On the maximum amount of the maternity allowance

Case no 17/2014

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF LITHUANIA

IN THE NAME OF THE REPUBLIC OF LITHUANIA

RULING

ON THE COMPLIANCE OF PARAGRAPH 5 (WORDING OF 15 DECEMBER 2011) OF ARTICLE 6 OF THE REPUBLIC OF LITHUANIA'S LAW ON SICKNESS AND MATERNITY SOCIAL INSURANCE, AS WELL AS OF THE PROVISIONS OF ITEM 7 (WORDING OF 21 AUGUST 2012) AND ITEM 10 (WORDING OF 28 DECEMBER 2011) OF THE REGULATIONS ON SICKNESS AND MATERNITY SOCIAL INSURANCE ALLOWANCES, AS APPROVED BY THE RESOLUTION (NO 86) OF THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA OF 25 JANUARY 2001, WITH THE CONSTITUTION OF THE REPUBLIC OF LITHUANIA

15 March 2016, no KT8-N5/2016

Vilnius

The Constitutional Court of the Republic of Lithuania, composed of the Justices of the Constitutional Court: Elvyra Baltutytė, Vytautas Greičius, Danutė Jočienė, Pranas Kuconis, Gediminas Mesonis, Egidijus Šileikis, Algirdas Taminskas, and Dainius Žalimas

The court reporter – Daiva Pitrėnaitė

The Constitutional Court of the Republic of Lithuania, pursuant to Articles 102 and 105 of the Constitution of the Republic of Lithuania and Articles 1 and 53^1 of the Law on the Constitutional Court of the Republic of Lithuania, at the Court's hearing, on 17 February 2016, considered under written procedure

constitutional justice case no 17/2014 subsequent to the petition (no 1B-26/2014) of the Vilnius Regional Administrative Court *(Vilniaus apygardos administracinis teismas)*, the petitioner, requesting an investigation into whether Paragraph 5 (wording of 15 December 2011) of Article 6 of the Republic of Lithuania's Law on Sickness and Maternity Social Insurance and Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the resolution (No 86) of the Government of the Republic of Lithuania of 25 January 2001 on the approval of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as the said paragraph and item provide that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month (at the beginning of the pregnancy-and-childbirth leave) when the right to this allowance arises, are in compliance with Article 29, Paragraphs 1 and 2 of Article 38, and Paragraph 2 of Article 39 of the Constitution of the Republic of Lithuania.

The Constitutional Court

has established:

I

1. The Vilnius Regional Administrative Court, the petitioner, was considering an administrative case subsequent to the complaint of an applicant against the decisions of the Vilnius Division of the Board of the State Social Insurance Fund (*Valstybinis socialinio draudimo fondas*, hereinafter referred to as the VSDF) under the Ministry of Social Security and Labour and of the said board itself regarding the granting of a maternity allowance. In 2013, the applicant was granted the maximum maternity allowance for the period of 126-calendar day pregnancy-and-childbirth leave, by applying the amount of the maximum one-day compensatory earnings, calculated on the basis of the sum of the 3.2-fold amount of the insured income approved for the year 2013, but not on the basis of the higher amount of the applicant's one-day compensatory earnings, according to which the applicant would have been granted a higher maternity allowance. The granted maternity allowance compensated for 47.17 per cent of the applicant's lost wages, from which the state social insurance contributions for sickness and maternity social insurance had been paid.

The Vilnius Regional Administrative Court, having found that there were sufficient grounds for doubting the constitutionality of the provisions of Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance and Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the government resolution (No 86) of 25 January 2001 on the approval of the Regulations on Sickness and Maternity Social Insurance Allowances (hereinafter also referred to as the Regulations on Sickness and Maternity Social Insurance Allowances) (both of which were applicable in the said administrative case), insofar as the said paragraph and item provide that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month (at the beginning of the pregnancy-and-childbirth leave) when the right to this allowance arises, suspended by its order

the administrative case and applied to the Constitutional Court with the petition requesting an investigation into the compliance of the said paragraph and item with the Constitution.

2. The petition of the Vilnius Regional Administrative Court, the petitioner, is substantiated by the following arguments.

2.1. The guarantee, established in Paragraph 2 of Article 39 of the Constitution, for working mothers to be granted paid leave before and after childbirth is related to the special physiological condition and health care needs of a pregnant woman and a woman after childbirth, as well as to the special relationship between a woman and her child in the first weeks following childbirth.

In its ruling of 27 February 2012, the Constitutional Court linked payment for pregnancy-and-childbirth leave, guaranteed under Paragraph 2 of Article 39 of the Constitution, to the average remuneration received before the said leave (but not to the compensatory earnings determined by the state). Under the Constitution, the legislature remains free to determine the procedure for calculating the average salary received before leave, the conditions for granting leave, the reasonable (minimum and maximum) duration of leave, but not the amount of payment for leave (where the said amount should correspond to the average remuneration received within a reasonable period before the leave).

Thus, the impugned legal regulation, according to which the amount of a maternity allowance during the period of pregnancy-and-childbirth leave is determined on the basis of the maximum compensatory earnings, violates the guarantee entrenched in Paragraph 2 of Article 39 of the Constitution.

2.2. Referring to the provision of the official constitutional doctrine that the provisions of Paragraphs 1 and 2 of Article 38 of the Constitution express the obligation of the state to establish, in laws and other legal acts, such a legal regulation that would ensure that the family, as well as motherhood, fatherhood, and childhood, as constitutional values, would be fostered and protected in all ways possible, the petitioner maintains that, in violation of Paragraph 2 of Article 39 of the Constitution, which enshrines one of the guarantees by implementing which the state ensures that the aforementioned constitutional values are fostered and protected in all ways possible, the legislature does not fulfil the obligations arising from Paragraphs 1 and 2 of Article 38 of the Constitution, either.

