

**THE CONSTITUTIONAL COURT OF THE REPUBLIC OF
LITHUANIA**

RULING

ON THE COMPLIANCE OF PARAGRAPH 1 (WORDING OF 23 DECEMBER 1999) AND PARAGRAPH 2 (WORDING OF 23 DECEMBER 1999) OF ARTICLE 7 OF THE REPUBLIC OF LITHUANIA LAW ON THE AMOUNT, SOURCES, TERMS AND PROCEDURE OF PAYMENT OF COMPENSATION FOR THE REAL PROPERTY BOUGHT OUT BY THE STATE, AND ON THE GUARANTEES AND PREFERENCES WHICH ARE PROVIDED FOR IN THE LAW ON THE RESTORATION OF CITIZENS' RIGHTS OF OWNERSHIP TO THE EXISTING REAL PROPERTY AND ON THE COMPLIANCE OF PARAGRAPH 1 (WORDING OF 14 OCTOBER 2003) AND PARAGRAPH 2 (WORDING OF 14 OCTOBER 2003) OF ARTICLE 7 OF THE REPUBLIC OF LITHUANIA LAW ON THE AMOUNT, SOURCES, TERMS AND PROCEDURE OF PAYMENT OF COMPENSATION FOR THE REAL PROPERTY BOUGHT OUT BY THE STATE, AND ON THE STATE GUARANTEES AND PREFERENCES WHICH ARE PROVIDED FOR IN THE LAW ON THE RESTORATION OF CITIZENS' RIGHTS OF OWNERSHIP TO THE EXISTING REAL PROPERTY WITH THE CONSTITUTION OF THE REPUBLIC OF LITHUANIA

23 August 2005
Vilnius

The Constitutional Court of the Republic of Lithuania, composed of the Justices of the Constitutional Court Armanas Abramavičius, Toma Birmontienė, Egidijus Kūris, Kęstutis Lapinskas, Zenonas Namavičius, Ramutė Ruškytė, Vytautas Sinkevičius, Stasys Stačiokas, and Romualdas Kęstutis Urbaitis, with the secretary of the hearing-Daiva Pitrenaitė, in the presence of:

the representative of the Seimas of the Republic of Lithuania, the party concerned, who was Saulius Švedas, a senior consultant to the Legal Department of the Office of the Seimas of the Republic of Lithuania,

pursuant to Articles 102 and 105 of the Constitution of the Republic of Lithuania and Article 1 of the Law on the Constitutional Court of the Republic of Lithuania, on 10 August 2005 in its public hearing heard Case No. 19/02 which originated in a petition of the Supreme Administrative Court of Lithuania, the petitioner, requesting to investigate as to whether Paragraphs 1 and 2 (wording of 23 December 1999) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property were not in conflict with Paragraphs 1 and 3 of Article 23 and Article 29 of the Constitution of the Republic of Lithuania.

The Constitutional Court
has established:

I

The Supreme Administrative Court of Lithuania, the

petitioner, was investigating an administrative case. By its ruling the said court suspended the investigation of the case and applied to the Constitutional Court with a petition, requesting to investigate as to whether Paragraphs 1 and 2 (wording of 23 December 1999) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property (hereinafter also referred to as the Law) (Official Gazette Valstybės žinios, 1999, No. 113-3292) were not in conflict with Paragraphs 1 and 3 of Article 23 and Article 29 of the Constitution.

II

The arguments of the petitioner are based on the following arguments.

1. The principle of inviolability of property established in Paragraph 1 of Article 23 of the Constitution means that the subject of the ownership right has the right to freely possess, use and dispose of his property, also that he has the right to demand that other persons not violate his rights. This provision of the Constitution also consolidates the duty of the state to ensure the most favourable regime of implementation of the rights of ownership. By the law that was adopted by the Seimas on 23 December 1999, upon amendment of the norms whereby the Government can independently establish the terms and procedure of payment of monetary compensation, also, upon postponement of the terms of payment of monetary compensation, the guarantees established to the owners in Article 7 (wording of 4 November 1999) of the Law to retrieve their property under most favourable terms and procedure were deteriorated.

2. Under Paragraph 3 of Article 23 of the Constitution, property may only be seized for the needs of society in accordance with the procedure established by law and shall be justly compensated for. Just compensation includes not only compensation of equal value for such property, but also the time-period during which it is compensated. Changing the term establishing the period of compensation payment, by prolonging it, as well as limitation of the right to receive annual compensation in equal portions each quarter of the year, by establishing an indefinite procedure for the compensation payment, restricts the right of the owner to possess, use and dispose of this property, nor does it guarantee just compensation and thus violates the principles of equal rights of subjects of the ownership right and protection of legitimate expectations.

3. Having adopted a decision to restore the rights of ownership to the existing real property (by returning it in kind or by compensation), the holders of the ownership right must be guaranteed an equal right to possess, use and dispose of this property. Upon amending Paragraphs 1 and 2 of Article 7 of the Law and upon prolonging the terms of compensation payment, the possessor of the compensation finds himself in an unequal situation, in which he is discriminated, in regard of another owner—a person to whom the real property has been returned in kind. Therefore, in the opinion of the petitioner, Paragraphs 1 and 2 (wording of 23 December 1999) of Article 7 of the Law are in conflict with the principle of equal rights of persons, which is enshrined in Article 29 of the Constitution.

III

1. In the course of the preparation of the case for the Constitutional Court hearing, a written explanation was received from the member of the Seimas A. Butkevičius, the representative of the Seimas, the party concerned.

It is asserted in the explanation that the Seimas, after it had amended the provisions of the Law and prolonged the terms of final payment of monetary compensation for the real property bought out by the state, did not deprive the citizens of their right to monetary compensation, nor did it diminish the compensation. It is established in the Law that the sums of the monetary compensation not paid to the citizens are indexed by taking account of the annual inflation. The financial resources of the state are limited. The state must fulfil the undertaken obligations (to restore the rights of ownership to the existing real property nationalised by the occupation government and to restore the deposits held in state-owned banks by residents), however, it must carry out the duties established to it in the Constitution as well: to guarantee the right to education and healthcare to citizens, to support the family, culture, etc. Lithuania must maintain a stable macro-economic situation, the fiscal indexes fixed in various international agreements, as well as fulfil its financial liabilities. If liabilities are fulfilled unconditionally in regard of one group of persons, the interests of the state and, alongside, those of all citizens of the state, might suffer. Therefore, the Seimas, while assessing the financial capabilities of the state, adopted the amendments to the Law, i.e. it prolonged the compensation payment terms and changed the compensation payment procedure, however, it did not reject the provision that the persons who have the right to receive compensation for the real property bought out by the state must be justly compensated for the property seized for the needs of society.

2. By President of the Seimas Ordinance No. 45 of 23 June 2005 the representative of the party concerned, the Seimas, was changed. S. Švedas, a senior consultant to the Legal Department of the Office of the Seimas, was empowered to represent the Seimas instead of the member of the Seimas A. Butkevičius. In his explanation submitted to the Constitutional Court, S. Švedas informed the Court that he supports the arguments set forth in the written explanation of A. Butkevičius, a member of the Seimas.

IV

In the course of the preparation of the case for the judicial investigation, information was received from A. Butkevičius, the then Minister of Finance of the Republic of Lithuania, as to how much funds was necessary from all sources of financing (including the State Budget) for the monetary compensation so that it might be possible to fully settle accounts with the persons to whom the rights of ownership were restored for the existing real property.

