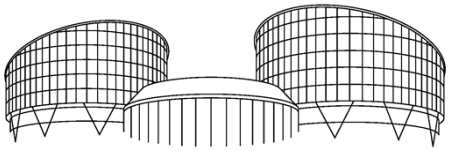

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF PAPLAUSKIENĖ v. LITHUANIA

(Application no. 31102/06)

JUDGMENT

STRASBOURG

14 October 2014

FINAL

14/01/2015

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Paplauskienė v. Lithuania,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Guido Raimondi, *President,*
András Sajó,
Nebojša Vučinić,
Helen Keller,
Paul Lemmens,
Egidijus Kūris,
Jon Fridrik Kjølbro, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 9 September 2014,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 31102/06) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Lithuanian national, Ms Danutė Paplauskienė, on 5 July 2006. She was represented before the Court by K. Čeredničenkaitė, a lawyer practising in Vilnius.

2. The Lithuanian Government ("the Government") were initially represented by their former Agent, Ms E. Baltutytė, and subsequently by their Acting Agent, Ms K. Bubnytė.

3. The applicant alleged that she had been deprived of her property by a decision of the domestic courts, and had not received adequate compensation, in breach of Article 1 of Protocol No. 1 to the Convention.

4. On 29 June 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1932 and lives in Vilnius.

6. By a decision of 18 June 2002 the Vilnius Region Administration restored the applicant's property rights to 0.23 hectares of land in the context of restitution of property rights which had been violated by the

unlawful nationalisation during the Soviet regime. Subsequently, the plot of land was registered in the land registry in her name.

7. On 15 July 2002 the applicant sold the plot of land for 76,000 Lithuanian litai (LTL; approximately 22,000 euros (EUR)) to two private buyers, E.T. and D.Z., who became the owners of the plot.

1. Proceedings concerning the rescission of the sale contract

8. In August 2003 the Vilnius Region Administration found that a mistake had been made in granting the plot of land to the applicant and notified her and, later, the public prosecutor.

9. In June 2004 the public prosecutor initiated civil proceedings to have the decision of 18 June 2002 and sale contract annulled on the ground that in 1993 part of the same plot of land had already been sold by the State to a private buyer, R.G. Moreover, the plot was situated in a community garden (*sodininkų bendrija*) and therefore the former owner's rights to it could not be restored under the Law on the Restoration of Citizens' Rights of Ownership to Existing Real Property (*Piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atkūrimo įstatymas* – hereinafter "Law on Restitution").

10. At the same time criminal proceedings had been instituted into possible forgery of the documents. However, suspicions with regard to the applicant were not confirmed, and the proceedings were discontinued in July 2006.

11. The Vilnius Region Administration acknowledged that the plot of land had been assigned to the applicant unlawfully.

12. On 20 August 2004 assets belonging to the applicant amounting in value to LTL 76,000, including bank deposits and her pension, were seized to ensure satisfaction of the prosecutor's civil claim.

13. On 5 May 2005 the Vilnius 1st City District Court granted the prosecutor's claim. The transfer of title involving the plot of land was annulled. Ownership was awarded to R.G. and the applicant was ordered to pay LTL 76,000 to E.T. and D.Z. The applicant did, however, reserve the right to have her ownership rights to a plot of land restored.

14. On 15 September 2005 the Vilnius Regional Court dismissed an appeal by the applicant.

15. By a final decision of 22 March 2006 the Supreme Court upheld the decisions of the lower courts.

16. On 30 May 2006 the order requiring the applicant to pay LTL 76,000 was enforced by a bailiff.

2. Proceedings for damages against the State

17. According to information submitted by the applicant, she had to borrow money to comply with the order to pay LTL 76,000 and to cover other legal expenses. She also alleged that the unlawful actions of the

authorities and the related court proceedings had caused her health to deteriorate significantly, as she had suffered stress and later become disabled.

18. In November 2005, after receiving a refusal from the Vilnius Region Administration to compensate her for her loss, the applicant brought a claim against the State before the administrative courts for LTL 90,479 (about EUR 26,200) in pecuniary damage and LTL 300,000 (about EUR 87,000) in non-pecuniary damage.

