to retail alcoholic beverages. According to the legislation, it is prohibited to sell alcohol from vending machines in the Republic of Lithuania. The fact that the sale of alcohol was carried out through vending machines was sufficient grounds for establishing an infringement of the Law on Alcohol Control.

*Judgment of 1 March 2023 in administrative case
No eA-364-629/2023*

Display of IQOS electronic devices spreads covert advertising of tobacco products

The Supreme Administrative Court of Lithuania has decided that information promoting the purchase of a device intended for the consumption of tobacco products is disguised advertising of tobacco products. In the case, it was held that the company, by displaying images and names of IQOS electronic devices, informing about prices and price discounts, informing about the conditions of purchase and return of the IQOS electronic device, offering to try it free of charge, providing information about the places of sale of the device, etc., disseminated a prohibited advertisement of this product.

*Judgment of 1 March 2023 in administrative case
No eA-14-629/2023*



Energy

Energy is a key driver of economic and technological development, enabling to supply the society with electricity, heat and other forms of energy necessary for the economy, industrial activity, transport and everyday life, as well as enabling innovation and sustainable development. In 2023, the issues heard by the Supreme Administrative Court of Lithuania included disputes related to renewable energy resources, restrictions of the freedom of economic activity of independent heat producers, the determination of the price of the transmission of natural gas, and others.

Minister for Energy's restriction on the amount of palm oil-derived product allowed in biofuels is lawful

The Court did not find that the higher-ranking legal acts relied on by the applicants were contradicted by the Order of the Minister for Energy and the provisions of the Methodology for the calculation of the share of renewable energy sources in total final energy consumption approved

by that Order, which, *inter alia*, provide that biofuels produced from palm oil by-product palm fatty acids distillate are to be considered as biofuels produced from food and/or feed crops.

The case challenged the compatibility of the above regulation with the provision of Article 1(2) of the Law on Alternative Fuels, according to which the objective of that law is to reduce the impact of the transport sector on climate change and air pollution,

with a view to achieving a share of at least 15 % of renewable energy sources in the transport sector in relation to the total final consumption of energy in the transport sector in 2030. In that regard, the Court emphasised that an administrative court is not empowered to predict whether the measures chosen by the legislator of a regulatory administrative act will ensure the attainment of an objective of the type laid down in that law.

The conflict of a normative administrative act with a legal norm that establishes a specific implementation target (in this case by defining the share of renewable energy sources in the transport sector in 2030) could be established when it is obvious that the legal regulation enshrined in the act prevents (will prevent) the possibility of achieving the objective, and this is clearly contrary to the welfare of the country, the interests of the Lithuanian society and the State, and obviously contradicts the values enshrined and protected by the Constitution and the laws. Having assessed the facts of the case, the Court has found that the contested regulation does not contradict the provisions of higher-ranking legal acts.

Judgment of the extended chamber of 9 February 2023 in administrative case No I-8-520/2022

Provisions of the Law on Renewable Energy Resources and the Government Decree implementing it have been declared to be unconstitutional in response to the reference of the Supreme Administrative Court of Lithuania to the Constitutional Court of the Republic of Lithuania

The Supreme Administrative Court of Lithuania, by its ruling of 17 April 2023 in administrative case No. *eI-8-1188/2023*, decided to refer to the Constitutional Court of the Republic of Lithuania a request to investigate whether a provision of the

Law on Renewable Energy Resources of the Republic of Lithuania, in so far as the newly introduced legal regulation radically changes and narrows the initial conditions for state-encouraged economic activity, which gave rise to the relevant legal relations and legitimate expectations of the persons concerned, is in conformity with the Constitution.

The Constitutional Court of the Republic of Lithuania, by its judgment of 7 November 2023, declared that Article 13(10) of the Renewable Energy Resources Law (wording of 23 June 2022), insofar as it does not provide for the further regulation of the economic relations of persons who had already started the process of installation of solar power plants, but who were no longer able to continue the process due to the limitation of the total installed power of the solar power plants set forth in this paragraph, is in contradiction with Article 46 of the Constitution, the constitutional principles of the rule of law and responsible governance. Government Decree No 66 of 1 February 2023 “On the development of the solar power plants referred to in Article 13(10) of the Law on Renewable Energy Resources of the Republic of Lithuania” was also found to be contrary to Article 46 of the Constitution and the constitutional principle of the rule of law. The examination of the legality of the regulation adopted by the State Energy Regulatory Council challenged in this administrative case will continue after the official publication of the Constitutional Court’s ruling in the Register of Legal Acts on 2 May 2024.

Judgment of 17 April 2023 in administrative case No eI-8-1188/2023

The additional price component of security of natural gas supply to the transmission price of natural gas is legally justified

The Supreme Administrative Court of Lithuania has examined a number of disputes concerning the

reasonableness of the additional price component of security of natural gas supply to the natural gas transmission price. These cases raised, *inter alia*, questions concerning possible infringements of Union rules on State aid and the consequences of such infringements. In one of these cases, the Court concluded that the lawfulness of the State aid scheme at issue in this case was beyond doubt and had been confirmed by the European Commission and the courts. In the light of the above, the applicant's complaint concerning the reasonableness of the amounts of this add-on to price approved by the State Energy Regulatory Council and applied in 2020 was rejected.

