



INTERNSHIP REPORT AND SUMMARY

Identification of the participant

Surname: RAIŽYS

First name: DAINIUS

Nationality: Lithuanian

Seniority: 24 years

Identification of the internship

Host jurisdiction/institution: Council of State

Town/city: Paris

Country: France

Dates of the internship: 19 – 30 June 2023

SUMMARY

I. Internship programme

19 June 2023

Meeting with a Councillor of State, Delegate for International Relations.
Examination session of the Eighth Administrative Claims Chamber.

20 June 2023

Meeting with the President of the Interior Division.
Interior Division.

21 June 2023

Judgment sessions of the Eighth/Third Combined Chambers of the Administrative Claims Division
(panel of nine judges – Article R.122-15 of the Code of Administrative Justice).

22 June 2023

Judgment session of the Eighth Chamber of the Administrative Claims Division (panel of three
judges – Article R.122-14 of the Code of Administrative Justice).

Meeting with the Deputy Secretary-General of the Council of State.
Theme: managing the administrative jurisdiction.

23 June 2023

Administrative Court of Appeal of Paris.



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Attendance at the start of the hearing of the Ninth Chamber of the Administrative Court of Appeal of Paris.

Meeting with the President of the Administrative Court of Appeal of Paris.

26 June 2023

Meeting with a Councillor of State, Delegate for the Enforcement of Judgments.

Theme: the enforcement of judgments.

Meeting with a Master of Requests, rapporteur to the Ninth Administrative Claims Chamber.

Theme: the role of the rapporteur in an administrative claims chamber.

27 June 2023

Hearing on priority preliminary ruling on the issue of constitutionality.

Meeting with the President of the Finances Division.

Finances Division.

28 June 2023

Meeting with a Master of Requests, rapporteur to the Fifth Administrative Claims Chamber.

Theme: the priority preliminary ruling on the issue of constitutionality.

Meeting with a Councillor of State, rapporteur to the Administrative Claims Division.

Theme: administrative liability.

Meeting with a Master of Requests, rapporteur to the Finances Division.

Theme: the role of the rapporteur within an advisory division.

29 June 2023

Meeting with the President of the Report and Studies Division.

Meeting with the Secretary of the Report and Studies Department.

Theme: the missions of the Report and Studies Division.

30 June 2023

National Assembly.

Presentation of the missions of the National Assembly.

II. The host institution

The Council of State is the highest court in the administrative system. It monitors compliance with procedural rules and the application of the law by the tribunals and administrative courts of appeal. It also advises the Government by issuing opinions on draft legislation, draft ordinances and certain draft decrees.

The Council's advisory structure is organised as follows:

- The Reports and Studies Division prepares the annual report and studies, oversees the enforcement of administrative judgments and is responsible for international cooperation missions;
- Five administrative divisions issue opinions, each with a specific remit: Finances, Interior, Welfare and Social Security, Public Works and Administrative Issues.

The Administrative Claims Division hears disputes between citizens, associations or companies and the administration. It comprises 10 chambers, each with its own speciality:

- The first chamber deals in particular with disputes relating to social welfare, health and town planning;
- The second chamber deals in particular with disputes relating to post and telecommunications, sport, transport and foreign nationals;
- The third chamber deals in particular with disputes relating to fisheries, agriculture, the economy and local authorities;



- The fourth chamber deals in particular with disputes relating to schools, universities, employees with trade union mandates, redundancy plans and healthcare professionals;
- The fifth chamber deals in particular with disputes relating to housing, radio and television, hospitals, points-based driving licences and parking charges;
- The sixth chamber deals in particular with disputes relating to hunting and the environment and judicial justice;
- The seventh chamber deals in particular with disputes relating to the armed forces, public establishments, professional elections and public contracts and concessions;
- The eighth chamber deals in particular with disputes relating to taxation and the public domain (the domain of municipalities, departments, regions and the State, as well as the public establishments attached to them, traffic offences, etc.);
- The ninth chamber deals in particular with disputes relating to energy and taxation;
- The tenth chamber deals in particular with disputes relating to culture, civil liberties and overseas departments and territories.

III. The law of the host country

The Council of State has inherited a dual role: it acts as legal advisor to the Government, the National Assembly and the Senate, and it is the highest court in the administrative system.

Advisory powers

Legislative texts on these matters may be amended by decrees issued after consultation with the Council of State (*Article 37 of the Constitution*).

Ordinances are passed by the Council of Ministers after consultation with the Council of State (*Article 38 of the Constitution*).

Bills are discussed by the Council of Ministers after consultation with the Council of State and tabled in one of the two assemblies (*Article 39 of the Constitution*).

