



CONSTITUTIONAL COURT OF THE REPUBLIC OF LATVIA

JUDGMENT

on behalf of the Republic of Latvia

Riga, 11 April 2024

Case No. 2023-09-0106

The Constitutional Court, composed of chairperson of the court hearing Aldis Laviņš, judges Irēna Kucina, Gunārs Kusiņš, Jānis Neimanis, Artūrs Kučs, Anita Rodiņa and Jautrīte Briede,

following the constitutional complaints by BALTIC DEVON MINK, a limited liability company, SIA GAUJA AB and *Van Ansem Participaties B. V.*, an economic operator incorporated in the Netherlands,

based on Section 85 of the Constitution of the Republic of Latvia and Section 16, Clauses 1 and 6, Section 17, Paragraph one, Clause 11, as well as Sections 19² and 28¹ of the Constitutional Court Law,

considered the case in written proceedings at the hearing on 12 March 2024

“On the compliance of Sections 2 and 3 of the law of 22 September 2022 “Amendments to the Animal Protection Law” with Section 1, the first and third sentences of Section 105 of the Constitution of the Republic of Latvia and Article 49 of the Treaty on the Functioning of the European Union”.

Establishing Part

1. On 9 December 1999, the *Saeima* adopted the Animal Protection Law, which entered into force on 1 January 2000. Section 13 of this Law, in the wording that entered into force on 4 May 2010, stipulates that keeping an animal of wild species in enclosed

areas is allowed to acquire products of animal origin or for other agricultural purposes following the procedures under regulatory enactments.

On 22 November 2022, the *Saeima* adopted the law “Amendments to the Animal Protection Law”, which entered into force on 17 October 2022 (referred to as the Law).

By Section 2 of the Law, the Animal Protection Act has been supplemented by Section 13¹ in the following wording: “The breeding and keeping of farmed animals shall be prohibited where the sole or main purpose of the breeding or keeping is the production of fur.”

Section 3 of the Law adds paragraph 22 to the Transitional Provisions of the Animal Protection Law, stating that Section 13¹ of this Law shall enter into force on 1 January 2028.

2. The Constitutional Court initiated three cases on the constitutionality of Sections 2 and 3 of the Law (jointly referred to as the contested norms):

1) On 23 March 2023, upon the application of the limited liability company BALTIC DEVON MINK, Case No 2023-09-01 “On compliance of Sections 2 and 3 of the law “Amendments to the Animal Protection Law” of 22 September 2022 with Section 1 and the first and third sentences of Section 105 of the Constitution of the Republic of Latvia” was initiated;

2) On 6 April 2023, upon the application of *Van Ansem Participaties B. V.*, an economic operator incorporated in the Netherlands, Case No 2023-11-0106 “On compliance of Sections 2 and 3 of the law “Amendments to the Animal Protection Law” of 22 September 2022 with Section 1 and the first and third sentences of Section 105 of the Constitution of the Republic of Latvia and Article 49 of the Treaty on the Functioning of the European Union” was initiated;

3) On 9 May 2023, upon the application of SIA GAUJA AB, Case No 2023-14-01 “On compliance of Sections 2 and 3 of the law “Amendments to the Animal Protection Law” of 22 September 2022 with Section 1 and the first and third sentences of Section 105 of the Constitution of the Republic of Latvia” was initiated.

Following Section 22(6) of the Constitutional Court Law, these cases were merged into one case. The joint case No 2023-09-0106 was named “On compliance of Sections 2 and 3 of the law “Amendments to the Animal Protection Law” of 22 September 2022 with Section 1 and the first and third sentences of Section 105 of the Constitution of the

Republic of Latvia and Article 49 of the Treaty on the Functioning of the European Union”.

3. The Applicants – limited liability company BALTIC DEVON MINK, SIA GAUJA AB and *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands (jointly referred to as the Applicants) – hold that the contested norms contradict Section 1 and the first and third paragraphs of Section 105 of the Constitution of the Republic of Latvia (referred to as the Constitution). *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands holds that the contested norms likewise contradict Article 49 of the Treaty on the Functioning of the European Union (referred to as the TFEU).

Since 2008, the limited liability company BALTIC DEVON MINK has been keeping and breeding farmed animals – mink – for fur production in Latvia. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands is the sole shareholder of the limited liability company BALTIC DEVON MINK. Since 2010, the economic operator incorporated in the Netherlands has been keeping and breeding farmed animals – mink – for fur production in Latvia with the help of the limited liability company BALTIC DEVON MINK. SIA GAUJA AB has been keeping and breeding farmed animals – mink and fox – for fur production in Latvia since 1996.

The Applicants submit that property means direct legal authority over a thing and this also applies to animals. All legal entities governed by private law allegedly have a right to property. For the purposes of Section 105 of the Constitution, the object of the right to property in the present case is the right to continue the commercial activity already commenced. The contested norms will deny this right, i.e., from 1 January 2028, the right to breed and keep fur animals will be denied. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands submits that it allegedly falls within the scope of subjects of the legal composition of the contested norms because its subsidiary, the limited liability company BALTIC DEVON MINK has been keeping and breeding fur-bearing animals. The prohibition under the contested norms allegedly, directly and indirectly, precludes *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, through its subsidiary, from continuing that commercial activity.

According to the Applicants, in adopting the contested norms the principle of good legislation has not been observed. Moreover, since the contested norms have established an absolute restriction of the Applicant's fundamental rights, the legislator should have paid special attention to this principle in the process of their adoption.

First, the legislator has failed to substantiate the necessity of the absolute prohibition established in the contested norms, i.e. the legitimate aim of the restriction of the Applicants' fundamental rights. The legislator has indicated various reasons in an attempt to justify the need to adopt the contested norms. However, those reasons cannot be regarded as legitimate grounds for an absolute prohibition of the Applicants' right to property.

Second, the legislator has not assessed the possibility of restricting the Applicants' fundamental rights in a more lenient manner. Namely, the legislator has not assessed the proposal submitted by several members of the *Saeima* to establish fair compensation for the restriction established in the contested norms. Even more, the Commission of National Economy, Agrarian, Environmental and Regional Policy (referred to as the responsible commission), has not discussed and evaluated the contents of all proposals submitted for the second reading of bill No 1151/Lp13 "Amendments to the Animal Protection Law" (referred to as the bill).

Third, the stakeholders have had limited opportunities to comment on the contested norms. Initially, the subjects of the contested norms were not consulted at all. The stakeholders were not invited to the meetings of the responsible commission. They would not have been heard if they had not come on their own initiative. Moreover, the opportunity to speak was limited to one speech without any questions to members.

The Applicants indicate that the objectives of the restriction established by the contested norms are incompatible with the legitimate purposes contained in Section 116 of the Constitution. It follows from the materials on the drafting of the contested norms that the following were the considerations underlying their adoption: the need to protect the interests of animals to life, to ensure the life of the particular species in conditions suitable for it, as well as the protection of the environment.

The legitimate purpose of the restriction of the Applicants' fundamental rights cannot be the protection of public morals, since the legislator has not expressed reasons which would indicate that the majority of society considers the breeding and keeping of

animals for fur production to be immoral and that, if the contested norms were not adopted, the harmonious functioning of society would be disrupted.

The legitimate purpose of the restriction of fundamental rights contained in the contested norms likewise cannot be the protection of the well-being of society, since in such a case, if the contested norms were not adopted, no values of social significance would be at risk, let alone the harmonious existence of society itself.

The protection of the rights of other people cannot be a legitimate purpose of the restriction of the Applicant's fundamental rights. The arguments concerning the pollution of the environment and the possible infringement of the rights of people living in the vicinity of the fur farms to live in a favourable environment do not apply to the Applicants, since they have the necessary permits to engage in polluting activities. The legislator achieves the legitimate purpose – to protect the rights of others – through regulatory enactments regulating environmental protection. Moreover, the legislator should approach issues concerning environmental protection from an “anthropocentric” point of view, placing human and their rights at the centre of environmental law, rather than animal protection because animals do not have the status of objects of law.

The breeding and keeping of farmed animals, even if its sole or main purpose is the production of fur (referred to also as the breeding and keeping of fur animals), does not in itself endanger the democratic system of the State, the rights of others or public safety, welfare or morals. Consequently, the restriction contained in the contested norms does not pursue a legitimate purpose.