*Judgment of 19 April 2023 in administrative case
No eA-421-415/2023*

The Constitutional Court of the Republic of Lithuania has been referred to regarding the regulation of pricing for independent heat producers who benefited from EU financial support

The Supreme Administrative Court of Lithuania has decided to refer to the Constitutional Court

a request to examine the regulation established in the Law on the Heat Sector, which provides that the compulsory pricing of heat production shall be applied for an indefinite period of time to independent producers of heat, when they have benefited from the European Union's financial support for the construction or modernisation of a heat production facility that is owned or held by them on another basis, without a possibility for differential treatment of such undertakings. In the Court's view, an indefinite restriction on the freedom of economic activity of independent heat producers by applying mandatory heat production pricing on the sole ground that the construction or modernisation of a heat production facility has benefited from European Union financial support may not only be disproportionate, but also unjustifiable in the light of the requirements of fair competition or the protection of consumer rights.

*Judgment of 22 March 2023 in administrative case
No eA-1431-415/2023*



Personal data protection

The area of personal data protection is of particular importance in today's society, where technology and the internet have substantially increased the volume and accessibility of information. Administrative courts, when deciding on disputes in the field of personal data protection, must ensure that the rules on personal data, laid down in the General Data Protection Regulation (GDPR) and in national legislation, are interpreted and applied clearly and consistently.

The employee must be informed that the employer, having monitored the workplace for a long period of time with the employee's consent by means of CCTV cameras for the purposes of work discipline, subsequently stops the processing of such video data

The employer challenged a decision of the State Data Protection Inspection, which found the employee's complaint about video surveillance at the security post for work discipline purposes to

be justified and reprimanded it. In this context, the Supreme Administrative Court of Lithuania was deciding on the issue of the failure to inform the data subject about the termination of the collection of personal data which had been carried out for a long period of time.

It was established in the case that the employer acted in a non-transparent manner by informing its former employee on 15 October 2013 and 24 June 2015 about the processing of personal data and the monitoring of CCTV cameras, but

subsequently failing to inform him of the fact that it had terminated the processing of such data for the purposes of work discipline. The Court held that a situation in which a processor, having collected personal data for a long period of time with the consent of the data subject (by means of CCTV surveillance of a person), subsequently stops collecting such data without properly informing the data subject, is incompatible with the imperatives of fair and transparent data processing. The Court stressed that similar requirements for the processing of personal data arise from the principles of lawfulness, fairness and transparency enshrined in the GDPR.

Judgment of 5 April 2023 in administrative case No eA-245-968/2023

Advocates' right to access personal data is not absolute

The Supreme Administrative Court of Lithuania has clarified that the Law on the Bar gives advocates the right to receive personal data, but this right is

not absolute and can only be exercised in accordance with the conditions set out in the Law on the Bar and the conditions for lawful processing of personal data provided for in the GDPR. An advocate representing a client in a civil case initiated for the protection of the interests of a child requested information on the defendant's administrative convictions for any administrative offences and access to her administrative offence files. The Court, considering that the advocate did not put forward any reasoned arguments as to how that information might be relevant to the subject-matter of the civil proceedings, concluded that such a request was not proportionate to the damage which disclosure of the information would cause to the defendant's reputation, her interests, rights and freedoms. It was therefore concluded that the applicant's request was rightly refused.

Judgment of 29 November 2023 in administrative case No eA-831-525/2023



Consumer protection

Protecting consumer rights is essential to ensure the fair and safe purchase and use of goods and services. The right of consumers to receive correct and comprehensive information about the goods and services being sold is one of the main values to be defended before the administrative courts. In 2023, the Supreme Administrative Court of Lithuania adopted several important decisions strengthening the protection of consumer interests.

Manufacturers and distributors of toys must take care to ensure that toys comply with the safety requirements laid down in EU law

The Court defended the interests of the youngest consumers by explaining the importance of not only labelling children's products appropriately, but also of ensuring their safety if they may pose danger to them when used as intended. In its assessment of the plush dinosaur covered in sequin scales provided by the applicant Ty Inc., which was labelled "Unsuitable for children under 3 years of age", the Court took into account the fact that soft, stuffed toys are

essentially in the category of toys for children up to the age of 3. Although part of the toy's surface is covered with sequin scales, the toy's characteristics make it suitable for use not only by children over 36 months of age, but also by younger children. It is therefore subject to stricter requirements applicable to the toys of the youngest children (including physical and mechanical properties, tested by torsion and tensile tests). The Court held that the toy was correctly found to be unsafe.

*Judgment of 14 June 2023 in administrative case
No eA-773-821/2023*

Completion of a newsletter registration form and confirmation of the registration from a company's email address constitutes a duly obtained consent to receive advertising, notwithstanding that a specific IP address from which the registration to receive the newsletters was made, has not been identified

In a case regarding a person's consent to receive newsletters, the relevance of the identification of the IP address for the assessment of whether consent to receive advertising has actually been given has been discussed. The Court explained that an IP address is a factor which changes according to the location of the user's login, and that the mere identification of the person who has filled in the registration form by reference to his location

does not allow the identification of the consent of the user who receives the advertisement in his e-mail inbox. Therefore, the identification of the IP address from which the registration to receive the company's newsletters was made and of the person who filled in the registration form, even in the absence of a link between that person and the applicant, would not allow to decide on a breach of the Law on Advertising. There is no legal obligation on the advertiser to ascertain whether the consent to receive advertising has been given by a person duly authorised to act on behalf of the applicant, or whether such consent is not fraudulent or given in error.

