



NATIONAL AUDIT  
OFFICE OF LITHUANIA  
• BRINGING BENEFITS •

# JUDICIAL SYSTEM

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## SUMMARY

### The Relevance of the Audit

According to the Constitution of the Republic of Lithuania, Lithuanian courts are the only institution that administers justice within the country. The right to justice is included amongst the key human rights and is one of the fundamental pillars of civil society<sup>1</sup>.

Each person has the right to the access to a court in accordance with the procedure established by law in order to have their infringed or contested right or their interest that is protected by law defended. The main tasks of the courts are to resolve legal disputes and ensure that the person who has committed a criminal offence is suitably penalised and that no innocent person is convicted.

Each person referring to a court expects a prompt and fair decision. Such expectations can only be met by a judicial system that operates efficiently.

In Lithuania, there are 22 courts of general jurisdiction and special jurisdiction. The judicial system has 3,439 workers, 750 of whom are judges. Each year, the Courts of First Instance are presented with more than 200,000 new cases. Around 75% of these cases are civil proceedings, thus more attention was paid to the procedures involved in the examination of cases belonging to this particular category.

In an effort to determine whether the conditions for the efficient examination of cases are established, we have performed an audit of the judicial system.

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<sup>1</sup> Guidelines on the Creation of Judicial Maps approved by the European Commission for the Efficiency of Justice, 1.1 p. Retrieved from [https://rm.coe.int/europos-veiksmingo-teisingumo-komisija-cepej-teismu-sistemas-zemelapiu/16807482f4#\\_Toc361125902](https://rm.coe.int/europos-veiksmingo-teisingumo-komisija-cepej-teismu-sistemas-zemelapiu/16807482f4#_Toc361125902).

## The Objective and Scope of the Audit

The objective of the audit is to determine whether the judicial system ensures efficient examination of cases.

The main questions of the audit:

- whether the enhancement of the efficiency of the judicial system is properly organised;
- whether the human resources necessary for the expeditious examination of cases are in place;
- whether the infrastructure necessary for the performance of the functions of the courts is ensured.

The following aspects were not assessed throughout the audit:

- the reasonableness of the decisions taken by the courts, as, while administering justice, the courts are independent of any other local authorities and managing bodies, officials, political parties, organisations and other persons. The decisions taken by the courts can only be reviewed by a higher court and only in accordance with the procedure established by law.

corruption risk management in the courts, as in 2019, the Special Investigation Service carried out the analysis of the risk concerning the possibility of the occurrence of corruption while distributing new cases and forming judicial panels, as well as put forward proposals regarding the management of the risk of corruption<sup>2</sup>. The audited entities:

- The Ministry of Justice, which is entrusted with the making of the state policy within the area of the development of the national judicial system, as well as with organising, coordinating and controlling its implementation;
- The National Courts Administration, which helps institutions of autonomy of courts to carry out the functions that have been entrusted to them and to ensure the performance of the administrative and organisational activities of courts and institutions of autonomy of courts, seeks to ensure the efficient functioning of the authorities of the Lithuanian judicial system.

The information has also been obtained from district courts, regional courts, regional administrative courts, the Supreme Administrative Court of Lithuania, the Supreme Court of Lithuania. Over the course of the audit, we have communicated with the representatives of the Judicial Council, the Prosecutor General's Office, the Police Department, Vilnius University Faculty of Law, the Bar Association. Audit procedures have been carried out in the District Court of Vilnius City, the District Court of Vilnius Region, the District Court of Kaunas and the District Court of Panevėžys.

The audited period - 2017–2019. In order to assess the changes that have taken place in the judicial system, the data concerning earlier and later periods have also been employed in some cases.

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<sup>2</sup> Retrieved from <https://stt.lt/korupcijos-prevencija/korupcijos-rizikos-analizes/atliktos-korupcijos-rizikos-analizes/7471/act798>.

The audit has been performed in accordance with the Public Auditing Requirements and the International Standards of Supreme Audit Institutions. The scope of the audit and the applied methods are described in more detail in Annex 1 “The Scope and Methods of the Audit” (p. 47).

## Key Results of the Audit

The State should ensure that legal and organisational conditions are created for the administration of justice. The results of the audit show that the judicial system does not provide all conditions necessary in order to ensure efficient examination of cases, i.e. the examination of cases within the shortest possible time without such rapidity resulting in the diminished quality of the taken decisions

### 1. Decisions must be adopted that aim at a more focused organisation of the enhancement of the efficiency of the judicial system

The stability of the judicial system is important and relevant to the entire community, as instability and uncertainty within the said system can result in negative consequences regarding the quality of the administration of justice. Efforts concerned with restructuring the enhancement of the efficiency of the judicial system should only be initiated if they are unavoidable, well-considered and based on economic and qualitative criteria<sup>3</sup>.

