

SUPREME ADMINISTRATIVE COURT
OF LITHUANIA

ACTIVITY OVERVIEW FOR THE YEAR 2020



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INTRODUCTION



Gintaras Kryževičius

President of the
Supreme Administrative
Court of Lithuania

Dear all,

Year 2020 was exceptional for all the judges and the judicial system in general.

The Supreme Administrative Court of Lithuania is no exception. Restrictions related to the pandemic led to changes in the manner court activities, professional communication skills and habits.

I believe that we have overcome the challenges successfully. We had an opportunity to evaluate the advantages that digitalization brings to carrying out our functions – electronic cases, electronic signature, conference platforms, opportunities to hold remote court hearings and we see prospects for using these means in the future. I believe that these good practices will spill over to positive legislative changes. I am glad that the Supreme Administrative Court of Lithuania has properly adapted to the changed reality. We can truly compliment one another on having passed the test by living in the whirlwind of technology and successfully fulfilling our main and only function – adjudicating cases. We did a great job!

In 2020, many interesting cases were adjudicated at the Supreme Administrative Court of Lithuania. I invite you to familiarize yourself with the main activities of the court in this yearly review.

JUDGES OF THE SUPREME ADMINISTRATIVE COURT OF LITHUANIA

And their thoughts on the activities of the court in 2020 and judicial office



Laimutis Alechnavičius

“In the face of a global pandemic, ensuring human rights and implementing the principle of the rule of law has become even more relevant in our daily work.”



Audrius Bakaveckas

“We have encountered new challenges. The beginning of global epidemic and announcement of quarantine resulted in changes in the organization of work — the transition to having remote case adjudication. As practice shows, it is a sufficiently effective and safe form to ensure justice.”



Arūnas Dirvonas

“I very much hope that in 2020 we have only learned to overcome the difficulties associated with the need to work remotely and observe social distance, but we have not formed new standards for the future: direct communication is a value which I hope has not become a relic.”



Artūras Drigotas

“In 2020, our already small fields of communication were shrinking but the scope of work had expanded. We had moved from courtrooms and offices to electronic space. I hope that we have not become remote people due to remote work. Collegiality is a prerequisite for achieving our goals. That is what I would like to wish for all of us.”



Ramūnas Gadliauskas

“2020 was memorable in two ways. Firstly, the number of pending cases has declined significantly, thus in a year or so, we will be able to focus more on the quality of resolving disputes. Secondly, as for the whole of Lithuania, for Covid-19 and the challenges related to the management of the pandemic.”



Stasys Gagys

“A noble person is impartial to the things of this world. His attitude is justice” (Confucius). Be noble.”



Romanas Klišauskas

“Justice and truth are not the same things. There is as much justice as each party manages to prove its truth.”



Rytis Krasauskas

“When searching for the right balance between the legitimate expectation of a prompt case adjudication and the court's possibilities, a balance should be found between the speedy proceedings and high quality of decisions. Only in this manner public trust in justice and courts may be ensured.”



Ričardas Piličiauskas

“The year 2020 is memorable for the abundance of complex administrative disputes and the complexity of legal issues raised by the parties.”



Dainius Raižys

“2020 had inspired progressive changes in the procedural activities of administrative courts. Implementation of the right to a fair trial by information technology is a new direction of modernization of judicial proceedings.”



Veslava Ruskan

“Before 2020, it seemed that the electronic case and electronic signature complicate the work of the judge. From the perspective of the past year and today, it becomes clear that the electronic cases and the electronic signature give an opportunity to safely carry out legal functions during the pandemic.”



Arūnas Sutkevičius

“Every social conflict must be resolved in accordance with the requirements of the law and the rules of justice and reasonableness. The judgment must be not only lawful but also fair.”



Vaida Urmonaitė-Maculevičienė

“The duties of a judge for me are the highest pursuit of the legal profession, which requires responsibility, integrity, transparency, respect for the participants in the proceedings, and quality of decisions. Therefore, the most important thing is to hear out both parties of the dispute.”



Milda Vainienė

“Justice and human dignity are inseparable values, therefore dispute resolution is not a mechanical application of rules, but a deep and wide vision of human problems and their arbitration.”



Dalia Višinskienė

“It is amazing that in difficult circumstances requiring the reciprocal trust, responsibility and respect for each other and the participants of the proceedings, the court staff was able to ensure safe, high-quality and effective functioning of the court.”



Virginija Volskienė

“Last year has marked the search for non-standard solutions both in the cases adjudicated and in the lives of all of us.”



Skirgailė Žalimienė

“I believe that SACL, by implementing effective and transparent justice, contributes to citizens' confidence in their own country. An active use of the possibility to refer for a preliminary ruling to the CJEU and ask for a consultative opinion of the ECHR allows the court to successfully pursue the widest possible defense of a person, consistent with the European standards.”

The Constitution proclaims that justice in the Republic of Lithuania shall be administered only by courts. In 2020, 19 judges of the highest competence, who are specialized in various areas of public relations regulated by public law, performed this important function assigned to the courts in the Supreme Administrative Court of Lithuania (hereinafter referred to as the Court). And although during the last year, as in the last five years, most of the cases received by the Court were complaints of individuals against damage caused by unlawful actions of public authorities, 2020 also provided new challenges, such as the election cases. Due to the election of Seimas (hereinafter referred to as Parliament) in the country, the Court, as the competent authority, has received more complaints than ever before. In 2020, while ruling on a dispute of this type, the Supreme Administrative Court of Lithuania has requested the European Court of Human

Rights to give advisory opinion for the first time in the history of Lithuanian courts.

2020 was also full of interesting and complex cases, where clarifications relevant to the formation and development of case-law were given, such as the scope of the right to receive information, the person's right to submit documents during administrative procedure, the principle of equal treatment and the protection of the public interest. Effective access to justice has become an important criterion in shaping the legal practice on the implementation of procedural rules during the Covid-19 pandemic period. As every year, in 2020, the Court dealt with cases arising from a wide range of all public relations — tax, health and social security, legal situation of foreigners, competition, energy, personal data protection, etc. In this section, the main court case-law development trends are reviewed according to specified areas.



LEGALITY OF REGULATORY ADMINISTRATIVE ACTS

an important task entrusted to the Court is the verification of the legality of regulatory administrative acts according to abstract applications or requests from courts hearing individual cases. 27 applications for examination the compliance of regulatory administrative acts with the Constitution, laws or the regulations of the Government were received – almost 2.5 times more than in 2019.

In administrative case No. eI-3-968/2020 the court ruled on the implementation of the right of the Minister of Energy, the Minister of Environment and the Minister of Transport and Communications *to determine the amount of bio-fuel in diesel*. According to the applicant, the provisions of the mandatory quality indicators of petroleum products, biofuels and liquid fuels approved by the 22 December 2010 Ministerial Order No. D1-1014/3-742 were inconsistent with the regulation of Article 39(1) of the Law on Energy from Renewable Sources. The disputed regulation set out that the supply of diesel fuel during entering the market of the Republic of Lithuania during the winter period may be without biofuels at all, while diesel fuel supplied to the market of the Republic of Lithuania from 10 November to 30 March and 1 March to 10 April may have a lower percentage of biofuels than the mandatory (7%). The Court stated that the provision of Article 39(1) of the Law on Energy from Renewable Sources is intended to establish a mandatory minimum amount of biofuels in diesel, this requirement is constitutionally justified. It is implementing the European Union law, the goals established in the Law on Energy from Renewable Sources and is mandatory for the state authorities that implement the law. The provision of Article 39(1) of the Law on Energy from Renewable Sources is imperative and does not allow the possibility of exempting from the minimum requirement for biofuels during specific periods of the year. The laws do not authorize the competent ministries to detail the provisions of Article 39(1) of the Law on Energy from Renewable Sources, according to which diesel fuel containing at least 7 percent of bio-fuels should be marketed at the points of sale of fuel, with bylaws that are establishing the possibility to not apply the

mentioned requirement of the law during the cold period of the year. It was stated that the examined provisions of the Quality indicators had not been logically harmonized and competed with Articles 39(1) of the Law on Energy from Renewable Sources. In view of this, it was decided that the minister of Energy, the minister of Environment and the minister of Transport and Communications of the Republic of Lithuania had no discretion to create such a competing provision, therefore the provisions contested by the claimant were recognized as being contrary to the Article 39(1) of the Law on Energy from Renewable Sources (decision of the extended panel of judges of 4 March 2020 in administrative case No. [eI-3-968/2020](#)).

During the year under review, the Court also recognized the contradiction of regulatory administrative acts with the legal regulation of higher power, while ruling on the legality of the regulatory administrative act adopted by the General Director of the National Land Service under the Ministry of Agriculture. The Court declared unlawful the respective provisions of the *Rules for the compilation of the Road Cadaster Data File*, according to which the boundaries of the area of the land plot taken by the road lane were not marked and the land plot boundary marking-showing act was not filed (decision of the extended panel of judges of 21 October 2020 in administrative case No. [eI-18-415/2020](#)).

The review of the Supreme Administrative Court case-law regarding legality of regulatory administrative acts, issued by central subjects of state administration is closely related to cases examined by this Court regarding the legality of regulatory administrative acts adopted by territorial or municipal administration subjects.

Upon the applications by the government representatives who supervise municipal activities, as well as other abstract applications, the Court reviewed the provisions of regulations of activities of various *municipal councils*. The Court ruled on the regulations regarding the relation between

community elders and the municipal council (decision of 23 September 2020 in administrative case No. eA-1012-261/2020), the restriction of the time of the participant of the municipality council to speak and ask questions at the council meeting (decision of 29 January 2020 in administrative case No. eA-6-968/2020), assessment of community elders' meeting decisions, participation of community elders in municipality Council committees work, order of decision-making (decision of 30 December 2020 in administrative case No. eA-3244-629/2020). In the latter case, the disputed regulation set out that the draft decisions of the municipal council (individual administrative acts) should be prepared according to the legislation principles of the Law on Legislative Framework (this Law is not applied when drafting legislation implementation acts). In this regard, the Court emphasized, among other things, that the fact that during the approving of its regulation of activities, the municipal council has set a higher than required standard for drafting legal acts does not, in itself, presuppose contradiction to the above-mentioned law. The decisions of municipal councils to entrust the determination of ticket prices and tariffs for the transportation of passengers on local routes (local transport routes) to a municipal enterprise (ruling of 7 October 2020 in administrative case No. eA-1054-492/2020) or decisions on territorial planning documents (their solutions), which fall under the category of regulatory administrative acts (ruling of 1 July 2020 in administrative case No. eA-3782-602/2020).

Regarding the local fees *imposed by the municipal council*, one should note the decision of 9 September 2020 in administrative case No. eA-2020415/2020. The municipal regulatory administrative act provisions, which determined the duty to individuals, who are not local toll payers, to submit applications for them not to be included (to be excluded) from the register of the payers of such fees, had been recognized to be contrary to the law.

With regard to other charges, one should also note the ruling of 9 September 2020 in administrative case No. eA-957-415/2020. Respective provisions of the decision of the Vilnius District Municipality

Council which linked the land tax reduction (exemption from this tax) with the requirement that the owner of the property should be a resident of the municipality were declared incompatible with the *principle of equality* (equal treatment). The real estate tax was also the topic of the ruling of 29 April 2020 in administrative case No. eA-1351-575/2020. It confirmed the conclusion of the court of first instance that some provisions on the application of the 3% tariff of this tax, established by the decision of the Vilnius City Municipality Council, among other things, contradicted *the principle of clarity and systematization of legislation*. The provisions of the regulatory administrative act of the municipality, imperatively stating that the payments for the collection and management of municipal waste for weekend houses and gardens are collected by concluding municipal waste collection and management services contracts with the association of property holders had been also ruled to be contradicting the law (ruling of 21 October 2020 in administrative case No. eA-3172-552/2020).

The court continued to develop the case-law of administrative courts relating to the interpretation and application of the procedural rules of regulatory legal proceedings. For example, in the ruling of 1 July 2020 in administrative case No. eA-3782-602/2020, the panel of judges noted that while ruling upon an abstract application, i.e. not related to an individual case, *defining the boundaries of the normative administrative case and the applicable law* did not depend on the fact that the same applicant disputed related individual administrative acts in an individual case; the procedural rules established by the Law on Administrative Proceedings and relevant case-law on the boundaries of the investigation of the legality of a regulatory administrative act in individual case are also not relevant. In the ruling of 22 January 2020 in administrative case No. eA-1852-602/2020 and the ruling of 11 November 2020 in administrative case No. eA-49-629/2020, it was decided that once the disputed regulatory administrative act had been repealed during appeal proceedings started upon abstract (i.e. not related with an individual case) application, usually the decision of the court of the first instance should be set aside and the normative case should be terminated.

ELECTIONS

The Supreme Administrative Court of Lithuania examines complaints against the decisions of the Central Electoral Commission (hereinafter referred to as CEC) regarding Parliament elections, which are adopted prior to the end of the voting. The Law on Elections of Seimas of the Republic of Lithuania states that the applications submitted to the Supreme Administrative Court should be resolved no later than in 48 hours after submission.

In 2020, the Court received more than 100 elections-related claims. In cases of this type, the most significant interpretations of the Court are related to the protection of public interest to be duly informed during the electoral process. In administrative case No. R-7-438/2020 the Court ruled *on the method of indicating the criminal record information provided on the candidate's poster*. In the case, the applicant sought that the CEC should provide more detailed than standard information about him as a candidate for the Parliament elections, i.e. precise explanation on the subject-matter of the court judgment adopted in relation to him. Taking into account the right to obtain information about important facts regarding the candidate's life, which may have significance in representing the interests of voters and managing public affairs and having noted relevant jurisprudence of the Constitutional Court of the Republic of Lithuania, the panel of judges concluded that in this case there were grounds to oblige the CEC to put additional information on the CEC elections posters, specifically to provide a reference to the CEC Parliament election candidate's form at the CEC webpage next to the text "Is found guilty of a criminal offence by court ruling" (ruling of 9 September 2020 in administrative case No. R-7-438/2020).

Regarding compliance with the principle of equal opportunities during the election campaign, it is worthy to mention the administrative case No eR-8-756/2020. In this case, the political party appealed to the Court, requesting to establish equal rights of participants of the political campaign in the discussion programs on national television channel LRT (Lithuanian Radio and Television) at the phase of agitation. The political party did not agree with the procedure of debates organized by the LRT, according

to which the participants of the discussions were divided into groups based on the results of public survey concerning the approval ratings of the candidates. The panel of judges has indicated that in accordance with the provisions of article 46(1) of the Law on Elections to the Seimas, whenever the Central Electoral Commission has published the candidates and lists of candidates for the election to the Parliament, in electoral counties, the candidates have the same right to speak at meetings with the voters, participate in other meetings, conferences, gatherings, public media measures, and publish their electoral program. According to the panel of judges, these provisions of the Law on Elections to the Seimas must be observed, inter alia, when LRT (Television channel) organize debates on its own initiative, as set out in Article 51(5) of the Law. The principle of equality is one of the fundamental principles of general electoral law, acknowledged both in the Constitution and in the official jurisprudence which interprets it, and in the most important international instruments. Therefore, in the context of electoral rights, the scope of this principle cannot be narrowed. Having regard to the purpose of electoral agitation and the nature of the rights to be assured during it, and having assessed that the discussions organized on the initiative of the broadcaster complement the election agitation, the panel of judges decided that the principle of equal opportunities is mandatory for the whole period of the electoral agitation. In cases where, as a result of discussions, including organized on the initiative of broadcasters, some candidates face less favorable conditions or are put into a significantly worse position, the procedure of such a discussion, although formulated in neutral terms, may have an impact on the smooth conduct of the elections and the freedom of voters to form an opinion. On the basis of these provisions, the panel of judges decided that the grouping of candidates according to survey data (ratings) does not correspond to the principle of equal treatment established in the legal regulation and constitutional jurisprudence (ruling of 11 September 2020 in administrative case No. eR-8-756/2020).

During the 2020 election of the Parliament, an exceptional election case was initiated *due to*

the refusal to register the candidate, related to the prohibition of the candidate's participation in election for an indefinite period of time, if a person is removed from his position by impeachment. In resolving this dispute, for the first time in the history of Lithuanian courts, the Court used the procedure under Protocol No. 16 to apply to the European Court of Human Rights with a request for an advisory opinion. The applicant, as a former member of the Parliament, was removed from her office through a procedure of impeachment proceedings. Due to this, she belongs to a category of persons who have been directly affected by the incompatibility of the provisions of the national law and the Convention for Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention), as has been established in the Ruling of the Constitutional Court of 5 September 2012. In the case of the applicant, this legal uncertainty is strengthened by the fact that, despite specific legislative initiatives, there is no term in the national law, limiting the validity of the prohibition to candidate in the elections of the Parliament in case of a successful impeachment. In these circumstances, the Court asks for clarification whether Lithuania overstep the margin of appreciation conferred to it by Article 3 of Protocol No. 1 to the Convention, if it does not guarantee the compatibility of the national law with the international obligations arising from the provisions of Article 3 of Protocol No. 1 to the Convention, which results in preventing a person who has been removed from office of a Member of the Seimas under the impeachment proceedings from implementing their “passive” right to elections for 6 years. The European Court of Human Rights is asked whether this kind of situation can be justified by the complexity of the existing circumstances, directly related to providing an opportunity to the legislative body to align the national provisions of the constitutional level with the international obligations. The Court also enquires what are the requirements and criteria implied by Article 3 of Protocol No. 1 to the Convention, which determine the scope of the application of the principle of proportionality, and which the national court should take into account and verify whether they are complied with in the existing situation at issue. The Court is seeking guidance whether when assessing the proportionality of a general prohibition

restricting the exercise of the rights provided for in Article 3 of Protocol No. 1 to the Convention, it should hold crucial not only the introduction of the time-limit, but also the circumstances of each individual case, related to the nature of the office from which a person has been removed and the act which resulted in impeachment.