The Applicants consider that there are alternative means which would be equally effective in achieving the objectives of the restriction specified by the legislator in the contested norms, while at the same time not limiting to the absolute minimum the Applicants' rights to property. First, the objective – ensuring the life of a specific animal species in conditions suitable for it – could be achieved by introducing stricter welfare requirements, for example, through mandatory video surveillance of fur animal housing and cages. Second, the objectives of the restriction established by the contested norms could be achieved in the same quality by establishing fair compensation for the restriction of the Applicants' right to property or by establishing a longer transition period before the entry into force of the restriction. The legislator could have considered the practice of the European Union Member States in cases of expropriation of immovable property, or the proposal submitted by the members of *Saeima* on compensation costs.

The Applicants reasonably and justifiably relied on the fact that the sector in which they operate would not be prohibited. A proposal to introduce an identical ban was submitted to the *Saeima* in 2013, and the *Saeima* rejected it on 19 February 2015. Since Latvia's accession to the European Union, the government and the legislator have not banned any business sector that was allowed at the time of accession. Also, the development of sectoral regulation at the national and European Union levels has only strengthened the Applicants' legitimate expectations. The laws and Cabinet regulations relating to the breeding and keeping of animals for fur production were sufficiently clear and stable. They had been in force for a sufficiently long period of time for the Applicants to be able to rely reasonably on their continuity.

The Applicants hold that the contested norms disproportionately restrict their right to property and violate the legitimate expectation of the possibility of continuing commercial activity. The restriction contained in the contested norms could be considered proportionate if the legislator had provided for a reasonable transition period and compensation for the costs of closing down the sector and for the value of the lost assets. If the legislator intended to introduce an absolute prohibition without any compensation for the losses resulting from the prohibition, it should have weighed the length of the transition period particularly carefully and made it longer.

The legislator has established a transition period of five years without assessing whether the Applicants will be able to recover the tangible and intangible assets invested in the company within five years, as well as eliminate the losses related to the unplanned termination of business activities. At the time of adoption of the contested provisions, it was alleged that a five-year transition period was sufficient for recouping investments and reorienting business, but these allegations were not supported by data, economic or otherwise, relevant to the sector in question. To determine the transition period, the legislator should have taken the example of the Netherlands, Serbia and Croatia, which have a 10-year transition period. This is sufficient time to recover the investment.

Van Ansem Participaties B. V., the economic operator incorporated in the Netherlands further submits that the contested norms infringe its freedom of establishment under Article 49 TFEU, its freedom to conduct a business within the meaning of Article 16 of the Charter of Fundamental Rights of the European Union (the Charter) and its right to property within the meaning of Article 17 of the Charter. The contested norms prohibit *Van Ansem Participaties B. V.*, the economic operator

incorporated in the Netherlands, from carrying on an economic activity – to breed and keep fur animals in Latvia through a subsidiary, and these norms do not pursue a legitimate purpose which is compatible with European Union law. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, does not deny, however, that the overriding reason of general interest which has given rise to the restriction on the freedom of establishment contained in the contested norms could be the requirement to ensure animal welfare, specified in Article 13 TFEU.

Even if the restriction of a fundamental right had a legitimate purpose, the dissolution of the fur farming industry would disproportionately restrict the rights and freedoms guaranteed by the European Union and would be incompatible with the fundamental rights under Articles 16 and 17 of the Charter. In the interest of protecting animal welfare, the state may not completely exclude the freedom of establishment and business activities of *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands and its right to dispose of its property in Latvia. The compliance of the contested norms with European Union law is also questionable because animal welfare could be ensured by less restrictive means and by fairly balancing both competing interests. While drafting the contested norms, the legislator failed to consider their necessity in the context of the mentioned European Union law. The contested norms infringe the procedure under Article 17(1) of the Charter for depriving a person of their property, since no fair compensation is provided for the actual deprivation of property.

Having consulted the case file, the Applicants further submit that the main and sole purpose of commercial mink farming can only be fur harvesting. It is clear from the materials for the drafting of the contested norms that the legislator aimed to prohibit the commercial breeding and keeping of fur animals, even rabbits or chinchillas, and not to change the purpose of breeding and keeping fur animals. The Applicants would not be able to breed and keep fur animals at all if their main or sole purpose was not fur production.

Preventing the spread of COVID-19 is also not one of the legitimate purposes of the restriction laid down in the contested norms. At the time of the adoption of the contested norms, the Ministry of Agriculture did not take the position that epidemiological safety could be regulated by animal welfare requirements, and nothing in the annotation to the bill or in the debates in the *Saeima* indicated that the legislator intended to strengthen animal welfare rules to limit the spread of COVID-19 among

animals in fur farms or people working on fur farms. The restriction imposed by the contested norms cannot be necessary to achieve such an objective.

A Eurobarometer survey on the views of EU citizens on animal welfare issues, organised by the European Commission, found that in 2023, the majority (53%) of those surveyed in Latvia support the continuation of breeding and keeping of fur animals, 36% want animal welfare regulation at EU level and 17% believe that the current welfare rules are sufficient. This survey also shows that most people who regularly come into contact with farmed animals, and therefore know much more about animal welfare standards than others, consider the various current welfare standards adequate.

The Applicants indicate that the legislator's task is to adopt a proportionate regulation and not to rely on the entities affected by the regulation to provide it with a mathematical and economic calculation of the potential losses resulting from adopting that regulation and the investments made before its adoption. A five-year transition period is not sufficient, as the value of the fixed assets at the time of cessation of business activities would range from tens of thousands to several million *euros*. Considering the three-year life cycle of minks, the Applicants expected to generate revenues in the amount mentioned. The Applicants have also invested heavily in improving their business activities and will not be able to recover these investments during the transition period currently provided for.

The legislator did not properly assess the experience of other countries concerning compensation and/or the transition period. According to *Eurostat* data, Latvia is ranked sixth among the European Union countries in terms of mink fur exports, and in this respect, great merit is attributed to the limited liability company BALTIC DEVON MINK and *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, which together account for about 85% of the sector's turnover in Latvia.

4. The institution that issued the contested act, the *Saeima*, holds that the contested norms comply with Section 1 and the first and third paragraphs of Section 105 of the Constitution, as well as Article 49 of the TFEU.

The *Saeima* reviewed the bill for about eight months and adopted it in three readings. Before each reading, the responsible commission held meetings with the participation of representatives of ministries, industry, the Latvian Association of Local Governments and representatives of non-governmental organisations involved in animal

protection. Thus, before adopting the contested norms, the interested institutions and persons were allegedly heard.

The industry association Latvian Association of Animal Breeders has been heard at all meetings of the responsible commission and was asked at the first meeting how long a transition period would be considered reasonable. The representative of the association has indicated that the industry has no opinion on the duration of the transition period, as it does not agree with the adoption of the contested norms in principle. However, if the relevant limitation is nevertheless imposed, the industry would like the maximum possible compensation to be set at EUR 24 million. After listening to the authorities and stakeholders, the members of the responsible commission have decided that the transition period will be determined considering the mink's survival, breeding and slaughter cycle. The process of adopting the contested norms in general shows that the legislator has been aware of the situation in Latvia, the position of society and the practices of other countries. Alternative options and solutions to ensure a gentle transition have been assessed, all submitted proposals have been discussed in detail, participation of interested institutions and persons has been ensured and opinions have been heard at the meetings of the responsible commission.

The primary, overriding objective of the restriction on fundamental rights contained in the contested norms is to prevent unethical, cruel treatment of fur-bearing animals which is inconsistent with the values of the majority of society and to prevent the suffering and death to which fur-bearing animals are subjected solely as a result of fur-taking. This objective is consistent with the objective under Section 116 of the Constitution: the protection of public morals. Morals are understood to mean the majority view of what behaviour is acceptable in a democratic state governed by the rule of law and contributes to the harmonious functioning of society. Morals encompass the social and ethical norms and ideas prevailing in society about what constitutes good and right behaviour and actions. Morals also encompass universal categories that have remained constant over time, such as kindness and tolerance.

Over time, public perception of the importance of animal protection, respectful and ethical treatment of animals and of the moral and legal status of animals as subjects has changed. Today, animals are said to be sentient beings. Animals should therefore be seen not only as objects of property rights but also as subjects with a moral status. The

capacity to feel also means the capacity to suffer. The inherent compassion and empathy of human beings for living things, including animals, is essential.