The Parliament of the Republic of Lithuania, the Government of the Republic of Lithuania and the Judicial Council take part in the adoption of the decisions concerning changes within the judicial system and express their will. The presence of a shared vision would facilitate the planning of the development of the judicial system and the adoption of informed decisions. In Lithuania, there is no vision regarding the development of the judicial system, while the priority axes, aims, objectives and the anticipated end result of the enhancement of efficiency are not established. In 2013-2018, two reforms of the judicial system that aimed at establishing better conditions for the examination of cases were implemented. Said reforms focused just on a part of the judicial system, i.e. district and regional administrative courts, and were oriented more towards the structural changes in these courts. In 2020, the Judicial Council adopted a decision concerning the changes in the structure of district courts, which had already been reorganised in 2018. Without the presence of a vision regarding the Lithuanian judicial system, the implemented changes were not always consistent, thus:

- notwithstanding the fact that, compared to 2017, in 2019, the number of cases examined in the courts and the average workloads of judges decreased by 14%, however, the average duration of civil proceedings in district courts increased by 4.4% and amounted to 95 days in contentious case. In terms of the average duration of civil proceedings, Lithuania was ranked first in the EU as the state dealing with them at the fastest pace. However, there are complex cases where the duration of proceedings differs greatly from the average duration: at the end of 2019, there were 4,003 cases pending before first instance courts for more than a year, of which 247 civil cases had been protracted for more than 5 years. When appealing against a decision adopted by the district court before the regional court, the parties to the proceedings had to

<sup>3</sup> The 2016 scientific study carried out by the researchers of Vilnius University Faculty of Law, titled “Ways of Implementation of the Right to Civil Proceedings within a Reasonable Time”.

wait the final decision of the court in civil cases for a period that was 62 days longer than in 2017, while when appealing against a decision adopted by the regional court before the Court of Appeal of Lithuania, the proceedings were 26 days longer. The number of altered or annulled decisions had also increased: in 2019, 37% (1,902) of appealed decisions were altered or annulled in civil cases, i.e. 1.8% (104) more than in 2017;

- over the 12 preceding years, it has not been established which functions should be attributed exclusively to the court as a sole institution that administers justice. In three programmes of the Government of the Republic of Lithuania, objectives concerning the delegation of functions that are not specific to the courts to other institutions were outlined, however, these objectives were not implemented. In 2014, the Judicial Council, the executive body of the autonomy of courts, submitted proposals to the Ministry of Justice regarding the court functions established in the legislation that could be considered as uncharacteristic to the courts. In 2016, the Ministry of Justice registered the draft amendments to the Civil Code and the Code of Civil Procedure with the Lithuanian Parliament. The amendments proposed eliminating some of the functions established by the Judicial Council as being not specific to the courts. In 2018, the draft amendments were considered, yet ultimately rejected, by the Parliament. If at least two functions that were proposed as not being specific to the courts (the functions regarding uncontested divorce and court permits for transactions of immovable property owned by the family if the spouses (applicants) have minor children) were delegated to other institutions, the number of cases received by the courts would decrease by around 13% (20,000 cases) (Section 1).

## 2. The formation of the corps of judges and their team requires improvement

- Regarding the number of judges per 100,000 inhabitants, Lithuania is ranked 8th amongst the EU countries (27 judges), Latvia is ranked 12th (25 judges), while Estonia is ranked 17th (17 judges)<sup>4</sup>. The number of judges in Lithuania – 787 judges – was established in 2007. Throughout the audited period, the number of received cases decreased by around 7% each year, while the total number of judges in the country remained unchanged. In district courts, the average workload of judges differs by 1.4 times, while in regional courts, it differs by 1.26 times. Reference rates of the workload of judges or other criteria that would allow to objectively assess the need for judges in courts have not been established. Without the assessment of the need for judges, there is no possibility of establishing the optimal number of judges and of ensuring their suitable allocation in courts (Subsection 2.1).
- The number of unoccupied positions of judges grows each year: during 2017-2019, the percentage of vacant positions of judges increased from 2.3% to 4.7%. Over the course of the audited period, 168 judges were appointed to the judge positions that had been vacated, of which 34% of the appointments of new judges took more than 6 months counting from the day on which the previous judge had vacated their post. The majority of this period is dedicated to the selection stage from the creation of the list of candidates to the position of a judge to the commencement of the sessions of the Judicial Selection Commission: in 57% of cases, the judge selection process took more than 7 months, of which 3 cases took up to 15 months. Due to the unoccupied positions

<sup>4</sup> CEPEJ EU Justice Scoreboard, 2019 (data of 2017).

of judges, the workloads of other judges increase and, consequently, the duration of proceedings also increases. Even the lack of a single judge has a significant impact especially on the functioning of district courts that employ a small number of judges (3–5 judges), which make up 57% of all courts in Lithuania, thus it is important to appoint a new judge as swiftly as possible (Subsection 2.2).