2.3. The legal status of working mothers who pay state social insurance contributions to sickness and maternity social insurance from all income is the same; however, they are treated differently when maximum compensatory earnings are applied in calculating maternity allowances, i.e. some of them (those whose compensatory earnings, calculated on the basis of their insured income, do not exceed the maximum compensatory earnings) are compensated for 100 per cent of their wages lost due to pregnancy and childbirth, whereas some others (those whose compensatory earnings exceed the maximum compensatory earnings) are compensated less. Such unequal treatment of persons in comparable situations is not objectively justified; therefore, the principle of the equality of persons before the law, which is enshrined in Article 29 of the Constitution, is violated.

II

1. In the course of the preparation of the case for the hearing of the Constitutional Court, written explanations were received from the representative of the Seimas, a party concerned, who was Kristina Miškinienė, the Chair of the Committee on Social Affairs and Labour of the Seimas, in which it is maintained that the impugned legal regulation, entrenched in Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, is not in conflict with Article 29, Paragraphs 1 and 2 of Article 38, and Paragraph 2 of Article 39 of the Constitution. The position of the representative of the Seimas, a party concerned, is based on the following arguments.

1.1. The capacity of the state social insurance system of Lithuania, of which sickness and maternity social insurance is a part, is determined by the economic situation of the country, the ability to collect taxes, as well as the ratio between social insurance contributions and benefits. Employed people who pay social insurance contributions to the VSDF budget guarantee benefits to those who, because of certain social risks stipulated in laws, cannot procure themselves the necessary means of subsistence. When establishing the maximum amount of compensatory earnings for calculating state social insurance allowances (including maternity allowance), the legislature sought the constitutionally significant goals – to create, on the basis of the constitutional principle of social solidarity, a sufficient budget of the VSDF in order that the state would have material possibilities to guarantee social security of a certain amount for all individuals who are at a certain social risk, including those who have lower incomes and, accordingly, pay lower contributions.

In order to ensure social harmony, as well as to balance the capacities of families, society, and the state, the law establishes not only the maximum, but also the minimum amount of compensatory earnings for calculating state social insurance allowances, including maternity allowances. Under Article 18 of the Law on Sickness and Maternity Social Insurance, the amount of a maternity allowance per month may not be lower than one-third of a given year's insured income valid in the month when pregnancy-and-childbirth leave begins.

1.2. A person's compensatory earnings reflect the income on which the social insurance contributions are calculated and paid, but not the actually paid amounts of these contributions. It is obvious that the amount of sickness and maternity social insurance contributions paid by an insured person during the prescribed period of employment is significantly lower than his/her compensatory earnings. In the case of any social risk, as well as in the case of maternity, the social insurance system is not able (nor is its purpose) to compensate for all the income lost due to certain social risk factors. In view of this, Article 2 of the Law on Sickness and Maternity Social Insurance stipulates that, in the cases provided for by law, sickness and maternity social insurance compensates persons insured by this type of insurance scheme for part of the income lost as a result of an insured event (including maternity).

1.3. The maximum amount of compensatory earnings (i.e. the maximum amount of a maternity allowance per month), which is established by the impugned legal regulation, where the said amount is equal to the sum of

the 3.2-fold amount of the insured income for a given year, even exceeds the average gross monthly wages in the national economy (excluding individual enterprises), which is published by the Statistics Lithuania.

2. In the course of the preparation of the case for the hearing of the Constitutional Court, written explanations were received from the representatives of the Government, a party concerned, who were Alesia Rynkevič, the Deputy Head of the Law Division of the Ministry of Social Security and Labour of the Republic of Lithuania, and Vilma Vizbaraitė, the adviser at the Social Insurance Division of the Social Insurance and Pensions Department of the same ministry, who state that the impugned legal regulation, which is entrenched in Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, is not in conflict with Article 29, Paragraphs 1 and 2 of Article 38, and Paragraph 2 of Article 39 of Constitution. The position of the representatives of the Government, a party concerned, is substantiated by the following arguments.

2.1. The state social insurance system, including sickness and maternity social insurance, is based on the constitutional principle of social solidarity, according to which society contributes to the maintenance of those its members who, due to important reasons specified in the law, are unable to support themselves through work or other means, or whose maintenance is insufficient. Therefore, the burden of fulfilling obligations related to state social insurance must also be distributed, to a certain extent, among members of society.

In order to ensure social harmony, as well as to balance the capacities of families, society, and the state, the legislature has established the minimum and maximum amounts of compensatory earnings for the calculation of state social insurance allowances, including maternity allowances. In view of the fact that state social insurance is based on the principles of universality and solidarity, the establishment of the maximum amount of compensatory earnings guarantees the payment of minimum state social insurance allowances. If it were decided to refuse to determine the maximum amount of compensatory earnings, the establishment of minimum social insurance allowances should also be refused, and even minimum social guarantees would not be ensured for individuals with low income.

2.2. The state social insurance system, which also includes maternity benefits, does not guarantee such benefits of this insurance that would be equal to the contributions paid by a person. According to Article 2 of the Law on Sickness and Maternity Social Insurance, sickness and maternity social insurance compensates persons insured under this insurance scheme for part of lost income from work. Consequently, the impugned legal regulation, whereby the maximum compensatory earnings, used for the calculation of state social insurance allowances, compensate not for all loss of income, but only part thereof, corresponds to the mission of sickness and maternity social insurance, as well as to the principle of solidarity, which does not deny personal responsibility for one’s own fate.