19. By a final decision of 15 November 2007 the Supreme Administrative Court upheld the decision of the first instance court and granted the applicant's claim in part awarding her LTL 838 (approximately EUR 240) for pecuniary (part of her legal costs and expenses) and LTL 2,000 (approximately EUR 580) for non-pecuniary damage. The court also concluded that the unlawful actions of the national authorities had violated the applicant's legitimate expectations and had had an impact on her health, given her old age. However, the court dismissed most of the applicant's claims to have reimbursed the pecuniary loss she had allegedly sustained as a result of the annulment of the transfer of title to the plot and the court proceedings she had had to undergo. In that connection, the courts noted that the applicant had no legal grounds to claim compensation for pecuniary damage, given that she had unlawfully had her ownership rights to the disputed plot restored.

3. Subsequent developments

20. Later, by a decision of 9 April 2009 the Vilnius Region Administration restored the applicant's property rights by granting her a new plot of land of 0.23 hectare.

II. RELEVANT DOMESTIC LAW AND PRACTICE

21. For relevant domestic law and practice, see *Pyrantienė v. Lithuania* (no. 45092/07, §§ 16-22, 12 November 2013) and *Albergas and Arlauskas v. Lithuania* (no. 17978/05, §§ 21-33, 27 May 2014).

22. As concerns the protection of former owners' rights, the Constitutional Court held that from the moment an authority of the State adopts a decision to return property *in natura* or to compensate for it, the former owner acquires the rights of the owner (ruling of 15 July 1994).

23. In its ruling of 23 August 2005 the Constitutional Court concluded that the constitutional principles of protecting legitimate expectations, legal certainty and legal security impose a duty on the State to ensure certainty and stability of legal regulation, to protect the rights of individuals, and to respect legitimate interests and legitimate expectations:

> "In the context of the constitutional justice case at issue, one must emphasise that the fact that the State decided that the denied rights of ownership must be restored, as well as the fact that a law regulating restitution relations was adopted and the implementation of the restoration of ownership rights had begun, created a legitimate expectation for the individuals who had the right to restore their rights of ownership that they would be able to implement their rights by the ways, under the conditions and procedure and within the terms established by law. These legitimate expectations are protected and defended by the Constitution."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

24. The applicant complained that she had been deprived of her property in violation of Article 1 of Protocol No. 1 to the Convention. Through no fault of her own, she had had to undergo judicial proceedings and had suffered pecuniary and non-pecuniary damage. She also argued that she had not been sufficiently compensated. Article 1 of Protocol No. 1 provides:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

25. The Government submitted that the applicant should not be considered to be a victim of the alleged violation, because it had already been redressed by the State in 2009 when her ownership rights were restored on receiving the new plot of land. Moreover, the national courts had found that the actions of the administrative authorities had been unlawful and breached her legitimate expectations; she had also obtained compensation of LTL 2,000 (approximately EUR 600) in respect of non-pecuniary damage. In this connection the courts, *inter alia*, noted that the violation of the applicant's rights had been serious, through no fault of her own, and that the authorities had taken no action to remedy the situation as soon as possible. According to the Government, the amount of compensation had been in compliance with the national courts' practice in similar cases around that time.

26. The applicant stated that according to the Convention case-law, redress afforded by the national authorities must be appropriate and sufficient. In this connection she submitted that the compensation covered neither the pecuniary nor the non-pecuniary damage she had sustained before the decision to restore her rights by granting her a new plot of land was adopted in 2009. In particular, the disputed mistake of the administrative authorities had resulted in both lengthy and costly judicial proceedings, and, in her view, for almost seven years had prevented the applicant from peacefully enjoying her property rights.

27. The Court reiterates that a decision or measure favourable to an applicant is not in principle sufficient to deprive him or her of his or her status as a "victim" unless the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, the breach of the Convention (see, for example, *Amuur v. France*, 25 June 1996, § 36, *Reports of Judgments and Decisions* 1996-III, and *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI).

