

Address of the President of Latvia, Egils Levits, at the conference 'Competence of the administrative courts derived from the general legal principles' marking the 15 years since the establishment of administrative courts

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Dear colleagues and friends,

I have stood behind this lectern many a time, but never in this capacity.

Dear participants,

Let me congratulate you on the 15-year anniversary of administrative courts and judges! As a judicial authority and as members of the judiciary you have, in fact, turned 15.

I

Administrative courts have done a commendable job in making sure that the Latvian legal system is an integral part of the Western legal system. Present-day Latvian legal system operates the same way as those of other European Union (EU) member states. It is a major accomplishment. It means our legal system meets the highest standards in terms of the rule of law.

II

Let me remind you, when our constitution, Satversme, was fully reinstated on 6 July 1993, we were faced with the challenging task of rapidly reforming our legal system. Restoration of the rule of law was at the core of this reform.

One of the justice system reform priorities was adoption of the Administrative Procedure Law. We had to adopt laws regulating the decision-making and issuing of binding administrative acts with respect to persons at the level of each public body and civil servant. We also had to provide everyone the possibility to appeal decisions made by government and local bodies in court. We also had to put in place procedures enabling persons to seek compensation for damages and losses resulting from unlawful acts of public bodies.

Purpose of the legal system reform was to pull Latvia out of the political and legal swamp of the soviet occupation regime and reintegrate the Latvia's legal system into the Western political and legal culture. Our objective was to give every inhabitant of Latvia the opportunity to fully exercise their rights. No more arbitrary government intervention.

III

I do not need to tell you that the implementation of the Administrative Procedure Law was hard. One of the stumbling blocks was definitions. We struggled to grasp the concept of administrative act at first. Eventually, on 25 October 2001, Administrative Procedure Law was enacted, but its entry into force was repeatedly postponed. The Law finally came to force on 1 February 2004, which is also when administrative courts began to adjudicate.

Drafting of the law triggered wide discussions about the jurisdiction. Should administrative adjudication be delegated to district or city courts? Should every district or city court have own administrative judge? Should we create a new court system with separate administrative courts? Let me remind you that the initial legislative initiative presented by the Cabinet of Ministers to the parliament, Saeima, did not envisage the establishment of separate administrative courts.

Back then one of the arguments against separate courts was that specialised courts are not part of the Latvian judicial tradition. However, after careful consideration of positive effects of the administrative judiciary on governance standards and public trust in the government, legislature decided it would be expedient to create separate administrative courts.

There were also some who argued for separate Supreme Administrative Court. However, to avoid having two supreme courts in Latvia, this proposal was dismissed.

Amendments to the Judicial Power Law, adopted on 4 December 2003, established administrative district courts, administrative regional courts and Administrative Chamber of the Supreme Court Senate.

IV

In hindsight, the decision to create separate administrative courts, independent of courts of general jurisdiction, was absolutely justified. Perhaps even more so. Introduction of administrative courts became a major turning point in the history of Latvian judicial system and for the whole legal system.

Administrative courts have significantly transformed the public administration, created a new understanding of the rule of law, judicial reasoning and human rights. Public bodies had to adopt new practices and a new mindset – driven by the provisions of the Administrative Procedure Law and the case-law of administrative courts. Decisions of public bodies have become more valid, meaningful and legitimate.

Administrative courts have modernised public administration and improved government interaction with people. Administrative procedure and human rights expertise of public bodies and the whole government has grown in the past decade and a half. So has the skill for exercising government authority. This is something I cannot stress enough: everyone holding the government authority must know how to use it right. It is a sharp and heavy tool. It takes skill to handle it. This, of course, applies to civil servants, but it is relevant for judges too as they are the ones who enforce laws and do so based on government authority.

Administrative courts were a crucial prerequisite for good governance.

Administrative court practices have gradually reshaped the way other courts work. Other courts had to raise their adjudication and judgement quality bar. Administrative courts had set the benchmark for judicial reasoning and logic. Administrative courts have

helped to promote general awareness about human rights, their purpose and effect. They have also enriched our legal system with case-law of international courts, predominantly the European Court of Human Rights and Court of Justice of the European Union.

Administrative courts have extended the legal remedies available to people. That, in turn, has boosted confidence in rights and government. Independent and competent administrative court system is responsible for judicial scrutiny of executive branch and offers a person who has purportedly been mistreated by the government possibility to seek justice in court. Respectful treatment in court and fair judgements create greater trust in legal system and the government.

Administrative courts have proved that judgements rooted in European legal tradition are possible in Latvia. Nowadays we expect well-justified and methodologically accurate judgements, and explicit case-law, which shapes the theoretical approaches and public administration practices, in all cases. Together with Constitutional Court, which ignited changes in legal culture and legal logic, administrative courts helped establish these standards.