V

At the Constitutional Court hearing, the representative of the Seimas, the party concerned, who was S. Švedas, a senior consultant to the Legal Department of the Office of the Seimas, virtually reiterated the arguments set forth in the written explanations of the former representative of the Seimas, the

party concerned, A. Butkevičius, a member of the Seimas, and submitted additional explanations.

The Constitutional Court

holds that:

I

1. The petitioner requests to investigate whether Paragraph 1 (wording of 23 December 1999) and Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property were not in conflict with Paragraphs 1 and 3 of Article 23 and Article 29 of the Constitution.

2. On 16 June 1998, the Seimas adopted the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property. This Law went into effect on 8 July 1998.

It was established in Article 7 (wording of 16 June 1998) of the Law:

"1. The terms of compensation for individual objects of real property (land, forest, water bodies, economic-commercial buildings and their appurtenances, residential houses, parts thereof, flats) shall be established by the Government.

2. The compensation shall annually be paid in cash in equal portions from the day of adoption of the decision to restore the ownership rights. The Government is granted the right to issue Government securities each year for the sum which is necessary to pay the compensation. The monetary compensation shall be paid:

1) for the bought out land, forest and water bodies-until 1 August 2006;

2) for the residential houses, parts thereof, flats-until 1 January 2010;

3) the compensation for the bought out land, forest, and water bodies shall be paid to the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross, their spouses, parents (foster parents), children (foster children) shall be paid until 1 August 2002, while for the residential houses, parts thereof, flats-until 1 January 2006.

3. The sums of the monetary compensation that have not been paid to the citizens shall be indexed while taking account of the annual inflation.

4. The Government or an institution empowered by it has the right to issue securities or to take loans to pay the compensation for the existing real property. The funds designated for the compensation shall be distributed by the Government or the institution empowered by it."

3. On 4 November 1999, the Seimas adopted the Republic of Lithuania Law on Supplementing Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the

Existing Real Property, by Article 1 whereof Paragraph 2 (wording of 16 June 1998) of Article 7 of the Law was supplemented.

Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law was set forth as follows:

"The compensation shall annually be paid in cash in equal portions from the day of adoption of the decision to restore the ownership rights. In the course of a year the compensation shall be paid every three months in equal portions. The Government is granted the right to issue Government securities each year for the sum which is necessary to pay the compensation. The monetary compensation shall be paid:

1) for the bought out land, forest and water bodies-until 1 August 2006;

2) for the residential houses, parts thereof, flats-until 1 January 2010;

3) the compensation for the bought out land, forest, and water bodies shall be paid to the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross, their spouses, parents (foster parents), children (foster children) shall be paid until 1 August 2002, while for the residential houses, parts thereof, flats-until 1 January 2006."

4. Having compared Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law with the previous wording (16 June 1998) of the same paragraph, it is clear that the new provision "in the course of a year the compensation shall be paid every three months in equal portions" was consolidated in Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law. Thus, by this new provision of Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law the legal regulation of allocation and payment of the monetary compensation was particularised in the aspect that it established in what periods the portion of the monetary compensation must be paid, which must be paid to the person during each year: the annual compensation had to be paid every three months in equal portions.

5. On 23 December 1999, the Seimas adopted the Law on Amending Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property by Article 1 whereof Paragraph 1 (wording of 16 June 1998) and Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law were amended.

Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law was set forth as follows:

"The amounts, terms and procedure of compensation for individual objects of real property (land, forest, water bodies, economic-commercial buildings and their appurtenances, residential houses, parts thereof, flats) shall be annually established by the Government by taking account of financial capabilities of the state, including new property obligations of the state and sources of revenues of the state, after the financial indexes of the State Budget and of municipal budgets are confirmed."

Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law was set forth as follows:

"The monetary compensation shall be paid from the day of

adoption of the decision to restore the ownership rights under procedure and conditions established by the Government:

1) for the bought out land, forest and water bodies-until 1 January 2009;

2) for the residential houses, parts thereof, flats-until 1 January 2011;

3) the compensation for the bought out land, forest, and water bodies shall be paid to invalids of the 1st group, the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross prior to 15 June 1940, their spouses, parents (foster parents), children (foster children) shall be paid until 1 August 2003, while for the residential houses, parts thereof, flats-until 1 January 2007."

6. Having compared Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law with Paragraph 1 (wording of 16 June 1998) of Article 7 of the Law, it is clear that the following new provisions were consolidated in Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law: the amounts and procedure of compensation for individual objects of real property are established by the Government; the Government annually establishes the amounts, terms and procedure of the compensation for individual objects of real property; the Government does so after the financial indexes of the State Budget and of municipal budgets are confirmed; while establishing the amounts, terms and procedure of the compensation for individual objects of real property, the Government takes account of financial capabilities of the state, including new property obligations of the state and sources of revenues of the state.

In the context of the constitutional justice case at issue, it needs to be noted that instead of the previously consolidated provision "the compensation shall annually be paid in cash in equal portions from the day of adoption of the decision to restore the ownership rights" (wording of 16 June 1998) and the provision "in the course of a year the compensation shall be paid every three months in equal portions" (wording of 4 November 1999) the provision "the monetary compensation shall be paid from the day of adoption of the decision to restore the ownership rights under procedure and conditions established by the Government" was consolidated in Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law.

In the context of the constitutional justice case at issue, it also needs to be noted that Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law established different terms of compensation payment than those established in Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law-they were prolonged:

1) instead of the previously established term "until 1 August 2006", until which one had to finish the payment of the monetary compensation for the bought out land, forest and water bodies, the term "until 1 January 2009" was established (Item 1); thus, the term until which the monetary compensation had to have been finished was prolonged by almost 2.5 years;

2) instead of the previously established term "until 1 January 2010", until which one had to finish the payment of the monetary compensation for the residential houses, parts thereof, flats, the term "until 1 January 2011" was established (Item 1); thus, the term until which the monetary compensation

had to have been finished was prolonged by 1 year;

3) instead of the previously established term "until 1 August 2002", until which one had to finish the payment of the monetary compensation for the bought out land, forest and water bodies to the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross, their spouses, parents (foster parents), children (foster children), the term "until 1 August 2003" was established (Item 3); thus, the term until which the monetary compensation had to have been finished was prolonged by 1 year;

4) instead of the previously established term "until 1 January 2006", until which one had to finish the payment of the monetary compensation for residential houses, parts thereof and flats to the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross, their spouses, parents (foster parents), children (foster children), the term "until 1 January 2007" was established (Item 3); thus, the term until which the monetary compensation had to have been finished was prolonged by 1 year.

It also needs to be noted that Item 3 (wording of 23 December 1999) of Paragraph 2 of Article 7 established a different provision concerning the payment of monetary compensation to persons awarded by the Order of Vytis Cross: instead of the provision "persons awarded by the Order of Vytis Cross" which used to be in Item 3 (wording of 16 June 1998) the provision "persons awarded by the Order of Vytis Cross prior to 15 June 1940" was consolidated. One more category of persons was also included in Item 3 (wording of 16 June 1998) of Paragraph 2 of Article 7 of the Law, i.e. invalids of the 1st group.