28. It is true that in the proceedings for damages against the State, the domestic courts awarded the applicant some compensation for pecuniary and non-pecuniary damage and thus her position did improve somewhat. However, the courts held that the plot had been attributed to her unlawfully, therefore she had no legal grounds to a full satisfaction of her claim for pecuniary damage (see paragraph 19 above). In that connection the Court reiterates that although a party can no longer claim to be a victim within the meaning of Article 34 of the Convention only where the national authorities have acknowledged a violation and their decision also constitutes appropriate and sufficient redress (see *Holzinger v. Austria* (no. 1), no. 23459/94, § 21, ECHR 2001-I, and *Scordino v. Italy* (no. 1) [GC], no. 36813/97, § 181, ECHR 2006-V), that was not the case in the present situation, where the applicant was granted a rather moderate sum in comparison to what the Court would be likely to grant in accordance with its practice.

29. The Court further notes that the late payment of amounts owed to the applicant or likewise the late redress of a violation cannot cure the national authorities' long-standing failure to provide just compensation, and does not afford adequate redress (see, *mutatis mutandis*, *Scordino*, ibid, § 198; and *Karahalios v. Greece*, no. 62503/00, § 23, 11 December 2003). In that connection the Court observes that almost three years had passed since the decision of the Supreme Court in the applicant's case before she was granted the new plot of land (see paragraph 20 above). Even though it can be accepted that the award of a new plot of the same size compensated the applicant for the loss of LTL 76,000, that measure seemingly being not timely raises an issue of compliance with Article 1 of the Protocol No. 1 to the Convention.

30. Having regard to the foregoing, the Court considers that the proceedings for damages which the applicant instituted and which resulted in the award to her of a certain amount of money, and which the Government referred to as effective, as well as the attribution of the new plot, did not in any event entirely erase the effect of the Supreme Court's decision of 22 March 2006. In these circumstances the applicant can still claim to be a victim of the alleged violation of the Convention.

31. The Court notes that the complaint of the applicant is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

32. The applicant alleged that she had acted lawfully in acquiring the plot which the courts later ordered to be returned. Following the courts' decision to deprive her of her title, the Vilnius Region Administration had taken no action to remedy the situation, in other words her property rights had not been restored *in natura*, and no deadline had been set either by the courts or the Administration for that purpose; the damages sustained as a result of the lengthy and costly civil proceedings had not been adequately compensated. Had the Administration acted promptly and corrected its error once it had become aware of it, the applicant's distress and pecuniary loss would have been avoided.

33. In addition, the applicant submitted that the authorities had impeded her from peacefully enjoying her property rights for a relatively long time and had also caused her non-pecuniary damage, given her old age and health condition.

34. The Government argued that the above-mentioned errors by the domestic authorities had occurred in the context of land reform, which was linked to the process of restoring former owners' rights to property previously nationalised by the Soviet regime. In their view, in the context of central and eastern European States, the circumstances concerning the transition from a totalitarian regime to a democracy and the specific circumstances of each case had to be taken into account. They emphasised that public authorities should not be prevented from correcting their mistakes, even those resulting from their own negligence.

35. The Government submitted that the applicant had not sustained any significant pecuniary damage, as she had obtained the plot of land from the State *ex gratia*. Any other damage had been redressed by the courts in separate proceedings, and thus her complaint about the outcome of those proceedings was of a "fourth instance" nature. They also argued that the

interference by the State had been justified, as it had been "in the public interest" and had been lawful and proportionate. Besides, the applicant had enjoyed her property for less than a month before selling it to third parties.

2. The Court's assessment

(a) General principles

36. The relevant general principles are set out in paragraphs 37-40 of the *Pyrantienė* judgment (cited above). The Court would nevertheless reiterate that any interference by a public authority with the peaceful enjoyment of possessions must be lawful and must pursue a legitimate aim by means reasonably proportionate to the aim pursued.

(b) Application of the above principles in the present case

(i) Whether there has been an interference with the applicant's possessions

37. The Court notes that when the Supreme Court adopted its decision of 22 March 2006, the applicant no longer owned the plot of land; she had sold it in 2002. However, by court decisions sale contract was invalidated and the applicant was ordered to repay LTL 76,000 to the private buyers; she complied with that order in May 2006. The plot was not, however, returned to her.

38. The Court finds that the decisions of the domestic courts had the effect of depriving the applicant of her property within the meaning of the second sentence of the first paragraph of Article 1 of Protocol No. 1.

