

Agne LIMANTE, PhD
Law Institute of Lithuania

Aiste AUGUSTAUSKAITE
Law Institute of Lithuania

CONCLUSION OF INTERNATIONAL TREATIES AND OTHER INTERNATIONAL AGREEMENTS: PRACTICAL ISSUES AND ASSESSMENT OF NEEDS TO IMPROVE REGULATION IN LITHUANIA

Summary

By analysing legal doctrine and respective regulations in various countries, as well as concrete examples of international agreements, this study attempts to review the practice of conclusion of international treaties and other international agreements in Lithuania and beyond. Firstly, it seeks to establish common European treaty-making practices and to compare them to the regulatory framework in Lithuania, as well as to identify and discuss the more complicated issues that arise in practice.

The research is structured into seven chapters. The first chapter provides a detailed overview of the concept of international treaties and other international agreements. Here the authors analyse the various definitions and differences of international treaties, unilateral declarations, political agreements and international agreements concluded by ministries or other state institutions or bodies (so called international administrative/executive/inter-agency agreements) under the law of the Republic of Lithuania and numerous other states.

The second chapter discusses the variety of entities capable of concluding international agreements and also provides some guidelines regarding the limits of treaty-making capacity of certain subjects. A particular attention is paid to the units of federal states, in relation to which the authors pursue a comparative research into national constitutions of several federal states in Europe.

In the third chapter the authors evaluate the conclusion of international treaties and other international agreements under Lithuanian law and practice elaborating further on selected procedural aspects. Solutions to a number of complex practical questions identified by the Lithuanian Ministry of Justice are equally sought. The next chapter continues with the analysis of ratification procedure of international treaties. The authors discuss the case law of the Constitutional Court and the Supreme Court of Lithuania and, in its light, attempt to assess the relevance and consistency of the applicable ratification rules.

The fifth chapter goes deeper into the reservations to international agreements by discussing their meaning and main characteristics and by presenting the practice in various states of making such reservations and objecting to them. Taking into account the specific features of national law of Lithuania, the authors compare the national regulation on reservations with international rules and practices and offer certain solutions to problematic issues identified.

The sixth chapter considers the procedure of amendment and supplementing international agreements focusing on the national law aspects. The last chapter finishes the research by elaborating on provisional application of treaties in both international and national law. It identifies certain examples from the treaty practice and discusses lessons learnt from several arbitral awards. The study ends by presenting conclusions of the research and suggesting some changes in legal regulation in Lithuania.

The authors expect that the present study will contribute to further development of both theory and practice of treaty-making and will offer a useful guide to practitioners and policy-makers.