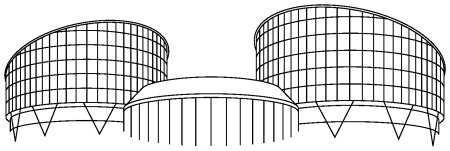

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF VALANČIENĖ v. LITHUANIA

(Application no. 2657/10)

JUDGMENT

STRASBOURG

18 April 2017

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

In the case of Valančienė v. Lithuania,

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

Ganna Yudkivska, *President,*
Vincent A. De Gaetano,
Nona Tsotsoria,
Krzysztof Wojtyczek,
Egidijus Kūris,
Gabriele Kucsko-Stadlmayer,
Marko Bošnjak, *judges,*

and Andrea Tamietti, *Deputy Section Registrar,*

Having deliberated in private on 28 March 2017,

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

PROCEDURE

1. The case originated in an application (no. 2657/10) against the Republic of Lithuania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Lithuanian national, Ms Adelė Valančienė ("the applicant"), on 17 December 2009.

2. The applicant was represented by Mr V. Granickas, a lawyer practising in Klaipėda. The Lithuanian Government ("the Government") were represented by their Agent, Ms K. Bubnytė.

3. The applicant alleged that the authorities had unlawfully chosen monetary compensation as the form of restitution of her property rights, had wrongly calculated the value of the plot of land and that the restitution proceedings had been unreasonably long.

4. On 24 February 2016 the complaints concerning the decision of the national authorities to pay monetary compensation as the form of restitution, the calculation of the compensation and the overall delay in finalising the restitution process were 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 applicant was born in 1940 and lives in Plungė.

6. The father of the applicant's husband owned 9.24 hectares of land in Telšiai region. This plot was nationalised in 1940.

7. In 1991 the brother of the applicant's husband applied to the national authorities for the land to be returned to him and his brothers. In 1993 the three brothers signed an agreement and decided to divide their father's plot of land into three equal parts of 3.08 hectares and V.V., the applicant's husband, asked for the return of his plot of land *in natura*.

8. In November 1999 V.V. participated in a meeting at the Plungė District Land Service of the Telšiai County Administration (hereinafter "the Plungė District Land Service"), where he was informed that all of his father's land was already being used by others and could not be returned to him *in natura*. He was offered either monetary compensation, the restoration of his property rights in another cadastral area or a plot of land of equivalent value. V.V. did not agree to any of those offers.

9. In January 2000 the the Plungė District Land Service asked V.V. to choose the form of restitution of his property rights. V.V. replied that he had already chosen the form of restitution in 1991, which was restitution *in natura*.

10. In April 2002 a meeting was held at the Plungė District Land Service, where V.V. again refused to choose a different form of restitution. V.V. was also offered two plots of land of 2.5 and 0.5 hectares. He stated that he would have to think about the offer and would inform the authorities before 1 May 2002.

11. During a meeting at the Plungė District Land Service in May 2002, V.V. said that he had not been offered any other forms of restitution in writing but acknowledged that the matter had been discussed orally. During a meeting in June 2002, V.V. reiterated his wish to receive the land *in natura* and when he was asked to choose another form of restitution, he said that he would think about it.

12. In July 2003 the Plungė District Land Service informed V.V. that because it was impossible to restore his property rights *in natura*, he had to choose either a plot of land or forest of equivalent value, monetary compensation or compensation in Government bonds. V.V. was also informed that if a form of restitution was not chosen, the property rights would be restored in the form determined by the authorities.

13. In November 2003 V.V. was invited to participate in a meeting at the the Plungė District Land Service, concerning the territorial plan of the area and the choice of the form of restitution. V.V. did not take part in the meeting.

