11. THE STATE BUDGET AND FINANCES

11.1. THE STATE BUDGET. THE PROPERTY LIABILITIES OF THE STATE. TAXES

The constitutional duty to pay taxes; the competence of the Seimas to establish legal responsibility for violations of tax laws (Item 15 of Article 67 of the Constitution)

The Constitutional Court's ruling of 6 December 2000

… under Item 15 of Article 67 of the Constitution, the Seimas "shall establish state taxes and other compulsory payments". The said norm of the Constitution also implies the constitutional duty of taxpayers to pay the established taxes in due time. Taxes are a necessary condition of the functioning of the state; therefore, the constitutional duty to pay taxes established in laws is consolidated in laws as a requirement by the state for all taxpayers. Taxpayers must transfer part of their property, which is expressed as a certain amount of money, into the state (municipal) budget as, otherwise, the public interest and the rights and interests of other persons protected by law would be infringed.

It needs to be noted that, in an attempt to ensure the fulfilment of the duty to pay taxes, the state is entitled to establish legal responsibility for violations of tax laws, types of such responsibility, particular penalties, as well as fines, which may be imposed on natural and legal persons who violate tax laws.

Although, under the Constitution, the Seimas is granted competence to establish state taxes and legal responsibility for violations of tax laws, however, this does not mean that the legislature may establish any type of legal responsibility or any type of penalties or fines of any amount for violations of tax laws. When establishing the amounts of fines for violations of tax laws, the legislature is bound by the constitutional principles of justice and a state under the rule of law, as well as other constitutional requirements.

… conforming to the constitutional principles of justice and a state under the rule of law, the fines established in laws for violations of tax laws must be of such amounts that are necessary to achieve the legitimate and generally important objective – to ensure the fulfilment of the constitutional duty to pay taxes.

The budgetary system of Lithuania; the state budget

The Constitutional Court's ruling of 14 January 2002

Paragraph 1 of Article 127 of the Constitution prescribes: "The budgetary system of the Republic of Lithuania shall consist of the independent State Budget of the Republic of Lithuania and independent municipal budgets."

Paragraph 1 of Article 121 of the Constitution prescribes: "Municipalities shall draft and approve their budgets."

Paragraph 1 of Article 131 of the Constitution prescribes: "The draft State Budget shall be considered by the Seimas and shall be approved by law before the start of the new budget year."

Thus, according to the Constitution, the state budget and municipal budgets are independent. Together they form the budgetary system of Lithuania.

It is generally recognised that the state budget is a plan of the state revenue and expenditure for a specific period, i.e. a financial plan of the state, according to which public funds are redistributed. Similarly, municipal budgets are municipal plans of revenue and expenditure for a specific period. Under Article 129 of the Constitution, this period is a budget year lasting from 1 January until 31 December. Legally, the state budget is a law that approves the state budget, i.e. the plan of revenue and expenditure for a certain budget year.

According to the constitutional concept of the state budget, the state revenue and expenditure planned for the budget year must be provided for in the state budget approved by means of a law.

Paragraph 2 of Article 127 of the Constitution prescribes that the revenue of the state budget is raised from taxes, compulsory payments, levies, income from state-owned property, and other income, and Paragraph 3 of the same article prescribes that taxes, other payments to the budgets, and levies are established by the laws of the Republic of Lithuania.

Under Item 4 of Article 94 of the Constitution, the Government prepares a draft state budget and submits it to the Seimas. Article 130 of the Constitution provides that the Government draws up a draft state budget and presents it to the Seimas not later than 75 days before the end of the budget year, Item 14 of Article 67 of the Constitution prescribes that the Seimas approves the state budget, and Paragraph 1 of Article 131 thereof states that the draft state budget is considered by the Seimas and is approved by law before the start of the new budget year.

Paragraph 2 of Article 131 of the Constitution prescribes that, during the consideration of the draft budget, the Seimas may increase expenditure provided that it specifies financial sources for the additional expenditure. The expenditure established by means of laws may not be reduced as long as these laws are not altered.

Paragraph 2 of Article 132 of the Constitution provides that, during the budget year, the Seimas may change the budget. It is changed according to the same procedure according to which it is drawn up, adopted, and approved. When necessary, the Seimas may approve an additional budget.

The constitutional concept of the state budget implies that the drafting (forming) of the state budget, its consideration at the Seimas and its approval by means of a law, as well as its execution, are separate steps of the budgetary process.

The powers of the Seimas and the Government in the sphere of the state budget

The Constitutional Court's ruling of 14 January 2002

In drafting (forming) a draft state budget, as well as in considering and approving the state budget, the powers of the Seimas as a legislative body and the powers of the Government as an executive body are separated; the constitutional principle of the separation of powers must be ensured in this area.

[…]

Under the Constitution, only the Government has the right and duty to prepare (form) a draft state budget. Once the Government has prepared a draft state budget, it presents it to the Seimas for approval following the terms provided for in the Constitution. Under the Constitution, during the budget year the budget may also be changed only on the proposal of the Government. An additional budget is also approved by means of a law on the proposal of the Government. Drafting (forming) a state budget and presenting it to the Seimas belong to the sphere where the Government adopts decisions regarding state governance, as prescribed by the Constitution. Therefore, a draft state budget is presented to the Seimas by a resolution of the Government.

The Government has not only the constitutional right, but also the constitutional duty to provide for specific revenue sources in a draft state budget, to indicate their amounts, and the specific amounts intended for financing the needs of the state and society.

When submitting a draft budget to the Seimas, the Government must substantiate the revenue and allocations indicated therein with the evaluation of the needs and possibilities of the state and society. This information must be public. A draft state budget prepared by the Government must provide for funds necessary for the implementation of laws.

Only the Seimas has the prerogative to consider a draft state budget presented by the Government and to approve it by means of a law. According to the Constitution, the adoption of the law on the state budget constitutes the final step in the formation of the budget.

During the consideration of the draft budget, the Seimas may increase the expenditure provided that it specifies financial sources for the additional expenditure (Paragraph 2 of Article 131 of the Constitution). If the state budget is not approved on time, in such cases, at the beginning of the budget year, the budget

expenditure each month may not exceed 1/12 of the expenditure of the state budget of the previous budget year (Paragraph 1 of Article 132 of the Constitution).

According to the Constitution, the budget year coincides with a calendar year. The Seimas must approve the state budget for a budget year, but 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 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. When passing the law on the state budget, the Seimas must pay attention to the striving for a just and harmonious society enshrined in the Constitution.

By approving the state budget by means of a law, the Seimas approves the revenue and allocations of the state budget, based on the evaluation of the needs and possibilities of society and the state. The constitutional concept of the budgetary process implies that all income sources of the state budget, planned revenue and expenditure of the state budget, the amount of such funds, and the subjects to whom allocations from the state budget are given must be specified in the law on the state budget.

Establishing the entities eligible for the allocations from the state budget falls solely within the competence of the Seimas. The Seimas may not waive or transfer such competence to another institution, while the latter may not accept it. Otherwise, the competence of the Seimas to form the state budget would be denied: the said competence would become shared with the executive. This would in turn deny the constitutional principle of the separation of powers. Acts issued by executive bodies can only deal with the execution of the state budget and they may not compete with or change the law on the state budget.

Once approved by the Seimas, the state budget becomes a law. Under Item 4 of Article 94 of the Constitution, the Government executes the state budget. The provision of Item 4 of Article 94 of the Constitution, whereby the Government executes the state budget, means that the Government has the duty to ensure that the budget receives the specified revenue and that these funds are transferred to the subjects specified in the law on the state budget. The Constitutional Court has previously held that, under the Constitution, the Government has to execute the approved state budget according to its purpose and to the extent prescribed by the budget law, and that it does not have the right to change the amounts of the allocations or their possessors established in the budget law (ruling of 3 June 1999).

The expenditure established by means of laws may not be reduced as long as these laws are not altered (Paragraph 2 of Article 131 of the Constitution)

The Constitutional Court's ruling of 14 January 2002

Paragraph 2 of Article 131 of the Constitution provides, *inter alia*, that the expenditure established by law may not be reduced as long as these laws are not altered.

When interpreting the provision of Paragraph 2 of Article 131 of the Constitution, it should be noted that, if certain laws provide for certain expenditure, then the Government must follow and execute these laws in the course of drafting (forming) a draft state budget. Under the Constitution, the Government has the duty to submit to the Seimas such a draft state budget that would be consistent with the provisions of such laws pertaining to state expenditure.

The Constitutional Court has held that, in the course of drafting and adopting legal acts, state institutions must adhere to the principle of the state under the rule of law, which is enshrined in the Constitution, and that the provision, contained in Paragraph 2 of Article 5 of the Constitution, that the scope of powers is limited by the Constitution means that the Seimas, as the legislator of laws and other legal acts, is independent inasmuch as its powers are not limited by the Constitution (ruling of 12 July 2001).

Under the Constitution, the Seimas is bound by its own laws. Thus, if certain laws provide for certain expenditure, the Seimas must follow such laws during the deliberation and approval of the state budget. Under Paragraph 2 of Article 131 of the Constitution, during the process of the approval of the state budget, the expenditure established by law may not be reduced as long as these laws are not altered.

It follows from the constitutional concept of the state budget, namely from the provision of Article 129 of the Constitution, whereby the budget year starts on 1 January and ends on 31 December, that laws providing for certain expenditure may not establish such a legal regulation that would deny the constitutional right and duty of the Government to draw up the state budget for a budget year and the constitutional right and duty of the Seimas to approve the state budget for a budget year. Such laws may not change the law on the state budget. The provision of Paragraph 2 of Article 131 of the Constitution, whereby the expenditure established by law may not be reduced as long as these laws are not amended, must not be interpreted as making it possible to provide for such funding of certain needs that is not included in the law on the state budget of a given year.

It needs to be emphasised that the laws specified in Paragraph 2 of Article 131 of the Constitution, which provide for certain expenditure, are not laws that may substitute for or change the law on the state budget. These are laws making it possible to ensure the succession of the relationships connected with the state budget each budget year and the financial continuity when the persistent pursuit of certain (special, long-term, strategic) public and state objectives requires more funds than it is possible to allocate in one budget year.

Thus, the laws specified in Paragraph 2 of Article 131 of the Constitution, which provide for certain expenditure, are an exception rather than a rule. It should be stressed that such laws can only provide for the expenditure necessary in order to achieve a defined and universally important objective over a certain period established by means of a law, provided these needs cannot be satisfied in one budget year. Such laws may not provide for funds necessary for the execution of routine functions of the state or for funds necessary to finance everyday needs of society. Otherwise, the constitutional concept of the state budget would be distorted: the constitutional institution of the budget year would lose its purpose, the constitutional right and duty of the Government to prepare a draft state budget and the constitutional right and duty of the Seimas to approve it for the budget year by taking into consideration the existing social and economic situation, the needs and possibilities of society and the state, the available or potential financial resources, the liabilities of the state, as well as a number of other important factors, would be denied. This would also result in the preconditions for violating the constitutional imperative of social justice and social harmony.

The constitutional duty to pay taxes (Article 127 of the Constitution)

The Constitutional Court's ruling of 17 November 2003

The provisions of Article 127 of the Constitution, which establish the budgetary system of Lithuania and indicate the sources of forming the revenue of the state budget and municipal budgets, also consolidate the constitutional duty to pay taxes.

In its ruling of 10 July 1997, the Constitutional Court noted that, when taxes are not paid or are overdue, the state (municipal) budget does not receive part of its revenue, and the possibilities for the state (municipality) to perform the functions established for it are limited. Furthermore, at the time when part of subjects of economic activity do not pay taxes, the other subjects – honest taxpayers – find themselves at a disadvantage; thus, the essential principles of a free market based on fair competition are violated.

The legal regulation of tax relationships (Item 15 of Article 67 and Paragraph 3 of Article 127 of the Constitution)

The Constitutional Court's ruling of 2 September 2004

Paragraph 3 of Article 127 of the Constitution states that taxes, other payments to the budgets, and levies are established by the laws of the Republic of Lithuania.

Under Item 15 of Article 67 of the Constitution, the Seimas establishes state taxes and other compulsory payments.

When interpreting Paragraph 3 of Article 127 of the Constitution, the Constitutional Court has held on more than one occasion in its rulings that the said paragraph consolidates the form (type) of a legal act by which taxes are established: taxes may be established only by means of a law.

When interpreting Item 15 of Article 67 of the Constitution, the Constitutional Court has held in its rulings that state taxes are established exclusively by the Seimas.

Thus, under the Constitution, it is only the Seimas that may establish taxes and this may be done only by means of a law. When establishing state taxes, the principles and norms of the Constitution must be complied with.

In its rulings, the Constitutional Court has held on more than one occasion that such essential elements of tax as the object of tax, the subjects of tax relationships, their rights and duties, the sizes (rates) of tax, the time limits of payment, tax exceptions and tax concessions, fines and late payment interest should be established by means of a law.

