



EUROPEAN UNION LAW AND LITHUANIAN ADMINISTRATIVE JUSTICE



**Faculty
of Law**



EUROPEAN UNION LAW AND LITHUANIAN ADMINISTRATIVE JUSTICE

EUROPEAN UNION LAW AND LITHUANIAN ADMINISTRATIVE JUSTICE

A collection of scholarly articles to
commemorate a 20 year anniversary of the
Supreme Administrative Court of Lithuania



VILNIUS
UNIVERSITY
PRESS

2023



Approved for publication by the decision of the Council of
Vilnius University Faculty of Law on 15 December 2022.

Editor:

Prof. dr. Skirgailė Žaltauskaitė-Žalimienė
Vilnius University, Law Faculty
President of the Supreme Administrative Court of Lithuania

Editor:

Milda Treigė, (LL.M)
Legal Advisor to the President of the Supreme Administrative Court of Lithuania

Reviewed by:

Prof. dr. JURGITA PAUŽAITĖ-KULVINSKIENĖ
Vilnius University, Law Faculty

Prof. dr. (HP) BARTOSZ WOJCIECHOWSKI
University of Lodz, Law and Administration Faculty, Judge at the Supreme Administrative Court,
Head of the European Law Division

Prof. dr. (HP) EGIDIJUS JARAŠIŪNAS
Mykolas Romeris University, Law School

Articles translated by:

Asta Naruševičiūtė: R. Ruškytė, I. Jarukaitis, E. Kūris, A. Gedmintaitė, V. Vadapalas,
D. Raižys, T. Davulis.

Agnė Kalinauskaitė: J. Nasutavičienė.

Milda Treigė: S. Žaltauskaitė-Žalimienė, M. Treigė.

(All translations reviewed by the authors).

Bibliographic information is available on the Lithuanian Integral Library
Information System (LIBIS) portal ibiblioteka.lt

ISBN 978-609-07-0859-0 (printed book)

ISBN 978-609-07-0860-6 (digital PDF)

© Tomas Davulis, Irmantas Jarukaitis, Audronė Gedmintaitė, Egidijus Kūris, Justina Nasutavičienė,
Dainius Raižys, Ramutė Ruškytė, Milda Treigė, Vilenas Vadapalas, Skirgailė Žaltauskaitė-Žalimienė, 2023
© Vilnius University, 2023

TABLE OF CONTENTS

About the authors	6
Foreword	7
ADMINISTRATIVE COURTS AS ONE OF THE STATE POWERS	9
Partnership of Court and Political Power, Aspects of the Application of EU Law	10
Cooperation Between Lithuanian Administrative Courts and the Court of Justice of the European Union in the Development of European Union Law: Constructive Dialogue	44
PROTECTION OF THE FUNDAMENTAL HUMAN RIGHTS IN THE JURISPRUDENCE OF INTERNATIONAL COURTS AND ADMINISTRATIVE COURTS OF LITHUANIA	73
Cases Against Lithuania in the European Court of Human Rights (2019–2021): In Search of Landmark Judgments	74
Fundamental Rights of the European Union: The Jurisprudence of the Supreme Administrative Court of Lithuania	106
Strengthening Respect for Human Rights and Fundamental Freedoms Under the Doctrine of the Protection of Legitimate Expectations	139
RELATIONSHIP OF NATIONAL AND EU LAW IN SPECIFIC AREAS OF ADMINISTRATIVE LAW	167
<i>Res Judicata</i> Principle in the Case Law of International and Lithuanian Courts	168
Key Trends in the Case Law of the Supreme Administrative Court of Lithuania in Application of European Union Law in Tax Disputes	188
Civil Servants' Right to Information and Consultation	202
The Problem of Regulating Legal Residence Requirements Governing Long-Term Resident Status in National Law	234
Liability of Member States for Violations of European Union Law in the Field of Legislation: Jurisprudence of the Supreme Courts of Lithuania	265

About the authors

In the order of articles:

Ramutė Ruškytė, Judge of the Supreme Administrative Court of Lithuania (2017-2022), Judge of the Constitutional Court of Lithuania (2005-2014).

