Case No. 39/06

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LITHUANIA

RULING
ON THE COMPLIANCE OF PARAGRAPH 3 (WORDING OF 19 SEPTEMBER 2000) OF ARTICLE 256 OF THE CODE OF ADMINISTRATIVE VIOLATIONS OF LAW OF THE REPUBLIC OF LITHUANIA WITH THE CONSTITUTION OF THE REPUBLIC OF LITHUANIA

28 May 2008

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

The court reporter—Daiva Pitrėnaitė

Olga Demeško, chief specialist of the Legal Department of the Office of the Seimas, the representative of the Seimas of the Republic of Lithuania, the party concerned

The Constitutional Court of the Republic of Lithuania, pursuant to Articles 102 and 105 of the Constitution of the Republic of Lithuania and Article 1 of the Law on the Constitutional Court of the Republic of Lithuania, in its public hearing, on 21 May 2008, considered constitutional justice case No. 39/06 subsequent to the petition of the Rokiškis District Local Court, the petitioner, requesting an investigation into whether Paragraph 3 (wording of 19 September 2000) of Article 256 of the Code of Administrative Violations of Law of the Republic of Lithuania is not in conflict with Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution of the Republic of Lithuania.

The Constitutional Court

has established:

I

The Rokiškis District Local Court, the petitioner, considered a case of an administrative violation of law. By its ruling, the said court suspended the consideration of the case and applied to the Constitutional Court with the petition requesting an investigation into whether Paragraph 3 (wording of 19 September 2000) of Article 256 of the Code of Administrative Violations of Law of the Republic of Lithuania (hereinafter also referred to as the CAVL) is not in conflict with Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution.

II

The petition of the petitioner is grounded on the following arguments.

1. In the legal proceedings of cases of administrative violations of law, as well as in criminal procedure, the courts, while administering justice, should not participate in the stage of investigation of cases, in the course of exercising control over investigations, upholding accusations, etc., since administration of justice is a different function from preliminary investigations, criminal prosecution or upholding accusations. When administering justice, the court investigates a case already prepared, i.e. a case in which significant data have been collected, which helps to establish the truth in the case, the court decides the question of guilt of a person, who is held administratively liable, and imposes a sanction on him or dismisses the case. Meanwhile, under Paragraph 3 of Article 256 of the CAVL, the court is engaged into the establishment of the circumstances of the case without limitations, therefore, the institution which has performed not all the actions of an investigation and after it has drawn up an administrative law violation protocol, remains passive both in the stage of the investigation of the case of administrative violation of law and in the stage of its consideration in court, while the court performs the role of the accusation. This means that the court must perform a double role: to correct the mistakes of the investigation performed by the institution which has drawn up the administrative law violation protocol—to collect the missing evidence—and to consider the case of an administrative violation of law in a corresponding manner. Thus, one is led to believe that the elements which are not typical of administration of justice appear in the actions of the court. The court, while violating the principles of the separation and independence of branches of powers, must perform the functions of the executive.

2. The impugned Paragraph 3 of Article 256 of the CAVL creates preconditions for the court to take a side with one of the parties and, together with this party, to start collecting evidence in prejudice of another party. The court, upon starting to collect evidence on its own initiative, may not

stay objective. Therefore, it may be stated that, while collecting evidence in the course of the consideration of a case in court, the court becomes partial, and this may prevent it from establishing the truth in the case. Alongside, thus, one denies one of the main human rights to a just, impartial and independent hearing of the case in court and at the same time the principle of competition which stems from this right.

III

In the course of preparation of the case for the Constitutional Court's hearing, written explanations from the representative of the Seimas, the party concerned, who was M. Girdauskas, senior advisor of the Legal Department of the Office of the Seimas, were received, in which it is stated that the powers of the judge to collect evidence in cases of administrative violations of law on his own initiative, which are established in Paragraph 3 of Article 256 of the CAVL, should not in themselves be regarded as being in conflict with the norms and principles of the Constitution, *inter alia,* with Paragraph 2 of Article 31 and with Paragraph 2 of Article 109 thereof. The position of the representative of the Seimas, the party concerned, is based on the following arguments.

