



Internship report for the IASAJ Judge Exchange Programme:

**Judge :**

Name : **MARCHIDAN**  
 First name : **ANDREEA**  
 Nationality : *Romanian*  
 Jurisdiction : *Administrative Section of High Court of Cassation and Justice*  
 Functions : *judge*  
 Length of service : 22 years (6 in the High Court of Cassation and Justice)

**Exchange :**

Hosting jurisdiction : *Supreme Administrative Court*  
 Country : *Lithuania*  
 City : *Vilnius*  
 Dates of the exchange : *13th -17th of November*

## I. Introduction – Presentation of the jurisdiction and the progress of the internship:

### a. Programme of the exchange:

#### Monday, 13th November

9:15-9:30	<i>Welcome to the Supreme Administrative Court of Lithuania (SACL) by the Vice-president of the SACL Mr. Ernestas Spruogis</i>
9:30-10:45	Introduction to the judicial system of Lithuania and the National Courts Administration (NCA) (presentation by the NCA)
10:45-11:00	Coffee break
11:00-12:00	The vision of Lithuanian courts: a new step in strategic planning in the judicial system (presentation by the NCA)
12:15-13:30	Lunch at Momo grill with Vice-president of the SACL Mr. Ernestas Spruogis
13:45-15:00	Digitalization (deepening digitalization and data-driven management tools (e-Judiciary) (presentation by the NCA)
15:15-16:30	<i>Meeting with Vice-President of the SACL Mr. Ernestas Spruogis</i> General presentation of the SACL and the Lithuanian administrative court system
16:30-17:00	Tour of the premises

## Tuesday, 14th November

- 10:00 -11:45 *Meeting with the Judges Ms. Beata Martišienė and Ms. Dalia Višinskienė*  
Discussion of the current practice of the SACL and the Romanian Supreme Court in environmental law, tax law and competition law cases
- 12:15-13:15 Lunch at Grey restaurant with the President of the SACL Ms. Skirgailė Žalimienė at the invitation of the SACL
- 14:00-15:30 Visit to the Supreme Court of Lithuania  
*Meeting with the judge Ms. Goda Ambrasaitė-Balynienė*

## Wednesday, 15th November

- 10:00-11:30 Participation in oral hearings at the SACL
- 12:00-13:00 Lunch at Carré restaurant
- 13:30-15:00 Visit to the Vilnius Regional Administrative Court
- 15:15-16:15 *Meeting with the Chancellor of the SACL Ms. Renata Juzikienė, the Head of Judicial Research Department Ms. Audronė Gedmintaitė, the Head of Legal Assistance Division Ms. Eimantė Pogūžinskė*  
Familiarity with the management and primary functions of the structural units within the SACL

## Thursday, 16th November

- 11:00-13:00 Participation in a scholarly and practical discussion to address the challenges of administrative justice in Europe, under the theme "The Challenges and Future of Administrative Justice and Courts in Europe", to be held at the Faculty of Law at Vilnius University
- 13:00-13:45 Lunch at Cafeteria at the Faculty of Law at Vilnius University
- 14.30-15.30 Visit to NCA  
*Meeting with the Head of Training and International Cooperation Division Ms. Monika Kontrauskienė*

## Friday, 17th November

- 09:00-13:00  
Participation in the Open Conference of representatives of the association of judges of the Republic of Lithuania, designed to commemorate the 30th anniversary of the association "*The role of associations of judges in supporting judicial independence*"  
Moderated by Mr. Gintautas Kaulakis, Member of the Board of the Association of Judges of the Republic of Lithuania, Vice-president of the Council of Associations of Judges of the Baltic States and Prof. Dr. Jurgita Paužaitė-Kulvinskienė, Vice-dean of the Faculty of Law of Vilnius University  
With the participation of Mr. Sylvain Mérenne, President of the Association of European Administrative Judges; Ms. Anu Uritam, President of the Association of Estonian Judges; Ms. Adrija Kasakovska, President of the Association of Latvian Judges

b.

