

Cases No. 41/2000, 47/2001-08/2003-20/2003-32/2003-38/2003, 7/03-41/03-40/04-46/04-5/05-7/05-17/05, 35/04-37/04-72/06, 38/04-39/04, 06/05-08/05, 09/06-30/06-01/07-30/08, 15/98, 33/03



THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LITHUANIA

DECISION

ON THE CONSTRUCTION OF THE PROVISIONS OF THE CONSTITUTIONAL COURT RULINGS OF 25 NOVEMBER 2002, 3 DECEMBER 2003, 16 JANUARY 2006, 26 SEPTEMBER 2007, 22 OCTOBER 2007, 22 NOVEMBER 2007, 24 DECEMBER 2008, AND OF THE DECISION OF 15 JANUARY 2009

20 April 2010

Vilnius

The Constitutional Court of the Republic of Lithuania, composed of the Justices of the Constitutional Court Armanas Abramavičius, Toma Birmontienė, Pranas Kuconis, Kęstutis Lapinskas, Zenonas Namavičius, Ramutė Ruškytė, Egidijus Šileikis, Algirdas Taminskas, and Romualdas Kęstutis Urbaitis,

with the secretary of the hearing—Daiva Pitrėnaitė,

in the presence of the representatives of the Seimas of the Republic of Lithuania, the petitioner which submitted the petition requesting to construe the provisions of the Constitutional Court rulings of 25 November 2002, 3 December 2003, 16 January 2006, 26 September 2007, 22 October 2007, 22 November 2007, 24 December 2008, and of the decision of 15 January 2009, who were Rimantas Jonas Dagys, Chairman of the Seimas Committee on Social Affairs and Labour, Kęstutis Glaveckas, Chairman of the Seimas Committee on Budget and Finance, as well as Vytenis Povilas Andriukaitis and Donatas Jankauskas, Members of the Seimas,

pursuant to Article 61 of the Law on the Constitutional Court of the Republic of Lithuania, on 7 April 2010, in the public Court hearing considered the petition set forth in Resolution of the Seimas of the Republic of Lithuania No. XI-524 of 3 December 2009 requesting to construe certain provisions of the Constitutional Court rulings of 25 November 2002, 3 December 2003, 16 January 2006, 26 September 2007, 22 October 2007, 22 November 2007, 24 December 2008, and of the

decision of 15 January 2009.

The Constitutional Court

has established:

1. On 25 November 2002, in constitutional justice case No. 41/2000 the Constitutional Court adopted the Ruling “On the compliance of Paragraph 2 of Article 69 of the Republic of Lithuania Law on the Diplomatic Service, Item 9 of Paragraph 1 of Article 4 (wording of 16 March 2000) of the Republic of Lithuania Law on State Social Insurance and Item 5 of Paragraph 1 of Article 2 (wording of 16 December 1999) and Article 23 (wordings of 21 December 1994, 21 December 2000 and 8 May 2001) of the Republic of Lithuania Law on State Social Insurance Pensions with the Constitution of the Republic of Lithuania” (Official Gazette *Valstybės žinios*, 2002, No. 113-5057; hereinafter referred to as the Constitutional Court ruling of 25 November 2002).

The Seimas, the petitioner, requests to construe whether the provision “The legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 2.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 is applied to working pensioners only under normal economic conditions, and whether one must heed this provision also when there is an extreme situation in the state (economic crisis, natural disaster etc.); whether the provision “While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created” of Item 2.3 is always applied, or whether it is possible to disregard this provision when there is an extreme situation in the state (economic crisis, natural disaster etc.); whether the provisions “The person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession. Under Article 23 of the Constitution, this right must be protected and safeguarded. It needs to be noted that the old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (European Court of Human Rights, Judgment in the case *Wessels-Bergervoet v. Netherlands* of 4 June 2002)” of Item 2.3 are applied only under normal economic conditions and entrench the mechanism of protection of the pension as the right of possession, or whether one must follow such treatment also in cases when there is an extreme situation in the state (economic crisis, natural disaster etc.) and it is decided to reduce pensions by not establishing any mechanisms of compensation for such

reduction.

2. On 3 December 2003, in constitutional justice case No. 47/2001-08/2003-20/2003-32/2003-38/2003 the Constitutional Court adopted the Ruling “On the compliance of the provisions of the Republic of Lithuania Law on State Social Insurance Pensions, the Republic of Lithuania Law on State Pensions, and the Republic of Lithuania Law ‘On the Amendment and Supplement of the Republic of Lithuania Law on State Social Insurance Pensions’ with the Constitution of the Republic of Lithuania, as well as on the compliance of Item 84 of the Regulations of Granting and Payment of State Social Insurance Pensions as approved by Government of the Republic of Lithuania Resolution No. 1156 of 18 November 1994 with the Constitution of the Republic of Lithuania and Paragraph 4 (wording of 18 July 1994) of Article 45 of the Republic of Lithuania Law on State Social Insurance Pensions” (Official Gazette *Valstybės žinios*, 2003, No. 115-5221; hereinafter referred to as the Constitutional Court ruling of 3 December 2003).

The Seimas, the petitioner, requests to construe whether the provision that when there is an extreme situation in the state (economic crisis, natural disaster etc.) “the legal regulation of pensionary relations may be corrected also by reducing pensions to the extent that it is necessary to ensure vitally important interests of society and protect other constitutional values” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 means that the reduction of pensions must be co-ordinated in proportion with other measures (application of tax concessions, preservation of the existing jobs and creation of new ones, attraction of investments to jobs, non-reduction of the fund of remuneration for work etc.) so that it would not violate vitally important interests of society and would protect other constitutional values; whether the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 means that the reduction of pensions may not be different to separate groups of persons, the reduction of pensions must be proportionate to the amounts of taxes and reduction of remuneration for work and that no measures discriminating one or another group of society may be applied; whether the provision “if the protection of legitimate expectations, legal certainty and legal security of the person were not ensured, the confidence of the person in the state and law would not be ensured” of Item 3.2 is always applied, or whether it is allowed to disregard this provision when there is a grave economic situation in the state; whether the provisions that, while reorganising the system of pensionary maintenance, “<...> the Constitution must be observed in every case. The system of pensions may be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while

reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a just mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions” of Item 3.3 imply a duty for the legislator to apply the compensation mechanisms after an extreme situation in the state (economic crisis, natural disaster etc.) is over, or whether it must also be applied during such a situation; whether the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 means that when there is an extreme situation in the state (economic crisis, natural disaster, etc.) it is not allowed in the course of reduction of remunerations or pensions to apply different amounts with regard to the same social groups (e.g., with regard to working and non-working pensioners).

3. On 16 January 2006, in constitutional justice case No. 7/03-41/03-40/04-46/04-5/05-7/05-17/05 the Constitutional Court adopted the Ruling “On the compliance of Paragraph 4 (wording of 11 September 2001) of Article 131 of the Code of Criminal Procedure of the Republic of Lithuania with the Constitution of the Republic of Lithuania, on the compliance of Paragraph 5 (wordings of 10 April 2003 and 16 September 2003) of Article 234, Paragraph 2 (wordings of 10 April 2003 and 16 September 2003) of Article 244, Article 407 (wording of 19 June 2003), Paragraph 1 (wording of 14 March 2002) of Article 408, Paragraphs 2 and 3 (wording of 14 March 2002) of Article 412, Paragraph 5 (wording of 14 March 2002) of Article 413 and Paragraph 2 (wording of 14 March 2002) of Article 414 of the Code of Criminal Procedure of the Republic of Lithuania with the Constitution of the Republic of Lithuania and on the petitions of the Šiauliai District Local Court, the petitioner, requesting to investigate whether Article 410 (wording of 14 March 2002) of the Code of Criminal Procedure of the Republic of Lithuania is not in conflict with the Constitution of the Republic of Lithuania” (Official Gazette *Valstybės žinios*, 2006, No. 7-254; hereinafter referred to as the Constitutional Court ruling of 16 January 2006).

The Seimas, the petitioner, requests to construe whether the following provisions of Item 4 of Chapter I of the reasoning part of the Constitutional Court ruling of 16 January 2006, which are: “The constitutional principle of a state under the rule of law implies various requirements for the legislator and other law-making entities: the law-making entities may pass legal acts only without exceeding their powers; the requirements established in legal acts must be based on the provisions of general type (legal norms and principles) which can be applied in regard to all the specified subjects of respective legal relations; the differentiated legal regulation must be based only on

objective differences of the situation of subjects of public relations regulated by respective legal acts; in order to ensure that the subjects of legal relations are aware of requirements put forward to them by law, the legal norms must be established in advance, the legal acts must be published officially, they must be public and accessible; the legal regulation established in laws and other legal acts must be clear, easy to understand, consistent, formulas in the legal acts must be explicit, consistency and internal harmony of the legal system must be ensured, the legal acts may not contain any provisions, which at the same time regulate the same public relations in a different manner; in order that subjects of legal relations could orient their behaviour according to the requirements of law, the legal regulation must be relatively stable; the legal acts may not require the impossible (*lex non cogit ad impossibilia*); the power of the legal acts is prospective, while retrospective validity of the laws and other legal acts is not permitted (*lex retro non agit*) unless the legal act mitigates the situation of the subject of legal relations and does not injure other subjects of legal relations by the same (*lex benignior retro agit*); violations of law, for which liability is established in legal acts, must be clearly defined; when setting legal restrictions and liability for violations of law, one must pay heed to the requirement of reasonableness and the principle of proportionality, according to which the established legal measures are to be necessary in a democratic society and suitable for achieving legitimate and universally important objectives (there must be a balance between the objectives and measures), they may not restrict the rights of the person more than it is necessary in order to achieve the said objectives, and if these legal measures are related to the sanctions for the violation of law, in such case the aforementioned sanctions must be proportionate to the committed violation of law; when legally regulating public relations it is compulsory to pay heed to the requirements of natural justice comprising *inter alia* the necessity to ensure the equality of persons before the law, the court and state institutions and officials; when issuing legal acts, one must pay heed to procedural law-making requirements, including those established by the law-making entity itself; etc.” mean that these requirements must be heeded in all situations, or, quite to the contrary, whether various requirements may be applied in a varied manner, i.e. in one manner when there is a normal situation in the state, and in a different manner when there is essential deterioration in the economic and financial situation of the state.

4. On 26 September 2007, in constitutional justice case No. 35/04-37/04-72/06 the Constitutional Court adopted the Ruling “On the compliance of Paragraph 3 of Article 4 (wording of 4 November 2004), Paragraph 2 of Article 8 (wording of 4 November 2004) and Paragraphs 3 and 4 (wordings of 4 July 2002 and 7 October 2003) of Article 34 of the Republic of Lithuania Law on State Social Insurance with the Constitution of the Republic of Lithuania” (Official Gazette *Valstybės žinios*, 2007, No. 102-4171; hereinafter referred to as the Constitutional Court ruling of 26 September 2007).

The Seimas, the petitioner, requests to construe whether the provision “the said legal regulation should create preconditions to distribute <...> the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance” of Item 3 of Chapter III of the reasoning part of the Constitutional Court ruling of 26 September 2007 is applied only under normal economic conditions, and whether one must heed this provision also when there is an extreme situation in the state (economic crisis, natural disaster etc.); whether the provision “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society” thereof means that the constitutional imperatives of solidarity, social harmony and justice must be followed by redistributing, among all members of society, the burden that falls upon the state not only under normal conditions, but also when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state.

5. On 22 October 2007, in constitutional justice case No. 38/04-39/04 the Constitutional Court adopted the Ruling “On the compliance of Article 4 (wordings of 2 July 2002, 4 November 2004, 19 May 2005 and 8 June 2006) of the Republic of Lithuania Law on the State Pensions of Judges with the Constitution of the Republic of Lithuania” (Official Gazette *Valstybės žinios*, 2007, No. 110-4511; hereinafter referred to as the Constitutional Court ruling of 22 October 2007).

The Seimas, the petitioner, requests to construe whether the provision “the fact how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit” of Item 2 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 must be applied only when there is a normal situation in the state, or whether this provision must be heeded also when due to an essentially deteriorated economic and financial situation of the state or other special situation one has to reduce, temporarily and proportionately, the amount of the state social insurance old-age pension; the provision “under the Constitution, it is not permitted to establish any such legal regulation under which an opportunity for the person, who has been granted and paid the old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct

certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the granted old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 5 is applied only when there is a normal economic situation in the state, or whether one must apply it also in cases when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state; whether the provision “the social orientation of the State of Lithuania which is consolidated in the Constitution obliges the state to pay heed to the guarantees of pensions (*inter alia* state pensions) and other social (material) guarantees which, by the way, stem not only from Article 52 of the Constitution, but also from other provisions of the Constitution, or, for example, from Paragraph 2 of Article 30, Articles 38, 39, 41, 48, Paragraph 1 of Article 51 and Article 146 thereof, the imperative of reality, thus, it obliges to revise once established (and applied) social (material) guarantees, in particular if they are linked with certain periodic payments (such as pensions), to revise (increase their sizes) in particular if economic or social situation undergoes such changes so that the said established (and applied) guarantees depreciate a lot, moreover, if they become nominal in general (in this case, one must also have in mind the reservation regarding the proportionality and temporary reduction of the payments when it is necessary for the protection of other constitutional values which is specified in this and other Constitutional Court rulings)” of Item 6 thereof is applied also in cases when there is an extreme situation in the state (economic crisis, natural disaster etc.); whether the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV means that this must be confirmed by a resolution of the Government on the grounds of state economic and financial indicators, and whether such economic and financial indicators must be confirmed annually as long as such a situation continues to exist; the provision that in case there is lack of funds in the state due to special circumstances “<...> the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV must be applied by heeding the requirements of the principle of proportionality, while alongside co-ordinating it with proportionate reduction of pensions and other social allowances, since the amount of contributions to the State Social Insurance Fund also depends upon the amount of remuneration for work, or whether it is possible to disregard such co-ordination; whether the provision “when the economic

and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV means that, under such special circumstances, the reduction of remunerations must be performed while following the requirement of proportionality, i.e. remunerations must be reduced to various persons equally in a proportionate manner, or whether different proportions can be established for separate groups of persons.

6. On 22 November 2007, in constitutional justice case No. 06/05-08/05 the Constitutional Court adopted the Ruling “On the compliance of Section 8 ‘The Health Care of Officers and Social Guarantees Related Thereto’ (wording of 29 April 2003) of Chapter II, *inter alia* Article 40 (wording of 29 April 2003), of the Interior Service Statute approved by the Republic of Lithuania Law on the Approval of the Interior Service Statute with the Constitution of the Republic of Lithuania, as well as on the compliance of the Conditions under Which Persons are Insured by State Funds and of Compensation Payment upon Their Injury or Death in the Line of Duty (wording of 23 December 2002), *inter alia* Items 14, 15 (wording of 23 December 2002) thereof, approved by Resolution of the Government of the Republic of Lithuania No. 530 ‘On the Conditions under Which Persons are Insured by State Funds and of Compensation Payment upon Their Injury or Death in the Line of Duty’ of 5 December 1991 (wording of 23 December 2002) with Article 40 (wording of 29 April 2003) of the Interior Service Statute approved by the Republic of Lithuania Law on the Approval of the Interior Service Statute” (Official Gazette *Valstybės žinios*, 2007, No. 121-4965, correction—Official Gazette *Valstybės žinios*, 2007, No. 125; hereinafter referred to as the Constitutional Court ruling of 22 November 2007).

The Seimas, the petitioner, requests to construe whether the provision “any correction of the social policy, the reorganisation of the system of social guarantees or of individual social guarantees of the state should be constitutionally grounded; if in the course of reorganisation of the system of social guarantees or the structure of individual social guarantees the extent of social guarantees is reduced, let alone certain social guarantees disappear, a mechanism of just compensation of incurred losses should be established to the individuals to whom those social guarantees were reasonably established” of Item 8 of Chapter II of the reasoning part of the Constitutional Court ruling of 22 November 2007 means that such mechanism of compensation for incurred losses must be established under normal economic conditions, and providing such correction of the state social policy, the reorganisation of the system of social guarantees or of the structure of individual social guarantees is performed during a crisis, then it is not followed by a certain compensation applied at that time or later (the compensation which will be in effect after the crisis); whether this provision means that the constitutional doctrine how pensions must be treated when the system of pensions is

reorganised when there is no crisis is not identical to the constitutional doctrine establishing the behaviour of the legislator and other subjects of law in reorganising the system of pensions when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state; whether the provision “if those guarantees have to compensate the losses, which an individual may incur due to his own activities (*inter alia* due to his service to the state), a period should also be provided so that it would be sufficient to those individuals (being in respective work and executing respective service according to the preceding legal regulation entitling to respective social guarantees) to prepare for respective changes” means that both under normal circumstances and when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, the legislator must establish a sufficient time period so that the persons might be able to prepare for the provided changes; whether the provision “the social orientation of the state consolidated in the Constitution generally obligates the state to respect the imperative of substantiality of guarantees of social (material) character, thus obligates to respectively revise (increase the sizes) of social (material) guarantees once established (and applied), if economic, social situation changes so that those established (and applied) guarantees depreciate considerably, moreover, if they generally become nominal (herewith making an exception regarding a proportional and provisional reduction of benefits, whenever necessary for the protection of other constitutional values)” means that even when there is an extreme situation in the state (economic crisis, natural disaster etc.) and due to this proportionately and temporarily payments are reduced, one must pay attention to the fact that such payments would not become only nominal.

7. On 24 December 2008, in constitutional justice case No. 09/06-30/06-01/07-30/08 the Constitutional Court adopted the Ruling “On the compliance of Paragraph 2 (wordings of 13 July 2000 and 19 May 2005) of Article 3, Paragraph 5 (wording of 21 December 2000) of Article 11 and Paragraph 3 (wording of 19 May 2005) of Article 11 of the Republic of Lithuania Law on the State Pensions of Officials and Servicemen of the Interior, the Special Investigation Service, State Security, National Defence, the Prosecutor’s Office, the Department of Prisons and of the Establishments and State Enterprises Which are Subordinate to the Latter and That of Paragraph 12 (wording of 18 January 2007) of Article 16 of the Republic of Lithuania Law on State Pensions of Officials and Servicemen with the Constitution of the Republic of Lithuania” (Official Gazette *Valstybės žinios*, 2008, No. 150-6106; hereinafter referred to as the Constitutional Court ruling of 24 December 2008).

The Seimas, the petitioner, requests to construe whether the provisions “the right to demand

for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004 and 22 October 2007). The said circumstance determines the specific character of the defence of this acquired right according to Article 23 of the Constitution. This specific character *inter alia* means that in case a question arises as to the defence of the acquired right under Article 23 of the Constitution, first of all it should be established whether the requirement to pay the pension is based on Article 52 of the Constitution and/or other norms of the Constitution (Constitutional Court ruling of 4 July 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 mean that even when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution and seek a compensation mechanism in order to implement this principle; whether the provision “It needs to be noted that even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality (Constitutional Court rulings of 4 July 2003 and 3 December 2003)” of Item 4 means that when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, it is not allowed to reduce pensions without prior complex assessment of all interests of an individual and society and without applying the principles of justice, reasonableness, proportionality and legal certainty; whether the provision of Item 8.6 that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” means that when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, in the course of adoption of decisions to reduce remunerations and pensions one must avoid fortuity and arbitrariness, instability of social life and conflict of interests; whether the issues of increase or reduction of burden of direct and indirect taxes for this purpose, those of fairer distribution of the burden of taxes which falls upon labour and capital, those of increase and reduction of remunerations and pensions and other social allowances must be solved in a complex manner, by taking account of the constitutional requirements of justice, solidarity and proportionality; whether the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other

addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 means that it is not allowed either under normal, or under essentially deteriorated economic and financial conditions of the state to apply coefficients of different sizes with regard to persons of the same social group in the course of reduction of remunerations and pensions.

