

**JUDGEMENT**

**on behalf of the Republic of Latvia**

**Riga, 10 December 2025**

**in Case No. 2024-21-0103**

The Constitutional Court composed of the chairperson of the court hearing Irēna Kucina, Judges, Anita Rodiņa, Jānis Neimanis, Jautrīte Briede, Veronika Krūmiņa, Mārtiņš Mits, and Juris Juriss,

with the participation of Gabriela Diana Kaplan, Uri Traub, Brigita Anna Muške, Žanete Aščuka, Arturs Solozemnieks, Uģis Eriņš, Ilze Ķīse, Ināra Penēze, Dagnija Sniķere, the authorised representative of joint stock company “ZEMES ĪPAŠNIEKU ĢILDE”, LLC (SIA) “Reģionālā zemju pārvalde”, LLC (SIA) “PZD-2”, LLC (SIA) “PZD-1”, LLC (SIA) “PZD-4”, LLC (SIA) “PZD-10”, cooperative society “Kibbutz” and LLC (SIA) “Teroli”, sworn advocate Normunds Šlitke, the authorised representative of limited liability company “Lansija”, Rasmus Māris Jāvalds and limited liability company “LansiMed”, sworn advocate Erlends Baļķens, as well as the authorised representative of the Riga Grebenshchikov Old Believers’ Church, Aivars Bergers,

the authorised representative of the institution that issued the contested act – the Parliament (the *Saeima*) –, sworn advocate Rolands Neilands, as well as the authorised representatives of the institution that issued the contested act – the Cabinet of Ministers –, Anda Smiltēna and Artūrs Lezdiņš,

with the secretary of the court hearing Maija Liberte,

based on Article 85 of the Constitution of the Republic of Latvia and Section 16 (1) and (3), Section 17 (1)11), as well as Sections 19<sup>2</sup> and 28 of the Constitutional Court Law,

with the participation of parties to the case, examined the following case in Riga on 15, 16, 22, 23 October and 11 November 2025, at an open court hearing:

**“Concerning the compliance of the second sentence of Section 38 (2) and Section 42 (7) of the Law “On the Time Period of Coming into Force and the**

**Procedures for the Application of the Introduction, Parts on Inheritance Rights and Property Rights of the Renewed Civil Law of 1937 of the Republic of Latvia”, as well as Paragraphs 43<sup>1</sup>, 43<sup>2</sup> and 43<sup>3</sup> of the Transitional Provisions of the State Immovable Property Cadastre Law with Article 1, the first and third sentences of Article 105 of the Constitution of the Republic of Latvia, and concerning the compliance of Paragraphs 40 and 42 of Cabinet Regulation No 103 Regulations Regarding Mass Appraisal of 18 February 2020 with the first and third sentences of Article 105 of the Constitution of the Republic of Latvia”.**

### **Establishing Part**

1. On 14 January 1992, the Supreme Council of the Republic of Latvia (referred to as the Supreme Council) adopted the Law “On the Civil Law of 1937 of the Republic of Latvia”, which reinstated the force of the 1937 Civil Law of the Republic of Latvia. Special laws determined the timing and procedure for the entry into force of individual parts of the Civil Law. Furthermore, on 7 July 1992, the Supreme Council adopted the Law “On the Time Period of Coming into Force and the Procedures for the Application of the Introduction, Parts on Inheritance Rights and Property Rights of the Renewed Civil Law of 1937 of the Republic of Latvia” (the Entry Into Force Law), which provided that this Law and the part on property rights of the Civil Law would enter into force on 1 September 1992.

By Section 2 of the Law “Amendments to the Law “On the Time Period of Coming into Force and the Procedures for the Application of the Introduction, Parts on Inheritance Rights and Property Rights of the Renewed Civil Law of 1937 of the Republic of Latvia”” of 30 September 2021 (the 2021 Law of Amendments), the *Saeima* supplemented the Entry Into Force Law with Section 38 whose first and second paragraphs provide:

“If a structure is an independent property object under Section 14 (1), Clause 1, 2, 3, or 4 of this Law, until the structure is merged into one property with the land, the structure owner shall hold the land use rights on the basis of the law, insofar as it is necessary for exercising the ownership rights over the structure. Such a restriction of the lawful rights of use constitutes a real servitude in favour of the structure, which is an independent object of ownership rights, and the provisions of the Civil Law regarding

real servitude shall apply to the rights of use insofar as it has not been laid down otherwise in this Law.

The structure owner has an obligation by law to pay a fee for use to the landowner for the land use rights. The amount of the fee for lawful use shall be four per cent of the annual cadastral value of the land in use, but not less than EUR 50 per year. The structure owner and the landowner may agree in writing on a different amount of the fee for use. Such agreement shall not be binding upon the acquirer of the immovable property in the event of a change of the structure owner or the landowner.”

Similarly, Section 42 was added to the Entry Into Force Law by Section 2 of the 2021 Law of Amendments, whose first and third paragraphs provide:

“Sections 38, 39, 40 and 41 of this Law shall enter into force on 1 January 2022.

[..]

In the cases referred to in Paragraph two of this Section, the lease fee stipulated by the agreement or court ruling shall not apply as of 1 January 2023.”

By the judgment of the Constitutional Court of 2 May 2023 in Case No 2022-02-01 (the judgement in Case No 2022-02-01), Section 38 (1) of the Entry Into Force Law was recognised as compatible with Article 1, as well as the first and third sentences of Article 105 of the Constitution of the Republic of Latvia (referred to as the Constitution). In turn, Section 38 (2) and Section 42 (1) of the Entry Into Force Law were declared incompatible with Article 1, as well as the first and third sentences of Article 105 of the Constitution and invalid as of 1 July 2024.

On 13 June 2024, the *Saeima* adopted the Law “Amendments to the Law “On the Time Period of Coming into Force and the Procedures for the Application of the Introduction, Parts on Inheritance Rights and Property Rights of the Renewed Civil Law of 1937 of the Republic of Latvia””, which entered into force on 1 July 2024 (the Amendment Law), making several amendments to the Entry Into Force Law. Section 38 (2) of the Entry Into Force Law was expressed as follows:

“The structure owner has an obligation by law to pay a fee for use to the landowner for the land use rights, as well as cover the costs of the payment notification. The amount of the fee for lawful use shall be four per cent of the annual cadastral value of the land in use, but not less than EUR 50 per year. Each structure owner (joint owner, owner of residential property) shall cover the costs of EUR 15 per year for preparing and sending the payment notification. If the payment of the fee for the use in a residential house is made with the intermediation of an administrator, the payment notification shall be sent

to the administrator – a single notification in respect of all owners of the structure (joint owners, owners of residential property). The structure owner and the landowner may agree in writing on a different amount of the fee for use and the costs of the payment notification. Such agreement shall not be binding upon the acquirer of the immovable property in the event of a change of the structure owner or the landowner.”

In turn, Section 42 of the Entry Into Force Law was supplemented with Paragraph (7) which reads as follows:

“If the legal land use right pertains to the owners of a residential house and the cadastral value of the land in use on 1 January 2025 is higher than its cadastral value effective in 2024, the corresponding payment for the lawful land use from 1 January 2025 until 31 December 2028 shall increase each year by 30 per cent compared to the previous year’s payment, until the payment amount corresponds to the lawful land use fee based on the current cadastral value.”

The State Immovable Property Cadastre Law (referred to as the Cadastre Law) was adopted on 1 December 2005.

On 27 June 2024, amendments to the Cadastre Law of 30 May 2024 entered into force, whereby the Transitional Provisions of the Cadastre Law were supplemented by Paragraphs 43<sup>1</sup>, 43<sup>2</sup> and 43<sup>3</sup> as follows:

“43.<sup>1</sup> From 1 January 2025 until the cadastral value base referred to in Paragraph 50 of these Transitional Provisions starts to apply, the State Land Service shall calculate and register two effective cadastral values for each cadastral object in the Cadastre Information System:

1) the fiscal cadastral value used for the calculation of taxes, state fees and other payments to the State or local government budget, except for the calculation of fees for the lawful use of land;

2) the universal cadastral value used for purposes other than those mentioned in Paragraph 43<sup>1</sup> (1) of these Transitional Provisions.

43.<sup>2</sup> In 2024, the Cabinet of Ministers shall approve the cadastral value base for the calculation of the universal cadastral value, not exceeding 80 per cent of the average price level of immovable property on 1 July 2022 and using information on immovable property market transactions from 1 January 2012 to 1 July 2022.

43.<sup>3</sup> The State Land Service shall calculate and update the fiscal cadastral values in accordance with the cadastral value base in force in 2024 and the regulatory enactments governing cadastral valuation applicable on 31 December 2024.”

In turn, on 18 February 2020, the Cabinet of Ministers issued Regulation No 103 “Regulations Regarding Mass Appraisal” (the Regulation), which entered into force on 21 February 2020. Paragraphs 40 and 42 of the Regulation were expressed as follows:

“40. The standard area for built-up land for apartment buildings shall be calculated in conformity with the factor affecting building intensity (Annex 4), depending on the number of stories of a building in proportion to the built-up area of the apartment buildings or their parts located on the land unit.

[..]

42. The standard area correction factor shall be determined, taking into account the ratio between the price for one square metre for the land units which comply with the standard area and the price for one square metre for the land units which exceed the standard area.”

2. Nine cases were initiated before the Constitutional Court between 24 July 2024 and 28 January 2025 following constitutional complaints of several persons on compliance of the provisions of the Entry Into Force Law with Article 1, as well as the first and third sentences of Article 105 of the Constitution. In order to facilitate a comprehensive and expeditious hearing of these cases, on the basis of Section 22 (6) of the Constitutional Court Law, they were merged into one case No 2024-21-01, and it was decided to hear it in a written procedure on 15 May 2025.

On 30 May, 6 June and 12 June 2007, one case was initiated on the constitutionality of the second sentence of Section 38 (2) of the Entry Into Force Law and two cases on the compliance of Paragraphs 43<sup>1</sup>, 43<sup>2</sup> and 43<sup>3</sup> of the Transitional Provisions of the Cadastre Law (jointly referred to as the contested norms of the Cadastre Law) with Article 1, as well as the first and third sentences of Article 105 of the Constitution.

On 16 June 2025, in its judgement in Case No 2024-21-01, the Constitutional Court decided to resume the hearing of the case with the participation of the parties.

Subsequently, three more cases were initiated before the Constitutional Court on the constitutionality of the second sentence of Section 38 (2) of the Entry Into Force Law and the contested norms of the Cadastre Law, three cases on the constitutionality of the norms of the Cadastre Law, two cases on the constitutionality of the contested norms of the Cadastre Law and Paragraphs 40 and 42 of the Regulation, one case on the constitutionality of Section 42 (7) of the Entry Into Force Law, as well as one case on the constitutionality of the second sentence of Section 38 (2) of the Entry Into Force Law, the

contested norms of the Cadastre Law, and Paragraphs 40 and 42 of the Regulation. All of the above cases have been merged into one case No 2024-21-0103.

**3. Applicants, Gabriela Diāna Kaplāne (Gabriela Diana Kaplan), Uri Traube (Uri Traub), Brigita Anna Muške, Žanete Aščuka, Arturs Solozemnieks, Uģis Eriņš, Ilze Ķīse, Ināra Penēze, Dagnija Sniķere, joint stock company “ZEMES ĪPAŠNIEKU ĢILDE”, LLC (SIA) “Reģionālā zemju pārvalde”, LLC (SIA) “PZD-2”, LLC (SIA) “PZD-1”, LLC (SIA) “PZD-4”, LLC (SIA) “PZD-10”, cooperative society “Kibbutz”, LLC (SIA) “Teroli”, limited liability company “Lansija”, Rasmus Māris Jāvālds, limited liability company “LansiMed”, Riga Grebenshchikov Old Believers’ Church (the Applicants),** consider that the second sentence of Section 38 (2), and Section 42 (7) of the Entry Into Force Law (jointly referred to as the contested norms of the Entry Into Force Law) and the contested norms of the Cadastre Law do not comply with the principle of protection of legitimate expectations contained in Article 1 and the first and third sentences of Article 105 of the Constitution, while Paragraphs 40 and 42 of the Regulation (jointly referred to as the contested norms of the Regulation) do not comply with the first and third sentences of Article 105 of the Constitution.