Prof. dr. **Irmantas Jarukaitis**, Judge of the Court of Justice of the European Union from 2018, Judge of the Supreme Administrative Court of Lithuania (2010-2018) and Vice-President (2012-2017), Professor at Vilnius University Faculty of Law.

Prof. dr. (HP) **Egidijus Kūris**, Judge of the European Court of Human Rights from 2013, Judge of the Constitutional Court of Lithuania (1999-2008) and President of the Constitutional Court of Lithuania (2002-2008), Professor at Vilnius University Faculty of Law.

Prof. dr. **Skirgailė Žaltauskaitė-Žalimienė**, Judge of the Supreme Administrative Court of Lithuania from 2008, President of the Supreme Administrative Court of Lithuania from 2022 and Vice-President (2019-2022), Professor at Vilnius University Faculty of Law.

Dr. **Audronė Gedmintaitė**, Head of the Judicial Research Department at the Supreme Administrative Court of Lithuania from 2016, Lecturer at Vilnius University Faculty of Law.

Prof. dr. (HP) **Vilenas Vadapalas**, Judge of the General Court of the European Union (2004-2013), General Director of the European Law Department under the Government of the Republic of Lithuania (1997-2004).

Assoc. prof. dr. **Dainius Raižys**, Judge of the Supreme Administrative Court of Lithuania from 2007, Associate Professor at Mykolas Romeris University.

Prof. dr. **Tomas Davulis**, Judge of the Constitutional Court of Lithuania from 2023, Dean of Vilnius University Faculty of Law (2012-2022), Professor at Vilnius University Faculty of Law.

Dr. **Justina Nasutavičienė**, Senior advisor at the Supreme Administrative Court of Lithuania, Lecturer at Mykolas Romeris University School of Law.

Milda Treigė LL.M., Advisor to the President at the Supreme Administrative Court of Lithuania (2019-2023), Director of the Permanent Office of the European Network of Councils for the Judiciary from 2023.

Foreword

Dear colleagues,

This collection of articles by renowned Lithuanian scholars and practitioners is designated to mark the 20 year anniversary of the establishment of Lithuanian Supreme Administrative Court. The articles provide an overview and assessment of a development of Lithuanian administrative court system and administrative law, as well as insights of its intersection and interaction with the European Union law, highlight the points of interest.

Twenty years is a short period, during which, after the restoration of Lithuania's independence, foundations of administrative justice have been laid and the courts of special – administrative – jurisdiction were established. It is therefore the time when administrative courts had to define their place in the judicial system, to lay foundations of case-law in the sphere of administrative legal relations, the time to build trust in society and recognition of their activity, which is aimed at ensuring proper guarantees of the protection of individuals' rights and legitimate expectations.

It is my personal experience that this task was an intricately complex one, since during this short period of time the legislative branch, scholars and administrative judges of Lithuania not only had to create the whole legislative base regulating administrative legal relations from scratch, to apply it, interpret it and reflect on it, but in a very short period also to scrutinize and apply yet another level of legislation – the European Union law. This collection of articles therefore aims to explore the topics, relevant to the evolvement of a relationship between the Supreme Administrative Court of Lithuania and other state powers; relationship of the Supreme Administrative Court with the European Court of Justice and the European Court of Human Rights, both on an institutional level and on the effect the jurisprudences of the European Courts have on case-law of the Supreme Administrative Court; analyzes and reflects on specific areas of case-law, where the impact on the European Union law is clearly felt.

I therefore believe that this publication will not only commemorate the anniversary of the Supreme Administrative Court of Lithuania, but will also be of a great interest to all professionals dealing with the EU and administrative law, shed more light on the operation of the Supreme Administrative Court of Lithuania in general and various aspects of case-law in particular.

Gintaras Kryževičius

President of the Supreme Administrative Court (2017-2022)