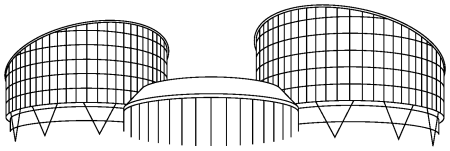

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF PALEVIČIŪTĖ AND DZIDZEVIČIENĖ v. LITHUANIA

(Application no. 32997/14)

JUDGMENT

STRASBOURG

9 January 2018

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Palevičiūtė and Dzidzevičienė v. Lithuania,

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

Ganna Yudkivska, *President,*
Vincent A. De Gaetano,
Faris Vehabović,
Egidijus Kūris,
Iulia Motoc,
Marko Bošnjak,
Péter Paczolay, *judges,*
and Marialena Tsirli, *Section Registrar,*

Having deliberated in private on 5 December 2017,

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

PROCEDURE

1. The case originated in an application (no. 32997/14) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by two Lithuanian nationals, Ms Birutė Palevičiūtė and Ms Ona Dzidzevičienė ("the applicants"), on 25 April 2014.

2. The applicants were represented by Ms J. Šidlauskienė, a lawyer practising in Vilnius. The Lithuanian Government ("the Government") were represented by their Agent, Ms K. Bubnytė.

3. The applicants alleged that they had been deprived of a plot of land of 0.4863 hectares and had not received an equivalent plot of land.

4. On 5 September 2016 the complaint concerning Article 1 of Protocol No. 1 to the Convention was communicated to the Government and the remainder of the application was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants are sisters, who were born in 1949 and 1950 respectively and live in Vilnius and Varėna.

6. On 23 May 1996 the national authorities issued a decision to restore the applicants' father's property rights in respect of a plot of land measuring 9.87 hectares. His property rights were registered on 6 June 1996.

7. Following their father's death on 23 December 1995, the applicants were issued with a certificate of inheritance on 27 June 1996 and inherited his property in equal parts. Two plots of land measuring 8.93 hectares and 0.94 hectares respectively were returned to them *in natura*. These plots were marked out in October 1995, but an engineer did not indicate in the plan that there was a house situated on the plot of land of 8.93 hectares that did not belong to the applicants.

A. Proceedings regarding part of the applicants' land

8. On 5 July 2001 J.P. bought a house and a storehouse. The cadastral measurements of the house were taken in September 1992, and the building was classified as residential. The plot of land under the house and for residential purposes measured 0.5204 hectares, and although J.P. did not buy the land on which the house stood, he used it. On 4 August 2005 A.P., who was J.P.'s mother, had her property rights restored, and transferred her plot of land of 0.51 hectares to the place where J.P.'s house was located. J.P., as A.P.'s heir, asked for the plot of land of 0.51 hectares to be entered into the land registry in his name. However, his request was refused by the national authorities, because that plot overlapped the applicants' land.

9. In June 2007 the Alytus County Administration ("the ACA") stated that the applicants' father's rights had been restored in respect of the land under the buildings that did not belong to him. The ACA also explained that, if there was no dispute, the decision of 23 May 1996 (see paragraph 6 above) could be amended and the borders of one of the applicants' plots of land could be changed as well (see paragraph 39 below). If there was a dispute, the ACA would initiate court proceedings in order to annul part of the decision of 23 May 1996. The applicants were given until 1 August 2007 to reply in writing to the ACA's proposal. The applicants did not agree with the ACA's proposal.

10. In December 2007 the National Land Service held that domestic law did not allow the restoration of property rights to land under buildings owned by third parties. As a result, the documents restoring the property rights of the applicants' father had to be amended.

11. As there was a dispute, the ACA asked a prosecutor to start court proceedings. In April 2008 the prosecutor lodged a claim with the Varėna District Court and asked it to annul part of the decision of 23 May 1996 (see paragraph 6 above) restoring the property rights of the applicants' father in respect of 0.4863 hectares of land, and the relevant part of the succession document issued to the applicants.