This examined administrative case has been suspended until the consultative conclusion of the European Court of Human Rights is received (ruling of 17 September 2020 in the suspended administrative case No. R-1-602/2021).

A large number of other complaints submitted to the Supreme Administrative Court of Lithuania are closely related to the above-mentioned electoral case. Nevertheless, these cases were not examined in their essence, because they did not comply with the requirements to applications provided for in the legislation. A number of complaints were received in the court, which were filed by persons seeking to directly appeal the decision of the CEC regarding the non-registration of the above-mentioned candidate who was a part of an impeachment proceedings previously. In these cases, the Court has repeatedly ruled on the legal subjectiveness when filing a complaint in accordance with Article 21 of the Law on Elections to the Seimas. In this regard, the Court, acting as a final instance for cases under complaints against decisions of the CEC and deciding on the admissibility of the complaint, noted that Article 21 of the Law on Elections to the Seimas, provides for persons who have the right to submit complaints about the decision taken by the CEC — them being the party, who submitted a Parliament candidate, the candidate to become a member of the Parliament himself, the representative for elections and the election observer. The panel of judges emphasized that this list is exhaustive. Having not established that the complaints are submitted by the persons authorized to represent an unregistered candidate, and in the absence of evidence that these persons are part of the group of subjects, referred to in Article 21 of the Law on Elections to the Seimas, the Court refused to accept those complaints (see, for example, the ruling of 11 September 2020 in administrative case No. R-12-492/2020).



SOCIAL PROTECTION AND HEALTH PROTECTION

For the second consecutive year in the field of social protection, the largest part of disputes has been related to the social support for families, children and the deprived population: for example, on the appointment of a social allowance (ruling of 17 June 2020 in administrative case No. [A-1093-756/2020](#)) or the recovery of overpayment of allowances (ruling of 30 September 2020 in administrative case No. [A-4630-552/2020](#)), as well as regarding the deletion from the list of persons and families entitled to estate rental support (ruling of 19 February 2020 in administrative case No. [A-173-525/2020](#), ruling of 12 February 2020 in administrative case No. [A-139-552/2020](#)), in some cases stating that the person was unduly removed from such list (ruling of 28 October 2020 in administrative case No. [eA-1170-968/2020](#)). In this area, the principles of monetary social support were consistently emphasized, according to which the *monetary social assistance is provided to enable support to be accessed when it is most needed, to increase motivation to integrate into the labor market and to avoid poverty traps and to make rational use of available resources* (ruling of 9 December 2020 in administrative case No. [eA-2576-1062/2020](#)).

The court defended the violated rights of the person and annulled a part of the decision of the competent authority that had refused to conclude the fixed-term contract on the municipal housing lease and had decided to evict the person *from the social housing*. The Court noted that the defendant had to assess the need for social housing in the municipality when making a decision related to the applicant, as well as to determine whether the applicant does have any other appropriate housing, and to decide reasonably whether there is a possibility to rent housing occupied by the applicant and her daughter at market prices. Having assessed the fact that the applicant with the daughter already live for more than 10 years in the municipality's residential premises and have no other real estate, the panel of judges acknowledged that the applicant had sufficient and continuous links with the premises of the dispute so that these premises could be regarded as her home in the meaning of Article 8 of the Convention of Human Rights and Fundamental Freedoms and that her right to respect for home should be protected (decision of 1 April 2020 in administrative case No. [A-189-552/2020](#)).

In 2020, following the interpretation of the Constitutional Court of the Republic of Lithuania regarding the laws *on the termination of the payment of the allocated allowances from the Child maintenance fund*, after finding that the child's permanent residence is not Lithuania, the extended panel of judges adopted a final decision in administrative case. It has been clarified that the obligation to reside permanently in the Republic of Lithuania is one of the necessary conditions for a person to meet the requirements imposed on the applicant and the child in accordance with Article 2(3) and (5) of the Law on Children's Maintenance Fund. Such requirements are necessary to be able to implement the right to apply for the Child maintenance fund benefits. However, in order for a person who has acquired the right for payments from the Child maintenance fund to retain the right to receive these benefits, the obligation to permanently reside in the Republic of Lithuania is not established in the provisions of the Law on the Child Maintenance Fund (the ruling of the extended panel of judges of 6 May 2020 in administrative case No. [A-3146-261/2020](#)). The Court also examined other issues related to the Law on Child Maintenance Fund, such as the limitation period due to the non-payment of child maintenance benefits (ruling of 3 June 2020 in administrative case No. [eA-1302-602/2020](#)), the recovery of overpayment from the Child maintenance fund where it was established that the maintenance had been provided to the child (ruling of 6 May 2020 in administrative case No. [eA-606-552/2020](#)).

As every year, in 2020, many disputes were resolved in regards of the state social security *old age pension*, most often on the conversion of seniority (ruling of 17 June 2020 in administrative case No. [eA-1002-502/2020](#), ruling of 15 July 2020 in administrative case No. [eA-760-552/2020](#)); as well as on the provision *of state pensions for officials and military personnel* (ruling of 22 April 2020 in administrative case No. [eA-943-756/2020](#), ruling of 21 October 2020 in administrative case No. [eA-1284-502/2020](#)), in some cases finding that the person was refused to be paid the state pension without reasonable grounds (ruling of 12 February 2020 in administrative case No. [eA-145-552/2020](#), ruling of 12 February 2020 in administrative case No. [A-63-602/2020](#)).

Quite often, issues in the field of social security were related to the employer's duty when employing a foreigner to apply for a new temporary residence permit for that person (ruling of 7 October 2020 in administrative case No. eA-2040-575/2020). Cases were heard concerning the determination of the authorities that are competent to adopt a decision on monetary support. It was stated that the payment of monetary support, which is a type of social services, is to be decided by the administration of the municipality in whose territory individuals live and receive social benefits (ruling of 5 August 2020 in administrative case No. A-4397-502/2020). Cases concerning the recovery of overpayment of state social security payments to widowed persons. These cases were mainly resolved in favor of applicants, since it was found that the granting and payment of such a pension were largely the result of the activities of the public authority. Therefore, the recovery of the overpayment of a widow's pension would be incompatible with the principle of good administration (ruling of 4 March 2020 in administrative case No. eA-1186-525/2020, ruling of 14 May 2020 in administrative case No. eA-560-822/2020).

In 2020, the disputes arising in the area of social security updated the case-law with several important clarifications regarding the *right to receive information*. When examining the dispute about the possible threat to the child and the protection of family life, the Court addressed the restrictions of access documents of the institution. The Court noted that the principles of child welfare are an essential part of the provision of public services regarding the determination of the level of threat to the child and, consequently, the administration of services related to this, which is enshrined in Section IV of the Law on Fundamentals of Protection of the Rights of the Child. When making a decision of this kind, the unique intimacy of family relationships requires that decisions about interventions in family life be taken with special care. The responsible institutions should react sensitively and respond to the needs of the child and his family. In accordance with the principle of priority of the interest of the child, it is also important to ensure that the decisions taken by the competent authority are proportionate, that is to say, they would maintain a fair balance between the welfare of the child, the rights of the parents and the interests of the public. The Court has clarified that

the right to obtain information relating to the initiated procedure concerning the provision of the public services is the essence of the right to good administration and a constituent part of effective legal protection, judicial if necessary. These rights are particularly important because they secure other rights that the subjects of law have under the public

law. The right to information is by nature a fundamental part of administrative law, the importance of which is equivalent to the nature of other key principles of public administration. The court established that the obligation of the competent institutions arises to reconcile both the right to information and the interests related to the protection of the decision-making process of the institutions and to carry out a specific and individual examination of the documents on which the request for access the information has been submitted (ruling of 18 March 2020 in administrative case No. eA-2399-756/2020).

On the basis of similar principles, the Court dealt with a case concerning *the right to information about children, where a court decision restricts parental authority* and prohibits access to children, the Court clarified that the rights and obligations of parents, inter alia to educate and supervise their children in good faith is valid even during the period when the parent's authority over his/her children is restricted to the level of prohibition of access to the children (of course, these rights and obligations are limited). According to the panel of judges, the interest of the father to receive information about his children in order to initiate an investigation of the violation of child rights within the meaning of Article 36 of the Law on Fundamentals of Protection of the Rights of the Child, can be regarded as a legitimate interest. However, the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labor, refusing to provide information about the applicant's children solely on the basis of a court decision restricting the father's authority of the applicant in relation to his children, prohibiting him from seeing children, did not carry out an appropriate assessment and did not establish an appropriate balance between, on the one hand, the legitimate interest of the person to ascertain the welfare and proper care of his children in the exercise of his duty to care for children (understood as seeking to obtain personal data, to identify, fulfill or defend his legal requirements), and, on the other hand, the right to respect for private life in general

and, in particular, the right to the protection of personal data and child's safety interests (decision of 11 November 2020 in administrative case No. [eA-1547-822/2020](#)).

In the field of *health care*, one should note a case regarding the *obligation of a student studying in the United States to insure himself with a compulsory health insurance*. The court clarified that only pupils who study in general education schools of the Republic of Lithuania were considered persons who are insured under the state insurance scheme. State insured persons should be considered to be pupils enrolled in schools established in a Member State of the European Union or other States of the European Economic Area in accordance with the legislation of the Republic of Lithuania. However, during the period of the dispute, the applicant did not fall into the group of the persons insured under state insurance scheme provided for by the law (ruling of 17 June 2020 in administrative case No. [A-51-525/2020](#)).

Administrative cases related to the health care sector are often initiated by economic operators. Concerning the *requirement to have a license* to engage in optometry activities, the Court stressed that the legal regulation for the regulation of such activities must be clear. Recognizing that persons could not reasonably know whether a license is required for the activities of an optometrist or not from the legal regulation, the order of the competent authority stating that the operator has breached the legal requirements was annulled (decision of 3 June 2020 in administrative case No. [A-4385-1062/2020](#)).

In the administrative case concerning the health protection, the Court also had to settle a dispute

relating to European Union law. In administrative case No. [eA-3312-822/2020](#), the Supreme Administrative Court of Lithuania has decided to refer a request for a preliminary ruling to the Court of Justice of the European Union. The administrative case assesses a situation where a person has not acquire formal proof of professional qualification of a pharmacist, because the necessary requirements had been implemented not in a single, but in a number of EU Member States. In the opinion of the court, due to the absence of the possibility to engage in the professional activity of a pharmacist in the Republic of Lithuania, the applicant is experiencing restrictions precisely because she has exercised the free movement of persons, and the training for the profession of the pharmacist, as provided for in EU law, took place in the United Kingdom and the Republic of Lithuania. In those circumstances, the panel of judges decided to refer to the Court of Justice of the European Union for a preliminary ruling on whether the provisions of the EU Directive 2005/36/EC is applicable in a situation where a person has not obtained formal evidence of qualifications because he or she has potentially fulfilled the requirements necessary for obtaining the professional qualifications in several Member States of the European Union rather than in a single one. It is also asked, whether in such a situation, the legislation shall be interpreted as obliging the institution recognizing qualifications to assess the content of all the documents submitted by the person which can demonstrate professional qualifications and whether they comply with the requirements set in the host Member State for obtaining the professional qualifications and, if necessary, to apply compensation measures.

LEGAL STATUS OF FOREIGNERS

In 2020, in cases regarding the legal situation of foreigners, the Supreme Administrative Court of Lithuania addressed the right of third-country nationals and their family members to reside in Lithuania most often. The absolute majority of cases consisted of complaints related to the right of these foreigners to temporarily reside in Lithuania. Cases with complaints about the legality of detention of foreigners were also close behind in their number.

At the beginning of the year, the Supreme Administrative Court of Lithuania adopted several significant decisions in cases concerning the implementation of *the right of foreigners to family reunification* in Lithuania. In administrative case No. [eA-1512-552/2020](#), the Court recalled that when a foreigner seeks to change a temporary residence permit issued in case of family reunification, a temporary travel from the Republic of Lithuania of

his/her spouse should not necessarily be regarded to their detriment. In this particular case, it was found that the departure of the spouse — a citizen of the Republic of Lithuania — did not violate the requirement laid down in Article 43(1)(5) of the Law on the Legal Status of Foreigners. This is even more so taking into account the fact that the spouses do not live physically together at all times and this in itself cannot be regarded as a break of marriage (marital ties). The Court also stressed that if the exercise of the right of family reunification were to be linked only to the permanent physical presence of the family together, this would violate the EU's right of free movement and choice of work in other EU Member States, since such regulation would discourage a person from leaving from the State of which the right to family reunification has been exercised (ruling of 8 January 2020 in administrative case No. [eA-1512-552/2020](#)).

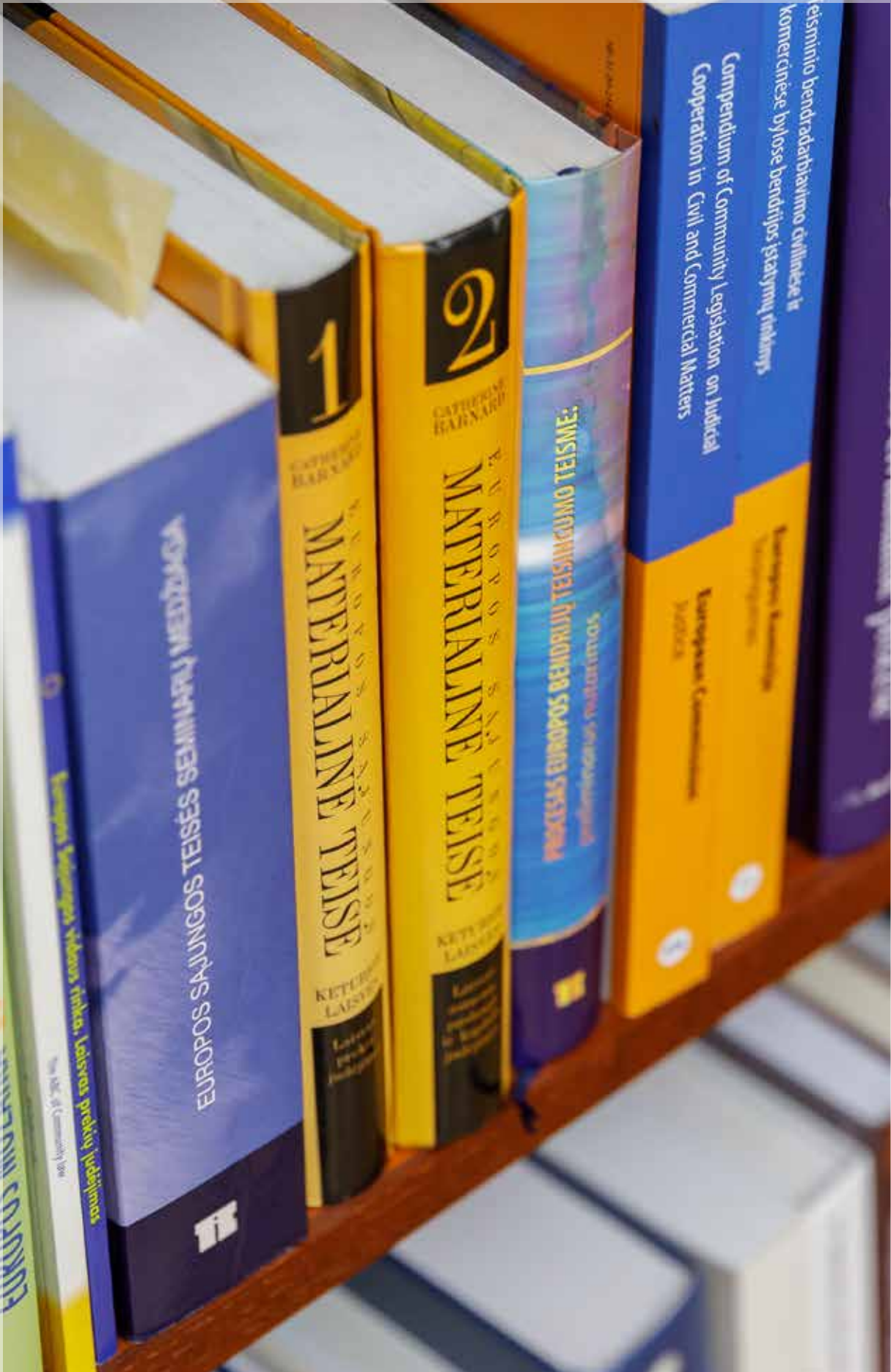
In administrative case No. [eA-2392-492/2020](#), the Court was deciding whether there was a legal obligation to take account of the fact that a foreigner got married to a citizen of the Republic of Lithuania after the contested decision of the Migration Department to prohibit the entry of a foreigner to the Republic of Lithuania had been adopted. In this context, the case-law of the Court of Justice of the European Union, which interprets Article 20 of the Treaty on the Functioning of the European Union, was of particular importance.