(ii) Lawfulness of the interference

39. The decisions of the domestic courts to annul the administrative actions and sale contract were prescribed by law, as they were based on provisions of the Law on Restitution after the courts had established that the same plot of land had already been sold to a private buyer, R.G., before being transferred to the applicant. The Court therefore finds that the deprivation was in accordance with the conditions provided for by law, as required by Article 1 of Protocol No. 1.

(iii) In the public interest

40. As in *Pyrantienė* and *Albergas and Arlauskas*, the measures complained of were designed to correct the authorities' mistakes that had occurred in the context of land reform which included the process of restoration of former owners' rights, and to protect the rights of the first buyer of the land, R.G. The Court thus considers that this interference was in the public interest (see *Pyrantienė*, cited above, §§ 44-48, and also *Bečvář and Bečvářová v. the Czech Republic*, no. 58358/00, § 67, 14 December 2004).

(iv) Proportionality

41. The Court reiterates that any interference with property must, in addition to being lawful and having a legitimate aim, also satisfy the requirement of proportionality. A fair balance must be struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights, the search for such a fair balance being inherent in the whole of the Convention. The requisite balance will not be struck where the person concerned bears an individual and excessive burden (see *Sporrong and Lönnroth v. Sweden*, 23 September 1982, §§ 69-74, Series A no. 52, and *Brumărescu v. Romania* [GC], no. 28342/95, § 78, ECHR 1999-VII).

42. On several occasions in similar cases that concerned, as in the present case, the correction of mistakes made by State authorities in the process of restitution, the Court has emphasised the necessity of ensuring that the remedying of old injuries does not create disproportionate new wrongs (see *Velikovi and Others v. Bulgaria*, nos. 43278/98, 45437/99, 48014/99, 48380/99, 51362/99, 53367/99, 60036/00, 73465/01 and 194/02, § 178). To that end, the legislation should make it possible to take into account the particular circumstances of each case, so that individuals who have acquired their possessions in good faith are not made to bear the burden of responsibility, which is rightfully that of the State which confiscated those possessions.

43. In order to assess the burden borne by an applicant, the Court must assess the particular circumstances of each case, namely the conditions under which the disputed property was acquired and the compensation that was received by the applicant in exchange for the property, as well as the applicant's personal and social situation (see *Pyrantienė*, cited above, § 51).

44. The situation in the present case is similar to that in *Albergas and Arlauskas* as concerns the applicant being deprived of the sum of money she had obtained for selling the plot to third parties and which she was later ordered to return to them (compare *Albergas and Arlauskas*, cited above, §§ 71-74).

45. The applicant's title was invalidated after it was established that the local authorities were not entitled to restore her ownership rights to property which had already been sold to another person. The procedures for restoration of ownership rights were conducted by official bodies exercising the authority of the State (see paragraph 6 above). The Court considers that the applicant had very limited opportunities, if any, to influence the terms of the restitution, as this was within the State's exclusive competence (see, *mutatis mutandis*, *Gladysheva v. Russia*, no. 7097/10, § 79, 6 December 2011).

46. As appears from the documents in the Court's possession, the applicant could not reasonably have anticipated the annulment of her ownership rights to the plot of land and its subsequent sale to third parties.

Nor was it proved that she had acted in bad faith. Thus, she had a legitimate expectation of being able to continue to enjoy the amount of money she had obtained from the buyers of the land in 2002 (see, *mutatis mutandis*, *Albergas and Arlauskas*, cited above, § 71). It is also undisputed that the applicant preserved a right to restitution of ownership rights to a plot of land.

47. However, in 2004 the proceedings for revocation of the property title and subsequent sale were initiated by the prosecutor against the applicant. Her assets, including bank deposits and pension were seized as from August 2004 and she also incurred legal and other expenses. Those proceedings and later proceedings for damages against the State initiated by the applicant lasted until November 2007.

48. The Court observes that the applicant remained in that detrimental situation until 9 April 2009, when the authorities awarded her a new plot of land of the same size. It appears that she did not challenge the value of the new plot in comparison to the old plot.