*c. Presentation of the hosting jurisdiction:*

The Lithuanian legal system is based on the continental (civil) legal tradition, and the legal regulations are set by the laws passed by the Parliament of Lithuania (Seimas); these laws are considered to be the most important part of the legal system.

There are three branches of courts in Lithuania: they are divided into the ordinary jurisdiction, responsible for all types of legal proceedings with respect to civil and criminal cases, administrative courts and the constitutional court. There are also certain obligatory pre-court institutions, as the labor dispute commission which decides on labor disputes.

The independence of courts declared in Article 109 of the Constitution affects their organizational autonomy realized through judicial self-governance. Self-governance of courts – the right and real power exercised by the judges and courts in deciding freely and independently, on their own responsibility, the issues pertaining to the activities of courts.

***General jurisdiction***

The court system of general jurisdiction dealing with civil and criminal cases of the Republic of Lithuania is made up of:

- the Supreme Court of Lithuania
- the Court of Appeal of Lithuania
- regional courts (5)- Vilnius, Kaunas, Šiauliai, Panevėžys, Klaipėda
- district courts (54)

The regional courts, the Court of Appeal, the Supreme Court of Lithuania have the Civil Division and the Criminal Division.

**A district court** is first instance for criminal, civil cases and cases of administrative offences (assigned to its jurisdiction by law), cases assigned to the jurisdiction of mortgage judges, as well as cases relating to the enforcement of decisions and sentences. Judges of a district court also perform the functions of a pre-trial judge, an enforcement judge, as well as other functions assigned to a district court by law.

**A regional court** is first instance for criminal and civil cases assigned to its jurisdiction by law, and appeal instance for judgements, decisions, rulings and orders of district courts. The Chairman of a regional court organises and controls the administrative activities of district courts and their judges within the territory of his activities in accordance with the procedure prescribed by law.

**The Court of Appeal** is appeal instance for cases heard by regional courts as courts of first instance. It also hears requests for the recognition of decisions of foreign or international courts and foreign or international arbitration awards and their enforcement in the Republic of Lithuania, as well as performs other functions assigned to the jurisdiction of this court by law. The Chairman of the Court of Appeal organises and controls the administrative activities of the regional courts and their judges in accordance with the procedure prescribed by law.

**The Supreme Court of Lithuania** is the only court of cassation instance for reviewing effective judgements, decisions, rulings and orders of the courts of general jurisdiction. It develops a uniform court practice in the interpretation and application of laws and other legal acts.

The Supreme Court shall be the only court of the cassation instance for reviewing effective decisions of the courts of general jurisdiction; hear requests for the reopening of decided administrative offences cases; develop a uniform court practice in the interpretation and application of statutes and other legal acts; analyse and sum up, in accordance with the interpretation by judicial institutions of the EU, the practice of courts of general jurisdiction in the application of the legislation of the EU, ensuring uniform interpretation of legal acts of the EU and their application in the Republic of Lithuania.

### *Administrative jurisdiction*

The Supreme Administrative Court of Lithuania and regional administrative courts are courts of special jurisdiction hearing disputes arising from administrative legal relations; District courts also hear cases of administrative offences coming within their jurisdiction by law.

At the time of my visit, there were only 2 regional administrative courts (Vilnius, of Regions) remained, and since 1st of January 2024, only one, but with 4 different premises all over the country.

An independent system of administrative courts in Lithuania was established in 1999, according to the Law on the Establishment of Administrative Courts; a two-level system for the judicial review of administrative acts was created: first instance – appeal. Supreme Administrative Court of Lithuania was formed and started its activities from the 1st of January 2001.

The main function performed by administrative courts is to protect rights of the person against unlawful actions taken by governmental institutions and officials, or their respective decisions. The competence and proceedings of administrative courts is regulated by the Law on Administrative Proceedings.