According to such case-law, it does not matter that the relationship of dependence on which a third-country national relies in substantiation of his/her application for a residence permit for the purpose of family reunification has arisen after the decision to prohibit entry to the country. It is also irrelevant in this case-law that the decision to forbid a third-country national to enter the country is final at the time when he/she submits an application for residence for the purpose of family reunification (judgment of 8 May 2018, *K. A. and others*, C-82/16). On the basis of the above-mentioned case-law of the Court of Justice of the European Union, the Court ruled that the Department of Migration did not adequately assess the circumstances related to the family situation of that person (decision of 3 June 2020 in administrative case No. [eA-2392-492/2020](#)).

A unique situation was encountered in the administrative case No. [eA-3271-556/2020](#), in

which the *issue of a long-term resident permit* was resolved by a person who has been legally a resident in Lithuania since 2004 on the basis of temporary residence permits. In this case, the Court considered that the mere fact that the applicant did not have a valid temporary residence permit for 32 days (she had a national visa (D) during that period, which was issued in connection with the protracted examination of the applicant's application for a temporary permit) does not give rise to the conclusion that the applicant does not comply with the requirements of article 53(1)(8) of the Law on the Legal Status of Foreigners for the issue of permanent residence permit. When deciding whether a competent state authority reasonably refused to accept the documents submitted by the applicant and the application for a permanent residence permit because the aforementioned break of several days between the temporary residence permits issued by the applicant, the Court emphasized that the competent institution may require the person to submit only as many documents as is necessary to make an administrative decision (in this case, to decide on the issue of a permanent residence permit). In addition, the public authority may not require a person to provide what that person objectively cannot hold at the stage of accepting the documents. In case the provisions of the national legal regulation on the submission of documents, would be interpreted otherwise, it would result in a situation where, in most cases, a public authority could decide on the substance of an application for the issuance of a permit at the stage of acceptance of the application. This, in turn, would constitute a flawed practice where the rights of a person are restricted without just cause (ruling of 19 February 2020 in administrative case No. [eA-3271-556/2020](#)).

In the field of foreigner detention questions, administrative case No. [A-3772-629/2020](#), should be mentioned because of its exceptional circumstances. A complaint concerning the extension of the deadline for detention at the Foreigners registration center was lodged by a foreigner who was returned to the Republic of Lithuania from the Federal Republic of Germany in accordance with the Dublin III Regulation and asked for asylum here. A notification was received from the German Migration Division that it was planned to return the whole family of foreigners together with young children, but the family hid one of its children, did not disclose the child's location to



officials, thereby hindering the German competent authorities to fulfill the return of the family. Thus, in this case, the Court found that information about the actions of a foreigner before the decision on the granting the asylum in Lithuania was adopted (i.e. refusal to indicate the child's place of stay) is very important in order to determine the real intentions of the foreigner. The fact that a foreigner does not cooperate with civil servants and employees of competent institutions during the examination of the application for asylum, continues to deliberately mislead by presenting unrelated information concerning the incident related to hiding his child in order to prevent the transfer of the family in accordance with the Dublin III Regulation, allowed to reach a conclusion, that there is a high probability that, without applying detention, and by using the free movement of persons within the Schengen area, a foreigner may attempt to leave Lithuania to other European Union countries (ruling of 10 March 2020 in administrative case No. [A-3772-629/2020](#)).

In 2020, the Court also had to deal with an interesting *transfer of a stateless person* to a state that had not ratified the 1954 Convention on the Status of Stateless Persons. Administrative case No. [eA-4030-442/2020](#) addressed the issue of foreigner's transfer to the Republic of Estonia, where he had previously applied for asylum 4 times. Following the provisions of the Regulation (EU) No 604/2013 governing the determination of a specific member state of the European Union, responsible for examining an application for asylum, the Court noted that the Member States of the European Union have the right, but not the obligation, to decide to examine an application for asylum in the event that according to the Regulation another Member State of the European Union is responsible for examining the asylum application. The mere desire of a person to have his request dealt with in one or another Member State does not constitute a basis for a discretionary exception. In the absence of any

reason to doubt the competence of the Republic of Estonia in the field of asylum law, according to the Court's assessment, the Department of Migration, in accordance with the legislation relevant to the dispute, reasonably decided to refer the applicant to the Republic of Estonia (ruling of 3 June 2020 in administrative case No. [eA-4030-442/2020](#)).

In the context of remote working that has become particularly relevant in the context of a pandemic, the Court delivered particularly important decision in administrative case No. [eA-4567-502/2020](#). Among other things, it dealt with the question of presentation of incorrect data as grounds for refusing to grant a residence permit. Article 35(1)(2) of the Law on the Legal Status of Foreigners sets out that the provision of incorrect data is a basis for the refusal to issue a residence permit. The Court ruled that this provision must be interpreted as meaning that it must be possible to objectively verify whether or not the data, submitted by the applicant, correspond to reality. Turning to the specific circumstances of the case, the Court added that the mere fact that a company managed by a foreigner did not carry out its activities at the registration address did not in itself mean that such data did not correspond to reality, but only showed that it had failed to determine the actual location of that company. As regards the assessment of the information provided by the applicant concerning the changes in the company's functions and employees' schedule, such assessment had to be linked to the explanations of the applicant regarding the possibility of remote work and its compatibility with the activities carried out in that company. According to the assessment of the panel of judges, there was no reason to state that a particular piece of information, without taking into account of the fact that some of the functions of the company had been carried out remotely, should be treated as the presentation of incorrect data within the meaning of Article 35(1)(2) of the Law (ruling of 16 September 2020 in administrative case No. [eA-4567-502/2020](#)).

CITIZENSHIP

As in previous years, there were not many cases on citizenship (granting, restoration and loss). In 2020, only 7 cases were related to this topic, but there were significant clarifications. The Court developed

its case-law explaining in which cases and to what extent a person can challenge the decision adopted by the Commission on Citizenship Affairs.

In the case examined by the extended panel of judges, the applicant contested a letter from the Commission on Citizenship Affairs (hereinafter referred to as the Commission) informing that his application for the grant of citizenship of the Republic of Lithuania had been refused. Having assessed the content of the legal provisions set out in Article 31(3) and (4) of the Law on Citizenship, the extended panel of judges concluded that the Commission is not empowered to adopt decisions of a mandatory nature that would have legal consequences for individuals. The Commission's conclusion is a recommendation and is not binding on the final decision of the President of the Republic of Lithuania. Meanwhile, the exclusive right to decide whether to grant or not grant the citizenship of the Republic of Lithuania belongs precisely to the President of the Republic of Lithuania. Thus, the legal consequences for a person are caused precisely by the decisions taken by the President (the decrees). Since the purpose of the Commission's letter is to provide information about the decision taken and the reasons for its adoption, the Court hearing the case may oblige the Commission to act only if the person has not received an answer or the answer given does not inform of the grounds for refusing citizenship. Meanwhile, challenging the

Commission's letter before administrative courts, where it is clear from the person's complaint that the person concerned does not actually seek to receive information relating to a negative decision against him, does not produce the result which the applicant is seeking, essentially disputing the matters falling within the special discretion of the President, and in fact only generates additional formal litigation before administrative courts. Thus, when a reasoned answer is received, there is no possibility to appeal such a letter to administrative court, since having examined the case, the decision of the court would not have any legal consequences and be meaningless. In view of the fact that the applicant had not formulated the claim relating specifically to the annulment of the President's refusal to grant citizenship, the extended panel of judges concluded that, without challenging the President's refusal, the Commission's letter itself, as mentioned above, did not lead to the legal consequences for the applicant, and the court could not, on its own initiative, decide on such a question. As a result of these circumstances, the applicant's appeal was rejected, the decision of the court of first instance was annulled and the case was terminated (ruling of extended panel of judges of 25 November 2020 in administrative case No. eA-3040-502/2020).

ENVIRONMENTAL PROTECTION

During the reviewed year the *issues of protection of cultural heritage* related to the provision of legal protection for various objects have dominated in the field of environmental protection: the valuable properties of the Old Town of Vilnius (ruling of 16 December 2020 in administrative case No. eA-2107-602/2020); cancellation of registration in the Register of Cultural Properties of the building in order to reconstruct the building into a store (ruling of 26 August 2020 in administrative case No. eA-958-502/2020); annulment of the entry into the Register of Cultural Properties of the ancient settlement which is situated at an agricultural land belonging to the applicant by right of ownership (ruling of 3 June 2020 in administrative case No. A-624-525/2020) and others.

The Court has also examined a case of great public interest regarding the legality of the decision of the

Department of Cultural Heritage under the Ministry of Culture, which imposed a fine of EUR 1 200 on the applicant for the fact that management works were carried out at the Second World War Soviet Union army personnel burial grounds (concrete posts with names of the deceased were washed by high-pressure water jet). This was carried out without a management works project and permit for such works. The Panel of judges explained that the provisions of the legislation regulating such culture heritage management works, specified in the contested decision, do not state that the actual surface cleaning technology, i.e. high pressure cleaning equipment washing, is *expressis verbis* attributable to *cultural heritage management works*. The panel of judges pointed out that the object of cultural heritage — the place of burial of Soviet Union soldiers of the Second World War — is recorded in the Registry of Cultural Heritage,

however, the material of the surface of concrete postaments on which there are information boards with names of the deceased, is not attributed to the valuable properties of this object. In principle, the defendant did not motivate in any way what were the valuable qualities of this cultural heritage object that could objectively change due to the works performed by the applicant, did not explain in the course of the investigation whether the measures used could objectively threaten the valued qualities identified in the object. Having establishing that the contested decision was adopted without sufficient data collection, it was annuled (ruling of 12 February 2020 in administrative case No. [A-1192-624/2020](#)).

A significant part of the environmental disputes in 2020 related to *waste prevention and management*: the extended panel of judges stated that the criteria of vehicle's recognition as inappropriate for operation, which had been declared unlawful in the normative administrative case, should not be applicable in individual administrative case (ruling of extended panel of judges of 15 July 2020 in administrative case No. [eA-641-525/2020](#)); issues regarding the tax on environmental pollution were resolved (ruling of 3 June 2020 administrative case No. [eA-2888-624/2020](#)); annulment of the mandatory order to arrange the surface of the site so that it meets the requirements of the legal act where it was established that the applicant did not possess the site or had the right to use it (decision of 6 May 2020 in administrative case No. [eA-747-556/2020](#)), etc.

The Court provided important clarifications *regarding the assessment of the environmental impact of planned economic activities*. In administrative

case No. [eA-2282-520/2020](#), the applicant sought to extend the activities of the recycling facility for the purchase and recycling of hazardous and non-hazardous waste. The Court clarified that it is the applicant who was obliged to justify the capacity to accommodate the waste, specified in the environmental impact report. In addition to this, he should provide data to the Environmental Protection Agency that all waste management facilities, waste and post-processing products will be included in the area, specified in the plan before the decision concerning the environmental assessment report was adopted. The panel of judges concluded that the mere fact that the *odor dissipation in ambient air* and air pollutants modelling data did not reach the limit value did not lead to the conclusion that the contested decision stating that the economic activity planned by the applicant was unacceptable, had no grounds. The circumstances of the case did not lead to the conclusion that the planned economic activity was not a potential source of pollution from the environmental point of view, which creates a threat to both the environment and public health and safety (ruling of 7 October 2020 in administrative case No. [eA-2282-520/2020](#)). In another case, the Court ruled that the mere fact that, due to the activities carried out by the operator of the pig farm, the *excess of the odor concentration permitted norm* in the living environment of other persons was established not by the complainant, but other people in the residential environment, does not deny the infringement of established appropriate hygiene norms (ruling of 11 November 2020 in administrative case No. [eA-2013-525/2020](#)).

LAND LEGAL RELATIONS

In the field of land legal relations, the number of cases received and pending has been similar for several years in a row and represents a relatively small proportion of all received and annually resolved cases (about 4%). When examining disputes of this category during the year under review, the Court dealt with the issues important for further development of case-law on the landscaping of state-owned land, as well as to the determination of the market value of a land plot taken for public needs.

One should note the administrative case No. [eA-3150-556/2020](#), in which the applicant sought to form a state land plot in order to be able to lease it and in turn use the buildings, that he owned by right of ownership. These building were located at the Trakai Historical National Park territory and were designed for a specific purpose – for the activities of the yacht club. In the present case, the Court has clarified that the *right to form a land plot of state-owned land for the operation of buildings*

and/or installations located there is not *absolute*, it must be implemented in a procedure defined by the legal acts, according to which the decisions on the formation and conversion of such land plots should not contradict the planning documents adopted for the specially protected areas. In this regard, the Trakai Historical National Park Planning Scheme, approved by the Government in 1993, set out that the applicant's own building complex is included in the list of recreational establishments to be liquidated. Having regard to this, the Court held that the intentions of the legislator were very clear, i.e. to liquidate the complex of buildings belonging to the applicant in the disputed territory. Therefore, the applicant's ownership right to the disputed buildings could not be implemented in his preferred manner (for further activities of the yacht club). In turn, there is no legal background to form a land plot for this purpose. The Court stressed that the procedure for forming a state-owned land plot is not a process in itself, but one to achieve a specific purpose (ruling of extended panel of judges of 18 February 2020 in administrative case No. [eA-3150-556/2020](#)).

In another administrative case, the Court ruled on the dispute regarding refusal of the National Land Service territorial department to prepare a project for *the formation and redevelopment of a land plot*. *The applicant sought to combine the land between the intervened free state-owned land area (by selling in a non-auctioned way) and the adjacent private land plot*. Having referred to the Government resolution No. 692 "On the sale and lease of new state land plots of other purpose", the Court stated that the wording of Point 2.15 "intervening between private land plots [...] and roads (streets)" should mean that the roads and streets should really exist, i.e. the communication infrastructure objects should be constructed, installed and actually occupy the

relevant area of land. They must have the boundaries of the land occupied by which it would be possible to assess whether there are land areas in a given territory that could be identified as intervened between private land plots and roads (streets). The norm in question does not provide that the intervened land area means any land area between a private land plot and a land plot provided for in the territory planning document, but not actually formed and non-existent (ruling of 8 January 2020 in administrative case No. [eA-1491-525/2019](#)).

In the field of legal relations relating to *the taking of land for public needs*, one should mention the ruling of 5 July 2020 in administrative case No. [eA-782-552/2020](#). The Court stated that the notes in the Real Estate Register, regarding the initiation of the procedure for taking land for public needs, is an event defining the essential characteristics of the land to be taken for the public's needs eventually leading to the determination of the market value of the land to be taken. But it cannot be concluded that the event in question also defines the date determining the market value. The procedure for taking land for public needs is of a continuous nature and from the beginning of this procedure to the transition of the land plot from the person's ownership to the state ownership may take a considerable period of time, which may affect changes in the value of the land plot, both ascending and decreasing in the direction. Therefore, *public authorities must ensure that the evaluation of the land taken for the needs of the society (public needs) corresponds as closely as possible to the real market situation at the time of loss of ownership, and that the minimum time interval elapsed between the evaluation and the loss of ownership would be as small as possible, and the necessary procedures are carried out as quickly as possible*.

CONSTRUCTION

Disputes in the category of construction cases are also not characterized by abundance, but in 2020 there was an increase in the number of cases received by the Court in this area by more than a third compared to the previous year. During the review year, the construction category cases that reached the Court were used to provide significant rules of

interpretation and application of law not only on the procedure for issuing documents that permit construction, but also on issues of protection of the public interest in the field of construction.

In this regard, it is worth mentioning the administrative case No. [eA-3134-502/2020](#). The

Court clarified that where the State Territorial Planning and Construction Inspectorate under the Ministry of the Environment (hereinafter referred to as STPCI) submits appeals to the court requesting to terminate the declaration on completed construction, it should take into account that the property rights to the newly built building are transferred to the third parties. Therefore, the request to annul the documents certifying the completion of constructions cannot be an end in itself, but must be aimed at protecting the public interest. In the present case, the requirements formulated by the STPCI to annul the declaration on the completed construction and the legal registration of the residential building were not appropriate and sufficient for the defense of the public interest, since they are not linked to the resolution of the existing situation to the end and could cause even greater confusion. The Court noted that *litigating purely on the cancellation of the declaration on completion of construction, without seeking elimination of all material legal consequences created by this act, was creating instability in the formed legal relationships, therefore the public interest was not actually defended* (ruling of extended panel of judges of 19 October 2020 in administrative case No. eA-3134-502/2020).

Another important clarification was given regarding the *refusal to issue a building permit on the basis of the new shortcomings identified during a repeated inspection of the building project*. The Court noted that in accordance with the legal regulation, when a construction project is inspected for a second time, the refusal to approve such project by the inspecting body is held unfounded where the reasons for such refusal are newly brought and could have been

provided during the previous inspection. The Court emphasized that the purpose of these provisions is to ensure that the procedure for issuing documents permitting construction is efficient and cost-effective. Nevertheless, those provisions should not be understood as enabling to issue building permits in violation of the requirements of legal acts since the construction permits issued in this way could not be implemented anyways and should be annulled at the later stages (ruling of 1 April 2020 in administrative case No. A-137-492/2020).