12. On 21 April 2009 the Varėna District Court allowed the prosecutor's application, indicated that the part of the decision of 23 May 1996 regarding the 0.4863 hectares had to be annulled, and held that a plot of land of 0.51 hectares had to be demarcated for J.P. The applicants' property rights

would be protected by giving them an equivalent plot of land in another area. It appears that the court suggested several times that the parties conclude a friendly settlement agreement, but the applicants refused.

13. The applicants appealed. They claimed, among other things, that the prosecutor had missed the thirty-day time-limit for lodging a claim.

14. On 4 November 2009 the Vilnius Regional Court upheld the decision of the court of first instance. The court held that the prosecutor had only found out about the situation at issue on 31 March 2008, and had lodged the complaint on 30 April 2008, thus the time-limit for lodging a claim had not been missed. The court further held that the plot of land that J.P. had been using had been formed back in 2001 when the buildings had belonged to V.G., and that the applicants had signed the documents and agreed with the borders of the plot under the buildings. The court also held that the restitution of property was a matter of public interest, because it not only related to specific individuals, but to public opinion in general (*formuoja visos visuomenės nuomonę)*. The property rights of land owners were not absolute, and in the case at issue the lawful interests of a third party had to be protected.

15. The applicants submitted an appeal on points of law, and on 19 April 2010 the Supreme Court sent the case back to the Court of Appeal for fresh examination, stating that the lower courts had not examined the factual circumstances regarding how big the plot of land had to be in order for the buildings to be used. The Supreme Court also held that the Vilnius Regional Court should assess the fact that no plot of land under the buildings had been demarcated at the time the applicants' father's property rights had been restored.

16. On 2 February 2011 the Vilnius Regional Court sent the case back to the court of first instance for fresh examination, stating that the substance of the case had not been examined thoroughly. The court held that one of the buildings belonging to J.P. had previously been a school building, but since 1992 it had been registered in the register of immovable property as a residential building. The court observed that some mistakes had been made in the process of restoring both J.P.'s mother's and the applicants' father's property rights. The court further held that the conclusion of the Varėna District Court that J.P. was entitled to a plot of land measuring 0.51 hectares was unfounded. Although there were some buildings on the land that had been returned to the applicants' father, the exact size of the plot necessary in order for the buildings to be used had not been determined. Moreover, although the applicants and J.P. had provided some evidence, this was insufficient to prove that the size of the plot of land under the buildings had to be 0.51 hectares. Lastly, the Vilnius Regional Court obliged the parties to the proceedings to provide documents proving how big the plot of land had to be in order for J.P.'s buildings to be used.

17. On 20 February 2012 the Varėna District Court established that J.P.'s buildings were on the plot of land measuring 0.51 hectares. The court also held that J.P. was using the exact plot which had been marked out for V.G., and the plan of the land had been signed by the applicants (see paragraph 14 above). The court considered that the person who had measured the land for the applicants had not marked the house in that area, and had not taken any actions to find out who the owner of the house was; therefore, he was the person who had made a mistake. The court noted that in fact 0.5019 hectares overlapped the applicants' land, but as J.P. was not asking for this, only 0.4863 hectares of land had to be taken from the applicants. Lastly, although the 0.4863 hectares of land had to be taken away from the applicants, their property rights had to be protected by providing them with a new plot of land of equivalent value in another place.

18. The applicants appealed, and on 24 July 2013 the Vilnius Regional Court upheld the decision of the Varėna District Court of 20 February 2012. The court held that, although the applicants claimed that J.P.'s house was not a residential building and thus no land for residential purposes could exist, the data from the register of immovable property and the purchase agreements showed that the building was a residential building. The court also held that the applicants' father's property rights to the land under the buildings at issue could not have been restored, as those were not his buildings. In fact, since 1992 the relevant documents had referred to there being a plot of land of 0.5204 hectares near the buildings.

19. The applicants submitted numerous appeals on points of law, but they were dismissed by the Supreme Court on 5 September 2013, 7 and 25 October 2013 and 10 December 2013 as either not raising important legal issues or being repetitive.

20. On 27 January 2014 the National Land Service sent a letter to the applicants explaining that the legal registration in respect of their plot of land of 0.4863 hectares had been annulled following the decisions of the domestic courts, and asked them to choose the means by which they wanted their property rights in respect of the plot of land of 0.4863 hectares to be restored. The National Land Service noted that the restoration of property rights *in natura* was not possible.

