

# **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**

**Lietuvos Respublikos Seimas, 6 May 2016, Vilnius, Lithuania**

## **INTRODUCTION**

**Speech of Julius Sabatauskas, Chair of the Committee on Legal Affairs of Seimas of the Republic of Lithuania.**

Dear participants, speakers and guests of this conference

I am very pleased that the Committee on Legal Affairs of the Seimas has helped organizing this conference. This conference is an excellent opportunity to review the achievements of the legal system, to define new challenges, as well as to discuss the measures, which can ensure effective justice.

Effective justice is a system consisting of several elements, such as the legislative base, competence of the judges and the policy of state. Nowadays social relations are complicated and difficult, so the legal framework is not always ideally suited to the dynamics of social relations.

Lithuanian courts is one of the country's institutions, which has the lowest public trust. Such public opinion is strongly influenced by factors, such as publicity of the judicial process and, the length of the proceedings, the quality of judges. In summary, such public opinion is directed to the efficiency of courts.

There is no doubt that an effective national judicial system plays a key role in protecting the fundamental values of the European Union and in the implementation of European Union law. If the European Union law has been infringed, the national courts must provide effective judicial protection, so they act as European Union courts. Therefore, effective national judicial systems ensures the rule of law in all European Union member states.

Effective justice is also essential in creating a favorable investment environment. For this reason, the European Commission has named the improvement of Member States' judicial systems efficiency as one of the most important structural reforms. In this context, I am very pleased that in 2011 the Division of Administrative Courts of the Lithuanian Association of Judges became a member of the Association of European Administrative Judges I hope it would greatly contribute improving the efficiency of justice in Lithuania. In 2012 Lithuanian National Courts Administration has become a member of the European Judicial Training Network, which enables the courts of our country not only to open up wider access to training in different areas of law, but also to access other European Union countries judicial systems and best practices.

In conclusion, I wish all of the participants and speakers of this conference to hear informative reports and have productive discussions.

### **Speech of Dr. Juozas Bernatonis, Minister of Justice of the Republic of Lithuania.**

Dear participants of the conference, colleagues, guests,

I am very pleased to welcome all of you to this significant international conference. It is very important that today we will discuss not only the most relevant administrative justice and judicial performance issues in Europe, but we will also try to look for effective measures in administrative justice.

I would like to point out that the last few years in the Lithuanian judicial system were marked by a number of changes. There was a rapid modernization of the judicial work process related to the active use of new information and communication technologies. Since 2013, the use of information and communication technologies has been established in the court proceedings (for example, electronic cases, the parties have the right to provide and receive procedural documents and other information in an electronic form). I am convinced that in the near future all these innovations will be even more beneficial to both court and parties of the case.

There is no doubt that one of the goals of the democratic and modern countries is to ensure effective protection of the rights of individuals in administrative disputes. In order to create conditions for more qualified and flexible, faster, and more convenient administrative adjudication in Lithuania, in the last few years the legislators paid special attention to both the legal regulation of the administrative process and the improvement of the judicial system.

In terms of effective administrative dispute resolution, it is essential to note alternative dispute resolution techniques. One of such effective ways of resolving disputes is mediation. Mediation is not only capable of ensuring prompt settlement, but it can also find a solution that would satisfy all interested parties of the dispute. If the agreement is reached during the mediation process, the voluntary implementation can also be presupposed. We hope that the application of the mediation process will enable much more efficient and faster resolution of administrative disputes.

In conclusion, I wish all the speakers and participants of the conference to have a comprehensive and fruitful discussion.

Thank you for your attention.

### **Speech of Prof. Dr. Tomas Davulis, Dean of Vilnius University Faculty of Law.**

Dear colleagues, guests, speakers and participants of this conference,

I am very pleased to know that the Association of European Administrative Judges chose the city of Vilnius for the General Assembly. This shows that the Lithuanian professionals of administrative law are actively involved in the European networks.

I am pleasantly surprised of the group of prominent people who came to Vilnius to participate in this conference. For example when I studied in Germany, Prof. dr. (HP) Armin von Bogdandy was the professor whose articles and books I had to read to pass exams. Undoubtedly, other conference speakers are also very well - known professionals. As a result, we hope that this conference will have very beneficial and fruitful discussions.