Recognising the capacity of animals to feel and to suffer, it follows that the caging and killing of wild animals for the sole purpose of obtaining fur constitutes cruel treatment. Life in a cage is not consistent with the natural lifestyle and behaviour of a wild animal. Such a life is very stressful, leading to various health and behavioural abnormalities. Both the fact of the killing and the circumstances of the killing – suffocation of minks in gas chambers, electrocution of foxes and raccoons – are considered cruel.

Public opinion on animal welfare and killing for fur has been gauged allegedly by several sociological studies and online petitions and pickets to the *Saeima*. Latvian public opinion is in line with the general trend in Europe. Several countries have banned the breeding and keeping of animals for fur production. Some have bans on certain species or have fur animal welfare requirements so strict and difficult to enforce that they amount to a ban, effectively making it impossible to continue in the sector. In several countries, relevant bills are in the pipeline or pending in *Saeimas*. In addition, a record number of signatures have been collected in support of the EU citizens' initiative "Fur Free Europe". The European Commission will assess this issue.

Ethical and respectful treatment of animals and the consequent prohibition of breeding, keeping and killing them in cruel conditions solely for obtaining a luxury commodity – fur – has become a value and ethical precept recognised by the majority of European and Latvian society in the 21st century. The cruel treatment and killing of animals for trivial reasons is unacceptable in today's society. Continuing this practice would undermine the majority value of ethical and respectful treatment of animals.

Several aspects of the restriction on fundamental rights contained in the contested norms are related to the legitimate purpose of that restriction – the protection of the rights of others. In particular, this restriction protects the right of others to a favourable environment by preventing pollution of the environment caused by farming and killing animals, contributing to the conservation of biodiversity and reducing the intensity of greenhouse gas emissions and the risk of climate change. Environmental pollution is particularly acute for people living in the fur farming neighbourhoods. It should also be considered that the American mink – and in Latvia it is mainly bred for fur – is an invasive

species. Breeding and keeping them can lead to the depletion or extinction of other animal species.

The restriction contained in the contested norms also protects the right to health of other people by reducing the spread of the COVID-19 infection found by the Centre for Disease Prevention and Control among animals and people working in fur farms, as well as the spread of other zoonoses (infectious diseases that affect both humans and animals). The SARS-CoV-2 virus has been found to circulate in the population of animals kept in fur farms and to be transmitted from humans to animals and vice versa. This could lead to the development of new strains of the virus against which vaccines are not effective enough, and to new outbreaks in humans. Health risks to consumers and fur farm workers from the use of toxic chemicals during fur processing are also avoided.

The restriction of fundamental rights contained in the contested norms is also established to protect the public welfare. In particular, the contested norms promote the development of a society whose members respect animals. Continuing to mistreat and kill animals for trivial reasons would undermine important societal values and prevent society from functioning harmoniously. The *Saeima* also emphasises the direct link between the principles of public well-being and sustainable development. Societal sustainability means the integrated and balanced development of well-being, the environment and the economy. Protecting public welfare also includes caring for the environment and nature, and therefore for animals and their living conditions.

The prohibition contained in the contested norms is not absolute because it applies to all persons, regardless of their individual characteristics. The contested norms restrict the Applicants' right to commercial activities only in a specific, narrow sector. Likewise, they provide a case-by-case assessment to distinguish between different types of commercial activities related to the breeding and keeping of animals, depending on their purpose, and apply only to the breeding and keeping of animals whose sole or main purpose is fur production.

Contrary to what the Applicants state, the meetings of the responsible commission assessed whether animal cruelty could be prevented by strengthening animal welfare requirements. However, it has been concluded that this measure is not capable of achieving the legitimate purposes of the restriction of fundamental rights, in particular the aim of abolishing the killing of animals and preventing cruelty to them in principle.

The introduction of video surveillance would also not be an effective measure, as the number of animals kept in fur farms is too high.

Even if the established welfare requirements for fur animals were met, the enclosures in which wild animals are kept do not correspond to their natural living conditions. Welfare in fur farms is impossible. Moreover, welfare requirements do not in themselves imply ethical and respectful treatment of animals. The killing and suffering of animals can only be prevented by the prohibition in the contested norms to continue breeding, keeping and killing animals for fur. The absence of a prohibition cannot be considered an alternative remedy.

As regards the prevention of the risk of the spread of COVID-19, a possible alternative could have been to cull all animals. The contested norms provide a more lenient regulation and a reasonable transition period. The fact that the Applicants have obtained a permit for polluting activities is in itself an indication that environmental pollution is being caused. The contested norms ensure the right of persons to live in a favourable environment, as well as contribute to mitigating the risk of climate change and preserving a favourable environment for future generations. The contested norms also contribute to the sustainable development of the country, as issues related to environmental protection and climate change are essential aspects of sustainability.

The *Saeima* points out that, contrary to the ethical and moral considerations concerning animals, no particular benefit to society and the State from the extraction and production of fur can be established. The sector's impact on the economy is low, it does not have high added value and does not contribute to the overall development of the national economy. The worldwide demand for fur is declining. The European Bank for Reconstruction and Development has indicated that it will no longer lend to projects related to animal farming, and other banks, such as in the Netherlands and the UK, have taken a similar stance. In addition, a wide range of alternative materials for warm clothing are available today. In addition, countries must prevent animal diseases and take the necessary measures to limit the spread of COVID-19 without delay.

The contested norms control the use of property by preventing its further use for commercial activities in a particular sector. Contrary to what is claimed in the applications, the contested norms do not provide for compulsory alienation of property, nor do they prevent the Applicants from having and using the property belonging to them.

The principle of legitimate expectations does not exclude the possibility that an individual's rights, once acquired, may be subject to legal modification. The bill, which would ban animal breeding and keeping for fur, has been submitted to the *Saeima* more than six years after a similar collective initiative to introduce such a ban was considered and rejected in 2015. It should be considered that in 2020, the situation changed significantly with the spread of COVID-19. During the same period, public dissatisfaction with the cruel treatment of fur animals in kennels has also increased. The Applicants should therefore already have had some idea of the potential difficulties in the sector they represent. The ban on fur production in other European countries may also have given an idea of future developments. Thus, the Applicants could not have reasonably and intelligently relied on the fact that the legal framework on animal farming in Latvia would not change.

A reasonable transition period and adequate compensation are two alternative mechanisms that can ensure a smooth transition to the new legal framework. At its discretion, the legislator has chosen and established a reasonable transition period to allow the Applicants to sell the animals for fur production, recoup their investments, reduce potential losses and prepare for business reorientation or liquidation. The legislator deliberately decided on the optimal solution and chose only a transition period. The analysis of the practice in other countries considers the fact that the scale and contribution of the fur industry to the economy varies greatly from country to country and that compensation has been paid only where there was no transition period at all or the transition period was extremely short. In other European countries, where, like Latvia, it has been decided not to pay compensation but to provide for a transition period, this is said to be between five and 10 years. The transition periods provided for in other sectoral laws have also been assessed, for example, concerning the closure of gambling venues in Riga.

According to the *Saeima*, during the five-year transition period, economic operators will be able to fully dispose of all the fur animals they own. The Applicants' view on the need to compensate the value of each animal is unfounded, since until 31 December 2027 the processing, export and trade of the obtained fur, and thereby the possibility of making a profit, are not prevented in Latvia. It is possible to reorient the business within five years. Moreover, the breeding and keeping of animals is not prohibited where the fur harvesting is only a subordinate and not the sole or main purpose

of the economic activity. Five years is also sufficient time for all fur farm workers to find new jobs.

The *Saeima* points out that measures by a Member State of the European Union aimed at restricting or making less attractive the exercise of the fundamental freedoms enshrined in the TFEU may be permissible if they comply with the requirements of proportionality and are applied in a non-discriminatory manner. One of the legitimate aims of the restriction contained in the contested norms is the protection of the health of other persons. This objective falls within the scope of Article 52 TFEU. The restriction also serves to protect other public interests – animals, the environment and consumers.

The fundamental objectives under Articles 8 to 13 TFEU include the protection of the environment, consumer protection, animal welfare and raising the level of human health protection. All these objectives reflect important values of the European Union. The protection of animal, environmental and consumer rights serves legitimate objectives not expressly enshrined in Article 52 TFEU but recognised in the case-law of the Court of Justice of the European Union.

The bill has been sent to the European Commission because it bans the production, import, sale or use of a certain product. No objections, opinions or comments have been received on the bill. This circumstance confirms the compatibility of the contested norms with the internal market of the European Union and their conformity with European Union law.

5. The invited party – the Ministry of Justice – believes the contested norms comply with Section 1, the first and third paragraphs of Section 105 of the Constitution and Article 49 of the TFEU.