2.3. According to Paragraph 2 of Article 39 of the Constitution, when paying to working mothers for pregnancy-and-childbirth leave, as well as providing support to families and mothers in accordance with Paragraph 1 of this article, it is necessary to have regard to the capacities of the state. The Lithuanian state social insurance system is based on the “pay as you go” principle, according to which the collected contributions are

distributed; thus, this system largely depends on the country's economy, and, therefore, on the financial capacities of the state. The legislature, having regard to the situation of the economy of this country, while ensuring the material possibilities of the state to guarantee social security, by balancing the state social insurance system and observing the constitutional principles of responsible governance, social harmony, justice, reasonableness, and proportionality, has the right to limit the amounts of received state social insurance allowances. The legislature, in order to avoid a situation where it is not possible to collect sufficient revenue of the VSDF for the fulfilment of state obligations, has the right to determine that individuals receiving higher remuneration would contribute more to the VSDF budget, otherwise the state would not be able to properly carry out, *inter alia*, the duties assigned to it in Articles 38 and 39 of the Constitution.

According to Article 16 of the Law on State Social Insurance Pensions, the amount of insured income for a given year (on which the maximum compensatory earnings, relevant to the amount of a maternity allowance, are calculated) depends on the revenue and expenditure of the VSDF budget for the corresponding period. The VSDF budget, including funds for sickness and maternity social insurance, has been in deficit for several years. Therefore, the legislature, in pursuit of positive and socially significant goals, has reasonably established, by the impugned legal regulation, the maximum amount of compensatory earnings, which, in fact, even exceeds the average gross monthly wages in the national economy (excluding individual enterprises), which is published by the Statistics Lithuania.

2.4. The impugned legal regulation neither discriminates against nor grants privileges to mothers who pay more contributions, but do not receive benefits higher than the maximum ones; therefore, the impugned legal regulation does not violate the principle of the equality of persons, which is enshrined in Article 29 of the Constitution.

2.5. The impugned legal regulation is also aligned with obligations under international treaties relating to maternity protection. Convention No 183 of the International Labour Organisation of 15 June 2000 concerning the revision of the Maternity Protection Convention (Revised), 1952, which was ratified by the Republic of Lithuania on 25 March 2003 and became valid for the Republic of Lithuania on 23 September 2004, provides that, where, under national law or practice, cash benefits paid with respect to maternity leave are based on previous earnings, the amount of such benefits must not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits (Paragraph 3 of Article 6). This provision has been implemented in Paragraph 1 of Article 18 of the Law on Sickness and Maternity Social Insurance, having stipulated that the amount of a maternity allowance during a pregnancy-and-childbirth leave period makes 100 per cent of the allowance recipient's compensatory earnings, i.e. the amount of this allowance is not lower than two-thirds of the earnings taken into account when calculating the amount of a maternity allowance.

III

In the course of the preparation of the case for the hearing of the Constitutional Court, a letter from Mindaugas Sinkevičius, the Director of the Board of the VSDF under the Ministry of Social Security and Labour,

was received, which contained statistical information related to the issues considered in the constitutional justice case at issue.

The Constitutional Court

holds that:

I

1. The Vilnius Regional Administrative Court, the petitioner, requests an investigation into the constitutionality of Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance and Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as the said paragraph and item provide that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month (at the beginning of the pregnancy-and-childbirth leave) when the right to this allowance arises.

2. On 21 December 2000, the Seimas adopted the Republic of Lithuania's Law on Sickness and Maternity Social Insurance, which came into force on 1 January 2001. This law has subsequently been amended and/or supplemented on more than one occasion.

2.1. According to the Law on Sickness and Maternity Social Insurance, sickness and maternity social insurance compensates persons insured under this insurance scheme for part of the work income lost due to their own sickness or sickness of their family members, also due to maternity, paternity, maternity (paternity), or for part of the work income they have not received due to participation in a vocational rehabilitation programme (Article 2 (wording of 8 June 2006)) when granting and paying sickness, vocational rehabilitation, maternity, paternity, maternity (paternity) allowances (Paragraph 1 of Article 5 (wording of 8 June 2006)) from the funds of the VSDF (Article 22 (wording of 8 June 2006)).

Paragraph 3 (wordings of 5 June 2012 and 24 April 2014) of Article 5 of the Law on Sickness and Maternity Social Insurance stipulates, *inter alia*, that maternity, paternity, and maternity (paternity) allowances are granted to the insured persons entitled to this allowance in the following cases:

1) a maternity allowance is granted to women for the duration of pregnancy-and-childbirth leave;

2) a paternity allowance is granted to an insured person during his paternity leave to take care of the child until he/she reaches the age of one month;

3) a maternity (paternity) allowance is granted to an insured person for the duration of the childcare leave until the child is one or two years old.

Thus, according to the Law on Sickness and Maternity Social Insurance, a maternity allowance (the legal regulation related to the calculation of which is impugned in the constitutional justice case at issue) is granted and paid during pregnancy-and-childbirth leave.

In this context, it should be mentioned that, according to the Labour Code of the Republic of Lithuania, which was approved by the Law on the Approval, Entry into Force, and Implementation of the Labour Code of the Republic of Lithuania (adopted by the Seimas on 4 June 2002) and came into force on 1 January 2003, pregnancy-and-childbirth leave is one of the types of special-purpose leave (Article 178 (wordings of 8 June 2006 and 5 June 2012)). Paragraph 1 of Article 179, titled "Pregnancy-and-Childbirth Leave", of the Labour Code provides that women receive pregnancy-and-childbirth leave: 70 calendar days before childbirth and 56 calendar days after childbirth (or 70 calendar days in the event of complicated childbirth or the birth of two or more children); this leave is added up and granted to a woman as a single period, regardless of the days used prior to the childbirth; Paragraph 3 of this article stipulates that an allowance provided for in the Law on Sickness and Maternity Social Insurance is paid for this period of leave.