14. In May 2005 V.V. asked the authorities whether and when he would be paid damages for the failure to restore his property rights *in natura* or to provide him with a plot of land of equivalent value. He also suggested that the Lithuanian authorities find out what "a plot of land of equivalent value" meant because the plots offered to him had not been of equivalent value (*„ir būtų gerai, kad žemėtvarkininkai išsiaiškintų žodžio „lygiavertis" prasmę ir*

nesiūlytų įstatymo nuostatų neatitinkančių variantų"). In June 2005 the Plungė District Land Service asked V.V. to submit a written request to obtain a plot of land of equivalent value so that the authorities could prepare a document on the transfer of the land. V.V. replied that he had never been offered any plots of land of equivalent value and would only accept the restoration of his property rights *in natura* or a plot of land that was truly of equivalent value. V.V. also again refused the plots of land offered to him, stating that they were not of equivalent value. In July 2005 the authorities asked V.V. to choose a form of compensation for the land. He again replied that he had chosen that the land be returned to him *in natura* in 1991. In August 2005 V.V. reminded the authorities that he wanted the land to be returned *in natura* or to receive a plot of land of equivalent value.

15. In October 2005 V.V.'s representative participated in a meeting at the Plungė District Land Service, where she was asked to inform the authorities which land V.V. wanted in order to restore his property rights. Two plots of land were shown to the representative and the next day she replied that she refused to accept them. In November 2005 she was informed that because V.V. and she had refused to accept the plots of land, she had to inform the authorities before 1 December 2005 whether V.V. wanted monetary compensation or compensation in Government bonds as the form of restitution. She was also informed that if no response was received, the authorities would choose the form of restitution themselves.

16. On 14 November 2005 V.V. died and the applicant became his heir. In April 2006 the Plungė District Land Service informed the applicant that she had to submit a written request to the authorities for the preparation of a document on the transfer of land and to actively choose a plot of land. The applicant replied that she would not submit any request if the land was not returned to her *in natura* or a plot of equivalent value was not provided.

17. In October 2006 the applicant sent two letters to the Plungė District Land Service and stated that she would accept a plot of land of equivalent value if such a plot was given to her and a preliminary agreement was prepared on the transfer of such a plot. She also refused to agree to a document on the transfer of land and repeatedly asked to have her property rights restored *in natura* or to be provided with a plot of land of equal value.

18. In November 2006 the Plungė District Land Service informed the applicant about the procedure for the assessment of the value of land and the calculation methods used, and asked the applicant to agree with the assessment. In December 2006 the Plungė District Land Service informed the applicant that in order to provide her with a plot of land, the authorities had to prepare a document on the transfer of land. The Plungė District Land Service also observed that there was no possibility to conclude the preliminary agreement requested by the applicant because it was not provided for in the domestic law. The Plungė District Land Service repeated that the document on a transfer of the land had already been prepared and the applicant had to sign it and indicate the area where she would like to

receive a plot of land of equivalent value. In February 2007 the Plungė District Land Service informed the applicant about the procedure for restitution and reiterated that the applicant had to sign the document on the transfer of land. In May 2007 the applicant asked the authorities when the issue of the restoration of V.V.'s property rights *in natura* or by providing her a plot of land of equivalent value would be dealt with. In June and July 2007 the Plungė District Land Service repeatedly informed the applicant that she had to sign the document. The Plungė District Land Service also informed the applicant that it was not possible to provide her with the plot of land first. In response, the applicant stated that she would sign the land transfer document after she had been shown a plot of equivalent value.

19. In August 2007 during a meeting at the Plungė District Land Service it had been decided to include V.V.'s request to restore his property rights into the preparation of an additional territorial plan of the area. In November 2007 the Plungė District Land Service established that because the applicant had refused to clearly indicate the form of restitution, she would be paid monetary compensation for the land. It gave the applicant ten working days to change the suggested form of restitution.

20. The applicant repeatedly did not choose the form of restitution for the land by the time indicated by the authorities, which is by 7 May 2008, and on 13 May 2008 a decision was taken to restore V.V.'s property rights by paying monetary compensation of 3,437 Lithuanian litai (LTL, approximately 995 euros (EUR)). The compensation was then adjusted (*indeksuota)* and the final sum to be paid was LTL 5,499 (approximately EUR 1,593). The national authorities indicated V.V. as the person to whom the compensation had to be paid. The applicant was sent the decision on 28 May 2008. In their observations, the Government provided a document to the Court, indicating that the compensation had been paid on 2 December 2008 and 31 December 2008.