7. Although the petitioner requests to investigate the compliance of entire Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law, it is clear from the petition of the petitioner, that he does not doubt whether entire Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law was not in conflict with the Constitution, but only whether the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law, also whether the fact that by Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law the terms were prolonged until which one had to have finished the monetary compensation-instead of the term "until 1 August 2006" previously established in Item 1 of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law until which one had to have finished the monetary compensation for the bought out land, forest and water bodies, the term "until 1 January 2009" was established; instead of the previously established term "until 1 January 2010" until which one had to have finished the monetary compensation for the residential houses, parts thereof, flats, in Item 2 a new term was established, which was "until 1 January 2011"; instead of the previously established term "until 1 August 2002" until which one had to have finished the monetary compensation for the bought out land, forest, and water bodies to the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross prior to 15 June 1940, their spouses, parents (foster parents), children (foster children) in Item 3 a new

term was established, which was "until 1 August 2003", and instead of the previously established term "1 January 2006" until which one had to have finished the monetary compensation for the residential houses, parts thereof, flats to the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytis Cross prior to 15 June 1940, their spouses, parents (foster parents), children (foster children) in Item 3 a new term was established, which was "until 1 January 2007"-were not in conflict with the Constitution.

8. Subsequent to the petition of the petitioner, in this constitutional justice case the Constitutional Court will investigate whether the following was not in conflict with the Constitution:

- Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law;

- the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law;

- Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3.

II

1. After the occupation government nationalised and in other unlawful ways disseized residential houses, parts thereof, flats, land, forests, water bodies, and other private property in 1940 and later, the innate human right to possess private property was denied.

On the basis of such arbitrary acts of the occupation government, there could not appear, nor did there appear any lawful state-owned, public property, since law cannot appear on the basis of lawlessness. In its rulings the Constitutional Court has held more than once that the property seized from the people in such manner is to be regarded as property factually possessed by the state.

2. On 15 November 1990, the Supreme Council of the Republic of Lithuania adopted a principle decision that it was necessary to restore the rights of ownership and held that continuity of the ownership rights of citizens of Lithuania is indisputably recognised and that citizens of Lithuania have the right to retrieve in kind, within the limits and under procedure established by the law, the property that belonged to them, while in case there is not a possibility to retrieve the property in kind-to receive compensation.

In its rulings the Constitutional Court noted more than once that the provision that if it is impossible to retrieve the property in kind, compensation must given, is not in conflict with the principles of inviolability of property and of the protection of ownership rights, since fair compensation also ensures restoration of ownership rights.

3. It was impossible to restore the denied rights of ownership on the grounds of the laws that were in effect at the time when the said principle decision was adopted. For this purpose one had to legislatively establish special legal

regulation. When regulating the restoration of the denied rights of ownership, one had to take account of the fact that during the occupation years different property, social and economic relations of the people came into being, that there appeared other objective circumstances due to which it was impossible to fully restore the rights of ownership (to return to status quo ante) and to return all existing real property in kind. Therefore, the legislator chose not restitutio in integrum, but limited restitution. Such choice of the legislator was determined, along with the aforesaid factors, also by the extent of restoration of ownership rights and limited material and financial capabilities of the state.

4. The fact that the state resolved that the denied rights of ownership have to be restored, also the fact that a law regulating restitution relations was adopted and that implementation of restoration of ownership rights was begun mean that the state took an obligation to restore the rights of ownership by the ways and under conditions and procedure established in the law also within the terms provided for in the law. Alongside, a duty occurred to the state (its institutions) to allot the necessary funds and other financial and material resources (inter alia in order to pay the monetary compensation for the real property bought out by the state). It needs to be noted that the legislator, when he legislatively establishes the ways, conditions and procedure of restoration of the rights of ownership to the existing real property, also when he consolidates such a way of restoration of the rights of ownership to the existing real property as compensation payment, is bound by the norms and principles of the Constitution: inter alia by Paragraph 2 of Article 128 of the Constitution under which the procedure concerning the possession, use, and disposal of state-owned property shall be established by law, by Article 23 of the Constitution which establishes the protection of the rights of ownership, by Article 29 of the Constitution, which guarantees equal rights of persons, and by the constitutional principle of a state under the rule of law, which encompasses legal clarity, legal certainty, legal security, protection of legitimate expectations and other requirements; the legislator is also bound by other norms and principles of the Constitution. While regulating the restoration of the rights of ownership to the existing real property, the legislator must take account of the constitutional principles of protection of property, as well as of the fact that in the course of restoring the rights of ownership to the existing real property it is necessary to protect also the other values entrenched in the Constitution, inter alia the striving for an open, just and harmonious civil society and to ensure that while restoring the ownership rights of certain persons, the owners, one does not violate the rights and legitimate interests of other persons as well as those of the entire society. In the process of restoration of the rights of ownership to the existing real property one must seek to attain a balance between the rights of the persons to whom the rights of ownership are being restored and those of the entire society.

5. The legislator enjoys discretion to legislatively establish the ways, conditions and procedure of restoration of the rights of ownership to the existing real property. In order to fulfil the obligations undertaken by the state to restore the rights of ownership to the existing real property within the ways, conditions and procedure established in the law,

inter alia in order to pay the monetary compensation for the real property bought out by the state, the funds of the State Budget and other state resources are used. The burden of the obligations undertaken by the state falls upon the entire society whose members are also the persons to whom the rights of ownership are restored. Thus, by establishing the ways, conditions and procedure of restoration of the rights of ownership to the existing real property, the state cannot undertake financial and other obligations of the size that would be unbearable to society and the state, which would put a disproportionately big financial or other burden on the society, which could incite social tension and conflict, which would not permit or impair the state to ensure other constitutional values, or which would not permit or impair the state to discharge the functions that are prescribed to it by the Constitution. The obligations undertaken by the state to restore the rights of ownership to the existing real property must be linked with financial and material capabilities of the state; the terms of restoration of the rights of ownership to the existing real property must be realistic—they must be such so that the state might properly fulfil the undertaken obligations until the established time.

6. Under the Constitution, the state must keep the undertaken obligations and fulfil them properly and in time. Laws on restoration of the rights of ownership to the existing real property must be supported by financial, material and other resources of the state. Otherwise, it would be impossible to make use of the laws providing for restoration of the rights of ownership, they would become inefficient, and the trust of the person in the state and law would be undermined.

The constitutional principles of protection of legitimate expectations, legal certainty and legal security imply a duty of the state to ensure certainty and stability of legal regulation, to protect the rights of persons, to respect legitimate interests and legitimate expectations. In its rulings the Constitutional Court has held more than once that the constitutional principle of protection of legitimate expectations obliges the legislator to ensure the continuity of jurisprudence and not to deny the acquired rights, legitimate interests and legitimate expectations of the person by means of amendments to the regulation.

In the context of the constitutional justice case at issue, one is to emphasise that the fact that the state decided that the denied rights of ownership must be restored, also the fact that a law regulating restitution relations was adopted and the implementation of the restoration of ownership rights was begun, created a legitimate expectation to the persons who had the right to restore their rights of ownership that they would be able to implement such their right by the ways, under conditions and procedure and within the terms established by the law. The said legitimate expectation is protected and defended by the Constitution. Alongside, a duty appeared to the state to legislatively regulate the restoration of the rights of ownership to the existing real property so that the said expectation could be implemented in reality.