8. On 15 January 2009, the Constitutional Court adopted the Decision “On the construction of provisions of the Ruling of the Constitutional Court of the Republic of Lithuania ‘On the compliance of Part 1 of Article 13 of the Republic of Lithuania Law on the Working Conditions of Members of the Seimas of the Republic of Lithuania with the Constitution of the Republic of Lithuania’ of 9 November 1999 and Those of the Ruling of the Constitutional Court of the Republic of Lithuania ‘On the compliance of Item 2 of Paragraph 1 of Article 62, Paragraph 4 (wording of 11 July 1996) of Article 69 of the Republic of Lithuania Law on the Constitutional Court and Paragraph 3 (wording of 24 January 2002) of Article 11, Paragraph 2 (wording of 24 January 2002) of Article 96 of the Republic of Lithuania Law on Courts with the Constitution of the Republic of Lithuania’ of 28 March 2006” (Official Gazette *Valstybės žinios*, 2009, No. 6-170; hereinafter also referred to as the Constitutional Court decision of 15 January 2009).

The Seimas, the petitioner, requests to construe whether the provision “the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed” of Item 10 of Chapter IV of the Constitutional Court decision of 15 January 2009 includes the entire budget year, or a longer period; whether the provision “<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). <...> such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state” thereof means that the temporary reduction of the remuneration for work must be continually corrected during the budget year by taking account of the collection plan of the state budget revenues, or whether it must be corrected during a two- or three-year period, or even during a longer period (until the short-term crisis in the state is over).

II

The representatives of the Seimas, the petitioner, who were R. J. Dagys, Chairman of the

Seimas Committee on Social Affairs and Labour, K. Glaveckas, Chairman of the Seimas Committee on Budget and Finance, as well as V. P. Andriukaitis and D. Jankauskas, Members of the Seimas, explained the reasons which prompted the Seimas to request construction of the aforementioned provisions of the rulings and the decision of the Constitutional Court and answered to questions given by the justices of the Constitutional Court.

The Constitutional Court

holds that:

I

1. The powers of the Constitutional Court to officially construe its own rulings are entrenched in the Law on the Constitutional Court (Article 61). Paragraph 1 of Article 61 of the Law on the Constitutional Court provides that a ruling of the Constitutional Court may be officially construed by the Constitutional Court at the request of the parties to the case, of other institutions or persons to whom it was sent, or on its own initiative.

The petition requesting to construe the Constitutional Court rulings of 25 November 2002, 3 December 2003, 16 January 2006, 26 September 2007, 22 October 2007, 22 November 2007, and 24 December 2008 was submitted by the Seimas. The Seimas was the party concerned in the constitutional justice cases in which the rulings, whose construction is requested, were passed. In addition, these rulings, according to Paragraph 1 of Article 60 of the Law on the Constitutional Court, are sent *inter alia* to the Seimas. Thus, under Paragraph 1 of Article 61 of the Law on Constitutional Court, the Seimas has the right to apply to the Constitutional Court with a petition requesting to construe the provisions of the said rulings of the Constitutional Court.

2. The Seimas also requests to construe the Constitutional Court decision of 15 January 2009 wherein the provisions of the Constitutional Court rulings of 9 November 1999 and 28 March 2006 were construed. The Constitutional Court has held more than once that it enjoys powers to construe not only its rulings, but also its other final acts as well. In this context it needs to be noted that Constitutional Court has held in its acts more than once that the decision adopted concerning construction of a Constitutional Court ruling is inseparable from the Constitutional Court ruling. Thus, the Constitutional Court may construe also its decisions on construction of rulings (other final acts).

The Seimas was the party concerned in the constitutional justice cases wherein the rulings of 9 November 1999 and 28 March 2006, which were construed in the Constitutional Court decision of 15 January 2009, were adopted. In addition, this decision was sent to the Seimas, therefore, under Paragraph 1 of Article 61 of the Law on the Constitutional Court, the Seimas has the right to request that the Constitutional Court construe this decision.

3. A decision concerning construction of a Constitutional Court ruling shall be adopted at a Constitutional Court sitting as a separate document (Paragraph 2 of Article 61 of the Law on the Constitutional Court).

4. In its acts the Constitutional Court has held more than once that the purpose of the institute of construction of Constitutional Court rulings and other final acts is to reveal the contents and meaning of corresponding Constitutional Court rulings or other final acts more broadly and in more detail if it is necessary in order to ensure proper execution of that Constitutional Court ruling or other final act so that this Constitutional Court ruling or other final act would be followed.

5. The Constitutional Court has held more than once that a ruling of the Constitutional Court is integral; the operational (resolving) part of a ruling of the Constitutional Court is based upon the arguments of the operational (resolving) part; while construing its ruling, the Constitutional Court is bound both by the content of the part of resolution and that of reasoning of its ruling; the decision adopted concerning construction of a Constitutional Court ruling is inseparable from the Constitutional Court ruling.

6. Under Paragraph 3 of Article 61 of the Law on the Constitutional Court, the Constitutional Court must construe its ruling without changing its content.

The Constitutional Court has held more than once that this provision of Paragraph 3 of Article 61 of the Law on the Constitutional Court, among other things, means that, while construing its ruling, the Constitutional Court cannot construe its content so that the meaning of its provisions, *inter alia* the notional entirety of the elements constituting the content of the ruling, the arguments and reasons upon which that Constitutional Court ruling is based, is changed, also that the Constitutional Court may not construe what was not investigated in that constitutional justice case, subsequent to which the construed ruling was adopted, either. The Constitutional Court has held more than once that the consideration of a petition requesting to construe a Constitutional Court ruling or its other final act does not imply a new constitutional justice case.

It has also been held in the jurisprudence of the Constitutional Court more than once that the formula “shall be final and not subject to appeal” of Paragraph 2 of Article 107 of the Constitution, which provides that the decisions of the Constitutional Court on issues ascribed to its competence by the Constitution shall be final and not subject to appeal, also means that the Constitutional Court rulings, conclusions and decisions by which a constitutional justice case is finished, i.e. final acts of the Constitutional Court, are obligatory to all state institutions, courts, all enterprises, establishments and organisations, as well as officials and citizens, including the Constitutional Court itself: final acts of the Constitutional Court are obligatory to the Constitutional Court itself, they restrict the Constitutional Court in the aspect that it may not change them or review them if there are no constitutional grounds for that.

7. It is also to be noted that the uniformity and continuity of the official constitutional doctrine implies a necessity to construe each construed provision of a Constitutional Court ruling or its other final act by taking account of the entire official constitutional doctrinal context, also of other provisions (explicit and implicit) of the Constitution, which are related with the provision (provisions) of the Constitution in the course of construction of which in a Constitutional Court ruling or its other final act the corresponding official constitutional doctrine was formulated. The Constitutional Court has held more than once that no official constitutional doctrinal provision of a Constitutional Court ruling or its other final act may be construed in isolation, by ignoring its meaning and systemic links with the other official constitutional doctrinal provisions set forth in that Constitutional Court ruling or its other final act, in other Constitutional Court acts, as well as with other provisions (explicit and implicit) of the Constitution (Constitutional Court decisions of 4 July 2008, 15 January 2009, 15 May 2009, 28 October 2009, 6 November 2009 and 18 December 2009).

II

1. The petitioner requests to construe the official constitutional doctrinal provisions disclosing the constitutional requirements which must be followed in the course of reduction of pensions and of the remuneration for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as that of state servants due to the fact that there is an especially grave economic and financial situation in the state due to an economic crisis, as well as the doctrinal provisions regarding an especially grave economic and financial situation in the state. In the context of these provisions the petitioner also requests to construe the official constitutional doctrinal provisions disclosing the content of the constitutional principles of a state under the rule of law, equality of rights, justice, proportionality, protection of legitimate expectations, legal certainty and social solidarity.

2. It has been mentioned that provisions of a Constitutional Court ruling must be construed by taking account of the entire official constitutional doctrinal context, also of other provisions (explicit and implicit) of the Constitution, which are related with the provision (provisions) of the Constitution in the course of construction of which in a Constitutional Court ruling or its other final act the corresponding official constitutional doctrine was formulated; no official constitutional doctrinal provision of a Constitutional Court ruling may be construed in isolation, by ignoring its meaning and systemic links with the other official constitutional doctrinal provisions, as well as with other provisions of the Constitution.

3. The official constitutional doctrine regarding reduction of remunerations and pensions when there is an especially grave economic and financial situation in the state, as well as the

doctrine of the constitutional principles of a state under the rule of law, equality of rights, justice, proportionality, legitimate expectations, legal certainty, and social solidarity, was formed not only in the Constitutional Court rulings of 25 November 2002, 3 December 2003, 16 January 2006, 26 September 2007, 22 October 2007, 22 November 2007, 24 December 2008 and the decision of 15 January 2009, whose construction is requested by the petitioner, but also in other acts of the Constitutional Court, therefore, the provisions whose construction is requested are to be construed while taking account of the entire official constitutional doctrinal context.

4. The Constitution is an act of the supreme legal power. The Constitution reflects the social contract—a democratically accepted obligation by all the citizens of the Republic of Lithuania to the current and future generations to live according to the fundamental rules entrenched in the Constitution and to obey them in order to ensure the legitimacy of the governing power, the legitimacy of its decisions, as well as to ensure human rights and freedoms, so that the concord would exist in the society. The Constitution as a legal act is expressed in a certain textual form, and has certain verbal expression; however, since it is impossible to treat law solely as a text in which *expressis verbis* certain legal provisions and rules of behaviour are set forth, thus, also, it is impossible to treat the Constitution as a legal reality solely in its textual form, the Constitution may not be understood only as an aggregate of explicit provisions; the Constitution shall be an integral and directly applicable act (Paragraph 1 of Article 6 of the Constitution); the Constitution as a legal reality is comprised of various provisions, the constitutional norms and the constitutional principles, which are directly consolidated in various formulations of the Constitution or derived from them; some constitutional principles are entrenched in constitutional norms formulated *expressis verbis*, others, although not entrenched therein *expressis verbis*, are reflected in them and are derived from the constitutional norms, as well as from other constitutional principles reflected in these norms, from the entirety of the constitutional legal regulation, from the meaning of the Constitution as the act which consolidates and protects the system of major values of the state community, the civil Nation, and which provides the guidelines for the entire legal system; there may not exist and there is no contradiction between the constitutional principles and the constitutional norms—all the constitutional norms and constitutional principles form a harmonious system; it is the constitutional principles that organise all the provisions of the Constitution into a harmonious entirety, and thus do not permit the existence in the Constitution of internal contradictions or such an interpretation thereof which distorts and denies the essence of any provision of the Constitution, or any value entrenched in and protected by the Constitution; the constitutional principles reveal not only the letter, but also the spirit of the Constitution—the values and objectives entrenched in the Constitution by the Nation which chose certain textual form and verbal expression of its provisions, which defined certain norms of the Constitution, and which explicitly or implicitly established

certain constitutional legal regulation (Constitutional Court rulings of 25 May 2004 and 13 December 2004).

5. The Constitutional Court has held more than once that the constitutional principle of a state under the rule of law is a universal principle, upon which the entire legal system of Lithuania and the Constitution of the Republic of Lithuania itself are based, that the constitutional principle of a state under the rule of law is to be construed inseparably from the striving for an open, just, and harmonious civil society and state under the rule of law, which is declared in the Preamble to the Constitution, and that the content of the aforementioned constitutional principle reveals itself in various provisions of the Constitution. The essence of the constitutional principle of a state under the rule of law is the rule of law. The constitutional imperative of the rule of law means that the freedom of state power is limited by law, to which all the entities of legal relations, including the law-making entities, must obey. It needs to be emphasised that the discretion of all the law-making entities is limited by the supreme law—the Constitution. All the legal acts, decisions of all the state and municipal institutions and officials must be in compliance with and not contradicting to the Constitution.

The constitutional principle of a state under the rule of law is especially capacious, comprising a range of various interrelated imperatives. The constitutional principle of a state under the rule of law must be followed both in law-making and implementation of law (Constitutional Court rulings of 6 December 2000, 13 December 2004, 16 January 2006, and 13 August 2007). The compliance of each institute of law with the Constitution must be evaluated according to how this institute is in compliance with the constitutional principles of a state under the rule of law (Constitutional Court rulings of 11 May 1999 and 13 December 2004).

5.1. The Constitutional Court has held more than once that inseparable elements of the principle of a state under the rule of law are the protection of legitimate expectations, legal certainty and legal security. The constitutional principles of protection of legitimate expectations, legal certainty and legal security imply the obligation of the state to secure the certainty and stability of the legal regulation, to protect the rights of persons, to respect the legitimate interests and legitimate expectations. These principles *inter alia* imply that the state must fulfil all its undertaken obligations to the person. If the protection of legitimate expectations, legal certainty and legal security were not secured, the trust of the person in the state and law would not be guaranteed.

5.2. One of the essential elements of the principle of a state under the rule of law, which is consolidated in the Constitution, is legal certainty which implies certain obligatory requirements to legal regulation: legal regulation must be clear and harmonious, legal norms must be formulated precisely and may not contain any ambiguities (Constitutional Court rulings of 30 May 2003, 26 January 2004, 24 December 2008, and 22 June 2009).

5.3. The Constitutional Court has also held that the constitutional principle of proportionality as one of the elements of the constitutional principle of a state under the rule of law means that the measures provided for in the law must be in line with the legitimate objectives which are important to society, that these measures must be necessary in order to reach these objectives, and that these measures do not have to restrain the rights and freedoms of a person clearly more than necessary in order to reach these objectives (Constitutional Court ruling of 11 December 2009).

5.4. The content of the constitutional principle of a state under the rule of law is to be disclosed while taking account of various provisions of the Constitution, while evaluating all the values entrenched in, and protected and defended by the Constitution, and while taking account of the content of various other constitutional principles, such as justice (comprising *inter alia* natural justice), social solidarity (comprised with responsibility of everyone for his own fate), equality of persons before the law, court, state institutions and officials, and other constitutional principles of no less importance (Constitutional Court ruling of 13 December 2004).

5.4.1. The constitutional principle of a state under the rule of law is inseparable from the principle of justice, and *vice versa*. In its rulings the Constitutional Court has held more than once that justice is one of the basic objectives of law, as the means of regulation of social relations. It is one of basic moral values and one of basic foundations of a state under the rule of law. It may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court rulings of 22 December 1995, 6 December 2000, 17 March 2003, 17 November 2003, 3 December 2003, and 24 December 2008).

5.4.2. Under the Constitution, the State of Lithuania is socially oriented, thus, the state is under constitutional obligation and it must undertake the burden of fulfilment of certain commitments. The Constitutional Court has held that the solidarity principle entrenched in the Constitution implies that the burden of fulfilment of certain obligations to certain extent should be distributed also among members of society, however, such distribution should be constitutionally reasoned, it cannot be disproportionate, it cannot deny the social orientation of the state and the obligations to the state, which arise from the Constitution (Constitutional Court rulings of 7 June 2007 and 26 September 2007). The constitutional principle of solidarity does not deny personal responsibility for one's own fate (Constitutional Court rulings of 12 March 1997, 25 November 2002, 3 December 2003, 5 March 2004, 13 December 2004, 7 June 2007, 26 September 2007, and 2 September 2009).

5.4.3. The Constitutional Court has held that the constitutional principle of equality of persons must be followed both in passing of laws and in their application; the constitutional principle of equality of persons before the law means an innate human right to be treated equally

with the others (Constitutional Court rulings of 2 April 2001, 23 April 2002, 4 March 2003, 4 July 2003, 3 December 2003, 10 November 2005, 24 December 2008, 3 February 2010, and 22 March 2010) and obliges to legally assess the homogenous facts in the same manner and prohibits to arbitrarily assess the facts, which are the same in essence, in a different manner.

The Constitutional Court has held that the constitutional principle of equality of rights of persons in itself does not deny an opportunity to establish diverse, differentiated legal regulation by means of legislation with respect to certain persons which belong to different categories, if there exist differences between these persons of such character, which objectively justify such differentiated regulation. Differentiated legal regulation, when it is applied to certain groups of persons which are distinguished by the same signs, and in case it strives for positive and socially meaningful goals, or if the establishment of certain limitations or conditions is linked with peculiarities of regulated social relations, in itself is not to be regarded as discrimination (Constitutional Court rulings of 11 November 1998, 13 May 2005, 31 May 2006, 2 March 2009, and 29 April 2009).

The Constitutional Court has held more than once that the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified. While assessing whether an established different legal regulation is a grounded one, particular legal circumstances must be taken into account. First of all, the differences of the legal situation of subjects and objects to which different legal regulation is applied must be considered (Constitutional Court rulings of 28 February 1996, 13 November 1997, 4 July 2003, 24 December 2008, 2 March 2009, and 8 June 2009). The compliance of a concrete legal norm with Article 29 of the Constitution may be assessed only by taking into account all significant circumstances (Constitutional Court rulings of 4 July 2003, 24 December 2008, 2 March 2009, and 8 June 2009).

6. In the context of this decision, it needs to be noted that the aforesaid requirements which stem from the constitutional principles of a state under the rule of law, equality of rights, justice, proportionality, protection of legitimate expectations, legal certainty, legal security and social solidarity, as well as other constitutional imperatives, must be heeded also when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state, despite of various other measures which are applied for overcoming the economic crisis, has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and

municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation is corrected by reducing the remunerations and pensions of the said persons.

7. The right to receive fair pay for work is a constitutional human right (Paragraph 1 of Article 48 of the Constitution). This constitutional right is a precondition for implementation of many other constitutional rights, *inter alia* it is one of the most important preconditions for implementation of the right of ownership entrenched in Article 23 Constitution (Constitutional Court rulings of 13 December 2004, 20 March 2007, and 11 December 2009).

7.1. It needs to be noted that the right to receive fair pay for work, which is *inter alia* entrenched in Paragraph 1 of Article 48 of the Constitution, is inseparable from the constitutional principle of a state under the rule of law which also includes the principle of protection of legitimate expectations. The constitutional principle of protection of legitimate expectations means that in cases when a certain remuneration for work has been established for a person by legal acts, then this remuneration must be paid throughout the duration of the established time. In the context of this decision it also needs to be emphasised that the constitutional principle of protection of legitimate expectations does not mean that the remuneration for work paid to the state servants from the funds of the State Budget or municipal budget may not be reduced at all; such reduction of remunerations of state servants is possible only in exceptional cases and only if it necessary in order to protect other values consolidated in the Constitution; however, even in such exceptional cases the remuneration for work may not be reduced in violation of the balance entrenched in the Constitution between the interests of a person and those of the society; remuneration for work may not be reduced only to separate categories of employees who are remunerated for their work from the funds of the state budget or municipal budget; the reduction of the remuneration for work must be in conformity with the constitutional principle of proportionality (Constitutional Court rulings of 18 December 2001, 13 December 2004, 20 March 2007, and 11 December 2009).

7.2. One of exceptional cases when the remuneration for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as that of state servants may be reduced is an especially grave economic and financial situation in the state.

The Constitutional Court has noted more than once that, when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, the legislator must ascertain that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees) (Constitutional Court decision of 15 January 2009, the ruling of 11 December 2009); such reduction of the remuneration for work must

be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state, as, for instance, the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed (Constitutional Court decision of 15 January 2009, the ruling of 11 December 2009). Under such circumstances, the legislator may change the legal regulation which establishes the remunerations to various persons, and consolidate the legal regulation on the remunerations which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values (Constitutional Court rulings of 28 March 2006, 22 October 2007 and 11 December 2009, the decision of 15 January 2009); however, also in such cases the legislator must keep the balance between the rights and legitimate interests of the persons, to whom the less favourable legal regulation is established and the interests of society and the state, i.e. the legislator must pay heed to the requirements of the principle of proportionality (Constitutional Court rulings of 28 March 2006, 22 October 2007 and 11 December 2009, the decision of 15 January 2009).

