Identification of the participant

Nationality: Lithuanian
Functions: Judge
Length of service: thirteen years

Identification of the exchange

Hosting jurisdiction/institution: The Supreme Administrative Court
City: Warsaw
Country: Poland
Dates of the exchange: October 1st, 2012 - October 12th, 2012
While pursuing an internship organised by ACA-Europe I visited the Supreme Administrative Court of Poland, the Voivodship Administrative Court in Warsaw, the Supreme Court of Poland and the National Judicial Council of Poland. During my visit to the Supreme Administrative Court of Poland I met with the President of the Court and discussed various questions involving the working of administrative courts in Lithuania and in Poland, the working of two-tier administrative courts system and the efficiency of the codified law on the administrative procedures concerning public administration bodies.

I also participated in court hearings on tax cases (involving questions of VAT, excises and property taxes), met with the judges examining these type of cases and became acquainted with the procedures embedded in general tax disputes, as well as in specified tax matters in the Supreme Administrative Court of Poland.

Furthermore, I met with the Head of the Information Department of a Court, who introduced me with the methods of presenting cases to the general public, the methods of informing general public about the functioning of a court and the legal disputes arising thereof in the Supreme Administrative Court of Poland.

While visiting the Supreme Administrative Court of Poland I also met with the head of one of the subdivisions of the court, namely – the one responsible for dealing with cases concerning territorial planning, environmental impact assessment and construction.

What is more, there I met with the Heads of the Department of a Judicial Practise, i. e. the judges, who are in charge of various divisions of this department in accordance with the particular cases they are examining. During the meeting multiple questions involving functions of the Department of a Judicial Practise were discussed.

Finally, I met with the editor of a scientific magazine, which is being published by the Supreme Administrative Court of Poland. She introduced me with the topics of this magazine – articles on the case law of the national and international courts, namely – case law of the European Court of Justice, the European Court of Human Rights, the Supreme Court of Poland, the Supreme Administrative Court of Poland and the Voivodship Administrative Courts.

During my visit to the Voivodship Administrative Court in Warsaw I met with the President of the Court, the Deputy President of the Court and the Head of a Court Division dealing with cases in matters of the excises and the assignation of European Union structural support for agricultural entities. While taking part in this meeting, I was introduced with the structure, the subject matter and the rules of procedure in Voivodship Administrative Courts.

Furthermore, I participated in a conference on excise duties organised by the Voivodship Administrative Court in Warsaw. During the conference I had a chance to familiarize myself with topics concerning excise duties and organisation of the training designated for judges.

In addition to this, I also took part in a conference on procedural questions involving territorial planning, construction and environmental impact assessment. The speakers of a conference included the judges of the Voivodship Administrative Court in Warsaw, who presented reports, and professors of territorial planning and environmental law, who summarised the main points of a discussion.

While visiting the Supreme Court of Poland I also met with one of the judges belonging to the Division of Labour Law, who is also a professor of labour law. During the meeting we elaborated on a topic as to why more cases, such as the ones concerning social
security, public service, legal redress and the decisions of Energy Regulatory Commission, are assigned to courts of a general competence. Moreover, we discussed the questions involving the application of the European Union law in non-discrimination cases.

In the National Judicial Council of Poland I met with a President and a Deputy President of this council. During my visit there I was introduced with the role of the National Judicial Council of Poland in the process of allocating judges to the superior courts. Not only was the legal framework of this process, but also the organisational questions presented to me. We also discussed the possibility to challenge the decisions made in this process and the legal disputes arising thereof.

It is worth mentioning, that the Supreme Administrative Court of Poland is the highest court within the system of two instances of the administrative courts. It functions as a court of cassation and examines decisions adopted by Voivodship Administrative Courts, which in their turn are courts of appellation. The Supreme Administrative Court ex lege is divided into three chambers: Commercial Chamber, Financial Chamber and General Administrative Chamber. Voivodship Administrative Courts in their turn apply the same specializations as the ones set in the Supreme Administrative Court of Poland.

I was particularly interested in administrative process and codified regulation of administrative procedure, namely – administrative code, which regulates the process for public administration bodies while getting to know the law of Poland.

In Poland as well as in Lithuania administrative courts of two instances are functioning. In such system the courts of first instance are operating at the same level as the courts of appellation, while the courts of second instance are functioning as the highest instance. The Supreme Administrative Court of Poland is the court of cassation and examines the case only within the framework of a cassation claim, whereas the Supreme Administrative Court of Lithuania is an appellate court, which examines the case in its entirety (unlimited appellation).

As highlighted in previous paragraph, there is a codified set of rules concerning administrative procedure, which public administration bodies are bound to apply, provided in administrative code in Polish legal system. Conversely, such an administrative procedure is not codified in Lithuanian legal system, where different rules are foreseen by separate pieces of legislation – laws, regulations of the Government and provisions of respective institutions.

In the Supreme Administrative Court of Poland I also familiarized myself with cases, in which the application of European Union law was relevant. To be more precise, such cases dealt with non-implementation of European Union law and the outcome for tax-payers arising thereof.

Moreover, in the Financial Chamber of the Supreme Administrative Court of Poland I became acquainted with cases, which are being examined by the VAT Division of this Chamber. I also discussed the matters regarding VAT, the impact of European Union law and the case law of the European Court of Justice, means of substantiation and substantiation process in taxation disputes.

While visiting the Supreme Administrative Court of Poland I also learnt about the organisational work of the Division of European Union Law of the Department of a Judicial Practise, which is responsible for ensuring that all the relevant material for cases, in which EU law must be applied, is prepared.

I believe that the regulation of administrative procedure and administrative process in Polish legal system can serve as an example of improving Lithuanian legal system, i. e. the regulation of administrative procedure could be codified and the functions of administrative courts could be modified considering the theoretical basis of administrative procedure and process in Poland and other European countries. Theoretical basis of administrative procedure and process is certainly valuable while examining the cases in Lithuanian administrative
courts. In addition to this, the information I received about the organisation of collegial work in Poland could also be taken into account in Lithuania.

In my opinion the duration of an internship could be prolonged as to allow more in-depth analysis of practise of administrative courts in another country.