7. As mentioned, in the process of restoration of the rights of ownership to the existing real property one must seek to attain a balance between the rights of the persons to whom the rights of ownership are being restored and those of the entire society. In the context of the constitutional justice case at issue, one is to hold that in general the Constitution

does not prevent the legislator from prolonging, in case of need, the terms until which the payment of monetary compensation must be over and changing the periodicity of the previously established monetary compensation, inter alia to establish the legal regulation which could be less favourable to persons who enjoy the right to receive the monetary compensation. However, it is permitted to establish such legal regulation, which is less favourable to persons who enjoy the right to receive the monetary compensation, only in exceptional cases, when doing so is constitutionally justified. In the context of the constitutional justice case at issue, it must be noted that inter alia such case is constitutionally justified when due to special circumstances there appears an especially difficult economic-financial situation in the state and, in case the terms which have been previously established by laws, until which the payment of the monetary compensation must be over, were not prolonged, and/or in case the periodicity of the previously established monetary compensation were not changed into one less favourable to persons who enjoy the right to receive the monetary compensation, the damage inflicted on the values protected by the Constitution would be greater than that which could occur because the terms until which the payment of the monetary compensation must be over were not prolonged and/or the periodicity of the previously established monetary compensation were not changed into one less favourable to persons who enjoy the right to receive the monetary compensation.

It must be specially emphasised that the legislator, when he, due to objective reasons, prolongs the previously established terms until which the payment of the monetary compensation must be over, when he changes the previously established periodicity of payment of the monetary compensation, must pay heed to the constitutional requirements of legal clarity, legal certainty, legal security, and protection of legitimate expectations, which imply a duty of the legislator also in such cases to legislatively establish such legal regulation so that it might be clear until when the payment of monetary compensation will be over, also what portion of the monetary compensation will be paid to persons who enjoy the right to receive this compensation and when this will be done.

8. The constitutional requirements of legal clarity, legal certainty, and protection of legitimate expectations also imply that the terms until which the payment of the monetary compensation must be over cannot be unreasonably long, nor can they exist and be prolonged for unreasonably long time-period, since unreasonably long terms of restoration of the rights of ownership to the existing real property, especially their unreasonable prolongation (inter alia repeated extension) can distort the institute of restoration of ownership rights to the existing real property, violate the constitutional ownership rights and other rights of the person, and undermine the trust of people in the state and law.

III

On the compliance of Paragraph 1 (wording of 23 December 1999) and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property

Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property with Paragraphs 1 and 3 of Article 23 of the Constitution.

1. The petitioner doubts whether Paragraph 1 (wording of 23 December 1999) and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law were not in conflict with Paragraphs 1 and 3 of Article 23 of the Constitution.

2. Article 23 of the Constitution provides:

"Property shall be inviolable.

The rights of ownership shall be protected by laws.

Property may only be seized for the needs of society in accordance with the procedure established by law and shall be justly compensated for."

3. The right of ownership is an innate right of the human being. Ownership is a condition for implementation of great many other rights of the person.

In its rulings the Constitutional Court has held more than once that the inviolability of property established in Article 23 of the Constitution means that the owner has the right to possess the property that belongs to him, as well as to use and dispose of it, also that he has the right to demand that other persons not violate these his rights, while the state has a duty to defend and protect the property from unlawful encroachment upon it. From Article 23 of the Constitution a duty arises to the legislator to regulate property relations so that the rights of ownership would be protected and defended and that inviolability of property would be ensured.

4. The provision of Paragraph 2 of Article 23 of the Constitution that the rights of ownership shall be protected by laws means that the state is under obligation to issue respective laws protecting the rights of ownership and to protect ownership on their basis. All other legal acts in the area of regulation of ownership rights must be in compliance with laws and must never be in conflict with them.

5. In its rulings adopted in constitutional justice cases in which one considered the compliance of legal acts (parts thereof) regulating restoration of citizens' rights of ownership to the existing real property with the Constitution, the Constitutional Court noted more than once that until returning of the property or, in cases where the property is not returned in kind, then-until the payment of respective compensation, the subjective rights of the former owner to concrete property have not been restored yet. A decision of an institution authorised by the state to return the property in kind or compensate it bears the juridical meaning that only from that moment the former owner acquires the rights of the owner to such property. When the rights of ownership are restored on the basis of the law, the norms of Article 23 of the Constitution are applied to the whole extent to their protection; after the authorised state institution adopts the decision to restore the rights of ownership to the person, the said person acquires the rights of ownership which are protected and defended by Article 23 of the Constitution.

6. The provisions of Article 23 of the Constitution are linked with various other provisions of the Constitution. In the context of the case at issue one has to point out the relation of Article 23 of the Constitution with the provision of Paragraph 2 of Article 128 of the Constitution that the

procedure concerning the possession, use, and disposal of state-owned property shall be established by law, and with the constitutional principles of separation of powers and of a state under the rule of law.

7. While construing Paragraph 2 of Article 128 of the Constitution, the Constitutional Court held that "the relations which appear when managing, utilising and disposing of state property are to be regulated only according to the law" (Constitutional Court ruling of 24 January 1996), that "it is only the legislator who may establish the form of utilisation of the state means" (Constitutional Court ruling of 28 February 1996), and that "it is only the legislator that may establish the manner and conditions of disposing of state property" (Constitutional Court ruling of 22 October 1996).

In its ruling of 30 September 2003, the Constitutional Court noted: "The provision of Paragraph 2 of Article 128 of the Constitution that the procedure concerning the possession, use, and disposal of state-owned property shall be established by law means that the transfer of the property which belongs by right of ownership to the state as ownership to other subjects must be based on the law, the laws must inter alia establish the state institutions which have the powers to adopt decisions concerning the transfer of the property which belongs by right of ownership to the state as ownership to other subjects, and the powers of these institutions to transfer the said property, as well as the conditions and procedure of this transfer of the property."

From the provision "the procedure concerning the possession, use, and disposal of State-owned property shall be established by law" of Paragraph 2 of Article 128 of the Constitution a duty arises to the legislator to establish all the main elements of the possession, use, and disposal of state-owned property by means of a law.

8. The monetary compensation for the real property bought out by the state is paid by use of the funds of the State Budget and other state-owned property.

In the context of the constitutional justice case at issue, it needs to be noted that under Paragraph 2 of Article 128 of the Constitution that the legislator must legislatively establish himself how much funds is to be allocated during a respective period specified in the law for the monetary compensation for all objects of real property that are specified in the law.

9. Paragraph 1 of Article 5 of the Constitution provides that in Lithuania, the Seimas, the President of the Republic and the Government, and the Judiciary, shall execute state power, while Paragraph 2 of the same article provides that the scope of power shall be limited by the Constitution.

In its rulings the Constitutional Court has held more than once that the principle of separation of powers in Article 5 of the Constitution as well as other articles of the Constitution in which the powers of state institutions executing state power are established means also that if the powers of a particular state institution are established in the Constitution, this state institution cannot waive, nor transfer these powers to any other institution, nor can they be changed or limited by the law.

In this context it needs to be mentioned that having held that the laws restrict the powers ascribed to a particular institution of state authority by the Constitution, it must be held, alongside, that Article 5 of the Constitution and the

constitutional principle of separation of powers are violated (Constitutional Court ruling of 11 July 2002); if the legal regulation is established whereby the powers of the state institution specified in Paragraph 1 of Article 5 of the Constitution or those of any other state institution are broadened in a constitutionally unreasonable manner, it is to be held that the provision of Paragraph 2 of Article 5 of the Constitution that the scope of power shall be limited by the Constitution is violated (Constitutional Court ruling of 24 December 2002).