49. On numerous occasions in the context of revocation of property titles granted erroneously, the Court has emphasized that the principle of good governance may not only impose on the authorities an obligation to act promptly in correcting their mistake (see *Moskal v. Poland*, no. 10373/05, § 69, 15 September 2009), but may also necessitate the payment of adequate compensation or another type of appropriate reparation to a former holder in good faith (see *Pincová and Pinc v. the Czech Republic*, no. 36548/97, § 53, ECHR 2002-VIII, and *Toşcuţă and Others v. Romania*, no. 36900/03, § 38, 25 November 2008).

50. Compensation terms under the relevant legislation are material to the assessment of whether the contested measure respects the requisite fair balance and, notably, whether it imposes a disproportionate burden on the applicant (see, *Albergas and Arlauskas*, cited above, § 73).

51. The Court reiterates that the redress afforded must be appropriate and sufficient (see *Scordino*, cited above, §§ 193 and 195) and it may depend on the amount of compensation awarded by the domestic courts and the effectiveness (including the promptness) of the remedy affording the award. The adequacy of compensation would be diminished if it were to be paid without reference to various circumstances liable to reduce its value, such as unreasonable delay (see *Almeida Garrett, Mascarenhas Falcão and Others v. Portugal*, nos. 29813/96 and 30229/96, § 54, ECHR 2000-I).

52. The Court refers to its finding in paragraphs 28-30 above, where it established that despite the award of a new plot of the same size having compensated the applicant for the loss of LTL 76,000, the applicant can still claim to be a victim of the alleged violation of Article 1 of the Protocol No. 1 to the Convention. The Court cannot but conclude that the authorities' attempt to redress the violation of the applicant's property rights cannot be

considered timely and adequate for the purposes of Article 1 of the Protocol No. 1 to the Convention.

53. The Court thus considers that the attribution of the new plot to the applicant in 2009, as well as the compensation of LTL 2,000 and LTL 838 for legal expenses awarded by the domestic courts could only partially redress the violation of the applicant's rights.

54. The Court accepts the applicant's argument and considers that the situation inevitably caused a certain amount of inconvenience to her, particularly given her old age and health condition, and negatively affected her property rights (compare *JGK Statyba Ltd and Guselnikovas v. Lithuania*, no. 3330/12, §§ 128-130, 5 November 2013). Not only was the applicant unable to peacefully enjoy her property rights, but she was also forced to bear the uncertainty as to when that interference might be brought to an end (see *Broniowski v. Poland* [GC], no. 31443/96, § 151, ECHR 2004-V; and *Almeida Garrett, Mascarenhas Falcão and Others,* cited above, § 50).

55. Having regard to the absence of promptness on the part of the authorities in redressing the applicant's situation after the final court decision of 22 March 2006, and the fact that the amounts awarded to the applicant did not take account of the negative consequences she had to bear, the Court concludes that an individual and excessive burden was imposed on her.

56. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

57. The applicant further complained under Article 13 of the Convention about a lack of an effective remedy as regards the violation of her property rights.

58. It should be noted that the issue raised by the applicant is intrinsically linked to the question whether a fair balance was achieved under Article 1 of Protocol No. 1 and has been dealt with by the Court under the latter provision (see, *mutatis mutandis*, *Velikovi and others*, cited above, § 251).

59. Thus, the Court holds that it is not necessary to examine separately the admissibility and merits of the complaint under Article 13 of the Convention.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

60. The applicant complained under Article 6 § 1 of the Convention about the fairness of the proceedings, alleging that the domestic courts had erred in their assessment of the evidence and application of the law.

61. The Court reiterates that it is not a court of appeal for the decisions of domestic courts and that, as a general rule, it is for those courts to interpret domestic law and assess the evidence before them (see *Kern v. Austria*, no. 4206/02, § 61, 4 February 2005 and *Wittek v. Germany*, no. 37290/97, § 49, ECHR 2000-XI). On the basis of the material in its possession, the Court observes that the complaint at hand is essentially of a "fourth instance" nature. As a result, this part of the application must be declared inadmissible as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

62. The applicant further complained under Article 10 of the Convention of a breach of the right to information and dignity. The Court notes that the applicant failed to elaborate any further and to substantiate the violation complained of. As a result, this complaint must be declared inadmissible as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

63. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

64. As concerns pecuniary damage, the applicant claimed 76,000 Lithuanian litai (LTL, approximately 22,000 euros (EUR)) she had had to return to the buyers of the land to comply with the court decision of 22 March 2006; LTL 3,319 (EUR 960) for the interest she had lost on her bank deposits and LTL 3,943 (EUR 1,140) for the loss she had incurred as a result of a sharp drop in the United States dollar rate.