It should also be mentioned that, according to Paragraph 1 (wording of 18 December 2008 and 9 May 2013) of Article 16 of the Law on Sickness and Maternity Social Insurance, women who are covered by sickness and maternity social insurance and who have been granted pregnancy-and-childbirth leave are entitled to a maternity allowance during the period of the said leave if by the first day of this leave they have completed the sickness and maternity social insurance period of not less than 12 months during the last 24 months (except the cases provided for in this article).

2.2. Thus, for the time of pregnancy-and-childbirth leave, i.e. 70 calendar days before childbirth and 56 calendar days (or 70 calendar days) after childbirth, women covered by sickness and maternity social insurance who have been granted this leave and have completed a prescribed period of this insurance are granted and paid maternity allowances, which are established in the Law on Sickness and Maternity Social Insurance. Consequently, women who, according to the Law on Sickness and Maternity Social Insurance, are entitled to receive a maternity allowance are paid for leave before and after childbirth from the funds of the VSDF budget, i.e. payment for this leave is based on social insurance.

In this context, it should be mentioned that pregnant women who, under the Law on Sickness and Maternity Social Insurance, are not entitled to receive a maternity allowance, after 70 calendar days before the expected date of childbirth, under the Republic of Lithuania's Law on Child Allowances (wording of 18 May 2004), are paid lump sums from funds of the state budget (Paragraph 1 (wording of 1 June 2006) of Article 4, Article 10 (wording of 1 July 2008)).

2.3. Article 18, titled "The Amount of a Maternity Allowance Paid during the Period of Pregnancy-and-Childbirth Leave", of the Law on Sickness and Maternity Social Insurance prescribes that the amount of a maternity allowance paid during a pregnancy-and-childbirth leave period makes 100 per cent of the allowance recipient's compensatory earnings; the amount of the allowance per month may not be lower than one-third of a

given year's insured income valid in the month of the beginning of the pregnancy-and-childbirth leave (Paragraph 1 (wording of 2 July 2010)), except the specified cases where the insured person, during the period of the receipt of a maternity allowance, has insured income or receives certain allowances (Paragraph 2 (wording of 9 May 2013)).

According to Paragraph 3 (wording of 4 December 2007) of Article 3 of the Law on Sickness and Maternity Social Insurance, "compensatory earnings" mean the sum total of an insured person's insured income on the basis of which sickness and maternity social insurance allowances are calculated; under Paragraph 2 (wording of 20 December 2007) of the same article, "the insured income of an insured person" means all income of a person from which state social insurance contributions for sickness and maternity social insurance were paid or had to be paid, allowances set by this law (including maternity allowances), as well as allowances (benefits) payable in accordance with the Law on the Social Insurance of Occupational Accidents and Occupational Diseases and the Law on Unemployment Social Insurance.

Paragraph 7 (wording of 8 June 2006) of Article 3 of the Law on Sickness and Maternity Social Insurance prescribes that "a given year's insured income" means income calculated on the basis of the procedure established by the Law on State Social Insurance Pensions.

In this context, it should be mentioned that Paragraph 1 of Article 16 of the Law on State Social Insurance Pensions (wording of 19 May 2005) stipulates, *inter alia*, that the insured income of a given year, calculated according to a methodology approved by the VSDF Council, is approved at least once per year by the Government on the recommendation of the VSDF Council, by taking into account the revenue and expenditure of the VSDF budget in the given year or in the corresponding period of the year.

2.4. Article 6, titled "Compensatory Earnings", of the Law on Sickness and Maternity Social Insurance establishes the calculation procedure of compensatory earnings, on whose basis, *inter alia*, the amount of a maternity allowance is determined.

2.4.1. Paragraph 2 (wording of 22 December 2009) of the said article, *inter alia*, provides that compensatory earnings, on whose basis the amount of maternity allowances are determined, are calculated according to an insured person's insured income possessed during 12 consecutive calendar months before the calendar month preceding the month in which pregnancy-and-childbirth leave began.

2.4.2. Under Paragraph 4 of Article 6 (wording of 4 December 2007), if the average compensatory earnings per month for the calculation of a maternity allowance is less than one-third of the insured income approved by the Government for a given year and valid at the month when pregnancy-and-childbirth leave began, this allowance is calculated on the basis of the latter amount.

2.4.3. Paragraph 5 (wording of 15 December 2011) of this article, which, insofar as it applies in calculating a maternity allowance, is impugned in the constitutional justice case at issue, prescribes: "The maximum compensatory earnings for the calculation of allowances must not exceed the sum of the 3.2-fold

amount of insured income approved by the Government for a given year and valid in the month when the right to an appropriate allowance arises."

Thus, the impugned legal regulation, which is entrenched in Paragraph 5 (wording of 15 December 2011) of this article, limits, *inter alia*, the amount of a maternity allowance: the amount of a maternity allowance per month must not exceed the maximum amount of compensatory earnings, i.e. the sum of the 3.2-fold amount of insured income approved by the Government for a given year and valid in the month when the right to this allowance arises.

2.5. To sum up, it should be noted that Paragraph 1 (wording of 2 July 2010) of Article 18 of the Law on Sickness and Maternity Social Insurance provides that the amount of a maternity allowance, paid during pregnancy-and-childbirth leave, is equal to 100 per cent of the compensated earnings of the recipient of the allowance, whereas the impugned Paragraph 5 (wording of 15 December 2011) of Article 6 of this law imposes the limitation on this amount: the amount of a maternity allowance per month must not exceed the sum of the 3.2-fold amount of insured income approved by the Government for a given year and valid in the month when the right to this allowance arises.