10. It stems from Paragraph 2 of Article 128 and Paragraphs 1 and 2 of Article 23 of the Constitution, when they are construed together with the constitutional principle of separation of powers (inter alia established in Paragraphs 1 and 2 of Article 5 of the Constitution) that the legislator does not have the right to waive the powers vested in him by Paragraph 2 of Article 128 of the Constitution to legislatively establish himself how much funds is to be allocated during a respective period specified in the law for the monetary compensation for all objects of real property that are specified in the law; the legislator does not have a right to transfer these powers to any other state institution, nor change or limit them by the law, either.

Alongside, it needs to be noted that although the legislator, as mentioned, has no right to transfer the said powers vested in him by Paragraph 2 of Article 128 of the Constitution to legislatively establish himself how much funds is to be allocated for the monetary compensation during a respective period specified in the law for all objects of real property that are specified in the law, to any other state institution, nor change or limit them by the law, he enjoys certain discretion to legislatively establish how much funds is to be allocated for the monetary compensation during a respective period specified in the law for all objects (their types) of real property that are specified in the law. For instance, the legislator can himself legislatively establish what portion of the funds that he provides for, which is designated to the monetary compensation for all objects of real property, is to be allocated to the monetary compensation for individual objects (their types) of real property; however, the legislator may also choose another option, which is establishment of clear criteria in the law, under which the Government could be entitled to establish what portion of the funds provided for by the legislator, designated to the monetary compensation for all objects of real property, is to be allocated, during a respective period provided for in the law, to the monetary compensation for individual objects (their types) of real property that are specified in the law.

11. It also stems from Paragraph 2 of Article 128 and Paragraphs 1 and 2 of Article 23 of the Constitution, when they are construed together with the constitutional principle of separation of powers and the constitutional principle of a state under the rule of law, which inter alia includes requirements of legal certainty, legal security, and protection of legitimate expectations, that the most important elements of relations of allocation of the monetary compensation and of its payment must be established by means of a law.

11.1. It should be emphasised that the terms until which the payment of the monetary compensation for individual objects (their types) of real property which are specified in the law must be over can be established only by the law. It must be

clear from the legal regulation established in the law what are the final terms of the payment of monetary compensation.

11.2. Alongside, it needs to be noted that while legislatively establishing the amounts of the monetary compensation for individual objects (their types) of real property which are specified in the law and the amounts of portions of allocated monetary compensation for individual objects (their types) of real property which are specified in the law (in case the monetary compensation is to be paid in portions periodically) and the terms (periodicity) of the payment, the legislator enjoys certain discretion: he can himself legislatively establish the amounts of the monetary compensation for individual objects (their types) of real property which are specified in the law and the amounts of portions of allocated monetary compensation for individual objects (their types) of real property which are specified in the law (in case the monetary compensation is to be paid in portions periodically) and the terms (periodicity) of the payment; however, the legislator may also choose another option, which is legislative establishment of clear criteria under which the Government could be entitled to establish the amounts of the monetary compensation for individual objects (their types) of real property which are specified in the law and the amounts of portions of allocated monetary compensation for individual objects (their types) of real property which are specified in the law (in case the monetary compensation is to be paid in portions periodically) and the terms (periodicity) of the payment.

In the context of the constitutional justice case at issue it needs to be emphasised that the legal regulation in establishing the amounts of portions of the monetary compensation (which must be paid periodically) for individual objects (their types) of real property which are specified in the law and the terms (periodicity) of the payment, regardless of whether this is established by the law or by a Government resolution in accordance of the criteria consolidated in the law, must be such so that it should be clear what portion of the monetary compensation and when (within what period) must be paid to the persons who enjoy the right to receive this compensation.

It needs to be noted that the necessity to clearly establish what portion of the allotted monetary compensation and when (within what period) must be paid to the persons who enjoy the right to receive this compensation is a legal guarantee that the state will fulfil the obligations which it has undertaken within the terms established in the law and that the constitutional ownership rights of the person will not be violated.

12. It has been mentioned that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law used to establish that the amounts, terms and procedure of compensation for individual objects of real property (land, forest, water bodies, economic-commercial buildings and their appurtenances, residential houses, parts thereof, flats) shall be annually established by the Government by taking account of financial capabilities of the state, including new property obligations of the state and sources of revenues of the state, after the financial indexes of the State Budget and of municipal budgets are confirmed.

It is to be held that the following rules for the establishment of the amount, terms and procedure of

compensation for individual objects of real property were established in this paragraph of Article 7 of the Law: each year the Seimas must provide for funds in the State Budget which are designated to compensation for the real property that is bought out by the state; after the Seimas confirms the financial indexes of the State Budget and of municipal budgets, the Government has the powers to establish how much funds will be allocated to compensate for individual objects (their types) of the real property bought out by the state in that year; the Government, while establishing how much funds will be allocated to compensate for individual objects (their types) of the real property bought out by the state in that year must take account of the financial capabilities of the state, including new property obligations of the state and sources of revenues of the state.

Thus, in Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law the legal regulation was established which also meant that the Government had the powers to decide what portion of the funds (from the whole sum provided for by the Seimas and designated for the monetary compensation in that year) must be allotted in order to pay, in that year, the monetary compensation for individual objects (their types) of the real property; the Government had the powers also to decide when and under what procedure the funds provided for by it would be paid for individual objects (their types) of the real property.

13. One is to hold that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law did not consolidate any criteria under which the Government could establish what portion of the funds provided for by the legislator must be allocated, during the respective period provided for in the law, to the individual objects (their types) of the real property provided for in the law in the course of payment of the compensation.

Thus, by Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law the legislator transferred his powers to the Government, i.e. the powers, which, under Paragraph 2 of Article 128 of the Constitution, belonged solely to him, to legislatively establish what portion of the funds provided for by him to the monetary compensation for all objects (their types) of real property is allocated to the monetary compensation during the respective period provided for in the law for the individual objects (their types) of the real property provided for in the law, or to consolidate clear criteria in the law under which the Government could establish what portion of the funds provided for by the legislator designated to the monetary compensation for all objects (their types) of real property is to be allocated, within the respective period provided for in the law, to pay the monetary compensation for individual objects (their types) of real property, which are specified in the law. Such legal regulation is incompatible with Paragraph 2 of Article 128 of the Constitution.

It needs to be noted that by Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law the legislator restricted himself in a constitutionally unreasonable manner and expanded the powers of the Government in a constitutionally unreasonable manner. Such legal regulation is incompatible with the constitutional principle of separation of powers and Paragraphs 1 and 2 of Article 5 of the Constitution.

14. From Paragraph 1 (wording of 23 December 1999) of the

Law, under which the Government had the powers to decide each year what portion of the funds provided for by the legislator designated to the monetary compensation for all objects (their types) of real property is to be allocated, within the respective period provided for in the law, to pay the monetary compensation for individual objects (their types) of real property, which are specified in the law, it is not clear what is the amount of the portion of the monetary compensation paid to persons in a corresponding year and when this portion of the monetary compensation had to be paid to the persons who had the right to receive this compensation: under Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law, both the amount of the allocated portion of the compensation which had to be paid in that year and the term of its payment depended on how much funds had been allocated for these purposes by a Government resolution. Such legal regulation was not in line with the requirements of legal clarity, legal certainty, legal security and protection of legitimate expectations which arise from the Constitution and thus was in conflict with the constitutional principle of a state under the rule of law.