The aforesaid provision of the official constitutional doctrine—the reduction of the remuneration for work must be temporary—implies that in cases when the economic and financial situation of the state deteriorates considerably and the legislator decides to amend the legal regulation whereby remunerations are established to various persons and to entrench a less favourable legal regulation with respect to these persons, i.e. adopts a decision to reduce the remuneration for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as that of state servants, the reduced remunerations may be paid only temporarily, i.e. until there is a certain extreme situation in the state. When the especially grave economic and financial situation is over, the amounts of the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, which were established in the state prior to occurrence of the said situation, must be applied as before.

The provision that the reduction of remuneration for work must be temporary may not be interpreted as meaning that the state, after the legislator has reduced the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, is released from the duty to look for ways of securing the accumulation of the funds necessary to pay the remunerations in the amounts that were prior to their reduction. Quite to the contrary, if, before the end of the economic crisis, there arises an opportunity to accumulate

(receive) the funds necessary to pay the remunerations in the amounts that were before the reduction of the remunerations, the legal regulation under which the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants were reduced must be abolished.

7.3. The Constitutional Court has held that, under the Constitution, it is permitted to limit the constitutional human rights and freedoms, *inter alia* the human right to receive fair pay for work, in case the following conditions are observed: this is done by law; the limitations are necessary in a democratic society in order to protect the rights and freedoms of other persons and the values entrenched in the Constitution as well as the constitutionally important objectives; the limitations do not deny the nature and essence of the rights and freedoms; one follows the constitutional principle of proportionality as one of the elements of the constitutional principle of a state under the rule of law, which also means that the measures provided for in the law must be in line with the legitimate objectives which are important to society, and that these measures do not have to restrain the rights and freedoms of a person clearly more than necessary in order to reach these objectives (Constitutional Court ruling of 11 December 2009). It has been mentioned that the requirements of the principle of proportionality must be followed also when there is an extreme situation in the state (when there is an economic crisis etc.) when the accumulation of the funds necessary to pay the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, or of the funds necessary to pay pensions is not secured and due to this the legal regulation is corrected by reducing the remunerations and pensions of the said persons.

In its ruling of 11 December 2009, while construing the content of the principle of proportionality, the Constitutional Court held:

“<...> wages of state servants may be temporarily reduced when a particularly difficult economic and financial situation occurs in the state, however, in such a case one must heed the requirements of the principle of proportionality. It needs to be emphasised that the constitutional principle of proportionality is inseparable from other norms and principles of the Constitution, *inter alia* the constitutional principles of equal rights and justice.

<...> the constitutional principle of proportionality *inter alia* means that when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the wages of state servants in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of wages of state

servants whereby with respect to all categories of state servants (and other employees financed from the funds of the state and municipal budgets) the wages would be reduced in a manner not violating the proportions of the amounts of the wages established with regard to different categories of state servants prior to the occurrence of the particularly difficult economic and financial situation in the state.

While taking account of this, it needs to be noted that the constitutional institute of the state service implies a certain hierarchical system of state servants and differentiated amounts of wages paid to the servants. The proportions of the differences in the amounts of wages of state servants depend on a number of objective peculiarities of the state service, as, for instance, the character of the corresponding functions ascribed to a state institution, the complexity and extent of the functions attributed to the state servant, the responsibility for execution of these functions, peculiarities of the taken posts, a state servant's professional level, qualification etc. Thus, the Constitution does not tolerate any such situations where the wages of state servants, when there is a difficult economic and financial situation in the state, are reduced disproportionately, *inter alia* in a manner, where the amount of the wage of a state servant of high qualification, who performs a complex job, is made more similar to the wage of a state servant of lower qualification, who performs a less complex job, or where the former wage is equalised with the latter, or where wages of state servants of certain groups are reduced by taking account of not the entire remuneration for work received, but only of individual constituent parts of the remuneration for work of state servants, etc. In such situations not only the constitutional principles of proportionality, equal rights and justice would be denied, but also one would deviate from the constitutional concept of the state service as well as the provision of Paragraph 1 of Article 48 of the Constitution consolidating the human right to receive fair pay for work.

Alongside, it needs to be noted that the constitutional principles of a state under the rule of law, justice and proportionality do not mean that it is not allowed to establish the limit upon the amount of the wage of a state servant below which it would not be permitted to reduce the wage established for state servants (and other employees whose work is remunerated from the funds of the state and municipal budgets) even when there is a particularly difficult economic and financial situation in the state. It needs to be noted that while establishing this limit one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the wage of a state servant becomes reduced to an amount, where the minimal socially acceptable needs and the living conditions compatible with human dignity would not be secured."

8. Article 52 of the Constitution prescribes: "The State shall guarantee to citizens the right to receive old age and disability pensions as well as social assistance in the event of unemployment, sickness, widowhood, loss of the breadwinner, and in other cases provided for by laws."

8.1. The Constitutional Court has held more than once that Article 52 of the Constitution sets the bases of pensionary maintenance and social support. According to this article of the Constitution, while implementing the constitutional principle of public solidarity and by helping a person to protect himself from the possible social risks and at the same time creating preconditions for every member of the society to take care of his own welfare (and not only to trust in the state social security), the legislator must establish the old age and disability pensions as well as social assistance in the event of unemployment, sickness, widowhood, loss of the breadwinner by the law. The Constitutional Court has also held that also other pensions or social assistance than those specified in Article 52 of the Constitution may be established by the law (Constitutional Court rulings of 23 April 2002, 25 November 2002, 4 July 2003, 30 January 2004, 13 December 2004, 22 October 2007, 24 December 2008, and 2 September 2009). Under the Constitution, the grounds for pensionary maintenance, the persons who are granted and paid pensions, the conditions for granting and payment of pensions, as well as the sizes of the pensions are established by law only (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004, 22 October 2007, 24 December 2008, and 2 September 2009). The legislator, while adopting laws concerning pensionary maintenance, is bound by the norms and principles of the Constitution (Constitutional Court rulings of 4 July 2003, 3 December 2003, 22 October 2007, 24 December 2008, and 2 September 2009).

8.2. In its ruling of 26 September 2007, the Constitutional Court noted that in laws and other legal acts of the Republic of Lithuania such model of financing of state social insurance by running income (so-called “pay as you go” model) is consolidated under which state social insurance is based on compulsory contributions and is guaranteed by the funds collected during the current period from employed persons, who give part of the income that they earned to the persons of society, who must be paid the payouts provided for in the law due to the fact that they have reached the pensionable age for old age pension, or disability in their regard has been recognised, or there are other reasons provided for in the law; such model of state social insurance is based on the principles of universality and solidarity; the principle of universality means that all working persons (with some exceptions) who receive insured income from their activity, must pay state social insurance contributions, while the principle of solidarity means that the working (pursuing active economic activities) persons who receive insured income contribute to accumulation of social insurance funds, thus creating preconditions to pay payments to those persons, who must be paid the payments provided for in the law due to the fact that they have reached the pensionable age for old age pension, disability in their regard has been recognised or there are other reasons provided for in the law.

The content of the legal regulation of the relations of social security, social maintenance,

and social assistance is determined by various factors, *inter alia* by resources of the state and society and by material and financial possibilities. The legislator, while paying heed to the Constitution, enjoys broad discretion in this area, *inter alia* to choose a system of pensions. The fact that in Lithuania one chose such a system of pensions in which the funds collected from the compulsory state social insurance contributions is the main source of financing the system of pensions cannot be questioned with regard to its compliance with the Constitution (Constitutional Court rulings of 26 September 2007 and 22 October 2007). In this context it needs to be noted that the Constitution, *inter alia* the constitutional principle of responsible governance, implies the necessity to use the social insurance funds responsibly and rationally, i.e. only according to their targeted purpose.

The Constitutional Court, while forming the official constitutional doctrine of a socially oriented state, has disclosed the constitutional imperatives which must be heeded when the relations of state social insurance, pensionary maintenance and social assistance are regulated by legal acts (*inter alia* Constitutional Court rulings of 10 July 1996, 12 March 1997, 23 April 2002, 25 November 2002, 4 July 2003, 3 December 2003, 30 January 2004, 5 March 2004, 13 December 2004, 7 February 2005, 26 September 2007, 22 October 2007, 24 December 2008, and 2 September 2009):

- the provisions of Article 52 of the Constitution express the social orientation (social character) of the state, while the social maintenance, i.e. contribution of the society to maintenance of such its members who are incapable of providing themselves from work or other means or who are not sufficiently provided due to important reasons provided by law, is recognised as having the status of a constitutional value; the measures of social security express the idea of social solidarity and help a person to protect himself from possible social risks; the provisions of Article 52 of the Constitution guaranteeing citizens' right to social maintenance, obligate the state to establish sufficient measures to implement and protect the said rights;

- the state should create a system of social maintenance which would help to maintain living conditions corresponding to personal dignity, and, in case of need, would render a person necessary social help; the constitutional solidarity principle implies that the burden of fulfilment of certain obligations to certain extent should be distributed also among members of society, however, such distribution should be constitutionally reasoned, it cannot be disproportionate, it cannot deny the social orientation of the state and the obligations to the state, which arise from the Constitution;

- the principle of solidarity in the civil society does not deny personal responsibility for one's own fate, therefore, the legal regulation of the social security should be such as to create preconditions for each member of the society to take care for one's own welfare, but not to rely solely on the social security guaranteed by the state; the social support should not create

preconditions for a person not to strive for a higher income, not to search for possibilities to ensure to oneself and one's family by one's own effort the living conditions that are in line with human dignity, and social support should not become a privilege; the recognition of mutual responsibility of a person and the society is important in ensuring social harmony, guaranteeing freedom of a person and possibility to protect oneself from difficulties which could not be overcome by one person alone;

– the right of a person to social assistance and to social security at large is to be interpreted in accordance with the imperatives of social harmony and justice which are entrenched in the Constitution, as well as constitutional principles of equal rights of persons and proportionality; the legislator, while establishing which persons are granted and paid the state pension, the grounds and conditions for granting and payment of the state pension, as well as the amounts of this pension, is bound by the constitutional imperative of social harmony, the principles of justice, reasonableness and proportionality; also, it is necessary to pay heed to the constitutional principle of equality of all persons, which prohibits discrimination and privileges, which obligates to legally assess the same facts equally and which prohibits virtually the same facts to arbitrarily assess differently, however, which does not deny the fact that with regard to certain categories of persons that are in a different situation differentiated legal regulation may be established;

– the formula “the state shall guarantee” as employed in Article 52 of the Constitution means *inter alia* that pensions and various types of social assistance are guaranteed for the persons on the bases and by the amounts that are established in laws, while the persons who meet the conditions provided by the law, have the right to demand that the state grant and pay this pension to them; after the types of pensions, the persons entitled to the pension, the bases of granting and payment of pensions, their amounts, and the conditions have been established by laws, a duty arises for the state to follow the constitutional principles of the protection of legitimate expectations and legal certainty in the area of pensionary maintenance relations; even in exceptional cases (for example, when due to an economic crisis, natural disaster etc. there is objective lack of funds which are necessary for the payment of pensions) the reduced (by paying heed to the constitutional principle of proportionality) pensions can be paid only on a temporary basis (i.e. only when there is an extraordinary situation in the state);

– the provisions of Article 52 of the Constitution guaranteeing citizens' right to social maintenance, obligate the state to establish sufficient measures to implement and legally protect the said right; these provisions imply a duty of the legislator to establish the legal regulation which would ensure the accumulation of funds necessary for pensions and social assistance and the payment of these pensions and rendering of social assistance; on the other hand, the burden of the obligations undertaken by the state falls upon entire society, therefore the said legal regulation

should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself; the fact that the person, when being capable of working and economically active, contributed to the accumulation of the funds of state social insurance should be of significance to the size of his own state social insurance old age pension; a person, who by his contributions contributed to accumulation of the funds of state social insurance more than others, should have tangible benefit;

– the amount of an old age pension which is granted and paid to persons, when the system of old age pensions is based on social insurance, may not be independent or be insignificantly dependent on how long and in what amounts contributions used to be paid creating material preconditions for the payment of these pensions; the creation of material preconditions of the payment of old age pensions is determined both by the time period during which a person pays state social insurance contributions himself or someone pays contributions for him, and by the total amount of state social pension insurance contributions paid to the state social insurance budget; thus, the total contribution of a person (total amount of the obligatory state social pension insurance contributions of a person) while creating material preconditions for the payment of a state social insurance pension, when the system of old age pensions is based on social insurance, could also be one of the criteria, which is to be taken account of while establishing the conditions for the receiving of the state social insurance pension; the legal regulation whereby the grounds would be established for the granting of this pension distorting the meaning of a personal contribution while creating material preconditions for the payment of this pension or establishing conditions of the granting and payment of this pension, denying the participation of a person in the creation of material preconditions of the payment of this pension, would be in conflict with the Constitution;

– due to the social orientation of the State of Lithuania consolidated in the Constitution the state is generally obligated to respect the imperative of substantiality of guarantees of social (material) character, thus it is obligated to respectively revise (increase the sizes) of social (material) guarantees once established (and applied), if economic, social situation changes so that those established (and applied) guarantees depreciate considerably, moreover, if they generally become nominal (herewith making an exception regarding a proportional and provisional reduction of benefits, whenever necessary for the protection of other constitutional values).

8.3. In its acts the Constitutional Court has held more than once that while regulating the pensionary relations, one must heed Paragraph 1 of Article 48 of the Constitution, which provides

for the opportunity of a human being to choose a job at his own discretion (i.e. by his own free decision); the constitutional freedom of each human being to choose a job and business implies a duty of the legislator to create legal preconditions to implement this freedom; under the Constitution, it is not permitted to establish the legal regulation under which an opportunity for the person who has been awarded and paid old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business.

In the context of this decision it needs to be noted that one must heed the requirement, which arises from the Constitution, not to establish the legal regulation under which an opportunity for the person who has been awarded and paid a pension, *inter alia* an old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business, also when there is an extreme situation in the state (economic crisis etc.) because of which pensions and the remuneration for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as that of state servants may be reduced.

Thus, also when there is an especially grave economic and financial situation in the state and when, due to this, there is a necessity temporarily to reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, it is not permitted to establish any such legal regulation whereby the old age pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

8.4. As mentioned, one of the types of pensions specified *expressis verbis* in Article 52 of the Constitution is an old age pension. Under Article 52 of the Constitution, the age upon reaching which a person has the right to receive an old age pension, the grounds for awarding and payment of such a pension, the conditions and amounts thereof must be established by law. While establishing this, the legislator must heed the norms and principles of the Constitution (Constitutional Court rulings of 25 November 2002, 3 December 2003, and 22 October 2007). As it has been held by the Constitutional Court, the person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the

right to a monetary payment of a respective amount, i.e. the right to possession; this right must be protected and safeguarded also under Article 23 of the Constitution (Constitutional Court rulings of 25 November 2002, 3 December 2003, and 13 December 2004). The old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (*Cour eur. D. H., arrêt Wessels-Bergervoet c. Pays-Bas du 4 juin 2002*) (Constitutional Court ruling of 25 November 2002).

One is to pay attention to the fact that the collection of the funds necessary to pay the old age pension and the award of these pensions is based upon social insurance. Payment of social insurance contributions entails the right of the person to receive an old age person of respective amount and it is not allowed that this amount does not depend on the amounts of contributions that have been paid. The amounts of social insurance contributions are the basis for the differentiation of the amounts of old age pensions (Constitutional Court ruling of 25 November 2002).

8.5. The other type of pensions specified *expressis verbis* in Article 52 of the Constitution is a disability pension. Under Article 52 of the Constitution, the law must establish what is regarded as disability, as well as the grounds for awarding and payment of such a pension, the conditions and amounts thereof (Constitutional Court rulings of 3 December 2003, 22 October 2007, and 2 September 2009). The state has a constitutional duty to ensure the creation of such social protection system (*inter alia* a system of social support and disability pension) so that a person who, due to health disorders (caused by illness, accident, occupational disease, innate health disorders, etc.), permanently or temporarily did not acquire or lost a possibility to earn the living from work or business income, or where such possibilities significantly diminished, in the cases provided by law, would receive social support and/or disability pension (Constitutional Court ruling of 2 September 2009).

8.6. As mentioned, old age and disability pensions are the types of pensions *expressis verbis* specified in Article 52 of the Constitution. It has been mentioned that, under the Constitution, the law may also establish other pensions, not only those which are *expressis verbis* specified in Article 52 of the Constitution. For instance, the peculiarities of the constitutional institute of the state service determine *inter alia* the fact that the legislator enjoys constitutional powers to establish by the law the pensions and/or types of social assistance granted solely to the state servants or individual groups of state servants, the grouping of which is objectively reasonable; the pensions for serving the State of Lithuania may be established by the law as well (Constitutional Court rulings of 13 December 2004, 22 October 2007, and 24 December 2008).

The pensions which are not directly named in Article 52 of the Constitution are at present established *inter alia* in the Law on State Pensions. In this context it needs to be noted that state pensions differ in their nature and character from old age pensions of the state social insurance, as

well as from other pensions of the state social insurance: they are paid from the State Budget; they are granted to persons for their service or merits to the State of Lithuania, as well as the compensation to victims specified in the law (Constitutional Court rulings of 3 December 2003, 4 July 2003, 22 October 2007, and 24 December 2008); the receipt of these pensions is linked not to the social insurance contributions of pensions of the established size, but to the corresponding status of the person (service, merits or other circumstances upon which granting of the state pension depends) (Constitutional Court ruling of 24 December 2008); the peculiarities of state pensions permit the legislator, taking account of all the significant circumstances and heeding the norms and principles of the Constitution, to establish the corresponding conditions for granting of this pension (Constitutional Court ruling of 24 December 2008); while paying heed to the Constitution, one may by the law establish the maximum size of such pensions, as well as consolidate various ways for the establishment of the maximum size of such pension; the legislator, taking account of the Constitution, may also establish certain cases when the state pension is not granted to the person (under the conditions provided for in the law); one may, by the law, taking account of the Constitution, establish also the cases when the granted state pension is no longer paid; on the other hand, in the case of the state pensions which are granted for certain service, for merits to the State of Lithuania or as a compensation to victims, the provision regarding the obligation undertaken by the state to grant and pay the corresponding pension to the person who meets the conditions established by the law and regarding the right of the said person to require that the state implement such obligation undertaken by the law, is also effective (Constitutional Court ruling of 22 October 2007).

8.7. The state, while establishing by the law that the persons who meet the conditions established by the law acquire the right to a certain pension established in the law, at the same time undertakes the obligation to grant and pay such pension, thus, it must guarantee the corresponding pensionary maintenance for the specified persons on such grounds and of such sizes which are established in the law, while the persons who meet the conditions established by the law have the right to require that the state implement the obligation undertaken by the law, grant them the corresponding pension and pay the payments of the established size; the legislator must establish such legal regulation which would ensure the payment of the corresponding pension to the persons who meet the conditions established by the law (Constitutional Court ruling of 22 October 2007). When the pension established by a law, which is not in conflict with the Constitution, is granted and paid, this right and legitimate expectation acquired by the person are also to be linked to the protection of the rights of ownership of this person (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004, 22 October 2007, and 24 December 2008).

The constitutional protection of the rights of ownership, which arise from the Constitution

and the laws that are not in conflict with the Constitution, means the protection of the right to demand the fulfilment of obligation of property nature to a person. In the latter case the right to demand for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 22 October 2007, and 24 December 2008).