21. In June 2008 the applicant started court proceedings. She asked the court to annul the authorities' decision of 13 May 2008 to restore V.V.'s property rights by paying him monetary compensation and to pay her LTL 3,000 (approximately EUR 869) in respect of pecuniary and non-pecuniary damage. She stated that she wanted the land to be returned *in natura* or to be provided with a plot of land of equivalent value and she did not understand why the authorities kept asking her to make a new choice on the form of restitution each year. She further asked the authorities to explain why there had been no activity from 1993 to 1999 in the process of the restitution of her property rights. Finally, she complained that compensation calculated at LTL 3,437 (approximately EUR 995) was too low.

22. On 29 September 2008 the Šiauliai Regional Administrative Court established that in 1991 V.V. had asked for his property rights to be restored by being given 3.08 hectares of land *in natura* and that that had been a proper expression of his will. As the land in question was already being

used by other people, V.V. and later the applicant had been asked to choose another form of restitution. However, they had never expressly done so. Moreover, the court held that the applicant had never changed the original wish to have the land returned *in natura* because she had refused to agree to the document on the transfer of land, which would have allowed her to have a plot of equivalent value returned to her. As a consequence, and in accordance with the domestic law, the national authorities had chosen monetary compensation as the form of restitution, which had not breached any requirements of the domestic law. As for damages, the court held that the authorities had acted correctly and the necessary conditions to pay damages had not been satisfied.

23. In October 2008 the applicant lodged an appeal. She complained that she had chosen the form of restitution because she wanted land of equal value to be returned to her *in natura*. She also stated that if her choice had been unclear to the authorities, they should have taken action to clarify it. She further complained that the monetary compensation was unjust and too low.

24. On 21 September 2009 the Supreme Administrative Court dismissed the applicant's appeal. The court stated that V.V. had expressed a wish for his property rights to be restored to him *in natura*. The court also established that V.V. had been aware of the fact that there was no possibility of returning the land to him *in natura* because it was already being used by other people. V.V. had been asked several times by the national authorities to choose another form of restitution but he had insisted on restitution *in natura.* The court held that the national authorities had failed to inform V.V. about the time-limit for choosing the form of restitution, as the domestic law provided for such information to be sent before 1 March 2003 and the letter had only been sent to V.V. on 27 March 2003. The court however observed that that circumstance was not of major significance because V.V. had written on 1 March 2003 that he would never change his mind about the form of restitution. After V.V. had died, the applicant had been asked to choose the form of restitution but had persisted in asking to have the land returned to her *in natura* or to be provided with a plot of equivalent value. The court also held that the applicant had misinterpreted the provisions of the domestic law because she had required that she be provided with a plot of land of equivalent value and a preliminary agreement, and had stated that only then would she sign a document on the transfer of land. That had been contrary to the procedure established in the domestic law. The court also considered that although at some point the applicant had indicated that providing her with a plot of land of equivalent value was an alternative way to restore her property rights, she had tied that form to her own rules and requirements, which were not possible under the domestic law. The court further observed that the national authorities had decided to pay the applicant monetary compensation as the form of restitution. Lastly, the court held that the applicant's argument as to the amount of compensation was

unsubstantiated because she had not provided specific arguments proving that the amount of compensation had been determined in breach of domestic requirements.

25. On 12 September 2016 the applicant started court proceedings for debt and interest over the failure of the national authorities to pay her monetary compensation.

26. In reply to the request by the authorities, on 29 September 2016 the notary dealing with the inheritance procedure for V.V.'s property stated that after V.V.'s death she had issued the applicant with certificates of the right to inheritance with regard to movable and immovable property. However, she had not issued the applicant with the document allowing the applicant to get the monetary compensation paid to V.V. because the applicant had not provided her with the decision of the national authorities of 13 May 2008 to restore V.V.'s property rights.