In order to ensure the proper payment and collection of taxes, it is not sufficient only to establish taxes as the duty to the state – it is also essential to regulate the procedure of their payment, which would, *inter alia*, comprise the procedures of tax administration, the methodology of calculation of taxes, etc. The legal regulation of tax relationships is not only the establishment of taxes by means of a law, but also the establishment of the procedure for implementing tax laws. It is not required in the Constitution to establish exclusively by means of a law the procedure of implementing tax laws: under the Constitution, the procedure for implementing tax laws, as well as the procedure for calculating a particular payable tax established by means of a law, may be established not only by means of a law, but also by means of a substatutory act (rulings of 15 March 2000 and 17 November 2003).

The Constitutional Court has also held that the substatutory acts establishing the procedure for implementing tax laws may not contain any norms laying down a legal regulation that would be different from the one established by means of a law or would compete with the norms of a law (ruling of 17 November 2003).

The legal regulation of tax relationships (establishing late payment interest on the non-payment or undue payment of taxes) (Item 15 of Article 67 and Paragraph 3 of Article 127 of the Constitution)

The Constitutional Court's ruling of 26 September 2006

Taxes, other payments to the budgets, and levies are established by the laws of the Republic of Lithuania (Paragraph 3 of Article 127 of the Constitution). The Seimas establishes state taxes and other compulsory payments (Item 15 of Article 67 of the Constitution).

When interpreting the provisions of the Constitution concerning taxes and other compulsory payments, the Constitutional Court has formed the relevant official constitutional doctrine in its acts. … under the Constitution, taxes, as an obligation, may be established (introduced) only by means of a law; it is necessary to establish such a legal regulation that would ensure that taxes would be paid properly and on time; for that reason, when paying regard to the Constitution (*inter alia*, the constitutional principles of justice, proportionality, legal certainty and clarity), various measures may be chosen such as fines, late payment interest, interest, etc. Such essential elements of tax as the object of tax, the subjects of tax relationships, their rights and duties, the sizes (rates) of tax, the time limits of payment, tax exceptions and tax concessions, fines and late payment interest must be established by means of a law. The procedure for implementing tax laws may also be established by means of substatutory acts.

… when establishing, by means of a law, particular coercive measures for failure to implement tax obligations, *inter alia*, late payment interest on the non-payment or undue payment of taxes, the legislature has a certain degree of discretion. For instance, the legislature may choose whether to establish absolute amounts of certain late payment interest on the non-payment or undue payment of taxes or to establish, by means of a law, such a legal regulation where the amounts of the established late payment interest on the non-payment or undue payment of taxes would depend on certain indicators and could be subject to change. It needs to be emphasised that, after having chosen such a way of a legal regulation where the amounts of late payment interest on the non-payment or undue payment of taxes depend on certain indicators specified in the law and are subject to change, the legislature must establish, by means of a law, not only the subject (state institution, official) who has the powers to state the existence of the said indicators, upon which,

according to the law, such amount of late payment interest depends, and to establish the amounts of such late payment interest according to these indicators, but also the criteria in the law that must be followed by the said subject when establishing the said amounts of late payment interest.

The powers of the legislature to establish taxes (Articles 67 and 127 of the Constitution)

The Constitutional Court's ruling of 22 December 2006

The establishment of taxes is the exceptional constitutional competence of the legislature (Articles 67 and 127 of the Constitution). Taxable objects may be very varied. The legislature that has the powers, which arise from the Constitution, to establish what is taxed also has the discretion to decide whether to tax various benefits received from foreign states, *inter alia*, pensions. Taking account of the Constitution, the legislature also has the right to amend the established legal regulation on taxes. In imposing taxes, the legislature must pay regard to the norms and principles of the Constitution, *inter alia*, the constitutional principles of justice, reasonableness and proportionality. When establishing taxes, the legislature is also bound by the state obligations arising from the international treaties of the Republic of Lithuania (*inter alia*, from the bilateral and multilateral treaties for the avoidance of double taxation of income and/or capital), as well as by the requirements arising from membership of Lithuania in the European Union.

The features characteristic of taxes and other compulsory payments (except levies) (Item 15 of Article 67 of the Constitution)

The Constitutional Court's ruling of 12 February 2010

… the … provisions of the official constitutional doctrine that have been formulated by the Constitutional Court when it interpreted the features characteristic of taxes and other compulsory payments (except levies) [are as follows]:

– taxes are compulsory and unrequited payments of a certain amount established by means of a law and paid to the state (municipal) budget by legal and natural persons in due time (ruling of 24 January 2006); taxes are paid providing there exists a permanent taxable object (ruling of 15 March 1996);

– state taxes and other compulsory payments are a pecuniary obligation of legal subjects to the state; according to the Constitution, only the Seimas may establish state taxes and other compulsory payments and it may establish them only by means of a law, which is an important guarantee of the protection of the rights of a person (ruling of 3 June 2002);

– economic and social processes are regulated, useful economic efforts are encouraged, and priorities of economic development are supported by means of taxes (rulings of 9 October 1998 and 17 November 2003); taxes are characterised by the fact that they are paid regularly at specified intervals and they are not of a directly reimbursable nature, i.e. after they are paid to the state institution that accepts the said tax, the aforementioned institution is under no obligation to perform any actions for or render any particular service to taxpayers (ruling of 15 March 1996); tax relationships are a matter of regulation by public law; tax relationships are legal relations of an authoritative nature between taxpayers and the institutions of executive power of the state (ruling of 17 November 2003); therefore, the method of an administrative legal regulation is applied first of all for their realisation (ruling of 10 July 1997).

The constitutional concept of levies (Paragraphs 2 and 3 of Article 127 of the Constitution)

The Constitutional Court's ruling of 12 February 2010

When interpreting the provision "The revenue of the State Budget shall be raised from taxes, compulsory payments, levies, income from state-owned property, and other income" of Paragraph 2 of Article 127 of the Constitution, the Constitutional Court held in its ruling of 15 March 1996, *inter alia*, that "… according to the Constitution, five legal forms of the revenue of the state budget may be singled out: regular taxes, other compulsory payments, levies, income from state-owned property, and other income. They are specified in particular laws". Thus, in the sense of Paragraphs 2 and 3 of Article 127 of the Constitution, levies are one of the legal forms of the revenue of the state budget.

It needs to be mentioned that, in the ruling of 15 March 1996 … the Constitutional Court noted, *inter alia*, that … a levy … has a two-way character, as the subjects of the legal relationships that occur after [it] has been paid have particular rights and obligations; there are two essentials of paying compulsory levies: the object subject to taxation and the actions performed or services rendered by competent state institutions to legal and natural persons; as a rule, most levies are voluntary payments, i.e. a person who desires to get some service or a particular action from a state establishment consents to pay a levy before the actions are performed or documents bearing legal force are granted and, on such grounds, he/she becomes entitled to demand that the requested actions be performed or the documents be granted.

… both taxes and state levies are established by means of a law and are paid to the state (municipal) budget; however, in the sense of Item 15 of Article 67 of the Constitution, state taxes are characterised by the fact that they are compulsory, unrequited, and unilateral; tax relationships are legal relations of an authoritative nature between taxpayers and the state institutions … . Meanwhile, a levy in the sense of Paragraphs 2 and 3 of Article 127 of the Constitution is a compulsory payment to the state budget for actions performed or services rendered by the competent institutions of the state to legal and natural persons.

The duty of the state institutions that form and execute state economic and financial policies to prepare for possible particularly difficult economic and financial situations

The Constitutional Court's decision of 20 April 2010

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 may arise a particularly difficult economic and financial situation in the state. Therefore, the state institutions must take all possible measures in order to predict the tendencies in the economic development of the state and to prepare for the possible emergence of such particularly difficult economic and financial situations.

Revising the state budget upon the emergence of a particularly difficult economic and financial situation in the state

The Constitutional Court's decision of 20 April 2010

In its acts, the Constitutional Court has noted the following on more than one occasion: neither the Government, which, under the Constitution, has the powers to execute the state budget, nor the Seimas which, under the Constitution, approves the state budget by means of a law, may refrain from reacting to such an essential change in the economic and financial condition of the state where, due to special circumstances (economic crisis, a natural disaster, etc.), a particularly difficult economic and financial situation occurs in the state; in such cases, due to objective reasons, there may be a lack of funds for the performance of state functions and for the satisfaction of public interests; under such circumstances, the respective legal regulation may be subject to change; upon the emergence 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 on municipal budgets); thus, the required funds are not obtained for financing certain needs provided for in the law on the state budget (and on municipal budgets); in such cases (but, certainly, not in such cases exclusively), 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 expenditure (allocations) may be reduced (rulings of 28 March 2006, 22 October 2007, and 11 December 2009 and the decision of 13 November 2007).

The state budget is formed for a budget year; the duty of the legislature, before approving the state budget for a subsequent year, to reassess the actual economic and financial situation in the state

The Constitutional Court's decision of 20 April 2010

When 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 a budget year, but 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 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; when adopting the law on the state budget, the Seimas must pay regard to the striving for a just and harmonious society, which is enshrined in the Constitution (ruling of 14 January 2002).

In this context, it needs to be noted that the constitutional concept of the state budget, *inter alia*, the constitutional institution of a budget year, implies that, in cases where 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*, it is impossible to ensure the accumulation of the funds necessary for the payment of the remuneration for work of officials and state servants of the institutions that are funded from state and municipal budgets (remuneration for work of other employees who are remunerated for work from the funds of state and municipal budgets) or to ensure the accumulation of the funds necessary for the payment of pensions and where, due to this, the respective legal regulation has to be modified by reducing the remuneration and pensions of the said persons, it is allowed to reduce the remuneration and pensions for no longer than one budget year. The constitutional institution of a budget year gives rise to the duty of the legislature, in the course of deliberating and approving the state budget for a subsequent year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly difficult one, *inter alia*, whether the collection of the revenue of the state budget is still disordered to the extent that, due to this, the state is unable to perform the obligations undertaken by it and, therefore, whether it is also necessary to establish for the subsequent budget year such a legal regulation whereby the reduced remuneration and pensions would have to be paid.

The powers of the legislature to postpone the performance of the financial obligations undertaken by the state upon the emergence of a particularly difficult economic and financial situation in the state

The Constitutional Court's ruling of 6 February 2012

… upon the emergence of a particularly difficult economic and financial situation in the state where, *inter alia*, the collection of the revenue of the state budget is disordered to the extent that, due to this, the state is unable to perform (*inter alia*, when exercising its discretion) certain undertaken financial obligations within the established time limits, the legal regulation related to the performance of the said obligations could be modified, *inter alia*, by postponing the performance of such obligations. In doing so, the legislature must observe the requirements stemming from the Constitution, *inter alia*, the principles of justice, reasonableness, and a state under the rule of law.

The law on the state budget and municipal budgets is a law of time-limited validity and time-limited application

The Constitutional Court's ruling of 15 February 2013

Paragraph 1 of Article 131 of the Constitution prescribes that the draft state budget is considered by the Seimas and is approved by means of a law before the start of the new budget year. In its ruling of 14 January 2002, the Constitutional Court noted that, when approving the state budget by means of a law, the Seimas approves the state budget revenue and expenditure (allocations).

[…]

The Constitutional Court has held that every law on the state budget and municipal budgets is a law of time-limited validity and time-limited application; the financing of the administrators of allocations from the funds of the state budget and of municipal budgets of given years is completed when a given budget year ends, i.e. on 31 December of that year; after this date, the law on the state budget and on municipal budgets may not be applied at all, *inter alia* – it needs to be particularly emphasised – after the said date, the transfer

of allocations of the previous budget year to any administrator of allocations is impossible in such a way that would create the impression that the said transfer was made in the previous budget year, since a new budget year has started; therefore, even if it were established that the impugned legal regulation was in conflict with the Constitution, no intervention of the law-making subjects (Seimas and the Government respectively) in that legal regulation is possible, since the relevant legal acts were intended for the regulation of the relationships that are over and, thus, they no longer exist; such an intervention would be meaningless and irrational, since this would mean that particular law-making subjects try to regulate the past; consequently, this would mean that they attempt to change the past (decision of 13 November 2007 and the ruling of 29 June 2012).

[…]

… when the respective legal act is not only invalid, but also must not be applied at all, the Constitutional Court has the discretion to decide on an investigation into the constitutionality of such a legal act. When doing so, it must assess not only the fact whether this law is intended for a certain budgetary period only, but also other important circumstances, *inter alia*, the fact whether such an investigation could be significant for the adoption of the budget laws of subsequent years.