The Applicants hold that the contested norms of the Entry Into Force Law, the contested norms of the Cadastre Law and the contested norms of the Regulation (jointly referred to as the contested norms) were adopted in violation of the principle of good legislation. First, the contested norms do not enforce the judgment in Case No 2022-02-01. The second sentence of Section 38 (2) of the Entry Into Force Law coincides with a legal norm already declared unconstitutional by the Constitutional Court in the mentioned case. In turn, Section 42 (7) of the Entry Into Force Law contradicts the findings of the Constitutional Court in the judgement of 27 January 2011 in Case No 2010-22-01, in the judgement of 12 April 2018 in Case No 2017-17-01 and in the judgement in Case No 2022-02-01. Second, in the time given to the legislator to improve the legal framework, the Legal Affairs Committee of the *Saeima* and the Ministry of Justice delayed drafting a new legal framework, failed to hear all stockholders, and did not involve experts in the drafting of the norms. Moreover, the contested norms of the Entry Into Force Law are unclear; for example, it is not clear whether they likewise apply to the territories of free ports. In addition, the scope of the rights conferred by the institution of the legal right to use land is not clearly understood.

The restriction of fundamental rights imposed by the contested norms of the Entry Into Force Law does not have a legitimate purpose, since the owners of buildings are not considered to be socially vulnerable or weaker parties to civil law relations whose interests should be particularly protected.

The sum of the lawful land use fee established in the contested norms of the Entry Into Force Law has no economic justification. Moreover, it is confiscatory in nature, as in some cases the ratio of the immovable property tax to the lawful land use fee is detrimental.

Considering the findings expressed in the judgement in Case No 2022-02-01, as well as the previous judgements on compulsory lease of land, the Applicants had a reasonable and justified right to rely on the fact that new, similar restrictions would not be introduced repeatedly and that the legislator would consider alternatives previously indicated by the Constitutional Court, taking into account, *inter alia*, the landowner's obligation to pay income and immovable property taxes. The legislator has also failed to consider other possible solutions identified by landowners.

The restrictions on landowners' rights are not proportionate to the benefits for the structure owners and society as a whole. The contested norms of the Entry Into Force Law substantially reduce or even completely eliminate the motivation of the structure owners to redeem the land. The legislator has also failed to take into account the fact that, after establishing two cadastral values for land, situations arise where the new universal cadastral value is lower than the fiscal cadastral value. This situation could be addressed by calculating the immovable property tax and the lawful land use fee from one cadastral value instead of two, and by improving the cadastral valuation methodology.

The built-up land on which the apartment buildings are located has a standard area, which depends on the intensity of development. The rest of the area is assessed as green space and is therefore worthless. Therefore, in a situation where apartment owners are exempted from the obligation to pay compensation to landowners for the use of land exceeding the standard area, no fair compensation to landowners is provided. Moreover, the standard area and the standard area correction factor create the possibility that the cadastral value of the part of the land outside the standard area will not correspond to its market price.

At the hearing, the Applicants' representatives additionally pointed out that the legislator had adopted a legal regulation which was even more unfavourable to landowners than the previous one. In addition, the new cadastral values were introduced

six months after the deadline set in the judgement in Case No 2022-02-01. It is unclear why, aware that the contested norms have created a situation where the lawful land use fee sometimes does not cover even the payment of the immovable property tax, the legislator has not taken active measures to eliminate this situation. Both the landowners and the structure owners were satisfied with a land use fee of six per cent (*net*) of the cadastral value of the land. Moreover, it is unclear why the regulation in Section 42 (7) of the Entry Into Force Law should also specifically protect business operators from a sharp increase in the lawful land use fee if they use this land further and gain profit from it.

The calculation of the standard area for built-up land for the apartment buildings is intended solely for the purpose of reducing the cadastral value of the immovable property. It is unclear how the price per square meter of land outside the standard area is calculated. Furthermore, the calculation of the standard area only includes the house itself, its total area and number of floors, but does not take into account people's needs, for example, parking spaces or children's playgrounds.

**4. The institution that issued the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law, the *Saeima*, considers that the proceedings in the part concerning these norms should be terminated.**

The contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law do not determine in themselves the cadastral value of the Applicants' properties or the lawful land use fee in question. In conjunction with the Cadastre Law, they provide the general principles of cadastral valuation, while the calculation methodology, such as the cadastral value base and value zones, is determined by the Cabinet of Ministers in the Regulation. Moreover, the universal cadastral value of immovable property is a variable that is influenced not only by immovable property market conditions, such as cadastral value bases or the methodology applied, but also by the registration of encumbrances on immovable property.

If the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law restrict the fundamental rights of a person, then the respective restriction is established by a duly adopted law. Experts, stakeholders and institutional representatives were consulted during the drafting process. The principle of good legislation was also observed, as the *Saeima* has assessed the constitutionality and consistency of the contested norms of the Entry Into Force Law and the contested norms of the Cadastre

Law with the jurisprudence of the Constitutional Court. The contested norms of the Entry Into Force Law are sufficiently clearly formulated: they establish the right of landowners to receive a fee for the lawful use of land in the amount of four per cent of the cadastral value of the land and the principle of gradual increase of this fee. Freeport areas, on the other hand, are subject to a special legal framework.

The legitimate purpose of the restriction of fundamental rights is the protection of the rights of others by balancing the legal relations between landowners and structure owners in cases of lawful use of land, while ensuring adequate and proportionate compensation for landowners, as well as updated cadastral values. The said restriction is appropriate to achieve the legitimate purpose.

When assessing the necessity of restriction of fundamental rights, it is important to consider amendments to other regulatory enactments that relate to the contested norms of the Entry Into Force Law and ensure enforcement of the judgement in Case No 2022-02-01. For example, the Applicants are reimbursed for the costs of sending out notices amounting to EUR 15, for the costs of recovering a late payment amounting to EUR 30, and the cadastral values of the land are updated. The new universal cadastral values under the amendments to the Cadastre Law are based on market data on 1 July 2022 and do not exceed 80 per cent of the average price level of immovable properties. For a number of landowners, the universal cadastral value of land, which is used to calculate the lawful land use fee, is increasing, as opposed to the fiscal cadastral value, which is used to calculate the immovable property tax. Thus, the income actually received by these persons from the lawful use of land also increases. This legal framework ensures that landowners receive adequate compensation.

To balance the legal interests of landowners and structure owners, measures have been taken to enforce the judgement in Case No 2022-02-01. Meanwhile, a lenient transitional period is established for persons subject to the payment of the lawful land use fee. First, additional mechanisms to protect landowners' rights are in place as of 1 July 2024, including the possibility of recovering overdue payments of the lawful land use fee under the enforcement of obligations according to warning procedures specified in the Civil Procedure Law. Thereafter, the transition to current cadastral values will take place until 1 January 2029. The enforcement of the Constitutional Court's judgement almost always requires changes to the legal framework; therefore, the Applicants could not rely on the fact that the previously valid regulation providing for higher compensation, for example, six per cent of the cadastral value of land, would be adopted again. Thus,

the restriction of the fundamental right is proportionate and also complies with the principle of the protection of legitimate expectations.

The contested norms of the Cadastre Law aim to ensure that cadastral values are updated. In particular, by ensuring that cadastral values are updated in a rational and economically sound manner, it is possible to apply immovable property tax and other property-related charges in proportion to the actual value of the property, thereby implementing tax solidarity in the public interest.

The fiscal cadastral value maintained during the transitional period prevents sudden and disproportionate increases in public payments. The introduction of the universal cadastral value, in turn, ensures the balancing of the rights and interests of the parties involved in the legal relations on land use, as concluded in the judgement in Case No 2022-02-01. Thus, the contested norms of the Cadastre Law protect the rights of persons to fair remuneration and ensure the sustainability of the financial planning of the State and local governments.

The less restrictive means of fundamental rights proposed by the Applicants would not achieve the legitimate aim in the same quality as it is achieved by the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law.

The Applicants could not substantially and reasonably have relied on the fact that the legal framework concerning cadastral values of immovable property would remain unchanged. The need to update cadastral values has long been a priority of the legislator, which, *inter alia*, follows also from the need to comply with the case law of the Constitutional Court.

The contested norms of the Regulation have been issued on the basis of the second sentence of Section 66 (3) of the Cadastre Law. However, these norms could only be recognised to comply with the mandate insofar as they are consistent with the basic principles of cadastral valuation and achieve the purpose of the mandate – to ensure cadastral values that are objective, proportionate, and equitable.

By providing for the calculation of the standard land area also in respect of built-up land for apartment buildings, the Cabinet of Ministers is aware that the cadastral value of such land could thus decrease in cases of shared ownership. However, land outside the standard area can also provide economic benefits to the owner, regardless of whether the land in question is built-up on or not. Therefore, the assumption that land outside the standard area does not bring any economic benefit and is therefore worthless is not justified.

The *Saeima* representative additionally pointed out at the court session that the contested norms of the Cadastre Law should be considered as a transitional mechanism until one cadastral value is established. The Legal Affairs Committee of the *Saeima* and, consequently, the Members of the *Saeima* had no information that the universal cadastral value of land could be lower than the fiscal cadastral value. Based on the information provided by the Ministry of Justice and the State Land Service, the legislator has created a legal framework with a focus on protecting the rights of landowners and structure owners.

If any of the contested norms really infringe the right to property, then it can only be the contested norms of the Regulation, since the infringement is caused by the cadastral valuation methodology developed by the Cabinet of Ministers. It is not based on cadastral valuation principles. In addition, an alternative to calculating the standard area is to determine the functionally necessary land.

**5. The institution that issued the contested norms of the Regulation, the Cabinet of Ministers,** indicates that the contested norms of the Regulation cannot in themselves cause infringement of the Applicants' fundamental rights included in the first and third sentences of Article 105 of the Constitution.

The infringement of the Applicants' fundamental rights could have resulted from the application of the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law. In particular, these laws contain provisions that determine which of the two cadastral values should be used for the calculation of the lawful land use fee. The Regulation, on the other hand, only regulates the procedure for establishing the cadastral value.

The contested norms of the Regulation have been adopted in due course. State and local government authorities, as well as non-governmental organisations were involved in the development of both the Regulation and its amendments, and the procedure for the development of a legal act established in regulatory enactments was followed.

The restriction of the fundamental right contained in the contested norms of the Regulation has a legitimate purpose – to establish cadastral values that are up-to-date and based on market data. The introduction of the standard area and its correction factor was necessary to prevent green zones from being assessed for building upon in case of large non-standard land units. The cadastral value of the land used for apartment buildings, even though only part of the land unit is actually used for the apartment buildings, is

disproportionately high because the entire land unit was valued as built-up land. The application of the standard area correction factor to built-up land for apartment buildings avoids the possibility that the calculation of cadastral values in this case will differ from the calculation of cadastral values for other types of land.

In the cadastral valuation process, the price of an individual object may be different from its cadastral value, as the calculation of the cadastral value only takes into account the main factors that affect the value of the object. This brings the cadastral value closer to the market value of the immovable property.

During the court session, the representatives of the Cabinet of Ministers additionally pointed out that the standard area is a logical and necessary element of the cadastral valuation methodology for cadastral valuation to achieve the objective of being as close to market data as possible. A mass appraisal system does not allow for as precise an assessment of an object as an individual appraisal would. However, studies show that cadastral values largely reflect average market prices. The calculation of the standard area of land for the construction of apartment buildings has three objectives: to improve the comparison between built-up land units, to prevent unjustified differential treatment and to prevent unjustified over-valuation of objects, i.e., to adjust the value in line with market data. The underlying pattern is that, as land area increases, the price per square metre eventually stops rising linearly. However, the fact that there may be exceptional cases does not mean that such a principle does not exist. There are currently no other feasible alternatives to the standard area because, for example, only 20 to 30 per cent of the data on functionally necessary land is available. In turn, the extension of the building regulations to historic buildings would not be justified, as the building regulations apply to the creation of new land units and the construction of new buildings.