27. In their comments to the applicant's reply to the Government's observations, the Government acknowledged that the monetary compensation had never been transferred to the applicant "due to human error". The national authorities could not transfer the monetary compensation to the applicant because of the absence of the document proving that she was an heir of V.V. and the absence of the applicant's account number. The applicant submitted the relevant documents together with her account number and the compensation was transferred to her account on 14 November 2016.

II. RELEVANT DOMESTIC LAW AND PRACTICE

28. 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."

29. 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"*, hereinafter "the Law"), enacted on 18 June 1991 and amended on numerous occasions, provided for two forms of restitution – the return of the property *in natura* or compensation if physical return was not possible.

30. Article 19 of the Law provided that the national authorities had to examine citizens' requests to restore their property rights within three months of the submission of documents confirming those rights.

31. On 1 July 1997 the Seimas 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 16 provides that the State must compensate citizens for existing real property which is bought out by the State, as well as for real property which existed prior to 1 August 1991 but which subsequently ceased to exist as a result of decisions taken by the State or local authorities. When the State compensates citizens for real property which, in accordance with the above law is not returned *in natura*, the principle of equal value has to be applied to both the property that is not returned and other property which is transferred instead of it in compensation for the property bought out by the State.

32. Article 21 of the Law on Restitution provides that a citizen could, by 1 April 2003, express or change his or her wish regarding the form in which the ownership rights to the real property were restored, provided that a final decision on restitution had not been taken. Should he or she fail to make a choice, it was for the authorities to choose the form of restitution.

33. Point 3 of the Government Resolution No. 1057 of 29 September 1997 on the Procedure and Conditions for the Restoration of the Rights of Ownership to Existing Real Property (*Lietuvos Respublikos Vyriausybės nutarimas "Dėl Lietuvos Respublikos piliečių nuosavybės teisių į išlikusį nekilnojamąjį turtą atkūrimo įstatymo įgyvendinimo tvarkos ir sąlygų",* hereinafter "the Resolution"), as amended on 31 January 2003, also provided that if the form of restitution indicated in the request was not expressly provided for in the Law on Restitution, or if it was impossible to restore property rights in the form indicated in the request, the authorities had, by 1 March 2003, to offer the other possible forms of restitution listed in the Law on Restitution. Should a citizen fail to make a choice by before 1 April 2003, it was for the authorities to choose the form of restitution.

34. Point 105 of the Resolution provided that before the transfer of a plot of land, forest or area of water, a document of transfer had to be prepared.

35. Point 6 of the Methodology on the Valuation of Land, approved by Government Resolution No. 205 of 24 February 1999, provided that the rate of indexation of State-owned plots of land, forests and areas of water was 1.6 as of 1 February 1995.

36. Article 6.271 of the Civil Code provides that damage caused by unlawful acts of public authorities must be compensated for by the State, irrespective of the fault of a particular public servant or other public authority employee.

37. Article 5.50 § 1 of the Civil Code provides that in order to acquire succession, a successor has to accept it.

38. Article 5.66 § 1 of the Civil Code provides that successors, who inherit in accordance with the law or the will of the deceased, may ask the notary of the area of the succession appeared to issue a certificate of the right to inheritance.

39. Article 26 of the Law on the Notaries provides that one of the functions of a notary is issuing certificates of the right to inheritance.

40. For relevant domestic practice as to the principles of restitution in Lithuania and fair compensation, see *Jasiūnienė v. Lithuania*, no. 41510/98, § 22, 6 March 2003, *Užkurėlienė and Others v. Lithuania*, no. 62988/00, § 27, 7 April 2005, *Jurevičius v. Lithuania*, no. 30165/02, § 20, 14 November 2006, *Igarienė and Petrauskienė v. Lithuania*, no. 26892/05, §§ 24-25, 21 July 2009, *Aleksa v. Lithuania*, no. 27576/05, §§ 37-38, 21 July 2009, *Nekvedavičius v. Lithuania*, no. 1471/05, §§ 29-31, 10 December 2013, *Albergas and Arlauskas v. Lithuania*, no. 17978/05, §§ 26-33, 27 May 2014, and *Paukštis v. Lithuania*, no. 17467/07, §§ 40-41 and 46-48, 24 November 2015).