*Judgment of 12 April 2023 in administrative case
No eA-373-552/2023*



National and European Union financial support

National and European Union financial support aims to promote economic growth and development by investing in infrastructure, education, research, entrepreneurship and other sectors. The year 2023 was characterised by a large number and variety of cases at the Supreme Administrative Court of Lithuania, in which disputes arising from legal relations on financial assistance were heard. The Court has dealt with employment promotion measures, support for legal persons, the application of financial corrections in the event of a finding of non-compliance with obligations, and other important issues.

When an employer is subject to international financial sanctions, the payment wage subsidy is terminated

The Employment Service under the Ministry of Social Security and Labour has terminated the payment of a wage subsidy to the sanatorium “Belarus” for its employees who have been placed under a work stoppage.

The decision followed the adoption by the Council of the European Union of restrictive measures against President Lukashenko, Belarusian leaders and officials responsible for violations of international electoral standards and international human rights and freedoms law, and the repressive measures taken against civil society and the democratic opposition. The Supreme Administrative Court of Lithuania emphasised that the Law on Employment directly provides for the termination of the payment of the wage subsidy in the event of international financial sanctions against the employer. The imposition of such international sanctions is the only factual circumstance which the

Employment Service was obliged to establish when adopting the contested decision.

Judgment of 26 July 2023 in administrative case No eA-358-822/2023

When deciding on the repayment of EU financial assistance paid, even if a fixed financial correction is foreseen for a specific infringement, it is necessary to assess the individual circumstances of the established infringement

The Supreme Administrative Court of Lithuania examined a case challenging the decision of the Central Project Management Agency to declare that the applicant, LTG Infra AB (formerly Lietuvos geležinkeliai AB), had carried out a public procurement procedure of international value by means of an open tender procedure, and having established that in the terms of the tender the value of the services to

be subcontracted could not exceed 40 %, violated the Public Procurement Law and thereby restricted competition, which led to a financial correction of 5 % and to the recovery from the applicant of part of the amount of the European Union (EU) Structural Funds support paid to it.

The Court, having examined the contested decision of the Central Project Management Agency to declare that LTG Infra AB (formerly Lietuvos geležinkeliai AB) had infringed the Law on Public Procurement due to the restriction of subcontracting, decided to reduce the amount of the financial correction of 5 % to 4 %.

It has been noted in the case that EU regulations do not require to establish (prove) the fault (intention or negligence) of the undertaking in the breach of public procurement requirements in order to apply the financial correction and recover the unjustified benefit. On the other hand, the mere fact that an infringement has been detected is not sufficient to establish an infringement under Regulation (EC) No 1303/2013 if the infringement could not have had a financial impact on the EU budget. In this respect, an assessment has to be carried out not only of whether any damage has not actually been made, but also of the potential damage, i.e. whether, given the circumstances of the public procurement, it cannot be excluded that the infringement had an impact on the budget of an EU fund. In this case, the Court held that it cannot be excluded that the restriction on subcontracting may have had an impact on the EU budget, since the restriction created a risk of an imbalance in competition, which, in its absence, may have led to a higher number of bids, to lower prices, or to different bids (e.g. on the timing of the completion of the services).

As regards the application of the financial correction and its amount, the Court stressed that the financial correction must be limited to what is actually necessary (i.e. proportionate), taking into account the nature and gravity of the infringements, and the financial loss to the funds, and must be made in each case on the basis of an assessment of the circumstances established by the individual investigation of the infringement. Even if it is established that a fixed financial correction

is foreseen for a given infringement, this does not exclude the obligation to assess the individual characteristics of the infringement established and to depart from this amount in the light of those characteristics. Accordingly, having assessed the relevant circumstances established in the case, the Court concluded that, in this case, there were grounds for reducing the financial correction of 5% to 4%.

Judgment of the extended chamber of 25 October 2023 in administrative case No eA-527-629/2023

The applicant for financial support to compensate for the work stoppage of newly recruited non-formal education specialists had a duty to assess the situation responsibly and to take into account the fact that during the quarantine period, educational activities are carried out at a distance or are halted

The applicant requested reimbursement of the costs incurred as a result of the work stoppage of physical education specialists following the second quarantine in Lithuania. The Court held that the situation could not be regarded as force majeure (an event, an extraordinary circumstance which could not have been foreseen or avoided), since, unlike during the first quarantine, the applicant, following the declaration of the second quarantine, could and should have foreseen the possible future restrictions and controlled the implementation of the project in such a way as to prevent the inefficient use of the funds assigned to it. The Court considered that the applicant was negligent in concluding new labour contracts at a time when the legislation in the field of the organisation and delivery of educational activities already provided for remote non-formal education for children or its suspension, and the applicant failed to take into account the circumstances surrounding the spread of COVID-19 and the quarantine. In these circumstances, the Court considered the applicant's arguments of breach of the principles of legitimate expectations and legal certainty to be unfounded and dismissed its claims.

Judgment of 11 October 2023 in administrative case No eA-386-1188/2023



Compensation for damages

For many years now, disputes arising from compensation for damages caused by unlawful actions of public authorities have been among the most frequent cases before the Supreme Administrative Court of Lithuania. The fact that the Court has recognised the violation of applicants' rights or awarded damages in these cases demonstrates the effectiveness and importance of the institution of compensation for damages for persons seeking to protect their rights and/or legitimate interests that may have been violated. At the same time, it is also an element that ensures legal security for individuals. If unlawful actions of public authorities cause harm to individuals, it is important that their rights are adequately protected in court and that the losses suffered are compensated.