It is also worth noting that the laws do not establish a legal regulation whereby the pregnancy-and-childbirth leave of working women would be paid for by granting another (supplementary) benefit in addition to a maternity allowance of the said limited amount.

3. The procedure for calculating, granting, and paying social insurance allowances (*inter alia*, maternity allowances), which are established in the Law on Sickness and Maternity Social Insurance, is regulated in more detail by the Regulations on Sickness and Maternity Social Insurance Allowances, as approved, in accordance with the Law on Sickness and Maternity Social Insurance, by the government resolution (No 86) of 25 January 2001, which came into force on 1 February 2001. These regulations have been amended on more than one occasion.

3.1. Item 7 (wording of 21 August 2012) of the said regulations, which, insofar as it applies in calculating a maternity allowance, is impugned in the constitutional justice case at issue, prescribes: "An allowance recipient's compensatory earnings for the calculation of the allowance must not exceed the sum of the 3.2-fold amount of a given year's insured income valid in the month of the occurrence of temporary incapacity for work, or in the month when the programme of vocational rehabilitation begins, or in the month when pregnancy-and-childbirth leave, or paternity leave, or childcare leave begins […]".

Thus, under the impugned legal regulation laid down in Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, as well as under the legal regulation established in the impugned Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, the maximum amount of a maternity allowance per month must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when the pregnancy-and-childbirth leave begins.

3.2. Item 9 (wording of 8 September 2010) of the same regulations, *inter alia*, provides that the average compensatory earnings per day are calculated, as regards maternity allowances, on the basis of the insured income of consecutive 12 calendar months preceding the last calendar month prior to the beginning of the pregnancy-and-childbirth leave, dividing the insured income by the number of working days (according to the calendar and by applying a 5-day working week) of the same period, and taking into account the rest days transferred by means of a government resolution.

3.3. The first paragraph of Item 10 (wording of 28 December 2011) of these regulations, *inter alia*, stipulates that the maximum compensatory earnings per day are calculated, as regards maternity allowances, by dividing the sum of the 3.2-fold amount of the insured income (valid in the month when pregnancy-and-childcare leave begins) for a given year by the average number of working days per month of that year (where a 5-day working week is applied).

The same item also prescribes, *inter alia*, that the minimum compensatory earnings per day are calculated, as regards maternity allowances, on the basis of a given year's insured income valid in the month when the right to this allowance arises, dividing one-third of this income by the average number of working days per month of that year (where a 5-day working week is applied); the annual average number of working days per month is approved annually by the order of the Minister of Social Security and Labour.

II

1. In the context of the constitutional justice case at issue, mention should also be made of the provisions of international and EU legislation related to the protection of maternity and childhood, as well as to the guarantee for paid leave before and after childbirth for working mothers.

2. Article 10 of the International Covenant on Economic, Social and Cultural Rights of 1966, which became valid for the Republic of Lithuania on 20 February 1992, provides that the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society; special protection should be accorded to mothers during a reasonable period before and after childbirth; during such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Convention No 183 of the International Labour Organisation of 15 June 2000 concerning the revision of the Maternity Protection Convention (Revised), 1952, which was ratified by the Republic of Lithuania on 25 March 2003 and became valid for the Republic of Lithuania on 23 September 2004, provides:

– a working woman is entitled to a period of maternity leave of not less than 14 weeks (Paragraph 1 of Article 4);

– cash benefits must be at a level ensuring that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living (Paragraph 2 of Article 6); where, under national law or practice, cash benefits paid with respect to maternity leave are based on previous earnings, the amount of such

benefits must not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits (Paragraph 3 of Article 6).

4. Article 8, titled "The right of employed women to protection of maternity", of the European Social Charter (revised) (hereinafter also referred to as the Charter), which was adopted on 3 May 1996 and became valid (with reservations) for the Republic of Lithuania on 1 August 2001, prescribes that, with a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake, *inter alia*, to provide either by paid leave, by adequate social security benefits, or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least 14 weeks.

According to the interpretation given by the European Committee of Social Rights, which monitors the conformity of the situation in States with the Charter, maternity leave must be accompanied by the continued payment of the individual's wage or salary or by the payment of social security benefits or benefits from public funds; a benefit must be adequate and must be equal to the salary or close to its value. For example, a benefit equal to 70 per cent of the salary is adequate; various elements are taken into account in order to assess the amount of benefits that are lower than the salaries, such as the upper limit for calculating benefit, how this compares to overall wage patterns, and the number of women in receipt of a salary above this limit.

5. Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), *inter alia*, prescribes:

– Member States must take the necessary measures to ensure that pregnant workers, workers who have recently given birth, and workers who are breastfeeding are entitled to a continuous period of maternity leave of a least 14 weeks allocated before and/or after confinement in accordance with national legislation and/or practice (Paragraph 1 of Article 8);

– in the case of maternity leave, the rights connected with the employment contract of pregnant workers, workers who have recently given birth, and workers who are breastfeeding, as well as the maintenance of a payment to, and/or entitlement to an adequate allowance for these workers, must be ensured (Point 2 of Article 11); such an allowance is deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation (Point 3 of Article 11).

6. In interpreting, in its jurisprudence, the content of maternity leave, the Court of Justice of the European Union has noted that the right to maternity leave granted to pregnant workers must be regarded as a particularly important mechanism of protection under employment law (judgment of 20 September 2007, *Kiiski*, C-116/06, paragraph 49).

III

1. In the constitutional justice case at issue, the petitioner impugns the compliance of Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance and Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances (the maximum amount of a maternity allowance is determined according to the said paragraph and item) with Article 29, Paragraphs 1 and 2 of Article 38, and Paragraph 2 of Article 39 of the Constitution.