41. In addition, on 10 May 2002 the Constitutional Court found that the legislature, upon establishment of the procedure and conditions for the restoration of rights of ownership, had emphasised that the priority was to return land *in natura*. The Constitutional Court also reiterated that as the State was obliged to regulate the restoration of the rights of ownership to existing real property by means of legal acts in such a way that those rights would be implemented in reality, a former owner was guaranteed the right to choose the form of restoration of the right of ownership under the procedure and conditions prescribed by law.

42. The Supreme Court has noted that when a successor does not have a certificate of the right to inheritance, he or she can manage the inherited property but his or her right to fully exercise the property rights is limited (for example, decision of 6 November 2006 (no. 3K-3-576/2006).

THE LAW

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

43. The applicant complained under Article 1 of Protocol No. 1 to the Convention that the State authorities had breached her rights by not restoring her title to the land of her husband's father *in natura* or by failing to grant her a plot of equivalent value or fair compensation for the land. She was also dissatisfied with the overall length of the restitution process in her case.

Article 1 of Protocol No. 1 provides:

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

accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

1. Incompatibility ratione materiae

44. The Government noted that the applicant had no "possessions" within the meaning of Article 1 of Protocol No. 1. Neither could she have a legitimate expectation that a particular plot of land would be returned to her. The Government further observed that although V.V., and later the applicant, had been entitled to the restoration of their property rights, it was not obligatory to restore those rights in the form V.V. and the applicant had requested. Moreover, V.V. and later the applicant had been asked many times to choose another form of restoring V.V.'s property rights but they had failed to do so. The Government therefore considered this complaint to be inadmissible *ratione materiae*.

45. The applicant submitted that her complaint was admissible.

46. The Court observes that the restitution proceedings were started in 1991 and that the meetings regarding restitution of V.V.'s property rights started taking place in November 1999 (see paragraph 8 above). The Court also notes that V.V. and later the applicant were repeatedly asked to choose the form of the restitution (see paragraphs 8-12 and 18-19 above). The Court thus finds that V.V.'s and the applicant's right to restitution was never contested by the authorities and that after November 1999 they had a "legitimate expectation" to have their property rights restored (see, for example, *Paukštis v. Lithuania*, no. 17467/07, § 68, 24 November 2015). The Government's objection as to the complaint being inadmissible *ratione materiae* must therefore be dismissed.

2. Exhaustion of domestic remedies

47. The Government argued that the applicant had failed to exhaust the domestic remedies with regard to her complaint about the size of the compensation and the overall delay in finalising the restitution process. The Government stated that the applicant had failed to challenge the decision of the Telšiai County Administration of 13 May 2008 on the restoration of V.V.'s property rights by paying monetary compensation. They also maintained that the applicant could have claimed damages by starting court proceedings if she had been dissatisfied with the actions or omissions of the relevant authorities during the restitution proceedings or with their outcome. However, she had failed to do so.

48. The applicant stated that her complaints were admissible.

49. The Court notes that the applicant contested the size of the compensation before the domestic courts (see paragraphs 21 and 23 above). The Court is not persuaded by the Government's argument that the

applicant should have started new court proceedings for damages if she had considered the restitution process flawed on account of the authorities' actions. It is the Court's view that a new set of court proceedings would only have delayed the outcome of the restitution process without bringing any tangible result (see, for a similar matter, *Paukštis*, cited above, § 56).