**Speech of Dr. Edith Zeller, President of the Association of European Administrative Judges,  
Judge of the Administrative Court of Vienna.**

Dear Minister Dr. Bernatoniš, (Minister of Justice)

Dear Chair, Mr Sabatauskas, dear Vice-Chair, Dr. Šedbaras, - Committee legal affairs of the Parliament)

Dear Professor Davulis, (dean of Vilnius University)

Dear Mr Gadliauskas (representative of the Lithuanian Judges Association)

Honourable speakers,

Dear colleagues,

Dear all,

First and foremost I want to thank for different things: first to have been invited by our Lithuanian colleagues to Vilnius to hold our annual meeting. This we did yesterday and were hosted by the Minister of Justice.

Furthermore, I want to thank the representatives of the Lithuanian legislator, the Parliament, to host us today here in this building and equally let me thank all the other organizers of this today's conference: today's topics concerns fundamental issues in judiciary.

Let me also full-heartedly thank our dear Lithuanian friends and AEAJ-colleagues, (and here I skip the diverse titles) :

Rasa Ragulskyte-Markoviene,

Jurgita Pauzaite-Kulvinskiene,

Aiste Medeliene and

Indre Zvaigzdiniene

who had the idea to have this conference and organized it thoroughly.

As I mentioned, issues of "Quality versus / and Quantity of Justice" are striking issues in the daily performance as a judge.

I am very glad that today we can talk about these basis issues in more detail and be brief in my remarks right now:

I only want to stress two issues in this respect:

Quality and quantity go hand in hand with independence: both, independence of the deciding judge and independence of judiciary as such:

When you evaluate quality of justice: on the one hand this can only be done under the prerequisite to observe the independence of judges and on the other hand qualitative justice can only be done on the basis of an independent judiciary.

Equally, under the slogan: "delayed justice is denied justice", it is for sure that judiciary must act efficiently.

On the first sight it seems easy to measure, to count the number of judgements. However, it would be fatal for a functioning judiciary to have such standards:

Measures to make judiciary more efficient can only be set when the prerequisite of independence and of high quality standards (including fundamental procedural rights, e.g. Art. 6 ECHR or Art. 47 FRC) is observed.

Efficient judiciary requires sufficient budgetary means. That can be safeguarded if structural independence is strengthened, for example this could be the case by granting remedies to

independent justice administration bodies, such as judiciary councils, to urge the state to provide the necessary personal and financial resources for a functioning judiciary.

Thus, talking about judicial independence, involves two different aspects:

1) on the one hand you have the decisional (or individual or functional) independence to ensure that impartial decisions can be made by an objective judge.

2) On the other hand we have the structural (or institutional) independence of the judiciary as such to guarantee that no undue influence or power is made by the other State-powers on the judiciary. This has to do with the core problem, namely whether the courts must be in control of their own governance.

Judicial independence as such is a major pillar for a democratic state and rule of law.

Furthermore, sufficient independence of the executive power is absolutely relevant in terms of the administrative judiciary, which is specifically installed to control the executive and ensure the rule of law.

This function of the administrative courts becomes all the more important and essential in a modern welfare state where there is a vast increase in the range and detail of government activities. It is, therefore, absolutely essential that the judiciary must be protected by strong safeguards of independence.

However, in practice the Judiciary cannot operate in total isolation from, and independence of other authorities of the state. Therefore constitutional orders usually have a system of “checks and balances” between the different powers. Due to the fact that judiciary is the politically weakest power it is of extraordinary importance to proceed towards strengthening its independence and position in such systems, as noted above.

Violations of structural independence would then e.g. arise when the executive is so much in control of the infrastructure (e.g. financially or for other material support) on which judges are dependent so that they can fulfil their judicial functions that this influence or control would imperil the judge’s independence. Also the kind of judicial administration at the court level itself, namely the kind of assignment of cases to each judge, can be a relevant aspect to determine sufficient structural independence. This goes equally for self-administration of justice and the relation between judiciary and other powers of the State and the kind of selection and appointment of judges as well as the conditions of service and tenure and inspection of judges.