**6. The summoned person, the Ministry of Justice,** holds that the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law comply with Article 1, as well as the first and third sentences of Article 105 of the Constitution, whereas the proceedings in the part concerning the contested norms of the Regulation should be terminated.

The contested norms of the Entry Into Force Law contain a restriction on a fundamental right which has been laid down by a duly enacted law, and these norms are sufficiently clear. In the process of drafting the contested norms of the Entry Into Force Law, the opinions of various stakeholders and institutions were heard, as well as the

constitutionality and compliance of the provisions with the judgement in Case No 2022-02-01 were assessed.

Under the amendments to the Cadastre Law, from 1 January 2025, two cadastral values are calculated and registered for each cadastral object. This provides an opportunity to improve the cadastral valuation methodology, to promote the consistency of cadastral values with the market situation, and to maintain a stable situation regarding the amount of taxes, fees and other charges payable in public-legal relations.

The universal cadastral value increases, decreases or remains constant compared to the fiscal cadastral value. In approximately 200 land properties, the immovable property tax payment could be equal to or exceed the lawful land use fee. The Ministry of Justice cannot decide on various tax incentives for landowners, as the Ministry of Finance makes policy in this area. However, the Ministry of Justice is working on solutions for situations where the universal cadastral value is lower than the fiscal cadastral value.

The gradual increase in the lawful land use fee, as provided for in Section 42 (7) of the Entry Into Force Law, essentially depends on the increase in the cadastral value of the land. This ensures a balance of rights between the parties in the area of lawful use of land. Those landowners whose cadastral value of their land units will increase insignificantly are unlikely to be affected by this norm at all or only minimally.

The burden on landowners in the legal relations of lawful land use could be reduced in various ways, not just by increasing the lawful land use fee. The legal framework regarding the amount of compulsory land lease fees and the sum of the lawful land use fee has been variable and could not create a protected legal expectation for the Applicants that the lawful land use fee would definitely increase. Moreover, by introducing a transitional period, the legislator has ensured that not only individuals but also tax policy makers will have sufficient time to prepare for the new tax regime and plan their economic activities.

At the court session, the representatives of the Ministry of Justice additionally indicated that the contested norms of the Cadastre Law were aimed directly at the enforcement of the judgement in Case No 2022-02-01. These provisions should therefore be maintained; however, a solution should be envisaged to supplement the missing provisions for situations where the universal cadastral value is lower than the fiscal cadastral value.

**7. The summoned person, the Ministry of Finance,** states that the contested norms of the Cadastre Law comply with Article 1 and the first and third sentences of Article 105 of the Constitution.

Two cadastral values were required because only on the basis of appropriate, stable, and predictable cadastral values can a predictable, sustainable immovable property tax policy be developed that is consistent with the national economy.

To calculate the immovable property tax, the cadastral value, which is based on the 2012-2013 immovable property market prices, is used. Thus, no significant changes are discernible that would affect the amount of immovable property tax for its payers.

Given the function and purpose of immovable property tax, it would be unreasonable to use an immovable property tax relief or exemption as a means to reduce a landowner's expenditure and thereby increase their income.

In addition, a personal income tax payer has the option to either opt for the simplified tax regime or to pay personal income tax on business activities in the general procedure. Consequently, taxpayers benefit even more from the reduced personal income tax rate than in a situation where they had to file a tax return for the tax year.

**8. The summoned party, the Bank of Latvia,** indicates that it still maintains its opinion as expressed in Case No 2022-02-01.

Immovable property on the open market is not comparable to property in lawful use. The fixed income rate of a freely tradable financial instrument can be used as a benchmark for determining the amount of the lawful land use fee. Comparing the lawful land use fee with the yield on government bonds, or, alternatively, using the so-called natural interest rate calculations to calculate the use fee, the equilibrium long-term rate of return is currently in the range between 3.5 per cent and 4.5 per cent. Without considering the link between the fee rate and the cadastral value of the land, it can be concluded that the statutory fee of four per cent falls within an economically reasonable range that can be used as a benchmark for the compensation of lawful land use fees. In turn, the value on which the lawful land use fee would be calculated should be close to the average market value of land in the relevant segment, while taking into account that land is not subject to depreciation.

**9. The summoned person, the Ombudsman,** considers that the restriction of the fundamental rights under Article 1 and the first and third sentences of Article 105 of the

Constitution, as established in the contested norms of the Entry Into Force Law, is not proportionate. The constitutionality of these norms must be considered in the light of the legal mechanisms adopted alongside them.

According to the Ombudsman, the adoption of the contested norms of the Entry Into Force Law is directly related to the enforcement of the judgement in Case No 2022-02-01, for which the Constitutional Court had allocated more than a year. During the drafting of these norms, the Members, the Legal Bureau of the *Saeima* and the Ombudsman drew the attention of the Legal Affairs Committee of the *Saeima* to the fact that not all the considerations expressed in the judgement of the Constitutional Court had been taken into account.

The means chosen by the legislator allow for the achievement of the legitimate aim; however, the legislator has not properly assessed the alternatives to the restriction of fundamental rights. By amending several regulatory enactments, the legislator has introduced solutions for the reimbursement of administrative expenses and legal aid costs, the recovery of unpaid compensation and the updating of the cadastral value. However, the considerations indicated in the judgement of the Constitutional Court on the various tax burdens that fall on landowners and affect the amount of fees received by them have not been taken into account. Similarly, changes to the cadastral values of immovable property were not made in timely manner, as the cadastral values of land were not updated between 1 July 2024 and 1 January 2025. Therefore, the amount of the lawful land use fee has not essentially changed during this period.

The legislator is obliged to set the fees for the lawful use of land in a way that is not confiscatory for the structure owners. However, it is primarily the State's duty to ensure that the interests of the State and society are respected in legal relations. The State cannot fulfil this obligation by disproportionately restricting the rights of a group, in this case, the landowners. The State must therefore find means to regulate this legal relationship that reduces the social burden imposed on the landowner.

**10. The summoned person, the State Land Service,** explains the nature of cadastral valuation, its impact on the calculation of lawful land use fees and immovable property tax and considers that the standard area and the introduction of the standard area correction factor in the calculation of the cadastral value of built-up land for apartment buildings are in line with the basic principles specified in Section 66 (2) of the Cadastre Law.

Cadastral valuation is the mass valuation of immovable property on a given date, based on the principles of determining the market value of immovable property, using data from the Cadastre Information System and common methods. In mass valuation, it is not expected that the cadastral value of all properties will fully correspond to their sales prices. The relevance of the cadastral value base to the market price level of the immovable property is verified by calculating and analysing the relationship between the projected cadastral value and the transaction price of the immovable property.

The basic principles of both fiscal and universal cadastral value are essentially similar. The universal cadastral value differs from fiscal cadastral value in three aspects: the situation of the immovable property market at the time for which the cadastral value base is developed, the cadastral valuation methodology and the requirement specified by the legislator not to exceed 80 per cent of the average level of immovable property market prices in 2022.

Prices in the immovable property market have increased since 2012 and 2013, but have not been consistent across all immovable property segments and areas. The most significant changes in the methodology for determining cadastral values affect land under apartment buildings, for which the standard area is calculated. It allows only the part necessary for the management of the house to be assessed as built-up land, while the rest is to be assessed at the same level as the recreation areas. In turn, the requirement to set the universal cadastral value at a maximum of 80 per cent of the market value in 2022 helps avoid situations where the cadastral value would be too high if market prices were falling instead of rising. Taking these aspects into account, it can be concluded that there are immovable property objects whose universal cadastral value is increasing compared to the fiscal cadastral value and those objects whose cadastral value is decreasing or remains stable.

The approximate number of land units on which structures owned by other persons are located is 67,000. Of these, approximately 11,000 land units have a lower universal cadastral value than their fiscal cadastral value.

Initially, the standard land area was not applied in the cadastral valuation process because in a housing development, several houses could be located on one land unit, or one house could be located on several land units. The standard area and its correction factor are determined to exclude green areas from being considered as built-up area in cases where more land is attached to the house than is necessary for its maintenance. This ensures that land values are in line with the immovable property market.

In the process of adopting the standard area correction factor, the possibility of setting natural base values according to their level of improvement was considered. However, this option would entail a significant administrative burden for both municipalities and the State Land Service.

During the court session, the representative of the State Land Service highlights that the methodology of cadastral valuation of land has improved considerably, taking into account the current technical possibilities; however, it cannot be ruled out that it will always need to be improved. The mere fact that the cadastral value of some properties has fallen cannot be a reason to change the whole system. There will be times in the future when the cadastral value decreases because the immovable property market is volatile. In this market, the rule is that the price per square metre does not increase linearly at a given point in time as the land area increases.

**11. The summoned person, the association “Latvian Association of Local Governments”**, considers that the legislator has preserved the provisions of the previous legal framework in Subparagraph 1 of Paragraph 43<sup>1</sup> and Paragraph 43<sup>3</sup> of the Transitional Provisions of the Cadastre Law. Namely, the *Saeima* authorised the Cabinet of Ministers to approve the value base on the basis of current information, as two cadastral values were already in force on 1 January 2023, when the Law on Termination of Forced Shared Property in Privatised Apartment Residential Houses (referred to as the Termination Law) came into force, which provided for the use of projected cadastral values.

The cadastral value can be influenced by a number of factors, such as the data registered in the cadastre for a particular object and the Cabinet of Ministers’ choice as to which of these data to use in the cadastral valuation and how. The application of a standard area can also significantly change the cadastral value. It is not in itself open to challenge, but must be used in the evaluation process.

The fact that the universal cadastral value is higher or lower than the fiscal cadastral value is not in itself negative. Moreover, if the universal cadastral value is more true than the fiscal cadastral value, the lawful interests of the landowner and the structure owner are balanced.

The functionally necessary land that is the object of the legal use fee does not always coincide with the land unit on which the building is located. The universal cadastral value methodology is subject to systematic errors because the base value and

the standard area for built-up land are determined by the nature of the apartment building on the land. However, systemic assumptions cannot be avoided when designing a cadastral valuation system, as such a system must comply with the principle of efficiency.

**12. The summoned person, the association “Latvian Association of Property Valuers”** (referred to as the Association), considers that in the process of adoption of the universal cadastral base, the requirements of the Cadastre Law and international property valuation standards have not been observed.

The cadastral valuation algorithm for land and structures, developed between 1998 and 2010, is still used today for both fiscal and universal cadastral valuation, with some technical changes. Several attempts were already made at the time to address the problem of cadastral values not reflecting the market situation; however, the legislator decided to use the calculated cadastral values for all structures in the calculation of the immovable property tax.

The consistency of the universal cadastral value with the actual market situation can be ensured by consistent and fair implementation of the requirements for cadastral valuation specified in the Cadastre Law. However, universal cadastral values do not take into account the specific use rights of properties and therefore, cannot provide fair compensation in cases there is a legal relationship for the lawful use of land.

The revision of the cadastral value base every four years does not in itself ensure that the cadastral value is in line with the market situation. In this respect, regular analysis of the market situation, periodic publication of the results of the analysis and regular monitoring of changes in all effective cadastral value benchmarks should be ensured.

It is reasonable to apply an eligibility level of 80 per cent of the average immovable property price level.

The application of inflation indicators in the calculation of cadastral value and their inclusion in the legal framework is neither justified nor necessary if the cadastral base is ensured to be in line with the market situation. Moreover, changes in immovable property market prices have never been directly linked to changes in consumer prices.

The Regulation does not provide an unambiguous definition and sufficient justification of the concept of “standard area” or of the concept of “standard area correction factor”. Moreover, the data and results used in the analysis of these indicators are not disclosed in publicly available mass appraisal materials, and the validity of their determination cannot be verified.

A direct correlation between the price per square metre for land units meeting the standard land area and the price per square metre for land units exceeding the standard land area is not clearly observed in the immovable property market for built-up land with apartment buildings.