50. Accordingly, the Court dismisses the Government's objection that the applicant failed to exhaust domestic remedies.

3. Conclusion

51. The Court finds that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. They are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

1. The parties' submissions

52. The applicant argued that the Lithuanian authorities had failed to act diligently and as a consequence she had been precluded from restoring her rights to part of V.V.'s father's plot of land of 3.08 hectares *in natura*. While she did not contest that first V.V. and later she had refused to accept all of the offers of plots of land of equivalent value, she nonetheless insisted that the authorities had failed to return the whole of the original land *in natura* or offer an adequate plot of land or adequate compensation in due time.

53. The applicant further argued that the decision of the authorities to restore her property rights to part of V.V.'s father's plot of land of 3.08 hectares by paying monetary compensation of LTL 3,437 (approximately EUR 995) had been unjust because the amount of compensation had been set too low. She would therefore not have been able to afford to acquire a new, comparable plot of land.

54. The applicant also argued that the restitution proceedings had been unjustifiably long. She stated that V.V.'s brother had applied for restitution in 1991 and the provisions of the domestic law had required decisions for restitution to be taken within three months of the date documents proving the right to restore property rights had been provided (see paragraph 30 above). However, V.V. had only been asked to a meeting organised by the authorities in 1999 and the decision to restore V.V.'s property rights by paying monetary compensation had only been taken on 13 May 2008 (see paragraphs 8 and 20 above). Moreover, even at the time she submitted her observations to the Court on 7 September 2016, she had still not received any compensation. Thus, the process of restitution in the applicant's case had lasted for about twenty-five years.

55. The Government noted that Lithuania, seeking to restore the violated property rights of citizens whose property had been nationalised during Soviet times, had chosen a limited form of restitution rather than *restitutio in integrum*. They also stated that there was a need to balance the interests of the people whose property rights had to be restored and those of society as a whole.

56. The Government submitted that throughout the restitution process V.V. and the applicant had insisted on restoring the property rights *in natura*. That had not been possible because the land was already being used by other people and there was a need to protect the rights of others. The authorities had many times asked V.V., and later the applicant, to choose an alternative form of restitution, but they had insisted on restoring their property rights *in natura.* Although they had later said that they would agree to a plot of land of equivalent value, they had not agreed to the plots offered, claiming that they were not of equivalent value. The Government further stated that the authorities had decided on 13 May 2008 to restore V.V.'s property rights by paying monetary compensation and that was the date when the applicant could submit she had an arguable claim to have her property rights restored in a certain way, as referred to in that decision. The Government argued that the compensation had been calculated in accordance with the domestic law (see paragraph 35 above) and transferred to the applicant's account in December 2008. The Government therefore stated that there had been no delays in the restitution process. Lastly, even if the process of restitution had been complicated and delayed, that had largely been attributable to the conduct of V.V. and the applicant and their failure to cooperate with the authorities.

57. In reply to the Government's observations, the applicant stated that she had never received the monetary compensation mentioned above.

58. In their comments to the applicant's reply, the Government acknowledged that the monetary compensation had never been transferred to the applicant "due to human error". Even so, V.V.'s property rights had been restored on 13 May 2008, that is after his death. The applicant had been informed about the decision to restore V.V.'s property rights on 28 May 2008. The Government argued that the national authorities could not transfer the monetary compensation to the applicant because of the absence of the document proving that she was an heir of V.V. and the absence of the applicant's account number.

2. The Court's assessment

59. The Court notes that the applicant complained about several different aspects of the domestic proceedings. Firstly, she complained about her inability to receive the plot of land *in natura* or to receive a plot of land of equivalent value. Secondly, she complained about the amount of monetary compensation for the plot of land. Thirdly, she complained about

the overall delays in the restitution process. The Court will examine each of those complaints separately.

(a) As to recovery of the plot of land *in natura* or a plot of land of equivalent value

60. The Court notes that while in the present case the option to receive the land *in natura* never existed, there was a possibility for V.V. and later the applicant to obtain a plot of land of equivalent value (see paragraphs 8, 10, 12, 14-16 and 18 above), which was later changed to monetary compensation by the authorities (see paragraph 20 above). Even assuming that that situation amounted to an interference with the applicant's property rights, the Court notes that such an interference struck a "fair balance" between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see *Sporrong and Lönnroth v. Sweden*, 23 September 1982, § 69, Series A no. 52), for the reasons set out below.