Following clarifications by the Constitutional Court of the Republic of Lithuania, the request for compensation for the damage caused by the ban on the provision of beauty and dental services as a result of the Covid-19 disease was rejected

The Court has examined an application for compensation for damages brought due to the

temporary restrictions on the provision of dental and beauty services during the Covid-19 disease (coronavirus infection) pandemic. In this case, the Supreme Administrative Court of Lithuania asked the Constitutional Court to assess the legality of a Government Decree imposing restrictions on the provision of beauty and dental services. The Constitutional Court did not find that the

provisions of the Government Decree were contrary to higher legal acts. The Court, having regard to the explanations given by the Constitutional Court in its ruling, emphasised that the legal regulation laid down in the Government Decree did in fact temporarily restrict the applicants' freedom of economic activity, by prohibiting the provision of beauty and dental services for a certain period. However, such regulation was aimed at achieving a constitutionally important objective and a public interest, namely the protection of human and public health. The Court therefore concluded that one of the necessary conditions for awarding the damages claimed (unlawful conduct) could not be established and the applicant's claim for damages was rejected.

Judgment of 19 April 2023 in administrative case No eA-1193-525/2023

In its examination of the application for compensation, the Court held that the applicant's right to a decision on her application for asylum within the time-limits laid down by law had been violated

In examining an application for compensation for damages, the Supreme Administrative Court of Lithuania found that the applicant's right to obtain a decision on her application for asylum within the time-limits laid down by law had been violated. The Court found that the Migration Department acted unlawfully (failed to act) in failing to carry out in due time the function entrusted to it under its competence to organise and examine the application for asylum. The Court found that the applicant's general distress, discomfort and uncertainty were causally linked to those unlawful acts/omissions. Thus, in this case, all the necessary conditions for civil liability for damage caused by unlawful acts of the public authorities were established.

Judgment of 8 February 2023 in administrative case No eA-1093-1047/2023

The Constitutional Court of the Republic of Lithuania was requested to examine the legality of the regulation on the right of life prisoners to attend the funeral of a relative

The applicant sought compensation for non-pecuniary damage from the State of Lithuania on the ground that the head of the penitentiary institution had decided not to grant the applicant's request to be allowed to go to his father's funeral. That refusal was motivated by a provision of the Code for the Execution of Sentences. The Supreme Administrative Court of Lithuania, in administrative case No *TA-626-968/2023*, had doubts regarding legislation according to which short-term trips to a relative's funeral may be granted to prisoners serving a fixed-term imprisonment sentence, but prisoners serving a life sentence who meet the same criteria are not allowed to attend a relative's funeral in any situation. This restriction is based solely on the length of the custodial sentence imposed on them. The Court therefore referred the matter to the Constitutional Court questioning the constitutionality of the provision of the Code of Execution of Sentences.

Judgment of 22 November 2023 in administrative case No TA-626-968/2023

The municipality is responsible for the proper protection of cemetery plantations if unmaintained plantations cause damage to the persons concerned

The Supreme Administrative Court of Lithuania has decided on a dispute in favour of the applicants regarding liability for inadequate maintenance of plantations in a cemetery, where a tree growing on another grave site fell over and damaged a grave site maintained by the applicants. The Court noted that the rights, duties and responsibilities of the person responsible for the maintenance of a grave site are

exclusively related to the maintenance of the grave, and that such a person does not become the owner or manager of the land on which the grave under his or her care is located. Since the tree grew on a plot of land held in trust by the Vilnius City Municipality, the Court considered that it was the Vilnius City Municipality which was responsible for the proper protection, management and maintenance of the plants growing in the cemetery on its territory. The case was referred back to the court of first Instance for a fresh examination in order to assess all the necessary conditions for civil liability for damage caused by unlawful acts of public authorities.

Judgment of 18 October 2023 in administrative case No A-1058-968/2023

Following the annulment of the fine imposed, the company was awarded compensation for the material damage suffered as a result of the fine paid

A fine of EUR 150 000 imposed on the company by a decision of the Lithuanian Radio and Television

Commission for the retransmission of a Russian television channel was annulled due to substantial procedural infringements. The Court found that the company had taken out a loan from a bank to pay the fine, on which it had been charged interest of approximately EUR 20 700 and EUR 1 100 for changing the terms of the contract. The Court found that these amounts constituted pecuniary damage and considered that they should be awarded to the company. However, the Court held that the company did not prove the non-pecuniary damage of EUR 50 000 claimed, which it attributed to the publicity given to the situation and to the fines subsequently annulled by the courts.

Judgment of 19 April 2023 in administrative case No eA-113-463/2023



Civil service

The year 2023 was traditionally characterised by a high number of disputes at the Supreme Administrative Court of Lithuania between civil servants or officials and the administrations of the institutions in which they are employed. During the year under review, the Court had to give its opinion on various issues arising in cases of civil service disputes, such as the calculation of interest on late payment in cases of unlawful suspension, reinstatement to the post where the civil servant has been dismissed at his/her own request, and others. In addition, the Court's case-law in the field of civil service disputes has been enriched by the interpretations of the extended chambers of the Court on the calculation of the annual leave of officials and the time-limits for its use, as well as on the status of persons performing the special functions of diplomats in the context of the changes in the regulation governing their admission to the diplomatic service.