1. The consideration of cases of administrative violations of law in court essentially amounts to the consideration of criminal cases in court, therefore, while assessing the powers of the court to collect evidence in cases of administrative violations of law on its own initiative, essentially, account should be taken of the provisions of the official constitutional doctrine which was formulated in the Constitutional Court's ruling of 16 January 2006, *inter alia,* of the provisions that the court, while seeking to establish the objective truth, must act in the criminal procedure positively—determine the limits of the consideration of a criminal case and perform certain procedural actions; when considering the criminal case, it must act so that the issue of guilt of a person who is accused of commission of a criminal deed would be decided fairly; the court must be equally just to all the persons participating in the criminal procedure; the court may not be understood as a "passive" observer of the procedure of cases; administration of justice may not depend on the fact what material is submitted to the court; while seeking to objectively and comprehensively investigate all the circumstances of the case and to establish the truth in it, the court has the powers to perform the procedural actions itself or to assign certain institutions (officials), *inter alia,* the prosecutors, to perform the corresponding actions.

2. Upon the assessment of the fact that, according to their degree of dangerousness, administrative violations of law are closer to violations of civil law, account should be taken of the provisions of the official constitutional doctrine which was formulated in the Constitutional Court's ruling of 21 September 2006, *inter alia,* of the provisions that, under the Constitution, the relations of civil procedure must be regulated by means of the law so that legal preconditions would be created for the court to investigate all circumstances important to the case and to adopt a fair

decision in the case; otherwise, the powers of the court to administer justice, which arise, *inter alia,* from Article 109 of the Constitution, would be limited or even denied, and one would deviate from the constitutional concept of the court as the institution which administers justice in the name of the Republic of Lithuania, as well as from the constitutional principles of a state under the rule of law and justice. The duty of the court to establish the material truth which was construed by the Constitutional Court, in the scientific doctrine of law of Lithuanian civil procedure is first of all identified with the duty of the court to refer not only to the evidence provided by the parties, but also to the evidence received on its own initiative. If the court has the powers to collect evidence on its own initiative in the civil procedure, then, all the more so, it must have the same powers while considering the cases of administrative violations of law.

3. In Lithuanian legal science, the powers of the court which considers the case of an administrative violation of law to decide all the issues linked to the considered case on its own are related with the principle of the independence of the court, and the powers of the court to obtain evidence on demand on its own initiative are related with this principle.

IV

At the Constitutional Court's hearing, the representative of the Seimas, the party concerned, who was O. Demeško, virtually reiterated the arguments set forth in the written explanations of M. Girdauskas, the representative of the Seimas, the party concerned.

The Constitutional Court

holds that:

1. The Rokiškis District Local Court, the petitioner, requests an investigation into whether Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL is not in conflict with Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution.

2. The CAVL was adopted on 13 December 1984 and came into force on 1 April 1985. Until the restoration of the independence of the State of Lithuania, the CAVL (wording of 13 December 1984) has been amended and/or supplemented more than once.

3. When the independent State of Lithuania was restored, the CAVL (wording of 13 December 1984 with subsequent amendments and supplements) remained in force.

4. Upon the adoption of the Constitution of the Republic of Lithuania by the referendum of 25 October 1992, Article 2 of the Republic of Lithuania's Law "On the Procedure for the Entry into Force of the Constitution of the Republic of Lithuania" which is a constituent part of the Constitution, prescribed that laws, other legal acts or parts thereof, which were in force on the territory of the Republic of Lithuania prior to the adoption of the Constitution of the Republic of Lithuania, shall be effective inasmuch as they are not in conflict with the Constitution and this law,

and shall remain in force until they are either declared null and void or brought in line with the provisions of the Constitution.