In administrative case No. eA-556-602/2020, there was a dispute over the refusal of the municipal administration to approve the construction of the self-service car wash. The refusal was based, inter alia, on the grounds that the applicant failed to provide consents of the owners of neighboring land plots even though the car wash pollution zone would be up to 8 meters inside the adjacent residential land plots. In this case, the Court noted that the *procedure for informing the public carried out by the builder in accordance with Article 37 of the Law on Construction, cannot replace or alter specific norms for protection of the property rights and does not deny and could not deny the obligation of the builder to obtain consent from the owner in case of any form of interference in the property under the ownership of another person*. The principle of inviolability of ownership in the construction process is implemented by the provisions of Article 14(1), (13) and (15) of the Law on Construction. This principle is ensured by providing that in the event of an intervention in the property under ownership of another person, the builder must obtain the consent of the owner (ruling of 1 April 2020 in administrative case No. eA-556-602/2020).

TAXES

Legal and taxation issues are characterized by a broad and frequently complex regulation. The dynamics of these relations presupposes frequent changes in the legal regulation, which, in turn, leads to new developments or revision of the case-law of administrative courts, entrusted with resolving such disputes.

In disputes concerning indirect taxes, the Court continued to focus its attention on various issues

relating to *value added tax (VAT)*, starting from the right to deduct VAT when that right is exercised in case of bad faith of the taxable person (ruling of 4 November 2020 in administrative case No. A-2161-575/2020) or in the absence of a link with the taxable activities (ruling of 26 August 2020 in administrative case No. A-940-602/2020), and ending with the taxable person's duty to pay VAT in Lithuania on goods purchased within the European Union when the movement of those goods had ended

in another Member state (ruling of 9 December 2020 in administrative case No. [eA-2576-1062/2020](#)). The Court also interpreted legal provisions concerning the status of the taxable person. In ruling of 16 December 2003 adopted in administrative case No. [eA-1508-602/2020](#), on the basis of the interpretation given by the Court of Justice of the European Union, it was found that even where an agreement of joint activities (partnership) is concluded, the taxable person who is responsible for payment of VAT on supplies carried out in the course of those activities is only that operating partner who, in view of the prospects of the relationship with the purchasers, acted in his own name, on his own account and on his own responsibility in the supply transactions.

In tax disputes relating to *excise* duty, the Court, taking into account, inter alia, the case-law of the institutions of the European Union, continued to develop its case-law on the subject matter of that tax. For example, in ruling of 16 December 2020 adopted in administrative case No. [eA-1502-662/2020](#), the Court stated that a mixture consisting of water pipe tobacco, the major proportion of which is sugar, is a smoking tobacco and should be taxed in its entirety, irrespective of the proportion of the tobacco and the proportion of other substances intended for being smoked together with the tobacco.

This year, the Court paid considerable attention to the disputes related to *customs activities*. In three cases of this category, the Court of Justice of the European Union has been referred for a preliminary ruling. These references concerned the taxation of goods that were unlawfully introduced into the customs territory of the European Union and that were subsequently confiscated (ruling of 30 September 2020 in administrative case No. [A-830-442/2020](#)), and the determination of the customs value of imported goods (ruling of 29 January 2020 in administrative case No. [eA-1-442/2020](#), ruling of 3 November 2020 in administrative case No. [A-2638-968/2020](#)). In this regard, one should also note the ruling of 17 June 2020 in administrative case No. [A-2379-968/2020](#). In the latter case, the Court emphasized that the customs value cannot be regarded as a transaction value when the final price to be paid to the supplier for those goods is not available at the date of submission of the import declaration.

The Court also ruled on the consequences of taxation in the event where the person submitting the declaration on behalf of another person exceeds the powers conferred on him by the such person. In this regard, the Court held that, in the absence of the respective agreement, a person is considered to be acting in his own name and on his own interests (ruling of 1 April 2020 in administrative case No. [eA-3212-442/2020](#)).

It has already become common that, both in previous and the reviewed year, a large part of the tax disputes on direct taxation consisted of disputes on *personal income tax (PIT)*. For example, the Court ruled on the dispute concerning the person's tax charge resulting from the fact that that his (family's) income had exceeded the funds held in the relevant tax period and the legally received income (ruling of 9 December 2020 in administrative case No. [eA-1870-442/2020](#)). The Court also ruled on the recognition of income, in particular by interpreting the provision of the tax law in question. It was stated that the *moment of receipt of income is considered to be the time when the income is actually received in any form*. As pointed out by the extended panel of judges in ruling of 18 February 2020 in administrative case No. [A-1798-968/2020](#), the above-mentioned moment of recognition of income corresponds to (is the same) the fact of obtaining money (monetary benefit) or other benefit recognized as income in kind. Therefore, where the person receives income from the sale of the asset and uses part of it to cover the debt he owned to the buyer of that asset, it is recognized that that part of the income is an income actually received by the person. However, where the payment for the sold property is not actually received (in any form), there is no basis to acknowledge the price agreed in the sales contract (the part that was actually not received) as the person's income for the purpose of applying the above-mentioned provisions. All the more so, where the debt allocated with the purchaser of such asset (a part of it) was then replaced by a loan.

When deciding *on taxation in Lithuania of the income received by a permanent resident of Lithuania in a Member State of the European Union and already taxed in that Member State with income tax or analogous tax*, the extended panel of judges, in its ruling of 10 June 2020 adopted in administrative case No. [eA-3149-438/2020](#), have stressed that the exemption provided for in national tax law from taxation of

such income by PIT is linked to the mandatory condition that the relevant tax is not only paid in the Member State, but also that the permanent Lithuanian resident's income is taxed (is the subject of income tax or equivalent tax) in a foreign country in accordance with the provisions of the (tax) legislation in force in the relevant period in that Member State.

Regarding the tax relations in which the local authorities participate, one should note the ruling of 11 November 2020 in administrative case No. [A-2196-415/2020](#). The Court stated that the director of the administration of the municipality is not competent to establish and approve a list of abandoned or unattended *real-estate for the purposes of taxation with immovable property (real-estate) tax*.

The case-law was developed concerning the *local fee for the collection and management of waste* from the waste holders. The Court ruled in cases where this local fee is established by the municipality and consists of a fixed and variable component. It was emphasized that the fixed part of the fee is one of the measures to maintain the system of municipal waste management and disposal services and it is not related to the actual generation of waste (ruling of the extended panel of judges of 16 December 2020 in administrative case No. [eA-1070-602/2020](#)). In a dispute related to local fees, the Court also ruled that the refusal of municipality to refund the *local car parking fees paid in advance by purchasing a prepaid card* was unjustified. It was established that at a later stage the municipality withdrew the possibility to use the prepaid card for the services to which this fee is related to without a good reason (ruling of 21 October 2020 in administrative case No. [eA-2362-520/2020](#)).

The Court further developed its case-law on legal acts regulating the *tax administration* and other aspects of the activity of the tax authority. For example, in administrative case No. [eA-537-442/2020](#) it was emphasized that not only the data of the one-off declarations of personal assets held on 31 December 2013, but also the data of the annual declarations of personal (family) assets cannot be questioned by the tax authorities for an indefinite period (ruling of 1 April 2020 in administrative case No. [eA-537-442/2020](#)). One should also note the ruling of 25 November 2020 in administrative case No. [A-26-438/2020](#). The extended panel of judges stated that the tax authority had a ground to refuse the

application submitted by a natural person intending to engage in an individual activity of dentistry for registration in the Register of Taxpayers. In this regard, it was established that in accordance with the current legislation on health care activities, including dental care, only the legal entities have the right to carry out such services.

With regard to *abuse of rights*, it is noted that the application of the provisions of tax laws cannot be extended to cover actions taken for the purpose of abusive use of taxation exemption or other tax advantage. The tax authority and the authority which is resolving a tax dispute are obliged to refuse to allow the use of the provisions of the tax laws, where they are not invoked in order to achieve the objectives of those provisions, but in order to benefit from their relief, although the conditions for access to that relief were fulfilled only formally. Such a refusal to grant a right or a relief on grounds relating to abuse is just a simple finding that, in the case of an abuse of the right, the objective conditions necessary for the granting of the right or the advantage sought are not fulfilled (see, for example, ruling of 13 May 2020 in administrative case No. [eA-909-602/2020](#)). However, as noted in the ruling of 1 July 2020 in administrative case No. [A-862-438/2020](#), *the mere fact that the taxpayer actively seeks to benefit from the relevant benefits before their cancellation does not, in itself, lead to a finding that there is thus a violation of the prohibition of abuse of the right*. The opposite assessment would lead to the fact that the prohibition of abuse (misuse) of the right in question would be contradicted by the right granted to taxpayers by the State itself to benefit from a certain relief (advantage) in relation to income tax, that is to say, would support a wholly unfounded assessment that the choice of a person to benefit from a more favorable tax regime established by the State (exemption from taxation or other tax advantage) in itself means an abuse of the right.

The Court has repeatedly dealt with the requests of taxpayers to exempt them from the estimated fine interest and/or fines imposed in the event of failure to comply with tax obligations or inappropriate fulfilment of them. On these issues, in the ruling of 20 May 2020 in administrative case No. [A-775-575/2020](#), the Court ruled that when at the same time there is a tax underpayment and the tax overpayment, which can be credited to cover the aforementioned arrears, it can be held that no damage to the budget has been caused.

SUPERVISION OF FINANCIAL MARKETS

During the year under review, the Court examined several disputes regarding the supervision of entities operating in regulated financial markets. The supervision of those entities is executed by the Bank of Lithuania and its decisions on various and often really complex legal issues are brought before administrative courts, including matters on the increase of authorized capital of a joint stock company from the revaluation reserve and the use of the revaluation reserve to cover losses (ruling of 1 April 2020 in administrative case No. [eA-713-415/2020](#)), the decision to declare the credit union insolvent (ruling of 5 August 2020 in administrative case No. [A-1052-556/2020](#)) or the supervisory authority's obligation to initiate an investigation on the breach of the Law on Consumer Credit, when more than 3 years have elapsed since the infringement was committed (ruling of 2 September 2020 in administrative case No. [eA-3738-502/2020](#)). With the 11 August 2020 Ruling in Administrative Case No. [eA-3738-502/2020](#), it

was refused to acknowledge the responsible loan requirement infringements made by the consumer credit providing company as insignificant, when, apart from other factors, this company inadequately assessed the data collected on the sustainability of part of the income of the consumer borrowers, and in several cases failed to adequately fulfil the obligation to assess the creditworthiness of the consumer credit recipient before the conclusion of the consumer credit agreement.

In the context of supervision of regulated activities carried out by the Bank of Lithuania, one should also note the ruling of 10 July 2020 in administrative case No. [eA-969-822/2020](#). The ruling highlighted the obligation of the insurance brokerage company to provide the supervisory authority with the correct information about the obligations towards the insurance companies. It also emphasized the duty to keep the collected insurance contributions in a separate bank account.

COMPETITION

The number of cases resolved by the Court under the competition category is gradually increasing every year (8 cases were examined in 2018, 12 in 2019, 15 in 2020). The year under review sets out a number of issues related to misleading advertising, as well as procedural issues regarding the appeal procedure against the decisions adopted by the Competition Council.

As a starting point, administrative cases concerning *violations of the Law on Advertising* should be addressed. In administrative case No. [eA-176-822/2020](#) the manufacturer who named produced sausages “meaty” has received criticism regarding the potential misleading of consumers. It was held that in order to inform the consumer that the highest quality of product contains more than the minimum meat protein content limit established by the law, the percentage of these substances in the composition of the particular product can be indicated. It is this data that, instead of the symbol “meaty”, that

indicates an obvious and research-based fact about the specific amount of meat in the product (ruling of 30 September 2020 in administrative case No. [eA-176-822/2020](#)). The Court that the public authority was justified in imposing the fine on the business operator, who advertised the buildings for sale as residential, although the incomplete buildings under construction were registered as holiday houses, with the main purpose of their use — recreational buildings, i.e. non-residential buildings (ruling of 17 February 2020 in administrative case No. [eA-140-822/2020](#)). Deceptive online trading advertisements have also attracted criticism.

The average consumer, seeing the word “sale” and the percentage symbol, could have assumed that the prices of the offered goods were lower compared to their normal prices, while the clock symbol and the time remaining until the end of the sale gave the impression that the discount applied is fixed-term, although it was not. In the present case, the Court



recalled that the average consumer's ability to gather accessible information and to act wisely on its basis does not mean that it is not necessary to protect him or that, as a result, the entity carrying out a commercial activity is (or should be) subject to lower standards of protection of consumer rights (ruling of 4 March 2020 in administrative case No. eA-629-520/2020). A shop was acknowledged as violating the prohibition of unfair commercial activities due to the fact that it misled consumers by incorrectly specifying sales/discount prices (ruling of 26 August 2020 in administrative case No. eA-788-492/2020). The Court also addressed a temporary ban on supplying and demonstrating stretch ceilings on the market until their safety is assessed (ruling of 1 July 2020 in administrative case No. eA-2586-629/2020).

In administrative case No. eA-3144-822/2020, the Court clarified that a decision *made by the Competition Council that initiated a concentration supervision procedure is of an intermediate nature* and the consequences for the entity in respect of whom it was issued are procedural (not altering its legal

state — it only starts the procedure during which the adoption of final decision may change this status). Therefore, not only the decision of the Competition Council on the initiation of an investigation of a possible violation of the Law on Competition, but also the decision of the Competition Council on initiation of a concentration supervision procedure *cannot be appealed* before the court (ruling of 10 December 2020 in administrative case No. eA-3144-822/2020).

The Court also recalled that the *type of joint deployment to participate in public procurement* is not in itself prohibited, but in each case it must be decided whether it was objectively necessary for the entities to participate in such a joint activity in order to enter the market and to participate in tenders. Moreover, the flaws of public procurement conditions cannot justify the restriction of competition and the artificial “circumvention” of certain criteria on the basis of a joint venture (ruling of 3 June 2020 in administrative case No. eA-161-552/2020).

TOBACCO AND ALCOHOL CONTROL

In 2020, *alcohol control* issues related to allocation of economic sanctions predominated in this area. Recent developments in the case-law include the imposition of economic sanctions to economic operators who committed various violations of the Law on Alcohol Control: sales of alcoholic drinks to persons under the age of 20 (ruling of 9 December 2020 in administrative case No. eA-2209-822/2020), sale of alcohol drinks at forbidden hours (time) (ruling of 11 November 2020 in administrative case No. eA-3091-629/2020), failure to ensure that sold alcoholic beverages are consumed at the place of consumption (ruling of 7 October 2020 in administrative case No. eA-1451-261/2020, ruling of 22 April 2020 in administrative case No. eA-666-525/2020), sale of alcoholic beverages to intoxicated persons (ruling of 4 November 2020 in administrative case No. eA-1853-261/2020), etc.

In the administrative case No. eA-148-822/2020, the extended panel of judges was resolving a dispute concerning the sanction imposed on the applicant

for a sales promotion of alcoholic beverages (price reduction). It was noted that despite the fact that the cashier register's receipt did not clearly distinguish, that EUR 0,59 price is sold with a discount, the infringement was committed, since the goods in question were accompanied by an unambiguous, vivid notice of the reduction of the price, named “sale” (promotion), and at the time of purchase the goods actually amounted to a lower price than they were priced two days ago. Thus, the applicant directly arranged a promotion, thereby manifestly encouraging the purchase and consumption of alcoholic beverages (ruling of 21 January 2020 in administrative case No. eA-148-822/2020).

During the year under review, the issues related to *alcohol advertising* were quite numerous. In administrative case No. eA-2103-415/2020 it was established that the website ran by the applicant published the promotional layout containing information about the sale (delivery) of alcoholic beverages at the point of sale (Benedikto market),

the type of alcohol that is the target object of trade of the event was visualized. Under these circumstances, it was ruled that the part of the presented visual information was prohibited alcohol advertising (ruling of 16 September 2020 in administrative case No. [eA-2103-415/2020](#)). In another case, the Court also considered that the word “energy” used for the name of an alcoholic cocktail was intended to attract attention for consumption purposes (ruling of 22 January 2020 in administrative case No. [A-403-415/2020](#)). During the year under review, the Court also developed its case-law related to alcohol advertising on the social network “Facebook”. The Court assessed both the textual and visual information provided via the Facebook account, the nature of its content, the description of the product, including its taste characteristics, expressions promoting the use of the products, and mentioning the specific places where the above-mentioned product can be tasted (sampled) in the Republic of Lithuania. Having regard to this, the panel of judges considered that the fact that the applicant published this information in English does not in itself prove that the information was published to the markets outside of Lithuanian one. It was noted that the

encouragement of visitors (consumers) of public catering establishments located in the Republic of Lithuania to taste new types of beer produced by the company was due precisely to the increase of brand awareness in the Republic of Lithuania, and not, as claimed by the applicant, directed at creating communication with business partners established in other countries (ruling of 16 December 2020 in administrative case No. [eA-2184-822/2020](#)).