At the court session, the Association's representatives stated in addition that the country needs a mass valuation, but one that would be based on different property valuation fundamentals. The cadastral values currently calculated have no correlation with the market value. Likewise, it is not clear exactly what information has been used to calculate the standard area and its correction factor. Moreover, the price of a larger land plot being higher or lower depends on whether the land outside the standard area can be rationally used. The spatial planning is crucial. If the spatial plan prohibits the development of a larger land plot, the price per square metre decreases, but if development is allowed, larger plots are more valuable than small ones.

**13. The summoned party, LLC (SIA) "Rīgas namu pārvaldnieks",** believes that the contested norms of the Entry Into Force Law comply with Article 1 and the first and third sentences of Article 105 of the Constitution.

In legal relationships for the lawful use of land, the structure owner pays for the maintenance and management of the site. The landowners' administrative costs, losses and litigation costs are also borne by the structure owners. In cases where the lawful land use fee is in arrears, the Entry Into Force Law does not prohibit the landowner from calculating the legal late payment interest at the rate of six per cent of the principal amount of the debt. In such circumstances, the four per cent lawful land use fee has a compensation function, as the income from it allows the landowner to settle their immovable property tax liabilities and leaves them with an income of 2.5 per cent of the cadastral value of the land. On the other hand, landowners who have declared their economic activity at the State Revenue Service as natural persons also pay a reduced personal income tax rate of 10 per cent of their income, less immovable property tax.

Fair compensation for the use of land must also take into account the real possibilities of apartment owners in apartment buildings to terminate the lawful use of land. Before the Termination Law came into force, land could only be bought if all apartment owners in the apartment building agreed. In contrast, the landowner's options to alienate the land they own to other parties have not been restricted. Moreover, during

the alienation process, the structure owner is still obliged to pay the lawful land use fee until the alienation price is paid.

**14. The summoned party, Mg. iur. Martins Osis**, holds that the contested norms of the Entry Into Force Law are incompatible with the first and third sentences of Article 105 of the Constitution. Namely, the legislator has not introduced such complex solutions that would make the amount of the lawful land use fee, which was previously declared unconstitutional, now fulfil the function of compensation.

The *Saeima* has adopted the amount of the lawful land use fee previously declared unconstitutional by the judgement in Case No 2022-02-01. In general, a law by which the *Saeima* would re-adopt a legal norm identical to a legal norm which the Constitutional Court had previously declared unconstitutional could not be considered duly adopted. This possibility could be justified, for example, if it were to take place in parallel with the introduction of other mechanisms which, if applied at the same time, would remedy the shortcomings previously identified by the Constitutional Court.

The changes to the procedure for determining the cadastral value of land are expected to enter into force on 1 January 2025. Thus, these changes can only serve as a co-existing and effective tool with the contested provisions of the Entry Into Force Law for the period from the actual implementation of these changes. Moreover, Section 42 (7) of the Entry Into Force Law limits the increase of the lawful land use fee, i.e., if the cadastral value of the land plot in question does increase, the right to the lawful land use fee of four per cent is not guaranteed for several years.

If the structure owner does not pay the lawful land use fee, the landowner may use the provision on enforcement of obligations according to warning procedures under Section 406<sup>1</sup> of the Civil Procedure Law. However, this mechanism facilitates the creditor's ability to enforce certain obligations through the courts only if the debtor either does not object or does not respond to the notice. If the debtor files objections, even unmotivated ones, within the time limit, the legal proceedings are terminated in the case, and the creditor must bring the action in the court proceedings. Moreover, recourse to the courts does not resolve the issue of the amount of the lawful land use fee.

The same conclusion applies to the recovery costs of EUR 30 for each late payment, as the landowner may only claim them in the event of a delay in the payment of the lawful land use fee. Thus, in essence, in the context of the lawful land use fee, the

only item that differs in the period until 1 January 2025 from the one assessed by the Constitutional Court above is the cost of the payment notification.

**15. The summoned person, Ph. D. Jānis Viesturs,** points out that the introduction of the universal cadastral value did not take into account the interests of landowners whose income decreased while their expenses remained the same.

Considering that Latvia has a long-standing procedure for determining the cadastral value of land, the cadastral value of land must be used for determining the lawful land use fee and must be regularly reassessed or changed in line with inflation or a coefficient set by the municipality. In turn, the correspondence of the universal cadastral value to the actual market value of immovable property depends mainly on factors such as the availability of market data, a well-developed valuation methodology, regular review of values, and the political independence of the cadastral valuation body.

The legal framework related to the amount of the land use fee and the calculation of the cadastral value should not take into account the impact of inflation if the calculation is regularly updated in line with the immovable property market data. However, if the cadastral value were to be determined using, for example, a coefficient, then inflation could be a factor.

There is no objective justification for the fact that the cadastral value base for the calculation of the universal cadastral value does not exceed 80 per cent of the average level of immovable property prices. That is, in a rising immovable property market, 80 per cent would be reached within two to three years, but in a situation where the cadastral value is initially set at 80 per cent of market value, it will fall short of market value after four years. Moreover, the immovable property market is dynamic and does not move in the same way in certain segments.

At the court session, Ph. D. Jānis Viesturs pointed out further that landowners were still not receiving fair compensation for the use of their land. However, now that the legal framework for calculating standard area has been extended to the built-up land of apartment houses, fairness is apparently even further lost. Although the price per square metre of land most often decreases as the size of the land unit increases, this cannot be regarded as an absolute regularity. In no case can land outside the standard area, but containing natural features such as trees and parks, be considered to be of low value.

**16. The summoned persons, Dr. oec. Vivita Puķīte and Mg. pub. admin. Anete Klabere-Kalvāne,** believe that the standard area and its correction factor are necessary elements of the legal framework.

The solution, whereunder the cadastral value of each land unit under an apartment building is calculated following the number of storeys of the building, is rational, reasonable and in line with the main objective of mass valuation. Namely, the valuation is calculated on a per-unit basis, using recorded data and thus also complying with the mass valuation standards developed by the International Association of Valuers.

### **Concluding Part**

**17.** The Applicants own land or ideal shares of land on which other persons own residential houses or other types of structures. The Applicants hold that the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law are incompatible with the principle of protection of legitimate expectations enshrined in Article 1 of the Constitution and the first and third sentences of Article 105 of the Constitution, while the contested norms of the Regulation are incompatible with the first and third sentences of Article 105 of the Constitution.

The *Saeima* requests to terminate the proceedings in the case in the part concerning the constitutionality of the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law, as they do not cause infringement of the Applicants' fundamental rights included in the Constitution. The Cabinet of Ministers, in its turn, requested to terminate the legal proceedings in the part of the case concerning the constitutionality of the contested norms of the Regulation, as they do not cause infringement of the Applicants' fundamental rights included in the Constitution.

**17.1.** The first and third sentences of Article 105 of the Constitution state, "Everyone has the right to own property. [...] Property rights may be restricted only in accordance with law."

Property rights include the right to use property as one sees fit and to derive income and fruit from it. The owner has the right to use the property they own in a way that maximises its economic benefit. If a legal norm establishes the maximum amount of a person's possible income from property, then the right included in the first and third sentences of Article 105 of the Constitution is restricted (*cf., for example, Paragraph 18.2*

*of the judgement of the Constitutional Court of 12 April 2018 in Case No 2017-17-01 and Paragraphs 11 and 18 of the judgement of 2 May 2023 in Case No 2022-02-01).*

The second sentence of Section 38 (2) of the Entry Into Force Law determines that the amount of the lawful land use fee per year is four per cent of the cadastral value of the land in use, but not less than EUR 50 per year. If the result of the application of this provision is that the lawful land use fee is 30 per cent higher than it was in the previous year, then Section 42 (7) of the Entry Into Force Law limits the increase in the lawful land use fee for owners of residential buildings. Paragraph 43<sup>1</sup> of the Transitional Provisions of the Cadastre Law provides that from 1 January 2025, two cadastral values are calculated and registered for each cadastral object – the fiscal cadastral value, which is also used for the calculation of the immovable property tax, and the universal cadastral value, which is also used for the calculation of the lawful land use fee. Paragraph 43<sup>2</sup> of the Transitional Provisions of this Law provides that in 2024, the Cabinet of Ministers shall approve the cadastral value base for the calculation of the universal cadastral value, not exceeding 80 per cent of the average price level of immovable property on 1 July 2022 and using information on immovable property market transactions from 1 January 2012 to 1 July 2022. Finally, Paragraph 43<sup>3</sup> of the Transitional Provisions of the Cadastre Law stipulates that the State Land Service shall calculate and update the fiscal cadastral values in accordance with the cadastral value base in force in 2024 and the regulatory enactments governing cadastral valuation applicable on 31 December 2024.

The contested norms of the Entry Into Force Law determine the lawful land use fee or, in certain cases, the amount of its increase, and thus restrict the Applicants' right to property. The contested norms of the Cadastre Law determine the cadastral value from which the lawful land use fee is to be calculated and the cadastral value from which the immovable property tax is to be calculated, and, accordingly, affect the amount of the lawful land use fee received by the Applicants. The contested norms of the Regulation, in turn, govern the basic principles of calculating the standard area and determining its correction factor in relation to the built-up land of residential buildings. Upon applying these norms, in most cases, the universal cadastral value of the built-up land for the construction of apartment buildings owned by the Applicants, from which the lawful land use fee is calculated, will decrease.

**Thus, all the contested norms in their entirety determine the lawful land use fee and the principles of its calculation, thus affecting the fee received by the**

**landowners whose land is in legal use and, accordingly, restricting their right to property under the first and third sentences of Article 105 of the Constitution.**

**Accordingly, proceedings in the case should not be terminated.**

**17.2.** The Applicants are in different factual circumstances, and the case challenges the compliance of several legal norms applicable to different legal situations with several norms of the Constitution. Therefore, the Constitutional Court should clarify the limits of the case examination and determine the most effective approach to assessing the constitutionality of these norms.

**17.2.1.** One of the Applicants owns land also in the territory of the Freeport of Riga, and, in their opinion, the contested norms of the Entry Into Force Law regulate legal relations in the territory of the Freeport. Section 4 (7) of the Law on Ports provides for the right of the port authority to encumber the harbour land owned by legal entities and natural persons with easements. Under Section 4 of the Free Port of Riga Law, a personal servitude has been established in favour of the Free Port of Riga Authority over the land owned by natural persons and legal entities, which is occupied by the Free Port, and for which different remuneration and distribution of the immovable property tax payment obligation has been established than in the case of lawful land use rights.

Thus, the territory of the Free Port of Riga is subject to special legal regulation. The Applicants have not contested the legal norms regulating the fees for the use of land in the territories of free ports. Consequently, within the framework of the case under review, the Constitutional Court has no grounds to assess the constitutionality of these legal norms.

**17.2.2.** The Applicants have applied to the Constitutional Court concerning the constitutionality of the contested norms with regard to the situations when they are applied to determine the lawful land use fee. Other parties in the case and summoned persons have also expressed their opinions on the contested norms in this respect.

Since, in the circumstances of the case under review, the contested norms, in their entirety, restrict the landowners' rights to property, the Constitutional Court will assess the constitutionality of all these norms simultaneously and only with regard to the legal relations of the lawful use of land.

**17.2.3.** The Applicants request to assess compliance of the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law with both the principle of protection of legitimate expectations under Article 1 of the Constitution and the first and third sentences of Article 105 of the Constitution, and the compliance of the contested

norms of the Regulation with the first and third sentences of Article 105 of the Constitution. The Applicants' observations on all contested norms are mainly related to the infringement of the right to property.

Consequently, the Constitutional Court will first assess compliance of the contested norms with the first and third sentences of Section 105 of the Constitution.

**18.** To establish whether the restriction on the fundamental rights included in the first and third sentences of Article 105 of the Constitution imposed on landowners by the contested norms is justified, the Constitutional Court will first examine whether the restriction on fundamental rights has been established by a legal norm adopted in due procedure, while also establishing whether the principle of good legislation has been observed.