Furthermore, it is equally important that the decisions can not only be made, but that the judgements are also executed and be obeyed.

Let me stress that judicial independence must never be used as excuse for incompetence and under-performance, nor should it be used as a shield against legitimate criticism. Therefore, the concept of accountability of judges includes accountability for severe misconduct including inter alia misuse of office.

Legal foundations for the guarantees of judicial independence we find on international level prominently in different documents [in the documents elaborated by the UN: “The United Nations Basic Principles on The Independence of the Judiciary”, endorsed by the United Nations General Assembly in November 1985 . We find legal foundations for the guarantees of judicial independence on European level inter alia in Art. 6 European Convention of Human Rights (hereinafter: ECHR), furthermore in the Recommendation of the Council of Ministers to the

member states of the Council of Europe on judges: Independence, Efficiency and Responsibilities, CM/Rec (2010)12.]

On the national level, it is primarily the Constitution which should contain provisions on the structure of the judiciary, the courts, the administration of the justice and also adequate safeguards. In line with constitutional provisions usually you find acts of the legislator and also court rules (which are a set of rules often generated by the judiciary itself). In detail this differs (and is not possible to give a profound comparative summary here) according to the history and culture of the legal systems of each of our national states.

Be it in times of economic crises, be it in times of migration crises with increasing case load these standards must never be disregarded in daily practice and should not be reduced by legislators, neither on national nor on EU-level.

Let me conclude by saying that European networks fulfil important roles to contribute to the understanding of all these three concepts: independence-quality standards and efficiency of justice. By this they contribute to a European judiciary and to a European judicial culture. This fundamental role of such networks still needs to be acknowledged by the European Union appropriately.

I wish us all fruitful discussions today!

### **Speech of Ramūnas Gadliauskas, Chair of the Lithuanian Association of Judges, Judge of the Supreme Administrative Court of Lithuania.**

Dear participants, guests and colleagues.

I personally and the Board of the Lithuanian Association of Judges are pleased to organize the conference in which well-known lawyers from Lithuanian and other European countries purposefully discuss issues of justice efficiency. This conference was organized in commemoration of the establishment of the Division of Administrative Courts of the Lithuanian Association of Judges (5 years), the Law Institute of Lithuania (25 years) and the Law Faculty of Vilnius University (375 years).

I would like to thank the Committee on Legal Affairs of the Seimas of the Republic of Lithuania, which helped organize the conference. Many thanks to the Faculty of Law of Vilnius University, Law Institute of Lithuanian and the Judicial Council. Each of these institutions has made a substantial contribution. This conference would not occur without the help and effort of our colleague judge Rasa Ragulskytė-Markovienė. She carried a large part of the organizational burden, so deserved a special gratitude.

Although the conference title uses the term "administrative courts" and judges of administrative courts are the primary audience in this conference, I think the importance of this topic is also relevant to other representatives of the legal community.

Society from judges expects not only the legitimate and reasonable, but also effective decisions. Therefore, decisions of the judges must be of high quality, understandable and made by the digital technology. The society has a legitimate expectation that justice is carried out quickly, with a fast response to emerging legal problems by ensuring legitimate response.

The effectiveness of justice requires not only the work and effort of judges, but also the qualified help judges assistants. In the broad sense of dedicated scientists and legal activities. I hope that this conference we together find ways to get closer to the objectives pursued.

Academic and practical questions that are analysed during this conference are relevant not only to the Lithuanian judges, but also to the judges of the entire European community. Nowadays, legal issues, such as the right of the asylum, environmental protection, taxing issues must to be solved without losing sight of the quality of judgment, appropriate legal reasoning and the application of the legal principles. Social and administrative issues in many areas have moved into the digital space, so the courts have to keep pace with the new technologies, developing e-justice systems, enabling the parties to submit documents and to express their arguments not only in the courtroom, but also by using the latest technologies.

I hope that the presentations of the speakers and experts of this conference will give impetus to a lively discussion and direct benefits to the difficult daily work of judges.

I wish you all to spend the time in the conference usefully and interestingly.

Thank you for your attention.