15. Taking account of the arguments set forth, one is to draw a conclusion that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law was in conflict with Paragraphs 1 and 2 of Article 5 and Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law.

16. The provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law also means that the Government, while enjoying the powers to establish the procedure and conditions of the monetary compensation, has the powers to establish also the terms (periodicity) of the payment of the portions of the allocated monetary compensation which must be paid in parts periodically, although there are not any criteria of this established by the legislator. Thus, under the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law, the Government also enjoyed legislatively established powers to change these terms at its discretion, by taking account of how much funds was allocated to the payment of the monetary compensation in a corresponding year and of various other circumstances. From such legal regulation it is not clear what portion of allocated monetary compensation had to be paid to the persons who enjoyed the right to receive this compensation and when this had to be done.

Such legal regulation is incompatible with Paragraphs 1 and 2 of Article 5 and Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law.

17. Taking account of the arguments set forth, one is to conclude that the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation was in conflict with Paragraphs 1 and 2 of Article 5 and Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of

separation of powers and of a state under the rule of law.

18. While deciding whether Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law were not in conflict with Paragraph 1 of Article 23 of the Constitution, one has to note that, as mentioned, from Article 23 of the Constitution a duty to arise the legislator to regulate property relations so that the rights of ownership would be protected and defended and that inviolability of property would be ensured.

It has also been mentioned that after the authorised state institution adopts the decision to restore the rights of ownership to a person, the said person acquires the rights of ownership which are protected and defended by Article 23 of the Constitution.

19. By Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law property relations were regulated.

It was held in this Ruling of the Constitutional Court that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation were in conflict with Paragraphs 1 and 2 of Article 5 and Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law.

Having held this, one is also to hold that by Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and by the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law (to the aforementioned extent) the rights of ownership are not sufficiently protected and defended—one did not pay heed to the requirements of Paragraphs 1 and 2 of Article 23 of the Constitution under which laws must protect and defend the rights of ownership.

20. Taking account of the arguments set forth, one is to conclude that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation were in conflict with Paragraphs 1 and 2 of Article 23 of the Constitution.

21. While deciding whether Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law were not

in conflict with Paragraph 3 of Article 23 of the Constitution which provides that property may only be seized for the needs of society in accordance with the procedure established by law and shall be justly compensated for, it needs to be noted that restoration of the rights of ownership to the existing real property, as well as restoration in the way when monetary compensation is paid for the property bought out by the state, cannot be identified with the seizure of property for the needs of society by justly compensating for it: the nature and purpose of these legal institutes are different.

Thus, Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law regulated relations of different character than those which are regulated by Paragraph 3 of Article 23 of the Constitution.

22. Taking account of the arguments set forth, one is to draw a conclusion that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law were not in conflict with Paragraph 3 of Article 23 of the Constitution.

23. Having held that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation were in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23 of the Constitution, Paragraph 2 of Article 128, and the constitutional principles of separation of powers and of a state under the rule of law, in this constitutional justice case the Constitutional Court will not investigate whether Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law were not in conflict with Article 29 of the Constitution.

IV

On the compliance of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, with Paragraphs 1 and 3 of Article 23 of the Constitution.

1. The petitioner doubts whether Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the

monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Paragraphs 1 and 3 of Article 23 of the Constitution.

2. It is clear from the case material, inter alia from the explanations of the representative of the party concerned, the Seimas, presented at the Constitutional Court hearing, as well as from the short-hand records of the Seimas sittings in which one was deliberating and adopting the changes to Article 7 (wording of 4 November 1999) of the Law that the provisions "the compensation shall annually be paid in cash in equal portions" (wording of June 1998) and "in the course of a year the compensation shall be paid every three months in equal portions" (wording of 4 November 1999) of Paragraph 2 of Article 7 of the Law were made by the Law on Amending Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property because in Lithuania, at the end of 1999, there was an especially grave economic situation which had been determined, to large extent, by the Russian economic-financial crisis and other outside factors, which had a negative impact on the economic-financial system of Lithuania as well as other states, inter alia because a very big sum of funds had not been collected into the 1999 State Budget, which was necessary in order to finance education, healthcare, social maintenance and other necessities of society and the state as well as in order to discharge other functions of the state; the State Budget had not accumulated enough funds and it was impossible to pay the monetary compensation as it was provided by Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law, i.e. to pay the allocated compensation in cash annually in equal portions and to pay the annual portion of the compensation every three months in equal portions. The negative impact on formation and execution of the State Budget brought about by the said especially grave economic-financial situation which appeared at the end of 1999 could be felt for some time afterwards.

It is clear from the case material, inter alia from the explanations of the representative of the party concerned, the Seimas, at the Constitutional Court hearing, as well as from the short-hand records of the Seimas sittings in which one was deliberating and adopting the changes to Article 7 (wording of 4 November 1999) of the Law that it was due to the especially grave economic-financial situation which appeared at the end of 1999 that the Seimas, by the law adopted on 23 December 1999, also prolonged the terms established in Paragraph 2 (wording of 4 November 1999) of Article 7 of the Law, until which one should have finished the payment of the monetary compensation to the persons who had the right to receive it.

3. The fact that at the end of 1999, after there had appeared an especially grave economic-financial situation in Lithuania, it was impossible to accumulate enough funds in the State Budget in order to pay the monetary compensation for the existing real property, and the fact that the negative impact on formation and execution of the State Budget brought about by the especially grave economic-financial situation which appeared at the end of 1999 could be felt for some time

afterwards, are to be assessed as such factual situation which could not be disregarded by the legislator. Under the said factual situation the Seimas could adopt a decision to prolong the terms until which the state had to fulfil the obligations which it had undertaken to pay the monetary compensation for the existing real property. It also needs to be noted that the previously established terms until which one had to finish the payment of the monetary compensation were prolonged by the Law on Amending Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property, which was adopted by the Seimas on 23 December 1999, for a comparatively short time period-from one till almost two years and a half.

4. Taking account of the arguments set forth, one is to draw a conclusion that Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Paragraph 1 of Article 23 of the Constitution.

5. While deciding whether Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Paragraph 3 of Article 23 of the Constitution, it needs to be noted that the disputed provision of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law regulates relations of different character than those which are regulated by Paragraph 3 of Article 23 of the Constitution. The prolongation of the terms until which the payment of the monetary compensation must be over cannot be compared with the seizure of property for the needs of society by justly compensating for it which is regulated by Paragraph 3 of Article 23 of the Constitution.

6. Taking account of the arguments set forth, one is to draw a conclusion that Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Paragraph 3 of Article 23 of the Constitution.

V

On the compliance of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to

the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, with Article 29 of the Constitution.

1. The petitioner doubts whether Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Article 29 of the Constitution in the aspect that, according to the petitioner, upon prolongation of the terms until which the monetary compensation had to be over, the person to whom the rights of ownership had been restored by way of payment of the monetary compensation found himself in an unequal, discriminating situation in regard of other persons, i.e. those to whom the rights of ownership had been restored by returning the property in kind.

2. Article 29 of the Constitution provides:

"All persons shall be equal before the law, the court, and other State institutions and officials.

The human being may not have his rights restricted, nor may he be granted any privileges on the grounds of gender, race, nationality, language, origin, social status, beliefs, convictions, or views."