8.8. The Constitutional Court has also held more than once that after the types of pensions, the persons entitled to the pension, the bases of granting and payment of pensions, their amounts, and the conditions have been established by laws, a duty arises for the state to follow the constitutional principles of protection of legitimate expectations and legal certainty in the area of pensionary maintenance relations. The persons who have been granted and paid a pension established by the Constitution or the law, under Article 23 of the Constitution have the right to demand that the payments be paid further to them in the amounts which were granted and paid previously (Constitutional Court rulings of 4 July 2003, 3 December 2003, 24 December 2008, and 2 September 2009).

8.9. The Constitutional Court has noted that the constitutional protection of acquired rights and legitimate expectations does not mean that the system of pensionary maintenance established by law may not be reorganised. While reorganising this system, the Constitution must be observed in every case. The system of pensions may be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a fair mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions. The legislator, while reorganising the system of pensions so that the bases for pensionary maintenance, persons to whom the pension is granted and paid, the conditions of granting and payment of pensions, the amounts of pensionary maintenance are changed, must provide for a sufficient transitional time period during which the persons who have a corresponding job or perform corresponding service which entitles them to a respective pension under the previous regulation, would be able to prepare for these changes (Constitutional Court rulings of 4 July 2003, 13 December 2004, 22 October 2007, and 24 December 2008).

In the context of this decision it needs to be noted that even when due to extreme circumstances (economic crisis etc.) there is an especially grave economic and financial situation in

the state, the legislator, if he decides to reorganise the pensionary system so that the pensions which are established by the laws and which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, must establish a fair mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions.

8.10. It has been mentioned that the formula “the State shall guarantee” employed in Article 52 of the Constitution presupposes a duty of the legislator to establish the legal regulation which would ensure the accumulation of the funds necessary to pay the pensions and the payment of pensions. However, there might occur such an extreme situation in the state (economic crisis, natural disaster etc.) when there is objective lack of funds for the payment of pensions. In such extraordinary cases the legal regulation of pensionary relations may be corrected also by reducing pensions to the extent that it is necessary to ensure vitally important interests of society and protect other constitutional values. The reduced pensions may only be paid on a temporary basis, i.e. only when there is an extraordinary situation in the state (Constitutional Court rulings of 23 April 2002, 25 November 2002, 4 July 2003, 3 December 2003, 13 December 2004, and 24 December 2008).

In the context of this decision it needs to be noted that in itself the occurrence of an especially grave economic and financial situation (due to an economic crisis) in the state does not presuppose the right of the legislator to correct the legal regulation of pensionary relations—to reduce the awarded and paid pensions; when there is an especially grave economic and financial situation, the state must take all possible measures in order to overcome the economic crisis and to secure the accumulation of the funds necessary for payment of pensions. In this context it also needs to be noted that the state institutions forming and pursuing state economic and finance policies may not first resort to the measures (*inter alia* reduce pensions and other social guarantees) for overcoming the economic and financial crisis in the course of implementation of which the burden of overcoming of the crisis is put upon persons. The measures for overcoming the grave economic and financial situation in the state must be implemented in a complex manner, they must be co-ordinated, *inter alia* in a way so that the balance between the interests of the person and society, which is entrenched in the Constitution, would not be disturbed. Only in an exceptional case, when it is impossible to accumulate (one does not succeed in accumulating) the amount of the funds necessary to pay the pensions after all internal and external opportunities have been used, the pensionary legal regulation may be corrected by reducing the pensions. It needs to be emphasised that even in such exceptional cases the awarded and paid pensions may not be reduced in violation of the balance of the interests of the person and society, which is entrenched in the Constitution, i.e. the constitutional principle of proportionality.

8.11. As mentioned, the principle of proportionality means that the measures provided for in

the law must be in line with the legitimate objectives which are important to society, that these measures must be necessary to reach the said objectives and may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives.

The constitutional principle of proportionality *inter alia* also means that when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of pensions whereby the pensions would be reduced in a manner not violating the proportions of the amounts of the pensions established with regard to pensioners of the same category prior to the occurrence of the particularly difficult economic and financial situation in the state.

Alongside, it needs to be noted that the constitutional principles of a state under the rule of law, justice and proportionality do not mean that it is not allowed to establish a limit in the amount of the pensions below which the pensions would not be reduced even when there is a particularly difficult economic and financial situation in the state; while establishing this limit one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

8.12. The Constitution has entrenched the duty of the state to secure the protection and defence of human dignity. The Constitutional Court, while construing Article 21 of the Constitution, has held: dignity is an integral characteristic of a human being as the greatest social value; each member of society enjoys innate dignity (Constitutional Court rulings of 29 December 2004 and 2 September 2009); innate human rights are innate opportunities of an individual which ensure his human dignity in the spheres of social life (Constitutional Court rulings of 9 December 1998, 29 December 2004, 19 August 2006, and 2 September 2009); dignity is characteristic of every human being, irrespective of how he himself or other persons assess him (Constitutional Court ruling of 29 December 2004).

Paragraph 3 of Article 21 of the Constitution *inter alia* provides that it shall be prohibited to degrade human dignity. The fact that the legislator, while regulating relations linked with implementation of human rights and freedoms, must guarantee their proper protection constitutes one of the conditions of ensuring human dignity as a constitutional value; state institutions and officials have a duty to respect human dignity as a special value; violation of human rights and

freedoms can infringe human dignity as well (Constitutional Court rulings of 29 December 2004 and 2 September 2009).

The state must create such system of social maintenance, which would assist in maintaining conditions of living in line with human dignity, and, if necessary, provide a person with the necessary social security (Constitutional Court ruling of 2 September 2009).

8.13. In the context of this decision it needs to be noted that the peculiarities of state pensions, which, in their nature and character are different from old age pensions, as well as from disability pensions, imply that when there is a particularly difficult economic and financial situation in the state and due to this there is a necessity to temporarily reduce the pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator may correct the legal regulation of such pensions of different nature by reducing these pensions to greater extent than old age and disability pensions. However, while doing so, the proportions of the amounts of state pensions established prior to the occurrence of the particularly grave economic and financial situation in the state may not be violated.

8.14. It has been mentioned that the reduced pensions may only be paid on a temporary basis, i.e. until there is an extraordinary situation (*inter alia* an economic crisis) in the state, however, this doctrinal provision may not be interpreted as meaning that, purportedly, the state, after the legislator has reduced the awarded and paid pensions, is exempted from the duty to look for ways for accumulation of the funds necessary for payment of the pensions. Quite to the contrary, if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the pensions in the amounts that were before the reduction of the pensions, the legal regulation under which the pensions were reduced must be abolished.

Under the Constitution, *inter alia* under the constitutional principles of a state under the rule of law and responsible governance, the state institutions forming and pursuing state economic and financial policies must also assess the fact that due to special circumstances (economic crisis etc.) there might occur a particularly grave economic and financial situation in the state. Therefore, the state institutions must resort to all possible measures in order to predict the tendencies in the economic development of the state and to prepare for possible occurrence of such particularly grave economic and financial situations.

8.15. The Constitutional Court has held that any correction of the social policy, the reorganisation of the system of social guarantees or of individual social guarantees should be constitutionally grounded; if in the course of reorganisation of the system of social guarantees or the structure of individual social guarantees the extent of social guarantees is reduced, let alone certain social guarantees disappear, a mechanism of just compensation of incurred losses should be established to the individuals to whom those social guarantees were reasonably established

(Constitutional Court rulings of 22 November 2007 and 2 September 2009).

Thus, in the context of this decision it needs to be held that the correction of the legal regulation by reducing old age pensions even due to the fact that there is an extreme situation in the state (economic crisis etc.) means restriction of a constitutional social guarantee of a person—the old age pension. It has also been mentioned that the person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession; this right must be protected and defended under Article 23 of the Constitution as well; in the area of the relations of pensionary maintenance a duty arises to the state to follow the constitutional principles of protection of legitimate expectations and legal certainty: the persons who have been granted and paid a pension established by the Constitution or the law, under Article 23 of the Constitution have the right to demand that the payments be paid further to them in the amounts which were granted and paid previously. In addition, as mentioned, payment of social insurance contributions entails the right of the person to receive an old age person of respective amount and it is not allowed that this amount does not depend on the amounts of contributions that have been paid. Thus, the correction of the legal regulation whereby old age pensions are reduced due to the fact that upon occurrence of an extreme situation (economic crisis etc.) the economic and financial situation becomes changed so that the accumulation of the funds necessary to pay old age pensions is not secured also means that such legal regulation to a certain extent limits the right of ownership of the person to whom an old age pension was awarded and paid.

Thus, the legislator, upon occurrence of an extreme situation, when *inter alia* due to an economic crisis it is impossible to accumulate the amount of the funds necessary to pay old age pensions must, while reducing old age pensions, provide for a mechanism of just compensation of incurred losses to the persons to whom such pensions were awarded and paid, whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, in a fair manner and within a reasonable time, the losses incurred by them due to the reduction of the old age pension.

These provisions are applied *mutatis mutandis* also with regard to the compensation for the losses which appear due to the reduction of a disability pension.

8.16. It has been mentioned that, under the Constitution, the law may also establish other pensions, not only those which are *expressis verbis* specified in Article 52 of the Constitution. At present, state pensions are among such pensions. It has also been mentioned that when the pension established by a law, which is not in conflict with the Constitution, is granted and paid, this right and legitimate expectation acquired by the person are also to be linked to the protection of the rights of ownership of this person; the constitutional protection of the rights of ownership, which arise

from the Constitution and the laws that are not in conflict with the Constitution, means the protection of the right to demand the fulfilment of obligation of property nature to a person; the right to demand that the pensionary maintenance payments, which are established in the Constitution and laws which are not in conflict with the Constitution, be paid stems from Article 52 of the Constitution, whereas under Article 23 of the Constitution the proprietary aspects of this right are defended. It has also been mentioned that if, while reorganising the pensionary system, the legal regulation of the pensions directly specified in Article 52 of the Constitution were amended in essence, the legislator would be obligated to establish a fair mechanism for compensation of the incurred losses to the persons who had been granted and paid such pensions.

In the context of this decision it needs to be noted that the correction of the legal regulation whereby state pensions are reduced to a large extent due to the fact that upon occurrence of an extreme situation (economic crisis etc.) the economic and financial situation becomes changed so that the accumulation of the funds necessary to pay state pensions is not secured, is an essential amendment to the legal regulation of these pensions. Thus, the legislator, upon occurrence of an extreme situation when *inter alia* due to an economic crisis it is impossible to accumulate the amount of the funds necessary to pay state pensions, must, while reducing state pensions to a large extent, provide for a mechanism of just compensation of incurred losses to the persons to whom such pensions were awarded and paid, whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, in a fair manner and within a reasonable time, the losses incurred by them due to the reduction of the state pension.

In the context of this decision it needs to be noted that, as mentioned, state pensions differ in their nature and character from old age pensions of the state social insurance, as well as from other pensions of the state social insurance; these peculiarities imply that when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator may reduce these pensions to a greater extent than old age or disability pensions. In the context of this decision it needs to be held that these peculiarities also imply that the losses incurred due to the reduction of state pensions may be compensated to a smaller extent than the losses incurred due to the reduction of old age or disability pensions.

9. The Constitutional Court has noted in its acts more than once: both the Government which has the powers, under the Constitution, to execute the State Budget, and the Seimas which, under the Constitution, approves the State Budget by a law, may not decide not to react to such essential change of economic and financial condition of the state, when due to special circumstances (economic crisis, natural calamity, etc.) a particularly difficult economic and

financial situation occurs in the state; in such cases, due to objective reasons there may be lack of funds for the execution of state functions and for the satisfaction of public interests; under such circumstances respective legal regulation may be subject to change; it goes without saying, upon emerging of a particularly difficult economic and financial situation in the state there may be difficulties in collecting the revenue provided for in the law on the State Budget (and in municipal budgets), thus, the required funds are not obtained for financing respective needs provided for in the law on the State Budget (and municipal budgets); in such cases (but, certainly, not exclusively such cases) the State Budget may be amended before the end of the budget year; such an option is *expressis verbis* provided for in Paragraph 2 of Article 132 of the Constitution; upon amending the State Budget (and municipal budgets), the expenses (appropriations) may be reduced (rulings of 28 March 2006, 22 October 2007, and 11 December 2009, the decision of 13 November 2007).

10. It has been mentioned that it is allowed to temporarily reduce the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants and pensions of persons, only when there is such a particularly grave economic and financial situation where *inter alia* the collection of the State Budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it. Such reduction of remunerations and pensions must be grounded upon the circumstances of the extremely difficult economic and financial situation in the state. Thus, only when there is an official statement that there is a particularly grave economic and financial situation in the state, which is not short-termed, due to which the state is unable to perform the obligations undertaken by it, the legislator may temporarily reduce the remunerations and pensions of the aforesaid persons.

While disclosing the constitutional concept of the State Budget, the Constitutional Court has held that, under the Constitution, the budget year coincides with a calendar year; the Seimas must approve the State Budget for the budget year, and not for some other period of time; each budget year the Seimas must form the State Budget for the following budget year taking into consideration the existing social and economic situation, the needs and possibilities of the society and the state, the available or potential financial resources and the liabilities of the state, as well as a number of other important factors; while adopting the law on the State Budget, the Seimas must pay attention to the aim for a just and harmonious society enshrined in the Constitution (Constitutional Court ruling of 14 January 2002).

In this context it needs to be noted that constitutional concept of the State Budget, *inter alia* the constitutional institute of a budget year, implies that when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of

remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation has to be corrected by reducing the remunerations and pensions of the said persons, the reduction of the remunerations and pensions is allowed for no longer than one budget year. From the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations and pensions will have to be paid.

III

1. It has been mentioned that the Constitutional Court may not construe what was not investigated in that constitutional justice case, subsequent to which the construed ruling was adopted. It has also been mentioned that the consideration of a petition requesting to construe a Constitutional Court ruling or its other final act does not imply a new constitutional justice case.

1.1. The Seimas, the petitioner, *inter alia* requests to construe whether the provision that when there is an extreme situation in the state (economic crisis, natural disaster etc.) “the legal regulation of pensionary relations may be corrected also by reducing pensions to the extent that it is necessary to ensure vitally important interests of society and protect other constitutional values” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 means that the reduction of pensions must be co-ordinated in proportion with other measures (application of tax concessions, preservation of the existing jobs and creation of new ones, attraction of investments to jobs, non-reduction of the fund of remuneration for work etc.) so that it would not violate vitally important interests of society and would protect other constitutional values.

Thus, the Seimas, the petitioner, requests to construe whether the said provision of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 also means whether, when there is an extreme situation in the state (economic crisis, natural disaster etc.), the reduction of pensions must be co-ordinated in proportion with other measures (application of tax concessions, preservation of the existing jobs and creation of new ones, attraction of investments to jobs, non-reduction of the fund of remuneration for work etc.).

In this context it needs to be noted that, in its ruling of 3 December 2003, the Constitutional Court did not investigate the issues related to co-ordination of reduction of pensions in proportion

with application of tax concessions, preservation of the existing jobs and creation of new ones, attraction of investments to jobs, non-reduction of the fund of remuneration for work or other measures. It needs to be emphasised that in the said ruling the issue of co-ordination of reduction of pensions with any other measures is not discussed at all.

Taking account of the arguments set forth, the Constitutional Court will not submit construction regarding this part of the petition of the Seimas, the petitioner.

1.2. The Seimas, the petitioner, *inter alia* requests to construe whether the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 means that the reduction of pensions may not be different to separate groups of persons, the reduction of pensions must be proportionate to the amounts of taxes and reduction of remuneration for work and that no measures discriminating one or another group of society may be applied.

Thus, the Seimas, the petitioner, requests to construe whether the said provision of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 also means whether:

- the reduction of pensions may not be different to separate groups of persons;
- the reduction of pensions must be proportionate to the amounts of taxes and reduction of remuneration for work;
- no measures discriminating one or another group of society may be applied.

In this context it needs to be noted that, in its ruling of 3 December 2003, the Constitutional Court did not investigate the issues related to the proportion of reduction of pensions with amounts of taxes or reduction of remuneration for work.

Thus, the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 may be construed only in the aspect whether it means that the reduction of pensions may not be different to separate groups of persons and that no measures discriminating one or another group of society may be applied.

1.3. The Seimas, the petitioner, *inter alia* requests to construe whether the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between

those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 means that when there is an extreme situation in the state (economic crisis, natural disaster, etc.) it is not allowed in the course of reduction of remunerations or pensions to apply coefficients of different amounts with regard to the same social groups (e.g., with regard to working and non-working pensioners).

The Seimas, the petitioner, *inter alia* also requests to construe whether the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the Constitutional Court ruling of 24 December 2008 means that it is not allowed either under normal, or under essentially deteriorated economic and financial conditions of the state to apply coefficients of different sizes with regard to persons of the same social group in the course of reduction of remunerations and pensions.

In this context it needs to be noted that in its rulings of 3 December 2003 and 24 December 2008 the Constitutional Court did not investigate the issues related with reduction of remunerations.

Thus, the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 may only be construed in the aspect whether it means that, when there is an extreme economic situation in the state (economic crisis, natural disaster, etc.) it is not allowed in the course of reduction of pensions to apply coefficients of different amounts with regard to the same social groups (e.g., with regard to working and non-working pensioners), whereas the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the Constitutional Court ruling of 24 December 2008 may only be construed in the aspect whether it means that it is not allowed either under normal, or under essentially deteriorated economic and financial conditions of the state to apply coefficients of different sizes with regard to persons of the same social group in the course of reduction of

pensions.

1.4. The Seimas, the petitioner, *inter alia* requests to construe whether the following provisions of Item 4 of Chapter I of the reasoning part of the Constitutional Court ruling of 16 January 2006, which are: “The constitutional principle of a state under the rule of law implies various requirements for the legislator and other law-making entities: law-making entities are empowered to pass legal acts only without exceeding their powers; the requirements established in legal acts must be based on the provisions of general type (legal norms and principles) which can be applied in regard to all the specified subjects of respective legal relations; the differentiated legal regulation must be based only on objective differences of the situation of subjects of public relations regulated by respective legal acts; in order to ensure that the subjects of legal relations are aware of requirements put forward to them by law, the legal norms must be established in advance, the legal acts must be published officially, they must be public and accessible; the legal regulation established in laws and other legal acts must be clear, easy to understand, consistent, formulas in the legal acts must be explicit, consistency and internal harmony of the legal system must be ensured, the legal acts may not contain any provisions, which at the same time regulate the same public relations in a different manner; in order that subjects of legal relations could orient their behaviour according to the requirements of law, the legal regulation must be relatively stable; the legal acts may not require the impossible (*lex non cogit ad impossibilia*); the power of the legal acts is prospective, while retrospective validity of the laws and other legal acts is not permitted (*lex retro non agit*) unless the legal act mitigates the situation of the subject of legal relations and does not injure other subjects of legal relations by the same (*lex benignior retro agit*); violations of law, for which liability is established in legal acts, must be clearly defined; when setting legal restrictions and liability for violations of law, one must pay heed to the requirement of reasonableness and the principle of proportionality, according to which the established legal measures are to be necessary in a democratic society and suitable for achieving legitimate and universally important objectives (there must be a balance between the objectives and measures), they may not restrict the rights of the person more than it is necessary in order to achieve the said objectives, and if these legal measures are related to the sanctions for the violation of law, in such case the aforementioned sanctions must be proportionate to the committed violation of law; when legally regulating public relations it is compulsory to pay heed to the requirements of natural justice comprising *inter alia* the necessity to ensure the equality of persons before the law, the court and state institutions and officials; when issuing legal acts, one must pay heed to procedural law-making requirements, including those established by the law-making entity itself; etc.” mean that these requirements must be heeded in all situations, or, quite to the contrary, whether various requirements may be applied in a varied manner, i.e. in one manner when there is a normal situation in the state, and in a different

manner when there is essential deterioration in the economic and financial situation of the state.