The Applicants indicate that the contested norms of the Entry Into Force Law are unclear with regard to the scope of the rights granted to landowners and structure owners by the institution of the right to lawful use of land. The principle of good legislation has been violated in the process of adopting the contested norms of the Entry Into Force Law, as the *Saeima* has not heard all stakeholders and experts, as well as has not substantially complied with the findings of the Constitutional Court on lawful land use fees and has not complied with the judgement in Case No 2022-02-01, and it has adopted such a legal regulation that has been declared by the mentioned judgement to be inconsistent with the Constitution. The *Saeima* has also missed the deadline for enforcing the judgment, 1 July 2024. The contested norms of the Cadastre Law, in turn, have not been adopted in due order, as the legislator has not properly assessed the impact of the restriction of the fundamental rights included in these norms on landowners and has not justified the compliance of the chosen solution with the case-law of the Constitutional Court.

The *Saeima* disagrees with the Applicants' opinion and points out that during the elaboration of the contested norms of the Entry Into Force Law, experts, stakeholders and responsible state institutions were heard, and claims that both the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law are aimed at the enforcement of the judgement in Case No 2022-02-01.

**18.1.** From the *Saeima*'s reply and the materials of the legislative procedure, it can be concluded that the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law were adopted to implement the judgement in Case No 2022-02-01. Following the conclusion of the judgement in Case No 2022-02-01, the

legislator has adopted a new legal regulation related to several aspects of the implementation of the right to lawful use of land analysed in the judgement.

First, in parallel with the adoption of the contested norms of the Entry Into Force Law, Section 38 (2) of that Law has been supplemented with a sentence obliging the structure owner to bear the costs of sending the payment notice, EUR 15 per year. If the legal land use fee for a residential building is paid through the manager, a payment notice must be sent to the manager – one notice for all owners of the building (co-owners, apartment property owners). This provision came into force on 1 July 2024.

Second, the legislator has adopted a legal regulation on the late payment of the lawful land use fee and the recovery of such debts in civil proceedings. By the Amendment Law, Section 38 (4) of the Entry Into Force Law has been expressed in new wording to state that in case of late payment of the lawful land use fee, the debtor pays the landowner EUR 30 for each late payment. This does not exempt the debtor from the obligation to compensate the landowner for the incurred losses, insofar as they exceed the said expenses. In addition, the Law of 6 June 2024 on Amendments to the Civil Procedure Law, which came into force on 4 July 2024, provides that enforcement of obligations according to warning procedures is also allowed in payment obligations arising from the right to lawful use of land. The Law of 27 February 2025 on Amendments to the Civil Procedure Law, which came into force on 1 April 2025, provides that the debtor does not have to sign the warning regarding enforcement of obligations according to warning procedures, and the creditor only has to send it to the debtor.

Third, a new legal framework has been adopted on determining the cadastral value of land. This is included in the contested norms of the Cadastre Law. In accordance with the regulation in force at the time of the consideration of Case No 2022-02-01, a single cadastral value was determined for each cadastral object. This value was used to calculate the lawful land use fee, immovable property tax and other payments stipulated by the regulatory enactments. By the contested norms of the Cadastre Law, the legislator has established two cadastral values instead of the previous one. Moreover, each cadastral value – both fiscal and universal – has its own distinct purpose. This legal framework is different from the previous legal framework assessed in Case No 2022-02-01.

All these changes systemically define a new legal framework.

**18.2.** The Amendment Law was adopted on 13 June 2024, promulgated in the official gazette *Latvijas Vēstnesis* No 124 on 28 June and entered into force on 1 July. In turn, the Law on Amendments to the State Immovable Property Cadastre Law was

adopted on 30 May 2024, announced in the official gazette *Latvijas Vēstnesis* No 114 on 13 June and entered into force on 27 June. The Constitutional Court has no doubts that the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law have been adopted and promulgated following the procedure specified in the Constitution and the Rules of Procedure of the *Saeima*, and are also available in line with the requirements of regulatory enactments.

The Applicants' objections regarding the content of the rights and obligations of the landowners and structure owners are essentially related to the introduction of the institute of the right to lawful use of land, but already in Case No 2022-02-01, the Constitutional Court recognised that within this institute, the rights and obligations of the parties to these legal relations are clearly and comprehensibly established (*see Paragraph 13.2 of the Constitutional Court's judgement of 2 May 2023 in Case No 2022-02-01*). Thus, the Constitutional Court has no doubt that the contested norms of the Entry Into Force Law are sufficiently clearly formulated to enable a person to understand their content and foresee the consequences of their application.

It can be concluded from the materials for the development of the Amendment Law that during the process of developing the contested norms of the Entry Into Force Law, the opinions of stakeholders, including the representatives of the Applicants and business operators, were ascertained, as well as experts from ministries and other institutions, for example, the Bank of Latvia and the Council of Sworn Bailiffs of Latvia, were heard. To ensure a broader hearing of stakeholders' opinions and to find a more appropriate solution, the draft law initially prepared by the Ministry of Justice was postponed for consideration by the *Saeima* (*see page 8 of the minutes of the meeting of the Legal Affairs Committee of the Saeima of 7 February 2024. Available at: titania.saeima.lv*).

The Constitutional Court has previously recognised that the legislator is obliged to hear stakeholders, but is not obliged to take into account all the raised objections. The process of adopting legal norms cannot be made dependent on the positive or negative attitude of persons towards the draft regulatory enactment (*cf. Paragraph 14.2 of the Constitutional Court's judgement of 2 May 2012 in Case No 2011-17-03*).

The Constitutional Court concludes that in the process of drafting the Amendment Law, various proposals related to the amount of the lawful land use fee were heard and assessed, including those that would envisage its increase, as well as conceptual proposals on the possibilities of termination of relations of the lawful use of land. Therefore, when

adopting the contested norms of the Entry Into Force Law, the legislator has identified and listened to the opinions of stakeholders and experts. The fact that the adopted regulatory enactment does not reflect every expressed proposal does not constitute a breach of the principle of good legislation.

The contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law were adopted and entered into force within the time limit established in the judgement in Case No 2022-02-01. However, under Paragraph 43<sup>1</sup> of the Transitional Provisions of the Cadastre Law, the State Land Service calculated and registered two cadastral values only from 1 January 2025. The Cabinet Regulation No 888 “Cadastral Value Base for Calculating Universal Cadastral Value” of 17 December 2024, which was designed to ensure that the universal cadastral value was as close as possible to the market value of immovable property, also entered into force on 1 January 2025. Namely, the updated cadastral value started to be applied for the calculation of the lawful land use fee six months after the 1 July 2024 deadline for the enforcement of the judgement in Case No 2022-02-01.

According to Section 32 (2) of the Constitutional Court Law, the judgement of the Constitutional Court is universally binding and obligatory for everyone. Compliance with and enforcement of judgements of the Constitutional Court is an integral element of the protection of the rule of law and fundamental rights of individuals, which promotes public trust in the State and the law, as well as testifies to the State’s active involvement in preventing infringement of fundamental rights of individuals.

The Constitutional Court notes that in order to comply with the judgement in Case No 2022-02-01, the *Saeima* and the Cabinet of Ministers had to adopt interrelated amendments to several normative legal acts. Moreover, the Cadastre Law is systemically designed in such a way that changes in cadastral values are generally applicable from 1 January of the calendar year, when the financial year also starts. Since the contested norms of the Cadastre Law entered into force on 27 June 2024, the Cabinet of Ministers approved the cadastral value base for the calculation of the universal cadastral value so that the universal cadastral value could be calculated and updated from 1 January 2025. In the light of the above, it follows that the fact that the updated cadastral value was calculated and registered six months after the deadline set for the enforcement of the judgement in Case No 2022-02-01 cannot be regarded as a breach of the principle of good legislation in this particular case.

In turn, the Constitutional Court will assess the Applicants' observations that the legislator has failed to assess the impact of the restriction of landowners' fundamental rights and whether it complies with the case-law of the Constitutional Court, as well as whether the lawful land use fee fulfils the function of compensation, when examining whether the restriction of fundamental rights of landowners complies with the principle of proportionality.

**Consequently, the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law were adopted in due procedure.**

**18.3.** The Applicants hold that by issuing the contested norms of the Regulation, the Cabinet of Ministers has violated the limits of the authorisation granted to it, since the legislator has not authorised it to issue such legal regulation, whereby the standard area and its correction factor would be established as the indicators forming the cadastral value base of the land for the construction of apartment buildings, thus reducing the lawful land use fee. Likewise, the Cabinet of Ministers has failed to assess the compatibility of these norms with the Constitution. Moreover, the principle of good legislation has been violated, as the opinion of landowners was not heard during the process of drafting the contested norms of the Regulation. In the opinion of the *Saeima*, the contested norms of the Regulation comply with the authorisation granted by the legislator insofar as they comply with the basic principles of cadastral valuation and achieve the objective of such valuation: to determine such cadastral values that are objective, mutually proportionate and fair. The Cabinet of Ministers, on the other hand, considers that it has complied with the limits of the authorisation granted to it, which includes the right and obligation to determine the procedure for cadastral valuation.

The Constitutional Court has repeatedly concluded that the right to own property may also be restricted by the Cabinet regulations (*see Paragraph 32 of the judgement of the Constitutional Court of 27 October 2022 in Case No 2021-31-0103*). However, the executive power to issue external regulatory enactments extends only to the extent that it is empowered to do so by law.

The contested norms of the Regulation have been issued on the basis of Section 66 (3) of the Cadastre Law, which provides that the procedure of cadastral valuation is determined by the Cabinet of Ministers. The Regulation, as specified in Paragraph 1 thereof, lays down the procedure for cadastral valuation. The cadastral valuation, according to Section 66 (1) of the Cadastre Law, is a mass valuation process that includes the establishment of a cadastral value base. According to Paragraphs 6

and 35 of the Regulation, the standard area and its correction factor are two of the basic indicators of cadastral values. Meanwhile, the calculation of the standard area and its correction factor under the contested norms of the Regulation are indicators to be used in the determination of the cadastral value base in respect of built-up land for the apartment buildings and to be applied in the cadastral valuation process. These indicators are part of the cadastral valuation procedure, which the Cabinet of Ministers is authorised to establish.

The authorisation to the Cabinet of Ministers to develop a legal framework for establishing the cadastral valuation procedure likewise follows from the systemic analysis of the Cadastre Law. Under Section 68 (1) of the Cadastre Law, it is the Cabinet of Ministers that approves the cadastral value base every four years following the immovable property market situation in a certain period, assessing immovable property market transactions, price levels, trends of changes by property groups and territories. Paragraph 43<sup>1</sup> of the Transitional Provisions of the Cadastre Law instructs the State Land Service to calculate and record two cadastral values from 1 January 2025, while Paragraph 43<sup>2</sup> of the Transitional Provisions instructs the Cabinet of Ministers to approve the cadastral value base for the calculation of the universal cadastral value used to determine the lawful land use fee by the same date. If the system of the Cadastre Law determines that the Cabinet of Ministers specifies and approves the cadastral value base, then it may also determine the indicators of the cadastral value base. Consequently, the Cabinet of Ministers was authorised to determine the principles of calculation and determination of the basic indicators of cadastral value: the standard area and its correction factor.

Thus, the contested norms of the Regulation have been issued within the limits of the authorisation granted by the legislator.

The Regulation was adopted on 18 February 2020, published in the official gazette *Latvijas Vēstnesis* No 36 on 20 February and entered into force on 21 February. The parties to the case have not raised objections and the Constitutional Court has no doubts that the contested norms of the Regulation are available in accordance with the requirements of laws and regulations and are sufficiently clearly formulated to enable a person to understand the content of the rights and obligations arising therefrom.

The Applicants have not indicated any specific grounds which would indicate that they were prevented from expressing their opinion in the process of issuing the contested norms of the Regulation. In the process of development and coordination of the contested

norms of the Regulation, where the introduction of the standard area calculation in respect of the built-up land for apartment buildings was discussed, both state and local government institutions were involved, including the Ministry of Finance, the Ministry of Agriculture, the Ministry of Environmental Protection and Regional Development, and the opinion of the Latvian Association of Local Governments was also heard.

**Hence, the restriction of the fundamental right in the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law is established by duly adopted legal norms, but the restriction on fundamental rights contained in the contested provisions of the Regulation is established on the basis of law.**

19. Any restriction on fundamental rights must be based on the circumstances and the reasons why it is necessary because the restriction of fundamental rights can only be imposed for the sake of an important interest – a legitimate aim.