61. Firstly, the Court notes that the Lithuanian authorities' decision to restore V.V.'s property rights by paying monetary compensation instead of returning the plot of land *in natura* (see paragraph 20 above) was based on Article 21 of the Law on Restitution and Point 3 of the Resolution, thus it was provided for by law, as required by Article 1 of Protocol No. 1 to the Convention.

62. Moreover, the decision to restore V.V.'s property rights by paying monetary compensation was based on the "public interest" to protect the rights of others, a ground which has already been upheld by the Court (see *Pyrantienė v. Lithuania*, no. 45092/07, § 48, 12 November 2013; and *Paukštis,* cited above, § 80). Indeed, the Court has declared that, finding it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one, 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 of 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,).

63. Lastly, the Court notes that it was highlighted in the judgment of 21 September 2009 of the Supreme Administrative Court (see paragraph 24 above) that, contrary to V.V.'s and later the applicant's allegations, there was no possibility to recover the plot of land *in natura* because it was already being used by other people. This approach is not unreasonable. Moreover, although there was a possibility of providing her with a plot of land of equivalent value, the applicant had made it impossible for the authorities by tying that form of restitution to her own rules and requirements. In particular, the applicant firstly asked the authorities to

conclude a preliminary agreement, which was not provided for by domestic law, and, secondly, asked to be provided with a plot of land before she had signed the document on the transfer of land, which the authorities were also unable to do (see paragraphs 17 and 18 above). As a result, the authorities took the only decision possible – they themselves chose what form restitution should take. They were only required to take such measures as were appropriate to provide compensation for the applicant as set out in the domestic law. The Court is therefore of the opinion that the decision to pay monetary compensation reached a fair balance between the competing interests at stake.

64. The Court thus concludes that there has been no violation of Article 1 of Protocol No. 1 to the Convention in respect of the applicant's complaint that she was not able to recover the plot of land *in natura* or obtain a plot of land of equivalent value.

(b) As to the amount of compensation

65. It has been noted in the Court's case law that while Article 1 of Protocol No. 1 requires that the amount of compensation granted for property taken by the State be "reasonably related" to its value, the same rule does not apply to situations in which the compensatory entitlement arises not from any previous taking of individual property by the respondent State, but is designed to mitigate the effects of a taking or loss of property not attributable to that State – in such situations, the State is entitled to reduce, even substantially, levels of compensation provided for by law (see *Broniowski v. Poland* [GC], no. 31443/96, § 186, ECHR 2004-V, and *Nekvedavičius v. Lithuania* (just satisfaction), no. 1471/05, § 19, 17 November 2015). The Court has also held that in regulating the restitution process the Contracting States have a wide discretion, including over the rules of how the compensation for long-extinguished property rights should be assessed (see *Jantner v. Slovakia*, no. 39050/97, § 34, 4 March 2003, *Bergauer and Others v. the Czech Republic* (dec.), no. 17120/04, 13 December 2005, and *Paukštis,* cited above, § 74).

66. In numerous rulings that have already been analysed and accepted by the Court, the Constitutional Court held that fair compensation for property which could not be returned was compatible with the principle of the protection of property and that the notion of restitution of property rights in Lithuania essentially denoted partial reparation (see the relevant case-law, cited in paragraph 40 above). The Court has also already accepted that Lithuania has chosen the principle of partial restitution to rectify old wrongs and has already found it pertinent that a similar methodology adopted by the Lithuanian Government on the land-price calculation was used in a high percentage of cases in Lithuania (see *Paukštis*, cited above, § 81).