Thus, the Seimas, the petitioner, requests to construe whether the aforesaid provisions of Item 4 of Chapter I of the reasoning part of the Constitutional Court ruling of 16 January 2006 also mean that the requirements of the constitutional principle of a state under the rule of law must be heeded also when there is essential deterioration in the economic and financial situation of the state.

In this context it needs to be noted that in the Constitutional Court ruling of 16 January 2006 the issues related to a grave economic and financial situation of the state were not investigated.

Taking account of the arguments set forth, the Constitutional Court will not submit construction regarding this part of the petition of the Seimas, the petitioner.

1.5. The Seimas, the petitioner, *inter alia* requests to construe whether the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 means that this must be confirmed by a resolution of the Government on the grounds of state economic and financial indicators, and whether such economic and financial indicators must be confirmed annually as long as such a situation continues to exist.

Thus, the Seimas, the petitioner, requests to construe whether the said provision of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 also means whether:

- the occurrence of an especially grave economic and financial situation in the state must be confirmed by a resolution of the Government;
- the occurrence of an especially grave economic and financial situation in the state must be confirmed on the grounds of the state economic and financial indicators which must be confirmed annually as long as such a situation continues to exist.

In this context it needs to be noted that, in its ruling of 22 October 2007, the Constitutional Court did not investigate the issues related with such empowerments or duties of the Government.

Thus, the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 may be construed only in the aspect whether it means that the occurrence of an especially grave economic and financial situation in the state must be confirmed on the grounds of the state economic and financial indicators which must be confirmed annually as long as such a situation continues to exist.

1.6. The Seimas, the petitioner, *inter alia* requests to construe whether the provision that in

case there is lack of funds in the state due to special circumstances “<...> the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 must be applied by heeding the requirements of the principle of proportionality, while alongside co-ordinating it with proportionate reduction of pensions and other social allowances, since the amount of contributions to the State Social Insurance Fund also depends upon the amount of remuneration for work, or whether it is possible to disregard such co-ordination.

Thus, the Seimas, the petitioner, requests to construe whether the said provision of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 also means whether, in case there is lack of funds in the state due to special circumstances:

- in the course of reduction of remunerations one has to follow the requirements of the principle of proportionality;

- the reduction of remunerations must be co-ordinated with proportionate reduction of pensions and other social allowances, since the amount of contributions to the State Social Insurance Fund also depends upon the amount of remuneration for work.

In this context it needs to be noted that, in its ruling of 22 October 2007, the Constitutional Court did not investigate the issues related with co-ordination of reduction of remunerations with proportionate reduction of pensions and other social allowances.

Thus, the provision that in case there is lack of funds in the state due to special circumstances “<...> the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 may only be construed in the aspect whether it means that in case there is lack of funds in the state due to special circumstances, in the course of reduction of remunerations one has to follow the requirements of the principle of proportionality.

1.7. The Seimas, the petitioner, *inter alia* requests construction as regards the following provisions of Item 8 of Chapter II of the reasoning part of the Constitutional Court ruling of 22 November 2007:

- 1) whether the provision “any correction of the social policy, the reorganisation of the system of social guarantees or of individual social guarantees of the state should be constitutionally grounded; if in the course of reorganisation of the system of social guarantees or the structure of individual social guarantees the extent of social guarantees is reduced, let alone certain social

guarantees disappear, a mechanism of just compensation of incurred losses should be established to the individuals to whom those social guarantees were reasonably established” means that such mechanism of compensation for incurred losses must be established under normal economic conditions, and providing such correction of the state social policy, the reorganisation of the system of social guarantees or of the structure of individual social guarantees is performed during a crisis, then it is not followed by a certain compensation applied at that time or later (the compensation which will be in effect after the crisis); whether this provision means that the constitutional doctrine how pensions must be treated when the system of pensions is reorganised when there is no crisis is not identical to the constitutional doctrine establishing the behaviour of the legislator and other subjects of law in reorganising the system of pensions when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state;

2) whether the provision “if those guarantees have to compensate the losses, which an individual may incur due to his own activities (inter alia due to his service to the state), a period should also be provided so that it would be sufficient to those individuals (being in respective work and executing respective service according to the preceding legal regulation entitling to respective social guarantees) to prepare for respective changes” means that both under normal circumstances and when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, the legislator must establish a sufficient time period so that the persons might be able to prepare for the provided changes;

3) whether the provision “the social orientation of the state consolidated in the Constitution generally obligates the state to respect the imperative of substantiality of guarantees of social (material) character, thus obligates to respectively revise (increase the sizes) of social (material) guarantees once established (and applied), if economic, social situation changes so that those established (and applied) guarantees depreciate considerably, moreover, if they generally become nominal (herewith making an exception regarding a proportional and provisional reduction of benefits, whenever necessary for the protection of other constitutional values)” means that even when there is an extreme situation in the state (economic crisis, natural disaster etc.) and due to this proportionately and temporarily payments are reduced, one must pay attention to the fact that such payments would not become only nominal.

In this context it needs to be noted that the Constitutional Court ruling of 22 November 2007 does not discuss a grave economic and financial situation in the state.

Taking account of the arguments set forth, the Constitutional Court will not submit construction regarding this part of the petition of the Seimas, the petitioner.

1.8. The Seimas, the petitioner, *inter alia* requests to construe whether the provision of Item 8.6 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” means that when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, in the course of adoption of decisions to reduce remunerations and pensions one must avoid fortuity and arbitrariness, instability of social life and conflict of interests and whether the issues of increase or reduction of burden of direct and indirect taxes for this purpose, those of fairer distribution of the burden of taxes which falls upon labour and capital, those of increase and reduction of remunerations and pensions and other social allowances must be solved in a complex manner, by taking account of the constitutional requirements of justice, solidarity and proportionality.

Thus, the Seimas, the petitioner, requests to construe whether the said provision of Item 8.6 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 also means whether in case there occurs an especially grave economic and financial situation in the state due to special circumstances (economic crisis, natural disaster etc.):

– in the course of adoption of decisions to reduce remunerations and pensions one must avoid fortuity and arbitrariness, instability of social life and conflict of interests;

– the issues of increase or reduction of burden of direct and indirect taxes for this purpose, those of fairer distribution of the burden of taxes which falls upon labour and capital, those of increase and reduction of remunerations and pensions and other social allowances must be solved in a complex manner, by taking account of the constitutional requirements of justice, solidarity and proportionality.

In this context it needs to be noted that in its ruling of 24 December 2008 the Constitutional Court did not investigate the issues related to reduction of remunerations and other social allowances, save pensions. Nor did the Constitutional Court investigate, in the same ruling, the issues related to increase or reduction of burden of direct and indirect taxes, or fairer distribution of the burden of taxes which falls upon labour and capital, or the complexity of increase and reduction of remunerations and pensions and other social allowances.

Thus, the provision of Item 8.6 of Chapter II of the Constitutional Court ruling of 24 December 2008 that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” may only be construed in the aspect whether it means that whether in case there occurs an especially grave economic and financial situation in the state due to

special circumstances (economic crisis, natural calamity etc.), in the course of adoption of decisions to reduce pensions one must avoid fortuity and arbitrariness, instability of social life and conflict of interests.

2. It needs to be noted that some provisions of the Constitutional Court rulings, whose construction is requested by the Seimas, the petitioner, or the questions raised by the petitioner, are interrelated and are to be construed in connection with one another.

2.1. The Seimas *inter alia* requests construction whether the provision “The legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 2.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 is applied to working pensioners only under normal economic conditions, and whether one must heed this provision also when there is an extreme situation in the state (economic crisis, natural disaster etc.) and whether the provision “under the Constitution, it is not permitted to establish any such legal regulation under which an opportunity for the person, who has been granted and paid the old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the granted old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 5 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 is applied only when there is a normal economic situation in the state, or whether one must apply it also in cases when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state.

Thus, the Seimas, the petitioner, requests that the quoted provisions of the Constitutional Court rulings of 25 November 2002 and 22 October 2007 be construed in virtually the same aspect—whether these provisions mean that, under the Constitution, the legal regulation where the person is not allowed to freely choose a job or business due to the fact that upon implementation of this right he would not be paid the old age pension (or part thereof) which was awarded and paid until then, cannot be established also when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state. Therefore, the aforesaid provisions of the Constitutional Court rulings are to be construed in

connection with one another.

2.2. The Seimas *inter alia* requests construction whether the provision “While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 is always applied, or whether it is possible to disregard this provision when there is an extreme situation in the state (economic crisis, natural disaster etc.) and whether the provision “the fact how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit” of Item 2 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 must be applied only when there is a normal situation in the state, or whether this provision must be heeded also when due to an essentially deteriorated economic and financial situation of the state or other special situation one has to reduce, temporarily and proportionately, the amount of the state social insurance old age pension.

Thus, the Seimas, the petitioner, requests that the quoted provisions of the Constitutional Court rulings of 25 November 2002 and 22 October 2007 be construed in virtually the same aspect—whether these provisions mean that also when one has to reduce the amounts of state social insurance old age pensions temporarily and proportionately, in the course of establishing such amounts one has to take account of the size of the contribution while creating the material preconditions for payment of such pensions and how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance. Therefore, the aforesaid provisions of the Constitutional Court rulings are to be construed in connection with one another.

2.3. The Seimas *inter alia* requests construction whether:

– the provisions “The person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession. Under Article 23 of the Constitution, this right must be protected and safeguarded. It needs to be noted that the old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (European Court of Human Rights, Judgment in the case *Wessels-Bergervoet v. Netherlands* of 4 June 2002)” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 are applied only under normal economic conditions and entrench the mechanism of protection of the pension as the right of possession, or whether one must follow such treatment also

in cases when there is an extreme situation in the state (economic crisis, natural disaster etc.) and it is decided to reduce pensions by not establishing any mechanisms of compensation for such reduction;

– the provisions that, while reorganising the system of pensionary maintenance, “<...> the Constitution must be observed in every case. The system of pensions may be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a just mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions” of Item 3.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 imply a duty for the legislator to apply the compensation mechanisms after an extreme situation in the state (economic crisis, natural disaster etc.) is over, or whether it must also be applied during such a situation;

– the provisions “the right to demand for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004 and 22 October 2007). The said circumstance determines the specific character of the defence of this acquired right according to Article 23 of the Constitution. This specific character *inter alia* means that in case a question arises as to the defence of the acquired right under Article 23 of the Constitution, first of all it should be established whether the requirement to pay the pension is based on Article 52 of the Constitution and/or other norms of the Constitution (Constitutional Court ruling of 4 July 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 mean that even when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution and seek a compensation mechanism in order to implement this principle.

Thus, the quoted provisions of the Constitutional Court rulings of 25 November 2002, 3 December 2003, and 24 December 2008 are interrelated and the Seimas, the petitioner, requests that they be construed in two aspects, i.e. whether these provisions:

– mean that even when due to special circumstances (economic crisis, natural disaster etc.)

there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution and apply a certain mechanism for compensation of the incurred losses;

- imply the duty of the legislator to apply the compensation mechanisms after the extreme situation (economic crisis, economic disaster etc.) in the state is over, or also during such situation as well.

Therefore, the aforesaid provisions of the Constitutional Court rulings are to be construed in connection with one another.

2.4. The Seimas *inter alia* requests construction whether the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 means that the reduction of pensions may not be different to separate groups of persons and that no measures discriminating one or another group of society may be applied; also whether the provision “It needs to be noted that even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality (Constitutional Court rulings of 4 July 2003 and 3 December 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 means that when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, it is not allowed to reduce pensions without prior complex assessment of all interests of an individual and society and without applying the principles of justice, reasonableness, proportionality and legal certainty.

Thus, the quoted provisions of the Constitutional Court rulings of 3 December 2003 and 24 December 2008 are virtually identical and the Seimas, the petitioner, requests that they be construed in two aspects, i.e. whether these provisions mean that when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state:

- the reduction of pensions may not be different to separate groups of persons and no measures discriminating one or another social group may be applied;

- it is not allowed to reduce pensions without prior complex assessment of all interests of an individual and society and without applying the principles of justice, reasonableness, proportionality and legal certainty.

Therefore, the aforesaid provisions of the Constitutional Court rulings are to be construed in

connection with one another.

2.5. The Seimas *inter alia* requests to construe whether the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 means that when there is an extreme economic situation in the state (economic crisis, natural disaster, etc.) it is not allowed in the course of reduction of pensions to apply different amounts with regard to the same social groups (e.g., with regard to working and non-working pensioners), also whether the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 means that it is not allowed either under normal, or under essentially deteriorated economic and financial conditions of the state to apply coefficients of different sizes with regard to persons of the same social group in the course of reduction of pensions.

Thus, the Seimas, the petitioner, requests that the quoted provisions of the Constitutional Court rulings of 3 December 2003 and 24 December 2008 be construed in virtually the same aspect—whether these provisions mean that the principle of equality before the law would be violated if, upon occurrence of an especially grave economic and financial situation in the state due to special circumstances (economic crisis, natural disaster etc.), in the course of reduction of pensions to persons of the same social group the coefficients of different amounts were applied. Therefore, the aforesaid provisions of the Constitutional Court rulings are to be construed in connection with one another.

2.6. The Seimas *inter alia* requests to construe whether the provision “the said legal regulation should create preconditions to distribute <...> the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance” of Item 3 of Chapter III of the reasoning part of the Constitutional Court ruling of 26 September 2007 must be applied only under normal economic conditions, and whether one must heed these provisions also when one has to reduce the amount of state social insurance old

age pension temporarily and proportionately due to an essentially deteriorated economic and financial situation in the state or other extreme situations, also whether the provision “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society” of the same item means that the constitutional imperatives of solidarity, social harmony and justice must be followed by redistributing, among all members of society, the corresponding burden that falls upon the state not only under normal conditions, but also when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state.

Thus, the Seimas, the petitioner, requests construction of the same provision of the Constitutional Court ruling of 26 September 2007, which is “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself”.

It is requested that this provision be construed in two aspects, i.e. whether it means that:

- also when due to an essentially deteriorated economic and financial situation of the state or other extreme situations one has to reduce, temporarily and proportionately, the amount of the state social insurance old age pension, the legal regulation should create preconditions to distribute the corresponding burden that has fallen upon the state among members of society so that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself;

- also when there is an essential change in the economic and financial situation of the state and when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, one has to follow the constitutional imperatives of solidarity, social harmony and justice in the course of redistributing the corresponding burden that has fallen upon the state among members of society.

Therefore, the said issues raised by the petitioner are to be construed in connection with one another.

2.7. The Seimas, the petitioner, *inter alia* requests to construe whether the provision that in case there is lack of funds in the state due to special circumstances “the legislator may change the

legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 must be applied by heeding the requirements of the principle of proportionality, also whether the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of the same item means that, under such particular circumstances, the reduction of remunerations must be performed while following the requirement of proportionality, i.e. remunerations must be reduced to various persons equally in a proportionate manner, or whether different proportions can be established for separate groups of persons.

Thus, the Seimas, the petitioner, requests that the quoted provisions of the Constitutional Court ruling of 22 October 2007 be construed in virtually the same aspect—whether these provisions mean that, when upon occurrence of an extremely difficult economic and financial situation in the state due to particular circumstances (economic crisis, natural disasters, etc.), one has to follow the principle of proportionality in the course of reduction of remunerations to various persons. Therefore, the aforesaid provisions of the Constitutional Court ruling are to be construed in connection with one another.

3. In the context of this decision it also needs to be noted that the petitioner requests to construe the official constitutional doctrinal provisions related with the constitutional requirements which must be followed in the course of reduction of pensions and of the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants due to the fact that there is an especially grave economic and financial situation in the state due to an economic crisis.

4. Thus, the Constitutional Court will present construction whether:

1) the provision “The legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 2.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 and the provision “under the Constitution, it is not permitted to establish any such legal regulation under which an opportunity for the person, who has been granted and paid the old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided

for by law so that he would have a certain occupation or conduct certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the granted old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 5 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 mean that, under the Constitution, the legal regulation where the person is not allowed to freely choose a job or business due to the fact that upon implementation of this right he would not be paid the old age pension (or part thereof) which was awarded and paid until then, cannot be established also when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state;

2) the provision “While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 and the provision “the fact how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit” of Item 2 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 mean that also when one has to reduce the amounts of state social insurance old age pensions temporarily and proportionately due to an essentially deteriorated economic and financial situation in the state or due to other extreme situations, in the course of establishing such amounts one has to take account of the size of the contribution while creating the material preconditions for payment of such pensions and how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance;

3) the provisions “The person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession. Under Article 23 of the Constitution, this right must be protected and safeguarded. It needs to be noted that the old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (European Court of Human Rights, Judgment in the case *Wessels-Bergervoet v. Netherlands* of 4 June 2002)” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 as well as the provisions that, while reorganising the system of pensionary maintenance, “<...> the Constitution must be observed in every case. The system of pensions may

be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a just mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions” of Item 3.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provisions “the right to demand for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004 and 22 October 2007). The said circumstance determines the specific character of the defence of this acquired right according to Article 23 of the Constitution. This specific character *inter alia* means that in case a question arises as to the defence of the acquired right under Article 23 of the Constitution, first of all it should be established whether the requirement to pay the pension is based on Article 52 of the Constitution and/or other norms of the Constitution (Constitutional Court ruling of 4 July 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008:

- mean that even when due to special circumstances (economic crisis etc.) there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution and apply a certain mechanism for compensation of the incurred losses;

- imply the duty of the legislator to apply the compensation mechanisms after the extreme situation (economic crisis etc.) in the state is over, or also during such a situation as well;

4) the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provision “It needs to be noted that even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality (Constitutional Court rulings of 4 July 2003 and 3 December 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 mean that when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave

economic and financial situation in the state:

- the reduction of pensions may not be different to separate groups of persons and no measures discriminating one or another social group may be applied;

- it is not allowed to reduce pensions without prior complex assessment of all interests of an individual and society and without applying the principles of justice, reasonableness, proportionality and legal certainty;

5) whether the provision “if the protection of legitimate expectations, legal certainty and legal security of the person were not ensured, the confidence of the person in the state and law would not be ensured” of Item 3.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 is always applied, or whether it is allowed to disregard this provision when there is a grave economic situation in the state;

6) the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 mean that the principle of equality before the law would be violated if, upon occurrence of an especially grave economic and financial situation in the state due to special circumstances (economic crisis etc.), in the course of reduction of pensions to persons of the same social group the coefficients of different amounts were applied.