21. In February 2014 one of the applicants wrote to the National Land Service and asked for the return of the plot of 0.4863 hectares *in natura*. She also claimed that J.P. was using the plot of land for residential purposes unlawfully and that she had sustained damage.

22. In March 2014 the National Land Service informed the applicant that she could start court proceedings for damages. The National Land Service also explained that the purchase agreement in respect of J.P.'s buildings was valid, and that, in accordance with the decisions of the domestic courts, J.P. was entitled to use the plot of land under the buildings.

23. In September 2014 the National Land Service replied to a request by one of the applicants in July 2014 for an explanation of the actions of the Varėna Division of the National Land Service and compensation in respect of pecuniary damage. The National Land Service stated that the applicants were aware of the court proceedings regarding the decision of 23 May 1996 to restore their father's property rights. It also held that J.P. was entitled to buy the plot of land for residential purposes located under the buildings from the State.

24. In June 2014 J.P. was included into the list of candidates to buy a plot of land of 0.51 hectares and on 18 November 2015, after some measurements had been carried out, the plot of land of 0.5082 hectares was sold to J.P.

25. In March 2015 the National Land Service replied to a complaint by one of the applicants about the restoration of her father's property rights. Among many other things, the applicant asked for: the process of amending the borders of their plot of land to be terminated; J.P. to be prohibited from constructing buildings and growing plants; his property to be kept on the plot of land at issue; an opportunity to buy the plot of land that had been taken from them; and an easement under J.P.'s buildings to be established. The National Land Service indicated that such a request had already been dismissed by the domestic courts (see paragraph 29 below). It was impossible to allow the applicants to buy the same plot of land that had been taken from them, because that plot of 0.4863 hectares had not belonged to their father in the first place. In addition, J.P. was not stating that he wanted an easement to be established, thus the applicant's request in this respect was unfounded.

26. The applicants complained to a member of the Seimas, who sent their complaint to the Varėna Division of the National Land Service. The member of the Seimas asked for explanations about the procedure for restoring the applicants' property rights and why their property rights to the 0.4863 hectares of land had not been restored. In May 2015 the Varėna Division of the National Land Service explained that the applicants' property rights to the plot of land of 0.4863 hectares had been annulled in accordance with the decisions of the domestic courts (see paragraphs 17-19 above). In January 2014 the applicants had been asked to choose the means by which they wished their property rights in respect of the 0.4863 hectares of land to be restored (see paragraph 20 above), but they still insisted on having the land returned *in natura* (see paragraph 21 above), which was not possible. The Varėna Division of the National Land Service also provided detailed information about monetary compensation as a means of restoring the applicants' property rights. The monetary compensation procedure could be started after the applicants submitted a request for their property rights to be restored by means of monetary compensation. As a preliminary estimate, the value of the plot at issue was estimated at 217 euros (EUR).

27. In June 2015 the Varėna Division of the National Land Service once again informed the applicants that returning the 0.4863 hectares of land *in natura* was not possible and that they could have monetary compensation. The applicants were also informed that the procedure could be started after a request to restore their property rights by means of monetary compensation was received by the authorities (see paragraph 42 below). The preliminary estimate as to the value of the plot was also indicated as being EUR 217. It appears that the applicants did not reply to this letter, nor did they submit a request for monetary compensation, but the National Land Service calculated the compensation at EUR 433 after having adjusted it in line with the inflation index, and on 12 July 2017 invited the applicants to come and discuss the restoration of their property rights. The meeting was adjourned once until 25 July 2017 because the applicants' lawyer had holidays planned. On 24 July 2017 the applicants' lawyer asked to adjourn the meeting again because one of the applicants was ill, but she did not provide any documents confirming this. The National Land Service decided to hold a meeting as planned on 25 July 2017, and issued a decision to restore the applicants' property rights to the 0.4863 hectares of land by paying them monetary compensation of EUR 433.60. One of the applicants collected the decision on 8 September 2017. The decision was not appealed against.