Administrative courts shall hear:

- lawfulness of legal acts passed and actions performed by the entities of public administration, also the legality and validity of refusal by the said entities to perform the actions within the remit of their competence or delay in performing the said actions;

- compensation for material and moral damage inflicted on a natural person or organisation by unlawful acts or omission in the sphere of public administration by state or municipal institutions;

- payment, repayment or exaction of taxes, other mandatory payments and levies, the application of financial sanctions and the tax disputes (disputes with the State Tax Inspectorate);

- office-related disputes, where one of the parties is a public or municipal servant possessing the powers of public administration;

- other cases assigned to its jurisdiction.

**A regional administrative court** is the court of special jurisdiction established for hearing complaints (petitions) in respect of administrative acts and acts of commission or omission (failure to perform duties) by entities of public and internal administration.

Regional administrative courts hear disputes in the field of public administration, deal with issues relating to the lawfulness of regulatory administrative acts, tax disputes, etc.

Before applying to an administrative court, individual legal acts or actions taken by entities of public administration provided by law may be disputed in the pre-trial procedure.

In this case disputes are investigated by municipal public administrative dispute commissions, district administrative dispute commissions and the Chief Administrative Dispute Commission.

**The Supreme Administrative Court of Lithuania (SACL)** is first and final instance for administrative cases assigned to its jurisdiction by law. It is appeal instance for cases concerning decisions, rulings and orders of regional administrative courts, as well as for cases involving administrative offences from decisions of district courts.

The Supreme Administrative Court was composed of 19 judges at the time of my visit; they decide cases in panels of three or five judges.

Every judge of the panel is designated as a rapporteur in the cases assigned to each panel, taking turn in writing the reports; the procedure is most exclusively written, the oral hearing are granted rarely and mostly by videoconferencing, which is widely used in all Lithuanian courts.

The Supreme Administrative Court may also hear as a first and last instance the application for the inconformity of specific normative administrative acts to the Constitutional provisions.

The Supreme Administrative Court is also instance for hearing, in cases specified by law, of petitions on the reopening of completed administrative cases, including cases of administrative offences. The Supreme Administrative Court develops a uniform practice of administrative courts in the interpretation and application of laws and other legal acts.

The Supreme Administrative Court of Lithuania:

- is the appellate and final instance for cases for decisions, rulings and orders of regional administrative courts as the courts of the first instance;
- is the first and final instance for certain categories of administrative cases assigned to its jurisdiction by law;
- is a court of first instance to hear, in cases prescribed by the law, petitions for renewal of proceedings in closed administrative cases;
- develops a uniform practice of administrative courts in interpretation and application of statutes and other legal acts;
- periodically issues its bulletin under the title "Practice of Administrative Courts";

- participates in deciding on issues of jurisdiction arising between administrative courts and courts of general jurisdiction;
- supervises the administrative activity of regional administrative courts. The President of the SACL is assigned the function of supervising the activity of regional administrative courts.
- Where there is ground to believe that the law or the act applicable in a particular case contravenes the Constitution, the SACL applies to the Constitutional Court of the Republic of Lithuania with a request to determine whether the law or other legal acts, the decree of the President of the Republic or the act of the Government complies with the Constitution;
- SACL submits comments and proposals concerning draft laws to the Parliament or Government;
- Judges of the SACL are appointed by the President of the Republic from among the persons entered in the register of persons seeking judicial office. The President is advised by the Judicial Council;
- The President of the SACL is a member of the Judicial Council, which is an executive body of the autonomy of courts ensuring the independence of courts and judges.

**Court hearings** in Lithuania were usually held orally, with the parties appearing in court. However, in view of the risks of the Covid pandemic and with the consent of the parties to the proceedings, court hearings were held remotely via Zoom. This practice has become very popular recently and has continued even after the risks of the pandemic have passed. Remote proceedings are especially convenient for persons who are outside Lithuania at the time of a hearing and enable the parties to save time and money.