5. The Constitutional Court has held that the principle of the superiority of the Constitution implies the duty of the legislature and other lawmaking subjects to revise, while taking account of norms and principles of the Constitution, the legal acts which were issued before the entry into effect of the Constitution, to ensure a harmonious hierarchical system of legal acts, which regulate the same relationships (the Constitutional Court's rulings of 3 December 1997, 6 May 1998, 29 October 2003, 5 March 2004, and 13 November 2006, as well as its decision of 17 January 2007). The process of the revision and assessment of legal acts as to their conformity with the Constitution, which were adopted before the entry into force of the Constitution, is not a onetime act; however, this process may not last for a groundlessly long time period (the Constitutional Court's ruling of 29 October 2003). Under the Constitution, the legislature and other lawmaking subjects have the duty to revise all legal acts adopted by them before the entry into effect of the Constitution and which still remain in force, also the legal acts adopted by no longer existing institutions after the entry into effect of the Constitution and still remaining in force, which regulate the relations which are assigned to the sphere of the regulation by the corresponding law-making subject, as well as legal acts, which had been adopted before the restoration of the independent State of Lithuania and remained in force after restoration of the independent State of Lithuania and, after the entry into effect of the Constitution, regulate the relationships, which are assigned to the sphere of regulation of an appropriate legislative subject, and assess their conformity with the Constitution within a reasonably short period (the Constitutional Court's rulings of 29 October 2003 and 13 November 2006).

In the context of the constitutional justice case at issue, it needs to be noted that, upon the entry into force of the Constitution, the duty for the legislature arose to ensure that the relations linked to liability for administrative violations of law would be regulated so, as it is required in the Constitution.

6. Upon the entry into force of the Constitution, the CAVL (wording of 13 December 1984 with subsequent amendments and supplements, made before the entry into force of the Constitution) has been amended and/or supplemented more than once.

7. It needs to be noted that, on 23 December 1997, the Seimas adopted the Law on a Temporary Prolongation of the Validity of Laws Adopted until 11 March 1990 Which are in Force in the Territory of the Republic of Lithuania, which came into force on 27 December 1997. This law approved the list of the laws which were adopted until 11 March 1990 and whose validity was temporarily prolonged until 1 January 2000. This law also included the CAVL, adopted on 13 December 1984, with subsequent amendments and supplements.

The Law on a Temporary Prolongation of the Validity of Laws Adopted until 11 March 1990 Which are in Force in the Territory of the Republic of Lithuania (wording of 23 December 1997) has been amended more than once, *inter alia,* by means of the laws on amending Article 1 of the Law on a Temporary Prolongation of the Validity of Laws Adopted until 11 March 1990 Which are in Force in the Territory of the Republic of Lithuania which were adopted by the Seimas on 7 December 1999, 20 December 2000, 31 October 2002, 11 December 2003, 9 December 2004, 13 December 2005, 14 December 2006 and 18 December 2007. Under the Law on a Temporary Prolongation of the Validity of Laws Adopted until 11 March 1990 Which are in Force in the Territory of the Republic of Lithuania (wording of 18 December 2007), the CAVL (wording of 13 December 1984 with subsequent amendments and supplements), *inter alia,* Paragraph 3 (wording of 19 September 2000) of Article 256 thereof, shall be in force until 1 January 2009.

In this context it needs to be emphasised that the constitutional requirements of legal certainty, legal security and protection of legitimate expectations imply that the terms within which the reform of regulation of liability for administrative violations of law would be finished may not be unreasonably long.

8. Article 256 (wording of 13 December 1984) of the CAVL established the following:

"In the case of an administrative violation of law, any factual data shall be the evidence on the basis of which the bodies (officials) establish, under procedure established by law, whether the administrative violation of law has been committed or not, and whether that person is guilty of its commission, as well as other circumstances which are significant for fair decision of the case.

These data shall be established by the following means: an administrative law violation protocol, explanations of the victim and a person who has been held administratively liable, the conclusion of an expert witness, the exhibits, and the protocol regarding the seizure of items and documents, as well as other documents."

9. On 17 February 2000, the Seimas adopted the Republic of Lithuania's Law on Amending and Supplementing the Code of Administrative Violations of Law whose Article 333 supplemented Paragraph 2 of Article 256 of the CAVL by establishing new means for averment—pictures and audio and video records—in it.

10. On 19 September 2000, the Seimas adopted the Republic of Lithuania's Law on Amending and Supplementing Articles 187^2, 253, 256, 292, 293 and 296 of the Code of Administrative Violations of Law and Recognition of Articles 298 and 300 Thereof as No Longer Valid which came into force on 1 January 2001. Article 3 of this law amended Paragraph 2 (wording of 17 February 2000) of Article 256 of the CAVL by establishing new means for averment—explanations of the specialist—in it, and Article 256 (wording of 17 February 2000) of the CAVL was supplemented by Paragraph 3: "The officials who have the right to draw up an administrative

law violation protocol, as well as the body (official) which considers the case of an administrative violation of law, shall collect evidence and, if necessary, appoint an expert witness or a specialist."