B. Other proceedings initiated by the applicants

28. In 2010 one of the applicants asked a prosecutor to start a pre-trial investigation into J.P.'s actions. According to her, J.P. was using land to which he had no rights. In November 2010 the prosecutor decided to terminate the pre-trial investigation, as there was no evidence of a criminal act. That decision was upheld by a higher prosecutor in December 2010 and by the Varėna District Court and the Vilnius Regional Court in January 2011.

29. In 2011 the applicants asked for interim measures to be applied and for J.P. to be prohibited from constructing buildings, temporary constructions and roads, and from growing plants and farming on the plot of land at issue. Their application was dismissed by the Varėna District Court and Vilnius Regional Court in May 2011 and November 2011 respectively.

30. On an unspecified date one of the applicants started court proceedings regarding the cadastral measurements of the land. The applicant also claimed that J.P. had acquired his building unlawfully and that he had been using her land without any legal grounds. On 6 May 2014 the Kaunas Regional Administrative Court held that the applicant's allegations had already been rejected by the decision of the Varėna District Court of 20 February 2012 (see paragraph 17 above). The court also stated that the cadastral plan proposed by the applicant was not approved, because she had

included J.P.'s land on it and marked it as hers. As a result, the applicant's complaint was dismissed.

31. In 2015 the applicants initiated civil proceedings regarding the change of purpose of one of the buildings belonging to J.P. They claimed that J.P.'s house had previously been a school, and thus its purpose was communal and not residential. In November 2015 the Varėna District Court dismissed their claim. In April 2016 the Kaunas Regional Court upheld the first-instance decision, and in July and August 2016 the Supreme Court dismissed appeals by the applicants on points of law.

II. RELEVANT DOMESTIC LAW AND PRACTICE

32. Article 23 of the Constitution reads:

> "Property shall be inviolable.
>
> The rights of ownership shall be protected by law.
>
> Property may be taken over only for the needs of society according to the procedure established by law, and shall be justly compensated for."

33. Article 12 § 1 (3) of the Law on the Procedure and Conditions for the Restoration of Citizens' Ownership Rights to Existing Real Property (*Įstatymas „Dėl piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atstatymo tvarkos ir sąlygų"*), enacted on 18 June 1991 and amended on numerous occasions, provided that the State could buy land in rural areas from persons who were entitled to have their property rights restored, if private residential buildings and other buildings owned by individuals and legal entities were on the land.

34. On 1 July 1997 the Seimas (the Lithuanian Parliament) enacted a new law on the Restoration of Citizens' Ownership Rights to Existing Real Property (*Piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atkūrimo įstatymas*, hereinafter "the Law on Restitution"), which repealed the Law of 1991. Article 12 § 1 (2) of the Law on Restitution provided that State redeemable land included land in a rural area containing areas of land for residential purposes.

35. Article 19 § 1 of the Law on Restitution provided that complaints regarding decisions restoring property rights could be lodged with a court within thirty days of those decisions being served on citizens.

36. Article 21 § 5 of the Law on Restitution provided that if citizens did not express or change their wish regarding the form in which property rights to real property were to be restored, if their requests for their property rights to be restored indicated a form not provided for by this law, or if it was not possible to restore the property rights in the way chosen by the citizens, property rights were to be restored by paying monetary compensation.

37. With regard to the land underneath buildings, Article 9 § 2 of the Law on Land Reform provides that, in the absence of official documents, if

no land boundaries have been demarcated, the land can be sold to the owner of those buildings. The land can include buildings, a garden, plants, a yard, and a plot of land permanently used for farming.

38. Article 10 § 1 (16) of the Law on Land Reform provided that plots of land, save for plots of land for farming, could be sold to individuals living in the specific cadastral area or individuals who had bought industrial buildings in that area. In that case, the plots of land were the necessary size for the industrial buildings to be used.

39. Article 18 § 3 of the Law on Land Reform provided that if the relevant authorities supervising land reform established that decisions restoring property rights or purchasing land were issued in breach of the law, and if there was no dispute about this, such decisions could be amended by the county governor. If there was a dispute, the institutions that had issued the decision at issue or the institutions supervising land reform had to initiate the annulment of the decision in court.