The bill has been pending in the *Saeima* for more than a year. It was discussed at a total of five meetings of the responsible commission, which were attended by stakeholders and representatives of institutions who wished to express their views. There have also been discussions on the length of the transition period, the cost of compensation and foreign practices regarding the ban on breeding and keeping fur animals. Alternatives to the legal framework have also been discussed, such as the possibility of introducing video surveillance.

The restriction imposed by the contested norms has legitimate purposes – protection of public morals and well-being and protection of the rights of others. One of

the most important objectives of the contested norms is the sustainable development of the State, i.e., the long-term integrated and balanced development of public welfare, protection of animals and the environment, as well as the economy. Sustainable development is inextricably linked to the well-being of society and the balanced and responsible improvement of the environment, which includes the provision of conditions suitable for human life and the well-being of society. The well-being of society is unthinkable without a sustainable development policy and decisions taken by the legislator in line with it.

The purpose of the restriction imposed by the contested norms cannot be viewed in isolation from the increasingly clear trend in Europe and throughout the world towards the breeding and keeping of fur-bearing animals. The European Citizens' Initiative "Fur Free Europe" has now been submitted to the European Commission and 1,502,319 statements of support have been received. Fur farming is banned in 19 European countries, including 14 EU Member States. In other countries, strict welfare laws or bans on breeding and keeping certain species have led to the closure of entire fur farms.

The Ministry of Justice points out that the restriction contained in the contested norms aims to ensure the humane treatment of animals and sustainable and democratic development of the State. Moreover, the preamble to the Animal Protection Law states that mankind has an ethical duty to ensure the welfare and protection of all species of animals since each individual is valuable in itself. Humans have a moral duty to respect all creatures, treat animals with compassion and protect them. No one may kill or cause pain, suffering or other harm to an animal without just cause.

There are no other less restrictive means which could achieve the legitimate purposes of the restriction of the fundamental right as effectively and efficiently. It would not be justified to consider introducing new welfare requirements or improving existing requirements as alternative measures. Changes to welfare requirements cannot reduce the suffering of confined wild animals or prevent their killing, and therefore cannot protect public morals. Moreover, animal suffering is an unavoidable aspect of fur farming, without which the business would not be profitable. This is supported by the fact that, for example, in Germany, the business has already been terminated as a result of higher welfare requirements.

Economic operators have no legitimate expectation that the regulation of any commercial activity could not be changed over time as a result of changes in the factual

situation. Although in 2015, the *Saeima* adopted a decision conceptually different from the one established by the contested norms, the Applicants, according to the Ministry of Justice, could not rely on the fact that the situation would remain unchanged over the years and the legislator would never adopt a different decision. Although the legislation was only amended during the COVID-19 pandemic and the purpose of the amendments was different, it is necessary to consider the general trends in the breeding and keeping of fur animals both in Latvia and throughout Europe. Thus, the Applicants' reliance on the unchanging nature of their sector of activity is not justified.

The Ministry of Justice confirms that the legislator has assessed how long a transition period would be necessary to minimise the negative impact of the contested norms on the Applicants and has concluded that to recognise that a transition to the new legal framework that is consistent with the principle of protection of legitimate expectations and that is gentle has been ensured, a five-year transition period is sufficient.

The prohibition contained in the contested norms places obstacles in the way of entrepreneurs from other Member States carrying out business activities related to the breeding and keeping of fur animals in Latvia. This prohibition may restrict the freedom of establishment of the persons concerned and may be regarded as a restriction within the meaning of Article 49 TFEU.

However, freedom of establishment is not absolute and may be restricted for legitimate purposes under Article 52 TFEU, as well as for reasons which, although not expressly stated in the TFEU, are recognised as valid in the case-law of the Court of Justice of the European Union, i.e. for reasons of general interest. In the present case, the restriction serves several legitimate purposes which can legitimately be regarded as being of general interest, namely the protection of public morals by ensuring the ethical and respectful treatment of animals and the prevention of cruelty to fur animals, and the protection of public health, the environment and animals.

In the area of the breeding and keeping of fur animals, the Member States' authorities have a wide margin of discretion to impose stricter requirements necessary to protect public morals, health and the environment, and even to prohibit the breeding and keeping of fur animals in so far as such a restriction is appropriate and proportionate. In the opinion of the Ministry of Justice, the respective restriction is proportionate.

6. The invited party – the Ministry of Health – believes the contested norms comply with Section 1, the first and third paragraphs of Section 105 of the Constitution and Article 49 of the TFEU.

The Ministry of Health, referring to information provided by the Centre for Disease Prevention and Control, points out that at the time it submitted its opinion, there were worldwide reports that not only the SARS-CoV-2 strain but also other infectious diseases, including avian influenza, could spread in the fur animal population. It has already been detected in 10 fur farms where silver foxes and mink are bred and kept in Finland. Mink are said to be susceptible to all influenza viruses, as well as coronaviruses. Swine, avian and seasonal influenza viruses have previously been detected in these animal populations. Since 2020, several cases of SARS-CoV-2 introductions have been found in mink farms.

Mink infected with the influenza virus may have clinical symptoms that lead to death. However, they may also be asymptomatic, making it difficult to detect and control the spread of infection in good time. As viruses spread through animal populations, they are likely to evolve, mutate and develop into influenza viruses to which the human population has no immunity and which can pass from animal to human across the species barrier. Currently, there are no influenza virus surveillance or prevention measures in the mink or other fur farming sector. Therefore, the introduction of the virus and its transmission to and from workers can go undetected.

Both COVID-19 and avian influenza pose a threat to public health and could lead to an international emergency if new strains with increased clinical and epidemiological risks emerge. Surveillance and control measures in fur farms are not always effective enough to detect the introduction and circulation of viruses in time and to take the necessary measures to prevent mutations and protect workers against infection.

7. The invited party – the Ministry of Agriculture – believes the contested norms comply with Section 1, the first and third paragraphs of Section 105 of the Constitution and Article 49 of the TFEU.

When amending the legal framework, the legislator has set an appropriate period to transition to the new legal framework. The date of entry into force of the contested norms – 1 January 2028 – aims to ensure legal stability, maintaining a reasonable balance between the protection of the Applicants' legitimate expectations and public interests.

According to the Ministry of Agriculture, by imposing a time-removed ban on breeding and keeping animals for fur production, it is not necessary to provide reimbursement to compensate for the losses incurred by undertakings engaged in economic activities in this sector. The period of more than five years since the adoption of the contested norms is sufficient to allow fur breeders to find solutions and implement measures which would minimise or even eliminate the negative economic consequences arising for them from the prohibition on breeding and keeping animals for fur production. Within five years, the sector can be reoriented and the financial resources invested in breeding can be recovered.

The restriction of the fundamental right established by the contested norms is not to be regarded as such as to prohibit the Applicants from continuing their commercial activity. Fur harvesting is only one of the purposes for which animals are kept and bred. Furthermore, fur harvesting is not prohibited where the main purpose for which the animals are kept and bred is, for example, food production. Nor is a person prevented from choosing another type of business activity and carrying it out on their immovable property.

Commercially bred and kept farm animals are considered sentient beings in the sense that they are capable of experiencing pleasure and suffering. In fur farms, animals are said to be kept in wire cages, which prevents them from fulfilling their ethological needs, such as the ability to swim, which is essential for mink.

The contested norms were adopted to strike a balance between animal farming as an economic activity and the public interest in preventing unethical treatment of animals that is inconsistent with public values, as well as to reduce pollution problems, including the unpleasant smell in the vicinity of animal farms, which significantly hampers, for example, the development of tourism and negatively affects the investment opportunities of local residents. The restriction of fundamental rights established in the contested norms affects individual economic operators, whereas the rights and interests protected by the legitimate purpose apply to a much wider range of persons and the whole society benefits from this restriction.

The main problems associated with the fur industry are nitrogen and phosphorus pollution of water, the smell of excrement, hazardous contamination from the bodies of killed animals, the increased risk of zoonotic diseases caused by viruses, bacteria, fungi or parasites in the local population, and environmental pollution associated with high

energy consumption and the release of greenhouse gases. Many chemicals used in fur processing, including surfactants, grease, mineral salts, solvents, acids, formaldehyde, coal tar, tannins, biocides, fungicides, dyes, bleaches and others, are harmful not only to the environment but also to fur wearers themselves.