The assessment whether the state budget provides for sufficient or insufficient funds for certain needs (objectives)

The Constitutional Court's ruling of 15 February 2013

The question whether certain needs (objectives) are allocated sufficient or insufficient funds from the state budget is not about the compliance of the state budget with the Constitution, but about budget planning, the evaluation of the needs of society and the state, their balance with the possibilities of society and the state, and, consequently, social and economic expediency (rulings of 14 January 2002 and 21 December 2006). The Constitutional Court does not decide these questions except the cases where the law on the state budget establishes such a legal regulation in which it is clear from the start that the said law clearly provides for insufficient funds or no finance for certain needs (objectives) by not providing at the same time for any other (alternative) sources of financing, where the said sources of financing, under the Constitution, may be provided for certain needs, and where such insufficient financing or the absence of such financing is clearly in conflict with the welfare of the nation, the interests of society and the State of Lithuania, and clearly denies the values consolidated, defended, and protected by the Constitution (ruling of 21 December 2006).

The concept of the state budget; the powers of the Seimas and the Government in the sphere of the state budget; requirements for the adoption and entry into force of laws affecting the revenue and expenditure of the state budget (*inter alia*, the requirement that amendments to laws affecting the revenue and expenditure of the state budget be adopted before the Seimas approves the state budget and the requirement that a sufficient *vacatio legis* be envisaged)

The Constitutional Court's ruling of 15 February 2013

… the state budget is an important constitutional institution. The grounds for drafting and approving the state budget are consolidated in the Constitution, *inter alia*, in Item 14 of Article 67 and Articles 127, 129–132 thereof.

[…]

The requirements arising from Paragraph 1 of Article 69 of the Constitution and the constitutional principle of a state under the rule of law are inseparable from the constitutional concept of the state budget and the constitutional imperatives established for drafting, considering, and approving the state budget.

The state budget is a plan of the state revenue and expenditure (allocations) for a specific period, i.e. a financial plan of the state, according to which public funds are redistributed; in the legal sense, the state budget is a law, by means of which a plan of the state revenue and expenditure (allocations) for a budget year is approved (ruling of 14 January 2002 and the decision of 13 November 2007). According to the

constitutional concept of the state budget, the state revenue and expenditure planned for the budget year must be provided for in the state budget approved by means of a law (ruling of 14 January 2002). Article 129 of the Constitution provides that the budget year starts on 1 January and ends on 31 December.

The revenue of the state budget is raised from taxes, compulsory payments, levies, income from state-owned property, and other income (Paragraph 2 of Article 127 of the Constitution). Taxes – compulsory and unrequited payments established by means of a law and paid to the state budget by legal and natural persons at a fixed time – are one of the main sources of the revenue of the state budget (ruling of 17 November 2003); they are established by means of laws (Item 15 of Article 67 and Paragraph 3 of Article 127 of the Constitution).

Under the Constitution, the Seimas approves the state budget and supervises its execution (Item 14 of Article 67). The budgetary function of the Seimas is its classical function; when account is taken of the essential influence of the situation of public finances on the implementation of state functions, the budgetary function is one of the most important functions of the parliament of a democratic state under the rule of law. Paragraph 1 of Article 131 of the Constitution prescribes that the draft state budget is considered by the Seimas and is approved by law before the start of the new budget year.

Drafting the state budget is the exceptional competence of the Government: under the Constitution, the Government draws up a draft state budget and presents it to the Seimas not later than 75 days before the end of the budget year (Item 4 of Article 94 and Article 130). The Government and no one else has the powers to estimate in the draft budget of the state how much revenue will be received and from which sources, how much funds must be allocated and for what purposes, etc. (ruling of 11 July 2002). All planned revenue and expenditure of the state budget must be specified sufficiently clearly by concretely indicating the state revenue sources and the estimated sums of funds that could be received from those sources, the purpose of the expenditure for financing various spheres, the precise sums of the allocated funds and the subjects to which those funds would be allocated. Otherwise, no conditions would be created for implementing the real and effective parliamentary supervision over the execution of the state budget.

Under the Constitution, the Government has the exceptional powers to execute the state budget (Item 4 of Article 94). As noted in the Constitutional Court's ruling of 14 January 2002, the provision of Item 4 of Article 94 of the Constitution, whereby the Government executes the state budget, means that the Government has the duty to ensure that the budget receives the specified revenue and that these funds are transferred to the subjects specified in the law on the state budget.

As mentioned before, the Government, while implementing its powers to prepare a draft state budget, is bound by the constitutional requirement to submit it to the Seimas not later than 75 days before the end of the budget year, i.e. not later than on 17 October, whereas the Seimas is under the obligation to consider this draft and approve it by means of a law for the next budget year before its beginning, i.e. not later than on 31 December. The deadlines, consolidated *expressis verbis* in the Constitution, for presenting a draft state budget to the Seimas and for its approval mark the limits that may not be overstepped by the Government and the Seimas; however, the said deadlines do not imply that a draft state budget should be prepared, considered, and approved only just before the expiry of those deadlines. In this context, it needs to be mentioned that, under Paragraph 1 of Article 64 of the Constitution, the autumn session of the Seimas begins on 10 September; thus, a draft state budget may be submitted to the Seimas and the Seimas may start considering it much earlier than the deadline for its submission provided for in Article 130 of the Constitution.

Paragraph 1 of Article 132 of the Constitution provides that, if the state budget is not approved on time, in such cases, at the beginning of the budget year, the budget expenditure each month may not exceed 1/12 of the expenditure of the state budget of the previous budget year. Consequently, under the Constitution, if the Seimas does not approve the state budget before the beginning of a budget year, the application of the provisions of the state budget of the previous year would in fact be prolonged. At the same time, it needs to be emphasised that this constitutional provision may and must be understood only as one providing for a certain way out in a situation where the Seimas, in exceptional circumstances, does not approve the state

budget within the time specified in Paragraph 1 of Article 131 of the Constitution; however, the said provision must not be interpreted as allowing the Seimas to disregard the established time limit.

The constitutional concept of the state budget and the constitutional principle of responsible governance mean that the state budget must be realistic and that the revenue and expenditure provided for therein must be based on an assessment of the needs and possibilities of society and the state. The Constitutional Court has held that the constitutional imperative of an open, just, and harmonious civil society, as well as the necessity to ensure the constitutional rights and freedoms of persons and to protect other values consolidated in the Constitution, implies the duty of the Government, in the course of preparing a draft state budget, and the duty of the Seimas, in the course of considering and approving the state budget, to take into consideration the state functions established in the Constitution, the existing economic and social situation, the needs and possibilities of society and the state, the available and potential financial resources and state obligations (*inter alia*, international ones), as well as other important factors (ruling of 11 July 2002). In this context, it also needs to be mentioned that, under the Constitution, *inter alia*, under the constitutional principle of responsible governance, the state institutions forming and pursuing state economic and financial policies must take all possible measures in order to predict the tendencies in the economic development of the state and to prepare for the possible emergence of particularly difficult economic and financial situations (decision of 20 April 2010).

The Constitutional Court has also held that the question whether certain needs (objectives) are provided with sufficient or insufficient funds from the state budget is not about the compliance of the state budget with the Constitution, but about budget planning, the evaluation of the needs of society and the state, their balance with the possibilities of society and the state, and, consequently, social and economic expediency (rulings of 14 January 2002 and 21 December 2006); however, this official constitutional doctrinal provision may not be interpreted as also including the cases where the law on the state budget establishes such a legal regulation in which it is clear from the start that the said law clearly provides for insufficient or no finance for certain needs (objectives) by not providing at the same time for any other (alternative) sources of financing, where the said sources of financing, under the Constitution, may be provided for certain needs, and where such insufficient financing or the absence of such financing is clearly in conflict with the welfare of the nation, the interests of society and the State of Lithuania, and clearly denies the values consolidated, defended, and protected by the Constitution (ruling of 21 December 2006).

The Constitutional Court has held in its acts on more than one occasion that the Seimas is bound not only by the Constitution, but also by its own laws. Thus, while considering and approving a draft state budget, the Seimas must follow the laws that imply a certain amount of estimated state revenue and expenditure, i.e. it must follow the tax laws and other laws that create the preconditions for planning and collecting the revenue of the state budget, as well as the laws determining state financial obligations and the respective planned state budget expenditure. The Constitutional Court has noted that, under the Constitution, the legislature, when passing a law or another legal act the implementation of which requires funds, must provide for the funds necessary for implementing such a law or another legal act; under the Constitution, the legislature may not create any such a legal situation where, after passing a law or another legal act the implementation of which requires funds, such funds are not allocated or the allocation thereof is not sufficient (rulings of 13 December 2004, 21 December 2006, and 29 June 2010).

The Government executes laws (Item 2 of Article 94 of the Constitution); therefore, it is evident that, while preparing a draft state budget, it must also invoke the laws that affect the amount of planned state revenue and expenditure. As held in the Constitutional Court's ruling of 14 January 2002, a draft state budget prepared by the Government must provide for funds necessary for the implementation of laws.

Since the Government, when preparing a draft state budget, and the Seimas, when considering and approving it, are bound by valid laws that affect the amount of planned state revenue and expenditure and, at the same time, have the duty to predict the tendencies in the development of the economy of the state, to assess the needs and possibilities of society and the state, it may become necessary to amend such laws correspondingly. It needs to be noted that, if amendments to such laws established certain duties or

limitations with respect to persons, regard must be paid to the constitutional requirement to provide for a sufficient *vacatio legis*, i.e. enough time should be left before the entry into force of those amendments (beginning of the application thereof) so that the interested persons could properly prepare for them. In this context, it needs to be mentioned that, in the course of making amendments (establishing new taxes, increasing the existing ones, etc.) exerting a decisive influence on the state budget revenue, this fact is of special importance, since a sufficient *vacatio legis* in the sphere of tax law is an important guarantee that persons (first of all, taxpayers) would be able not only to familiarise themselves with new requirements of tax laws in advance, but also to adapt their property interests and perspectives of economic activity to the said requirements. Thus, while preparing a draft state budget and considering it, it is necessary, among other things, to assess whether, prior to the approval of the state budget at the Seimas, the respective amendments should be made to tax laws and other laws that affect state revenue and expenditure where the constitutional requirement for a sufficient *vacatio legis* is applicable to the entry into force of such laws.

All this implies that, when account is taken of the constitutional principle of responsible governance, the preparation of a draft state budget should be started on the day that would make it possible, if need arises, to adopt the necessary amendments of the aforesaid laws on time. A deviation from these requirements might be allowed only in exceptional circumstances if this is justified by an important public interest.

The expenditure established by means of laws may not be reduced as long as these laws are not altered (Paragraph 2 of Article 131 of the Constitution)

The Constitutional Court's ruling of 15 February 2013

In the course of preparing, considering, and approving a draft state budget, the requirements stemming from the prohibition, which is consolidated in Paragraph 2 of Article 131 of the Constitution, against reducing the expenses provided for by means of laws as long as the said laws are not amended, and from the constitutional concept of such laws, are also binding on the Government and the Seimas.

In its ruling of 14 January 2002, when interpreting Paragraph 2 of Article 131 of the Constitution, the Constitutional Court, *inter alia*, held the following:

– the state revenue and expenditure planned for the budget year must be provided for only in the state budget approved by means of law; the provision that the expenditure stablished by means of laws may not be reduced as long as these laws are not amended may not be interpreted as making it possible to provide for such funding of certain needs that is not included in the law on the state budget of the given year;

– the laws specified in Paragraph 2 of Article 131 of the Constitution, which provide for certain expenditure, are not laws that may substitute for or change the law on the state budget; the aforesaid laws are not allowed to regulate the relationships that the Constitution permits regulating only by the law on the state budget; the aforesaid laws create the obligation to ensure the succession of the relationships connected with the state budget each budget year and the financial continuity when the persistent pursuit of certain public objectives (special, long-term, strategic) requires more funds than it is possible to allocate in one budget year;

– the laws specified in Paragraph 2 of Article 131 of the Constitution, which provide for certain expenditure, are an exception rather than a rule; non-state-budget laws can provide only for expenditure necessary in order to achieve a defined, generally important objective over a certain period of time established by means of a law, provided these needs cannot be satisfied in one budget year; however, such laws may not provide for funds necessary for the execution of routine functions of the state or for funds necessary to finance the everyday needs of society.

The process of the state budget in the year of the election of the Seimas

The Constitutional Court's ruling of 15 February 2013

… under the Constitution, the Seimas considers the draft state budget prepared by the Government and approves it by means of a law before the start of the new budget year. It needs to be noted that, under the Constitution, members of the Seimas are elected for a four-year term (Paragraph 1 of Article 55); a regular election to the Seimas is held on the year of the expiry of the powers of the members of the Seimas on the second Sunday of October (Paragraph 1 of Article 57 (wording of 13 July 2004)); the term of powers of the members of the newly elected Seimas is begun to be counted from the beginning of its first sitting, whereas the term of powers of the previously elected members of the Seimas expires (Paragraph 1 of Article 59); the Government returns its powers to the President of the Republic after the election of the Seimas (Paragraph 4 of Article 92) and later, after a new Government is formed, resigns (Item 4 of Paragraph 3 of Article 101); a new Government receives the powers to act after the Seimas gives assent to its programme (Paragraph 5 of Article 92); the Government is jointly and severally responsible to the Seimas for the general activities of the Government (Paragraph 1 of Article 96 of the Constitution).