Later, the CAVL has been amended and/or supplemented more than once, however, Paragraph 3 (wording of 19 September 2000) of its Article 256 has not been amended or supplemented.

11. Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL consolidates the duty of the official who has the right to draw up an administrative law violation protocol, as well as the body (official) which considers the case of an administrative violation of law, *inter alia,* to collect evidence in the case of the administrative violation of law. The bodies (officials) which are empowered to consider cases of administrative violations of law, are specified in Article 216 (wording of 20 June 1995) of the CAVL in which it is prescribed that the cases of administrative violations of law shall be considered by the following: administrative commissions under the municipal councils (Item 1); the wardens of municipal wards in rural areas (Item 2); districts' (cities') local courts (judges of local courts) (Item 4); police, state inspectorates and other bodies (officials) empowered to do so by means of laws of the Republic of Lithuania (Item 5).

Therefore, even though Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL does not directly specify the districts' (cities') local courts (judges of local courts), when one construes the legal regulation enshrined in this norm together with the legal regulation enshrined in Article 216 (wording of 20 June 1995) of the CAVL, the conclusion should be drawn that in the proceedings of administrative violations of law, also the districts' (cities') local courts (judges of local courts), as the bodies (officials) considering cases of administrative violations of law, are empowered to collect evidence.

12. Even though the Rokiškis District Local Court, the petitioner, requests an investigation into the compliance of whole Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL with the Constitution, it is obvious from its arguments and the material of the case of an administrative violation of law that, in the aspect of its compliance with Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution, this paragraph is impugned only to the extent that it provides that also the districts' (cities') local courts (judges of local courts), as the bodies (officials) considering cases of administrative violations of law, shall collect evidence and appoint an expert witness or a specialist, if necessary.

13. Paragraph 2 of Article 31 of the Constitution provides: "A person charged with the commission of a crime shall have the right to a public and fair hearing of his case by an independent and impartial court". Paragraph 2 of Article 109 of the Constitution provides: "While administering justice, the judge and courts shall be independent".

Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution are interrelated,

as they, *inter alia,* consolidate one of the most important principles of administration of justice—the independence of courts and judges; the independence of the court and the judge is, first of all, a necessary condition for the protection of human rights and freedoms (the Constitutional Court's ruling of 5 February 1999).

14. In the jurisprudence of the Constitutional Court (the Constitutional Court's rulings of 6 December 1995, 21 December 1999, 12 February 2001, 12 July 2001, 13 May 2004, 16 January 2006, and its other rulings), various aspects of the independence of the judge and the court which stems from the Constitution are revealed.

In the context of the constitutional justice case at issue, it needs to be noted that the function of administration of justice determines the independence of the judge and courts (the Constitutional Court's rulings of 12 July 2001 and 13 May 2004); the independence of judges and courts is one of essential principles of a democratic state under the rule of law (the Constitutional Court's rulings of 21 December 1999, 12 February 2001, and 13 May 2004); judges can administer justice only in case they are independent from the parties to the case, institutions of state power, officials, political and public associations, natural and legal persons (the Constitutional Court's rulings of 12 July 2001 and 13 May 2004); the independence of the judge or courts is not a privilege, but one of the most important obligations of judges and courts, which stems from the right of a person, which is guaranteed in the Constitution, to an independent and impartial arbiter of the dispute, a necessary condition of a fair investigation of the case, therefore, also of trust in court (the Constitutional Court's rulings of 6 December 1995, 21 December 1999, 12 February 2001, 9 May 2006, and 22 October 2007).

15. The due court process is a necessary condition for a just solution of the case (the Constitutional Court's ruling of 5 February 1999).