The fur production process is up to 28 times more harmful to the environment than any other textile production process, polluting land, air and water. Producing one kilogram of mink fur has five times the climate impact of producing the second most influential textile, wool, in the same quantity. This is due to the high volume of feed consumed in the farms and the ammonia emissions from mink manure.

The Ministry of Agriculture indicates that the legitimate purpose of the restriction included in the contested norms is to prevent unethical treatment of animals that is inconsistent with public values. Animal protection and welfare issues are a growing concern in the European Union. The breeding and keeping of animals for fur production is already banned in 17 EU Member States, with a partial ban in three Member States and *Saeimaary* discussions on a ban in three others. The call for a single EU ban on the breeding and keeping of fur animals comes from the European Citizens' Initiative "Fur Free Europe".

Since the objective of the restriction contained in the contested norms is to put an end to the breeding and killing of animals for fur because it is an unethical, cruel and disappearing form of business, the strengthening of the welfare conditions is not as effective as the contested norms and does not allow the legitimate purposes of the restriction to be achieved to the same extent as they are achieved by the contested norms. The prohibition of breeding and keeping animals for fur production is the only effective means of achieving the legitimate purpose of the contested norms to the necessary extent since the introduction of stricter welfare requirements would not prevent the further killing of fur animals. In addition, during the outbreak of COVID-19 infection in a fur farm, it was found that the precautions taken were not effective.

The contested norms do not provide for any difference in treatment based on the nationality of another State or on registration in another Member State of the European Union or directed against undertakings whose capital is linked to undertakings established in other Member States of the European Union. Accordingly, none of the Applicants has suffered any infringement of the rights under Article 49 TFEU. There was no interference with those rights since all the requirements applied equally to all subjects.

It must also be considered that the objective of the contested norms is consistent with the requirement under Article 13 TFEU to pay due regard to the welfare of animals as sentient beings. Since this provision allows the Member States to adopt additional provisions aimed at extending animal protection, Member States can stop the cruel treatment of fur animals, which consists of breeding and caging them and then killing them for the sole purpose of obtaining fur.

8. The invited party – the Ministry of Economics – points out that in recent years, the number of companies and employees in the fur farming sector has been decreasing.

In 2021, the agricultural sector “breeding of other animals” accounted for 154 enterprises with a total turnover of EUR 20.3 million. This sector employed 378 workers, accounting for 0.65 per cent of the total agricultural workforce and 0.04 per cent of the total workforce in Latvia.

The number of fur animals registered in the Livestock Register in 2023 reached 229,200, a decrease of almost 75 per cent compared to 2013. In recent years, mink have accounted for an average of 99 per cent of all fur animals. The number of registered fur farms (farms) reached 31 in 2023, 33 per cent less than in 2013.

Fur farming is linked to certain small-scale manufacturing industries, such as the production of fur products and the tanning and processing of hides and skins, fur processing and dyeing. In total, 17 companies in both sectors were operating in 2021, with a total turnover of around EUR 140,000 and employing 22 people. According to the Central Statistics Bureau, these industries accounted for 0.001 per cent of Latvia’s manufacturing industry in terms of turnover and 0.02 per cent in terms of employment.

Considering the performance of companies directly and indirectly involved in fur farming over the last three years, the Ministry of Economics believes that the contribution of the fur farming sector to the Latvian economy is very small. This means that the decisions taken so far to restrict the sector’s activity and the changes introduced in the regulatory framework do not actually affect the overall development of the economy.

9. The invited party – the Ministry of Environmental Protection and Regional Development – states that the killing of animals for fur production and the suffering caused to animals do not meet the requirements of modern society and are incompatible

with ethical norms. More than half of the Latvian population, namely, 63 per cent, do not support the breeding and keeping of animals for fur, according to the results of a survey conducted by the public opinion research centre SKDS in the summer of 2021. 16 European countries have already banned the fur industry and animal husbandry completely or in part. Within a few years, Estonia, France, the Czech Republic, Norway, Belgium, Luxembourg and Slovakia joined the ban. There is an active public debate on the ban in Lithuania, Poland, Bulgaria, Ireland and other countries.

In addition, it should be taken into account that wild animals that are not native to Latvian nature, mainly the American mink, which is an invasive species in Latvia, are bred for fur. This species was not purposefully introduced into Latvia, and its population in the wild is thought to have evolved from individuals that escaped from fur farms. The American mink is a species that has caused the disappearance of the European mink in Latvia and, together with another invasive species, the raccoon dog, has had a significant negative impact on Latvia's ornithofauna, especially ground-nesting bird species. The American mink harms biodiversity by killing wild birds, destroying their nests and killing their young. Invasive non-native species can also have significant adverse impacts on human health and the economy.

The Ministry of Environmental Protection and Regional Development notes that on 30 June 2021, the European Commission committed to a total ban on the caging of farm animals by 2027. The planned ban could affect more than 300 million laying hens, sows, calves, rabbits, geese and other farm animals yearly. Consequently, the relevant regulation could be even broader and apply not only to the breeding of fur animals.

10. The invited party – the Ombudsman – believes that the restriction of the Applicants' right to property imposed by the contested norms is justified and proportionate.

The contested norms do not prohibit economic activity in the relevant field if the sole or main purpose of breeding and keeping fur animals is not fur production. Thus, before adopting the contested norms, the individual circumstances and possible exceptional cases where the economic activity in the relevant field could be continued were assessed. Consequently, there are no grounds for finding that the prohibition contained in the contested norms is absolute.

The responsible and humane treatment of animals is enshrined in the principle of environmental protection and sustainability as a universal human value to be protected. The objectives of the restriction contained in the contested norms, as indicated by the *Saeima*, are legitimate. The primary and particularly important objective to be achieved by the restriction contained in the contested norms is to protect the life of fur animals in cases where the animals are bred and kept solely to produce fur. This objective, in today's society and in a context where technology can produce practical outerwear, is consistent with the constitutional values of universal humanity, sustainability, morality and the well-being of society. Thus, the legitimate purposes of the restriction contained in the contested norms are the protection of public welfare and morals.

The restriction contained in the contested norms is appropriate to achieve legitimate aims and is the only way in which those legitimate aims can be achieved. In particular, there are no alternative means of ensuring the fur animals' right to life.

The legislator has decided on a certain transition period as a mechanism to compensate for the restriction of the right to property and the infringement of legitimate expectations contained in the contested norms. However, the responsible commission could have sought the views of each of the total eight fur farms and obtained at least a rough estimate of the economic losses, as well as identified the different opinions on the preferred duration of a lenient transition period. However, the hearing of the sector representatives at the meeting of the responsible commission and the assessment of their written opinion is in line with the principle of procedural efficiency in the organisation of commission meetings.

The lack of purely mathematical and economic calculations of the losses and the possibilities for entrepreneurs to recover their investments within the period specified in the contested norms raises concerns about the adequacy of the five-year transition period. However, it should be noted that also the industry representatives have failed to substantiate their objections with economic calculations demonstrating that five years is too short a time for a fur farm to cease or reorient its business without any loss at all or without a loss commensurate with the risks of the business. The Applicants have likewise failed to provide such an estimate of losses. Since there is no direct evidence that five years is an absolutely insufficient transitional period, the Ombudsman cannot agree with the Applicants' claim that this period is not proportionate.

11. The invited party – the State Environmental Service – states that fur farms are classified as performing category C polluting activities. Under Section 19(1) and Section 23 of the Law on Pollution, category C polluting activities are the least hazardous of all activities monitored by the State; nevertheless, they must be registered with the State Environmental Service and performed in compliance with environmental legislation.

The main environmental risks posed by fur farms are related to managing manure and industrial wastewater. Fur farms should ensure manure collection and storage on impermeable surfaces to prevent liquid manure and slurry from soaking into the ground, groundwater and direct runoff to surface water. On the other hand, industrial wastewater, which usually contains chemicals and nutrient residues used in cleaning the sheds, is supposed to be treated or accumulated and later transferred to a wastewater treatment plant operated by another operator.

The discharge of manure and slurry or untreated sewage into surface waters is very dangerous, as it degrades the ecological quality of the water, reduces the oxygen needed by living organisms, leads to overgrowth of water bodies, increased sedimentation, mass growth of potentially toxic cyanobacteria and makes water bodies unusable for livestock watering or recreation. Manure management and fur farming may also be associated with nuisance odours which have localised impacts on neighbouring properties.