7) the provision “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself” of Item 3 of Chapter III of the reasoning part of the Constitutional Court ruling of 26 September 2007 means that:

- also when due to an essentially deteriorated economic and financial situation of the state

or other special situation one has to reduce, temporarily and proportionately, the amount of the state social insurance old age pension, the legal regulation should create preconditions to distribute the corresponding burden that has fallen upon the state among members of society so that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself;

– also when there is an essential change in the economic and financial situation of the state and when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, one has to follow the constitutional imperatives of solidarity, social harmony and justice in the course of redistributing the corresponding burden that has fallen upon the state among members of society;

8) the provision “the social orientation of the State of Lithuania which is consolidated in the Constitution obliges the state to pay heed to the guarantees of pensions (*inter alia* state pensions) and other social (material) guarantees which, by the way, stem not only from Article 52 of the Constitution, but also from other provisions of the Constitution, or, for example, from Paragraph 2 of Article 30, Articles 38, 39, 41, 48, Paragraph 1 of Article 51 and Article 146 thereof, the imperative of reality, thus, it obliges to revise once established (and applied) social (material) guarantees, in particular if they are linked with certain periodic payments (such as pensions), to revise (increase their sizes) in particular if economic or social situation undergoes such changes so that the said established (and applied) guarantees depreciate a lot, moreover, if they become nominal in general (in this case, one must also have in mind the reservation regarding the proportionality and temporary reduction of the payments when it is necessary for the protection of other constitutional values which is specified in this and other Constitutional Court rulings)” of Item 6 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 means that even when there is an extreme situation in the state (economic crisis etc.) and due to this proportionately and temporarily payments are reduced, one must pay attention to the fact that such payments would not become only nominal;

9) the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 means that the occurrence of an especially grave economic and financial situation in the state must be confirmed on the grounds of the state economic and financial indicators which must be confirmed annually as long as such a situation continues to exist;

10) the provision of Item 8.6 of Chapter II of the reasoning part of the Constitutional Court

ruling of 24 December 2008 that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” means that when due to special circumstances (economic crisis, natural disaster etc.) upon occurrence of an especially grave economic and financial situation in the state, in the course of adoption of decisions to reduce pensions one must avoid fortuity and arbitrariness, instability of social life and conflict of interests;

11) the provision “the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 and the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of the same item mean that, when upon occurrence of an extremely difficult economic and financial situation in the state due to particular circumstances (economic crisis etc.), one has to follow the principle of proportionality in the course of reduction of remunerations to various persons;

12) the provision “<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). <...> such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state” of Item 10 of Chapter IV of the Constitutional Court decision of 15 January 2009 means that the temporary reduction of the remuneration for work must be continually corrected during the budget year by taking account of the collection plan of the state budget revenues, or whether it must be corrected during a two- or three-year period, or even during a longer period (until the short-term crisis in the state is over);

13) the provision “the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed” of Item 10 of Chapter IV of the Constitutional Court decision of 15 January 2009 includes the entire budget year, or a longer period.

IV

1. The petitioner *inter alia* requests construction of whether the provision “The legal

regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 2.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 and the provision “under the Constitution, it is not permitted to establish any such legal regulation under which an opportunity for the person, who has been granted and paid the old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the granted old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 5 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 mean that, under the Constitution, the legal regulation where the person is not allowed to freely choose a job or business due to the fact that upon implementation of this right he would not be paid the old age pension (or part thereof) which was awarded and paid until then, cannot be established also when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state.

1.1. It has been mentioned that one must heed the requirement, which arises from the Constitution, not to establish the legal regulation under which an opportunity for the person who has been awarded and paid a pension, *inter alia* an old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business, also when there is an extreme situation in the state (economic crisis etc.) because of which pensions and the remuneration for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as that of state servants may be reduced.

1.2. It has also been mentioned that even in exceptional cases pensions may not be reduced by violating the balance, which is entrenched in the Constitution, between the interests of the person and society, i.e. by violating the constitutional principle of proportionality which *inter alia* implies that when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of pensions whereby the pensions would be reduced in a manner not violating the proportions of the

amounts of the pensions established with regard to pensioners of the same category prior to the occurrence of the particularly difficult economic and financial situation in the state.

In this context it needs to be noted that, as mentioned, when there is an especially grave economic and financial situation in the state and when, due to this, there is a necessity temporarily to reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, it is not permitted to establish any such legal regulation whereby the old age pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

1.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision “The legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 2.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 and the provision “under the Constitution, it is not permitted to establish any such legal regulation under which an opportunity for the person, who has been granted and paid the old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the granted old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 5 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 *inter alia* mean that, under the Constitution, the legal regulation where the person is not allowed to freely choose a job or business due to the fact that upon implementation of this right he would not be paid the old age pension (or part thereof) which was awarded and paid until then, cannot be established also when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state; it is not permitted to establish any such legal regulation whereby the old age pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

2. The petitioner *inter alia* requests construction of whether the provision “While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of

these pensions are created” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 and the provision “the fact how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit” of Item 2 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 mean that also when one has to reduce the amounts of state social insurance old age pensions temporarily and proportionately due to an essentially deteriorated economic and financial situation in the state or due to other extreme situations, in the course of establishing such amounts one has to take account of the size of the contribution while creating the material preconditions for payment of such pensions and how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance.

2.1. The provision of the Constitutional Court ruling of 25 November 2002, the construction of which is requested by the petitioner, is part of a bigger text set forth in Item 2.3 of Chapter II of the reasoning part of the said ruling. It *inter alia* held the following: “In the context of the case at issue it needs to be noted that in the case that the collection of funds necessary to pay pensions and the payment of the pensions themselves are based on social insurance (on social insurance contributions), the human being, to a certain extent, takes part in the creation of the material preconditions of payment of these pensions. While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created.”

The provision of the Constitutional Court ruling of 22 October 2007, the construction of which is requested by the petitioner, is part of a bigger text set forth in Item 2 of Chapter III of the reasoning part of the said ruling. It *inter alia* held the following:

“<...> legal regulation has to create preconditions to distribute (taking account *inter alia* of the constitutional principle of solidarity and the constitutional imperatives of social harmony and justice) the corresponding burden which falls on the state among the members of the society. In the aspect of the compliance with the Constitution, one may not question the fact that in Lithuania such pensionary system is chosen, in which the funds collected from the obligatory state social insurance contributions are the main source of funding the pensionary system (and the payment of state social insurance contributions is related to the established minimum size of the insured income received by the person). On the other hand, the implementation of the duty to pay the state social insurance contributions should not become too much of a burden to the person and because of the fact that he implements this duty, the person should not become the one who needs social assistance; the fact

how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit.”

2.2. It has been mentioned that, while establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created. It needs to be emphasised that the legal regulation whereby the grounds would be established for the granting a state social insurance old age pension, where such grounds deny the significance of the contribution of the person in the creation of material preconditions for payment of this pension or where no account is taken of the extent of the contribution of the person to the creation of such preconditions, would be in conflict with the Constitution.

2.3. It has been mentioned that there might occur such an extreme situation (economic crisis etc.) in the state, where it would be impossible to accumulate the amount of funds necessary for payment of pensions. In such extraordinary cases the legal regulation of pensionary relations may be corrected also by reducing pensions to the extent that it is necessary to ensure vitally important interests of society and protect other constitutional values. The reduced pensions may be paid only temporarily, i.e. only as long as there is an extreme situation in the state. It also needs to be emphasised that even in such exceptional cases the awarded and paid pensions may not be reduced by violating the balance, which is entrenched in the Constitution, between the interests of the person and society, i.e. by violating the constitutional principle of proportionality which implies that when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of pensions whereby the pensions would be reduced in a manner not violating the proportions of the amounts of the pensions established with regard to pensioners of the same category prior to the occurrence of the particularly difficult economic and financial situation in the state.

2.4. Taking account of the arguments set forth, one is to draw a conclusion that the provision “While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 and the provision “the fact how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social

insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit” of Item 2 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 *inter alia* mean that also when one has to reduce the amounts of state social insurance old age pensions temporarily and proportionately due to an extreme situation (economic crisis etc.) in the state, in the course of establishing such amounts one has to take account of the size of the contributions and the length of their payment while creating the preconditions for payment of such pensions and how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance.

3. The petitioner *inter alia* requests construction of whether the provisions “The person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession. Under Article 23 of the Constitution, this right must be protected and safeguarded. It needs to be noted that the old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (European Court of Human Rights, Judgment in the case *Wessels-Bergervoet v. Netherlands* of 4 June 2002)” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 as well as the provisions that, while reorganising the system of pensionary maintenance, “<...> the Constitution must be observed in every case. The system of pensions may be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a just mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions” of Item 3.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provisions “the right to demand for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004 and 22 October 2007). The said circumstance determines the specific character of the defence of this acquired right according to Article 23 of the Constitution. This specific character *inter alia* means that in case a question arises as to the defence of the acquired right under Article 23 of the Constitution, first of all it should be established whether the requirement to pay the pension is based

on Article 52 of the Constitution and/or other norms of the Constitution (Constitutional Court ruling of 4 July 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008:

– mean that even when due to special circumstances (economic crisis etc.) there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution and apply a certain mechanism for compensation of the incurred losses;

– imply the duty of the legislator to apply the compensation mechanisms after the extreme situation (economic crisis etc.) in the state is over, or also during such situation as well.

3.1. In the context of this decision it has been held that the correction of the legal regulation by reducing old age pensions due to the fact that there is an extreme situation in the state (economic crisis etc.) means restriction of a constitutional social guarantee of a person—the old age pension. It has also been mentioned that the person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession; this right must be protected and defended under Article 23 of the Constitution as well; in the area of the relations of pensionary maintenance a duty arises to the state to follow the constitutional principles of protection of legitimate expectations and legal certainty: the persons who have been granted and paid a pension established by the Constitution or the law, under Article 23 of the Constitution have the right to demand that the payments be paid further to them in the amounts which were granted and paid previously. In addition, as mentioned, payment of social insurance contributions entails the right of the person to receive an old age pension of respective amount and it is not allowed that this amount does not depend on the amounts of contributions that have been paid. Thus, the correction of the legal regulation by means of which the old age pensions are reduced due to the fact that, upon occurrence of an extreme situation (economic crisis etc.), the economic and financial situation becomes changed so that the accumulation of the funds necessary for payment of old age pensions is not secured, also means that such legal regulation to a certain extent limits the right of ownership of the person to whom the old age pension was awarded and paid.

Thus, the legislator, upon occurrence of an extreme situation, when *inter alia* due to an economic crisis it is impossible to accumulate the amount of the funds necessary to pay old age pensions must, while reducing old age pensions, provide for a mechanism of just compensation of incurred losses to the persons to whom such pensions were awarded and paid, whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, in a fair manner and within a reasonable time, the losses incurred by them due to the reduction of the old age pension.

These provisions are applied *mutatis mutandis* also with regard to the compensation for the losses which appear due to the reduction of a disability pension.

3.2. In the context of this decision it has been held that, if, while reorganising the pensionary system, the legal regulation of the pensions directly specified in Article 52 of the Constitution were amended in essence, the legislator would be obligated to establish a fair mechanism for compensation of the incurred losses to the persons who had been granted and paid such pensions. It has also been mentioned that the correction of the legal regulation by means of which the old age pensions are reduced to a great extent due to the fact that, upon occurrence of an extreme situation (economic crisis etc.) the economic and financial situation becomes changed so that the accumulation of the funds necessary for payment of old age pensions is not secured, is an essential amendment to the legal regulation of these pensions. Thus, the legislator, upon occurrence of an extreme situation when *inter alia* due to an economic crisis it is impossible to accumulate the amount of the funds necessary to pay state pensions, must, while reducing state pensions to a large extent, provide for a mechanism of just compensation of incurred losses to the persons to whom such pensions were awarded and paid, whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, in a fair manner and within a reasonable time, the losses incurred by them due to the reduction of the state pension.

State pensions differ in their nature and character from old age pensions of the state social insurance and from other pensions of the state social insurance; these peculiarities imply that when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator may reduce these pensions to a greater extent than old age or disability pensions. It has been held that these peculiarities also imply that the losses incurred due to the reduction of state pensions may be compensated to a smaller extent than the losses incurred due to the reduction of old age or disability pensions.

3.3. It has also been mentioned that the reduced pensions may only be paid on a temporary basis, i.e. until there is an extraordinary situation (*inter alia* an economic crisis) in the state, however, this doctrinal provision may not be interpreted as meaning that, purportedly, the state, after the legislator has reduced the awarded and paid pensions, is exempted from the duty to look for ways for accumulation of the funds necessary for payment of the pensions. Quite to the contrary, if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the pensions in the amounts that were before the reduction of the pensions, the legal regulation under which the pensions were reduced must be abolished.

3.4. Taking account of the arguments set forth, one is to draw a conclusion that the

provisions “The person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession. Under Article 23 of the Constitution, this right must be protected and safeguarded. It needs to be noted that the old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (European Court of Human Rights, Judgment in the case *Wessels-Bergervoet v. Netherlands* of 4 June 2002)” of Item 2.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 25 November 2002 as well as the provisions that, while reorganising the system of pensionary maintenance, “<...> the Constitution must be observed in every case. The system of pensions may be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a just mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions” of Item 3.3 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provisions “the right to demand for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004 and 22 October 2007). The said circumstance determines the specific character of the defence of this acquired right according to Article 23 of the Constitution. This specific character *inter alia* means that in case a question arises as to the defence of the acquired right under Article 23 of the Constitution, first of all it should be established whether the requirement to pay the pension is based on Article 52 of the Constitution and/or other norms of the Constitution (Constitutional Court ruling of 4 July 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 *inter alia* mean that:

- even when due to special circumstances (economic crisis etc.) there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution;

- the legislator is under obligation to provide for a mechanism of compensation of incurred losses to the persons to whom an old age pension or a disability pension was awarded and paid whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, within a reasonable time and in a fair manner, the losses incurred

by them due to the reduction of the old age pension or the disability pension;

- the legislator is under obligation to provide for a mechanism of compensation of incurred losses to the persons to whom a state pension was awarded and paid whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, within a reasonable time and in a fair manner, the losses incurred by them due to the reduction of the state pension to a great extent;

- the losses incurred due to the reduction of state pensions may be compensated to a smaller extent than the losses incurred due to the reduction of old age or disability pensions;

- if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the pensions in the amounts that were before the reduction of the pensions, the legal regulation under which the pensions were reduced must be abolished.

4. The petitioner *inter alia* requests construction of whether the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provision “It needs to be noted that even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality (Constitutional Court rulings of 4 July 2003 and 3 December 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 mean that when due to special circumstances (economic crisis etc.) there occurs an especially grave economic and financial situation in the state:

- the reduction of pensions may not be different to separate groups of persons and no measures discriminating one or another social group may be applied;

- it is not allowed to reduce pensions without prior complex assessment of all interests of an individual and society and without applying the principles of justice, reasonableness, proportionality and legal certainty.

4.1. It has been mentioned that there might occur such an extreme situation (economic crisis etc.) in the state when there is objective lack of funds for the payment of pensions. In such extraordinary cases the legal regulation of pensionary relations may be corrected also by reducing the awarded and paid pensions to the extent that it is necessary to seek to ensure vitally important interests of society and protect other constitutional values. The reduced pensions may be paid only temporarily, i.e. only as long as there is an extreme situation in the state. Even in such exceptional cases the pensions may not be reduced in violation of the balance of the interests of the person and society, which is entrenched in the Constitution, i.e. such reduction of the pensions must be in line

with the constitutional principle of proportionality.

4.2. It has been held in this decision that the reduction of awarded and paid pensions must be in line also with the constitutional principle of proportionality as one of the elements of the constitutional principle of a state under the rule of law, which, as mentioned, means that:

– the measures provided for in the law must be in line with the legitimate objectives which are important to society, these measures must be necessary to reach the said objectives and these measures may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives;

– when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of awarded and paid pensions whereby the pensions would be reduced in a manner not violating the proportions of the amounts of the pensions established with regard to pensioners of the same category prior to the occurrence of the particularly difficult economic and financial situation in the state; the constitutional principles of a state under the rule of law, justice and proportionality do not mean that it is not allowed to establish a limit in the amount of the pensions below which the pensions would not be reduced even when there is a particularly difficult economic and financial situation in the state; while establishing this limit one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

4.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provision “It needs to be noted that even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality (Constitutional Court rulings of 4 July 2003 and 3 December 2003)” of Item 4 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 *inter alia* mean that when there is an especially grave economic and financial situation in the state and when, due to this, there is a necessity to temporarily reduce awarded and

paid pensions, the reduction must be in line with the constitutional principle of proportionality, which implies that:

- the reduction of awarded and paid pensions must be in line with the legitimate objectives which are important to society, such reduction must be necessary to reach the said objectives and may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives;

- the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of awarded and paid pensions whereby the pensions would be reduced in a manner not violating the proportions of the amounts of the pensions established with regard to pensioners of the same category prior to the occurrence of the particularly difficult economic and financial situation in the state;

- it is allowed that a limit be established in the amount of the pensions below which the pensions would not be reduced even when there is a particularly difficult economic and financial situation in the state; while establishing this limit one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

5. The petitioner *inter alia* requests construction of whether the provision “if the protection of legitimate expectations, legal certainty and legal security of the person were not ensured, the confidence of the person in the state and law would not be ensured” of Item 3.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 is always applied, or whether it is allowed to disregard this provision when there is a grave economic situation in the state.

5.1. It has been held in this decision that the requirements which stem from the constitutional principles of protection of legitimate expectations, legal certainty, and legal security must be heeded also when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation has to be corrected by reducing the remunerations and pensions of the said persons.

5.2. Taking account of the arguments set forth, one is to draw a conclusion that the provision “if the protection of legitimate expectations, legal certainty and legal security of the person were not

ensured, the confidence of the person in the state and law would not be ensured” of Item 3.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 *inter alia* means that principles of protection of legitimate expectations, legal certainty, and legal security must be heeded also when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation has to be corrected by reducing the remunerations and pensions of the said persons.

6. The petitioner *inter alia* requests construction of whether the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 mean that the principle of equality before the law would be violated if, upon occurrence of an especially grave economic and financial situation in the state due to special circumstances (economic crisis etc.), in the course of reduction of pensions to persons of the same social group the coefficients of different amounts were applied.

6.1. It has been mentioned that old age and disability pensions are the types of pensions *expressis verbis* specified in Article 52 of the Constitution. One is to pay attention to the fact that the collection of the funds necessary to pay old age pensions, disability pensions and other state social insurance pensions and the award of these pensions is based upon social insurance.

It has also been mentioned that, under the Constitution, the law may also establish other pensions, not only those which are *expressis verbis* specified in Article 52 of the Constitution. It has been noted that the nature and character of the pensions whose awarding is not based on social insurance are different from the nature and character of the pensions which are grounded on social insurance, as, for instance: state pensions are paid from the State Budget; they are granted to

persons for their service or merits to the State of Lithuania, as well as the compensation to victims specified in the law; the receipt of these pensions is linked not to the social insurance contributions of pensions of the established size, but to the corresponding status of the person (service, merits or other circumstances upon which granting of the state pension depends); the peculiarities of state pensions permit the legislator, taking account of all the significant circumstances and heeding the norms and principles of the Constitution, to establish the corresponding conditions for granting these pensions; while paying heed to the Constitution, one may by the law establish the maximum size of such pensions, as well as consolidate various ways for the establishment of the maximum size of such pension; the legislator, taking account of the Constitution, may also establish certain cases when the state pension is not granted to the person (under the conditions provided for in the law); one may, by the law, taking account of the Constitution, establish also the cases when the granted state pension is no longer paid;

It has also been mentioned that the peculiarities of state pensions, which, in their nature and character are different from old age pensions, as well as from disability pensions, imply that when there is a particularly difficult economic and financial situation in the state and due to this there is a necessity to temporarily reduce the pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator may correct the legal regulation of such pensions of different nature by reducing these pensions to greater extent than old age and disability pensions. However, while doing so, the proportions of the amounts of state pensions established prior to the occurrence of the particularly grave economic and financial situation in the state may not be violated.