The *Saeima* notes that the legitimate aim of the restriction of fundamental rights established by the contested norms of the Entry Into Force Law is the protection of the rights of others, as these norms balance the legal relations between landowners and structure owners. In turn, the legitimate aim of the restriction of fundamental rights contained in the contested provisions of the Cadastre Law is the protection of public welfare and other persons' rights. First, updating cadastral values, as well as providing for a transitional period in which two cadastral values are in force and each of them serves its own purpose, is generally important in terms of protecting the public interest and, second, balances the rights and interests of the actors involved in the legal relationship of lawful use of land. The Cabinet of Ministers points out that the purpose of the restriction of fundamental rights included in the contested norms of the Regulation is to ensure that cadastral values are up-to-date and based on market data.

According to the Applicants, the contested norms of the Entry Into Force Law have been adopted to protect structure owners; however, this cannot be a legitimate aim to restrict fundamental rights. The Applicants stress that the restriction of fundamental rights contained in the contested norms of the Cadastre Law does not have a legitimate aim.

19.1. The legal framework for compulsory shared ownership was developed in the course of land reform and privatisation of state and municipal property. To restore social justice, to protect the interests of persons whose structures were located on land owned by other people, as well as considering the economic situation at that time, it was decided

that the principles of the free market would not apply to these relations, but they would be regulated by the State to a certain extent (*see, for example, Paragraphs 11 and 19 of the Constitutional Court's judgement No 2008-34-01 of 13 February 2009, as well as Paragraph 21.1 of the judgement of 12 April 2018 in Case No 2017-17-01*). Since housing is recognised as a primary social need, the owners of apartments in these legal relations were considered a socially vulnerable group of society (*see, for example, Paragraphs 4 and 12.1 of the Constitutional Court's judgement of 15 April 2009 in Case No 2008-36-01*). Thus, initially, restrictions on the landowners' rights to property were established with the aim of protecting the owners of apartments from excessive expenses or a rapid increase in payments related to the use of another person's land (*see, for example, Paragraph 12.3 of the Constitutional Court's judgement of 27 January 2011 in Case No 2010-22-01*).

However, in the more than 30 years since the State began to regulate the legal relations between landowners and structure owners, factual and legal circumstances have changed, as has the economic situation. Despite these changes, the legislator continues to regulate the legal relationship between landowners and structure owners, including the fees that landowners receive for the use of land they own. This situation is related to the fact that the regulation of the contested norms concerns an area of social importance. A large number of buildings are located on land owned by others. In other words, a significant part of society – tens of thousands of people – are in this legal relationship. In the absence of a legal framework for lawful land use fees, the charges would have to be negotiated between the parties themselves, and in the event of a dispute, would have to be brought before the courts. Such a situation would create additional social tensions. In addition, resolving disputes in court would require additional resources from the State. Thus, the restriction of fundamental rights contained in the contested norms is aimed at promoting legal certainty and social peace, as well as efficient use of State resources.

**Consequently, the legitimate aim of the restriction of fundamental rights contained in the contested norms is the protection of public welfare.**

**19.2.** The amount of the lawful land use fee provided for in the contested norms of the Entry Into Force Law is determined by the cadastral value of the land. As it has already been pointed out above, cadastral valuation is a mass valuation process under Section 66 (1) of the Cadastre Law. This process results in the calculation of the cadastral value of the immovable property, which is used for several purposes, such as determining the amount of various payments – taxes, duties, rents, redemption – to be paid to the state

or municipal budget, as well as the lawful land use fee. It is also used as a benchmark for various decisions, including in areas where it does not have a direct fiscal impact, such as accounting by institutions and financial statements (*see case file, volume 18, p. 47*).

Under Section 1 (9) of the Cadastre Law, the cadastral value indicates the economic benefit of the right to the object at the valuation date. Paragraph 5 of Section 66 (2) of this Law, in turn, establishes the principle of regularity, i.e., in cadastral valuation, the cadastral value base, models for calculating cadastral values, cadastral values and data sources are periodically reviewed. Since cadastral value is used in various areas and affects both the relationship between a person and the state and the relationship between private individuals, cadastral value must be up-to-date. The Constitutional Court has already recognised that the cadastral value influences whether the lawful land use fee fulfils the function of compensation. Therefore, a situation where cadastral values are not revised for a long period of time is inadmissible (*cf. Paragraph 22.3 of the Constitutional Court's judgement of 2 May 2023 in Case No 2022-02-01*). The long-standing non-updated cadastral value of immovable property, which is used for more than 20 purposes, does not give a true picture of the value of immovable property objects across the country. This can have a negative impact on, for example, spatial development and policy planning decisions.

Until 1 January 2025, a single cadastral value was set for each property, based on 2012 market information. To update cadastral values, the legislator amended the Cadastre Law, including by adopting the contested norms of the Cadastre Law. Moreover, the fact that the cadastral value base for the calculation of the universal cadastral value does not exceed 80 per cent of the average level of immovable property prices on 1 July 2022, and that information on immovable property market transactions from 1 January 2012 to 1 July 2022 is used, means that this cadastral value is determined on the basis of market data. The data collected over this period provide information on price levels, average price changes, and patterns between different types of property use. Namely, the calculation period established in the contested norms of the Cadastre Law ensures that the cadastral value does not exceed the average level of immovable property market prices. According to experts, including the Advisory Council for Immovable Property Valuation, the 80 per cent match to the average level of immovable property prices was the optimal option to reduce the number of immovable property objects that would be valued above the average level of prices in case of market price falls (*see case files, vol. 18, p. 151, and the annotation to draft law No 288/Lp14 "Amendments to the State Immovable Property*

*Cadastral Law*”. Available at: [titania.saeima.lv](http://titania.saeima.lv)). Thus, on the one hand, the contested norms of the Cadastral Law provide for the introduction of up-to-date – universal – cadastral values, while, on the other hand, for the preservation of the previous or fiscal cadastral values for the purposes of calculating taxes and fees. The contested norms of the Cadastral Law were designed so that, when the cadastral value of immovable property increased, the tax payments of persons would not increase rapidly, and thus, these norms were generally aimed at the protection of the rights of every person. The two cadastral values currently in force are to be considered as a transitional solution and are valid only for one of the stages of developing the cadastral valuation methodology (*see the information report “On the use of cadastral values in force in 2023 and the cadastral valuation methodology for the calculation of 2025 immovable property tax”*. Available at: [tapportals.mk.gov.lv](http://tapportals.mk.gov.lv)).

While cadastral valuation does not result in a cadastral value that would fully correspond to the market value or an individual land valuation, the calculated value should reflect, as far as possible, immovable property market trends. The approximation of updated cadastral values to the market value of the property is also affected by the regulation of the standard area and its correction factor, included in the contested norms of the Regulation. As the Cabinet of Ministers and the State Land Service have indicated, the contested norms of the Regulation were developed as a solution to situations when large areas of land were allocated to apartment buildings, but only a small part of them were actually used for the purposes of the building. An apartment building may have a much larger area than is necessary to maintain the building. This results in disproportionately high cadastral values that do not reflect the true market situation. Therefore, according to the economic nature, only the part that is actually necessary for the management of the building is to be valued as built-up land, while the remaining part is to be valued as land of natural base, park, green area or other recreational use (*see the annotation of the Regulation*. Available at: [mk.gov.lv](http://mk.gov.lv)).

Given that the lawful land use fee is calculated on the basis of the universal cadastral value, its updating is aimed at protecting both parties involved in the legal relationship of lawful land use. On the one hand, the contested norms ensure, in general, that the structure owners pay a land use fee that is calculated on the basis of the updated cadastral value of the land, while on the other hand, they ensure that the landowners receive this fee.

In turn, Section 42 (7) of the Entry Into Force Law provides for a lenient transitional period for owners of residential buildings in cases where the lawful land use fee increases rapidly due to the updating of cadastral values. This restriction is time-limited and will remain in force until 31 December 2028. In particular, it is aimed at avoiding unreasonably rapid increases in the lawful land use fee within a limited period and allowing a person have time to gradually prepare for them. Thus, Section 42 (7) of the Entry Into Force Law is aimed at protecting the rights and legitimate interests of owners of residential buildings.

**Consequently, the legitimate aim of the restriction of fundamental rights contained in the contested norms is also the protection of other persons' rights.**

20. When ascertaining whether the restriction on fundamental rights is proportionate, the Constitutional Court first examines whether the restriction is appropriate for achieving the legitimate aim, or whether the chosen means can achieve the legitimate aim.

20.1. The contested norms, taken together, establish the legal framework for the lawful land use fee to be paid to the landowner. If the legal norms specify a specific amount of this fee and the procedure for calculating it, every landowner and structure owner knows their rights and obligations and can plan their actions. Landowners can count on the compensation they will receive, while structure owners can anticipate the costs of using land owned by another person. In other words, the parties to the legal relationship of lawful use of land do not have to mutually agree on land use fees and other related issues, and accordingly, no disputes arise that would require recourse to the courts. Thus, the contested norms promote social peace and also relieve the courts of the burden of resolving these disputes.

**Consequently, the restriction on fundamental rights contained in the contested norms is appropriate to achieve the legitimate aim, the protection of public welfare.**

20.2. During the court session, both the representative of the *Saeima* and several summoned persons indicated that the contested norms of the Cadastre Law helped ensure that the universal cadastral value was as close as possible to the market value of immovable property. The representative of the Cabinet of Ministers pointed out at the hearing that there was no such correlation in the immovable property market that the value of land increased linearly in relation to its area – the proportionally larger the land unit,

the more valuable it was. The moment a land unit exceeds the average size of the surrounding land units or the optimum size for its typical use, the value of the land unit still increases, but to a much lesser extent. Several summoned persons also pointed out at the court session that such a trend was observed in most cases.

From the case file and the opinions expressed at the hearing, the Constitutional Court concludes that the above regularity has been established by analysing voluminous market data and information on market transactions. This analysis shows that the value per square metre of land exceeding the area required for the use of the apartment building is lower than the value per square metre of built-up land. This problem is solved by extending the standard area and its correction factor included in the contested norms of the Regulation to the built-up land for apartment buildings.

Therefore, the contested norms of the Cadastre Law, which provide that two cadastral values of immovable property are valid, one of which is updated and as close as possible to the market value of the immovable property, taking into account also the legal regulation contained in the contested norms of the Regulation, ensure that the cadastral value reflects the economic benefit derived from the right to the particular object. On the other hand, the fact that the lawful land use fee is calculated on the basis of the current cadastral value means that the owner of the structure pays, and the landowner receives a fee that is determined in accordance with the economic benefit of the land.

The contested norms of the Cadastre Law similarly provide that after their entry into force, the immovable property tax payment will not increase too rapidly. In other words, as the cadastral values of immovable property increase, the payment of immovable property tax remains at the same level. This applies in all cases, as the immovable property tax does not increase either if the fiscal cadastral value is higher than the universal cadastral value or if the fiscal cadastral value is lower than the universal cadastral value. Finally, Section 42 (7) of the Entry Into Force Law ensures that, from 1 January 2025, owners of residential buildings will not experience such a rapid increase in the lawful land use fee that they would not have expected.

**Consequently, the restriction on fundamental rights contained in the contested norms is also appropriate for achieving the legitimate aim, the protection of other persons' rights.**

21. When assessing whether the measures chosen are necessary to achieve the legitimate aim, the Constitutional Court verifies whether such aims could be achieved by

other measures which would be less restrictive of the person's rights and would be equally effective.

It follows from the adoption of the contested norms and the case file under review that the legislator, taking into account the findings contained in the judgement in Case No 2022-02-01, has assessed various alternatives that would ensure that the legal framework relating to the updating of cadastral values and, accordingly, the determination of the lawful land use fee would comply with the mentioned judgement. For example, consideration was given to setting a variable lawful land use fee in line with economic processes or the rental market in the country (*see, for example, case file, vol. 17, pp. 1 and 2*).