The environmental impact of fur farming is similar to that of other animal housing. A specific risk associated with fur farms is that specimens of animal species that are not native to Latvia may escape into the wild. The threats to biodiversity posed by invasive alien species can take many forms, including competition for resources, disease transmission, displacement of native species and declining populations.

12. The invited party – the association Latvian Chamber of Commerce and Industry (referred to as the LCCI) – points out that the decision to prohibit commercial activity in a particular sector must be considered and justified. When adopting the contested norms, the legislator did not sufficiently analyse their foreseeable impact on the national economy, including on the opportunities for employees of fur farms to find new jobs and the opportunities for economic operators to find suitable employees when changing the type of their economic activity.

During the drafting of the bill, all stakeholders were not consulted, i.e., the drafters of the bill did not consult with organisations and companies representing the sector, and all stakeholders were not involved in the process of drafting amendments to the legislation. In addition, when imposing a ban on business activities, other EU Member States have provided extensive compensation mechanisms for loss of income and losses related to the cessation of business activities.

13. The invited party – the association Latvian Association of Animal Breeders (referred to as the association) – indicates that before adopting the contested norms, the responsible commission failed to ask it to comment on any circumstances or provide answers or information on specific questions related to the planned regulation. The association, on its own initiative, has informed the responsible commission about the fur farming industry, its export, other financial data and its impact on the Latvian economy and public welfare. The responsible commission did not discuss the information provided by the association at the meetings, and the Members did not raise any questions. The association has also submitted to the responsible commission a summary of the practice of banning fur farming in other EU Member States.

The legislator erred in weighing the interests and rights of animal protection and freedom of establishment within the meaning of Articles 13 and 49 TFEU and Articles 16 and 17 of the Charter. In other countries, where the future of the fur farming and keeping sector is a topical issue, the legislator has arrived at a solution that differs significantly from the contested norms. In particular, other countries with a transition period of five years or even less have extensive compensation mechanisms in place.

However, the legislation of Slovenia, Estonia and Slovakia cannot apply to the situation in Latvia because in these countries, the breeding and keeping of fur animals would not be considered an agricultural sector and the actual situation at the time the ban was imposed, was completely different from that in Latvia. In these countries, mink farms were already empty or closed, or there was only one mink farm.

The contested norms do not strike a fair balance between the freedom of establishment under Article 49 TFEU and the obligation of Member States to protect animal welfare interests under Article 13 TFEU, since they completely exclude the substance of the freedoms under Article 49 TFEU. The interests of fur farmers as an industry can only be satisfied if the breeding and keeping of fur animals for fur production

is no longer continued where a longer prohibition period, i.e. five years longer, or a five-year transition period is together with adequate compensation.

14. The invited party – the association Animal Freedom – believes the contested norms comply with Section 1, the first and third paragraphs of Section 105 of the Constitution and Article 49 of the TFEU.

In the 20th century, animal protection has become so ingrained in public attitudes and behaviour that public morality is unthinkable without it. Humanity has an ethical duty to ensure the welfare and protection of all species of animals because each individual is valuable in itself. Humans have a moral duty to respect all creatures, treat animals with compassion and protect them. No one may kill or cause pain, suffering or other harm to an animal without just cause.

The ban on breeding and keeping animals for fur is based on the grounds that animal husbandry is unethical, cruel and contrary to the values of society. It contradicts the values of the majority of society by conflating cruelty to animals with a trivial reason for subjecting them to suffering. Today, there are many functional and aesthetic alternatives to fur.

Fur farms cannot satisfy the needs of wild animals. The narrowness and monotony of the cage system is a serious animal welfare problem. In fur farms, mink spend their entire lives in wire cages with the standard sizes of 90 x 30 x 45 centimetres. In nature, mink are solitary, territorial animals, whereas in fur farms, they are forced to live very closely to each other and cannot avoid social contact. In cages, mink have no chance to behave naturally – to run, swim or hunt. On the other hand, foxes are caged singly, depriving them of their natural social behaviour. Foxes are denied the opportunity to run, dig, play and explore. They are kept in wire cages measuring 0.8-1.2 square metres. Both foxes and mink will suffer constantly from cannibalism, self-mutilation, mutual tearing and stereotypical behaviour as long as they are kept in small, poorly designed cages with wire floors.

The way mink are killed for their fur is also cruel. It should be noted that mink can hold their breath for long periods and remain conscious even when suffocated. Sometimes, after unsuccessful strangulation attempts, fur farmers simply beat the mink to death.

In 2015, the *Saeima* decided not to support a citizens' initiative calling for a ban on breeding and keeping animals for fur. However, the fact that this issue was brought to the attention of the legislators was in itself a signal that Latvian society recognises fur farming as an ethically problematic area. In the following years, animal protection gradually developed and gained increasingly large public support. For example, in mid-2017, the use of wild animals in circuses and attractions was banned in Latvia.

More than 40,000 people have signed the petition in support of the ban on animal breeding by the time the bill is submitted to the *Saeima*. In 2018, a march to ban animal farming attracted around 800 people. Prominent people in the public spoke out in a joint video in 2022 for a ban on animal farming. Fifty-two non-governmental organisations from various fields have addressed an open letter to the *Saeima* calling for a ban on animal breeding in Latvia.

In social surveys, a shrinking minority of the public supports the breeding, keeping and killing of foxes, mink and chinchillas for fur. Moreover, the Latvian public has been the most active advocate for a ban on the breeding and keeping of fur animals and the trade in fur throughout the European Union. The European Citizens' Initiative "Fur Free Europe" has been signed by 64,162 Latvian citizens, namely, more than 3.5% of all EU citizens. Latvia's public participation in such initiatives, both at home and in other EU countries, is excellent.

The above demonstrates that the breeding and keeping of fur animals is contrary to the ethical values of Latvian society. The welfare of animals is a legitimate purpose to curb practices that are morally threatening to society.

A ban on the breeding and keeping of fur animals also ensures the public's right to health protection and the right to live in a healthy environment. Fur farms are potential breeding grounds for zoonoses. They were particularly hard hit by the COVID-19 pandemic. Scientists have also suggested that mink farms are more likely than farms of other species to become a source of risk for future disease outbreaks and pandemics.

Fur farming and keeping have a negative impact on biodiversity, environmental quality and climate. In Latvia, there is much evidence that mink escaping from fur farms kills domestic pets, waterfowl and animals of other species. Storing and handling waste, which is inextricably linked to the fur industry, often causes significant water pollution. Nitrates, phosphates and other chemicals hazardous to the environment and health seep

into the ground, leaching into groundwater through rainwater and polluting reservoirs. These chemicals pollute not only the water but also the soil and the air. Therefore, people living near fur farms have to endure a constant pungent smell. Fur production is two to 28 times more environmentally damaging than the manufacture of other textiles. For example, the production of one kilogram of mink fur has five times the climate impact of the same amount of the second most influential textile material in this regard – wool.

The prohibition imposed by the contested norms was not intended to continue to permit the breeding, keeping and killing of animals, but to reinforce the welfare requirements. On the contrary, the ban aims to end a form of animal exploitation that is not in line with society's ethical values and that subjects animals to suffering for trivial ends. Moreover, significant improvements in the welfare of fur animals are virtually impossible, or at least unprofitable because welfare problems are based on the confinement of wild animals in cages where they cannot meet their physiological and ethological needs. In countries where fur farmers are obliged to provide conditions appropriate to the physiological and behavioural needs of the animals, they have already ceased this economic activity in most cases, as compliance with the relevant requirements would make it unprofitable. The impact on the industry of a meaningful reinforcement of welfare requirements is therefore virtually indistinguishable from that of a ban.

Nor could animal welfare be improved by means such as video surveillance, as this would not achieve the legitimate purposes of the prohibition contained in the contested norms. Nor is there certainty as to the effectiveness of the monitoring in question and whether an appropriate penalty will be imposed in each case of infringement.

Latvia has become the twentieth European country to ban the breeding and keeping of fur animals. In some countries, such a ban is imposed immediately or with a very short transition period and costs to fur farmers compensation. In other countries, a transition period has been considered as a compensation mechanism. Some other countries have opted for both a transition period and compensation. In some countries, fur farms were virtually empty when the ban was imposed; however, they were still in operation in many other countries.

The restriction on the fundamental rights of fur farmers has been taken into account and a five-year transition period has been granted to allow them to reorient their

business and obtain additional funds to pursue other business ventures. Such a transition period is to be regarded as a measure of prudence.

