



High Council for the Judiciary

2007 Exchange Programme between Councils for the Judiciary

Report drawn up by Mr. Roberto Maria Carrelli Palombi concerning his participation in the stage held on 26th to 28th November 2007 at the National Courts Administration of Lithuania.

The stage took place through a series of meetings with representatives of the Judicial Institutions of the Republic of Lithuania responsible for issues concerning self-government of the Judiciary.

The National Court Administration (NCA), a body set up in 2002 to guarantee the separation of executive and judiciary powers, is responsible for providing material assistance to all the institutions of judiciary power. In particular, it prepares materials for self-governing activities of the judiciary, gathers information and statistics concerning judges' activities and carries out analyses relative to the duration of trials. It gathers and maintains information about magistrates' careers and performs investigative activities to allow the President of the Republic to exercise the powers attributed to him under the Constitution in matters of appointments, promotions and transfer of judges. It has specific responsibilities with regard to preparation of the statement of account relative to the expenses incurred for the working of the Courts.

The Institution is directed by a President appointed by the President of the Republic upon proposal from the President of the Supreme Court. In order to assist him/her in carrying out his/her functions, the president appoints two directors who in turn coordinate the activities of 60 employees.

The NCA also manages international relations with the judiciary institutions of other countries and, in particular, with the European Union. It participates in the activities of ENCJ and this year, as a result of the recent amendments to the By-Laws of the Network, has become an effective member of the Network.

The conversation with Mr. Norkunas, Supreme Court judge, provided a general overview of the judiciary system adopted in Lithuania in 1994. Such system foresees Courts that administer ordinary jurisdiction and Courts that have jurisdiction over administrative matters.

The system of ordinary Courts is based on a first degree of civil and criminal jurisdiction called District Courts. These Courts also have powers over matters of administrative sanctions. Then there are the Regional Courts to hear appeals against decisions handed down by the District Courts and also to issue first degree judgements in particularly important civil and criminal cases as foreseen under the law. After this there is the Appeals Court at national level, located at Vilnius, to hear appeals against the decisions handed down by the Regional Courts. The President of the Appeals Court also has supervisory powers over the activities carried out by the judges in the District Courts.

Finally the Supreme Court has the task of ensuring uniform application and interpretation of the law and also the regulations of the European Union.

The meeting with Mr. Gurevicus, Supreme Court judge and president of the Judicial Court of Honour, and with Mr. Driukas, president of the Appeals Court and the Ethics and Discipline Commission, revolved around issues concerning judges' disciplinary responsibility. Responsibility for disciplinary matters is shared between a Commission comprising 5 members appointed by the Judicial Council from among Supreme Court and Appeals Court judges to perform preliminary investigations to select cases that call for more in-depth attention, and a disciplinary judge identified in the Judicial Court of Honour comprising 7 members representing the various categories of judges chosen by the Judicial Council who hold office for 4 years. Disciplinary proceedings, which are commenced as a result of information received from the office where the incriminated judge works, may be concluded with disciplinary sanctions such as a reprimand. In more serious cases, a proposal for transfer or removal of the judge may be forwarded to Parliament and to the President of the Republic, the institutions responsible for such measures. Charges that may be brought against a judge relate to violations of a code of ethics adopted during the general meeting of Lithuanian judges.

Decisions handed down by the Judicial Court of Honour may be appealed before the Supreme Court.

The self-governing system of the Lithuanian Judiciary was the subject of a meeting with the President of the Judicial Council and Vilnius Appeals Court judge.

In particular, the autonomy and independence of the judiciary, established by the Constitution, is guaranteed by means of three different bodies. The first and highest institution of self-government of the judiciary is represented by the General Meeting of Judges at which all the judges of Lithuania participate. This takes place at least once every two years and is responsible for appointing the members of the Judicial Council and for adopting and amending the code of Ethics. Then there is the Judicial Council composed of 15 members: the President of the Supreme Court, the President of the Appeals Court, the President of the Supreme Administrative Court and other 12 members elected by the General Meeting of Judges for a period of two years that can be renewed without limit. The tasks attributed by law to the Judicial Council comprise the following: consulting with the President of the Republic in relation to his/her responsibilities in matters of justice; organisation of examinations for candidates who aspire to becoming judges; appointing members of the Judicial Ethics and Discipline Commission; controlling the activities of the National Court Administration; promoting disciplinary action, and exercising the power to challenge the decisions of the Judicial Court of Honour before the Supreme Court.

The subject of the meeting with Mr. Piliciauskas, Supreme Administrative Court judge, was the organisation of administrative jurisdiction. This is based on five Regional Courts and a Supreme Court. It deals with all judgements in which one of the parties is the State or a Public Administration, all situations in which a private citizen has suffered damages as a consequence of a State action, and all issues relative to public employment.

Conflicts of jurisdiction between ordinary and administrative judiciary authorities are submitted to a superior Authority formed by judges from the Supreme Court and the Supreme Administrative Court.

Roberto Maria Carrelli Palombi