2. Paragraphs 1 and 2 of Article 38 of the Constitution prescribe: "The family shall be the basis of society and the State. Family, motherhood, fatherhood, and childhood shall be under the protection and care of the State."

Paragraphs 1 and 2 of Article 38 of the Constitution consolidate the respective constitutional principles of a general character (*inter alia*, the Constitutional Court's rulings of 27 February 2012 and 22 September 2015). The Constitutional Court has held that these provisions express the obligation of the state to establish, by means of laws and other legal acts, such a legal regulation that would ensure that family, motherhood, fatherhood, and childhood, as constitutional values, would be fostered and protected in all ways possible (*inter alia*, the Constitutional Court's rulings of 27 February 2012 and 22 September 2015).

In interpreting the state obligation, arising from Paragraph 2 of Article 38 of the Constitution, to create the environment favourable for family, motherhood, fatherhood, and childhood, the Constitutional Court has held, among other things, that certain support may be given to families with under-age children by taking account of the needs of such families and the capacity of society and the state, and that, in this area, the legislature, taking account of various social, demographic, and economic factors, *inter alia*, the material and financial opportunities of the state, has broad discretion to choose concrete instruments of protection and support (the Constitutional Court's rulings of 27 February 2012 and 22 September 2015).

The constitutional obligation of the state to protect and take care of family, motherhood, fatherhood, and childhood is expressed, *inter alia*, in Paragraph 1 of Article 39 of the Constitution, wherein the state care and support is guaranteed to families that raise and bring up children at home, and in Paragraph 2 of the same article, which consolidates the guarantee of paid leave before and after childbirth to working mothers, as well as favourable working conditions and other concessions (the Constitutional Court's ruling of 27 February 2012).

3. Paragraph 2 of Article 39 of the Constitution prescribes: "The law shall make a provision for working mothers to be granted paid leave before and after childbirth, as well as favourable working conditions and other concessions."

When interpreting Paragraph 2 of Article 39 of the Constitution in its ruling of 27 February 2012, the Constitutional Court emphasised that:

– Paragraph 2 of Article 39 of the Constitution establishes, *inter alia*, the constitutional guarantee of paid leave before and after childbirth for working mothers, by taking account of a special condition and need of healthcare of women for some time before and after childbirth and of the special relationship between mother and child for some time following childbirth;

– the purpose of this constitutional guarantee is to ensure the protection of the physiological condition of a pregnant woman and a woman after childbirth, as well as to ensure the protection of the special bond between mother and child during the first weeks of life of the child, by creating the possibility for a working woman to withdraw, for a reasonable time, from her work (professional) activities before and after childbirth; when account is taken of this constitutional purpose, paid leave before and after childbirth to working mothers is a specific constitutional institute of the protection of motherhood and childhood;

– the legislature, in regulating the implementation of the right to the paid leave of a reasonable length of time before and after childbirth to working mothers, which is guaranteed under Paragraph 2 of Article 39 of the Constitution, and taking into consideration the constitutional purpose thereof, while paying regard to other norms and principles of the Constitution (*inter alia*, the constitutional imperatives of a state under the rule of law, justice, reasonableness, and the equality of rights), must establish, *inter alia*, the conditions for giving such leave, a reasonable (minimum and maximum) length of such leave, as well as such a legal regulation that would ensure, at the time of this leave, the payment of benefits whose amount would comply with the average remuneration received during a reasonable time prior to such leave;

– the legislature has the discretion to choose the sources from which leave for working mothers before and after childbirth will be paid: such leave, *inter alia*, may be funded from the state budget; in addition, such a legal regulation may be established by which the funding of the said leave would be based on social insurance, or a different model of funding such leave may be chosen.

4. Thus, the guarantee of paid leave before and after childbirth to working mothers, as consolidated in Paragraph 2 of Article 39 of the Constitution, is a specific measure of safeguarding motherhood and childhood, which is consolidated in Paragraph 2 of Article 38 of the Constitution; this measure is aimed to protect the special condition and health of working pregnant women and women after childbirth, as well as to ensure the protection of the special bond between a mother and her child during the first weeks of the life of the child, and, at the same time, to create the conditions for a working woman to withdraw, for a reasonable period of time, from her work (professional) activities before and after childbirth. This constitutional guarantee, which ensures one of the two types of paid leave *expressis verbis* specified in the Constitution, gives rise to the duty of the legislature, among other things, to establish a legal regulation whereby payment for the period of such leave would be connected to the remuneration received by a working woman before the leave, and whereby the amount of the benefits paid during this leave would correspond to the average remuneration received by the working woman within a reasonable period of time before the leave.

In the context of the constitutional justice case at issue, it should be noted that the content of the concept of the paid leave of working mothers before and after childbirth, as a specific constitutional institute of the protection of motherhood and childhood, should not depend on a model, chosen by the legislature, of paying for the said leave, i.e. a model based on social insurance or a different one.

5. It has been mentioned that the petitioner requests an investigation into the compliance of the impugned legal regulation with, *inter alia*, Article 29 of the Constitution.

The Constitutional Court has held on more than one occasion that the constitutional principle of the equality of all persons before the law, as consolidated in Article 29 of the Constitution, requires that fundamental rights and duties be established in law equally to all; this principle means the right of an individual to be treated equally with others; it imposes the obligation to assess homogenous facts in the same manner and prohibits any arbitrary assessment of essentially the same facts in a different manner, however, it does not deny a differentiated legal regulation, established by law, with respect to certain categories of persons who are in different situations; the constitutional principle of the equality of persons would be violated if certain persons or groups of such persons were treated in a different manner even though between the said groups of persons there would be no differences of such a character or extent that would objectively justify their uneven treatment; when assessing whether a certain established differentiated legal regulation is well grounded, it is necessary to take into account concrete legal circumstances; first of all, consideration must be given to differences in the legal situation of the subjects and objects to which a certain differentiated legal regulation is applied.