Concluding Part

15. The Applicants request the Constitutional Court to assess compliance of several legal norms with several norms of the Constitution. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, has requested that the compatibility of the contested norms with Article 49 TFEU also be assessed.

If the conformity of several legal norms with several legal norms of higher legal force is contested, then the court, considering the nature of the case under consideration, must determine the most effective approach to assessing this conformity (*see, for example, Paragraph 13 of the Judgement of the Constitutional Court of 15 May 2020 in Case No 2019-17-05*).

15.1. Section 2 of the Law prohibits the breeding and keeping of livestock if the sole or main purpose of the breeding or keeping is the production of fur. According to Section 3 of the Law, this ban enters into force on 1 January 2028.

It follows that the contested norms are closely interrelated. In particular, together they form a single legal framework under which, from 1 January 2028, the breeding and keeping of farmed animals is prohibited if the sole or main purpose of the breeding or keeping is the production of fur.

Consequently, in the case under review, it is necessary to assess whether the contested norms, as a single legal regulation, comply with norms of higher legal force.

15.2. Since the compliance of legal norms with several provisions of the Constitution and Article 49 of the TFEU is being contested, the Constitutional Court must also determine the order in which this compliance should be assessed.

15.2.1. The Applicants have indicated that the contested norms disproportionately restrict the right to property of the breeders of fur animals, enshrined in Section 105 of the Constitution and violate the principle of protection of legitimate expectations enshrined in Section 1 of the Constitution. The Applicants' observations on the possible violation of the principle of protection of legitimate expectations are related to the arguments they have put forward regarding the restriction of the fundamental right established in Section 105 of the Constitution. In particular, the Applicants reasonably

and justifiably relied on the fact that the sector in which they operate would not be prohibited.

In practice, the Constitutional Court has recognised that if compliance of a legal norm with both the principle of protection of legitimate expectations and Section 105 of the Constitution is contested in a case, compliance of the contested norm with Section 1 of the Constitution must be assessed in conjunction with Section 105 of the Constitution (*see, for example, Paragraph 12 of the Judgment of the Constitutional Court of 2 May 2023 in Case No 2022-02-01*).

Considering the above and assessing whether the possible restriction of the fundamental rights included in Section 105 of the Constitution is justified, the Constitutional Court will also examine whether the principle of protection of legitimate expectations included in Section 1 of the Constitution has been complied with.

15.2.2. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, considers that the contested norms also restrict its right of establishment under Article 49 TFEU in another Member State of the European Union, namely Latvia. The contested norms also restrict its right to compensation for the infringement of its right to property under European Union law.

When specifying the content of fundamental rights included in the Constitution, the legal acts of the European Union should also be taken into account, insofar as they strengthen Latvia as a democratic state governed by the rule of law and protect fundamental rights, as it follows from Section 68(2) of the Constitution, which requires to ensure harmony of the Latvian legal system with the European Union law (*cf. paragraph 27.2 of the judgment of 9 February 2023 of the Constitutional Court in Case No 2020-33-01*). Thus, whether in a given case, the compatibility of the contested norms with Article 49 TFEU should be assessed separately depends on the specificity of the relevant norm of European Union law and the constitutional norms referred to in the applications.

Consequently, the Constitutional Court will first assess compliance of the contested norms with the first and third sentences of Section 105 of the Constitution in conjunction with Section 1 of the Constitution. However, the manner in which the compatibility of the contested norms with Article 49 TFEU is to be assessed is to be ascertained after the content of Section 105 of the Constitution and the relevant provision of European Union law has been specified.

16. According to the first sentence of Section 105 of the Constitution, everyone has the right to property. The third sentence of this Section provides: “Property rights may be restricted only in accordance with law.”

Under Section 105 of the Constitution, the “right to property” shall be understood to mean all rights of a property nature which the entitled person may use for their own benefit and which they may dispose of at their own will. Also, the economic interests of a person related to the performance of commercial activity may fall within the scope of Section 105 of the Constitution (*see, for example, Paragraph 10.1 of the judgment of the Constitutional Court of 12 December 2014 in Case No 2013-21-03 and Paragraph 16.1 of the decision of 23 May 2018 on termination of proceedings in Case No 2017-20-0103*).

The Constitutional Court has emphasised that for such economic interests to be recognised as an object of the right to property, they must be connected with a specific type of commercial activity which the person has carried out so far (*see Paragraph 12 of the judgment of the Constitutional Court of 21 December 2023 in Case No 2022-28-03*). In other words, the restriction of the right to property must be manifested in a negative impact on a right that the economic operator already had. This means that Section 105 of the Constitution protects the right to engage in a commercial activity that has already been commenced. State interference in the conduct of commercial activity restricts the right to property (*see Paragraphs 26 and 27. 2 of the judgement of the Constitutional Court of 9 February 2023 in Case 2020-33-01*).

Thus, the right to engage in a commercial activity already commenced falls within the scope of the right to property contained in the first and third sentences of Section 105 of the Constitution.

16.1. The Court of Justice of the European Union has held, *inter alia*, that Article 49 TFEU provides for the freedom of establishment of citizens of Member States of the European Union and thus protects residents of Member States of the European Union and legal persons wishing to pursue their economic activity in another Member State (*see Paragraph 14 of judgement of the CJEU of 28 January 1986 in Case C-270/83 Commission v France; see also: Kellerbauer M., Klamert M., Tomkin J. (Eds.) The EU Treaties and the Charter of Fundamental Rights. The Commentary. Oxford: Oxford University Press, 2019, p. 658*).

Under Article 6(1) of the Treaty on European Union, the European Union recognises the rights, freedoms and principles specified in the Charter. It has the same force as the Treaty on European Union and the TFEU. Article 16 of the Charter provides for freedom to conduct a business, which protects the freedom to engage in economic or commercial activity (*see Paragraph 28 of the judgment of the CJEU of 30 June 2016 in Case C-134/16 Lidl*).

Article 16 of the Charter is linked to the freedom of establishment provided for in Article 49 TFEU. Where national legislation creates a restriction on the freedom of establishment within the meaning of Article 49 TFEU, it also constitutes a restriction on the freedom to conduct a business as specified in Article 16 of the Charter (*cf. Paragraph 50 of the judgment of the CJEU of 20 December 2017 in Case C-322/16 Global Starnet, Paragraph 65 of the judgment of 8 May 2019 in Case C-230/18 PI, and Paragraph 56 of the judgment of 7 September 2022 in Case C-391/20 Cilevičs and others*).

The Constitutional Court has already recognised that it follows from the obligations assumed by Latvia with the accession to the European Union that the rights included in Section 105 of the Constitution must be concretised in conjunction with the freedom to conduct a business under Article 16 of the Charter and the freedom of establishment under Article 49 TFEU (*see Paragraph 27.2 of the judgment of the Constitutional Court of 9 February 2023 in Case No 2020-33-01*).

Thus, the Constitutional Court will assess the compliance of the contested norms with Article 49 TFEU by assessing the compliance of these norms with the first and third sentences of Section 105 of the Constitution in conjunction with the principle of protection of legitimate expectations enshrined in Section 1 of the Constitution.

16.2. The right to freedom of establishment aims to ensure that every citizen of the European Union has the right to carry out an activity without discrimination or disproportionate restrictions (*see: European Union Agency for Fundamental Rights. Freedom to conduct business: exploring the dimensions of a fundamental rights, p. 21. Available at: fra.europa.eu*). According to the settled case law of the Court of Justice of the European Union, any measure which prohibits, impedes or renders less attractive the exercise of that freedom of establishment must be regarded as a restriction on that

freedom (see Paragraph 61 of the judgement of 7 September 2022 of the Court of Justice of the European Union in Case C-391/20 Cilevičs and others).

It appears from the case file that the limited liability company BALTIC DEVON MINK has been keeping and breeding farmed animals – mink – for fur production in Latvia since 2008. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, is the sole shareholder of the limited liability company BALTIC DEVON MINK and, through that company, has been keeping and breeding mink for fur production in Latvia since 2010. SIA GAUJA AB has been keeping and breeding farmed animals – mink and fox – for fur production in Latvia since 1996.

The breeding and keeping of fur animals is therefore part of the Applicants' commercial activities, which they continue to carry out. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, carries out this business activity through a subsidiary established in Latvia. Thus, the Applicants' economic interests related to a certain type of commercial activity fall within the scope of Section 105 of the Constitution.