An official who was a single parent of a child under the age of 14 should have had a realistic opportunity to take additional annual leave

Following the Constitutional Court's finding that the Statute of the Internal Service was

unconstitutional in so far as it did not provide for supplementary annual leave for officers of the internal service system who were raising a child under 14 years of age alone, the Court was required to fill the gap in the law created by this unconstitutional legal regulation. The assessment

of the legal framework applicable at the time of the dispute led to the conclusion that the applicant, an officer of the internal service system, who was a single parent of a child under the age of 14, should have been provided the part of the additional annual leave not taken during the period in question. The Court also ruled on the application of the limitation period laid down in the legislation for the exercise of the right to paid annual leave. It has been established in the case that, despite the applicant's active efforts to provide information on her family situation and to apply for the calculation of additional annual leave, she was not given a realistic opportunity to actually exercise her right to additional annual leave during the entire period at issue, in the context of the ongoing service relationship. In those circumstances, it was held that the limitation period for the claim for the calculation and granting of such leave could not even have begun to run.

Judgment of the extended chamber of 17 April 2023 in administrative case No eA-1183-575/2023

A civil servant who has been unlawfully suspended is entitled to payment of interest on wages and non-pecuniary damages

Following the Constitutional Court's decision that the legal regulation on the basis of which the applicant was suspended was unconstitutional and the Supreme Administrative Court of Lithuania's annulment of the order suspending the applicant, the applicant brought an action before the courts seeking her reinstatement. However, in this case, the factual situation was such that the applicant was dismissed not on the initiative of the defendant, but of her own free will, after she had been suspended from her duties. The Court therefore considered that there were no legal grounds for reinstating her to the post she had held before her suspension. In deciding on the amount of interest to be awarded to the applicant, the Court explained that the provisions

of the Civil Service Law on the payment of interest, having regard to the fact that the applicant was dismissed from her post as a civil servant of her own free will, must be interpreted as meaning that she was entitled to interest for the period from the time she was suspended until the time when she was paid in full, which is the time at which she was paid her salary for the period of her unlawful dismissal from her post. The Court also noted that the suspension, and the loss of her main source of income and social security, undoubtedly caused the applicant stress, negative emotions and experiences, for which she was awarded compensation of EUR 2 000 for the damage she had suffered.

Judgment of 30 August 2023 in administrative case No eA-2088-575/2023

Suspension of an official for refusing to be tested for COVID-19 disease was justified

The Court addressed the question of the lawfulness of the suspension of an official who refused to be tested for COVID-19 or to produce a document certifying that he was not subject to testing. The official's appeal was rejected on the ground that the contested order suspending him was adopted in accordance with the requirements laid down by the legislation in force at the time. The facts of the case (COVID-19, the applicant's right to choose whether to undergo a health check or to be reassigned to another post or to be suspended (there was no obligation to be vaccinated) led to the conclusion that the applicant's claim had been rejected on reasonable grounds: in a civil society, the principle of solidarity does not exclude personal responsibility and the consequences arising therefrom.

Judgment of 15 November 2023 in administrative case No A-798-556/2023

The Minister for Foreign Affairs has the discretion to determine the selection procedure for the diplomatic service

The Supreme Administrative Court of Lithuania has dealt with a dispute concerning the status of the diplomatic service reserve and the status of the persons enlisted in it, following the annulment of the legal act on the basis of which the reserve was formed. In assessing whether the defendant was justified in excluding the applicant, who was in the diplomatic service reserve, from the list of candidates for the diplomatic service established under the newly enacted legal regulation, the Court concluded that, in this case, the Minister for Foreign Affairs exercised the discretion which is expressly enshrined in the legislation to declare that the existing selection procedure was ineffective and to decide on a selection procedure which was in accordance with the factual situation and which would ensure that the State's needs in the field of diplomatic relations were met. In exercising this right, the Minister for Foreign Affairs established a procedure for selection to the diplomatic service which differed substantially in form and content from that established under the previous legal framework. In the Court's view, since the procedures for organising competitions for the diplomatic service differed significantly, the establishment of the diplomatic service reserve and the list of candidates for the diplomatic service on the basis of those procedures could not be regarded as identical institutions, conferring analogous rights on the persons listed therein. The applicant's request that the Minister for Foreign Affairs be ordered to transfer him from the diplomatic service reserve for 2018 to the list of candidates for the diplomatic service for 2020 was rejected.

*Judgment of the extended chamber of 19 April 2023
in administrative case No eA-1140-492/2023*





Court settlements

The number of cases settled amicably before the Supreme Administrative Court of Lithuania continues to grow each year, with 11 such cases in 2023. In several of them, court settlements were reached through mediation. The clear and unambiguous case law of the Supreme Administrative Court of Lithuania and the smooth and constructive cooperation between the institutions and the applicants help the parties to reach court settlements. The Supreme Administrative Court of Lithuania appreciates and supports the parties' desire to resolve disputes amicably, thus helping to restore social peace between the parties, strengthening trust in the institutions and reaching the best solution for both sides.

Dispute over restitution of property rights settled by a court settlement

A dispute over restoration of property rights has been settled amicably before the Supreme Administrative Court of Lithuania. The approved court settlement satisfied the claims of the public prosecutor defending the public interest concerning the annulment of the decision of the National

Land Service to restore property rights to forestry land. The parties to the case reached an amicable agreement on the recovery of the disputed land plots, with the company which took over the land plots undertaking to pay the State the market value of the property in the amount of EUR 567 500. The Court considered that the terms of the amicable settlement ensured that the public interest was served and that the restoration of property rights

was carried out in accordance with the provisions of the specific legal framework. In agreeing on the terms of the court settlement, the parties acted within the limits of their discretion in order to strike an optimal balance of interests. In those circumstances, there was no reason to decide that the parties' conclusion of the administrative dispute by means of an amicable settlement would infringe mandatory provisions of legislation, the rights or legitimate interests of third parties.

