

Conference **EFFECTIVE JUSTICE: CHALLENGES AND PRIORITIES FOR (ADMINISTRATIVE) COURTS**

in commemoration of the establishment of the Division of Administrative Courts of the Lithuanian Association of Judges, Law Institute of Lithuania and the Law Faculty of Vilnius University

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ROUNDTABLE DISCUSSION

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The Parliament (Seimas) of the Republic of Lithuania considers the amendments to the Law on Administrative Proceedings (LAP) and the new version of the Law on the Commissions of Administrative Disputes.

The most important innovations in the draft LAP:

- 1. The draft LAP provides a model process (Art.127-131).** When in one or several administrative courts there are more than 20 homogeneous individual administrative proceedings, one of these cases could be considered a model case and solved as a matter of urgency. Other homogeneous cases would be suspended until the model case is solved. After a decision in a model case is made, other homogenous cases would be solved in a written proceeding by one judge.
- 2. Clearly defined boundaries of the proceedings (Para. 2 of Art. 80. Art. 140, Para. 3 of Art. 164).** According to the draft LAP, the Administrative Court could not go beyond the boundaries of the complaint, except when the extension of the boundaries is required by public interest or when not exceeding the limits of the claim could significantly damage rights and interests of the state, municipalities or individuals.
- 3. Improvements of legal representation (Art. 47, Art. 158).** In order to ensure the effective legal representation in administrative proceedings, it is proposed to establish a qualified representation: draft LAP contains an exhaustive list of persons who can represent the applicant in administrative proceedings (attorney, assistant of an attorney, people with a university degree in law, when they represent close relatives or spouse, employees of legal persons, etc.).
- 4. The legal status of the parties of the administrative proceedings is improved in the following respects:**
 - Jurisdictional rules are proposed to be more flexible (Art. 31) - in certain cases, the applicant may choose in which administrative court to apply.

- The defendants and other parties would have the right to be heard by the court in the issue of the renewal of the time limit for filing a complaint. The need to get the opinion of the parties on this question in each case is determined by a court (Para. 3 of Art. 30, Para. 4 of Art. 70).
- In order to enable the parties to prepare properly for the proceedings, it is established that the court ruling setting a trial date must be adopted no later than one month before the date of the court hearing (Para. 3 of Art. 64). The court ruling setting a trial date must be delivered to the parties of the case no later than 3 working days from the date of the court ruling (Para. 4 of Art. 67).
- Currently administrative process does not regulate the deadline of the submission of the response. The draft LAP proposes to determine that the court usually determines at least fourteen days deadline for submission of the response (Para. 1 of Art. 67).
- In addition, it is proposed to extend the deadline for filing an appeal - an appeal could be filed within 1 month (132, Art. 1.).

5. The draft LAP proposes to enable more cases of first instance to be examined in a written process: 1) if the applicant requests, and other parties of the case agree to such proceedings (Para. 6 of 78 Art.); 2) if the applicant refuses the complaint, the judge deals with the question of termination of the case (Para. 2 Art. 50); 3) if the parties of the case agree on the settlement agreement, the court deals with the issue of the approval of the agreement (Para. 4 of 51 Art.).

6. The renewal of the administrative proceedings. The draft LAP provides for the procedure of the admission of the application for the renewal of the administrative proceedings. The draft LAP clearly defines the duty of the court to send the copies of the application for the renewal of the administrative proceedings to the parties of the case and establishes the right of the parties to submit comments on the application for renewal (Para. 1-2 of Art. 161).

Draft Law on Commissions of Administrative Disputes proposes clearer and more detailed regulation of the pre-trial administrative dispute settlement procedure.

- This draft Law regulates the admission of the complaint to the Commissions of Administrative Disputes, requirements for the complaint, grounds for not accepting the complaint, etc. It is proposed to establish a definition of individuals who may be representatives of the pre-litigation stage.
- It is proposed to establish a possibility for individuals to apply to an independent litigation institution - Lithuanian Commissions of Administrative Disputes – against all levels of public administration entities (central and territorial state administration and municipal). Under the current regulation such a possibility exists only if the administrative dispute is against central state administration bodies.
- It is also proposed that from 2018 Commissions of Administrative Disputes will have the right to renew the time limit for filing a complaint.
- It is proposed to incorporate the settlement agreement between parties in the pre-litigation administrative phase. The draft Law on Commissions of Administrative Disputes establishes the necessary conditions for the conclusion of a settlement agreement, approval procedures and consequences of the settlement agreement.

- Among other things, it is proposed that the enforceable but unfulfilled decision of the Commissions of Administrative Disputes could be carried out by the procedures of the Civil Procedure Code.