The Constitutional Court has held that the principle of the right of the person to the due court process entrenched in Paragraph 2 of Article 31 of the Constitution means, *inter alia,* that the court must unconditionally follow the constitutional principles and the requirements of laws establishing them as regards the equality of the parties of criminal proceedings before the law and the court, and be impartial and independent. These are the most important pre-conditions ensuring that the circumstances of the case are investigated thoroughly, completely and objectively and the truth is established, as well as that penal laws be applied correctly (the Constitutional Court's rulings of 19 September 2000 and 16 January 2006). During the criminal procedure in court, heed must be paid to the clarity of the process, the equal rights of participants of the process, their participation in the procedure of proving, their right to a translator, the principle of adversarial argument and other principles, so that the circumstances of committing the criminal deed would be investigated comprehensively, objectively and impartially and a just decision would be adopted in

the criminal case (the Constitutional Court's ruling of 16 January 2006).

16. The Constitutional Court has also held that:

16.1. The provision of Paragraph 1 of Article 109 of the Constitution means that justice shall be administered only by the court in the law of criminal procedure means, *inter alia,* that in the criminal procedure, the court must also be an impartial arbiter, who objectively assesses the data (evidence) of the circumstances of commission of a criminal deed, which are in the criminal case, and who adopts a just decision concerning the guilt of the person who is accused of committing the criminal deed, and, alongside, the court, in an effort to establish the objective truth, has to participate in the criminal procedure actively—to define the limits of the consideration of a criminal case, to perform certain procedural actions, to ensure that the persons who participate in the court process not abuse their rights or powers, to solve other issues related with the consideration of a criminal case in court. While considering the criminal case, the court must act so that the objective truth is established in the criminal case and the issue of guilt of the person accused of committing the criminal deed is justly decided. The court must also be equally just to all persons who participate in the criminal procedure (the Constitutional Court's ruling of 16 January 2006).

16.2. When investigating a criminal case, without overstepping the limits defined by the Constitution and laws, the court is independent during the whole criminal procedure. From the point of view of the independence of the court, the fact that it follows the corresponding norms of the Code of Criminal Procedure of the Republic of Lithuania does not mean in itself the denial of its independence. As noted by the Constitutional Court, the constitutional right to a fair trial means, *inter alia,* that, during the judicial procedure, the principles and norms of law of criminal procedure must be observed (the Constitutional Court's ruling of 10 June 2003).

16.3. The norms and principles entrenched in the Constitution, *inter alia,* the right of the person to a public and fair hearing of his case by an independent and impartial court, the principles of a state under the rule of law and justice, imply the model of a court as an institution administering justice, where the court cannot be understood as a "passive" observer of the process of cases, and that administration of justice cannot depend only upon the material submitted to the court. The court, seeking to investigate all circumstances of the case objectively and comprehensively and to establish the truth in the case, enjoys the powers to perform procedural actions either by itself or to commission certain institutions (officials), *inter alia,* prosecutors, that they perform corresponding actions (the Constitutional Court's ruling of 16 January 2006); when performing the procedural actions, the court must be impartial and act so that it would not create any preconditions for suspicions that it is partial or not independent.

17. The Constitutional Court has held that the legal norms which establish the criminal liability and administrative liability have much in common, even though one can also discern

important differences.

The Constitutional Court has also held that provided certain sanctions established in laws by their size (strictness) amount to criminal punishments, no matter under what type of the categorisation of legal liability (criminal, administrative, disciplinary or other legal liability) these sanctions fall, and no matter how the respective sanctions are named in laws, the laws must necessarily establish procedural guarantees (which stem from the Constitution, *inter alia,* from Article 31 thereof) to persons, who are held legally liable under corresponding laws. In this context, it needs to be emphasised that the provisions of Article 31 of the Constitution cannot be construed as being designed only to the persons who are held criminally liable (the Constitutional Court's ruling of 3 November 2005).

In the constitutional justice case at issue, it needs to be held that the requirements for the consideration of criminal cases in court which stem from the norms and principles of the Constitution and which are set forth in this ruling are also applicable *mutatis mutandis* while considering the cases of administrative violations of law in court.