The Applicants point to several means that are less restrictive of fundamental rights, which could achieve the legitimate aims: an increase in the percentage of the lawful land use fee; State support for the structure owners to buy the land; regulation of the relationship between the landowners and the structure owners by means of the personal servitude provided for in the Civil Law; changes in the legislation governing taxation.

The *Saeima*, on the other hand, considers that there are no alternative means which would achieve the legitimate aims of the restriction of fundamental rights at least in the same quality as the contested norms.

**21.1.** The Applicants believe that the legislator could have set a higher percentage fee for the lawful land use, for example, the six per cent of the cadastral value of land, as indicated in the court hearing.

If the legislator has considered the means by which the legitimate aim of the restriction of fundamental rights could be achieved and has selected a restriction to be imposed on one group of persons, then a measure which restricts the rights and legitimate interests of another group of persons more could not be regarded as more lenient (*cf. Paragraph 18.3 of the Constitutional Court's judgement of 8 December 2015 in Case No 2015-07-03*). Thus, in this particular case, an increase in the lawful land use fee in percentage terms cannot be considered a more lenient means of achieving the legitimate aims of the restriction of fundamental rights.

**21.2.** The Applicants submit that the contested norms of the Entry Into Force Law do not encourage the structure owners to redeem land to terminate the lawful land use relationship because the lawful land use fee is too low compared to the costs that the structure owners would incur in the event of redemption of the land. The State could therefore financially support the structure owners to buy the land.

The Constitutional Court has repeatedly indicated that a measure which requires a disproportionately high investment from the State and society cannot be recognised as a more lenient measure (*see, for example, Paragraph 16.2 of the Constitutional Court's judgement of 2 May 2023 in Case No 2022-02-01*). Although the legislator could promote the termination of legal relations of lawful use of land in various ways, the adoption of such legal regulation would not affect the amount of the lawful land use fee established in the contested norms of the Entry Into Force Law. Moreover, such financial support would require additional resources from the State.

Consequently, the granting of state support to the structure owners for the purpose of terminating the legal relations of lawful use of land cannot be regarded as a more lenient means of achieving the legitimate aims in the present case.

**21.3.** The Applicants' considerations regarding the extension of the personal servitude to the legal relationship of legal use of land have already been assessed in the judgement in Case No 2022-02-01. The Constitutional Court recognised that the institution of legal use of land established in Section 38 (1) of the Entry Into Force Law complies with Article 1 and the first and third sentences of Article 105 of the Constitution (*see Paragraph 17.2 of the judgement of 2 May 2023 in Case No 2022-02-01*).

Thus, the extension of the personal servitude to the legal relationship of lawful use of land cannot be regarded as a more lenient means of achieving the legitimate aims.

**21.4.** Certain Applicants, natural persons, have indicated general objections to the fact that the legislator, when determining the lawful land use fee, did not take into account the landowner's obligation to pay personal income tax. The Applicants have also indicated that measures that are less restrictive of a person's fundamental rights would also include, for example, a limitation on the annual increase in immovable property tax, shifting the obligation to pay immovable property tax on land to the structure owner, an immovable property tax relief or a complete exemption from paying this tax in legal relations of lawful use of land.

The State has a wide margin of discretion when establishing and implementing its tax policy, since taxes form the revenue of the State budget and local government budgets and are established in order to ensure the well-being of society (*see Paragraph 16 of the Constitutional Court's judgement of 18 October 2018 in Case No 2018-04-01*). This means that national tax policy and its various aspects have a direct impact on the national budget and society as a whole. Consequently, the review of tax policy issues affects everyone in society, not just a particular group, in this case, landowners in a legal

relationship of lawful use of land. It is within a State's discretion to choose which tax rates apply and to which persons or groups of persons. The State also enjoys a wide margin of discretion with regard to granting tax incentives, since such norms establish exceptions from the basic tax rate or system and the basic principles of taxation for a relatively narrow group of taxpayers (*cf. Paragraph 6.2 of the Constitutional Court's judgement of 3 December 2021 in Case No 2021-12-03*).

Taking into account the discretionary power of the State in the field of tax policy, as well as the fact that any revision of the tax legal regulation would also affect persons who are not in the legal relationship of lawful use of land, none of the measures indicated by the Applicants can be considered as a more fundamental rights-friendly measure.

**21.5.** The legal system has an alternative solution for setting lawful land use fees which applies to other parties to the legal relationship. Paragraph 8 of the Cabinet Regulation No 350 Regulations on Lease and Development Right of Public Land of 19 June 2018 provides for cases when the rent of a built-up land plot is determined according to the market rent determined by an independent valuer instead of the cadastral value of the land.

Representatives of the Ministry of Justice pointed out at the court session that during the process of establishing the institute of the legal right to use land, an alternative was considered – to link the lawful land use fee not to the cadastral value of land, but to the market rent determined by independent valuers. However, market value is variable; its determination would require significant resources, and valuations prepared by different valuers may differ.

Taking the above into account, as well as the number of land units in shared ownership, it can be concluded that their individual valuation would require significant financial resources and additional time.

Consequently, this measure cannot be considered to achieve the legitimate aims of the restriction of the fundamental right to the same degree of effectiveness.

**21.6.** When looking for solutions that could replace the calculation of the standard area, as an alternative, the procedure provided in Cabinet Regulation No 496 “Classification of Immovable Property Use Purposes and Procedure for Determination and Change of Immovable Property Use Purposes” of 20 June 2006 for determining the shared purposes of use of immovable properties was considered. Local governments could then apply the objective of the natural base to areas that are too large. However, it was concluded that the limited technological possibilities would prevent such a solution

from being implemented at that moment. Moreover, such an arrangement would create a disproportionate administrative burden (*see case file, vol. 35, p. 84*). Also at the court session, the representative of the Cabinet of Ministers pointed out that the designation of functionally necessary land could not be an alternative. This is because the State Land Service would need to obtain data on approximately 17,000 land units and 40,000 apartment buildings. These data are not available electronically and are not machine-readable. In any case, only about 20 to 30 per cent of these data could be identified in the archive. Moreover, they were created around the year 2000, but land boundaries might have changed in the meantime. In the event of the adoption of the functionally necessary land institute, the actual usable land area may not coincide with the boundaries of the functionally necessary land. The other alternatives considered would also not be feasible.

Before the contested norms of the Regulation were issued, several alternatives were likewise considered for determining the standard area correction factor, for example, the possibility of differentiating the values of natural base areas according to their level of improvement. However, it was concluded that the implementation of such an alternative would entail a significant administrative burden for local governments and the State Land Service, as it would involve a revision of the immovable property use purposes. In particular, the resources invested would not be proportionate to the benefits of such an option.

Thus, the mentioned alternatives to the restriction of fundamental rights contained in the contested norms of the Regulation cannot be regarded as more lenient means of achieving the legitimate aims of the restriction of fundamental rights.

**Consequently, there are no more lenient means by which the legitimate aims of the restriction of fundamental rights contained in the contested norms could be achieved at least to the same quality.**

22. When determining whether the legislator's action in imposing a restriction on fundamental rights is appropriate, it must be ascertained whether the adverse consequences that the person incurs as a result of this restriction are not outweighed by the benefit that society as a whole derives from the restriction.

The Applicants indicate that the legislator has failed to balance the rights of the landowners and the structure owners, since the structure owners are not considered to be less protected parties in the legal relations of lawful use of land. Moreover, the contested norms of the Cadastre Law lead to a situation where, after paying the immovable property

tax, the landowners' compensation for the use of land, which already did not fulfil the function of compensation, decreases even further. In particular, in situations where the universal cadastral value is lower than the fiscal cadastral value, the amount of the lawful land use fee after payment of the immovable property tax has become lower, and in many cases, does not even cover the immovable property tax payment.

The *Saeima* indicates that it has balanced the rights of the landowners and structure owners, taking into account the findings expressed in the judgements of the Constitutional Court. The contested norms as a whole ensure that during the transitional period, a person receives a fair fee for the lawful use of land, which is calculated from the updated cadastral value.

In the case under consideration, the Constitutional Court has to examine whether the contested norms have achieved a fair balance between the right of every landowner to receive a fee for the lawful use of land that serves as compensation, on the one hand, and the protection of the rights of structure owners, as well as the welfare of society, on the other.

**22.1.** By the contested norms of the Cadastre Law, the legislator has introduced two cadastral values –fiscal and universal. They have been introduced as a temporary solution, as the Cabinet of Ministers is obliged to improve the regulatory enactments governing cadastral valuation and approve a new cadastral value base by 15 June 2027. The improved cadastral values are to be applied from 1 January 2029 (*see Paragraphs 43<sup>1</sup> and 50 of the Transitional Provisions of the Cadastre Law*). Until this obligation is fulfilled, the legislator has decided not to apply the updated universal cadastral values to tax and other public payments following Paragraph 43<sup>1</sup> of the Transitional Provisions of the Cadastre Law.

According to information provided by the State Land Service, of the approximately 67,000 land units that could be in legal relations of land use, the universal cadastral value of the majority has increased, but for approximately 11,000 land units, the universal cadastral value is less than the fiscal cadastral value (*see case file, vol. 5, p. 72*). In some cases, the universal cadastral value of the land owned by the Applicants is higher than its fiscal cadastral value. However, for most of the land units owned by the Applicants, the universal cadastral value is lower than the fiscal cadastral value. Sometimes these values differ even several times (*see, for example, case file, vol. 6, p. 11*). It follows that there are both landowners for whom the lawful land use fee is increasing compared to the situation before 1 January 2025, and landowners for whom

the lawful land use fee is decreasing because the universal cadastral value of the land is lower than the fiscal cadastral value.

The Constitutional Court has reiterated that the remuneration received by the landowner within the framework of legal relations of lawful use of land must be close to the market situation (*cf. Paragraph 13.4 of the Constitutional Court's judgement of 27 January 2011 in Case No 2010-22-01 and Paragraph 21.2 of the judgement of 12 April 2018 in Case No 2017-17-01*). However, updating the cadastral value and bringing it closer to the market value does not necessarily imply an increase in the universal cadastral value compared to the previously valid cadastral value. The situation in the immovable property market is changing. Market developments may not be uniform across all market segments. This means that the universal cadastral value can also increase or decrease depending on the market situation. Moreover, the cadastral value depends not only on the market situation, but also on other factors, such as encumbrances on the immovable property, which can change over time and affect the cadastral value of the land. It also follows from the case file that during the adoption of the contested norms of the Cadastre Law, the necessity to find a solution for such situations when the cadastral value would significantly decrease or significantly increase was discussed (*see minute 24 of the recording of the meeting of the Legal Affairs Committee of the Saeima of 13 February 2024*). Thus, even before the updated universal cadastral value was calculated and registered on 1 January 2025, i.e., at the time when the contested norms of the Cadastre Law were being drafted, the legislator had information that the cadastral value could both increase and decrease.

**22.2.** It can be concluded from the case file that, from 1 January 2025, after payment of the immovable property tax, some of the Applicants receive a lower compensation than before. For example, one of the Applicants receives a lawful land use fee in the amount of EUR 1,888.64, while the immovable property tax payment for the land in legal use is EUR 728.22. After paying the immovable property tax, this landowner receives compensation of 2.46 % of the universal cadastral value of the land. Another Applicant receives a lawful land use fee of EUR 5,648.48, and their immovable property tax payable is EUR 4,843.35. After paying the immovable property tax, they receive compensation of only 0.57 % of the universal cadastral value of the land per year. Another Applicant has been charged EUR 16,406.56 for the lawful use of land, and EUR 15,700.47 for the immovable property tax. Thus, after payment of the immovable property tax, they receive compensation of 0.17 per cent of the universal cadastral value

of the land per year (*see case file, vol. 26, p. 106, and vol. 21, p. 12, and vol. 9, p. 170*). The above situation is also affected by the contested norms of the Regulation. For example, the case file contains an explanation from the State Land Service regarding the situation of one Applicant: the fiscal cadastral value of the built-up land for apartment buildings owned by them is EUR 90,210, and the universal cadastral value is EUR 26,998. The base value of the land in question has risen, and large areas of land are outside the reference area. Accordingly, by applying the contested norms of the Regulation, the cadastral value of this land has significantly decreased (*see case file, vol. 17, p. 23*). The application of the standard area and its correction factor in the calculation of the universal cadastral value of built-up land for residential buildings further reduces the cadastral value of the land and, as a consequence, the lawful land use fee. Thus, the contested norms of the Regulation also affect whether the lawful land use fee performs the function of compensation. All of the above examples show that in many cases, the compensation left to the landowner after paying the immovable property tax is disproportionately small.