65. The applicant also claimed LTL 300,000 (EUR 86,900) in respect of non-pecuniary damage for suffering and emotional distress caused by the violation.

66. The Government considered that the above-indicated amounts were unsubstantiated and excessive. In so far as the pecuniary damage was concerned, the Government maintained that identical claims had already been examined by the domestic courts and dismissed; moreover, no causal link could be established between the claimed amount and the violation alleged. As concerns the claim for non-pecuniary damage, the amount of LTL 2,000 (EUR 580) already awarded to the applicant could be considered sufficient and adequate redress; holding to the contrary would mean an unjust enrichment of the applicant.

67. The Court considers that the applicant suffered pecuniary damage in connection with the violation found. It should be noted, however, that the applicant has no right to return of the LTL 76,000, as she has already been awarded a new, similar plot of land. In addition, the Court does not see any connection between the violation found and the applicant's alleged loss due to a sharp drop in the United States dollar rate, and therefore also rejects this part of the claim.

68. As concerns the claim for lost interest, the Court considers that the applicant indeed suffered a certain amount of financial loss, given her inability to use that asset after it had been seized on 20 August 2004 and later taken from her to comply with the Supreme Court's decision of 22 March 2006. This situation lasted until 20 April 2009, when the violation was redressed by her being granted a new, similar plot of land.

69. As a general rule, the compensation awarded by the Court in similar situations should reflect the actual loss for the applicant with reference to various circumstances liable to reduce the compensation's value, such as the lapse of a considerable period of time. That amount has to be converted to its current value to offset the effects of inflation. Moreover, interest will have to be paid on the amount to offset, at least in part, the long period for which the applicant has been deprived of the property (see, *mutatis mutandis*, *Guiso-Gallisay v. Italy* (just satisfaction) [GC], no. 58858/00, § 105, 22 December 2009, and *Elia S.r.l. v. Italy* (just satisfaction), no. 37710/97, § 25, 22 July 2004).

70. However, in the present case the applicant's claim for lost interest is limited to LTL 3,319. Having regard to the foregoing, and having estimated the possible compensation if the statutory interest rate of 5% per annum for a failure to meet monetary obligations (as prescribed in Article 6.210 § 1 of the Lithuanian Civil Code) was applied, the Court grants the claim in full and awards LTL 3,319 (EUR 960) to the applicant in respect of pecuniary damage, plus any tax that may be chargeable on that amount.

71. The Court further considers that the applicant undoubtedly suffered distress and frustration resulting from the violation of her property rights by the authorities. However, it finds the amount claimed by her excessive. Making its assessment on an equitable basis, and having regard to the amount already awarded for non-pecuniary damage at the domestic level, the Court awards the applicant EUR 4,500 in respect of non-pecuniary damage, plus any tax that may be chargeable on this amount.

B. Costs and expenses

72. The applicant also claimed reimbursement of costs and expenses incurred by her before the domestic courts: LTL 2,280 for court fees, LTL 2,700 for legal fees, LTL 1,050 for bailiff's fees and LTL 44 for copying expenses.

73. The Government contested the claim on the basis that the sums indicated were excessive and unfounded.

74. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. Regard being had to the documents in its possession, the Court considers it reasonable to award the sum of LTL 5,334 (EUR 1,545), covering costs under all heads.

C. Default interest

75. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning Article 1 of Protocol No. 1 to the Convention admissible and the complaints under Articles 6 § 1 and 10 inadmissible;

2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

3. *Holds* that it is not necessary to examine separately the admissibility and merits of the complaint under Article 13 of the Convention;

4. *Holds*,

(a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts to be converted into Lithuanian litai at the rate applicable at the date of settlement:

(i) EUR 960 (nine hundred and sixty euros), plus any tax that may be chargeable, in respect of pecuniary damage;

(ii) EUR 4,500 (four thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(iii) EUR 1,545 (one thousand five hundred and forty-five euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a

rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 14 October 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith Registrar	Guido Raimondi President