IV

On the constitutionality of Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, as well as the provisions of Item 7 (wording of 21 August 2012) and Item 10 (wording of 28 December 2011) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the government resolution (No 86) of 25 January 2001

1. As mentioned above, the petitioner impugns the compliance of Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance and Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as the said paragraph and item provide that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month (at the beginning of the pregnancy-and-childbirth leave) when the right to this allowance arises, with Article 29, Paragraphs 1 and 2 of Article 38, and Paragraph 2 of Article 39 of the Constitution.

According to the petitioner, the legislature, having laid down the impugned legal regulation, not only violated Paragraph 2 of Article 39 of the Constitution, whereby working mothers are guaranteed paid leave before and after childbirth (but not support to families, which is limited, *inter alia*, by the capacities of society and the state) where the amount of payment for the said leave should correspond to the average remuneration received within a reasonable period before the leave, but also did not fulfil the obligations arising from Paragraphs 1 and 2 of Article 38 of the Constitution and disregarded the principle of the equality of persons before the law, which is enshrined in Article 29 thereof.

2. When deciding whether Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, insofar as it provides that the maximum compensatory earnings for the

calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when the right to a maternity allowance arises, is in conflict with Paragraph 2 of Article 39 of the Constitution, it needs to be noted that, as mentioned above, the guarantee of paid leave before and after childbirth to working mothers, as consolidated in Paragraph 2 of Article 39 of the Constitution, is a specific measure of safeguarding motherhood and childhood, which is consolidated in Paragraph 2 of Article 38 thereof; this measure is aimed to protect the special condition and health of working pregnant women and women after childbirth, as well as to ensure the protection of the special bond between a mother and her child during the first weeks of the life of the child, and, at the same time, to create the conditions for a working woman to withdraw, for a reasonable period of time, from her work (professional) activities before and after childbirth; this constitutional guarantee, which ensures one of the two types of paid leave *expressis verbis* specified in the Constitution, gives rise to the duty of the legislature, among other things, to establish a legal regulation whereby payment for the period of such leave would be connected to the remuneration received by a working woman before the leave, and whereby the amount of the benefits paid during this leave would correspond to the average remuneration received by the working woman within a reasonable period of time before the leave; the legislature has the discretion to choose the sources from which leave for working mothers before and after childbirth will be paid: such leave, *inter alia*, may be funded from the state budget; in addition, such a legal regulation may be established by which the funding of the said leave would be based on social insurance, or a different model of funding such leave may be chosen.

2.1. It has been mentioned that the legislature has established a legal regulation governing payment for leave granted to women before and after childbirth where this payment is based on social insurance; the maternity allowance established in the Law on Sickness and Maternity Social Insurance is granted and paid for the period of pregnancy-and-childbirth leave provided for in the Labour Code. It has also been mentioned that, according to the impugned Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, the amount of a maternity allowance per month must not exceed the maximum amount of compensatory earnings, i.e. the sum of the 3.2-fold amount of insured income approved by the Government for a given year and valid in the month (at the beginning of the pregnancy-and-childbirth leave) when the right to this allowance arises.

It has also been mentioned that the laws contain no legal regulation under which, in addition to the said maternity allowance of a limited amount, working women who have the right, under the Law on Sickness and Maternity Social Insurance, to receive a maternity allowance during pregnancy-and-childbirth leave would be paid for the period of pregnancy-and-childbirth leave by granting them any other (additional) benefit, thus, also such a benefit by paying which (together with the said allowance) the amount of the average remuneration received within the established period before the pregnancy-and-childbirth leave would be reached.

2.2. Consequently, if the average remuneration received by a working woman within a certain time limit, set by law, before pregnancy-and-childbirth leave exceeds the maximum compensatory earnings for the calculation of maternity allowances, she is granted and paid, during the pregnancy-and-childbirth leave, the maximum maternity allowance that is calculated according to the impugned legal regulation where the amount of

the said allowance is not connected to the remuneration received by the woman within the established period before the leave and can be significantly lower than the received average remuneration.

2.3. Thus, it should be held that, in the absence of such a legal regulation consolidated in laws that would provide for payment of benefits for the period of pregnancy-and-childbirth leave to all working women who, under the Law on Sickness and Maternity Social Insurance, have the right to receive a maternity allowance during pregnancy-and-childbirth leave where the said benefits for the period of pregnancy-and-childbirth leave would correspond to the average remuneration received by them before the leave, the legal regulation laid down in Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, according to which the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when the right to this allowance arises, does not properly ensure the guarantee, established in Paragraph 2 of Article 39 of the Constitution, for paid leave before and after childbirth (according to this guarantee, the amount of benefits paid to working women during the guaranteed leave before and after childbirth must correspond to the average remuneration received within a reasonable period before the leave).

3. In the light of the foregoing arguments, the conclusion should be drawn that Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, insofar as the said paragraph provides that the maximum compensatory earnings for the calculation of a maternity allowance must not exceed the sum of the 3.2-fold amount of insured income approved by the Government for a given year and valid in the month when the right to a maternity allowance arises, as long as the laws fail to consolidate, for all working women, benefits corresponding to the average remuneration received by them within the established period before pregnancy-and-childbirth leave, is in conflict with Paragraph 2 of Article 39 of the Constitution.

4. Having held that, the Constitutional Court will not further examine whether the impugned legal regulation, which is entrenched in Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, is in conflict with Article 29 and Paragraphs 1 and 2 of Article 38 of the Constitution.