The applicants have at their disposal the **LITEKO system**, an electronic system of case registration; the applicants may apply only in electronic way and the case files may be only electronic, every act including the decision of the court is being inserted in the system and thus delivered to the parties involved.

There is an e-service portal for Lithuania's courts which allows both lawyers and litigants to create an account and file all documents for a case electronically. In that way, clients and their representatives can see all proceedings, documents and court decisions for a case on the e-court system along with documents and applications submitted by other parties. They can thus promptly review and react to developments in a case and follow the progress of proceedings anywhere, anytime. Documents filed electronically may be submitted in docx, pdf or other allowed formats. In case of electronic filing, the applicant receives a major reduction of the stamp duty.

### **Duration of solving the cases**

Cases concerning the award of debts, the termination or modification of contractual relations, damages, etc are normally dealt with in 12-16 months at first

instance and 8-10 months at appeal. Complex commercial disputes can take approximately 24 months at first instance and 12-14 months at appeal.

In Supreme Administrative Court, due to a serious increase of migration cases especially from Belarus, the normal cases were stayed until the migration cases which are considered urgent matters, were solved; that cause a delay of approximately 2 years in solving the normal cases, but recently the court restarted the usual activity as before.

### **The Judicial Council**

It is the institution that gives an informed advice to the President of the Republic in respect of the appointment of judges, their promotion, transfer and removal from office; the appointment and removal from office of Chairmen, Deputy Chairmen, and Chairman of divisions of courts; determining or changing of the number of judges in courts.

The Judicial Council is composed of 17 members: the President of the Supreme Court, the President of the Court of Appeal and the President of the SACL are members by virtue of their office. Other judges are elected by the General Meeting of Judges: three from the Supreme Court, two from the Court of Appeal, one from the Supreme Administrative Court each, three from all regional court, one from all regional administrative courts and four from all district courts.

The main functions of the Judicial Council are:

- to give motivated advices to the President of the Republic in respect of the appointment of judges, their promotion, transfer and removal from office; in respect of the appointment and removal from office of President, Vice-President, and President of division of courts; in respect of determining or changing of the number of judges in courts;

- to form the examination commission of candidates to judicial office; to elect and appoint members of the Judicial Ethics and Discipline Commission; to appoint members of the Judicial Court of Honour; to form the Permanent Commission for the Assessment of the Judges' Activities;

- to approve regulations of administration in courts, to resolve other issues of administration in courts, and etc.

### **National Courts Administration (NCA)**

Law on the National Courts Administration came into force in 2002 and in accordance with this law, a newly formed institution – National Courts Administration commenced its activities on 1 May 2002. The founder of the NCA is the Supreme Court of Lithuania.

The NCA is a budgetary institution providing services to courts and institutions of self-governance of courts, the purpose of which is within its competence to ensure the administrative and organisational activities of courts and institutions of self-governance of courts; to ensure the independence of the courts and the judges, the organisational independence of the courts; to ensure the activities of the courts and the institutions of self-governance of courts and their

close mutual relations thereof; to help the institutions of self-governance of courts to implement the assigned functions.

According to its competence, it ensures the fluent formation of judiciary; organises and ensures centralized financial and technical maintenance of the courts; ensures the pensionary maintenance of judges; organises the preparation of the drafts of state budgetary programmes and estimate drafts of the programmes, fulfilled by the courts, and the implementation of the investment projects (investment programmes); establishes and implements the strategy of the common information system of courts; aims at effective functioning of the judicial system of the Republic of Lithuania.

## **II. Differences and similarities between the legal systems of the country of origin and the host country:**

### *a. Concerning the organization of the legal system:*

As opposite to the Romanian legal system, Lithuania has separate administrative courts; in my country, the administrative cases are solved by separate divisions of the general courts. This is a point of meditation regarding the question which system is better; as referring to the specific needs of administrative cases, that are generally more numerous also in Romania as comparative to the general jurisdiction cases, could be assumed that having separate courts system for administrative cases could result in better administration of human and material resources and more adequate to the needs of the administrative jurisdiction (real specialisation of judges, adaptation of the human resources to the real needs); however, such a system could create other issues related to the parallel appointment of judges or of settling the legal issues common to administrative and civil law altogether.