40. Point 2 of Government Resolution No. 423 of 12 October 1991 on the Approval of the Method for the Preparation of Land Reform Plans and the Justification of their Economic Value in Rural Areas (*Lietuvos Respublikos Vyriausybės nutarimas „Dėl žemės reformos žemėtvarkos projektų parengimo ir jų ekonominio pagrindimo kaimo vietovėms metodikos patvirtinimo”*) provided that, during the process of land reform, land could be provided not only for the former owners of land, but also for residential purposes. Land reform plans had to mark out the plots of land which were to be transferred as private property or to become State redeemable plots of land.

41. Point 4 of Government Resolution No. 89 of 7 February 1992 on the Procedure for the Sale and Rent of Plots of Land for Purposes other than Farming and Garden Community Members' Plots (*Lietuvos Respublikos Vyriausybės nutarimas „Dėl žemės sklypų ne žemės ūkio veiklai bei sodininkų bendrijų narių sodų sklypų pardavimo ir nuomos tvarkos”*) provided that plots of State redeemable land for purposes other than farming could be sold non-competitively as private property to owners of residential land. In that case, the plots of land were the necessary size for residential use. Point 7.7 provided that, in rural areas, such plots could not exceed 2 hectares.

42. On 10 February 2014 the National Land Service approved the monetary compensation procedure (*Atlyginimo pinigais už valstybės išperkamą žemę, mišką ir vandens telkinį kaimo vietovėje procedūros aprašas*), which provided that the monetary compensation procedure was started following a citizen's request to have his or her property rights restored by monetary compensation (Point 3). After the citizen's request was examined, the author of the relevant land reform plan was contacted and had to estimate the value of the land at issue (Point 11.1). The relevant division of the National Land Service then approved the documents and

prepared a notice on the value of the land at issue (Point 12.1). The decision to restore the citizen's property rights was then prepared and served on the citizen (Point 12.2).

43. Article 49 § 1 of the Code of Civil Procedure provides that prosecutors can lodge an action to protect the public interest in cases established by law.

44. On 8 March 1995 the Constitutional Court held that the restoration of property rights and land reform were interrelated processes which had a common object – land. There was a conflict of interests between persons wishing to restore their property rights and persons who were already using a specific plot of land for residential purposes and wanted to use it further, including through the possibility of privatising it. It was only possible to reconcile this conflict on the basis of law. In order to balance the interest of former owners of land and users of land, the State's right to regulate the conditions of restoration of property rights was inevitable.

THE LAW

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

45. The applicants complained that the plot of land of 0.4863 hectares had been taken away from them and that they had not received an equivalent plot of land. They relied on Article 1 of Protocol No. 1 to the Convention, the relevant part of which reads as follows:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law."

A. Admissibility

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

B. Merits

1. The parties' submissions

47. The applicants claimed that the authorities had made a mistake when restoring their father's property rights. They further claimed that when the

land had been marked out in 1995, their neighbour had confirmed that the borders of the plot were in their previous location. Moreover, the applicants claimed that the buildings had not been marked out by an engineer because one of the buildings that J.P. had bought was not a residential building but a former school which had later been a fish smokehouse, a marshmallow bakery and a garage. They claimed that taking away 0.4863 hectares of land from them had been unlawful, as the residential building had never been situated on that plot.

48. The applicants further complained that they wanted to obtain another plot of land, but the public authorities had indicated that this was not possible (see paragraph 20 above), and they had never been offered any plot of land of equivalent value. They claimed that there was still a vacant plot of land between the plot that J.P. had bought and their land, but it had never been offered to them. The applicants also claimed that the authorities had even failed to calculate the amount of monetary compensation due to them, and had only done so after a member of the Seimas had addressed them. In any event, they thought that the level of compensation as estimated was too low.

49. The Government agreed that there had been an interference with the applicants' property rights, but claimed that this had been lawful, had sought a legitimate aim and had been proportionate.