Thus, the constitutional regulation of the state budget process and the constitutional regulation of the time of the election of the Seimas creates the preconditions, in the year when the election to the Seimas takes place, for a newly elected Seimas and the Government, which is responsible to the Seimas and receives the powers to act after the Seimas gives assent to its programme, to engage in the state budget process that has already started.

[…]

When the provision of Item 14 of Article 67 of the Constitution, whereby the Seimas approves the state budget, and the provision of Paragraph 1 of Article 131 thereof, whereby the Seimas considers and approves the draft state budget by means of a law before the start of the new budget year, are interpreted in conjunction with the provision of Paragraph 1 of Article 57 (wording of 13 July 2004) thereof, according to which a regular election to the Seimas is held in the year of the expiry of the powers of the members of the Seimas on the second Sunday of October, it needs to be noted that it is necessary to establish in laws and the Statute of the Seimas such a legal regulation that, in the year when a new Seimas is elected, would create the conditions for implementing the constitutional powers of the Seimas to consider and approve the draft state budget, thus securing the possibility for the political forces that have won the election to the Seimas to implement, in reality, their programmes, which acquire the legal meaning only when the Seimas approves the programme of the Government by its resolution.

In addition, the Constitution, *inter alia*, Paragraph 1 of Article 57 (wording of 13 July 2004), Item 7 of Article 67, Paragraph 5 of Article 92, Item 4 of Article 94, and Paragraph 1 of Article 131 thereof, means that a legal regulation should also create the conditions for the new Government in order that it would implement its constitutional powers to draft the state budget.

… the Government, when implementing its constitutional competence, must present a draft state budget to the Seimas not later than 75 days before the end of the budget year. Thus, there can also arise such a situation where a draft state budget for the subsequent year would be prepared and approved before the beginning of the new term of office of the Seimas (thus, also before the new Government is granted the powers to act); however, even in such a case, it is necessary to ensure the possibility for the Seimas of the new term of office and the new Government responsible to the Seimas to implement their constitutional powers related to preparing, considering, and approving the state budget, thus securing the possibility for the political forces that have won the election to the Seimas to implement, in reality, their programmes, which acquire the legal meaning after the Seimas approves the programme of the Government by its resolution.

Deviations from the constitutional requirements for the adoption and entry into force of laws affecting the revenue and expenditure of the state budget upon the emergence of a particularly difficult economic and financial situation in the state; the duty of the legislature, before approving the state budget for a subsequent year, to reassess the actual economic and financial situation in the state

The Constitutional Court's ruling of 15 February 2013

The Constitutional Court has noted that neither the Government, which, under the Constitution, has the powers to execute the state budget, nor the Seimas, which, under the Constitution, approves the state budget by means of a law, may refrain from reacting to such an essential change in the economic and financial condition of the state where, due to special circumstances (economic crisis, a natural disaster, etc.), a particularly difficult economic and financial situation occurs in the state; upon the emergence 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 on municipal budgets); thus, the required funds would not be obtained for financing certain needs provided for in the law on the state budget (and on municipal budgets) (*inter alia*, the decision of 13 November 2007, the ruling of 11 December 2009, and the decision of 20 April 2010).

It needs to be noted that possible deviations from the constitutional requirements established for the adoption and entry into force of the laws that affect the state budget and its revenue and expenditure, *inter alia*, from the constitutional principles of a state under the rule of law and responsible governance, *inter alia*, from the requirement that the amendments of the laws that affect the state budget and its revenue and expenditure be adopted before the Seimas approves the state budget, and from the requirement for providing for a sufficient *vacatio legis*, may be constitutionally justifiable on the grounds of the aim to ensure an important public interest – to guarantee the stability of public finances, not to allow the rise of an excessive budget deficit in the state due to a particularly difficult economic and financial situation because of the economic crisis – determining the necessity of urgent and effective decisions.

The Constitutional Court has held that the constitutional institution of a budget year gives rise to the duty of the legislature, in the course of deliberating and approving the state budget for a subsequent year, to reassess the actual economic and financial situation in the state and to decide whether the said situation is still a particularly difficult 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 (decision of 20 April 2010 and the ruling of 6 February 2012). While submitting a draft budget to the Seimas, the Government must substantiate the revenue and allocations indicated therein with the evaluation of the needs and possibilities of the state and society; this information must be public (ruling of 14 January 2002). Among other things, this means that society must be presented with concrete criteria upon which the assessment of the economic and financial situation of the state is based, determining the planning of the state budget revenue and expenditure and a possible need correspondingly to amend the laws that affect the revenue and expenditure, especially the laws establishing obligations of and limitations upon persons.

In this context, it needs to be noted that, under the Constitution, if a particularly difficult economic and financial situation in the state is long-term and continues for more than one year, there is no tolerance for the fact that, in the course of adopting the laws that affect the state budget revenue and expenditure, the aforementioned requirements, which arise from the Constitution, for the adoption and entry into force of these laws would be disregarded by justifying this by the necessity to adopt urgent decisions in order to handle the consequences of the economic crisis.

The constitutional duty to pay taxes

The Constitutional Court's ruling of 15 February 2013

The duty to pay taxes is a constitutional duty (*inter alia*, the rulings of 10 July 1997 and 24 January 2006). It needs to be noted that, when establishing such a duty by means of a law, regard must

be paid to the Constitution, *inter alia*, the constitutional principles of justice, proportionality, legal certainty, and the protection of the legitimate expectations of persons.

… the persons who, under the Constitution, must pay taxes established by means of a law have the right to reasonably expect that, in the course of establishing or changing taxes, regard should be paid to the constitutional principle of a state under the rule of law, *inter alia*, the principles of legal certainty, legal security, and the protection of legitimate expectations, which implies the duty of the state to ensure the stability of the legal regulation by which taxes are established, as well as to protect and respect the legitimate interests and legitimate expectations of taxpayers.

The reduction of the financing of the areas funded from the funds of the state budget and municipal budgets upon the emergence of a particularly difficult economic and financial situation in the state

The Constitutional Court's ruling of 5 March 2013

… the constitutional imperatives of a state under the rule of law, justice, proportionality, the equality of rights, and social solidarity mean, *inter alia*, that the burden of an economic and financial crisis should be evenly and proportionately shared by all society (ruling of 6 February 2012). As a rule, in the event of a particularly difficult economic and financial situation, the budgetary financing of all institutions exercising state power, as well as the financing of various areas financed from the funds of the state budget and municipal budgets, should be revised and reduced (rulings of 28 March 2006 and 22 October 2007).

The concept of the state budget

The Constitutional Court's ruling of 5 July 2013

The state budget is a plan of the state revenue and expenditure (allocations) for a specific period, i.e. a financial plan of the state, according to which public funds are redistributed; in the legal sense, the state budget is a law, by means of which a plan of the state revenue and expenditure (allocations) for a budget year is approved (*inter alia*, the ruling of 14 January 2002 and the decision of 13 November 2007). The funds of the budget of the state, as the organisation of all society and as the organisation that is obliged to act in the interests of all society so that social harmony is ensured, must be allocated for the performance of various functions of the state and the provision of public services (ruling of 16 May 2013).

Taxes; the powers of the legislature to establish taxes, tax exceptions, and tax concessions

The Constitutional Court's ruling of 22 September 2015

The Constitutional Court has held that taxes form an essential part of the financial system of the state and that they constitute the main part of the revenue of the state budget (*inter alia*, the rulings of 15 March 2000 and 5 July 2013) and are one of the primary conditions for the existence of the state (rulings of 9 October 1998 and 5 July 2013). The establishment of taxes is aimed at receiving revenue to perform the functions of the state (municipality) and to meet the public needs of both society and the state (rulings of 17 November 2003 and 5 July 2013). When taxes are not paid or are overdue, the state (municipal) budget does not receive part of its revenue and the possibilities for the state (municipality) to perform the functions established for it are limited (rulings of 10 July 1997, 17 November 2003, and 5 July 2013). By means of taxes, economic and social processes are regulated, useful economic efforts are encouraged, and the priorities of economic development are supported (ruling of 17 November 2003). Tax relationships are a matter of regulation by public law; tax relationships are legal relations of an authoritative nature between taxpayers and state institutions; the decisions (orders) adopted by state institutions are obligatory to taxpayers (rulings of 17 November 2003 and 12 February 2010).

The Constitutional Court also noted in its acts that taxes and other compulsory payments are compulsory and unrequited payments of a certain size that are established by means of a law and made by legal and natural persons to the state (municipal) budget in due time (*inter alia*, the rulings of 24 January 2006 and

3 April 2015). State taxes and other compulsory payments are a pecuniary obligation of legal subjects to the state; under the Constitution, only the Seimas may establish state taxes and other compulsory payments and it may establish them only by means of a law, which is an important guarantee of the protection of the rights of persons (rulings of 3 June 2002 and 3 April 2015). When imposing taxes, the legislature must pay regard to the norms and principles of the Constitution, *inter alia*, the constitutional principles of justice, reasonableness, and proportionality (ruling of 22 December 2006). The Constitutional Court has held on more than one occasion that such essential elements of tax as the object of tax, the subjects of tax relationships, their rights and duties, the sizes (rates) of tax, the time limits of payment, tax exceptions and tax concessions, fines and late payment interest should be established by means of a law.

In the context of the constitutional justice case at issue, it should be noted that the establishment of tax exceptions or tax concessions is a matter of social and economic expediency that is within the competence of the legislature. Under the Constitution, the legislature has the discretion to establish, by means of a law, tax exceptions or tax concessions by taking account of the resources of the state and society, the material and financial possibilities, and the priorities of economic and social policy and by paying regard to other important factors. In doing so, the legislature may not violate the norms or principles of the Constitution.

[…]

In this ruling of the Constitutional Court, it has been mentioned that such essential elements of tax as the object of tax, the subjects of tax relationships, their rights and duties, the sizes (rates) of tax, the time limits of payment, tax exceptions and tax concessions should be established by means of a law.

Consequently, all conditions for imposing a certain tax should be established by means of a law. The law providing for the conditions of a certain tax must not contain any provisions granting the discretion to the state institutions administering taxes to decide whether a concrete taxpayer has to pay the tax or may be exempted from it even when certain circumstances are taken into account, as, for instance, the financial situation of the family of the taxpayer, the ability of such a family to pay, the number of under-age children raised in the family, etc. Otherwise, should the state institutions administering taxes have such discretion, the essence of a tax as a law-established unrequited compulsory payment by legal and natural persons during the established period to the state budget would be denied.

Decisions concerning the basic property liabilities of the state are adopted by the Seimas (Paragraph 1 of Article 128 of the Constitution)

The Constitutional Court's ruling of 29 September 2015

In the Constitutional Court's ruling of 15 February 2013, it is noted that, under the Constitution, while preparing a draft state budget, the Government and, while considering and approving a draft state budget, the Seimas must follow the laws that presuppose a certain amount of estimated state revenue and expenditure, including the laws determining state financial obligations.

In this context, it should be emphasised that, under Paragraph 1 of Article 128 of the Constitution, decisions concerning the basic property liabilities of the state are adopted by the Seimas upon the proposal of the Government.

… under the Constitution, *inter alia*, Paragraph 1 of Article 128 thereof, the decisions that have an essential influence on the amount of the expenditure of the state provided for in the state budget must be adopted and consolidated in laws by the Seimas. Otherwise, if decisions affecting a significant part of the expenditure of the state budget were consolidated in acts adopted by other state institutions, the preconditions would be created for the emergence of the situations where the Seimas, being incapable of changing such situations, would have to approve the state budget without being able to affect its content to particular significant extent. This would mean that the possibilities of the Seimas to efficiently fulfil its constitutional budgetary function are restricted and that its role in forming the state budget is a mere formality and this would not be in line with the purpose and essence of the constitutional powers of the Seimas in the sphere of state finances.

In view of the fact that the funds of the state (municipal) budget allocated for the pay for work of the employees of establishments through which various functions of the state are implemented and which are financed from that budget represent a significant part of the expenditure of the state (municipal) budget, it should be held that the financial liabilities of the state that determine the said expenditure and are linked to the work pay of these employees must be considered the basic property liabilities of the state and, under Paragraph 1 of Article 128 of the Constitution, decisions concerning these liabilities must be adopted by the Seimas upon the proposal of the Government. Therefore, the most important elements (which have essential influence on the amount of the expenditure of the state (municipal) budget) of the work pay of the employees of establishments financed from the said funds must be established by means of a law.

The powers of the Seimas to supervise the execution of the state budget (Item 14 of Article 67 of the Constitution)

The Constitutional Court's ruling of 16 May 2019

… Item 14 of Article 67 of the Constitution prescribes that the Seimas, *inter alia*, supervises the execution of the state budget. In its ruling of 13 May 2004, the Constitutional Court held that this provision of Item 14 of Article 67 of the Constitution is concretised in Item 4 of Article 94 of the Constitution, which, *inter alia*, provides that the Government submits to the Seimas a report on the execution of the budget; thus, under the Constitution, the Seimas has the powers to approve this report.