Judgment of the extended chamber of 29 November 2023 in administrative case No A-3-815/2023

European Union financial assistance dispute was resolved amicably

The National Paying Agency decided to terminate the payment of the aid to the applicant and to

recover the full amount of the aid paid - EUR 20 911.90 - after finding that the plant density of the plantation plots in the sixth year after afforestation was "poor". After the dispute had gone to court, the parties concluded a court settlement allowing the applicant to replant the deforested area in the project site. Following the applicant's commitment to replant the deforested area and the authority's commitment to recalculate the amount of the aid, the Supreme Administrative Court of Lithuania confirmed the settlement agreement submitted by the parties.

Judgment of 3 May 2023 in administrative case No eA-23-520/2023

Events in 2023



01 January 31

The e-Bulletin of administrative case-law No. 43 has been published, which summarises the essential case-law of the Supreme Administrative Court of Lithuania for January-June 2022 in cases concerning the legality of normative administrative acts, as well as in cases concerning disputes arising in the field of public administration. The informative part contains an overview of the rulings of the Special Chamber of Judges on jurisdiction, as well as summaries of the decisions of the courts of the European Union and the courts of the Member States of the European Union. The electronic periodical of the SACL is available free of charge to readers online.



02 February 2

By Decree of 1 February 2023, in accordance with the Constitution of the Republic of Lithuania and taking into account the advice of the Judicial Council, the President of the Republic of Lithuania, Gitanas Nausėda, has appointed SACL Judge Ernestas Spruogis as Vice-President of the Court as of 2 February 2023. Ernestas Spruogis has been serving as a judge of the SACL since March 2021.



03 March 2

The heads and representatives of the Seimas Ombudsmen's Office of the Republic of Lithuania visited the SACL. During the meeting, the implementation of the public's right of access to justice in environmental matters in the case-law of the SACL was discussed, as well as possible improvements to legislation in the field of environmental protection.



04 April 3

The SACL hosted an event to present the 2022 Annual Report, attended by representatives of the judiciary, state institutions and academia. The President of the SACL Skirgailė Žalimienė presented the Court's activities of the previous year, the most important categories of the cases heard, statistics and trends, reviewed the reasons for the significant increase in the number of cases heard, and shared her experience in solving the tasks faced. A summarised and an extended versions of the SACL 2022 Annual Report are available in electronic format on the SACL website.



05 May 16

The SACL was visited by competition law experts and representatives of the competition authorities of Georgia participating in an EU twinning programme. The participants of the meeting discussed the evolution and development of examining competition cases in Lithuania and Georgia, and discussed the legislative processes for the successful handling of administrative cases in the field of competition.



05 May 26

An international conference on “Cooperation between the European Union and national courts: experience and perspectives”, organised by the National Judicial Administration, was held, at which the President of the Court of Justice of the European Union, Koen Lenaerts, and the Vice-President of the General Court of the European Union, Savvas Pappasavvas, the President of the Supreme Court of Lithuania, Danguolė Bublienė, as well as the President of the Supreme Administrative Court of Lithuania, Skirgailė Žalimienė, shared their insights into the judicial dialogue within the EU.



05 May 29

In the May issue of TEISMAI.LT magazine, dedicated to the topic of leadership in courts, Skirgailė Žalimienė, who has recently become the head of the SACL, shared her thoughts on the difficult and challenging past year. The magazine is available in electronic form on the websites of the National Judicial Administration and the SACL.



06 June 6

A group of international experts assessing the application of the Schengen acquis in Lithuania visited the SACL. The meeting focused on the application of the rules laid down in the Return Directive (Directive 2008/115/EC) on the detention of aliens, their expulsion and other related matters in the case-law.



06 June 8

A children's room was opened for the convenience of court staff at the SACL. The children of the Court's staff can find various activities, books, games and leisure equipment in the room and spend time there while their parents work in the same room. The purpose of opening this room is to allow parents whose children are not yet able to stay alone at home to achieve balance between work and childcare.



06 June 19–20

The President of the SACL, Skirgailė Žalimienė, and other representatives of the Court visited the Kaunas, Klaipėda, Šiauliai and Panevėžys divisions of the Regional District Administrative Court (RDAT). During the meetings with the RDAT judges and staff, they discussed the preparation for the reorganisation of the administrative courts, focusing on the possibilities of the case distribution module, the formation of chambers from different divisions of the court, the preparation of the divisions for the remote examination of cases, etc.



07 July 18

A delegation of Ukrainian judges visited the SACL participating in the project “Support to the functioning of justice in the war and post-war context in Ukraine”, organised by the Council of Europe. The representatives of the delegation of Ukrainian judges were interested in the case-law of Lithuanian administrative courts, focusing on the application of the principle of legal certainty and uniformity of case-law of the courts, including legitimate expectations regarding social benefits.



07 July 27

The SACL was visited and the latest trends in the case-law of the CJEU were presented by Judge Irmantas Jarukaitis, a member of this Court. He summarised significant recent case-law, statistics and new-trends of the CJEU, with a particular focus on the interpretation of the effectiveness of European Union law, the independence of the judiciary and the effectiveness of judicial review in the recent case-law of the CJEU.



07 July 31

E-Bulletin of administrative case-law No 44 was published, summarising the essential case-law of the SACL for the period July–December 2022, in cases concerning the legality of regulatory administrative acts, as well as in cases concerning disputes arising in the field of public administration. The information part includes an overview of the rulings of the Special Chamber of Judges on jurisdiction, as well as reviews of decisions of the courts of the European Union and of the courts of the Member States of the European Union. The electronic periodical of the SACL is available free of charge to readers online.