In recent years, only a few cases have been examined concerning infringements in the field of tobacco control. Here, in the case concerning the *procedure for installing cigars and/or pipe clubs*, the judges stated that, given that Article 19(1)(5) of the Law on Tobacco Control, tobacco products and related products prohibits smoking (use of tobacco products) in restaurants, cafes, bars, other catering establishments, and cigar and pipe clubs cannot be installed in the aforementioned places. Such clubs may be installed only in closed premises with a separate entrance which does not coincide with the entrance to the premises of restaurants, cafes, bars, other public facilities (ruling of 7 October 2020 in administrative case No. [eA-1443-261/2020](#)).

FINANCIAL SUPPORT FROM NATIONAL, EUROPEAN UNION AND FOREIGN INSTITUTIONS

Important clarifications were provided in the area of financial support by national, European Union and foreign institutions in 2020. In administrative case No. [A-9-968/2020](#), the extended panel of judges ruled *on the application of the principle of lex retro non agit (the law has no retroactive effect)* to the procedure of the recovery of the paid support. The extended panel of judges, having assessed the relevant legal regulation (EU regulations, Lithuanian 2007-2013 rural development program, Implementation rules on the Lithuanian 2007-2013 rural development program measure “First afforestation of non-agricultural and abandoned land” (hereinafter referred to as the Rules), stated that Lithuania had detailed rules on the applicable impact measures in national legislation at the time of the application of the applicant. It clearly established that the non-compliance with the requirement for density of plantation forests and/or natural forests led to the

sanction specified in the Rules, i.e. “the recovery of forest maintenance and protection payments”. Thus, there was no reason to state that the subsequent legislative changes should apply to those beneficiaries, who applied for the support under the legislation that provided for a different administrative measure in case of non-compliance with respective rules. The opposite interpretation (i.e. the statement that the version of the Rules in force at the time of adoption of the decision by public authority on the recovery of payments, which provides for a more stringent administrative measure should be applied) would be contrary to the principle of *lex retro non agit* and would violate the applicant’s legitimate expectation that he may be subject to the application only of administrative measures that were in force at the time of the submission of his application (ruling of extended panel of judges of 20 July 2020 in administrative case No. [A-9-968/2020](#)).

In administrative case No. eA-1632-629/2020 the extended panel of judges addressed the issue of *application of financial correction due to the failure to reach the value of the project monitoring (result) indicator*.

The decision under appeal in this case was the order adopted by the Minister of Environment, which required the applicant (water treatment company) to reimburse the amount of funds granted to the applicant from the Cohesion Fund and the State budget. This decision was taken after finding that the executor of the project concerning the development of water supply and wastewater management infrastructure did not reach the monitoring (result) indicator: less population was connected to the newly installed wastewater collection networks than it was planned. The applicant claimed that the dispute monitoring indicator had not been reached due to factors that did not depend on his will. With regard to this, the Court noted that the rural depopulation, as well as the fact that part of the buildings became uninhabited and some of the buildings were equipped with separate wastewater facilities — all were the factors which the applicant had not been able to influence. However, the Court also stated that, the applicant did not demonstrate that, when building networks into empty and unfinished land plots, he could objectively and reasonably expect that buildings would be built and service contracts would be concluded before the expiry of the time limit for the attainment of the indicator (the applicant did not apply for the amendments to the contract). The applicant also did not apply for the amendments to the contract when it turned out that the calculation of the planned population did not take into account the fact that part of the population did not have financial opportunities or did not want to connect to new sewage networks. The latter circumstances were not recognized as factors which the applicant had not been able to influence. In the case, it was stated that competent public authorities, when setting the amount of the financial correction to be applied, essentially did not assess the importance of all types of relevant circumstances and types of deficiencies and the loss to the Fund, which, apart from other things, did not allow to decide on the proportionate

amount of the correction, i.e. if the amount of the financial correction is proportionate to the objectives sought through such a measure. Therefore, this part of the contested order was annulled and the question of the amount of financial correction was returned for re-examination to the public authority (ruling of extended panel of judges of 13 May 2020 in administrative case No. eA-1632-629/2020).

In administrative case No. eA-3213-624/2020 the Court assessed whether the respective indicator for the renovation and development of the water supply and wastewater management infrastructure was achieved, where the owners of residential houses did not conclude written contracts despite the fact that these buildings had been connected to the sewage and water supply networks before the established term. In this regard, the Court relied on the interpretations given in the ruling in the aforementioned administrative case No. eA-1632-629/2020. In the present case, it is further noted that the data relevant to the issue being addressed, first of all, should be assessed from the perspective of both the achievement of the monitoring (result) indicator and the failure to reach the monitoring (result) indicator due to factors, the effect of which on this indicator could not be lessened. The case did not put any arguments forward as to why the residential buildings, which were factually connected to the sewage and water supply networks before the specified date, but whose owners had not concluded written service contracts, were not considered in the light of the provisions of Article 34(4) of the Law on Drinking Water. Relying on this regulation one could legally claim that the houses were connected to installed new water supply networks and the contracts for the supply of these services were concluded. It was equally important to assess such cases from the perspective falling into the category of factors being outside the control of applicant. There was no data to prove that the applicant (municipal administration) or project partner (UAB “Vilniaus vandenys”) had any measures to force citizens to sign such agreements, and even more, do so by a certain date (ruling of 23 September 2020 in administrative case No. eA-3213-624/2020).

LEGAL PROTECTION OF PERSONAL DATA

In the year 2020, the Supreme Administrative Court of Lithuania dealt with several interesting cases in the field of legal protection of personal data. For example, in case No. eA-2402-629/2020, the Court ruled that the *state authority*, by sending an electronic email, containing a message suggesting to use the National Electronic Messaging and Electronic Documents Delivery for natural and legal persons, using the postal network and information system, had *carried out direct marketing* in the case at issue. Having assessed the activities of Information Society Expansion Committee under the Ministry of Transport and Communications as direct marketing, the panel of judges found that, in the circumstances of this particular case, the recipient had expressed his consent to receive such information. As a result, the panel of judges satisfied the appeal complaint of the applicant and annulled the order of the State Data Protection Inspectorate (ruling of 19 February 2020 in administrative case No. eA-2402-629/2020).

In administrative case No. A-3345-822/2020 a dispute arose as a *result of employee biometric data processing*. The panel of judges decided that the applicants processed biometric data of the employees without carrying out an assessment of the balance of the interests of these employees, and in the absence of the legal interest, provided for in Article 5(1)(6) of the Law on Legal Protection of Personal Data (later — LLPPD), whereas the data subject's interests are not of higher importance. The panel of judges stressed that in order to process the personal data in accordance with Article 5(1)(6) of the LLPPD, it was not sufficient to establish a certain legitimate purpose from the point of view of the processor, and it is necessary to assess whether the interest of the data subject was more important than the objective pursued by the processor. It was therefore evident that the applicants did not carry out the proportionality test, i.e. it did not consider whether measures were strictly necessary while looking at the aim pursued. The Court also ruled in this case that the applicants processed the biometric data of employees without their consent. The panel of judges was not convinced by the explanations of the applicants that only biometric data processing measures can achieve the objectives pursued — the accounting of working time and control of working

procedures. To sum up, it was concluded that the employers could use biometric data management measures in order to achieve certain specific objectives only in exceptional circumstances which had not been established in the case (decision of 2 April 2020 in administrative case No. A-3345-822/2020).

In administrative case No. eA-2837-968/2020 the Court ruled on *the processing of personal data of blood donors*, when a person gave consent to a one-time blood donation procedure. The decision under appeal was adopted by the State Data Protection Inspectorate after examining the application of the person complaining that the public enterprise National blood center without his consent used his contact details (telephone number) to send him an SMS message, inviting him to carry out the blood donation procedure once again. The State Data Protection Inspectorate declared the complaint well founded and a reprimand was imposed on the National blood center. In the context of the case under consideration, the panel of judges, inter alia, referred to Article 6(1)(d) of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation – GDPR), according to which the data processing legality is directly related with the objective of protecting the “vital interests of the data subject or other persons”.

According to the panel of judges, the application of this condition of lawfulness of data processing was clearly linked to a specific, real threat to the life or health of a particular data subject or another person. Consequently, the processing of personal data on this basis can be excused only in exceptional, one-time, extraordinary situations associated with a direct threat to the vital (life) interests of the data subject himself or of another specific natural person (specific natural persons). It was stressed that the lawfulness of the processing of personal data on the basis of Article 6(1)(d) of the GDPR cannot be justified in a situation where such processing related to abstract vital interests of other natural persons (i.e. when



those interests of natural persons were not expressly individualized), while because of the specificity of the activities carried out by the controller itself, such a situation was standard, periodically recurring and therefore easily predictable, and for which the controller, due to the nature of his activities, had the

opportunity and obligation to prepare in advance (e.g. to obtain the explicit consent of the data subject on the processing of personal data in this way) (decision of 8 July 2020 in administrative case No. eA-2837-968/2020).

PUBLIC ACCESS TO INFORMATION

Although not very abundant, in 2020, the area of public access to information was distinguished by interesting and important judgments. In administrative case No. eA-1507-662/2020, the extended panel of judges examined the issue of exemption from the obligation imposed by the legislator to *retransmit the national radio and television program of Lithuania*. In the case, the applicant challenged the decision of the Lithuanian Radio and Television Commission (hereinafter referred to as the Commission). The Commission refused to exempt the applicant from the obligation to retransmit the national Lithuanian radio and television (LRT) television program „LRT Kultūra“ (LRT Culture, currently LRT Plus) via an artificial Earth satellite and the applicant was obligated to start rebroadcasting this program. Having regard to the case-law of the Court of Justice of the European Union, the extended panel of judges noted that the obligation imposed by the Law on Public Access to Information to retransmit the aforementioned television program was a restriction on the freedom to provide services set out in Article 56 of the Treaty on the Functioning of the European Union (TFEU). Even though such a restriction on the fundamental freedom guaranteed by the TFEU was found to be justified due to overriding reasons in the public interest relating to cultural policy, the Court had doubts as to its proportionality in the specific case at issue. Since the Commission did not assess the essential circumstances, including the aforementioned aspect of proportionality, when it adopted the contested decision, the Court returned this question to the Commission (ruling of 20 May 2020 in administrative case No. eA-1507- 662/2020).

The Court ruled on *the right of journalists to receive audio recording* of the Government's meeting in administrative case No. eA-1639-520/2020. In this case, the applicants (journalists and the Lithuanian

Union of Journalists) applied to the Court challenging the refusal of the defendant (Office of the Government of the Republic of Lithuania) to provide an audio record of the Government's meeting and, inter alia, applied for the court to oblige the defendant to reproduce the record of the meeting and to submit it to the applicants. Having assessed the fact that government meetings are an organizational form of government activity, the panel of judges concluded that the applicants, in the course of their professional activities, had the right to appeal to the defendant for information about the Government's meeting and the decision (and the motives for it) made at that meeting, i.e. apply for the provision of information on the activities of a public institution, which was recorded in a audio record made by the defendant and which was at its disposal before it was deleted. It was noted that neither the Law on Public Access to Information, nor the Law on Access to Information from the State and Municipal Authorities and Institutions had set out any prohibitions on the provision of the information about the Government's meeting, which had been recorded in the audio recording. No legally substantiated arguments were put forward in the case, on the basis of which it should be stated, that the limitation to provide the applicants with the aforementioned information was necessary in order to protect the rights and freedoms of other persons and the values enshrined in the Constitution, and/or constitutionally important objectives. There were no reasons to believe that the refusal to provide such information followed the constitutional principle of proportionality. Taking into account the exceptional legal situation in this case, the fact that the applicants addressed the court in order to defend their violated right to information and that there was no real opportunity to restore the situation existing before the infringement, the panel of judges found that the violated rights of the applicants should be

defended in another way, i.e. by acknowledging that the Office of the Government, by refusing to provide the applicants with the information about the Government's meeting that had been recorded in the

audio record, violated the right of the applicants to receive, collect and disseminate information (ruling of 23 July 2020 in administrative case No. eA-1639-520/2020).

CIVIL SERVICE

There is a stable trend for some time, according to which a significant part of the cases examined by the Supreme Administrative Court of Lithuania are civil service disputes (165 cases, about 5% of cases reviewed). Disputes relating to the balancing of public and private interests in the public service are closely related to this group of cases. In this regard, the case-law developed by the extended panel of judges merit special attention.

In the category of civil service disputes, the *deadlines for the imposition of penalties and their application* remained a significant topic. In administrative case No. eA-483-520/2020, the Court ruled on the validity of the penalty imposed on the civil servant of the territorial agency of the regional environmental protection department. In the present case, the Court clarified the concept of the investigation carried out by the competent authority. Further, it noted that the regional environmental protection departments should be considered as the competent authorities carrying out the inspection on the activities of their subordinate agencies (their subordinate civil servants) within the meaning of Article 30(1) of the Law on Civil Service (ruling of 5 February 2020 in administrative case No. eA-483-520/2020).

In administrative case No. A-971-1062/2020, the Court examined the time-limits for appeals concerning the *refusal of the trade union to give its consent to the imposition of a disciplinary penalty on the civil servant*. In that regard it was noted that there are cases where the procedure for imposing a disciplinary penalty is slowed down due to the refusal of a trade union to give prior consent to impose a disciplinary service penalty that must be challenged before courts. However, this is a valid reason to set aside the contested decision only if the proceedings last longer and the disciplinary penalty is imposed after the expiry of the deadlines for imposing such penalty (in the case under consideration, one year). When due

to the procedure set out in Article 21(2) of the Law on Trade Unions requesting to apply for the prior consent of the representative and/or governance body of the trade union, the procedure for imposing a disciplinary penalty take longer than the one month term laid down by Article 35(2) of the Law on Service in the Customs of the Republic of Lithuania, exceeding this deadline should not be regarded as a material procedural violation. This is the case where the second imperative condition of this provision is fulfilled – one year from the date of the offence has not yet passed (accordingly, three years when the breach of administrative duty is detected by means of an audit, an inspection of monetary or other possessions or an inspection of the competent authority). Thus, such an interpretation and application of the provisions of Article 35(2) of the Law ensure a balance between the interests of the public authority as an employer and its employee (ruling of 26 February 2020 in administrative case No. A-971-1062/2020).

The case-law concerning *deadlines for dismissal notices* was further developed. In one of the cases, the Court stated that the deadlines laid down in the Law on the Civil Service for the notice on the termination of his position (duties) provide a guarantee for the civil servant not to be dismissed during the period of that notice. Thus, in case the civil servant was not dismissed when the terms specified in the notice are due, there are no reasons to assume that the grounds for dismissal disappear (ruling of 15 April 2020 in administrative case No. eA-3797-629/2020).

In 2020, the case-law *on guarantees afforded to civil servants* continued to be developed. For example, in one of the cases, the Court addressed the issues concerning the employer's duty to offer other positions to the dismissed civil servant after the person refused to be transferred by means of mobility of posts. According to the Court, even where the proposal of another institution (authority) to

the applicant to continue service in that institution was regarded as the employer's offer, the defendant was still obliged to comply with the obligation, laid out in Article 49(1) of the Law on Civil Service, until the date of the actual dismissal of the applicant from the public service (ruling of 5 February 2020 in administrative case No. [A-3156-552/2020](#)). In another administrative case, the duty of the institution to offer other positions to a civil servant, who is raising a child under the age of 3 years, has been clarified. The guarantee, as set out in Article 51(6) of the Law on Civil Service, to safeguard the workplace for pregnant civil servants or servants raising a child (children) up to the age of three years is not absolute. When positions are being cut back at the institution and their civil servant refuses equivalent position, such person shall be deemed to be willingly refusing the guarantee provided by this provision. According to the Court, a different interpretation of that provision would be unjustified since, by recognizing the prohibition contained in this provision as absolute, the institution would not actually be able to make structural changes and this would permit to abuse that guarantee (ruling of 12 February 2020 in administrative case No. [eA-2404-261/2020](#)). The Court's judgment regarding the guarantees for the spouse of a diplomat seeking to restore the status of civil servant also deserve to be mentioned. It was stated that the spouse of the diplomat who had left with the diplomat to the diplomatic mission or consular post of the Republic of Lithuania, after returning, retained the right to return to the same position.

If not available, the spouse of the diplomat should be entitled to return to other positions of civil servant of the same category and in the same or another state or municipal institution or authority. Having regard to the fact that the Law on Diplomatic Service was a special law in relation to the Law on Civil Service, the Court held that despite the fact that the latter law did not provide for at least the same remuneration as before leaving, Article 28(1) of the Law on Diplomatic Service providing for such a right should be applied. Therefore, in a situation where the previous position of the civil servant was terminated, however, in turn, a new one, higher category position created holding the same job functions and same specific requirements necessary to perform it, the right to return to the same post should be protected in respect of the specific situation of the spouse of

the diplomat seeking to restore his/her status and such a person should be returned to the post of a higher category (ruling of 18 November 2020 in administrative case No. [eA-1810-261/2020](#)).

When deciding on the validity of the penalty imposed on the civil servant, the Court ruled on *the conditions under which the employer may require that the civil servant would work overtime*. The Court stated that the purpose of the local legal act (valid within the institution) is to regulate the procedure for the enforcement of rights and obligations enshrined in the law in a particular institution, but the content of such rules cannot be interpreted as providing autonomous grounds for the employees' obligatory overtime work. In all cases, compulsory overtime work requires a background provided for in the law, and the provisions of the Law on Civil Service do not stipulate that overtime work is mandatory for civil servants in certain cases. Thus, overtime work could become mandatory for the applicant only on the basis of provisions laid down in the Labor Code (ruling of 16 December 2020 in administrative case No. [eA-5042-629/2020](#)).