50. The Government explained that the property rights of the applicants' father had been restored by granting him some State redeemable land that could not be the subject of restitution (see paragraph 33 above). A mistake had been made and the authorities had been obliged to correct it by changing the borders of the applicants' plot of land. After the applicants had refused that this be done in accordance with the administrative procedure, the authorities had had to start court proceedings.

51. The Government further claimed that the act of taking away the plot of land of 0.4863 hectares had sought to protect the rights of others, namely the owner of the buildings, J.P., so that he would be able to use his property.

52. As regards the proportionality of the interference, the Government argued that the land in question could not be given to the applicants, as it was State redeemable. As soon as this mistake had been noticed, the authorities had sought to correct it, firstly by offering to change the borders of the applicants' land in accordance with the administrative procedure, and later by bringing the issue before the domestic courts. The domestic courts had even offered to conclude a friendly settlement agreement, but the applicants had not agreed. After the decisions of the domestic courts had become final, the applicants had been informed of the necessity for them to express how they wanted their property rights to be restored. However, they had constantly asked for restitution *in natura*, which was not possible. The Government stated that the applicants could still have their property rights in respect of 0.4863 hectares of land restored, but they were preventing this

process by not expressing their wish. Contrary to the applicants' statements, there was no vacant land between their land and J.P.'s land, as it belonged to the heirs of the third party. The applicants could also receive monetary compensation, but had never submitted a request to receive it. Only in their submissions to the Court had the applicants mentioned an equivalent plot of land or monetary compensation as a means of restoring their property rights. Lastly, as the applicants had still not indicated to the authorities the specific way in which they wanted their property rights to be restored, the authorities had started the procedure of paying them monetary compensation. The value of the land had been calculated, adjusted in line with the inflation index and estimated at EUR 433.60.

2. The Court's assessment

53. The Court notes that there is no argument between the parties that there was an interference with the applicants' property rights. The Court thus sees no reason to reach a different conclusion in the case at hand.

54. The decision of the courts to annul the applicants' title to a plot of land of 0.4863 hectares was prescribed by law, as it was based on provisions of domestic law. This was done after the authorities had noticed that their father's property rights to this land had been restored by mistake (see paragraphs 33, 34, 37 and 38 above). The Court therefore finds that there is no reason to doubt that the deprivation was in accordance with the law, as required by Article 1 of Protocol No. 1.

55. Moreover, the measure complained of was designed to correct the mistake of the authorities and to defend the interests of J.P. by providing him with a plot of land that would allow him to use his buildings properly. The impugned decision was therefore based on the "public interest" in protecting the rights of others, grounds which have already been upheld by the Court (see *Valančienė v. Lithuania*, no. 2657/10, § 62, 18 April 2017; *Pyrantienė v. Lithuania*, no. 45092/07, § 48, 12 November 2013; and *Paukštis v. Lithuania*, no. 17467/07, § 80, 24 November 2015). Indeed, finding it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one, the Court has declared that it will respect the legislature's judgment as to what is "in the public interest" unless that judgment is manifestly without reasonable foundation. This logic applies to such fundamental changes in a country's system as the transition from a totalitarian regime to a democratic form of government and the reform of the State's political, legal and economic structure, phenomena which inevitably involve the enactment of large-scale economic and social legislation (see *Pyrantienė*, § 46, and *Paukštis*, § 80, both cited above). In these circumstances the Court accepts that the deprivation of property experienced by the applicants served not only the interests of J.P., as the owner of the buildings on the land in

question, but also the general interests of society as a whole (see *Pyrantienė*, cited above, § 48, and the references therein, see also paragraph 44 above).

56. The Court has held on numerous occasions that any interference with property must, in addition to being lawful and having a legitimate aim, also satisfy the requirement of proportionality. A fair balance must be struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights, the search for such a fair balance being inherent in the whole of the Convention. The requisite balance will not be struck where the person concerned bears an individual and excessive burden (see *Pyrantienė*, cited above, § 49; *Tunaitis v. Lithuania*, no. 42927/08, § 38, 24 November 2015; *Noreikienė and Noreika v. Lithuania*, no. 17285/08, § 28, 24 November 2015; *Romankevič v. Lithuania*, no. 25747/07, § 36, 2 December 2014; *Paplauskienė v. Lithuania*, no. 31102/06, § 41, 14 October 2014; and *Albergas and Arlauskas v. Lithuania*, no. 17978/05, § 58, 27 May 2014).