09 September 15

The joint publication “European Union Law and Lithuanian Administrative Justice” published by the Faculty of Law of Vilnius University and the SACL was presented at the Tech Hub of Vilnius University. The participants of the presentation-discussion shared the insights presented in the articles and discussed the role of administrative courts in protecting and defending the rights of individuals, the impact of the European Union law, including the Charter of Fundamental Rights of the European Union, on the national law and the case-law of administrative courts. The publication “European Union Law and Lithuanian Administrative Justice” in Lithuanian is available online free of charge.



09 September 19

The SACL was visited by judges from abroad participating in the European Judicial Training Network (EJTN) short-term exchange programme. During the meeting, the participants were introduced to the system of administrative courts in Lithuania, statistics, the most important trends in the case-law of the SACL, the handling of administrative disputes in courts by electronic means, and the nature of disputes that constitute a larger part of the cases heard in Lithuania and the countries represented by the foreign guests.



09 September 21

The SACL has been granted observer rights at the European Law Institute (ELI), an international not-for-profit association established on 1 June 2011. Based in Vienna, the ELI's aim is to enhance legal consistency in Europe and to develop European Union law by providing practical advice to policy makers and institutions. As a member of the ELI, the SACL will have the opportunity to contribute to the work of the ELI by providing its insights into its projects and proposing new projects to be carried out by the ELI, and at the same time to further enhance its contribution to the promotion of the fundamental values enshrined in European Union law.



09 September 24–26

The judges of the SACL paid a working visit to the Supreme Administrative Court of Poland, where they met with representatives of the Polish Supreme Administrative Court. At the beginning of the meeting in Poland, the Presidents of the Courts of the two countries discussed the current challenges facing the Supreme Administrative Courts of Lithuania and Poland, including issues of strategic orientations, time limits for the processing of cases, and the improvement of the organisational structure of the administrative courts, and in the second part of the discussion, the judges of the two countries discussed the issues of the protection of the state border, access to public information, and the processing of tax cases.



10 October 2–4

Judges of the Supreme Administrative Court paid a working visit to the CJEU. During the visit, the judges met with the President of the Court of Justice, Koen Lenaerts, the President of the General Court, Marc van der Woude, and other judges of these courts, including Lithuanian judges working at the Court of Justice and the General Court, Irmantas Jarukaitis, Rimvydas Norkus, Saulius Lukas Kalėda. Judges of the SACL took part in the round table discussions on the following topics: “Overview of the structure and jurisdiction of the Court of Justice”, “Rule of law standards with particular reference to the right of access to justice in supranational and national jurisprudence”, “Recent developments in the case-law of the CJEU and national courts on data protection”.



10 October 6

A delegation of Moldovan judges visited the SACL. During the meeting, the representatives of the SACL and the guests presented the systems of administrative courts of their respective countries, the history of their establishment, structure, model of functioning and competences, and discussed the ongoing reforms in the Moldovan courts.



11 November 13–17

Judge of the Supreme Court of Cassation of Romania Andreea Marchidan visited the SACL in the framework of the exchange programme of the International Association of Supreme Administrative Jurisdictions (IASAJ). Sharing her impressions of the exchange programme visit to the SACL and other courts, Judge Andreea Marchidan noted the excellent professional and personal experience she gained.



11 November 15

2nd year students of the Faculty of Law of Vilnius University, who participated in the project “A Day with a Judge” organised by the National Judicial Administration met judge of the SACL Iveta Pelienė. The participants of the project had the opportunity to get acquainted with the profession of a judge and the work at the court, the Lithuanian court system, and the specifics of the work of administrative courts.



11 November 16

Vilnius University Faculty of Law hosted a discussion on the challenges of administrative justice in Europe. One of the speakers at the event was the President of the SACL Skirgailė Žalimienė, who emphasised in her presentation that the Court, which she is the head of, regularly consults the CJEU when complex issues of application of the European Union law in the Lithuanian administrative case-law arise.




11 November 24

The SACL hosted representatives of the Lithuanian Legal Translation Unit of the European Court of Justice (CJEU), who are lawyer-linguists. During the meeting, the guests presented the specifics of their profession, shared their experience and challenges in their work. Particular attention was paid to the requests for preliminary rulings received by the CJEU from national courts.



12 December 14

The judges of the SACL met with the judges of the Kaunas division of the RDAT. During the meeting, they reviewed the results of their work in 2023 and the preparations for the reform of the Lithuanian administrative courts. After the implementation of the reform, as of 1 January 2024, the Regional District Administrative Court will be merged into the Vilnius Regional Administrative Court and both courts will continue their activities as one court under the name of Regional Administrative Court.



EUROPEAN UNION LAW AND LITHUANIAN ADMINISTRATIVE JUSTICE

European Union law and Lithuanian administrative justice

Collection of articles dedicated to the 20th anniversary of the Supreme Administrative Court of Lithuania

This collection of articles by renowned Lithuanian legal scholars and practitioners is dedicated to the 20th anniversary of the Supreme Administrative Court of Lithuania. The articles provide an overview and assessment of the development of the Lithuanian administrative court system and administrative law, as well as insights into its intersection and interaction with European Union law.

Twenty years is a relatively short period. During this period, the foundations of administrative justice were laid after the restoration of Lithuania's independence, and specialised administrative courts were established. It was a time when administrative courts had to find their place in the Lithuanian judicial system – it was necessary to consolidate the foundations of case-law in the field of administrative legal relations, to gain the public's confidence in its work aimed at protecting human rights and legitimate expectations.