6.2. It has been held in this decision that the requirement, which arises from the Constitution, not to establish the legal regulation under which an opportunity for the person who has been awarded and paid a pension, inter alia an old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business also when there is an extreme situation in the state (economic crisis etc.) because of which pensions may be reduced; when there is an especially grave economic and financial situation in the state and when, due to this, there is a necessity temporarily to reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values, it is not permitted to establish any such legal regulation whereby the old age pension or disability pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

6.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision

“principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the Constitutional Court ruling of 3 December 2003 and the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 *inter alia* mean that, when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values:

- the legislator may correct the legal regulation of state pensions, which in their nature and character are different from old age pensions as well as from disability pensions, by reducing these pensions to greater extent than old age and disability pensions; while doing so, the proportions of the amounts of state pensions established prior to the occurrence of the particularly grave economic and financial situation in the state may not be violated;

- it is not permitted to establish any such legal regulation whereby the old age pension or disability pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

7. The petitioner *inter alia* requests construction of whether the provision “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself” of Item 3 of Chapter III of the reasoning part of the Constitutional Court ruling of 26 September 2007 means that:

- also when due to an essentially deteriorated economic and financial situation of the state or other special situation one has to reduce, temporarily and proportionately, the amount of the state

social insurance old age pension, the legal regulation should create preconditions to distribute the corresponding burden that has fallen upon the state among members of society so that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself;

– also when there is an essential change in the economic and financial situation of the state and when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, one has to follow the constitutional imperatives of solidarity, social harmony and justice in the course of redistributing the corresponding burden that has fallen upon the state among members of society.

7.1. The provision of the Constitutional Court ruling of 26 September 2007, the construction of which is requested by the petitioner, is part of a bigger text set forth in Item 3 of Chapter III of the reasoning part of the said ruling. It *inter alia* held the following:

“<...> the legislator not only may, but also must establish the legal regulation which would create preconditions for the state to implement its constitutional obligation to guarantee the right to social security of citizens, to ensure the accumulation of the funds necessary for pensions and social assistance and the payment of these pensions and rendition of social assistance. On the other hand, the burden of the obligations undertaken by the state falls upon entire society (Constitutional Court ruling of 23 August 2005), therefore the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance.”

7.2. It has been mentioned that such a model of state social insurance is based on the principles of universality and solidarity; the principle of universality means that all working persons (with some exceptions) who receive insured income from their activity, must pay state social insurance contributions, while the principle of solidarity means that the working (pursuing active economic activities) persons who receive insured income contribute to accumulation of social insurance funds, thus creating preconditions to pay payments to those persons, who must be paid the payments provided for in the law due to the fact that they have reached the pensionable age for old age pension, disability in their regard has been recognised or there are other reasons provided for in the law (*inter alia* when these members of society cannot work and provide for themselves due to the objective reasons provided for in the law and they at that time need social assistance).

7.3. It has also been mentioned that, by means of the funds collected during the running period from compulsory state social insurance contributions of working persons, the pensionary payouts of the persons who receive the old age pension at that time is financed, but not the future old age pensions of the persons who pay such contributions. The fact that in Lithuania one chose such a system of pensions whereby the funds collected from the compulsory state social insurance contributions is the main source of financing the system of pensions cannot be questioned with regard to its compliance with the Constitution.

7.4. It has also been mentioned that the state is under constitutional obligation to guarantee the right to social security of citizens, to ensure the accumulation of the funds necessary for pensions and social assistance and the payment of these pensions and rendition of social assistance. It needs to be noted that the requirement that the state distribute the corresponding burden that has fallen upon it among members of society *inter alia* in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden to a person and this person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself, stems from the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice.

It has been held in this decision that the aforesaid requirements (which stem from the constitutional principles of justice and social solidarity) and other constitutional imperatives must be heeded also when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation has to be corrected by reducing the remunerations and pensions of the said persons.

7.5. Taking account of the arguments set forth, one is to draw a conclusion that the provision “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself” of Item 3 of Chapter III of the reasoning part of the Constitutional Court ruling of 26 September 2007 *inter alia* means that, when there is an exceptionally grave economic and financial situation (economic crisis etc.) in the state:

– the legal regulation must create preconditions for the state to distribute the corresponding burden that has fallen upon it among members of society in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden to a person and this person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself;

– one has to follow the constitutional imperatives of solidarity, social harmony and justice in the course of redistributing the corresponding burden that has fallen upon the state among members of society.

8. The petitioner *inter alia* requests construction of whether the provision “the social orientation of the State of Lithuania which is consolidated in the Constitution obliges the state to pay heed to the guarantees of pensions (inter alia state pensions) and other social (material) guarantees which, by the way, stem not only from Article 52 of the Constitution, but also from other provisions of the Constitution, or, for example, from Paragraph 2 of Article 30, Articles 38, 39, 41, 48, Paragraph 1 of Article 51 and Article 146 thereof, the imperative of reality, thus, it obliges to revise once established (and applied) social (material) guarantees, in particular if they are linked with certain periodic payments (such as pensions), to revise (increase their sizes) in particular if economic or social situation undergoes such changes so that the said established (and applied) guarantees depreciate a lot, moreover, if they become nominal in general (in this case, one must also have in mind the reservation regarding the proportionality and temporary reduction of the payments when it is necessary for the protection of other constitutional values which is specified in this and other Constitutional Court rulings)” of Item 6 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 means that even when there is an extreme situation in the state (economic crisis etc.) and due to this proportionately and temporarily payments are reduced, one must pay attention to the fact that such payments would not become only nominal.

8.1. This request of the petitioner is to be treated as the request for construction whether even when there is an extreme situation in the state (economic crisis etc.) and due to this proportionately and temporarily pensions are reduced, one must pay attention to the fact that such pensions would not become only nominal.

8.2. The aforesaid provision of the constitutional doctrine establishes the duty of the legislator to revise once established (and applied) social (material) guarantees, in particular if they are linked with certain periodic payments (such as pensions), to revise (increase their sizes) in particular if economic or social situation undergoes such changes so that the said established (and applied) guarantees depreciate a lot, moreover, if they become nominal in general. It needs to be emphasised that this provision provides *expressis verbis* for a reservation—when pensions and other guarantees of social (material) nature are reduced proportionately and temporarily, if it is necessary

for the protection of other constitutional values.

In this context it needs to be noted that, as mentioned, the constitutional principles of a state under the rule of law, justice and proportionality do not mean that it is not allowed to establish a limit in the amount of the pensions below which the pensions would not be reduced even when there is a particularly difficult economic and financial situation in the state; while establishing this limit one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

8.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision “the social orientation of the State of Lithuania which is consolidated in the Constitution obliges the state to pay heed to the guarantees of pensions (inter alia state pensions) and other social (material) guarantees which, by the way, stem not only from Article 52 of the Constitution, but also from other provisions of the Constitution, or, for example, from Paragraph 2 of Article 30, Articles 38, 39, 41, 48, Paragraph 1 of Article 51 and Article 146 thereof, the imperative of reality, thus, it obliges to revise once established (and applied) social (material) guarantees, in particular if they are linked with certain periodic payments (such as pensions), to revise (increase their sizes) in particular if economic or social situation undergoes such changes so that the said established (and applied) guarantees depreciate a lot, moreover, if they become nominal in general (in this case, one must also have in mind the reservation regarding the proportionality and temporary reduction of the payments when it is necessary for the protection of other constitutional values which is specified in this and other Constitutional Court rulings)” of Item 6 of Chapter III of the reasoning part of the Constitutional Court ruling of 22 October 2007 *inter alia* means that, under the Constitution, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

9. The petitioner *inter alia* requests construction of whether the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 means that the occurrence of an especially grave

economic and financial situation in the state must be confirmed on the grounds of the state economic and financial indicators which must be confirmed annually as long as such a situation continues to exist.

9.1. It has been mentioned that from the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations and pensions will have to be paid.

9.2. Taking account of the arguments set forth, one is to draw a conclusion that the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 *inter alia* means that from the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations and pensions will have to be paid.

10. The petitioner *inter alia* requests construction of whether the provision of Item 8.6 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” means that when due to special circumstances (economic crisis etc.) upon occurrence of an especially grave economic and financial situation in the state, in the course of adoption of decisions to reduce pensions one must avoid fortuity and arbitrariness, instability of social life and conflict of interests.

10.1. The provision of the Constitutional Court ruling of 24 December 2008, the construction of which is requested by the petitioner, is part of a bigger text set forth in Item 8.6 of Chapter II of the reasoning part of the said ruling. It *inter alia* held the following:

“<...> the constitutional principle of a state under the rule of law is inseparable from the principle of justice, and *vice versa*. The Constitutional Court has held in its rulings more than once

that justice is one of the basic objectives of law, as the means of regulation of social relations. It is one of basic moral values and one of basic foundations of a state under the rule of law. It may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003).”

10.2. It has been mentioned that the requirements which stem from the constitutional principles of a state under the rule of law and justice must be heeded also when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation has to be corrected by reducing the remunerations and pensions of the said persons.

10.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision of Item 8.6 of Chapter II of the reasoning part of the Constitutional Court ruling of 24 December 2008 that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” *inter alia* means that when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, etc.), an extremely difficult economic and financial situation has occurred in the state, in the course of adoption of decisions to reduce pensions one must follow the requirements (which stem from the constitutional principles of a state under the rule of law and justice) of avoiding fortuity and arbitrariness, instability of social life and conflict of interests.

11. The petitioner *inter alia* requests construction of whether the provision “the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 and the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of the same item mean that, when upon occurrence of an extremely difficult economic and financial situation in the state due to particular circumstances (economic crisis etc.), one has to follow the principle of proportionality in the course of reduction of remunerations to various persons.

11.1. The provision of the Constitutional Court ruling of 22 October 2007, the construction

of which is requested by the petitioner, is part of a bigger text set forth in Item 9.2 of Chapter IV of the reasoning part of the said ruling. It *inter alia* held the following:

“On the other hand, when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state, due to objective reasons, there may be not enough funds in order to implement the functions of the state and to satisfy the public interests, thus, also to ensure the material and financial needs of courts. Under such circumstances, the legislator may change the legal regulation which establishes the salaries to various persons, and to consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values. However, also in such cases the legislator must keep the balance between the rights and legitimate interests of the persons, to whom the less favourable legal regulation is established and the interests of society and the state, i.e. to pay heed to the requirements of the principle of proportionality. In addition, in case of a difficult economic and financial situation, usually the financing from the budget to all the institutions which implement state powers, as well as the financing of various spheres which are financed from the resources of the budgets of the state and municipalities, should be revised and reduced.”

11.2. It has been held in this decision that the reduction of remunerations must be in line also with the constitutional principle of proportionality as one of the elements of the constitutional principle of a state under the rule of law, which, as mentioned, means that:

– the measures provided for in the law must be in line with the legitimate objectives which are important to society; these measures must be necessary to reach the said objectives and may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives;

– when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) whereby with respect to all categories of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) the remunerations would be reduced in a manner not violating

the proportions of the amounts of the remunerations established with regard to different categories of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) prior to the occurrence of the particularly difficult economic and financial situation in the state; the constitutional principles of a state under the rule of law, equality of rights, justice and proportionality do not mean that it is not allowed to establish the limit upon the amount of the remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) below which it would not be permitted to reduce the established remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) even when there is a particularly difficult economic and financial situation in the state; while establishing this limit, one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) becomes reduced to an amount, where the minimal socially acceptable needs and the living conditions compatible with human dignity would not be secured.

11.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision “the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the Constitutional Court ruling of 22 October 2007 and the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of the same item *inter alia* mean that the reduction of remunerations must be in line with the constitutional principle of proportionality as one of elements of the constitutional principle of a state under the rule of law, which implies that:

- the reduction of remunerations must be in line with the legitimate objectives which are important to society, such reduction must be necessary to reach the said objectives and may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives;

- when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the remuneration for work of officials and state

servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) whereby with respect to all categories of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) the remunerations would be reduced in a manner not violating the proportions of the amounts of the remunerations established with regard to different categories of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) prior to the occurrence of the particularly difficult economic and financial situation in the state;

– it is allowed to establish the limit upon the amount of the remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) below which it would not be permitted to reduce the established remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) even when there is a particularly difficult economic and financial situation in the state; while establishing this limit, one has to take account of the circumstance that, under the Constitution, it is not allowed to establish any such legal regulation whereby the remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) becomes reduced to an amount, where the minimal socially acceptable needs and the living conditions compatible with human dignity would not be secured.

12. The petitioner *inter alia* requests construction of whether the provision “<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). <...> such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state” of Item 10 of Chapter IV of the Constitutional Court decision of 15 January 2009 means that the temporary reduction of the remuneration for work must be continually corrected during the budget year by taking account of

the collection plan of the state budget revenues, or whether it must be corrected during a two- or three-year period, or even during a longer period (until the short-term crisis in the state is over).

12.1. The provision of the Constitutional Court decision of 15 January 2009, the construction of which is requested by the petitioner, is part of a bigger text set forth in Item 10 of Chapter IV of the reasoning part of the said decision. It *inter alia held* the following:

“<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). It also needs to be noted that such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state, as, for instance, the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed.”

12.2. As mentioned, the provision of the official constitutional doctrine—the reduction of the remuneration for work must be temporary—implies that in cases when the economic and financial situation of the state deteriorates considerably and the legislator decides to amend the legal regulation whereby remunerations are established to various persons and to entrench a less favourable legal regulation with respect to these persons, i.e. adopts a decision to reduce the remuneration for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as that of state servants, the reduced remunerations may be paid only temporarily, i.e. until there is the corresponding extreme situation in the state. When the especially grave economic and financial situation is over, the former amounts of the remunerations of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, which were established in the state prior to occurrence of the said situation, must be applied as before.

12.3. It has also been mentioned that the doctrinal provision that the reduction of remuneration for work must be temporary may not be interpreted as meaning that the state, after the legislator has reduced the remunerations of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, is released from the duty to look for ways of securing the accumulation of the funds necessary to pay the remunerations in the

amounts that were prior to their reduction. Quite to the contrary, if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the remunerations in the amounts that were before the reduction of the remunerations, the legal regulation under which the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants were reduced must be abolished.

12.4. As mentioned, only after there is an official statement that there is an exceptionally grave economic and financial situation due to which the state is unable to perform the obligations undertaken by it, the legislator may reduce, temporarily, the remunerations of officials and state servants of the state institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets). This statement must be substantiated by the circumstances testifying about the existence of an especially grave economic and financial situation in the state. The constitutional institute of a budget year implies that when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) is not secured and due to this the legal regulation has to be corrected by reducing the remunerations of the said persons, the reduction of the remunerations is allowed for no longer than one budget year. From the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations will have to be paid.

12.5. Taking account of the arguments set forth, one is to draw a conclusion that the provision “<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). <...> such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state” of Item 10 of

Chapter IV of the Constitutional Court decision of 15 January 2009 *inter alia* means that:

– only after there is an official statement that there is an exceptionally grave economic and financial situation, which is not short-termed, due to which the state is unable to perform the obligations undertaken by it, the legislator may reduce, temporarily, the remunerations of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets);

– the establishment of only such legal regulation is allowed whereby the reduced remunerations would be paid only temporarily, i.e. as long as the corresponding extreme situation in the state continues to exist, *inter alia* when due to the economic crisis it is impossible to collect the budget revenues necessary for the payment of remunerations;

– the constitutional institute of a budget year implies that when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) is not secured and due to this the legal regulation has to be corrected by reducing the remunerations of the said persons, the reduction of the remunerations is allowed for no longer than one budget year; from the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations will have to be paid;

– when the especially grave economic and financial situation is over, the former amounts of the remunerations of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, which were established in the state prior to occurrence of the said situation, must be applied as before;

– if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the remunerations in the amounts that were before the reduction of the remunerations, the legal regulation under which the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants were reduced must be abolished.

13. The petitioner *inter alia* requests construction of whether the provision “the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed” of Item 10 of Chapter IV of the Constitutional Court decision of 15 January 2009 includes the entire budget year, or a longer period.

13.1. The provision of the Constitutional Court decision of 15 January 2009, the construction of which is requested by the petitioner, is part of a bigger text set forth in Item 10 of Chapter IV of the reasoning part of the said decision. It *inter alia* held the following:

“<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). It also needs to be noted that such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state, as, for instance, the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed.”

13.2. The said provision of the official constitutional doctrine that there is an especially grave economic and financial situation in the state is not short-termed implies that such a situation may last for one budget year, or for a longer period of time.

13.3. Taking account of the arguments set forth, one is to draw a conclusion that the provision “the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed” of Item 10 of Chapter IV of the Constitutional Court decision of 15 January 2009 *inter alia* means that an especially grave economic and financial situation in the state where the collection of the State Budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and when such a situation is not to be regarded as a short-termed one, may last either for one budget year, or for a longer period of time.

Conforming to Article 102 of the Constitution of the Republic of Lithuania and Articles 1 and 61 of the Law on the Constitutional Court of the Republic of Lithuania, the Constitutional Court of the Republic of Lithuania has passed the following

decision:

1. To construe that the provision “The legal regulation under which the person cannot freely

choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the awarded old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 2.2 of Chapter II of the reasoning part of the 25 November 2002 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2002, No. 113-5057) and the provision “under the Constitution, it is not permitted to establish any such legal regulation under which an opportunity for the person, who has been granted and paid the old age pension, would be restricted, due to this, to freely choose an occupation and business, although he meets the conditions provided for by law so that he would have a certain occupation or conduct certain business; the legal regulation under which the person cannot freely choose an occupation and business due to the fact that upon the implementation of this right he would not be paid the granted old age pension or part thereof which was paid until then, also must be considered as a restriction of an opportunity to freely choose an occupation or business” of Item 5 of Chapter III of the reasoning part of the 22 October 2007 ruling of Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) *inter alia* mean that, under the Constitution, the legal regulation where the person is not allowed to freely choose a job or business due to the fact that upon implementation of this right he would not be paid the old age pension (or part thereof) which was awarded and paid until then, cannot be established also when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state; it is not permitted to establish any such legal regulation whereby the old age pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

2. To construe that the provision “While establishing the amounts of old age pensions by law, one is to take into consideration the fact as to the amount of contributions that had been paid when the material preconditions for the payment of these pensions are created” of Item 2.3 of Chapter II of the reasoning part of the 25 November 2002 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2002, No. 113-5057) and the provision “the fact how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance, has to be significant for the size of his own old age pension of the state social insurance; a person, who by his contributions contributed to the accumulation of the funds of the state social insurance more, must have tangible benefit” of Item 2 of Chapter III of the reasoning part of the 22 October 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) *inter alia* mean that also when one has to reduce the amounts of state social insurance old age pensions temporarily and

proportionately due to an extreme situation (economic crisis etc.) in the state, in the course of establishing such amounts one has to take account of the size of the contributions and the length of their payment while creating the preconditions for payment of such pensions and how the person, while being able to work and economically active, contributed to the accumulation of the funds of the state social insurance.