With the entry into force of the new version of the Law on the Civil Service on 1 January 2019, the possibility of concluding a collective agreement within the civil service is no longer envisaged in the legislation, but in this respect the Court has clarified in several cases that this circumstance does not constitute grounds for assuming that such collective agreements concluded earlier (prior to 31 December 2018) are automatically not valid (see, for example, ruling of 15 April 2020 in administrative case No. [eA-3891-438/2020](#)).

One of the most significant rulings adopted in 2020 on the coordination of *public and private interests in the civil service* was announced in administrative case, which assessed the decision of the Chief Official Ethics Commission (hereinafter referred to as the COEC) on the legality of the actions of the head of Opera and ballet theater. In this case, the decision adopted by the extended panel of judges set out in detail the main principles regarding the COEC's duty to inform the person properly of the investigation. The Court clarified that by defining the boundaries of the investigation and informing about the investigation (factual circumstances), the COEC had a certain discretion, which was limited by the obligation to indicate the essential features of

the alleged infringement and to enable the person subject to the investigation to understand clearly and specifically the factual circumstances due to which the investigation was being conducted. The information provided by the COEC of the conducted investigation (factual circumstances) should not be too broad or insufficiently clear; it should explain in an understandable way what kind of factual information was being investigated. A situation where, after receiving additional data, the scope of the investigation is extended to include such additional data, but the person is not adequately informed about the investigation, is not compatible with the provisions of Article 28(5) of the Law on the Chief Official Ethics Commission. The Law establishes that in case other circumstances for which the investigation should be carried out are found during the investigation, the COEC may decide, by a motivated decision, to initiate a separate investigation into these circumstances or to provide a new notification of the investigation to the person in writing. In the present case the Court also ruled on the requirements of an independent and impartial institution. It was established that the COEC was chaired by a chairman not appointed in accordance with the procedure laid down by law. According to the Court, the fact that the applicant's question regarding the violation of official ethics was examined by an authority whose chairman was not appointed in accordance with the procedure laid down by law, could have led to the fact that this institution did not create the impression of an independent and impartial institution for the subjects of law (specifically to the applicant), i.e. it did not meet the objective requirement of independence whereby the institution must provide sufficient assurances that there would be no legitimate doubt due to possible bias. However, in

order to confirm this conclusion, it was necessary to assess not only the specific circumstances of the institution's formation (the factual circumstances of the appointment of the chairman), but also to take into account other facts established in the case. The Court noted that the decision of the institution whose decision was being annulled due to the fact that there were reasonable doubts about the legality of the formation of the institution (as in the case examined — the appointment of the Chairman) and, at the same time, its compliance with the requirements of independence and impartiality, the decision may be set aside if this is a necessary and adequate measure for protection of the infringed rights of a person, so in each case the issue of the proportionality of the termination of the decision must be assessed (decision of extended panel of judges of 14 October 2020 in administrative case No. [eA-3419-602/2020](#)).

The case-law developed in this field also addressed the issues regarding the obligation of persons working in the public service *to declare their position when they take office*, regardless of the general public's awareness of this circumstance. The COEC established that the applicant did not specify in the declaration of private interest of the current ministerial position he had taken in a proper way and in due terms as laid down by legal acts. Under these circumstances, the Court stated that Article 1(1) and Article 7(1) of the Law on the Coordination of Public and Private Interests in State Service did not provide for any exceptions enabling a person who had taken up the duties of minister to exclude his workplace in the declaration, despite the fact that it was publicly announced that the applicant entered into office (ruling of 22 December 2020 in administrative case No. [eA-2861-520/2020](#)).

LOCAL SELF-GOVERNMENT

Local self-government institutions, as a party to the proceedings, will be found in various types and categories of administrative cases, ranging from social protection issues, territorial planning, construction, protection of land and cultural heritage and ending with compensation of damages or even questions related to energy and taxes (compulsory payments). Indeed, the Constitution and laws grant

the municipalities a broad competence, which is reflected in a number of administrative cases examined by the Court in 2020.

A significant part of the cases of the category in question consisted *of complaints from the residents regarding the refusal of the local authority*, for example, to take measures in order to reduce gravel

road dustiness to ensure that air pollution by solid particles in the living environment does not exceed the permissible norm (ruling of 13 May 2020 in administrative case No. [eA-1961-1062/2020](#)), renaming the street with the preferred name (ruling of 10 June 2020 in administrative case No. [A-1428-602/2020](#)), removal of the memorial plaque (ruling of 23 July 2020 in administrative case No. [eA-1071-822/2020](#)), etc. The persons concerned challenged other decisions of local self-government (municipal) authorities, such as a permit to install outside advertising on the house, which was issued by the municipal administration despite the fact that it was known that the owner of this house was not in favor of the installation of advertising (ruling of 6 May 2020 in administrative case No. [eA-1794-662/2020](#)), or the refusal to exempt a person from an inheritance tax (ruling of 9 December 2020 in administrative case No. [eA-1770-492/2020](#)). There were also disputes regarding the decision of the municipal authorities to install or refuse to install the relevant road signs or other traffic restrictions and/or safety measures (ruling of 29 April 2020 in administrative case No. [eA-1570-575/2020](#)).

Over the year under the review, the Court repeatedly ruled on various *procedural aspects of the activities of local municipal institutions*, inter alia on the

investigation regarding the conduct of the members of the municipal council. These issues include administrative cases regarding the discretion of the Municipal Ethics Commission in deciding whether to initiate an investigation according to a complaint received (ruling of 12 August 2020 in administrative case No. [eA-916-492/2020](#)). In this regard, the Court also addressed the requirements applicable to the form of a separate opinion provided by the member of the commission carrying out the investigation of the conduct of respective member of the municipal council (ruling of 23 July 2020 in administrative case No. [eA-4305-822/2020](#)).

On the basis of *the applications from the representatives of the government who supervise the activities of municipalities*, issues concerning the legality of normative administrative acts (parts thereof) adopted by the municipal councils were examined in their essence (more information available in the section Legality of normative administrative acts). In this sphere, one could find of interest the administrative case deciding on the request to oblige the municipal council to announce a competition for the position of director of the school in accordance with the procedure laid down by law (ruling of 5 August 2020 in administrative case No. [eA-2423-662/2020](#)).

COMPENSATION FOR DAMAGES

Cases for compensation for damages arising from unlawful actions of public authorities still remain the main part of the Court's case-law and accounted for half of the total annual administrative appeals before the Court in 2020.

In the year under review, the Court provided a number of interpretations of compensation for damages related to State liability in cases relating to the protection of fundamental rights and freedoms. First of all, the administrative case No. [A-3669-756/2020](#) should be mentioned under this heading relating to *the responsibility of the State for the damage associated with the protection of the right to life*. The State failed to ensure the proper functioning of the common European emergency telephone number 112 and a kidnapped girl had died. Under these circumstances, the Court ruled that the protection of natural human

rights and freedoms presupposes the need to include the applications submitted by the close relatives to compensate the directly suffered nonmaterial damages of the deceased person into the judicial redress system. The Court stated that the specificity of the case was as follows — the State, by unlawfully failing to act through the responsible authorities, failed to fulfil its duty to ensure the protection of the rights and freedoms of a person (minor). There was detailed direct evidence in the case, reflecting the exceptional suffering directly experienced by the victim. This led the Court to accept the mother's right of claim to compensation for the nonmaterial damages suffered by her minor daughter. Therefore, the applicant was awarded by the Court, from the Lithuanian State, a sum of 250 000 Euros to compensate the damages (ruling of 8 June 2020 in administrative case No. [A-3669-756/2020](#)).

In another administrative case, the Court, when deciding *on compensation for damages in the event of police shooting*. The Court found that the applicant's son died due to the use of force which was not necessary, with a view to the legitimate arrest of a person. Under these circumstances it was ruled that Article 2 of the European Convention on Human Rights and Fundamental Freedoms, which establishes a person's right to life, was violated. In view of this, the claim for compensation for pecuniary and non-pecuniary damages was fully satisfied by the Court (ruling of 25 November 2020 in administrative case No. eA-2258-575/2020).

During the reviewed year, the Court addressed certain other issues important to the further development of the case-law, such as the extent of the duty of care applied to the private persons who did not engage in commercial activities *in the sphere of territorial planning and construction legal relation* and the possibility to reduce the amount of compensation for damage (ruling of 27 May 2020 in administrative case No. eA-3910-662/2020), compensation for damages for buildings demolished (currently to be demolished) in Neringa (ruling of extended panel of judges of 29 April 2020 in administrative case No. eA-1803-1062/2020),

compensation for damages in cases the *election districts being not adapted to the needs of disabled persons* (ruling of 18 February 2020 in administrative case No. eA-113-492/2020), *award of litigation costs incurred in administrative offence proceedings* (ruling of extended panel of judges of 27 May 2020 in administrative case No. eA-3145-575/2020, ruling of 4 November 2020 in administrative case No. eA-4838-492/2020), etc.

As in previous years, cases *concerning inadequate conditions of detention* continued to prevail in this category, mainly due to too small living area and/ or inadequate hygiene conditions. However, amongst the disputes in this area, one can also find a wide-ranging claims to award damages compensation related to: the right of working convicted persons to fresh air walks (ruling of 15 January 2020 in administrative case No. A-462-756/2020) and the right to walks during long-term visits (ruling of 16 September 2020 in administrative case No. A-1330-442/2020); the provision of medicines (ruling of 15 January 2020 in administrative case No. A-513-1062/2020); the surveillance by video cameras in police arrest chambers (ruling of 3 June 2020 in administrative case No. A-1362-415/2020) etc.

OTHER CASES

The Court also issued significant rules on interpretation and application of law in other categories of administrative cases.

In 2020, a case was first heard before the Court, for the first time, interpreted the provisions of the *Law on Protection of Informants*, which entered into force on 1 January 2019. The applicant challenged the decision of the Prosecutor General's Office, according to which, the applicant was not recognized as an informant. The Court of First Instance rejected the applicant's complaint on the grounds that the Law on Protection of Informants entered into force on 1 January 2019, and the applicant applied for the status of informant for the information submitted to and examined by the public authorities in the period from 2014 to 2017, i.e. when the aforementioned law was not yet in force. In those circumstances, the Court has clarified that the Law on Protection of Informants did not

contain any provisions defining what information should be considered significant in terms of time in order to grant the person a status of informant. In the process of recognition of a person as an informant, the time factor, i.e. when the information about the infringement had been provided, was of no significance. Both a situation which occurred until the entry into force of the Law of Protection of Informers, i.e. before 1 January 2019, and events happening after the entry into force of this law fell into the scope of the new legislation. When deciding for granting status of informant, the competent institution should always assess the compliance of the information provided on the infringement with the criteria set out in the Law on Protection of Informers (ruling of 14 December 2020 in administrative case No. A-2054-442/2020).

The Court further developed the extensive case-law in disputes arising from the *restoration of property*

rights process in relation to land assigned to the State buy-out. It was stated that the purpose of the provisions of Article 12(1)(3) of the Law on the Restoration of Citizen's Rights to Remaining Real-estate Property was to assign land plots to the State buy-out land, which were needed to operate buildings, constructions and equipment. This led to the conclusion that these buildings should be used according to their intended purpose, while the land should be classified as buy-out by the State to the extent necessary to operate them for their intended purpose. This meant that in the absence of a land plan intended for the operation of buildings, constructions and equipment in the territorial planning document — a detailed plan or an equivalent plan, or where it is proved that the land plot, which is planned in the detailed plan, is not necessary for the operation of buildings, structures or installations in whole or in part because they are not actually used for their intended purpose, the land or part thereof should not be assigned to the state buy-out land, and a decision should be made regarding the land plot formation for the restoration of ownership rights (ruling of 3 June 2020 in administrative case No. [A-4206-492/2020](#)).

There was a growing tendency for expansion of litigation in the sphere of *the rights of persons with disabilities and their discrimination*. When examining cases of this type, the Court emphasized that determining the working time model was one of the important factors in ensuring proper application of conditions for persons with disabilities wishing to exercise their right to work. In administrative case No. [A-162-602/2020](#), when the applicant was determined with a lower level of working capacity, the employer refused to satisfy the employee's request for adapting work conditions due to disability. In this context, the panel of judges noted that the Law on Equal Opportunities, when interpreting it in the light of the objectives and specific rules on evidence, laid down in Council Directive 2000/78/EC, established a legal presumption — whenever persons, who believe they have suffered because they were not subject to the principle of equal treatment, specify the facts which make it possible to presume direct or indirect discrimination to the court or other competent authority, such a fact is considered to be proven if the defendant (in this case the employer) does not deny that presumption. Thus, the employer should

prove that the principle of equal treatment was observed (ruling of 25 March 2020 in administrative case No. [A-162-602/2020](#)). In another case, the applicant challenged the decision adopted by the Equal Opportunities Ombudsman's refusing to investigate the applicant's complaint regarding wages for one working day not being paid due to alleged discrimination against the applicant on grounds of disability. In the complaint brought before the Equal Opportunities Ombudsman, the applicant claimed that in 2016 he had been set with a reduced level of working capacity, as a result of which the employer tried to create an intimidating working environment in order to provoke the applicant to terminate employment relations. The financial situation of the applicant had been deteriorated due to long-term treatment. Nevertheless, the employer failed to pay to the applicant a respective remuneration for one of the working days (the delay lasted for 8 months). The Court, having assessed the legal regulation relevant to the dispute, disagreed with the Ombudsman's position that the resolving of disputes of this type should be attributable to the Labor Disputes Commission. It clarified that the Ombudsman examines complaints about violations of equal opportunities, including those committed by the employer. According to the Court, there was no reason to agree with the alleged statement that the applicant had raised an employment dispute in his complaint. In fact, he asked for an investigation to be opened specifically due to a violation of the principle of equal opportunities on the basis of his disability (ruling of 21 October 2020 in administrative case No. [A-804-525/2020](#)).

In the year under review, a number of important administrative cases *on issues of professional ethics* were examined. First of all, it is necessary to mention the administrative case of the extended panel of judges of the Court regarding liability for violation of the Code of Professional Ethics of *Court experts*. Having reviewed previous case-law of administrative courts and the case-law of the European Court of Human Rights on the limitation period and its purpose, taking into account that neither the Law on Court Expertise, nor any other legal acts governing court experts activities, had provisions which would impose limitation period, the extended panel of judges stated that there was a legal gap in this respect, which should be filled by applying the rules governing similar legal relations

by analogy. In the reviewed case, it was decided by analogy to apply the 3-year limitation period laid down in Article 30(1) of the Law on Civil Service (ruling of extended panel of judges of 17 June 2020 in administrative case No. [A-3814-575/2020](#)). In another administrative case relating to court experts, the Court addressed the issue of court expert's responsibility for unreasonably using the expert's name. The Court clarified that private court experts had the right to consult a party to criminal, civil or administrative proceedings on issues requiring special knowledge, but such conclusions should not have the status of court expertise. A private court expert, in the absence of a court order to perform an expertise, may submit an expert investigation at the request of a party to the proceedings as a consultant. The mere fact that he was included in the list of court experts of the Republic of Lithuania did not grant such a person the right to provide services in all cases within the capacity of a court expert. Therefore, when a person was declaring that he had conducted a research and had presented the findings of the research as an official court expert outside the proceedings and on behalf of the parties to the proceedings, such circumstances should constitute a reason to believe that the person was abusing the court expert powers and misled the client. According to the Court, the fact of misleading by the court expert was not compatible with the high standards of conduct imposed on the court experts as professionals in their field and a disciplinary measure should be applied (ruling of 12 February 2020 in administrative case No. [eA-133-629/2020](#)).

As in previous years, in 2020, disputes arising from decisions adopted by the Audit, Accounting, Asset Valuation and Insolvency Management Authority under the Ministry of Finance of the Republic of Lithuania (hereinafter referred to as Authority) were examined. In one of the cases, the Court addressed the issue concerning the qualification of *bankruptcy administrators* following the change in regulation. In the case, the applicant disagreed with the penalty imposed on him, motivating it by the fact that during the period relevant to the dispute there had been no legislation explicitly determining what was considered to be permanent qualification improvement. The Law on Company Bankruptcy did not specify what satisfied the requirement for permanent qualification improvement, as well as what were the topics of trainings which

the administrator should have attended within the appropriate time. Therefore, in accordance with the principle of *lex retro non agit*, the panel of judges recognized that the applicant had not committed an infringement (ruling of 1 April 2020 in administrative case No. [eA-669-756/2020](#)). In another administrative case, the decision of this Authority was contested, refusing to initiate an unscheduled inspection of the activities of the bankrupt administrator of the bankrupt bank. The Court clarified that the competence of the Authority, enshrined in Articles 11 and 117 of the Law on Company Bankruptcy (wording of Articles of the Law No. XII-1229 of 14 October 2017), to supervise the activities of the administrator, should have been understood as the obligation to determine whether the bankruptcy administrator performed his duties properly and followed the requirements of professional ethics. However, the competence of the Authority to supervise the activities of the bankruptcy administrator responsible for the administration of the bankruptcy of a legal person should not be understood as the right to resolve disputes arising out of bankruptcy proceedings carried out in accordance with the procedure laid down by the Law on Company Bankruptcy between the bankrupt company or the company in process of bankruptcy and its creditors, in order to meet creditors' claims from the assets of the company and to ensure a balance between the interests of the creditors and the interests of the company. Disputes arising from the legal relations related to bankruptcy supposed to be resolved in bankruptcy proceedings (ruling of 17 June 2020 in administrative case No. [eA-1398-602/2020](#)).