3. It has been held in this Ruling of the Constitutional Court that under the factual situation where due to the especially grave economic-financial situation which appeared at the end of 1999 it was impossible to accumulate enough funds in the State Budget in order to pay the monetary compensation for the existing real property and that the negative impact on formation and execution of the State Budget brought about by the especially grave economic-financial situation which appeared at the end of 1999 could be felt for some time afterwards, the Seimas could adopt a decision to prolong the terms until which the state had to fulfil the obligations which it had undertaken to pay the monetary compensation for the existing real property.

It has also been held that Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3 was not in conflict with Paragraphs 1 and 3 of Article 23 of the Constitution.

4. While deciding whether Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item

1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Article 29 of the Constitution in the aspect specified by the petitioner, i.e., that, according to petitioner, upon prolongation of the terms until which the monetary compensation had to be over, the person to whom the rights of ownership had been restored by way of payment of the monetary compensation found himself in an unequal, discriminating situation in regard of other persons, i.e. those to whom the rights of ownership had been restored by returning the property in kind, one is to note that, as the Constitutional Court has held in its rulings many a time, the principle of equality of rights of persons enshrined in Article 29 of the Constitution does not deny, in itself, an opportunity to establish, by means of a law, different legal regulation in respect of certain categories of persons who are in different situations.

It needs to be emphasised that at the very beginning of the restitution process, i.e. on 15 November 1990, when a decision was adopted that it was necessary to restore the rights of ownership in principle, and later, when the first law, as well as other laws, was issued, which regulated the relations of restoration of the rights of ownership to the existing real property, the legislator differentiated the persons to whom the rights of ownership to the existing real property were to be restored by returning the property in kind, from the persons to whom the rights of ownership to the existing real property were to be restored by paying monetary compensation. The differentiation of the said groups of persons were and are determined by objective circumstances, i.e. impossibility to return the existing real property in kind in every case. It was due to the fact that it was impossible to return the existing real property in kind in every case that the state undertook an obligation to restore, within some period of time, the rights of ownership to the existing real property, which was impossible to return in kind, by paying monetary compensation.

It needs to be noted that the prolongation of the terms until which the payment of the monetary compensation must be over cannot be assessed as discrimination of the persons to whom the rights of ownership to the existing real property are restored by paying the monetary compensation in regard with other persons, i.e. those to whom the rights of ownership to the existing real property are restored by returning it in kind, since the categories of these persons are objectively in different situations namely due to the fact that to the persons of one category the property is returned in kind, while to the persons of the other category the property is not returned in kind-it is compensated in cash during a certain period of time.

5. While taking account of the arguments set forth, one is to draw a conclusion that Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3, was not in conflict with Article 29 of the Constitution.

1. The provisions of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law, which are disputed by the petitioner, were amended and supplemented by subsequently adopted laws.

2. By Article 1 of the 21 January 2003 Republic of Lithuania Law on Amending Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property the Seimas amended Item 3 (wording of 23 December 1999) of Paragraph 2 of Article 7 of the Law. By the said amendment Item 3 (wording of 23 December 1999) of Paragraph 2 of Article 7 of the Law was supplemented and split into two items-3 and 4.

Upon supplementation of Item 3 (wording of 23 December 1999) of Paragraph 2 of Article 7 of the Law, an additional category of persons-persons who needed endoprosthetic operations, to whom the monetary compensation was to be paid within the term established in this item-was entered into it.

Upon splitting Item 3 (wording of 23 December 1999) of Paragraph 2 of Article 7 of the Law, the categories of persons listed therein were divided into two groups and the terms until which the payment of the monetary compensation was to be over were prolonged:

- the term of payment of the monetary compensation to the persons specified in Item 3 (wording of 21 January 2003) of Paragraph 2 of Article 7 of the Law, i.e. invalids of the 1st group, persons who needed endoprosthetic operations, the volunteers-servicemen of the 1918-1920 fights for the independence, participants of the resistance, political prisoners, exiles and persons awarded by the Order of Vytyis Cross prior to 15 June 1940, for the bought out land, forest, and water bodies was prolonged from 1 August 2003 till 1 January 2007. The payment of the monetary compensation for the residential houses, parts thereof, flats remained the same, i.e.-until 1 January 2007;

- the term of payment of the monetary compensation to the persons specified in Item 4 (wording of 21 January 2003) of Paragraph 2 of Article 7 of the Law for the bought out land, forest, and water bodies was prolonged from 1 August 2003 till 1 January 2009, while for the residential houses, parts thereof, flats-from 1 January 2007 until 1 January 2009.

3. As mentioned, in 1999 there was a very grave economic-financial situation in the state. This situation had a very negative impact on the fulfilment of various financial liabilities of the state, including the obligations to pay the monetary compensation for the existing real property; it gave rise to not one-time, but lasting negative effects which were felt for some time afterwards in this country. When the end date of the terms of the payment of the monetary compensation was approaching, it became clear that the state would not be able to make it within the time established in the Law. As the state did not fulfil the said obligations in time, the Seimas once again prolonged the terms until which the payment of the monetary compensation was to be over by the law adopted on 21 January 2003.

4. The Constitutional Court, while in this constitutional justice case not assessing whether the provisions of Paragraph 2 (wording of 21 January 2003) of Paragraph 2 of Article 7 of the Law, which established even later terms than those which

had been established in Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law until which the payment of the monetary compensation must be over, were not in conflict with the Constitution, emphasises that the state, which undertook the obligation to complete the payment of the monetary compensation within the terms established in the law, has a duty to properly fulfil this obligation within established time; in order to fulfil this obligation, sufficient financial, material and other state resources must be allocated.

One is to pay attention to the fact that the process of restoration of ownership rights to the existing real property, as well as the restoration of the rights of ownership to the existing real property by way of paying monetary compensation, has become too protracted. The prolongation of the terms until which the payment of the monetary compensation is to be over, especially their repeated extension, the indeterminacy of the procedure of the monetary compensation, when it is not clear as to what part of monetary compensation will be paid and when, diminishes certainty of the legal regulation and legal security, it gives grounds for doubt whether the state will fulfil the undertaken obligation in time, and whether it will not prolong the terms of their fulfilment in the future. The said extension of terms diminishes the trust of people in the state and law.

In this context, one is to emphasise that the terms established in Paragraph 2 (wording of 21 January 2003) of Article 7 of the Law until which the payment of the monetary compensation is to be over should not be prolonged once again. Otherwise, only due to this the constitutional rights of ownership and other constitutional rights of the person might be violated and there might arise serious doubts whether the prolongation of such terms is not in conflict with the Constitution.

5. By Article 1 of the 14 October 2003 Republic of Lithuania Law on Amending the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property (Official Gazette Valstybės žinios, 2003, No. 102-4582) the Seimas amended the Law the provisions of which are disputed by the petitioner, and set it forth in a new wording and inter alia changed the title of the law-it was titled the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property.

Paragraph 1 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property provides:

"The amounts, terms and procedure of compensation for individual objects of real property (land, forest, water bodies, economic-commercial buildings and their appurtenances, residential houses, parts thereof, flats) shall be annually established by the Government by taking account of financial capabilities of the state, including new property obligations of the state and sources of revenues of the state, after the

financial indexes of the State Budget and of municipal budgets are confirmed."

6. Having compared Paragraph 1 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property with Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property, it is clear that the legal regulation established in them is virtually the same.

It has been held in this Ruling of the Constitutional Court that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property was in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law.