- 30% (138 out of 464) of judges working at district courts do not specialise in the examination of particular cases. Due to this reason, in district courts, which provide judicial services for more than half of the country's territory (28 out of 49 courts), the same judge must examine cases of a civil, criminal and/or administrative nature. Opportunities for judicial specialisation are limited in district courts due to the fact that in 57% of all district courts, only 5 or fewer judges are employed. If specialisation was to be established in such courts, there would be no possibility of ensuring that cases of a certain category are not allocated to a judge whose involvement can be predicted in advance. In such courts where the opportunities for judicial specialisation are limited, the potential benefits of specialisation, such as more efficient examination of cases, the formation of uniform case law and greater stability of adopted decisions, are not exploited: in the courts where specialisation is not established, the percentage of civil cases whose decisions had been annulled and returned to the court of the first instance for a re-trial in 2018–2019 was approximately 15.5% larger than the percentage of such cases established in the courts where specialisation had been established (Subsection 2.3).
- The judge's team consists of a judicial assistant and a hearing secretary<sup>5</sup>. In order to form complete judge's teams, on 31 December 2019, there was a lack of 102 (15%) judicial assistants and 104 (15%) hearing secretaries. Due to the lack of judicial assistants, the workloads of judges increase, while without the presence of hearing secretaries, oral hearings cannot take place. In 2019, the judicial system had almost 3,500 employees. Over the course of the court reforms, the optimisation of internal administration functions was to be carried out, while the savings in resources were supposed to be used to strengthen the judge's teams. However, after the reform, the total number of posts dedicated to the staff performing internal administration functions has remained roughly the same (Subsection 2.4).

### 3. The development of the court infrastructure would create preconditions to ensure a safe environment for the participants to the proceedings and more efficient organisation of hearings

- In every court (courthouse), conditions should be created that allow to protect the interests of the most vulnerable participants to the proceedings and to ensure their emotional safety. Oral procedures must be carried out in hearing rooms that have been properly equipped. In order to ensure smooth organisation of hearings, the Judicial Council established requirements for the number of hearing rooms in courthouses that are being renovated, as well as in new courthouses<sup>6</sup>. No decisions have been made as to how the proper equipment of such premises should be ensured in the current courthouses. The floor area of all district courts amounts to 83,800 sq. m., its maintenance costs around 915,100 thousand EUR per year. After assessing the

<sup>5</sup> Each judge should have one judicial assistant and one hearing secretary.

<sup>6</sup> Resolution No 13P-16-(7.12) of the Judicial Council of 30 January 2015 on the Approval of a Model Description of Requirements for the Design and Equipment of the Main Court Buildings and Premises

premises managed by the courts, it has been established that some courts lack the premises for the proper equipment of hearing rooms and areas dedicated to the most vulnerable participants to the proceedings, while the premises belonging to other courts are too large for the performance of the assigned functions. Thus:

- 33 out of 49 (67%) district courthouses and 3 out of 5 regional courthouses do not have premises for the witnesses and/or victims, while 12 out of 49 (24%) district courthouses and 2 out of 5 regional courthouses are not equipped with premises fit for interviewing minors. Without the presence of such premises, it is difficult for the courts to ensure suitable protection of the aforementioned participants to the proceedings (Subsection 3.1);
- Having assessed the number of hearing rooms in the courts (courthouses), we have determined that: In 7 out of 49 district courthouses and 2 out of 5 regional courthouses, there are not enough hearing rooms for the examination of cases (Subsection 3.2).
- Video conference equipment allows the courts to remotely interview witnesses, victims, detainees and other participants to the proceedings who are not able to attend hearings. It has been established that 38 out of 49 district courthouses (78%) do not possess video conference equipment. The video conference equipment possessed by the courts and the police institutions is not compatible, thus there is no possibility for the courts to remotely interview the persons taken into police custody and the police are obligated to convey them to court. In 2019, police officers conveyed 10,176 persons from police custody to the court (10,628 in 2018), performing 7,341 judicial convoys (8,142 in 2018) (Subsection 3.3).

## Recommendations

### For the Judicial Council and the Ministry of Justice

1. In order to create the necessary conditions for the administration of justice and to ensure the consistent improvement of the judicial system by eliminating functions that are not specific to the courts and creating conditions for the specialisation of judges, to establish long-term priority axes, aims, objectives and the anticipated end result of the improvement of the judicial system (1 and 2 key audit results).

### For the Judicial Council

2. As a means of forming suitable human resources in order to examine cases efficiently and create the necessary conditions for the protection of the most vulnerable participants to the proceedings and the organisation of hearings:
  - 2.1. to assess the need for the human resources required to perform the functions assigned to the judicial system and to adopt decisions concerning the establishment of the optimal number of judges and a more efficient formation of the corps of judges and their team (2 key audit result);
  - 2.2. to assess the need for the premises required by the courts and courthouses and to adopt decisions concerning the assets under courts management while ensuring that premises necessary for the protection of the most vulnerable

participants to the proceedings, as well as hearing rooms necessary for oral procedures, are set up (3 key audit result).

### For the National Courts Administration

3. In an effort to ensure efficient examination of cases, to create the necessary conditions for all courts to organise remote hearings (3 key audit result).

Measures and deadlines for the implementation of recommendations are provided in the section of the report titled “Recommendation Implementation Plan” (p. 42).