The field of Energy can reasonably be referred to as one of the most complex categories of administrative cases. Often, an extended panel of judges is set up to deal with cases of this type. In administrative case No. [eA-20-525/2020](#), the extended panel of judges decided *on the specificities of the scheduled inspection of the regulated activities of an energy company*, inter alia, on the feasibility of method of assessment of the costs assigned to regulated activities covered by the revenues of regulated activities, the supervisory authority's right to use experts or specialists from other state institutions and organizations, the scope of the duties of economic operators to submit documents to supervising entities, etc. (ruling of extended panel of judges of 25 November 2020 in

administrative case No. [eA-20-525/2020](#)). Under this heading, the administrative case No. [eA-2441-629/2020](#) should also be mentioned: it concerned the protection of the public interest *regarding the legality of the authorization to produce electricity*. In the case, it was found that the companies had obtained authorizations to produce electricity after winning the auction of the allocation of promotional quotas. While participating in the auction, they had declared that they would build new wind turbines. Nevertheless, they did not build any new wind turbines, but acquired the turbines previously built by other entities. In those circumstances, the Court held that those companies failed to fulfil their obligations arising from the promotion quotas allocation auction, and therefore the disputed authorizations to generate electricity could not be granted to them. According to the Court, such behavior should not be considered fair, when instead

of the commitment made by the participant in the auction to build new wind turbines, thereby contributing to the increase of the energy capacity of renewable sources in the country, the power plants previously built in the country were bought and only their capacity was increased. The panel of judges ruled that the activities of the companies did not comply with the requirements of the legislation. In this respect, the panel of judges concluded that the private interests of companies should not be given priority in competition with the public ones, and the public interest corresponding services (PICS) funds received without a legitimate basis should be reimbursed in accordance with the principle of legality, in particular ensuring that companies were deprived of the benefits accruing from their illegal activities (ruling of 28 October 2020 in administrative case No. [eA-2441-629/2020](#)).

ADMINISTRATIVE PROCEEDINGS

The application and interpretation of the Law on Administrative Proceedings of the Republic of Lithuania (hereinafter referred to as the LAP) is a relevant field of the judicial activity which is regularly supplemented with the new provisions of administrative case-law.

In 2020, the Court has issued a statement on *the right of an assistant attorney to subdelegate an attorney to represent the client before appeal court*. Having regard to Article 2.145(1) of the Civil Code, Article 34(2) of the Law on the Bar, the Court concluded that the authorized person (in the case in question, the lawyer's assistant) was unable to transfer more rights to the subdelegated person than he owned himself under the power of attorney (representation contract), i.e. when unauthorized by the law to represent the client in the court of appeal, the attorney's assistant could not subdelegate to do so to another person (in the case in question - an attorney). This conclusion was not changed in any way by the fact that the representation agreement concluded between the applicant and the attorney's assistant stated that the attorney's assistant had the right to appeal against the ruling of the court and to represent him in courts of all kinds and instances. The contract of representation (order) could not

grant more rights to the attorney's assistant than he could have under the imperative provisions of the Law (ruling of 19 February 2020 in administrative case No. [eAS-105-756/2020](#)).

In 2020, the Court examined a case in which it addressed *the possibility to appeal an administrative decision that had already been implemented during the court proceedings*. The dispute in the case was due to the decision, which approved the service schedule of trains for 2017-2018. The Court of First Instance found that satisfying or rejecting the claim of the applicant's complaint would no longer have any legal consequences because the schedule validity period had already expired. The Supreme Administrative Court disagreed with such position and noted that in executing the control over public authorities and their contested decisions, administrative courts should decide whether the contested administrative act was legal at the time of its adoption. Verification of the legality of an administrative act at the time of its adoption implies the conclusion that a change in the factual situation or a change in the legal regulation does not affect the legality of the administrative decision, but provides a basis for the adoption of a new administrative decision. Thus, the fact that the period of validity of the service

train schedule for 2017-2018 expired during the administrative proceedings did not in itself make the administrative proceedings meaningless, since the court had to verify the legality of the contested administrative act at the time of its adoption (ruling of 16 September 2020 in administrative case No. eAS-547-968/2020).

A number of relevant clarifications have been provided *in the area of reimbursement of litigation costs*. In the case examined by the extended panel of judges, it was explained in detail what circumstances should be assessed when deciding on the reimbursement of litigation costs in cases where the case was terminated by the applicant's refusal of the complaint and not because the defendant agreed to the claim in good terms. The Court stated that when solving the issue of reimbursement of legal expenses incurred by the concerned third party, when the administrative case was terminated without being examined in its essence (i.e. when it is not clear in whose favor, the final court decision would have been issued), it is first necessary to assess the content of the dispute at hand, determine how the claims brought by the applicant relate to the rights of the third party concerned, on whose initiative the third interested parties were involved in the proceedings, assess at what stage of the proceedings the case was terminated, determine whose responsibility was the

costs of the proceedings, etc. (ruling of extended panel of judges of 13 May 2020 in administrative case No. eAS-144-662/2020).

Taking into account the confusion caused by quarantine, the Court, when assessing *the request for renewal of the expired deadline for filing the appeal*, noted that in the Republic of Lithuania, starting from 16 March 2020 at 00:00 until 16 June 2020 at 24:00 a quarantine regime was announced, during which labor and economic activities were restricted and other conditions related to the restriction of the provision of services were imposed (ruling of 19 August 2020 in administrative case No. AS-538-520/2020). The influence of quarantine on the order of delivery of mail by Lithuanian postal services in Lithuania was assessed and the importance of delivery of contactless parcels was considered in determining the moment of receipt of the procedural documents (ruling of 17 June 2020 in administrative case No. AS-405-438/2020).

In the year under review, in the administrative case No. P-10- 575/2020, the Court, for the first time, applied a newly established provision, providing a background *to reopen the administrative proceedings after the United Nations Human Rights Committee had found a breach of the International Covenant on Civil and Political Rights* (ruling of 11 November 2020 in administrative case No. P-10-575/2020).

REQUESTS FOR PRELIMINARY RULINGS

the administrative case No. EA-1-442/2020 involved a tax dispute over an inspection report, which, inter alia, clarified the customs value of the imported goods declared by the applicant. The panel of judges decided to refer to the Court of Justice of the European Union (hereinafter – CJEU) with a request for a preliminary ruling on whether the Council Regulation establishing the Community Customs Code and the Union Customs Code must be interpreted in a manner that the transaction (customs) value must be specified to include all the factual costs incurred by the producer (seller) at the place of transport of the goods prior to their entry into the customs territory of the Union. When the obligation to bear those costs was borne by the producer and the transport costs exceeded the agreed and the price actually paid by the purchaser, but

the price paid by the purchaser corresponded to the actual value of the goods, even if that price was not sufficient to cover all the transport costs incurred by the producer (Case No. C-75/20).

In the administrative case No. EA-3312-822/2020, SACL analyzed a situation where a person was considered not to acquire a proof of professional qualification of a pharmacist because she met the necessary requirements not in one but in several EU Member States. A panel of judges referred to the CJEU with a request for a preliminary ruling on whether the provisions of Directive 2005/36/EC of the European Parliament and of the Council on the recognition of professional qualifications may be applied in an instance, when a person has not obtained formal proof of qualification due to

the fact that the necessary requirements to obtain the qualification were fulfilled not in one but in several EU Member States. Another question put before the CJEU was whether the provisions of Directive 2005/36 should be regarded as obliging the qualification authority to assess the content of all documents provided by a person in the process of proving professional qualification, as well as their compliance with the requirements for professional qualification in the host Member State and, if necessary, to apply compensatory measures (Case No. C-166/20).

In the administrative case No. A-830-442/2020, a tax dispute concerning excise duties and the payment of value added tax (VAT) on illegally imported cigarettes was examined. After analyzing the provisions of European Union legislation and assessing the current jurisprudence of the CJEU, the panel of judges had doubts about whether, in fact, the confiscation of smuggled goods after they were already illegally introduced and released for consumption in Lithuania abolishes tax obligations. Therefore, taking into account, among other things, that the legislator in national Lithuanian law essentially takes a different position, a request for a preliminary ruling was referred to the CJEU whether Regulation of the European Parliament and of the Council establishing the Union Customs Code must be interpreted as meaning that the customs debt is terminated once smuggled goods have been detained and subsequently confiscated after they have already been unlawfully introduced into the customs territory of the Union (issued for consumption) and whether the obligation to pay excise duty and/or VAT disappears when smuggled goods are detained and subsequently confiscated (Case No. C-489/20).

In the administrative case No. A-2638-968/2020 the notion was aimed at abolishing the inspection report registering the customs debt after a decision was taken to treat the applicant and the seller as related persons and to determine the custom value of the imported goods in accordance with the data contained in the customs goods registry information system without taking into account the value of the transactions indicated in the import declarations. The panel of judges has raised a question on the interpretation of provisions of the Community Customs Code and the Provisions implementing the Community Customs Code, establishing the concept of “related persons”, in instances when

there are no official documents confirming business partnership or control. However, circumstances of the transaction, backed by objective evidence are not inherent in the normal course of the economic activities, but rather in cases of close business relations between the parties based on mutual trust, or when one party controls the other, or when both the parties to the transaction are under the control of a third party. The question was also referred to the CJEU on whether the relevant provisions of the Community Customs Code should be interpreted as prohibiting the determination of the customs value of the goods solely on the basis of the information contained in the national database in respect of the customs value of goods of the same origin, although not similar, but allocated to the same position of the EU Integrated Customs Tariff (TARIC) (Case No. C-599/20).

In an election case concerning the legitimacy and validity of the decision of Central Electoral Commission to not register the member of the political party “Drašos kelias” (eng. “Road of Courage”) as a candidate in a parliamentary election, SACL has stayed the proceedings and decided to address the European Court of Human Rights with a request for an advisory opinion. The panel of judges has asked to clarify whether, by not ensuring the compatibility of the national law with international obligations arising from the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the ECHR), which resulted in a person being removed from the duties of a member of the Parliament through an impeachment procedure, being prevented from the implementation of “passive” election rights for 6 years, oversteps the freedom of discretion granted by the ECHR. The SACL has enquired on the requirements and criteria of the Convention defining the thresholds for the application of the principle of proportionality, which national law should take into account and verify whether they are met in the situation at hand. In addition, whether, when assessing (in this situation) the proportionality of the general type prohibition, limiting the rights, provided for in the Convention, the decisive importance should be focused not only on the determination of the term, but also to the individual circumstances of the case, related to the duties (position, office), from which the person has been removed, and the type of activities, which were the ground for the impeachment proceedings.

HAS THE GLOBAL PANDEMIC CHANGED THE WORK OF THE SUPREME ADMINISTRATIVE COURT OF LITHUANIA?

With the onset of the global pandemic in 2020, the Supreme Administrative Court of Lithuania did not stop its activities — the cases were examined as intensively as previously. The workload of judges and lawyers did not decrease – the statistics of the last year show that the number of cases examined has even increased. Quarantine restrictions approved by the Lithuanian Government have modified the work in the public sector quite severely, employees started working remotely and oral court hearings have been moved into virtual space — this, of course, affected the organization of work of all court employees. About the changes in the activities of the Supreme Court of Lithuania and the challenges that arose, we speak with the Chancellor of the court *Ms. Renata Juzikiene (Ph.D)*.

2020 was a difficult year not only for each of us personally, but also for the institutions, their leaders and personnel. Could you share with us, how the work in the court was organized during the pandemic? What measures have been taken and did the personnel of the court manage to transfer smoothly to working remotely? Was creative decision-making your constant companion?

Indeed, last year was exceptional. In a managerial sense, it was an absolutely new situation, where decisions had to be made quickly and individually, because the common, centralized decisions were taken later than we had to deal with a specific situation. Of course, we had to organize all the court activities as much remotely as possible, as well as to ensure maximum safety for those employees, who could not perform all their functions from home. We had to learn how to organize remote court proceedings very quickly, how to ensure safe remote access to work documents and to enable employees to sign them remotely. I think, in a sense it was easier for our court, because for two years we have been using a partially remote working model, and the culture of remote work had already been formed. All means and conditions of remote work, legal regulation has been created, employee access was ensured. Of course, prior to



the pandemic remote work was permitted only two days a week, and not for all employees. In 2020, we had to switch to a different intensity of remote work. It was a completely new experience to organize remote hearings, but both the judges and the clerks of the court hearing adapted perfectly and mastered the skills of conducting and organizing remote hearings. Even during the summer months, when the quarantine limitations were abolished, the court gave priority to organizing remote oral hearings. Therefore, in 2020 new skills were needed to organize our work.

Perhaps the most creative decision of the period was to organize the elections to the Judicial Council during the General Meeting of Judges. We set up a voting district in the premises of the court, ensuring a possibility to vote by a secret ballot both near the urn and by car. This project was successfully implemented — judges of two courts had safely voted and expressed their will in electing the new Judicial Council.

What was the most important for you in the implementation of these ideas - a carefully planned course of action, help of department managers or personal qualities of each employee?

I think that all the mentioned factors were equally important, because they are interrelated and ensure the success of the organization as a whole. It would be difficult to draw up a specific plan of actions without the help of heads of departments because they know the specifics of their unit's activities. A plan, which is

not coordinated with the heads of the departments may simply not work. When organizing the court's work, every employee is important, and their personal qualities may also change as the working environment changes, so it is especially important to know and use the strengths of each employee and help them in more complicated areas. Indeed, I very much appreciate the team of the court. During the quarantine, employees were proactive, shared thoughts and ideas and I am proud that the personnel is flexible and progressive.

Did you notice, whether the quality of remote work is the same as working in the office?

I can safely say that the quality of the work has not suffered: we have focused, set our minds right, worked and continue to work perfectly now. Of course, I cannot say that all people face the challenges of remote work in the same way. It is not easy for everyone to successfully coordinate household, childcare and working remotely, therefore, if necessary, it is possible to come to court and perform tasks in court premises — for this purpose separate temporary workplaces were created, where employees can work privately, without contacting other colleagues. We strongly encourage employees to report any disturbances that they experience while working remotely, and we do our best to eliminate them, creating the best possible conditions to carry out their functions. Of course, we cannot align with the private sector, which can provide employees with computers and other necessary equipment — we do not have such financial possibilities, but we try to do everything we can.

What lessons have you learned in this period of crisis that you could call the most important in organizing the smooth work of court personnel? Have you encountered the challenges of motivating employees and how did you overcome them? What helps yourself to overcome the challenges at work and in life?

While working remotely, I noticed that one needs to communicate with colleagues as much as one can, to constantly “check the temperature of the team”, which can change very quickly, because naturally there is a lot of anxiety, fear and obscurity. Those negative emotions can transfer into the working environment. So, every week the heads of the departments meet virtually to discuss both general court affairs and the concerns of each department. I also encourage the heads of departments to regularly organize meetings with the staff and address the issues raised therein promptly.

In addition, we try to maintain traditions and not to abandon traditional events, even when done remotely: personnel training, Christmas nominations. This year is the anniversary year of the court: the Supreme Administrative Court of Lithuania celebrates the 20th anniversary of its activities, so we have already promised the personnel that after the abolition of quarantine restrictions we will all meet and celebrate this occasion.

Another very important point that emerged during the quarantine period is the necessity to digitalize all procedural and non-procedural documents, which makes it possible to work remotely even more easily, because at the moment it is still necessary to go to the court to access paper cases or to scan them. We are glad that we have digitized our internal documents since the last year, so it is likely that it will be easier for us to fully use the Document Management System (LITEKO-2 DVS), allowing all non-procedural documents to be processed and managed electronically.

Although 2020 was not an easy year it was nonetheless exciting as it has brought many new experiences and challenges. Of course, we must be prepared to take on more responsibility, show more humanity and understanding, but I always encourage open communication, joint decision-making and maximum attention brought to the needs of every person. So I believe that these values of work culture will allow the personnel to work harmoniously and smoothly during this non-standard period. And I, myself, try to maintain a positive attitude, thinking that life did not stop, it just became a little different. And in that otherness, I try to discover many new colors: more nature, more walks, more time spent with family, cooking delicious food together, watching a good movie, playing board games. I wish strength, understanding and health to everyone!



The Clerk's Office is the face of the whole court. Personnel working therein greets people applying to the court and handles the majority of communication with the participants of administrative proceedings. In 2020, when oral hearings and the services on the premises of the court were suspended, the role of the Clerk's Office became even more acute, both in ensuring a timely provision of information to the clients of the court and in offering a helping hand to the rest of the court personnel. How the court hearings were organized, and the team was managed to ensure smooth operation of the Office and maintain the highest quality standards, we have asked *Kristina Bieliniene, the Head of the Clerk's Office*.