18. The Constitutional Court has held in its rulings more than once that the jurisprudence of the European Court of Human Rights as a source of construction of law is also important to construction and application of Lithuanian law. The European Court of Human Rights has held more than once that taking account of the nature (character) of the violation of law, severity of the sanction for the committed violation of law, in their essence the administrative violations of law are compared to criminal deeds, and this determines the application of all guarantees established in Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms *(Engel and others v. the Netherlands,* judgment of 8 June 1976, Series A no. 22; *Öztürk v. Germany,* judgment of 21 February 1984, Series A no. 73; *Escoubet v. Belgium,* judgment [GC], no. 26780/95, ECHR 1999-VII; *Ezeh and Connors v. United Kingdom* [GC], no. 39665/98 and 40086/98, ECHR 2003-X; *Gurepka v. Ukraine,* no. 61406/00, etc.).

19. As it has been mentioned, in the constitutional justice case at issue, the Constitutional Court is requested to investigate whether Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL, to the extent that it provides that also the districts' (cities') local courts (judges of local courts), as the bodies (officials) considering cases of administrative violations of law, shall collect evidence and, if necessary, appoint an expert witness or a specialist is not in conflict with the Constitution.

While considering the case of an administrative violation of law, the court (judge) must investigate, verify and assess the data (evidence) present in the case of commission of an administrative violation of law objectively and impartially and adopt a fair decision regarding the culpability of a person, who is accused of commission of this violation of law. It needs to be noted

that also such situations are possible, when, during the consideration of a case in court, the circumstances come to light which are important in order to adopt a fair decision but which were not established by the person who drew up the administrative law violation protocol, or when the material submitted to the court is not enough in order to adopt a fair decision. In such case, as it has been mentioned in this ruling, the court (judge), while seeking to objectively and comprehensively investigate all the circumstances of the case and to establish the truth in it, has the powers to perform the necessary procedural actions itself, since administration of justice may not depend only on the fact what material is submitted to the court. It has also been mentioned that when performing the procedural actions, the court should act so that it would not create any preconditions for suspicions that it is partial or not independent.

20. It needs to be noted that the powers of the court (judge) to collect evidence while considering the case of an administrative violation of law certainly do not mean that the persons who draw up the administrative law violation protocol are exempted from the duty to collect evidence. The powers of the court (judge) to collect evidence which stem from Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL cannot be interpreted as meaning that the persons (officials) who draw up the administrative law violation protocol may submit non-full, non-comprehensive or other non-qualitatively prepared material of the case of an administrative violation of law to the court (or other body (official) which considers the case of an administrative violation of law). The legal regulation consolidated in the CAVL, *inter alia,* in Article 248 of the CAVL, obliges the persons who draw up the administrative law violation protocol "to elucidate the circumstances of each case comprehensively, fully and objectively".

21. In this context, it needs to be noted that under the legal regulation enshrined in Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL, similar powers to collect evidence are established both to the persons who have the right to draw up the administrative law violation protocol and to the bodies (officials) which consider the case of administrative violation of law, *inter alia,* the districts' (cities') local courts (judges of local courts). Such legal regulation, when similar powers to collect evidence are established both to the institutions (officials) which exercise the executive power and to the courts which administer justice, from the legal point of view is incorrect and legally deficient, however, in itself, this fact alone may not serve as the ground to rule Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL to be in conflict with the Constitution.

22. Therefore, it should be held that the legal regulation consolidated in Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL, which is impugned in the constitutional justice case at issue, does not deviate from the requirements consolidated in Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution.

23. Taking account of the arguments set forth, the conclusion should be drawn that Paragraph 3 (wording of 19 September 2000) of Article 256 of the CAVL, to the extent that it provides that also the districts' (cities') local courts (judges of local courts), as the bodies (officials) considering cases of administrative violations of law, shall collect evidence and, if necessary, appoint an expert witness or a specialist is not in conflict with Paragraph 2 of Article 31 and Paragraph 2 of Article 109 of the Constitution.

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

ruling:

To recognise that Paragraph 3 (wording of 19 September 2000, Official Gazette *Valstybės žinios,* 2000, No. 85-2570) of Article 256 of the Code of Administrative Violations of Law of the Republic of Lithuania, to the extent that it provides that also the districts' (cities') local courts (judges of local courts), as the bodies (officials) considering cases of administrative violations of law, shall collect evidence and, if necessary, appoint an expert witness or a specialist is not in conflict with the Constitution of the Republic of Lithuania.

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

The ruling is pronounced 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