5. When deciding whether Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as it provides that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when pregnancy-and-childbirth leave begins, is in conflict with Paragraph 2 of Article 39 of the Constitution, it should be noted that, as mentioned above, under this item, as well as under the impugned Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, the amount of a maternity allowance per month must not exceed the maximum amount of compensatory earnings – the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when pregnancy-and-childbirth leave begins.

Thus, having held that Paragraph 5 (wording of 15 December 2011) of Article 6 of the Law on Sickness and Maternity Social Insurance, insofar as the said paragraph provides that the maximum compensatory earnings for the calculation of a maternity allowance must not exceed the sum of the 3.2-fold amount of insured income approved by the Government for a given year and valid in the month when the right to a maternity allowance arises, is in conflict with Paragraph 2 of Article 39 of the Constitution, it should also be held, on the grounds of the same arguments, that Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the government resolution (No 86) of 25 January 2001, insofar as the said item provides that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when pregnancy-and-childbirth leave begins, is in conflict with Paragraph 2 of Article 39 of the Constitution.

6. Having held that, the Constitutional Court will not further examine whether Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the government resolution (No 86) of 25 January 2001, is in conflict with Article 29 and Paragraphs 1 and 2 of Article 38 of the Constitution.

7. It should be noted that the legal regulation laid down in Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances is related with the legal regulation established in the first paragraph of Item 10 (wording of 28 December 2011) of the same regulations. As mentioned above, the first paragraph of Item 10 (wording of 28 December 2011) of the said regulations, *inter alia*, stipulates that the maximum compensatory earnings per day are calculated, as regards maternity allowances, by dividing the sum of the 3.2-fold amount of the insured income (valid in the month when pregnancy-and-childcare leave begins) for a given year by the average number of working days per month of that year (where a 5-day working week is applied).

Having held that Item 7 (wording of 21 August 2012) of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as it provides that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when pregnancy-and-childbirth leave begins, is in conflict with Paragraph 2 of Article 39 of the Constitution, it should be held, on the grounds of the same arguments, that the first paragraph of Item 10 (wording of 28 December 2011) of the said regulations, insofar as it provides that the maximum compensatory earnings per day are calculated, as regards maternity allowances, on the basis of the sum of the 3.2-fold amount of the insured income (valid in the month when pregnancy-and-childcare leave begins) for a given year, is in conflict with Paragraph 2 of Article 39 of the Constitution.

V

1. By this ruling, the Constitutional Court has recognised that the provisions of the Law on Sickness and Maternity Social Insurance and of the Regulations on Sickness and Maternity Social Insurance Allowances related

to the limitation on the amount of a maternity allowance granted and paid during pregnancy-and-childbirth leave are in conflict with the Constitution.

Under Paragraph 1 of Article 107 of the Constitution, after this ruling of the Constitutional Court is officially published, from the day of its official publication, the provisions of the Law on Sickness and Maternity Social Insurance and of the Regulations on Sickness and Maternity Social Insurance Allowances that have been ruled unconstitutional will not be applicable to the specified extent, i.e. all working mothers will have to be paid during the period of pregnancy-and-childbirth leave maternity allowances corresponding to the average remuneration received before this leave.

2. In view of the fact that the implementation of this ruling of the Constitutional Court is linked with the planning of public finances, as well as that it is necessary to adequately prepare for granting and paying such maternity allowances whose amount would not be limited to the specified extent, this ruling must be published officially in the Register of Legal Acts on 2 January 2017.

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

ruling:

1. To recognise that Paragraph 5 (wording of 15 December 2011; Official Gazette *Valstybės žinios*, 2011, No 160-7569) of Article 6 of the Republic of Lithuania's Law on Sickness and Maternity Social Insurance, insofar as the said paragraph provides that the maximum compensatory earnings for the calculation of a maternity allowance must not exceed the sum of the 3.2-fold amount of insured income approved by the Government for a given year and valid in the month when the right to a maternity allowance arises, as long as the laws fail to consolidate, for all working women, benefits corresponding to the average remuneration received by them within the established period before pregnancy-and-childbirth leave, is in conflict with Paragraph 2 of Article 39 of the Constitution of the Republic of Lithuania.

2. To recognise that Item 7 (wording of 21 August 2012; Official Gazette *Valstybės žinios*, 2012, No 99-5052) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the resolution (No 86) of the Government of the Republic of Lithuania of 25 January 2001 on the approval of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as the said item provides that the maximum compensatory earnings for the calculation of maternity allowances must not exceed the sum of the 3.2-fold amount of the insured income approved by the Government for a given year and valid in the month when pregnancy-and-childbirth leave begins, is in conflict with Paragraph 2 of Article 39 of the Constitution of the Republic of Lithuania.

3. To recognise that the first paragraph of Item 10 (wording of 28 December 2011; Official Gazette *Valstybės žinios*, 2011, No 164-7820) of the Regulations on Sickness and Maternity Social Insurance Allowances, as approved by the resolution (No 86) of the Government of the Republic of Lithuania of 25 January 2001 on the

approval of the Regulations on Sickness and Maternity Social Insurance Allowances, insofar as it provides that the maximum compensatory earnings per day are calculated, as regards maternity allowances, on the basis of the sum of the 3.2-fold amount of the insured income (valid in the month when pregnancy-and-childcare leave begins) for a given year, is in conflict with Paragraph 2 of Article 39 of the Constitution of Republic of Lithuania.

4. This ruling of the Constitutional Court must be published officially in the Register of Legal Acts on 2 January 2017.

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

Justices of the Constitutional Court: Elvyra Baltutytė

Vytautas Greičius

Danutė Jočienė

Pranas Kuconis

Gediminas Mesonis

Egidijus Šileikis

Algirdas Taminskas

Dainius Žalimas