It should be noted that, under the Constitution, the Government has the exclusive powers to execute the state budget (Item 4 of Article 94). As noted in the Constitutional Court's ruling of 14 January 2002, the provision of Item 4 of Article 94 of the Constitution, whereby the Government executes the state budget, means that the Government has the duty to ensure that the state budget receives the specified revenue and that these funds are transferred to the entities specified in the law on the state budget. It should also be noted that, under the Constitution, the Seimas exercises parliamentary control over the Government (ruling of 24 December 2002).

Thus, the powers of the Seimas, consolidated in Item 14 of Article 67 of the Constitution, to supervise the execution of the state budget mean not only that the Seimas, pursuant to Item 4 of Article 94 of the Constitution, approves a report on the execution of the budget, but also that the Seimas supervises the execution of the state budget through the forms of parliamentary control over the Government, which are established by the Constitution.

In this context, it should be noted that the National Audit Office is a state institution exercising economic and financial control, which supervises the lawfulness of the possession and use of state-owned property and the execution of the state budget; it is accountable directly to the Seimas, which exercises parliamentary control over this institution (ruling of 6 December 1995). Thus, the powers of the Seimas, consolidated in Item 14 of Article 67 of the Constitution, to supervise the execution of the state budget also mean that the Seimas supervises the execution of the state budget through the forms of parliamentary control over the State Audit Office, which are established by the Constitution.

It should also be noted that, in exercising its powers under Item 14 of Article 67 of the Constitution to supervise the execution of the state budget, the Seimas, having regard to the Constitution, *inter alia*, the constitutionally consolidated principles of responsible governance and a state under the rule of law, may also exercise parliamentary control over the institutions that have been founded by means of laws, are accountable to the Seimas, and are independent managers of state budget appropriations.

11.2. THE POSSESSION, USE, AND DISPOSAL OF STATE-OWNED PROPERTY. PROPERTY THAT BELONGS BY RIGHT OF EXCLUSIVE OWNERSHIP TO THE REPUBLIC OF LITHUANIA

The constitutional grounds for possessing, using, and disposing of state-owned property (Paragraph 2 of Article 128 of the Constitution)

The Constitutional Court's ruling of 30 September 2003

Paragraph 2 of Article 128 of the Constitution provides that the procedure for the possession, use, and disposal of state-owned property is established by law.

[…]

The content of the provisions of Paragraph 2 of Article 128 of the Constitution should be interpreted in a systemic manner, in the context of the entire constitutional regulation, by taking account, *inter alia*, of the following: Paragraph 2 of Article 23 of the Constitution, according to which the rights of ownership are protected by law; Paragraph 1 of Article 46, which provides that the economy of Lithuania is based on the right of private ownership, freedom of individual economic activity, and economic initiative; Paragraph 3 of the same article, which states that the state regulates economic activity so that it serves the general welfare of the nation; Paragraph 4 of the same article, which stipulates that the law prohibits the monopolisation of production and the market, and protects freedom of fair competition; the provisions of Article 47 of the Constitution, which consolidate the right of exclusive ownership of the state of certain objects and establish what objects may belong to foreign subjects by right of ownership; and the provision of Paragraph 1 of Article 134 of the Constitution, whereby the National Audit Office supervises the lawfulness of the possession and use of state-owned property and the execution of the state budget.

The provisions of Paragraph 2 of Article 128 of the Constitution are inseparable from the provisions of the Constitution that consolidate such constitutional values as the independence of the state and the integrity of its territory, the security of the state, the welfare of the nation, public order and justice. They are also inseparable from the provisions of the Constitution that lay down various constitutional obligations of the state: family, motherhood, fatherhood, and childhood are under the protection and care of the state (Article 38 of the Constitution); the state takes care of families raising and bringing up children at home, and renders them support according to the procedure established by law (Article 39 of the Constitution); education at state and municipal schools of general education, vocational schools, and schools of further education is free of charge (Paragraph 2 of Article 41 of the Constitution); citizens who are good at their studies are guaranteed education at state schools of higher education free of charge (Paragraph 3 of Article 41 of the Constitution); the state supports culture and science, and takes care of the protection of Lithuanian historical, artistic, and other cultural monuments, as well as other culturally valuable objects (Paragraph 2 of Article 42 of the Constitution); ethnic communities are provided support by the state (Paragraph 2 of Article 45 of the Constitution); the state guarantees its citizens the right to receive old-age and disability pensions, as well as social assistance in the event of unemployment, sickness, widowhood, the loss of the breadwinner, and in other cases provided for by law (Article 52 of the Constitution); the state takes care of the health of people and guarantees medical aid and services for a person in the event of sickness (Paragraph 1 of Article 53 of the Constitution); the state promotes the physical culture of society and supports sport (Paragraph 2 of Article 53 of the Constitution); the state takes care of the protection of the natural environment, wildlife and plants, individual objects of nature, and areas of particular value, and supervises the sustainable use of natural resources, as well as their restoration and increase (Paragraph 1 of Article 54 of the Constitution); the state takes care of and provides for servicemen who lose their health during military service, as well as for the families of servicemen who lose their lives or die during military service (Paragraph 1 of Article 146); the state also provides for citizens who lose their health while defending the state, as well as for the families of citizens who lose their lives or die in defence of the state (Paragraph 2 of Article 146 of the Constitution); as well as other provisions of the Constitution.

Paragraph 2 of Article 128 of the Constitution should also be interpreted while taking account of the constitutional principle of a state under the rule of law and the provision of Paragraph 2 of Article 5 of the Constitution, whereby the scope of powers is limited by the Constitution.

Ownership includes obligations (rulings of 21 December 2000 and 14 March 2002). This constitutional imperative is addressed not only to the subjects of the private ownership right, but also to the state and self-government institutions and officials that have the powers to adopt decisions concerning the possession, use, and disposal of property that belongs to the state by right of ownership. Consequently, it is not permitted to establish such a legal regulation according to which property that belongs to the state by right of ownership would be possessed, used, and disposed of in such a manner that the interests of only one social group or separate persons would be satisfied and where this property would not serve the public interest, the need of society, or the welfare of the nation. This welfare may not be understood only in the material (or financial) sense (rulings of 13 February 1997 and 6 October 1999).

State-owned property is not an objective in itself – it should give benefit to society. The social function of state-owned property should be emphasised. While acting in the interests of society, state institutions must serve the common good of the nation. According to Paragraph 1 of Article 134 of the Constitution, state-owned property must be possessed and used lawfully; this is supervised by the National Audit Office.

In the context of the case at issue, it needs to be noted that the provision of Paragraph 2 of Article 23 of the Constitution, whereby the rights of ownership are protected by law, also means that laws must protect the rights of all owners; thus, laws must also protect the right of ownership of the state as the organisation of all society.

The striving for an open, harmonious, and just civil society, which is consolidated in the Preamble to the Constitution, the constitutional principle that ownership includes obligations, Paragraph 2 of Article 23 of the Constitution, according to which the rights of ownership are protected by law, the provision of Paragraph 2 of Article 128 of the Constitution, whereby the procedure concerning the possession, use, and disposal of state-owned property is established by law, as well as other provisions of the Constitution, give rise to the requirement that state-owned property must be used sparingly and not wasted. Such property must be managed rationally.

Under the Constitution, the legislature is obligated to establish, by means of laws, such a legal regulation governing the possession, use, and disposal of state-owned property that would ensure that this property would be used for the needs of society, as well as would serve the public interest and the welfare of the nation. When establishing the said legal regulation, the legislature must observe the Constitution and not violate the constitutional rights of the state as a subject of the right of ownership or the rights of other persons.

The fact that, under the Constitution, state-owned property must be used sparingly and not wasted does not mean that such property may not be transferred into the ownership of other subjects (except ownership objects that belong to the Republic of Lithuania by right of exclusive ownership).

The transfer of property (including its privatisation) that belongs by right of ownership to the state into the ownership of other subjects may be constitutionally justified only if this gives more benefit to society and seeks to satisfy significant and constitutionally justifiable needs/interests of society. Such transfer, both repayable and free of charge, would be constitutionally unjustified if the said transfer inflicted evident harm on society and violated the rights of other persons.

The provision of Paragraph 2 of Article 128 of the Constitution, under which the procedure for the possession, use, and disposal of state-owned property is established by law, means that the transfer of property that belongs by right of ownership to the state into the ownership of other subjects must be based on laws, that laws must, *inter alia*, establish which state institutions have the powers to adopt decisions concerning the transfer of property that belongs by right of ownership to the state into the ownership of other subjects, and that laws must establish the powers of these institutions to transfer the said property, as well as the conditions and procedure for the transfer of the said property. It is not permitted to establish any such a legal regulation according to which property that belongs to the state by right of ownership would be transferred into the ownership of other subjects in order to satisfy the interests or needs of only one social

group, or those of individual persons, if this does not comply with the need of society, the public interest, or does not serve the welfare of the nation. On the other hand, the legal regulation governing the transfer of state-owned property into the ownership of other subjects may not be such that limitations on the right of state institutions to dispose of this property would interfere with the implementation of the functions established for them.

It also needs to be noted that the legislature, while observing the Constitution and taking account of various factors, may establish the regime (conditions and procedure for the use) of property that is subject to transfer into the ownership of other subjects in order to further ensure the interests of society, the welfare of the nation and to implement the values consolidated in the Constitution.

It has been mentioned that the Constitution gives rise to the requirement that state-owned property must be used sparingly, not wasted, and managed rationally.

It needs to be noted that such situations may also arise where, for certain reasons, the state temporarily in fact possesses and uses such property that does not belong to it by right of ownership.

Therefore, if there arises such an objective situation where the state temporarily in fact possesses and uses property that does not belong to it by right of ownership, this property must also be possessed and used by observing the same constitutional requirements when possessing and using property that belongs to the state by right of ownership, i.e. it must also be used sparingly, not wasted, and managed rationally.

This constitutional imperative is also applicable to such property that is temporarily in fact possessed and used by the state where the said property was illegally nationalised or expropriated in other unlawful ways by the occupation government and the rights of ownership to which may be restored according to the law.

The right of exclusive ownership of the Republic of Lithuania; cultural objects of state importance; the nationalisation of cultural objects of national importance (Paragraph 1 of Article 47 (wording of 23 January 2003) of the Constitution)

The Constitutional Court's ruling of 8 July 2005

The provision of Paragraph 2 of Article 128 of the Constitution, whereby the procedure for the possession, use, and disposal of state-owned property is established by law, should also be interpreted in the context of the provision of Paragraph 1 of Article 47 of the Constitution, under which the subsurface, as well as the internal waters, forests, parks, roads, and historical, archaeological, and cultural objects of state importance, belong by right of exclusive ownership to the Republic of Lithuania.

It should be noted that, despite several amendments to Article 47 of the Constitution, the aforementioned provision was contained in the Constitution all the time (Paragraph 3 of Article 47 of the Constitution (wording of 25 October 1992), Paragraph 4 of Article 47 of the Constitution (wording of 20 June 1996), and Paragraph 1 of Article 47 of the Constitution, which is in force at present (wording of 23 January 2003)) and it has not been amended.

… while paying regard to the constitutional concept of culture (comprising … quite diverse values held and fostered by the Nation and separate communities), the notion of cultural objects of state importance, which is used in Paragraph 1 of Article 47 of the Constitution, is general; it also comprises historical and archaeological objects of state importance, but it is not limited to them; the said notion is much broader. This notion comprises diverse property – real property, movable property, property that is categorised as belonging to the cultural heritage and declared that of state importance according to the established procedure. Moreover, the other objects specified in Paragraph 1 of Article 47 of the Constitution (for example, parks of state importance) may also be considered cultural objects of state importance.

Culture (when this notion is used in its constitutional sense) is always related to valuable objects. The Constitution does not create the preconditions for declaring every cultural object that could be categorised as belonging to the cultural heritage, even when such a cultural object is certainly of great value, as one of state importance. It is allowed to declare not any cultural objects categorised as belonging to cultural heritage to be cultural objects of state importance, but only such cultural objects whose continuous value and

importance is so great and the necessity to preserve them for future generations is so pressing that failure to declare them to be of state importance would pose a threat to their preservation and would not ensure access to them for the public.

It should be noted that declaring cultural objects to be of state importance implies a special regulation of the relationships connected with the maintenance, protection, and use of such cultural objects. When taking account of the special continuous value of the said cultural objects, of the importance and necessity to preserve them to the posterity, a special, individual legal regime must be established by means of a law in connection with such cultural objects if compared with other objects.