3. To construe that the provisions “The person who meets the conditions established by law in order to receive the old age pension, and who has been awarded and paid this pension, has the right to a monetary payment of a respective amount, i.e. the right to possession. Under Article 23 of the Constitution, this right must be protected and safeguarded. It needs to be noted that the old age pension is linked with possession in the jurisprudence of the European Court of Human Rights as well (European Court of Human Rights, Judgment in the case *Wessels-Bergervoet v. Netherlands* of 4 June 2002)” of Item 2.3 of Chapter II of the reasoning part of the 25 November 2002 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2002, No. 113-5057) as well as the provisions that, while reorganising the system of pensionary maintenance, “<...> the Constitution must be observed in every case. The system of pensions may be reorganised only by law, only guaranteeing the old age and disability pensions provided for by the Constitution, as well as observing undertaken obligations by the state, which are not in conflict with Constitution, to pay corresponding payments to persons who meet the requirements established by the law. If, while reorganising the pensionary system, the pensions established by the laws which are not directly specified in Article 52 of the Constitution were eliminated, or the legal regulation of these pensions were amended in essence, the legislator would be obligated to establish a just mechanism for compensation of the existing losses to the persons who had been granted and paid such pensions” of Item 3.3 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) and the provisions “the right to demand for the payments of pensionary maintenance which are established by the Constitution or laws that are not in conflict with the latter, arises from Article 52 of the Constitution, while under Article 23 of the Constitution the proprietary aspects of this right are defended (Constitutional Court rulings of 4 July 2003, 3 December 2003, 13 December 2004 and 22 October 2007). The said circumstance determines the specific character of the defence of this acquired right according to Article 23 of the Constitution. This specific character *inter alia* means that in case a question arises as to the defence of the acquired right under Article 23 of the Constitution, first of all it should be established whether the requirement to pay the pension is based on Article 52 of the Constitution and/or other norms of the Constitution (Constitutional Court ruling of 4 July 2003)” of Item 4 of Chapter II of the reasoning part of the 24 December 2008 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2008, No. 150-

6106) *inter alia* mean that:

- even when due to special circumstances (economic crisis etc.) there occurs an especially grave economic and financial situation in the state, one must heed the principle of protection of the acquired right under Article 23 of the Constitution of the Republic of Lithuania;

- the legislator is under obligation to provide for a mechanism of compensation of incurred losses to the persons to whom an old age pension or a disability pension was awarded and paid whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, within a reasonable time and in a fair manner, the losses incurred by them due to the reduction of the old age pension or the disability pension;

- the legislator is under obligation to provide for a mechanism of compensation of incurred losses to the persons to whom a state pension was awarded and paid whereby, after the said extreme situation is over, the state would undertake an obligation before such persons to compensate them, within a reasonable time and in a fair manner, the losses incurred by them due to the reduction of the state pension to a great extent;

- the losses incurred due to the reduction of state pensions may be compensated to a smaller extent than the losses incurred due to the reduction of old age or disability pensions;

- if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the pensions in the amounts that were before the reduction of the pensions, the legal regulation under which the pensions were reduced must be abolished.

4. To construe that the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) and the provision “It needs to be noted that even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality (Constitutional Court rulings of 4 July 2003 and 3 December 2003)” of Item 4 of Chapter II of the reasoning part of the 24 December 2008 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2008, Nr. 150-6106) *inter alia* mean that when there is an especially grave economic and financial situation in the state and when, due to this, there is a necessity to temporarily reduce awarded and paid pensions, the reduction must be in line with the constitutional principle of proportionality, which implies that:

- the reduction of awarded and paid pensions must be in line with the legitimate objectives which are important to society, such reduction must be necessary to reach the said objectives and

may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives;

- the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of awarded and paid pensions whereby the pensions would be reduced in a manner not violating the proportions of the amounts of the pensions established with regard to pensioners of the same category prior to the occurrence of the particularly difficult economic and financial situation in the state;

- it is allowed that a limit be established in the amount of the pensions below which the pensions would not be reduced even when there is a particularly difficult economic and financial situation in the state; while establishing this limit one has to take account of the circumstance that, under the Constitution of the Republic of Lithuania, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

5. To construe that the provision “if the protection of legitimate expectations, legal certainty and legal security of the person were not ensured, the confidence of the person in the state and law would not be ensured” of Item 3.2 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) *inter alia* means that principles of protection of legitimate expectations, legal certainty, and legal security must be heeded also when there is an extreme situation in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) or of the funds necessary for the payment of pensions is not secured and due to this the legal regulation has to be corrected by reducing the remunerations and pensions of the said persons.

6. To construe that the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) and the provision “the constitutional principle of equality of all persons before the law would

be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the reasoning part of the 24 December 2008 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2008, No. 150-6106) *inter alia* mean that, when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the awarded and paid pensions in order to secure vitally important interests of society and the state and to protect other constitutional values:

- the legislator may correct the legal regulation of state pensions, which in their nature and character are different from old age pensions as well as from disability pensions, by reducing these pensions to greater extent than old age and disability pensions; while doing so, the proportions of the amounts of state pensions established prior to the occurrence of the particularly grave economic and financial situation in the state may not be violated;

- it is not permitted to establish any such legal regulation whereby the old age pension or disability pension awarded and paid to the persons who have a certain occupation or conduct certain business would be reduced, due to this, to a greater extent if compared with the persons who do not have any occupation and do not conduct any business.

7. the provision “the said legal regulation should create preconditions to distribute (of course, by taking account *inter alia* of the constitutional principle of solidarity, the constitutional imperatives of social harmony and justice) the corresponding burden that has fallen upon the state among members of society, however, it must be distributed in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden and the person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself” of Item 3 of Chapter III of the reasoning part of the 26 September 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 102-4171) *inter alia* means that, when there is an exceptionally grave economic and financial situation (economic crisis etc.) in the state:

- the legal regulation must create preconditions for the state to distribute the corresponding burden that has fallen upon it among members of society in such a manner that the fulfilment of the duty to pay state social insurance contributions would not become an overly heavy burden to a person and this person, due to the fact that he is fulfilling this duty, would not become the one who needs social assistance himself;

- one has to follow the constitutional imperatives of solidarity, social harmony and justice in

the course of redistributing the corresponding burden that has fallen upon the state among members of society.

8. To construe that the provision “the social orientation of the State of Lithuania which is consolidated in the Constitution obliges the state to pay heed to the guarantees of pensions (*inter alia* state pensions) and other social (material) guarantees which, by the way, stem not only from Article 52 of the Constitution, but also from other provisions of the Constitution, or, for example, from Paragraph 2 of Article 30, Articles 38, 39, 41, 48, Paragraph 1 of Article 51 and Article 146 thereof, the imperative of reality, thus, it obliges to revise once established (and applied) social (material) guarantees, in particular if they are linked with certain periodic payments (such as pensions), to revise (increase their sizes) in particular if economic or social situation undergoes such changes so that the said established (and applied) guarantees depreciate a lot, moreover, if they become nominal in general (in this case, one must also have in mind the reservation regarding the proportionality and temporary reduction of the payments when it is necessary for the protection of other constitutional values which is specified in this and other Constitutional Court rulings)” of Item 6 of Chapter III of the reasoning part of the 22 October 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) *inter alia* means that, under the Constitution, it is not allowed to establish any such legal regulation whereby the pension becomes reduced to an amount, where the person receiving the pension would not be secured the minimal socially acceptable needs and the living conditions compatible with human dignity; the pension which secures only minimal socially acceptable needs and the living conditions compatible with human dignity to the person who receives the pension, may not be reduced at all.

9. To construe that the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the 22 October 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) *inter alia* means that from the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations and pensions will have to be paid.

10. To construe that the provision of Item 8.6 of Chapter II of the reasoning part of the 24 December 2008 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette

Valstybės žinios, 2008, No. 150-6106) that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” *inter alia* means that when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, etc.), an extremely difficult economic and financial situation has occurred in the state, in the course of adoption of decisions to reduce pensions one must follow the requirements (which stem from the constitutional principles of a state under the rule of law and justice) of avoiding fortuity and arbitrariness, instability of social life and conflict of interests.

11. To construe that the provision “the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the 22 October 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) and the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of the same item *inter alia* mean that the reduction of remunerations must be in line with the constitutional principle of proportionality as one of elements of the constitutional principle of a state under the rule of law, which implies that:

- the reduction of remunerations must be in line with the legitimate objectives which are important to society, such reduction must be necessary to reach the said objectives and may not restrict the rights and freedoms of a person clearly more than necessary in order to reach these objectives;

- when there is a particularly difficult economic and financial situation in the state and when due to this there is a necessity to temporarily reduce the remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) in order to secure vitally important interests of society and the state and to protect other constitutional values, the legislator is under obligation to establish a uniform and non-discriminatory scale of reduction of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) whereby with respect to all categories of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) the remunerations would be reduced in a manner not violating the proportions of the amounts of the remunerations established with regard to different categories

of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) prior to the occurrence of the particularly difficult economic and financial situation in the state;

– it is allowed to establish the limit upon the amount of the remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) below which it would not be permitted to reduce the established remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) even when there is a particularly difficult economic and financial situation in the state; while establishing this limit, one has to take account of the circumstance that, under the Constitution of the Republic of Lithuania, it is not allowed to establish any such legal regulation whereby the remuneration of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) becomes reduced to an amount, where the minimal socially acceptable needs and the living conditions compatible with human dignity would not be secured.

12. To construe that the provision “<...> when due to an extremely difficult economic and financial situation in the state the legislator adopts a decision to reduce the remuneration for work of officials and other state servants (employees) of the institutions that are funded from state and municipal budgets, it must be ascertained that the economic and financial situation of the state is so difficult that it calls for a necessity to reduce the remuneration for work of the said officials and state servants (employees). <...> such reduction of the remuneration for work must be temporary and grounded upon the circumstances of the extremely difficult economic and financial situation in the state” of Item 10 of Chapter IV of the 15 January 2009 decision of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2009, No. 6-170) *inter alia* means that:

– only after there is an official statement that there is an exceptionally grave economic and financial situation, which is not short-termed, due to which the state is unable to perform the obligations undertaken by it, the legislator may reduce, temporarily, the remunerations of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets);

– the establishment of only such legal regulation is allowed whereby the reduced remunerations would be paid only temporarily, i.e. as long as the corresponding extreme situation in the state continues to exist, *inter alia* when due to the economic crisis it is impossible to collect the budget revenues necessary for the payment of remunerations;

– the constitutional institute of a budget year implies that when there is an extreme situation

in the state (economic crisis etc.) due to which the economic and financial situation in the state has changed to the extent that *inter alia* the accumulation of the funds necessary for the payment of remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (other employees who are remunerated for work from funds of state and municipal budgets) is not secured and due to this the legal regulation has to be corrected by reducing the remunerations of the said persons, the reduction of the remunerations is allowed for no longer than one budget year; from the constitutional institute of a budget year, a duty arises to the legislator, in the course of deliberating and approving the State Budget for the next year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly grave one, *inter alia* whether the collection of the State Budget revenue is still disordered to the extent that due to this the state is unable to perform the obligations undertaken by it and, due to this, whether also for the next budget year one has to establish the legal regulation whereby the reduced remunerations will have to be paid;

– when the especially grave economic and financial situation is over, the former amounts of the remunerations of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants, which were established in the state prior to occurrence of the said situation, must be applied as before;

– if, before the end of the economic crisis, there arises an opportunity to accumulate (receive) the funds necessary to pay the remunerations in the amounts that were before the reduction of the remunerations, the legal regulation under which the remunerations for work of officials of institutions which are financed from the funds of state and municipal budgets (and of other employees who are paid for their work from the funds of state and municipal budgets) as well as those of state servants were reduced must be abolished.

13. To construe that the provision “the collection of the state budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and such situation in the state is not short-termed” of Item 10 of Chapter IV of the 15 January 2009 decision of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2009, No. 6-170) *inter alia* means that an especially grave economic and financial situation in the state where the collection of the State Budget revenue is disordered to the extent that due to this the state is unable to perform the obligations undertaken by it, and when such a situation is not to be regarded as a short-termed one, may last either for one budget year, or for a longer period of time.

14. Not to construe whether the provision that when there is an extreme situation in the state (economic crisis, natural disaster etc.) “the legal regulation of pensionary relations may be corrected also by reducing pensions to the extent that it is necessary to ensure vitally important interests of

society and protect other constitutional values” of Item 1.9 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) means that the reduction of pensions must be co-ordinated in proportion with other measures (application of tax concessions, preservation of the existing jobs and creation of new ones, attraction of investments to jobs, non-reduction of the fund of remuneration for work etc.) so that it would not violate vitally important interests of society and would protect other constitutional values.

15. Not to construe whether the provision “even in such extraordinary cases it is not permitted that pensions be reduced in violation of the balance between the interests of the person and society; such reduction of pensions must be in line with the constitutional principle of proportionality” of Item 1.9 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) means that the reduction of pensions must be proportionate to the amounts of taxes and reduction of remuneration for work.

16. Not to construe whether the provision “principle of equality of persons before the law would be violated if a certain group of persons, which a legal norm is addressed to, would be treated in a different manner comparing to other addressees of the same norm, though there exist no differences of such nature and scope between those two groups, which would objectively justify this different treatment” of Item 5.2 of Chapter II of the reasoning part of the 3 December 2003 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2003, No. 115-5221) means that when there is an extreme situation in the state (economic crisis, natural disaster, etc.) it is not allowed in the course of reduction of remunerations to apply coefficients of different amounts with regard to the same social groups.

17. Not to construe whether the following provisions of Item 4 of Chapter I of the reasoning part of the 16 January 2006 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2006, No. 7-254), which are: “The constitutional principle of a state under the rule of law implies various requirements for the legislator and other law-making entities: the law-making entities may pass legal acts only without exceeding their powers; the requirements established in legal acts must be based on the provisions of general type (legal norms and principles) which can be applied in regard to all the specified subjects of respective legal relations; the differentiated legal regulation must be based only on objective differences of the situation of subjects of public relations regulated by respective legal acts; in order to ensure that the subjects of legal relations are aware of requirements put forward to them by law, the legal norms must be established in advance, the legal acts must be published officially, they must be public and accessible; the legal regulation established in laws and other legal acts must be clear, easy to

understand, consistent, formulas in the legal acts must be explicit, consistency and internal harmony of the legal system must be ensured, the legal acts may not contain any provisions, which at the same time regulate the same public relations in a different manner; in order that subjects of legal relations could orient their behaviour according to the requirements of law, the legal regulation must be relatively stable; the legal acts may not require the impossible (*lex non cogit ad impossibilia*); the power of the legal acts is prospective, while retrospective validity of the laws and other legal acts is not permitted (*lex retro non agit*) unless the legal act mitigates the situation of the subject of legal relations and does not injure other subjects of legal relations by the same (*lex benignior retro agit*); violations of law, for which liability is established in legal acts, must be clearly defined; when setting legal restrictions and liability for violations of law, one must pay heed to the requirement of reasonableness and the principle of proportionality, according to which the established legal measures are to be necessary in a democratic society and suitable for achieving legitimate and universally important objectives (there must be a balance between the objectives and measures), they may not restrict the rights of the person more than it is necessary in order to achieve the said objectives, and if these legal measures are related to the sanctions for the violation of law, in such case the aforementioned sanctions must be proportionate to the committed violation of law; when legally regulating public relations it is compulsory to pay heed to the requirements of natural justice comprising *inter alia* the necessity to ensure the equality of persons before the law, the court and state institutions and officials; when issuing legal acts, one must pay heed to procedural law-making requirements, including those established by the law-making entity itself; etc.” mean that these requirements must be heeded in all situations, or, quite to the contrary, whether various requirements may be applied in a varied manner, i.e. in one manner when there is a normal situation in the state, and in a different manner when there is essential deterioration in the economic and financial situation of the state.

18. Not to construe whether the provision “when the economic and financial situation of the country deteriorates considerably, when due to particular circumstances (economic crisis, natural disasters, etc.), an extremely difficult economic and financial situation has occurred in the state” of Item 9.2 of Chapter IV of the reasoning part of the 22 October 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) means that the occurrence of an especially grave economic and financial situation in the state must be confirmed by a resolution of the Government of the Republic of Lithuania.

19. Not to construe whether the provision that in case there is lack of funds in the state due to special circumstances “<...> the legislator may change the legal regulation which establishes the salaries to various persons, and consolidate the legal regulation on the salaries which would be less favourable to these persons, if it is necessary in order to ensure the vital interests of society and the

state and to protect other constitutional values” of Item 9.2 of Chapter IV of the reasoning part of the 22 October 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 110-4511) means that the reduction of remunerations must be co-ordinated with proportionate reduction of pensions and other social allowances, since the amount of contributions to the State Social Insurance Fund also depends upon the amount of remuneration for work.

20. Not to construe as regards the following provisions of Item 8 of Chapter II of the reasoning part of the 22 November 2007 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2007, No. 121-4965, correction Official Gazette *Valstybės žinios*, 2007, No. 125):

1) whether the provision “any correction of the social policy, the reorganisation of the system of social guarantees or of individual social guarantees of the state should be constitutionally grounded; if in the course of reorganisation of the system of social guarantees or the structure of individual social guarantees the extent of social guarantees is reduced, let alone certain social guarantees disappear, a mechanism of just compensation of incurred losses should be established to the individuals to whom those social guarantees were reasonably established” means that such mechanism of compensation for incurred losses must be established under normal economic conditions, and providing such correction of the state social policy, the reorganisation of the system of social guarantees or of the structure of individual social guarantees is performed during a crisis, then it is not followed by a certain compensation applied at that time or later (the compensation which will be in effect after the crisis), also whether this provision means that the constitutional doctrine how pensions must be treated when the system of pensions is reorganised when there is no crisis is not identical to the constitutional doctrine establishing the behaviour of the legislator and other subjects of law in reorganising the system of pensions when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state;

2) whether the provision “if those guarantees have to compensate the losses, which an individual may incur due to his own activities (inter alia due to his service to the state), a period should also be provided so that it would be sufficient to those individuals (being in respective work and executing respective service according to the preceding legal regulation entitling to respective social guarantees) to prepare for respective changes” means that both under normal circumstances and when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, the legislator must establish a sufficient time period so that the persons might be able to prepare for the provided changes;

3) whether the provision “the social orientation of the state consolidated in the Constitution generally obligates the state to respect the imperative of substantiality of guarantees of social (material) character, thus obligates to respectively revise (increase the sizes) of social (material) guarantees once established (and applied), if economic, social situation changes so that those established (and applied) guarantees depreciate considerably, moreover, if they generally become nominal (herewith making an exception regarding a proportional and provisional reduction of benefits, whenever necessary for the protection of other constitutional values)” means that even when there is an extreme situation in the state (economic crisis, natural disaster etc.) and due to this proportionately and temporarily payments are reduced, one must pay attention to the fact that such payments would not become only nominal.

21. Not to construe whether the provision of Item 8.6 of Chapter II of the reasoning part of the 24 December 2008 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2008, No. 150-6106) that justice “may be implemented by ensuring certain equilibrium of interests, by escaping fortuity and arbitrariness, instability of social life and conflict of interests (Constitutional Court ruling of 3 December 2003)” means that when there is an essential change in the economic and financial situation of the state, when due to special circumstances (economic crisis, natural disaster etc.) there occurs an especially grave economic and financial situation in the state, in the course of adoption of decisions to reduce remunerations and payments one must avoid fortuity and arbitrariness, instability of social life and conflict of interests and whether the issues of increase or reduction of burden of direct and indirect taxes for this purpose, those of fairer distribution of the burden of taxes which falls upon labour and capital, those of increase and reduction of remunerations and pensions and other social allowances must be solved in a complex manner, by taking account of the constitutional requirements of justice, solidarity and proportionality.

22. Not to construe whether the provision “the constitutional principle of equality of all persons before the law would be violated when a certain group of people to which the legal norm is ascribed, if compared to other addressees of the same legal norm, were treated differently, even though there are not any differences in their character and extent between these groups that such an uneven treatment would be objectively justified (Constitutional Court rulings of 20 November 1996, 30 December 2003, 13 December 2004 and 26 September 2007)” of Item 10 of Chapter II of the 24 December 2008 ruling of the Constitutional Court of the Republic of Lithuania (Official Gazette *Valstybės žinios*, 2008, No. 150-6106) means that it is not allowed either under normal, or under essentially deteriorated economic and financial conditions of the state to apply coefficients of different sizes with regard to persons of the same social group in the course of reduction of remunerations and pensions.

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

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

Justices of the Constitutional Court:

Armanas Abramavičius

Toma Birmontienė

Pranas Kuconis

Kęstutis Lapinskas

Zenonas Namavičius

Ramutė Ruškytė

Egidijus Šileikis

Algirdas Taminskas

Romualdas Kęstutis Urbaitis