67. The Court cannot accept the applicant's claim that the compensation counted was too low, since no right to receive a higher amount of

compensation had been guaranteed under the applicable domestic law or by the judgment of 21 September 2009 of the Supreme Administrative Court (see paragraph 24 above). Having regard to the margin of appreciation that Article 1 of Protocol No. 1 affords national authorities, the extensive jurisprudence of the domestic courts (see paragraph 40 above) and the line of reasoning that the Court has already taken regarding restitution of property in Lithuania (see *Paukštis,* cited above, § 81), from which it sees no reason to depart, the Court considers that the amount of compensation calculates did bear a reasonable relation to the property in question.

68. The Court therefore finds no violation of Article 1 of Protocol No. 1 to the Convention with respect to the amount of the compensation calculated.

(c) As to the overall length of the restitution process

69. The Court turns to the applicant's complaint that even though the restitution request had been submitted in 1991, the decision to restore V.V.'s property rights had only been taken in 2008, and that even then she had not received any compensation to the present day (see paragraphs 26 and 27 above).

70. The Court takes cognisance of the fact that the present case concerns the restitution of property and is not unmindful of the complexity of the legal and factual issues that a State faces when resolving such questions. It is true that in restitution proceedings the executive authorities are required in particular to carry out a complex set of actions under the domestic legislation on restitution of property, rather than to perform a clear one-off act, such as payment of a particular amount of money (see *Nekvedavičius v. Lithuania*, no. 1471/05, § 62, 10 December 2013). It follows that certain impediments to the realisation of the applicants' right to the peaceful enjoyment of their possessions are not in themselves open to criticism (see *Aleksa v. Lithuania*, no. 27576/05, § 86, 21 July 2009, *Igarienė and Petrauskienė v. Lithuania*, no. 26892/05, § 58, 21 July 2009, and *Paukštis,* cited above, § 84). Even so, the Court has emphasised that that uncertainty – be it legislative, administrative or arising from the practices applied by the authorities – is a factor to be taken into account in assessing the State's conduct. Indeed, where an issue in the general interest is at stake, it is incumbent on the public authorities to act in good time and in an appropriate and consistent manner (see *Paukštis*, cited above, § 84).

71. In the present case the Court finds that the restitution process was indeed long. Active steps towards the restitution of V.V.'s property rights began in 1999 (see paragraph 8 above) and compensation was paid to the applicant in 2016 (see paragraph 27 above). The restitution process thus lasted for around seventeen years. In this context, the Court notes that the authorities claimed there had been a mistake with the information they had given to the applicant that compensation had been paid (see paragraph 27

above) and the Court finds such a mistake regrettable. However, in the first place, the Court does not consider that that mistake had a major impact on the overall length of the restitution process. Moreover, V.V., and later the applicant, contributed to a large extent to making the process protracted. Firstly, they kept changing their minds about the form of restitution (see paragraphs 10-11, 14-15 above). In addition, although V.V. and the applicant stated that they did not understand why the authorities kept asking her to make a new choice on the form of restitution, the Court observes that the authorities based their requests on the provisions of the domestic law and that both V.V. and the applicant failed properly to express their wish on that issue. Secondly, although the decision to restore V.V.'s property rights by paying monetary compensation was taken by the relevant authorities on 13 May 2008 and the applicant was duly informed, she failed to provide all the relevant documents to the notary, which would have allowed her to inherit the money. In particular, the Court cannot understand why it took the applicant eight years to make a request to the authorities for that money. It also appears that the applicant only started contacting the authorities after the case had been communicated to the Government. In that regard, the Court notes that as soon as the applicant provided the authorities with the relevant documents and her account number, they fulfilled their duty and paid the applicant her compensation (see paragraph 27 above).

72. In the Court's opinion, those facts are demonstrative of a lack of due diligence. Having regard to the applicant's own inactivity, the Court considers that the delays in the payment of compensation were not such as to amount to a violation of Article 1 of Protocol No. 1 to the Convention.

73. There has been accordingly no violation of Article 1 of Protocol No. 1 to the Convention on this account.

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 18 April 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti	Ganna Yudkivska
Deputy Registrar	President