In 2020, despite the global pandemic and quarantine, the number of allocated cases remained as high as usual and the workload for the Clerk's Office did not decrease. Can you disclose the secret, how did you manage to perform all the tasks?

In 2020, the global pandemic and quarantine have greatly changed the normal rhythm of life and work. Indeed, the number of cases allocated for hearing remained unchanged, so we tried to organize the work in a way that would allow us to safeguard the interests of our clients and to ensure timely handling of cases in a safe manner. The office actively contributed to the fact that documents should be submitted to the court by post, e-mail and via the Electronic services portal. At the time when the strictest quarantine restrictions were applied, we installed a special mailbox at the entrance to the court building for submitting paper documents. We informed clients about the receipt of such documents by phone. In all cases, we took into account the individual situation — if the client could not be served inside the court building, there were instances, when our employee, properly "armed" with all the necessary protection measures, went outside the court building to provide the client with necessary information.

I think that working in such conditions, the efforts, the flexibility and the understanding of the whole team of the Clerk's Office, as well as the support of the heads of the court allowed to solve even the most difficult issues. I am glad that we have overcome all the difficulties successfully.

Court hearings were held regularly — even after the quarantine started, cases were adjudicated, however, it was done remotely. Could you share the experience of what contributed the most to the fact that the remote organization of court hearings was smooth, without technical disturbances?

The organization of the first remote court hearing was a very interesting experience and there were a lot of questions. It was not easy in the beginning — either the camera didn't turn on, or there was no sound, or one of the



participants of the proceedings turned on the microphone, although he did not speak at the time. For everything to run smoothly, our IT specialists helped us greatly, and were always ready to teach and consult us. However, after the first few attempts, it became clear that remote oral hearings are very convenient for both the participants in the administrative proceedings and the judges. We also offered remote or partially remote hearings when the quarantine restrictions were looser, and most of the participants chose to participate in court hearings in such a manner. In my opinion, they really facilitate litigation.

It is also worth mentioning that when the most severe quarantine restrictions were loosened, a public oral hearing of a resonant case was organized. Not only the parties to the case and their representatives, but also representatives of the general public arrived at the hearing. To ensure all the health and safety requirements, especially the distance requirement, we have broadcasted the hearing to other courtrooms, thus providing those interested in the case with the opportunity to watch the hearing live.

In conclusion, I would like to point out that when you look at the obstacles creatively and plan in advance, you can prepare for everything.

For most of the year, the service of clients was remote. Have there been difficulties in providing information to the interested parties? Did you receive any unexpected questions or suggestions?

In general, people were understanding, but of course, we had many different experiences. There were people who tried to sneak into the court building without a permit, others wanted to file a complaint by phone. Some individuals were calling the Clerk's Office only to chat with someone or even have a quarrel. People asked questions about how to dress for the remote hearing. But all these situations made our work even more interesting. The Clerk's Office is not just handling cases or hearings. Here in the Clerk's Office, we serve people and create the first impression of the court, which must be professional. Here "the action takes place".

Thank you for the conversation.

Conversations by *Neringa Lukoševičienė*



EVENTS OF THE YEAR 2020

JANUARY

↓ On January 31 the representative of the Supreme Administrative Court of Lithuania – judge Ramūnas Gadliauskas – congratulated the graduates of the Mykolas Romeris University Law school. The judge awarded the authors of three best master theses defended in the field of public law.



MARCH

↓ On March 4, experts from the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE ODIHR), have assessed the readiness of the institutions to the 2020 Parliamentary elections in the Republic of Lithuania. Visiting experts Vladimir Misev and Oleksii Lychkovakh were interested in the procedures of resolving electoral disputes, the deadlines for appealing decisions of the Central Electoral Commission and the grounds allowing to lodge a complaint to the Supreme Administrative Court of Lithuania as well as the statistics of election cases.



FEBRUARY

From 4 February, 2020 The SACL Bulletin was launched in electronic form. The new administrative case-law bulletin No. 37, which summarizes the essential case-law and reviews rulings of SACL and European Union courts for January-June of 2019, as well as other case-law bulletins are free of charge and publicly available at the webpage of the Supreme Administrative Court of Lithuania. The periodicity of the information publication remained the same — it is issued twice a year.

On February 21 Vice-President of SACL Skirgailė Žalimienė, judges Ramutė Ruškytė and Virginija Volskienė participated in a roundtable discussion, held at the Vilnius Regional Administrative Court.

“Judicial mediation in administrative disputes. Where are we going?”. On March 1, 2019, the latest version of the Law on Administrative Proceedings of the Republic of Lithuania entered into force, which enshrines the possibility of administrative proceedings to resolve the dispute by means of judicial mediation. During the discussion, judges of the administrative courts of Lithuania, mediators, representatives of other institutions shared experiences on how the process is being applied in practice, discussed other legal issues related to judicial mediation.

JUNE

↓ On June 30 At the graduation ceremony of Vilnius University Faculty of Law, the Supreme Administrative Court of Lithuania, has awarded the authors of three best master theses defended in the field of public law. The President of the Court Gintaras Kryževičius has congratulated the graduates and presented the awards on behalf of SACL. He wished graduates to discover themselves in the path of legal profession and test career possibilities in the court system.



Photo of *Vilnius University Faculty of Law*

SEPTEMBER

→ On 21 September, a new composition of the Selection Commission of Candidates to the Judicial Office was approved — the Council of judges appointed Vice president of the Supreme Administrative Court of Lithuania, Associate Professor of Law, Dr. Skirgailė Žalimienė as one of the members. The objective of the Commission is to assist the President of the Republic in selecting the most suitable candidates for the office of judges, presidents, vice presidents and chairpersons of the divisions.



On 24 September the Court was been visited by students of Vilnius University Faculty of Law. During the meeting, the SACL judge Dalia Višinskienė and the Head of the Department of Court Practice Audronė Gedmintaitė presented the main areas of activities of SACL, told about the subtleties of administrative procedure, peculiarities of hearing cases, organization of court hearings, discussed the path of administrative proceedings from filing of the complaint with the court and the service of the decision to the parties to the proceedings.

OCTOBER

↓ Spalio 23 d. On 23 October, SACL judge Dalia Višinskienė, participated in the discussion “Constitution of the Republic of Lithuania and the quality of legislation”, which took place in the President's Office of the Republic of Lithuania. The discussion included lawyers — heads of legal divisions of the Parliament, Government, Ministry of Justice, scientists, judges — who have discussed issues of Lithuanian legislation and measures to ensure smoother legislative work.



Information of the *Chancellery of the President of the Republic of Lithuania* and photo of *Robertas Dačkus*

NOVEMBER

The General Meeting of Judges took place on 3-6 November. The new composition of the Judicial Council was elected and approved on 6 November. The Council consists of 17 members, two of whom are judges of the Supreme Administrative Court of Lithuania. The SACL President Gintaras Kryževičius is a member ex officio, while the judge Ramūnas Gadliauskas was elected to the Council by secret ballot. In order to ensure compliance with the pandemic limitations, a secret vote was held in the yard of the court, where judges of the Supreme Administrative Court of Lithuania and the Vilnius Regional Administrative Court casted their votes.

↓ On 20 November, the Faculty of Law of Vilnius University and the Lithuanian Association of European Law in cooperation with the Supreme Court of Lithuania, the Supreme Administrative Court of Lithuania and the Lithuanian Society of Lawyers have organized a remote scientific conference - "In the search for a legal identity of the European Union: changes in legal standards for human rights and economic freedoms in Europe", which was broadcast on *Facebook* platform. Gintaras Kryževičius, President of SACL, said the welcoming words at the event. The report “Intersections of freedoms and fundamental rights of the EU internal market in the courts of Lithuania” was presented by the Vice-president of the SACL, and the Associate Professor of the Faculty of Law of Vilnius University Dr. Skirgailė Žalimienė.



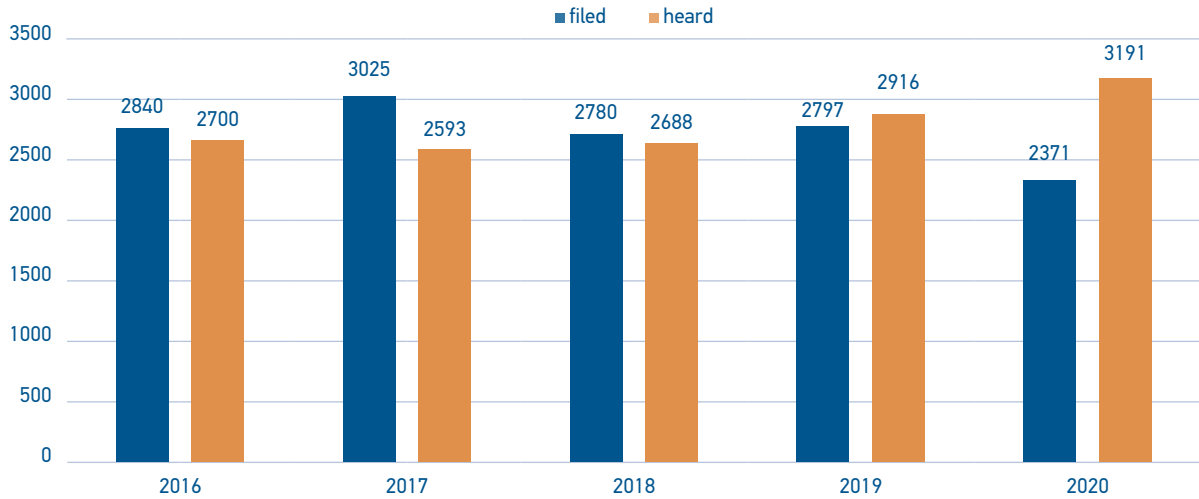
At the meeting of the Judicial Council on 27 November, judges were elected to the new composition of the Judicial Ethics and Disciplinary Commission. Judge of the Supreme Administrative Court of Lithuania Veslava Ruskan, was appointed as a member of the Commission. The Judicial Ethics and Disciplinary Commission is a self-governing body, dealing with issues of initiation of disciplinary cases for judges.

DECEMBER

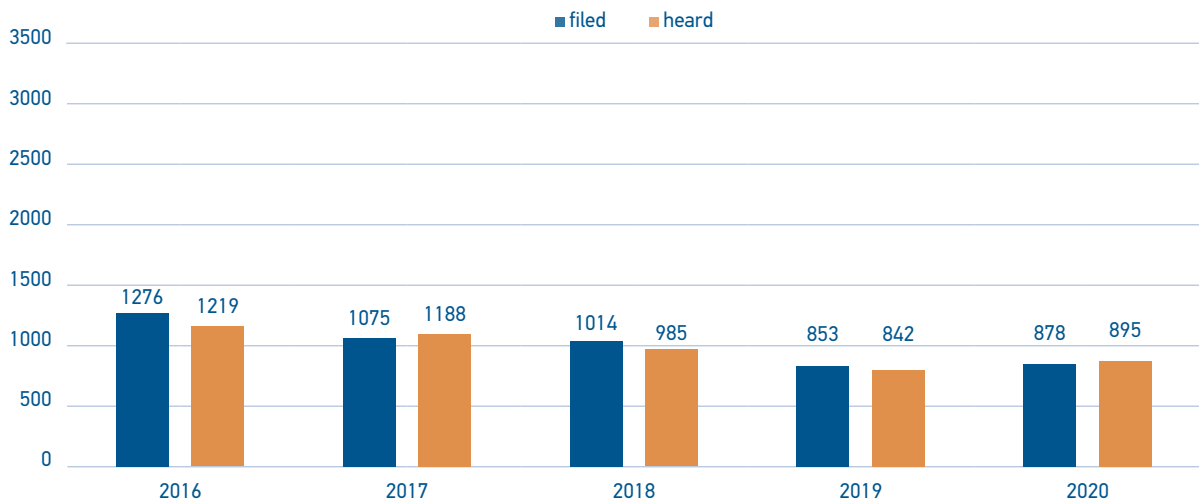
On December 4 In accordance with the Law on Judges, the Judicial Council has formed an Examination Commission for Applicants seeking the position of Judge. This commission has been working since 6 December. Laimutis Alechnavičius, the judge of the Supreme Administrative Court of Lithuania, became one of the members of the newly formed Commission.

YEAR 2020 IN STATISTICS

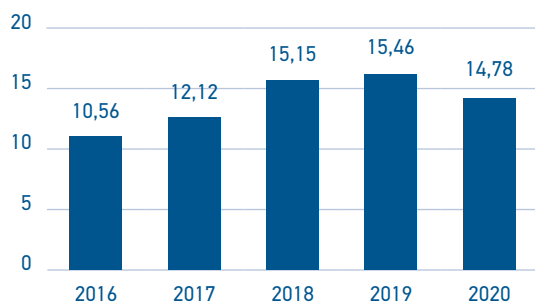
ADMINISTRATIVE DISPUTE CASES FILED WITH AND HEARD BY SACL



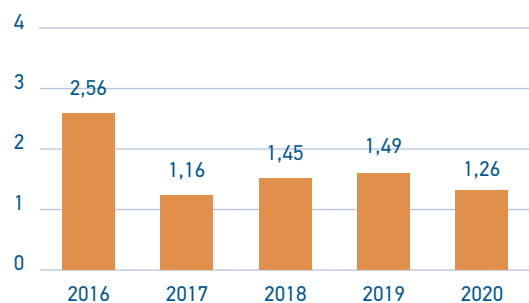
CASES FILED WITH AND HEARD BY THE SACL CONCERNING THE RENEWAL OF PROCEEDINGS AND SEPARATE APPEALS



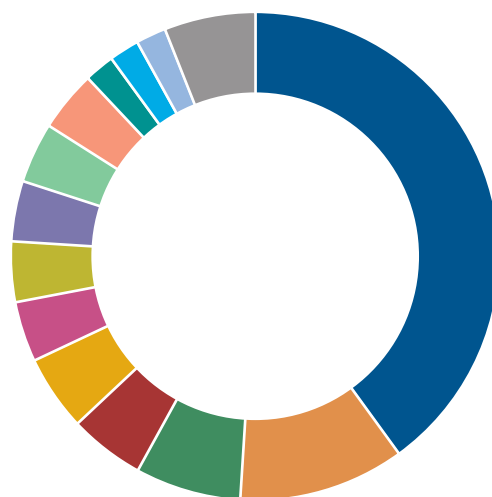
AVERAGE DURATION OF PROCEEDINGS IN ADMINISTRATIVE DISPUTE CASES (MONTHS)



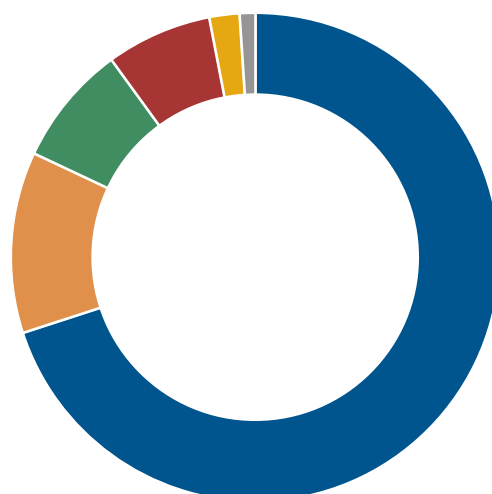
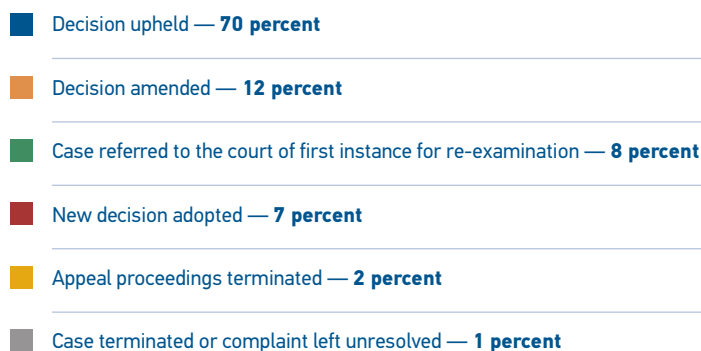
AVERAGE DURATION OF PROCEEDINGS OF SEPARATE APPEALS (MONTHS)



BREAKDOWN BY CATEGORIES OF APPELATE ADMINISTRATIVE CASES ADJUDICATED BY THE SACL IN 2020



RESULTS OF APPELATE CASES ON DECISIONS OF REGIONAL ADMINISTRATIVE COURTS HEARD AT THE SACL IN 2020



OTHER FIGURES FOR THE YEAR 2020

117

Number of complaints regarding the decisions failure to act of the Central Election Commission.

27

Number of petitions (applications) received to examine the lawfulness of regulatory administrative acts adopted by the central public administration entities (almost 2,5 times higher than in 2019).

32

Number of administrative dispute cases heard by the extended panels of Judges.

6

Number of cases that ended with a binding judgement or ruling for which proceedings were renewed (33% less than in 2019).

60

Number of rulings on matters of the specific jurisdiction of cases that were handed over to the Special Panel of Judges through the Supreme Administrative Court of Lithuania to decide on their assignment to the courts of special or general jurisdiction (31 disputes (53%) have been recognized as amenable for the courts of general competence).



Author of the photo of SACL chairman – *Kęstutis Vanagas*, authors of other photographs – *Neringa Lukoševičienė* and *Dainius Stankus*.

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