Both courts systems solve administrative cases in two steps, first instance and appeal court; the appeal panels are composed of three judges; the appeal is based only on points of law and not on the merits of the case.

### *b. Concerning the competence of administrative jurisdictions:*

I found numerous similarities between our jurisdiction and I actually had very fruitful discussions with judges regarding tax cases or competition cases; the hierarchy between the national law and the decisions of the Lithuanian Constitutional Court, the decisions issued by the ECJ and the European Court of Human Rights; the limit between legality and merits of the case in competition law cases and how far does the legality control of the Supreme Court go in this type of cases; the boundaries between the opportunity and the legality in cases regarding the validity of acts issued by the administrative authorities; cases of environmental law and their specific object (we do not really have such cases in Romania); the mechanism of unifying the uneven practice of the courts in administrative cases.



As a special feature, the Supreme Administrative Court of Lithuania may be is the first and final instance for certain categories of administrative cases assigned to its jurisdiction by law, for example regarding the validity of an administrative normative act.

*c. Concerning the functioning of administrative jurisdictions:*

The duration of solving the cases is sensibly shorter in Lithuania, mostly because of the videoconferencing manner of hearing the cases in first instance and because of the almost exclusively written procedure in Supreme Court.

*d. Concerning applicable procedures and rules of law:*

Although a civil law system, Lithuania has the rule of precedent, instated by the Constitutional Court and made mandatory for all the court decisions.

Other main difference between our legal systems consists is the predominant written procedure in appeal cases; parties may ask for oral hearings, still, but the court has the final say in accepting or rejecting the request.

Also, as an element of difference, the Supreme Administrative Court of Lithuania is a court of first instance to hear, in cases prescribed by the law, petitions for renewal of proceedings in closed administrative cases; one situation is that when a certain final decision has been ruled against the uniform case law of the courts and the president of SACL has the power that, in term of one year since the decision was issued, to file a petition for renewal of proceedings.

Other then that, the procedural law applicable to appeals is similar, and the reasoning of the decisions is similar.

*e. Other aspects:*

Although the Romanian Supreme Court has an English version of the website, the SACL' s website is updated daily with the most important decisions issued by the court both in Lithuanian and in English.

**III. Aspects on which the host country's legal system can be a source of inspiration for the country of origin (« good practice »):**

I strongly believe that there are at least two major treats of the Lithuanian legal system that could improve any legal system of any country, but especially the Romanian system.



First, I was extremely impressed with the technical status and fine use of new technology I have found in the Regional and Supreme Administrative Court of Vilnius; I have visited both of this courts and also witnessed directly, since I took part in two court hearings held in these two courts via videoconference. Is is a fair example of how future should look also in our courts.

Secondly, the rule of written procedure existing in supreme courts (both of general and administrative jurisdiction); also, the filter procedure actually working, so that, in the general supreme court, only 10% of the appeals were granted to be solved. As regarding the written procedure versus hearings, the percentage of the oral hearings is really small, since the nature of the cases (tax or specific areas of public administration) do not require new establishing of the facts in the appeals based only on grounds of law.

I could also add the system of prior reasoning (the judge designated as rapporteur writes a report that consists the main reasoning of the future decision); this system assures the simultaneous delivery of the decision and of the reasoning.

I would also underline the good maintaining of the website of the courts; the website of SACL is daily updated with resumes of important decisions issued by the court that are also translated in English; that helps with the public image of courts, especially when important decisions are being made public and explained in short by the resume elaborated by the panel itself.

**Signature:**

<p><i>Judge:</i></p> 	<p><i>President / Chief Justice of the jurisdiction of origine:</i></p> 
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