Having held this, it is to be held that Paragraph 1 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property is in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law as well.

7. Paragraph 2 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property contains the provision "the monetary compensation shall be paid <...> under procedure and terms established by the Government".

If one compares this provision with the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property, it is clear that in the provision of Paragraph 2 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property the word "conditions" is gone and

instead of it the word "terms" was entered.

It needs to be noted that the provision "the monetary compensation shall be paid <...> under procedure and terms established by the Government" of Paragraph 2 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property also means that the Government enjoys *inter alia* the powers to establish the terms (periodicity) of payment of the portions of the allocated monetary compensation which must be paid periodically, although there are not any criteria established by the legislator.

It has been held in this Ruling of the Constitutional Court that the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation was in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, and Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law.

Having held this, one is also to hold that the provision "the monetary compensation shall be paid <...> under procedure and terms established by the Government" of Paragraph 2 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation is in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, and Paragraph 2 of Article 128 of the Constitution as well as the constitutional principles of separation of powers and of a state under the rule of law.

VII

1. Under Paragraph 1 of Article 107 of the Constitution, a law (or part thereof) may not be applied from the day of official promulgation of the decision of the Constitutional Court that the act in question (or part thereof) is in conflict with the Constitution. Thus, after a ruling of the Constitutional Court goes into effect, whereby the law (part thereof) is recognised as conflicting with the Constitution, there might appear various indeterminacies in the legal system, *lacunae legis*-gaps in the legal regulation, or even a vacuum. In order to evade this, one must correct the legal regulation in time so that the gaps in the legal regulation as well as other indeterminacies could be removed and that the legal regulation might become clear and harmonious.

In its ruling of 19 January 2005, the Constitutional Court stated that under the Constitution, the Constitutional Court, having *inter alia* assessed what legal situation might appear after a Constitutional Court ruling becomes effective, may

establish a date when this Constitutional Court ruling is to be officially published; the Constitutional Court may postpone the official publishing of its ruling if it is necessary to give the legislator certain time to remove the lacunae legis which would appear if the relevant Constitutional Court ruling was officially published immediately after it had been publicly announced in the hearing of the Constitutional Court and if they constituted preconditions to basically deny certain values protected by the Constitution. The said postponement of official publishing of the Constitutional Court ruling (inter alia a ruling by which a certain law (or part thereof) is recognised as contradicting to the Constitution) is a presumption arising from the Constitution in order to avoid certain effects unfavourable to the society and the state, as well as the human rights and freedoms, which might appear if the relevant Constitutional Court ruling was officially published immediately after its official announcement in the hearing of the Constitutional Court and if it became effective on the same day after it had been officially published.

If this Ruling of the Constitutional Court was officially published after its public promulgation at the hearing of the Constitutional Court, Paragraph 1 (wording of 23 December 1999) of Article 7 and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership, as well as Paragraph 1 (wording of 14 October 2003) of Article 7 and the provision "the monetary compensation shall be paid <...> under procedure and terms established by the Government" of Paragraph 2 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership, which have been recognised as being in conflict with the Constitution by this Ruling of the Constitutional Court, could not be applied from the day of official publishing of this Ruling of the Constitutional Court. In such a case there would appear such indeterminacies and gaps in the legal regulation of restoration of the rights of ownership to the existing real property due to which the restoration of the rights of ownership to the existing real property would be disturbed in essence or even it would be temporarily discontinued.

2. After Paragraph 1 (wording of 23 December 1999) of Article 7 and the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23 December 1999) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership, as well as Paragraph 1 (wording of 14 October 2003) of Article 7 and the provision "the monetary compensation shall be paid <...> under procedure and terms established by the Government" of Paragraph 2 (wording of 14 October 2003) of Article 7 of the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the

Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership are recognised as being in conflict with the Constitution by this Ruling of the Constitutional Court, there appears a duty to the legislator to respectively amend and/or supplement the Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership so that its provisions are in compliance with the Constitution. It needs to be noted that the amendments and/or supplements to the said law must be made so that the restoration of the rights of ownership to the existing real property is not disturbed or stopped and that it should not be discontinued: in order that the state could, properly and in time, fulfil the obligations undertaken by it, this process has to be consistent and discontinued.

3. Taking account of the fact that a certain time period is needed in order to make the changes and/or amendments to the laws and that the fulfilment of the state financial obligations to the persons to whom the rights of ownership to the existing real property are restored is related to the formation of the State Budget and corresponding redistribution of state financial resources, this Ruling of the Constitutional Court is to be officially published in the official gazette Valstybės žinios on 30 December 2005.

Conforming to Articles 102 and 105 of the Constitution of the Republic of Lithuania and Articles 1, 53, 54, 55, 56, and 84 of the Law on the Constitutional Court of the Republic of Lithuania, the Constitutional Court of the Republic of Lithuania has passed the following

ruling:

1. To recognise that Paragraph 1 (wording of 23 December 1999) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership was in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, and Paragraph 2 of Article 128 of the Constitution of the Republic of Lithuania as well as the constitutional principles of separation of powers and of a state under the rule of law.

2. To recognise that Paragraph 1 (wording of 14 October 2003) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership is in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, and Paragraph 2 of Article 128 of the Constitution of the Republic of Lithuania as well as the constitutional principles of separation of powers and of a state under the rule of law.

3. To recognise that the provision "the monetary compensation shall be paid <...> under procedure and conditions established by the Government" of Paragraph 2 (wording of 23

December 1999) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation was in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, and Paragraph 2 of Article 128 of the Constitution of the Republic of Lithuania as well as the constitutional principles of separation of powers and of a state under the rule of law.

4. To recognise that the provision "the monetary compensation shall be paid <...> under procedure and terms established by the Government" of Paragraph 2 (wording of 14 October 2003) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the State Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to the extent that it does not establish the criteria under which the Government could establish the terms (periodicity) of the payment of the portions of the allocated monetary compensation is in conflict with Paragraphs 1 and 2 of Article 5, Paragraphs 1 and 2 of Article 23, and Paragraph 2 of Article 128 of the Constitution of the Republic of Lithuania as well as the constitutional principles of separation of powers and of a state under the rule of law.

5. To recognise that Paragraph 2 (wording of 23 December 1999) of Article 7 of the Republic of Lithuania Law on the Amount, Sources, Terms and Procedure of Payment of Compensation for the Real Property Bought Out by the State, and on the Guarantees and Preferences Which are Provided For in the Law on the Restoration of Citizens' Rights of Ownership to the Existing Real Property to the extent that it established new terms until which one had to have finished the monetary compensation for the real property bought out by the state, i.e. the term "until 1 January 2009" established in Item 1, the term "until 1 January 2011" established in Item 2, and the terms "until 1 August 2003" and "until 1 January 2007" established in Item 3 was not in conflict with Article 29 of the Constitution of the Republic of Lithuania.

6. This ruling of the Constitutional Court is to be officially published in the official gazette Valstybės žinios on 30 December 2005.

This ruling of the Constitutional Court of the Republic of Lithuania is final and not subject to appeal.

The ruling is promulgated in the name of the Republic of Lithuania.

Justices of the Constitutional Court: Armanas Abramavičius
Toma Birmontienė
Egidijus Kūris
Kęstutis Lapinskas
Zenonas Namavičius
Ramutė Ruškytė
Vytautas Sinkevičius
Stasys Stačiokas

Romualdas Kęstutis Urbaitis