57. In similar cases which, like the present case, concerned the correction of mistakes made by State authorities in the process of restitution, on several occasions the Court has emphasised the necessity of ensuring that the remedying of old injuries does not create disproportionate new wrongs (see *Velikovi and Others v. Bulgaria*, nos. 43278/98 and 8 others, § 178, 15 March 2007, and *Žilinskienė v. Lithuania*, no. 57675/09, § 46, 1 December 2015). To that end, legislation should make it possible to take into account the particular circumstances of each case, so that individuals who have acquired their possessions in good faith are not made to bear the burden of responsibility. The risk of any mistake made by a State authority must be borne by the State, and errors must not be remedied at the expense of the individual concerned (see *Gladysheva v. Russia*, no. 7097/10, § 80, 6 December 2011, and *Pyrantienė*, cited above, § 70).

58. Within the context of revoking ownership of a property transferred erroneously, the good governance principle may not only impose on the authorities an obligation to act promptly in correcting their mistake, but may also necessitate the payment of adequate compensation or another type of appropriate reparation to the former *bona fide* holder of the property (see *Romankevič*, cited above, § 37, and the references therein).

59. In order to assess the burden borne by an applicant, the Court must examine the particular circumstances of each case, such as the conditions under which the disputed property was acquired and the compensation that was received by the applicant in exchange for the property, as well as the applicant's personal and social situation (see *Žilinskienė*, cited above, § 48).

60. In the present case, the applicants' right to have their title to land restored was acquired through succession. The relevant part of the order to restore their father's property rights and the succession document was annulled after the prosecutor lodged a civil claim which was then allowed

by the domestic courts. It was established that, under the provisions of domestic law, the applicants' father had not had the right to have his title to the plot of land in question restored (see paragraphs 33, 34, 37 and 38 above).

61. The domestic courts, deciding to annul the applicants' title to the plot of land, explicitly indicated that their property rights had to be protected by their being provided with a new plot of land of equivalent value (see paragraphs 12 and 17 above). After the applicants' title to the plot of land was annulled, the authorities asked them to choose the means by which they wanted their property rights in respect of the plot of land of 0.4863 hectares to be restored (see paragraph 20 above). However, at first they insisted on the return of that exact plot of land *in natura*, and then they kept maintaining that they had sustained damage and started a number of sets of proceedings against J.P. and the authorities regarding the plot of land at issue (see paragraphs 28-31 above). Moreover, although their right to receive a plot of land of equivalent value was confirmed by the domestic courts, they never submitted a request that the authorities provide them with such a plot, and instead they insisted on obtaining the same plot that had been taken away from them. After the applicants' complaint to a member of the Seimas, the authorities indicated that it was possible to pay them monetary compensation, but stressed that their written request was necessary in order for the procedure to be started. However, the applicants never submitted such a request, and only in their submissions before the Court did they complain that the level of calculated compensation was too low. In this regard, the Court reiterates that no right to receive a higher amount of compensation than they have received is guaranteed under the applicable domestic law (see, *mutatis mutandis*, *Valančienė*, cited above, § 67).

62. The Court further notes that, contrary to their allegations, the applicants never asked the authorities to provide them with another plot of land (see paragraph 21 above), and considers that it was their lack of cooperation with the authorities which made it impossible for the authorities to take measures to restore the applicants' property rights to the plot of land in question immediately after the courts' decisions had been issued.

63. Lastly, the Court notes that the authorities cannot be blamed for a lack of diligence in their efforts to restore the applicants' property rights and that the applicants can still have their property rights to the plot of land of 0.4863 hectares restored under domestic legislation by receiving monetary compensation awarded to them (see paragraph 27 above). The Court is therefore of the view that the applicants did not have to bear an individual and excessive burden.

64. There has accordingly been no violation of Article 1 of Protocol No. 1 to the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

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

Done in English, and notified in writing on 9 January 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli Registrar	Ganna Yudkivska President