The Constitutional Court also takes into account that it is possible that the payment of the immovable property tax even exceeds the lawful land use fee due to the fact that the universal cadastral value is significantly lower than the fiscal cadastral value. For example, for one of the Applicants, the immovable property tax payment (even without application of the increased immovable property tax rate) would be EUR 1,353.15, while the lawful land use fee is EUR 1,079.92 (*see case file, vol. 16, p. 89*). Similarly, another Applicant's immovable property tax payment is EUR 555.54, while the lawful land use fee is EUR 210.32 (*see case file, vol. 24, p. 2*). Namely, in both cases, the lawful land use fee received by the landowner does not even cover the immovable property tax on this land.

The legal norms and the result of their application must be fair. In the context of the present case, this means that every landowner must receive a fee for the lawful use of the land that serves as compensation. If the lawful land use fee does not cover or is equal to the payment of the immovable property tax on the land in question, or if the compensation that remains for the landowner after payment of that tax is disproportionately small, then such a lawful land use fee cannot be considered as fulfilling the function of compensation. This is similar to a compulsory transfer of property for gratuitous use.

It follows from the case file that the legislator has taken measures aimed at eliminating the shortcomings of the legal framework indicated in the judgement in Case No 2022-02-01, including updating the cadastral values of land. However, the Constitutional Court concludes that in some cases a fair balance between the right of every landowner to receive a fee for the lawful use of land that serves as compensation and the protection of the rights of structure owners has not yet been achieved. A legal framework that places one party to a legal relationship at a clear disadvantage vis-à-vis another cannot ensure social peace and the protection of public welfare. Neither the rights of structure owners nor the public good should be protected at the expense of landowners.

**Thus, it can be concluded that the lawful land use fee established by the second sentence of Section 38 (2) of the Entry Into Force Law, the contested norms of the Cadastre Law and the contested norms of the Regulation do not in all cases fulfil the function of compensation.**

**22.3.** For landowners whose land's universal cadastral value has increased, the lawful land use fee is affected and in many cases also reduced by the restriction under Section 42 (7) of the Entry Into Force Law, as the lawful land use fee payable by owners of residential buildings cannot increase by more than 30 per cent compared to the previous year's fee.

As it has already been concluded above, by setting the restriction on the increase of the lawful land use fee provided for in Section 42 (7) of the Entry Into Force Law, the legislator has taken care that the costs for the use of someone else's land do not increase too rapidly for the owners of residential buildings. The Constitutional Court agrees that the legislator may, and in certain cases may even be obliged to, provide for a lenient transition to the new legal framework for a certain group of society. However, the implementation of such a lenient solution must be justified, and it cannot occur at the expense of the other party to the legal relationship.

From the legislative process and the case materials, it can be concluded that upon adopting Section 42 (7) of the Entry Into Force Law, the *Saeima* has not relied on studies justifying the socio-economic impact of the lawful land use fee on different structure owners, but on the assumption that all owners of residential buildings are socially less protected than landowners. However, it is not reasonable to assume that all owners of residential buildings should be considered as a social group that should be protected more than landowners. The Constitutional Court has already indicated that not all apartment owners are to be regarded as socially less protected participants in civil law relations than

landowners. In many cases, their property situation may be even better than that of landowners (*see Paragraph 15.3 of the Constitutional Court's judgement of 15 April 2009 in Case No 2008-36-01*).

It should also be noted that Section 42 (7) of the Entry Into Force Law applies equally to natural persons and legal entities, including commercial companies engaged in the business of renting or leasing premises. Legal entities, and in particular commercial companies, cannot be considered inherently socially disadvantaged.

In 2011, the Constitutional Court assessed the restriction on the gradual increase of the compulsory rental fee, recognised it as unconstitutional and indicated that the increase in the cadastral value of immovable property cannot in itself serve as a justification for a disproportionate restriction of the fundamental rights of a segment of society (*see Paragraph 13 of the Constitutional Court's judgement of 27 January 2011 in Case No 2010-22-01*). Also, in the present case, by adopting Section 42 (7) of the Entry Into Force Law, the *Saeima* has set a limitation on the increase of the lawful land use fee, taking into account only the increase in the universal cadastral value *per se*.

Among the owners of residential buildings, there are also individuals who may have difficulty paying the lawful land use fee. However, there are other ways to deal with such situations, including through the country's social assistance system.

**Thus, by adopting Section 42 (7) of the Entry Into Force Law, the legislator has not, in all cases, balanced the rights of owners of residential buildings and owners of land.**

**22.4.** The legislator has the discretion to choose how the legal relationship of lawful use of land will be regulated. In other words, the State's obligations in terms of ensuring the right to property are essentially negative, not positive. If the State regulates legal relations of lawful use of land, then the legal regulation must be such that would balance the rights of both parties to the legal relations and comply with the general principles of law and other norms of the Constitution. However, cases where the lawful land use fee does not cover or is equal to the immovable property tax on the land in question, or where the compensation remaining for the landowner after payment of the tax is disproportionately low, indicate that the balance in this legal relationship is still not achieved. In addition, the lawful land use fee is affected by a new legal institution applicable to these legal relations – the regulation on the calculation of the standard area and its correction factor applicable to built-up land for apartment buildings included in the contested norms of the Regulation.

Both the *Saeima* and the Cabinet of Ministers must ensure that all landowners receive a lawful land use fee that fulfils the function of compensation. If, when the contested norms were drafted, the legislator had at its disposal information provided by the executive branch that the universal cadastral value could also decrease and consequently affect the lawful land use fee, it was necessary to seek a solution to achieve a fair result in this legal relationship. It is unacceptable that the *Saeima* and the Cabinet of Ministers, being aware of the fact that, as a result of the contested norms, some landowners do not receive such land use fees that would fulfil the function of compensation, do not try to correct this situation in time, but point to the mistakes in each other's actions.

Thus, by adopting the contested norms, the rights of landowners and structure owners, as well as the protection of public welfare, are not balanced in such a way that the lawful land use fee fulfils the function of compensation in all cases.

**Consequently, the contested norms do not comply with the principle of proportionality and the first and third sentences of Article 105 of the Constitution.**

**23.** Concluding that the contested norms of the Entry Into Force Law and the contested norms of the Cadastre Law do not comply with even one norm of higher legal force, they are considered unlawful, and thus it is not necessary to assess their compliance with Article 1 of the Constitution.

**24.** In accordance with Section 32, Paragraph three of the Constitutional Court Law, a legal norm that the Constitutional Court has declared as not conforming to the norm of a higher legal force shall be regarded as not in effect from the day of publication of the judgment of the Constitutional Court, unless the Constitutional Court has decided otherwise. The Constitutional Court must ensure, to the extent possible, that the situation that could arise from the moment when the contested norm becomes invalid does not lead to an infringement of the fundamental rights guaranteed to persons by the Constitution, nor does it cause significant damage to the interests of society. In exceptional cases, where the immediate loss of force of a norm that is inconsistent with the Constitution would be even more inconsistent with the Constitution than its maintenance in force, it is also possible to establish another moment of the loss of force of the norm (*see Paragraph 24 of the Constitutional Court's judgement of 12 April 2018 in Case No 2017-17-01*).

**24.1.** If the contested norms were to lose their validity from the date of publication of the Constitutional Court's judgement, then with respect to some persons in legal relations of lawful use of land, the law would not have determined the amount of the lawful land use fee at all, nor would there be any legal regulation that would determine what cadastral values are calculated and recorded.

However, if the Constitutional Court were to decide that the contested norms should be recognised as invalid from the moment of their adoption or from some other moment in the past, the stability and clarity of legal relations of lawful use of land would be endangered. Therefore, in this case, it is necessary and permissible that norms that are inconsistent with the Constitution remain in force for some time, so that the legislator has the opportunity to find a fair solution for regulating these legal relations.

In the context of the present case, it is particularly important that it is for the legislator to decide how to balance the legal relationship between the landowners and the structure owners, as well as the protection of public welfare. The Constitutional Court cannot replace the discretion of the legislator with its opinion on the most rational solution. The legislator should regulate these legal relations in such a way that all landowners receive a fee for the lawful use of land that fulfils the function of compensation, but at the same time respects the rights of the owners of the buildings. A reasonable timeframe is needed to develop this solution.

Therefore, the contested norms with regard to the legal relations of lawful use of land should be declared invalid as from 1 January 2027.

**24.2.** Although the contested norms regarding the legal relations of lawful use of land are to be recognised invalid from 1 January 2027, it has been established in this judgment that the infringement of the fundamental rights included in the first and third sentences of Article 105 of the Constitution caused by these norms to some landowners had already occurred earlier. If the lawful land use fee does not cover or is equal to the payment of the immovable property tax on the land in question, or if the compensation that remains for the landowner after payment of that tax is disproportionately small, then it should be determined that the property rights of such landowners are being unreasonably violated from 1 January 2025.

Under the third sentence of Article 92 of the Constitution, everyone has the right to adequate compensation in case of unjustified infringement of their rights. In the present case, it has already been established that the contested norms concern an area of social significance and apply to a significant part of society, and are aimed at ensuring legal

certainty and social peace and efficient use of State resources. To ensure that the judgement of the Constitutional Court is enforced efficiently and that the fundamental rights of landowners are protected and, moreover, that it does not create legal uncertainty, in the given case the legislator should adopt a legal framework to adequately compensate landowners for unjustified infringement of their rights caused by the contested norms. In particular, the legislator should adopt, no later than by 1 June 2026, a legal framework ensuring that landowners are entitled to adequate compensation for unjustified interference with their fundamental rights in cases where the fee for the lawful use of land does not cover, is equal to or is disproportionately low after payment of the immovable property tax on the land in question. Landowners are entitled to adequate compensation for the unjustified interference with their fundamental rights from 1 January 2025 and until a new legal regime on lawful land use fees enters into force. Otherwise, these landowners will be entitled to seek appropriate compensation from the State through legal action.

### **Ruling Part**

On the basis of Sections 30-32 of the Constitutional Court Law, the Constitution Court

#### **decided:**

**1. To declare the second sentence Section 38 (2) and Section 42 (7) of the Law “On the Time Period of Coming into Force and the Procedures for the Application of the Introduction, Parts on Inheritance Rights and Property Rights of the Renewed Civil Law of 1937 of the Republic of Latvia” to be inconsistent with the first and third sentences of Article 105 of the Constitution of the Republic of Latvia and invalid from 1 January 2027.**

**2. To declare Paragraphs 43<sup>1</sup>, 43<sup>2</sup> and 43<sup>3</sup> of the Transitional Provisions of the State Immovable Property Cadastre Law, as well as Paragraphs 40 and 42 of the Cabinet Regulation No 103 Regulations Regarding Mass Appraisal of 18 February 2020 regarding legal relations of lawful use of land to be inconsistent**

**with the first and third sentences of Article 105 of the Constitution of the Republic of Latvia and invalid from 1 January 2027.**

**3. To determine that the *Saeima* shall, by 1 June 2026, determine the procedure for landowners to receive adequate compensation for unjustified infringement of their fundamental rights as from 1 January 2025 in cases where the lawful land use fee does not cover the payment of the immovable property tax on the land in question, is equal to it, or where the compensation remaining to the landowner after payment of the tax is disproportionately low.**

The judgement is final and not subject to appeal.

The judgement was delivered in Riga on 10 December 2025.

The judgement enters into force on the date of its delivery.

Chairperson of the court hearing

Irēna Kucina

TULKOJUMS PAREIZS

Tulkoja Solveiga Tīsa,  
personas kods 221179-11359.

/elektronisks paraksts/

Rīgā,

2025. gada 18. decembrī

Dokuments parakstīts ar drošu elektronisko parakstu un satur laika zīmogu.