The Council of State participates in the drafting of laws and ordinances. The Prime Minister refers draft legislation drawn up by the Government to it.

The Council of State issues an opinion on bills tabled in a parliamentary assembly and not yet examined by a committee, and referred to it by the president of that assembly.

The Council of State gives its opinion on draft decrees and any other draft texts for which its input is required by constitutional, legislative or regulatory provisions or which are submitted to it by the Government.

After receiving a draft text, the Council of State gives its opinion and proposes any amendments it deems necessary.

It also prepares and drafts the texts requested of it.

(*Article L.112-1 of the Code of Administrative Justice*)

The opinions of the Council of State concern draft laws, draft ordinances and certain draft decrees. It can also examine draft legislation.

Its role is to guarantee the legal security of draft texts submitted to it. It ensures compliance with the Constitution, European law and national law. It issues advisory opinions and does not comment on the political choices of the Government or MPs.

Litigation powers

The Council of State is the supreme court in the administrative system.

It ensures the conformity of administrative judgments. It does not hear the case again, but checks that the law is being applied and that there are no procedural defects.

It can dismiss the appeal or overturn the judgment. If it overturns the judgment, it will refer the case back to the court that has already heard it or to a court of a similar nature. In exceptional circumstances, it may decide to retry the case itself.

The Council of State also acts as a court of appeal in certain cases:

disputes relating to regional and European elections,

appeals against orders of the President of the Republic, decrees, regulatory acts of ministers and other authorities with national jurisdiction.

IV. The comparative law aspect of your internship

The French system

Firstly, there is the first system, which consists of submitting both disputes concerning legality and disputes concerning compensation to a specialised judge, the administrative judge, who is independent of the ordinary judge.

This is the French system, which, since the Revolution, has proclaimed the separation of administrative and judicial authorities.

As far as the public is concerned, it offers guarantees of the independence of a court of law.

As for the Administration, it has been argued that a specialised judge, who is familiar with the management of public services, respects the prerogatives necessary for their operation.

The Lithuanian system

Lithuania's system of administrative justice is based on the German model.

Lithuanian judges are actual magistrates who rule on administrative disputes, but they do not belong to the executive and do not advise the government.

The office of administrative judge is incompatible with any legislative or executive office.

Proceedings before the administrative courts

Proceedings before the administrative courts in France are governed by the Code of Administrative Justice, which sets out the rules governing the operation of the administrative courts..

These general characteristics can be reduced to three essential aspects: proceedings are written, inquisitorial and adversarial.

The written nature of administrative justice proceedings means that the parties submit their arguments, evidence and submissions to the administrative court in writing. The parties exchange their arguments in briefs detailing their point of view and rebutting that of the opposing party.

Inquisitorial proceedings. It is the administrative judge who first directs the entire proceedings. He or she organises the adversarial hearing and decides which parties are to be notified of the appeal, and may also adopt any appropriate measures.

The adversarial principle is a general principle of proceedings that applies in all courts. It means that any argument or document produced by a party must be communicated to the opposing party.

Administrative court proceedings in Lithuania are governed by the law on administrative disputes.

According to the law on administrative disputes, the principles of administrative proceedings are as follows: the right to judicial protection, judicial independence, public hearings, public reading of the judgment, equality of arms between the parties and the binding effect of the judgment.

However, other important principles of litigation proceedings derive from the European Convention on Human Rights, the Lithuanian Constitution and their case-law, and are applied by the administrative courts: access to legal aid, the adversarial principle, secrecy of deliberations and the obligation to give reasons for the judgment.

V. The European aspect of your internship

During my internship, I did not have the opportunity to observe the problems associated with the implementation of European Union law and the European Convention on Human Rights.

VI. The 'good practice' aspect within the jurisdiction visited

A member of the court, acting as public rapporteur, publicly and independently expresses his or her opinion on the issues to be decided in the applications and on the solutions they call for (Article L.7 of the Code of Administrative Justice).

The work of the public rapporteur is an important aspect of the operation of the administrative courts. He or she delivers a conclusion in which he or she publicly and independently expresses his or her opinion on the issues raised by the application and on the solution that it calls for.

In my opinion, this particular feature of administrative litigation could be exported to other countries.

VII. Benefits of the internship

A unique opportunity to learn about the French system of administrative justice.

To acquire new professional experience.

I will be sharing the knowledge I have acquired with my colleagues during the professional training course to be held in September.

VIII. Suggestions

My internship was perfectly organised.

I have no suggestions for improving the Judges' Exchange Programme.