The tasks of this period were extremely complex: not only did Lithuanian legislators, scholars and administrative court judges have to create a legal framework for administrative legal relations, apply and interpret it, but they also had to cope with a new challenge – European Union law and its application. This collection of articles is therefore intended to provide an overview of the questions related to the relationship between the Supreme Administrative Court of Lithuania and the other branches of government; the relationship between the Supreme Administrative Court of Lithuania and the Court of Justice of the European Union and the European Court of Human Rights, both from an institutional and jurisprudential perspective; and to analyse and discuss the case-law of the Supreme Administrative Court of Lithuania in the specific areas of administrative legal relations that are most impacted by the EU law.

Partnership of Court and Political Power, Aspects of the Application of EU Law

Ramutė Ruškytė

“The SACL takes decisions following laws passed in the Seimas and, in their application, when legal regulation is unclear or there is no necessary provision, it makes proposals, gives guidelines to the legislator on how to improve a specific law applied in a case. (...) The legislator cannot avoid filling a gap in law by law but it has the discretion to do so in a specific way.”

Cooperation Between Lithuanian Administrative Courts and the Court of Justice of the European Union in the Development of European Union Law: Constructive Dialogue

Prof. Irmantas Jarukaitis

“The idea that national courts are functionally EU courts is fundamental and logically determines the need to define one of the essential parameters of their functioning under EU law – the principle of independence of the judiciary. This is the way to fully ensure an unhindered dialogue between the CJEU and national courts on the basis of the preliminary ruling procedure.”

Cases against Lithuania at the European Court of Human Rights (2019-2021): In Search of Landmark Judgments

Prof. Dr. (HP) Egidijus Kūris

“ECtHR case-law, like that of other courts, is making progress not so much by “revolutionary” judgments which open up the previously jurisprudential horizons, all the more so, reversing previous case-law, but by its steady evolution where principles laid out in earlier judgments are reaffirmed and then further consolidated in subsequent judgments, equipped with solid reasoning. Such “non-innovativeness”, even the routineness of judgments is the manifestation and

guarantee of stability and foreseeability of the law of the Convention.”

Fundamental rights of the European Union: The Jurisprudence of the Supreme Administrative Court of Lithuania

Prof. Dr. Skirgailė Žaltauskaitė-Žalimienė

“The jurisprudence of the Supreme Administrative Court of Lithuania has taken the direction of non-opposition of constitutional provisions and EU law provisions arising out of the Charter. SACL emphasizes the importance of international obligations and adherence to them but also notes that the contradiction of EU law and Constitutional provisions should not be raised artificially, i.e. the provisions of the Constitution should not be amended in a manner, which conflicts with the EU law.”

Strengthening Respect for Human Rights and Fundamental Freedoms Under the Doctrine of the Protection of Legitimate Expectations

Dr. Audronė Gedmintaitė

“The doctrine of the protection of legitimate expectations reliably contributes to the development of modern administrative law in Lithuania and is one of its most important pillars aimed at consolidating the protection of subjective rights.”

Res judicata Principle in the Case Law of International and Lithuanian Courts

Prof. Dr. (HP) Vilenas Vadapalas

“In the future, the CJEU will directly and definitively recognise the duty of the EU Member States to make sure that res judicata judgments of national courts, which are contrary to rules of the EU substantive law and constitute an obstacle to their effective implementation in the EU Member State, are reversed.”

Key Trends in the Case Law of the Supreme Administrative Court of Lithuania in Application of European Union Law in Tax Disputes

Assoc. Prof. Dainius Raižys

"It can be stated that with regard to the case-law of the Supreme Administrative Court of Lithuania, applying EU law in tax disputes, from the perspective of twenty years of activity, there is a clear trend toward consistency with the jurisprudence of the Court of Justice, and, in the event of uncertainty about the interpretation and application of EU law, a tendency to refer the Court of Justice for a preliminary ruling is observed."

Civil Servants' Rights to Information and Consultation

Prof. Dr. Tomas Davulis

"The range of issues related to the legal status of civil servants is very wide and complex, thus social dialogue or social partnership in one form or another can help to solve problems related to the individual situation of a civil servant or the collective situation of civil servants more effectively (development of legal regulation and reduction of the consequences of decisions most detrimental to the interests of civil servants)."

The Problem of Regulating Legal Residence Requirements Governing Long-Term Resident Status in National Law

Dr. Justina Nasutavičienė

"The Supreme Administrative Court of Lithuania drew attention to a duty of the competent authorities which is particularly important (...), to ensure that the permanent residence permit would not be issued to an alien who only formally fulfils the established requirements without thorough examination of whether all the required conditions for the issue of such permit truly exist at the time of the issue of the permanent residence permit and whether there is no basis to refuse the permit."

Liability of Member States for Violations of European Union law in the Field of Legislation: Jurisprudence of the Supreme Courts of Lithuania

Milda Treigė

"The jurisprudence of the highest tier courts of Lithuania on deciding on the state's liability for the damages caused by the actions (inaction) of entities entitled to adopt legislative normative acts are in line with the criteria of liability formulated by the CJEU. The cases are adjudicated either by applying the CJEU criteria in the context of specific circumstances of a case, or primacy and effectiveness of EU law is ensured by using other means (...) by interpreting national legal provisions as much as possible in accordance with the aim of the implemented legal act and refraining from application of national legal provisions, which conflict with the EU law."

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