… freedom of access to culturally valuable objects – freedom of every individual to use the existing culturally valuable objects – is consolidated in the Constitution. Therefore, the legal regime established with regard to cultural objects of state importance must be such that would ensure access to the aforementioned cultural objects for the public and, at the same time, would not inflict damage on these valuable objects or deny other constitutional values.

The legal regime (established by means of a law) of cultural objects of state importance may comprise, *inter alia*, various prohibitions, obligations, other restrictions or limitations related to the possession, use, or disposal of these cultural objects. This legal regime may be differentiated by taking account of the character (*inter alia*, the fact whether the respective cultural objects are real property or movable property), features, and other factors of cultural objects.

The state (its institutions or officials) has the duty to control how the aforementioned legal regime is observed.

The provision of Paragraph 1 of Article 47 of the Constitution, whereby the subsurface, as well as the internal waters, forests, parks, roads, and historical, archaeological, and cultural objects of state importance, belong by right of exclusive ownership to the Republic of Lithuania, means that the specified objects may belong by right of ownership solely to the state, save the exceptions that stem directly from the Constitution. The state (its institutions or officials) may not adopt any such decisions that could become the basis for transferring these objects from the ownership of the state into the ownership of other subjects (save the exceptions permitted by the Constitution).

[…]

… the provision of Paragraph 1 of Article 47 of the Constitution, whereby the subsurface, as well as the internal waters, forests, parks, roads, and historical, archaeological, and cultural objects of state importance, belong by right of exclusive ownership to the Republic of Lithuania, should also be interpreted in the context of Article 23 of the Constitution. …

The Constitution, which consolidates the human rights and freedoms (*inter alia*, freedom of culture and the right of ownership) and recognises their innate nature, tolerates a situation where the objects of culture of even the greatest continuous value and obviously having state or national importance belong by right of ownership not only to the state, but also to other subjects, of course, provided that these other subjects have legally acquired particular cultural objects.

There are different ways how the aforementioned cultural objects of state importance (and various other objects indicated in Paragraph 1 of Article 47 of the Constitution, except the subsurface) may become the ownership of other persons, but not that of the state. A person (artist) may create them himself/herself and become their owner. A person may acquire such cultural objects by means of transactions from another person – their legal owner; besides, the other party of such a transaction need not necessarily be subject to the jurisdiction of the Republic of Lithuania. It should also be mentioned that, after the restoration of the independence in Lithuania, the process of restitution was launched (and is not over yet) – the existing real property that was nationalised and expropriated in any other unlawful manner by the occupation government is still being restituted to the former owners; thus, cases are possible where such property (for example, buildings) that could be categorised as belonging to cultural objects of state importance is also subject to restitution to the former owners. Also, such situations are possible where certain property that legally belongs by right of ownership not to the state, but to another legal or natural person, due to its great permanent value

and importance for future generations, is or will be declared a cultural object of state importance in accordance with the established procedure. According to the Constitution, in all these and other cases where cultural objects of state importance belong by right of ownership not to the state, but to other persons, the state (its institutions or officials) must tolerate this. Otherwise, the constitutional imperative of an open, just, and harmonious civil society would be disregarded and the innate human rights and freedoms, as well as other values consolidated, protected, and defended by the Constitution, would be violated.

On the other hand, the institution of expropriation *(eminent domain)* is also consolidated in the Constitution. Under Paragraph 3 of Article 23 of the Constitution, property may be taken only for the needs of society according to the procedure established by law and must be justly compensated for. The Constitutional Court, when interpreting, in the context of the problem of the ownership of cultural objects of state importance, Paragraph 4 of Article 47 of the Constitution (wording of 20 June 1996), the text of which corresponds to the text of the current Paragraph 1 of Article 47 of the Constitution (wording of 23 January 2003), has held: the Constitution does not reject the possibility of bringing separate cultural objects of state importance into the ownership of the state; this would depend on the public significance and value of particular objects, as well as on the necessity to guarantee the possibility of its endurance and preservation for future generations; such nationalisation of valuables of culture must be carried out only pursuant to the requirements of Paragraph 3 of Article 23 of the Constitution (ruling of 16 March 1999). It should be stressed that the nationalisation of cultural objects is possible only after declaring them to be of state importance in accordance with the established procedure. It should be noted that the nationalisation of such cultural objects of state importance that belong by right of ownership not to the state, but to other subjects, should be regarded as an exceptional measure.

[…]

When taking account of the special continuous value and significance of cultural objects of state importance, as well as the need to preserve them for future generations, the state has the constitutional duty to take care of these objects and to protect them. It should be noted that the provision of Paragraph 2 of Article 42 of the Constitution, whereby the state supports culture and science, and takes care of the protection of Lithuanian historical, artistic, and other cultural monuments, as well as other culturally valuable objects, implies that, in cases where certain cultural objects of state importance (and various other objects indicated in Paragraph 1 of Article 47 of the Constitution, except the subsurface) belong by right of ownership not to the state, but to other persons, the state is not relieved from the duty to ensure the protection of the said objects and to take care of them.

In this context, it needs to be emphasised that the constitutional status of cultural objects of state importance implies the duty of the state to keep records of cultural objects of state importance, *inter alia*, the duty of the legislature to set, by means of a law, a list of cultural objects of state importance and to mark separately which cultural objects of state importance belong to the state and which of them belong to other owners. If necessary, such a list must be revised in accordance with the established procedure by taking into account the fact whether the need exists during a particular phase of the development of society and the state to include additional cultural objects in the said list (and/or the need exists to exclude certain cultural objects from the aforementioned list). It should be stressed that the inclusion of cultural objects of state importance in the aforementioned list may not depend on the fact whether particular cultural objects belong by right of ownership to the state or to other legal or natural persons. It should also be stressed that the recognition that particular cultural objects that belong by right of ownership not to the state, but to other persons, are of state importance does not mean their nationalisation.

[…]

The specified requirements that stem from the Constitution and are related to keeping records of cultural objects of state importance and the duty of the state to take care of cultural objects of state importance and to ensure their protection (irrespective of the fact whether the aforementioned cultural objects belong by right of ownership to the state or to other legal or natural persons) are also *mutatis mutandis* applicable to the other objects indicated in Paragraph 1 of Article 47 of the Constitution.

[…]

The state (its institutions or officials), when exercising, under the Constitution, the powers to control how the legal regime established in regard to cultural objects of state importance is observed, also has the powers to control how the owners to whom these objects belong by right of ownership and the state or municipal institutions that possess these objects by right of trust or by other (non-property) right observe this legal regime.

[…]

… the material basis for performing the function of supporting and protecting culture, which is transferred to municipalities (to the established extent), is comprised of both the property needed for the performance of this function where such property belongs by right of ownership to municipalities and the property that belongs by right of ownership to the state, but is possessed by right of trust or by other (non-property) right by municipalities.

It should be noted that property that belongs by right of ownership to a certain municipality or property that belongs by right of ownership to the state but is possessed by right of trust by a municipality may be a cultural object of state importance or may become (be declared) such a cultural object in future. Such cultural objects must be included in a list (approved by means of a law) of cultural objects of state importance and such cultural objects may become subject to the legal regime established by means of a law with regard to cultural objects of state importance; the said legal regime may include, *inter alia*, various prohibitions, obligations, other restrictions, or limitations concerning the possession, use, and disposal of these cultural objects.

It needs to be emphasised that, in order to more efficiently guarantee the function of supporting and protecting culture, which is consolidated in Paragraph 2 of Article 42 of the Constitution, it is possible, by paying regard to the Constitution, to nationalise cultural objects of state importance that belong to municipalities by right of ownership.

The exclusive ownership of the Republic of Lithuania (objects of nature of state importance) (Paragraph 1 of Article 47 (wording of 23 January 2003) of the Constitution) (also see 2. The constitutional status of persons, 2.2. Civil (individual) rights and freedoms, 2.2.5. The right of ownership, 2.2.5.3. Special objects of ownership, and 2.4. Economic, social, and cultural rights, 2.4.2. Social rights, 2.4.2.3. The right to a healthy environment)

The Constitutional Court's ruling of 14 March 2006

Under Paragraph 4 (wording 20 June 1996) of Article 47 of the Constitution and Paragraph 1 (wording 23 January 2003) of Article 47 of the Constitution, *inter alia*, internal waters, forests, and parks of state importance belong by right of exclusive ownership to the Republic of Lithuania.

This constitutional provision means that the specified objects can belong by right of ownership only to the state, save the exceptions that stem from the Constitution itself; the state (its institutions, officials) may not adopt any decisions that could become the basis for transferring these objects from the ownership of the state into the ownership of other subjects (save the exceptions permitted by the Constitution) (ruling of 8 June 2005).

On the other hand, the fact that, under the Constitution, certain objects of state importance belong by right of exclusive ownership to the Republic of Lithuania does not mean that particular objects that belonged by right of ownership to certain persons and were later declared to be of state importance must necessarily be taken into state ownership. In this context, it should be mentioned that, under Paragraph 3 of Article 23 of the Constitution, property may be taken only for the needs of society according to the procedure established by law and must be justly compensated for.

It needs to be emphasised that not every object (*inter alia*, an object of nature) that belongs by right of ownership to the state should be declared that of state importance. In addition, it needs to be noted that it is allowed to declare not any internal waters, forests, and parks as internal waters, forests, and parks of state importance, but only those whose continuous value is so high and the necessity to preserve them to the

posterity is so pressing that, if they were not declared to be of state importance, a threat to their preservation would arise.

When taking account of the special continuous value of internal waters, forests, and parks of state importance and the necessity to preserve them to the posterity, the state is under the constitutional obligation to take care of these objects and preserve them.

The recognition that land, forests, parks, or water bodies, as well as those that are located in areas of particular value, are of state importance, implies a special legal regulation of the relationships connected with the supervision, protection, and use of such objects. When taking account of the special continuous value of the said objects and of the importance and necessity to preserve them to the posterity, a special and individual legal regime may be established by means of a law in connection with such objects if compared with other objects.

The protection of state-owned objects of nature that are located in areas of particular value (Paragraph 2 of Article 23, Paragraph 1 of Article 54, and Paragraph 2 of Article 128 of the Constitution)

The Constitutional Court's ruling of 14 March 2006

The provision of Paragraph 2 of Article 128 of the Constitution, whereby the procedure for the possession, use, and disposal of state-owned property is established by law, the principle of a state under the rule of law, which is consolidated in the Constitution, the constitutional principle that ownership includes obligations, Paragraph 2 of Article 23 of the Constitution, whereby the rights of ownership are protected by law, and other provisions of the Constitution give rise to the requirement that state property must be used sparingly and not wasted. State-owned property must be managed rationally.

Relating the said constitutional principles with the state duty, which is consolidated in Article 54 of the Constitution, to take care of the protection of the natural environment, individual objects of nature, and areas of particular value, it should be held that, if the objects of nature that are located in areas of particular value belong by right of ownership to the state, then, regardless of whether or not they are declared to be objects of state importance, they may be transferred into the ownership of other persons only in cases (and only in such a manner) where this is constitutionally justifiable. It needs to be mentioned that, *inter alia*, such a legal regulation whereby land, forests, parks, or water bodies that are located in areas of particular value and belong by right of ownership to the state may be transferred into the ownership of certain other subjects for no consideration or for an unreasonably small price, as well as such a legal regulation whereby land, forests, parks, or water bodies that are located in areas of particular value and belong by right of ownership to the state may be transferred into the ownership of other persons when the rights of ownership are restored to them in equivalent kind, i.e. when a person who did not have the ownership right to an object – land, forest, a park, or a water body – that is located in an area of particular value receives as ownership precisely such an object in kind, would lack the said constitutional grounds.

On the basis of the provision of Paragraph 2 of Article 23 of the Constitution, whereby the rights of ownership are protected by law, the provision of Paragraph 2 of Article 128 thereof, under which the procedure for the possession, use, and disposal of state property is established by law, the provision of Article 54 thereof, according to which the state takes care of the protection of the natural environment, wildlife and plants, individual objects of nature, and areas of particular value, as well as on the basis of other provisions of the Constitution, the conclusion should be drawn that the respective measures of protection, including all limitations and prohibitions regarding the right of ownership, must be established by means of a law.

The possession, use, and disposal of state-owned property

The Constitutional Court's ruling of 30 October 2008

Under the Constitution, the state is a subject of the right of ownership (rulings of 27 May 2002 and 30 September 2003). The Constitutional Court has held on more than one occasion that the state is the

organisation of all society. When performing its functions, the state must act in the interests of society (rulings of 4 March 2003 and 13 December 2004).

The property that belongs to the state by right of ownership should be managed in such a way that it would serve the general welfare of the nation and the interest of society at large; state-owned property is one of the means for guaranteeing the public interest and social harmony; institutions of state power and other state institutions that are empowered to adopt decisions concerning the possession, use, and disposal of property that belongs to the state by right of ownership are not themselves the owners of that property – such property belongs to the entire state; therefore, all the state institutions that have the powers to adopt decisions concerning the possession, use, and disposal of property that belongs to the state by right of ownership must observe the norms and principles of the Constitution (ruling of 30 September 2003).