V

Colleagues,

Unfortunately, there is no ideal legal system. Every system has its own problems and ever-changing challenges. Likewise, no system is ever complete. Even good systems can be improved, and we should always strive for excellence.

Let me briefly touch upon the three legal system challenges arising from the current legal reality. Challenges that administrative courts will have to or are already trying to overcome. I believe our courts can handle the task and will contribute to an even more progressive and robust legal system.

VI

Firstly, our state, with its democratic system and rule of law, should not be taken for granted. We had to fight for it and need to constantly protect it. Preamble of Satversme indicates that all people of Latvia, including, of course, the judges, shall constantly protect our democratic system. Lawyers and judges, who are the key asset of the judicial system, as well as those responsible for everyday enforcement of the laws, have a special duty to protect our democratic system. Lawyers, and especially judges, will always belong to the government, regardless of the regime in power. And they must remain loyal to government irrespective of the regime. In our case it is the democratic system and the rule of law. They need to be able to recognise and protect both values in their daily work.

Mission of administrative courts is to support the rule of law. It involves the duty to protect the democratic system in all cases. Administrative courts protect persons against arbitrary acts of government. Administrative courts uphold the democratic values, especially the human rights. Administrative courts also ensure the efficiency of democratic system and protection of collective interests of the whole society against threats to the democratic system, even when such threats emanate from a person, for example, their malicious acts, trolling, etc. This requires careful balancing. We need to ensure that personal interests are reconciled with public interest. Government, as we all know, has no own interests, government acts in the interest of people. Therefore, if anyone attempts to abuse the government authority for personal gain, the damage is inflicted to the rest of the public. It is the duty of administrative court judges to prevent that from happening.

Let me underline that respect of subjective rights coexists with respect of democratic values, which apply to and are equally important in administrative cases. According to Paragraph 116 of Satversme, as we promote and protect the human rights of individuals, we must also protect the rights of other individuals, democratic system, public safety, well-being and moral virtues. Paragraph 116 plays an important role in application of administrative law, stipulating proportionality between individual interests and collective interests.

VII

Secondly, modern technologies are already being used in court proceedings and communication with parties to the case, and

their role keeps constantly growing. Latvia has done a lot to address this challenge, and our uptake of modern technologies is recognised and appreciated abroad. Court Administration is a great example of this. I am certain that they are the champions in terms of use of modern technologies at the European level.

Regular use of e-court services and modern technologies in courts improves access to justice and speeds up proceedings. We need to keep it up. We must promote the use of modern technologies. Modern technologies are a way to strengthen the rule of law in our country. Administrative courts and judges must be open-minded and ready to seize new opportunities. I believe administrative courts are open to new possibilities. So, there will be no problems in this regard. However, you should also encourage your colleagues in other courts, as well. This is another opportunity for administrative courts to contribute to a meaningful shift towards new governance practices, patterns and paradigms.

VIII

And finally, thirdly, raising public trust in courts remains a serious challenge. When trust levels in society are high, people tend to rely on court judgements. Trust in judiciary entails people's trust in rule of law and the democratic system.

Judicial system, especially administrative courts, has done a lot to build public dialogue and give people a better insight into the work of courts, which boosts trust in courts. It is essential for courts to offer timely and comprehensible explanations about judicial reasoning.

Let me praise the openness of administrative law judges to public communication. That is why administrative courts are generally perceived more positively than other courts. Public dialogue and comments on judgements allow judges to reach out to greater number of people to explain how rule of law works because, in case of unfavourable rulings, parties do not always believe the judgement is fair. Therefore, it is important to provide clear reasoning in the judgement itself, so that the person who was involved in the case and lost knows how the ruling was made. In addition, an explanation as to how judgement was made must also be given to the general public, so that anyone can see that the unfavourable judgement against the individual is fair from the collective perspective. Thus, it is vital that the explanation is given both in the judgement's reasoning section, which is issued to parties involved in the case, as well as communicated to general public to let it know why the ruling is adequate, acceptable and legitimate.

No doubt, communication cannot make up for possible lack of legitimacy and fairness, therefore the everyday work and quality of judgements made by administrative courts is how we measure whether the rule of law is upheld here in Latvia. As Ms Paegļkalna said, getting complicated things that are becoming even more complicated written down in a simple, comprehensible and accessible form for all, is truly an art. I would like to add that it would be naive to hope that laws might become simpler. It will not happen. Our society is growing more complex and complicated every day. Today our society is already more complicated than yesterday. Judicial system must be able to integrate all this increasing complexity and that, of course, requires judges to become masters at solving such complex cases. It also requires communication skills, ability to give simple explanations for complex issues.

The theme of today's conference and the following discussion on administrative court competence derived from general legal principle is a clear signal that administrative courts are not planning to stop at what has been achieved, and we can expect the reputation and quality bar to be constantly raised higher.

Thank you for the good work. Thank you in advance for what you have set out to do. I wish a productive conference.



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