It needs to be noted that state institutions, when adopting decisions regarding the possession, use, and disposal of property that belongs to the state by right of ownership must follow the norms and principles of the Constitution and may not act *ultra vires*, i.e. by exceeding their powers, under any circumstances. If state institutions or officials act *ultra vires*, such acts may not be identified, without reservations, with acts of the state itself. … if state officials, when acting *ultra vires*, commit a crime, this does not mean that such a criminal act committed by them may be identified with the action of (or the failure to act by) the state itself and that the state, as the owner, may not recover the property that has been lost as a result of a crime committed by a state official.

The possession, use, and disposal of state-owned property (*inter alia*, the investment of state assets) (Paragraph 2 of Article 128 of the Constitution)

The Constitutional Court's ruling of 2 March 2009

Paragraph 2 of Article 128 of the Constitution provides that the procedure for the possession, use, and disposal of state-owned property is established by law. When interpreting this provision, the Constitutional Court has held that the transfer of property that belongs by right of ownership to the state into the ownership of other subjects must be based on laws, that laws must, *inter alia*, establish which state institutions have the powers to adopt decisions concerning the transfer of property that belongs by right of ownership to the state into the ownership of other subjects, and that laws must establish the powers of these institutions to transfer the said property, as well as the conditions and procedure for the transfer of the said property (rulings of 30 September 2003, 8 July 2005, 23 August 2005, 23 May 2007, and 23 November 2007). This is also applicable to the Government, which does not have the discretion to decide not to apply the provisions of a certain law regulating particular relationships, unless the non-application of a certain provision of such a law is *expressis verbis* provided for in laws (ruling of 23 May 2007).

It needs to be noted that the provision "the transfer of property that belongs by right of ownership to the state into the ownership of other subjects must be based on the law" of the official constitutional doctrine may not be interpreted as meaning that all relationships connected with the transfer of state-owned property into the ownership of other subjects should be regulated only by means of a law – the Government and other subjects of lawmaking, according to their competence, may also regulate these relationships by means of substatutory legal acts that are based on laws and do not compete with them (ruling of 23 November 2007).

When interpreting Paragraph 2 of Article 128 of the Constitution, the Constitutional Court has also held that state-owned property is not an objective in itself, but that it should give benefit to society, that it should be used sparingly, not wasted, and managed rationally; laws must protect the rights of ownership of all owners, including those of the state as the organisation of all society; under the Constitution, no such legal regulation is permissible whereby state-owned property is possessed, used, and disposed of in such a way that the interests or needs of only one social group or individual persons would be satisfied and this property would not serve the public interest, the needs of society, or the welfare of the Nation (where welfare may not be understood only in the material and financial sense) (rulings of 30 September 2003, 8 July 2005, 5 July 2007, 23 November 2007, and 20 March 2008). These constitutional imperatives are also applicable in the situations of the investment of state assets.

… under Paragraph 2 of Article 128 of the Constitution, the investment of state assets must be based on a law that must consolidate the following: the criteria and conditions for investing state assets as well as the subjects that have the right to adopt decisions on the investment of state assets. The establishment of the criteria of the investment of state assets is not an objective in itself – such criteria must be established that would ensure the public interest and the observance of the imperatives that stem from the Constitution, *inter alia*, Paragraph 2 of Article 128 thereof. The legislature is under the duty to establish such criteria of the investment of state assets that would permit, *inter alia*, differentiating the investment of state assets by taking account of the specificity of the invested assets and their significance for the general welfare of the nation, as well as of other constitutionally important circumstances. The fact that the criteria and conditions for investing state assets, as well as the subjects that have the right to adopt decisions on the investment of state assets, must be established only by means of a law does not mean that the Government and other law-making subjects may not, within their competence, also regulate the relationships connected with state property by means of substatutory legal acts (for example, establish the arrangements and procedures for investing state assets) that are based on laws and do not compete with them. The legislature may establish various ways of the investment of state assets. The Constitution also does not prohibit establishing such a way of the investment of state assets where the investment of state assets is made together with other persons (person), *inter alia*, with a private person. When choosing the ways of investing state assets, the state must take account of the fact whether, upon choosing a certain way, the important and constitutionally justifiable needs and interests of society will be satisfied. The investment of state assets would be constitutionally unjustified if such investment inflicted evident harm on society or if the rights of other persons were violated. When regulating the relationships connected with the investment of state assets, the legislature must establish such a legal regulation that would ensure that the imperative of fair competition, which stems from Paragraph 4 of Article 46 of the Constitution, would not be violated or that no preconditions would be created for abuse in the course of investing state assets and administering invested state assets.

Privatising state (municipal) property

The Constitutional Court's ruling of 24 October 2012

… when concluding an agreement on the sale and purchase of a privatisation object that belongs to the state (municipality), the said agreement must provide for such conditions of this agreement and measures ensuring its implementation where the said conditions and measures would guarantee such a privatisation process that would be efficient and rational, would give benefit to society, and would ensure compliance with the principles of the equality of rights, the inviolability of property, proportionality, and the protection of legitimate expectations.

The transfer of state-owned property into the ownership of other subjects (*inter alia*, privatisation)

The Constitutional Court's ruling of 2 April 2013

Under the Constitution, the state, when regulating economic activity, must ensure that state property is managed in such a manner that there would be no contradiction to the requirement, consolidated in Paragraph 3 of Article 46 of the Constitution, that the state must regulate economic activity so that it serves the general welfare of the nation (rulings of 24 January 1996 and 2 March 2009).

[…]

The Constitutional Court has held on more than one occasion that it is not permitted to establish any such a legal regulation according to which property that belongs to the state by right of ownership would be transferred into the ownership of other subjects in order to satisfy the interests or needs of only one social group or separate persons where this would not serve the public interest, the needs of society, or the welfare of the nation (rulings of 30 September 2003, 8 July 2005, 5 July 2007, 23 November 2007, and 20 March 2008).

In the Constitutional Court's jurisprudence, it has been held on more than one occasion that the implementation of the public interest, as an interest of society recognised by the state and protected by law, is one of the most important conditions for the existence and evolution of society itself (*inter alia*, the rulings of 6 May 1997, 13 May 2005, 21 September 2006, and 6 January 2011).

The transfer of state-owned property into the ownership of other subjects (including privatisation) may be constitutionally justified only when this may provide larger benefits to society, when the purpose of such transfer is the satisfaction of important and constitutionally justifiable needs and interests of society; such transfer (both repayable and non-repayable) would be constitutionally unjustified if it inflicted evident harm on society and violated the rights of other persons (rulings of 30 September 2003, 8 July 2005, and 23 November 2007).

[…]

The legislature, when paying regard to the Constitution and taking account of various factors, may establish the regime (conditions and procedure for the use) of the property that is transferred into the ownership of other subjects in order to continue to ensure the interests of society and the welfare of the nation and to implement the values consolidated in the Constitution (rulings of 30 September 2003 and 8 July 2005).

Not only laws adopted by the legislature for regulating the transfer of state-owned property into the ownership of other subjects (*inter alia*, the privatisation of such property), but also the decisions of executive power regarding the implementation of these laws, must serve the public interest and the general welfare of the nation.

… the legislative and executive state powers, when amending the regulation of economic activity related to privatisation, are not allowed to deny the public interest and the requirements stemming from Article 46 of the Constitution (*inter alia*, Paragraph 3 thereof, under which the state regulates economic activity so that it serves the general welfare of the nation), as well as the constitutional principle of responsible governance.

The regulation of economic activity in cases where, *inter alia*, legal acts related to privatisation are adopted may be linked to the implementation of the rights and legitimate interests of various economic subjects, shareholders, or creditors. The Constitution, *inter alia*, Article 46 thereof, as well as the constitutional principle of responsible governance, gives rise to the duty of the legislature, when it regulates the relationships connected with privatisation, to precisely define the powers of employees and officials of state and municipal institutions and to determine their responsibility. Decisions adopted by institutions of executive power in the area of privatisation (especially those through which certain previous decisions establishing particular obligations are amended) must be rationally reasoned and the impact of such decisions on, *inter alia*, the economy of this country and the finances of the state must be properly assessed. The said decisions may not be arbitrary.

[…]

It needs to be emphasised that such practice of adopting resolutions by the Government is defective that ignores the requirements (stemming with respect to the institutions of executive power from Article 46 of the Constitution and the constitutional principle of responsible governance) that decisions adopted in the area of privatisation (particularly those by which certain previous decisions establishing particular obligations are amended) must be rationally reasoned and that the impact of such decisions on, *inter alia*, the economy and finances of the state must be properly assessed. No cases may be tolerated where the said government resolutions perfunctorily approbate such privatisation agreements (amendments thereto) the content of which is not known to the public and which fail to concretely specify any circumstances …

The procedure for the possession, use, and disposal of state-owned property must be established by law (Paragraph 2 of Article 128 of the Constitution)

The Constitutional Court's ruling of 24 February 2015

Paragraph 2 of Article 128 of the Constitution provides that the procedure for the possession, use, and disposal of state-owned property is established by law.

In interpreting the said provision, the Constitutional Court has held that it means that the legislature is entrusted with the regulation of issues concerning the activities of state enterprises, the management of shares held by the state in joint-stock companies, and other issues related to the possession, use, and disposal of state property; the legislature may choose legal instruments for this regulation to the extent not contrary to the Constitution; the stipulation of how to regulate the possession, use, or disposal of state property is a right of the legislature that is consolidated in the Constitution and only the Constitution defines the limits of this right (ruling of 24 January 1996). The Constitutional Court has also held that "relationships that arise when possessing, using, and disposing of state property must be regulated only by means of a law" (ruling of 24 January 1996), that "it is only the legislature that may establish the form of using state funds" (ruling of 28 February 1996), and that "it is only the legislature that may establish the manner and conditions for disposing of state property …" (ruling of 22 October 1996). The competence of the Government in this area is defined by means of laws (ruling of 17 June 1997). Thus, the provision "the procedure for the possession, use, and disposal of state property is established by law" of Paragraph 2 of Article 128 of the Constitution gives rise to the duty of the legislature to establish, by means of a law, all key elements of the possession, use, and disposal of state property (ruling of 23 August 2005).

It should be noted that the said provisions of the official constitutional doctrine may not be interpreted as meaning that all relationships of the possession, use, and disposal of property belonging to the state by right of ownership must be regulated only by means of a law – the Government and other law-making subjects may also regulate, within their competence, these relationships by means of substatutory legal acts that are based on a law and do not compete with it. However, under Paragraph 2 of Article 128 of the Constitution, only the legislature may establish the key elements of the content of the rights to possess, use, and dispose of state property.

The subsurface as a special object of the natural environment that belongs by right of exclusive ownership to the state (Paragraph 1 of Article 47 (wording of 23 January 2003) of the Constitution) (on the issue of regulating economic and other activity related to the use of the subsurface, see 2.4.2. Social rights, 2.4.2.3. The right to a healthy environment, the ruling of 16 December 2015 ("The duty of the state, when regulating economic and other activity related to the use of the subsurface, to ensure the protection of the subsurface and other objects of the natural environment (land, water, air, plants, wildlife) and human health, as well as the rational use of natural resources"))

The Constitutional Court's ruling of 16 December 2015

… under Paragraph 1 of Article 47 (wording of 23 January 2003) of the Constitution, the subsurface belongs by right of exclusive ownership to the Republic of Lithuania. The subsurface is a special object of the natural environment; it belongs by right of exclusive ownership to the state and may by no means become anyone else's property. The fact that the subsurface is under the exclusive ownership of the state provides the constitutional ground for establishing a special and specific legal regime of the protection and exploitation of the subsurface compared with other objects of nature.

The legal regulation of forestry management in order to ensure the rational maintenance and use of state-owned forests (Paragraph 2 of Article 128 of the Constitution)

The Constitutional Court's ruling of 16 April 2019

… forests that belong to the state by right of ownership are state property. Under Paragraph 2 of Article 128 of the Constitution, the procedure for the possession, use, and disposal of state property is established by law.

Interpreting Paragraph 2 of Article 128 of the Constitution, the Constitutional Court has noted that state-owned property is not an objective in itself, but that it must give benefit to society, must be used sparingly, not wasted, and managed rationally (*inter alia*, the rulings of 30 September 2003 and 20 March 2008); the duty arises for the legislature to establish, by means of a law, all the most important elements of the relationships connected with the possession, use, and disposal of state property (ruling of 23 August 2005). Moreover, the Constitutional Court has held in its rulings on more than one occasion that it is only the legislature that may establish the ways and conditions for the disposal of state property (rulings of 22 October 1996 and 23 August 2005).

[…]

… the Constitution, *inter alia*, Articles 46 and 54 and Paragraph 2 of Article 128 thereof, and the constitutional principle of a state under the rule of law give rise to the duty of the legislature to establish, by means of a law, the essential conditions for forestry management; the legislature must establish a clear and reasoned model of forestry management, *inter alia*, the respective subjects responsible for the management of forests belonging to the state by right of ownership, or the criteria for determining such subjects. It should also be noted that, while establishing the legal regulation governing forestry management, the legislature must observe, *inter alia*, the duty, which stems from Paragraph 3 of Article 46 of the Constitution, for the state to regulate economic activity so that it serves the general welfare of the people, by, at the same time, implementing the requirements, which stem from Article 54 and Paragraph 2 of Article 128 of the Constitution, *inter alia*, to ensure the proper protection of forests, as well as the rational management and use of forests as state-owned property.

11.3. THE BANK OF LITHUANIA

The status of the Bank of Lithuania; the obligation of the Republic of Lithuania to participate in the integration of the member countries into the economic and monetary union by adopting the euro (Article 125 of the Constitution, the Constitutional Act on Membership of the Republic of Lithuania in the European Union)

The Constitutional Court's ruling of 24 January 2014

The basis of the constitutional institution of the Bank of Lithuania is the provision of Paragraph 1 of Article 125 of the Constitution, according to which, in the Republic of Lithuania, the Bank of Lithuania is the central bank, which belongs to the State of Lithuania by right of ownership. …

… Paragraph 2 of Article 125 of the Constitution (wording of 25 October 1992) defined the exclusive powers of the Bank of Lithuania to issue currency. It should be noted that these powers were annulled by the … Law Amending Article 125 of the Constitution.

According to Paragraph 3 of Article 125 of the Constitution (wording of 25 October 1992), the procedures for the organisation and activities of the Bank of Lithuania, as well as its powers, had to be established by the Seimas by means of a law. It should be noted that, pursuant to the … Law Amending Article 125 of the Constitution, the former Paragraph 3 of Article 125 of the Constitution became Paragraph 2 of Article 125 and was supplemented with the provision that the law should also establish the status of the Chairperson of the Board of the Bank of Lithuania, as well as the grounds of his/her dismissal.

Some other provisions of the Constitution are related to Article 125 of the Constitution.

Item 2 of Article 67 of the Constitution establishes the powers of the Seimas to pass laws. Thus, this provision of the Constitution also gives rise to the powers of the Seimas to regulate the activities of the Bank of Lithuania by means of a law, *inter alia*, to regulate, by means of a law, the procedure of the organisation of the Bank of Lithuania and its powers, the status of the Chairperson of the Board of the Bank of Lithuania, as well as the grounds of his/her release from duties.

Item 11 of Article 67 of the Constitution establishes the powers of the Seimas to appoint and dismiss, *inter alia*, the Chairperson of the Board of the Bank of Lithuania, whilst Item 13 of Article 84 establishes the powers of the President of the Republic to propose a candidate for the post of the Chairperson of the Board of the Bank of Lithuania for consideration by the Seimas or to submit that the Seimas express no confidence in him/her. These provisions of the Constitution presuppose the procedure of the appointment and dismissal of the Chairperson of the Board of the Bank of Lithuania according to which the Chairperson of the Board of the Bank of Lithuania is appointed and dismissed by the Seimas on the proposal of the President of the Republic.

In this context, it should be mentioned that, according to Article 75 of the Constitution, the officials appointed or elected by the Seimas, with the exception of the persons specified in Article 74 of the Constitution, are dismissed from office when the Seimas expresses no confidence in them by a majority vote of all the members of the Seimas.

It should be noted that the content of the constitutional legal regulation of the institution of the Bank of Lithuania changed upon the adoption of the Constitutional Act on Membership of the Republic of Lithuania in the European Union, which is a constituent part of the Constitution and by means of which … membership of the Republic of Lithuania in the European Union was constitutionally confirmed.

… according to the preamble to the said Constitutional Act, the Seimas adopted it in order to execute "the will of the citizens of the Republic of Lithuania, as expressed in the referendum on membership of the Republic of Lithuania in the European Union, held on 10–11 May 2003", and in order to seek to ensure, *inter alia*, the full participation of the Republic of Lithuania in the European integration. It has also been mentioned that the full participation of the Republic of Lithuania, as a member of the European Union, in the European Union is a constitutional imperative based on the expression of the sovereign will of the Nation and that the full membership of the Republic of Lithuania in the European Union is a constitutional value.

It should be emphasised that the constitutional imperative of the full membership of the Republic of Lithuania in the European Union implies that the constitutional value is precisely full membership in the European Union, i.e. fully fledged, rather than partial, participation in the activities of this Union and in the integration of its Member States.

… the Constitutional Act on Membership of the Republic of Lithuania in the European Union establishes, *inter alia*, the constitutional foundations of membership of the Republic of Lithuania in the European Union. If such constitutional foundations were not consolidated in the Constitution, the Republic of Lithuania would not be able to be a full member of the European Union: *inter alia*, Article 1 of this Constitutional Act enshrines the principle that the Republic of Lithuania as a Member State of the European Union shares with or confers on the European Union the competences of its state institutions in the areas provided for in the founding Treaties of the European Union and to the extent it would, together with the other Member States of the European Union, jointly meet its membership commitments in those areas as well as enjoy the membership rights.

… one of the areas where, under Article 1 of the Constitutional Act on Membership of the Republic of Lithuania in the European Union, the Republic of Lithuania, as a Member State of the European Union, shares with and confers on the European Union the competences of its state institutions is the economic and monetary union, the currency of which is the euro, as specified in Paragraph 4 of Article 3 of the Treaty on European Union. It should also be noted that, pursuant to Paragraph 2 of Article 119 of the Treaty on the Functioning of the European Union, activities of the Member States and the Union in the area of economic and monetary policy shall include a single currency – the euro, and the definition and conduct of a single monetary policy and exchange-rate policy; according to Paragraph 1c of Article 3 of the same treaty, the

Union shall have exclusive competence in the area of monetary policy for the Member States whose currency is the euro. It needs to be emphasised that, by virtue of Article 1 of the Constitutional Act on Membership of the Republic of Lithuania in the European Union, the Republic of Lithuania shares with and confers the competences of its state institutions in the area of economic and monetary policy in order to jointly meet, together with the other Member States of the European Union, its commitments of full membership in the European Union and to enjoy the full membership rights in the European Union in this area.

It should be noted further that one of the basic tasks to be carried out through the European System of Central Banks (hereinafter also referred to as the ESCB) is to define and implement the monetary policy of the Union (Paragraph 2 of Article 127 of the Treaty on the Functioning of the European Union). According to Article 8 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the ESCB shall be governed by the decision-making bodies of the European Central Bank (hereinafter also referred to as the ECB); according to Paragraph 3 of Article 14 of the same protocol, the national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB; according to Paragraph 1 of Article 10 of the same protocol, the governors of the national central banks are members of the Governing Council of the ECB.

It should also be noted that:

– according to Article 128 of the Treaty on the Functioning of the European Union, the European Central Bank shall have the exclusive right to authorise the national central banks, *inter alia*, to issue euro banknotes (Paragraph 1), and Member States may issue euro coins subject to approval by the ECB of the volume of the issue (Paragraph 2);

– Article 130 of the Treaty on the Functioning of the European Union and Article 7 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank establish the principle of independence of the ECB and the national central banks according to which, *inter alia*, neither a national central bank nor any member of its decision-making bodies shall take instructions from the government of a Member State or from any other body; in this regard, it should be noted that, according to Paragraph 2 of Article 14 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the Governor of the national central bank may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct.

Accordingly, having regard to Article 1 of the Constitutional Act on Membership of the Republic of Lithuania in the European Union, on the basis whereof the Republic of Lithuania participates, *inter alia*, in the economic and monetary union, shares with or confers on the European Union the competences of its state institutions, *inter alia*, in the area of economic and monetary policy, it should be noted that the constitutional status of the Bank of Lithuania is defined as the status of the central bank of the Republic of Lithuania, whose competence is partly conferred on the ECB and which is an integral part of the ESCB; thus, the corresponding independence guarantees should be applied to the Bank of Lithuania and to the Chairperson of the Board of the Bank of Lithuania according to the Constitution, *inter alia*, in observance of the constitutional principle of *pacta sunt servanda*.

It should be noted further that, having regard to such a constitutional status of the Bank of Lithuania and the Chairperson of the Board of the Bank of Lithuania, the powers of the President of the Republic established in Item 13 of Article 84 of the Constitution to submit that the Seimas express no confidence in the Chairperson of the Board of the Bank of Lithuania should only be related to the possibility of expressing no confidence in the Chairperson of the Board of the Bank of Lithuania under such circumstances the nature of which prevent the Chairperson of the Board from performing his/her duties in general.

In this context, it should be noted further that, according to the Constitution, the legislature, when regulating the activities of the Bank of Lithuania, *inter alia*, defining the grounds and procedure for the dismissal of the Chairperson of the Board of the Bank of Lithuania, must pay regard to the constitutional status and the corresponding independence guarantees of the Bank of Lithuania, as the integral part of the ESCB. This means, *inter alia*, that it is not allowed to establish any such a legal regulation to the effect that:

– the preconditions would be created for the legislature and the executive to exert influence on the Bank of Lithuania, *inter alia*, the obligation would be created for the Chairperson of the Board of the Bank of Lithuania to submit reports on the performance of his/her functions subject to the approval by the Seimas, the President of the Republic, or the Government; it should be noted that the constitutional provision that state institutions serve the people implies the obligation of the legislature to establish the legal regulation to the effect that the Chairperson of the Board of the Bank of Lithuania would have the obligation to inform the public, the Seimas, the President of the Republic, and the Government about the activities of the Bank of Lithuania;

– such grounds would be established for the dismissal of the Chairperson of the Board of the Bank of Lithuania before the expiry of the term of his/her powers established by law where the said grounds would not be related to the non-fulfilment of the conditions, established by means of a law, required for the performance of his/her duties or to the fact that he/she has been guilty of serious misconduct.

To sum up, it should be noted that the aforementioned constitutional imperative of the full participation of the Republic of Lithuania in the European Union and its fully fledged membership in the European Union, as a constitutional value, also implies the constitutional obligation of the Republic of Lithuania to participate, as a fully fledged Member State, *inter alia*, in the integration of the member countries into the economic and monetary union, *inter alia*, by adopting the common currency of this union – the euro – and conferring on the European Union the exclusive competence in the area of monetary policy. It should be noted that such a constitutional obligation of the State of Lithuania is concurrently an obligation arising from its membership in the European Union, which the State of Lithuania is obliged to fulfil while observing its geopolitical orientation consolidated in the Constitution and the constitutional principle of *pacta sunt servanda*.

It should also be noted that, in order to implement the said constitutional obligation of the Republic of Lithuania for its membership in the European Union, the competence of the Bank of Lithuania in the area of monetary policy, *inter alia*, the issuing of currency, must be conferred on the European Central Bank.

[…]

In the constitutional justice case at issue, it has been held that the Law Amending Article 125 of the Constitution, in view of the manner of its adoption, is in conflict with Paragraph 1 of Article 147 of the Constitution. This means that, as from the day of the official publication of this ruling, the Law Amending Article 125 of the Constitution, *inter alia*, including Paragraph 2 of Article 125 of the Constitution, may not be applied.

In view of the overall constitutional legal regulation, *inter alia*, the constitutional status of the Bank of Lithuania, it needs to be emphasised that the recognition that the Law Amending Article 125 of the Constitution is in conflict with the Constitution does not mean that the wording of Article 125 of the Constitution that was valid prior to the entry into force of the said law will become effective again. Thus, it should be noted that the Constitution does not provide for the exclusive right of the Bank of Lithuania to issue currency.

[…]

It needs to be emphasised that the legislature, when it regulates the activities of the Bank of Lithuania, *inter alia*, the procedure of the organisation of the Bank of Lithuania and its powers, the status of the Chairperson of the Board of the Bank of Lithuania, as well as the grounds of his/her dismissal, is bound by the Constitution.

The legislature must pay regard to the constitutional status of the Bank of Lithuania, according to which a certain part of the competence of the Bank of Lithuania has been conferred on the ECB and the Bank of Lithuania is an integral part of the ESCB. In this context, it should be noted that such a constitutional status of the Bank of Lithuania implies that its competence in the monetary policy has been conferred on the ECB and that the Bank of Lithuania and … the Chairperson of its Board have the corresponding guarantees; as mentioned before, the Constitution does not provide for the exclusive right of the Bank of Lithuania to issue currency.

… the legislature, *inter alia*, must establish such grounds of the dismissal of the Chairperson of the Board of the Bank of Lithuania before the expiry of the term of his/her powers (where the said term is established by means of a law) that would only be related to the non-fulfilment of the conditions, established by means of a law, required for the performance of his/her duties or to the fact that he/she has been guilty of serious misconduct; in addition, it must establish the legal regulation to the effect that the Bank of Lithuania would not have the exclusive right to issue currency as from the day of the adoption of the euro in the Republic of Lithuania.