The contested norms state that the breeding and keeping of minks and foxes for fur production will be prohibited in Latvia as from 1 January 2028. The Applicants submit that certain measures should already be taken to prepare for the moment when the ban on breeding and keeping foxes and mink for fur production comes into force. Thus, the contested norms affect the Applicants' right to continue certain types of commercial activity. In addition, as regards *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, it follows that the contested norms restrict its right to engage in commercial activities in Latvia within the meaning of Article 49 TFEU since after the entry into force of the contested norms it will no longer be able to exercise its freedom of establishment in Latvia through the limited liability company BALTIC DEVON MINK.

Consequently, the contested norms restrict the Applicants' right to property included in the first and third sentences of Section 105 of the Constitution and the right of *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, to property and the freedom of establishment enshrined in Article 49 TFEU.

17. The Applicants hold that the prohibition to carry out a certain type of commercial activity contained in the contested norms is absolute. Namely, the contested norms prohibit the breeding and keeping of farmed animals for fur production. This prohibition applies to any person carrying out such commercial activities and does not allow exceptions.

The *Saeima* disagrees with this view and points out that the prohibition on breeding and keeping farmed animals where the sole or main purpose of such breeding or keeping is the production of fur prevents the exercise of property rights by all persons, regardless of their individual characteristics. It is not aimed at a particular group of persons, since at the same time there is no possibility that other persons outside that group would be allowed to carry on the type of commercial activity in question. The contested norms also do not prohibit the Applicants from carrying out commercial activities in Latvia at all.

When assessing whether the contested norm contains an absolute restriction of a person's fundamental rights, it should be considered, first, whether or not it applies to all persons belonging to a certain group, i.e., whether it provides for an individual assessment of each particular case and thus allows for exceptions, and, second, whether it is established for a certain period or for life (*see Paragraph 23 of the judgment of 28 January 2021 of the Constitutional Court in Case No 2020-29-01*).

The case law of the Constitutional Court recognises as absolute prohibitions such restrictions of a person's fundamental rights which were related to an act performed by the person themselves in the past, as a result of which that person has suffered adverse consequences throughout their life. Concerning such restrictions, the legislator has excluded the presumption that a person is capable of changing during their life (*see, for example, Paragraph 12.3 of the judgment of 24 November 2017 of the Constitutional Court in Case No 2017-07-01 and Paragraph 19.2 of the judgment of 5 December 2019 in Case No 2019-01-01*).

The prohibition to breed and keep farmed animals included in the contested norms, if the sole or main purpose of these activities is the extraction of fur, unlike previously recognised in the case law of the Constitutional Court, is not related to the conduct of a person in the past but to the type of commercial activity chosen by the person, which the legislator considers to be incompatible with the values of modern society.

Thus, the restriction under the contested norms cannot be regarded as an absolute prohibition.

18. In assessing the constitutionality of a restriction on a fundamental right, it is first necessary to examine whether the restriction is imposed by a duly enacted rule of law. The restriction of fundamental rights must be established in the legislative process which complies with the principle of good law-making (*see Paragraph 17 of the judgment of 15 February 2024 of the Constitutional Court in Case No 2023-04-0106*).

18.1. The Law was adopted on 22 September 2022. The official gazette *Latvijas Vēstnesis* No 191A promulgated it on 3 October 2022 and entered into force on 17 October 2022.

The Constitutional Court has no doubts that the contested norms 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. Likewise, the Constitutional Court has no doubt that the contested norms are formulated sufficiently clearly so that the Applicants could understand the content of the rights and obligations arising from them and foresee the consequences of their application.

18.2. According to the Applicants, in adopting the contested norms the principle of good legislation has not been observed because the legislator has not assessed the legitimate purposes of the restriction of the right to property and possible alternatives: introduction of stricter welfare requirements, for example, video surveillance, longer transition period or setting compensation for economic operators.

The materials of the drafting of the bill show that the legislator has considered the objectives that it wanted to achieve by the prohibition contained in the contested norms. The legislator has also assessed alternatives to the restriction contained in the contested norms. In particular, the meeting of the responsible commission on 9 March 2022 examined the proposal of the Ministry of Agriculture to make video surveillance of fur animal housing and enclosures compulsory. Also, for example, it is clear from the audio recordings of the responsible commission's meetings of 9 March and 24 April 2022 that the legislator has assessed the length of the transition period before the entry into force of the ban and the possible compensation for economic operators who would be affected by the ban.

Whether, as a result of the mentioned assessment, the Applicants have been subjected to a restriction of their right incompatible with Section 105 of the Constitution and Article 49 TFEU, i.e., whether the restriction of fundamental rights created by the contested norms has a legitimate purpose and whether the legislator had at its disposal less restrictive means, is to be ascertained by assessing the substantive effects of the contested norms.

18.3. The Applicants indicate that the principle of good legislation has not been respected also in so far as the stakeholders' possibilities to express their views on the contested norms have been limited. Initially, the addressees of the contested norms were not consulted at all.

The Constitutional Court has recognised that in accordance with the principle of good law-making in a democratic state governed by the rule of law, it must be ensured that in the process of drafting a legal regulation, the views of all stakeholders are identified to the extent possible and objections to the legal regulation being drafted are heard directly or indirectly (*see Paragraph 18.1 of the judgment of 6 March 2019 of the Constitutional Court in Case No 2018-11-01 and Paragraph 24.1 of the judgment of 10 March 2022 in Case No 2021-24-03*).

The materials for the drafting of the bill show that during the meetings of the responsible commission, the members of the *Saeima*, representatives of the Ministry of Agriculture, Ministry of Environmental Protection and Regional Development, Ministry of Economics and Ministry of Justice, representatives of the industry, such as the Association, the Cooperation Council for Agricultural Organisations and the limited liability company BALTIC DEVON MINK, expressed their opinions. Likewise, representatives of the Union of Local Governments and representatives of animal protection organisations – association Animal Freedom, foundation dzivniekupolicija.lv and the World Wildlife Fund – expressed their views. Thus, members of the *Saeima*, representatives of the fur animal breeding and keeping industry, responsible authorities and animal rights organisations, were present and heard during the discussion of the bill, including the proposals submitted to it.

The Constitutional Court has no grounds to doubt that the contested norms were discussed in line with the requirements of the principle of good law-making.

18.4. *Van Ansem Participaties B. V.*, the economic operator incorporated in the Netherlands, considers that the legislator has also failed to comply with the principle of

good law-making because it has not assessed the conformity of the contested norms with European Union law.

It can be concluded from the materials of the case: the legislator has established that the prohibition on breeding and keeping animals, established by the contested norms, if the sole or main purpose of their breeding or keeping is fur production, also affects the area regulated by the law of the European Union. This is reflected in the fact that the adoption of the bill was postponed and it was sent to the European Commission for information. The legislator has thus taken into account aspects of European Union law. Whether the contested norms comply with Article 49 TFEU must be assessed by examining the substantive compatibility of the restriction on the fundamental right.

Therefore, the restriction of fundamental rights contained in the contested norms is established by a legal norm adopted in due procedure.

19. Any restriction of fundamental rights must be based on circumstances and arguments on why it is necessary, namely, the restriction is imposed for the sake of important interests – a legitimate purpose (*see, e.g., Paragraph 16 of the judgment of 22 November 2011 of the Constitutional Court in Case No 2011-04-01*).

The *Saeima* indicates that the restriction of fundamental rights included in the contested norms is established to: (1) prevent the keeping, breeding and killing of animals solely for fur as an unethical, cruel commercial activity that is not in line with the values of the majority of society; (2) reduce the spread of the COVID-19 infection among fur animals and thus among humans, as well as the risk of spreading other zoonoses; (3) prevent environmental pollution associated with the breeding, keeping and killing of fur animals; (4) reduce the intensity of greenhouse gas emissions and the risks of climate change; (5) contribute to the conservation of biodiversity; (6) prevent health risks to consumers and fur farm workers due to the treatment of fur with toxic chemicals; (7) contribute to the sustainable development of the country. All these objectives are consistent with the legitimate purposes under Section 116 of the Constitution – the protection of public morals, the rights of others and the welfare of society.

On the other hand, the Applicants hold that the objective of the restriction of fundamental rights resulting from the contested norms is to protect animals and this objective does not comply with any of the legitimate purposes under Section 116 of the Constitution.

Since the present case also concerns the compatibility of the contested norms with Article 49 TFEU, it is important to bear in mind that the restrictions on the freedom of establishment under Article 49 TFEU may be justified either based on the derogations under Article 52 TFEU (“public policy, public security or public health”) if the measure introduced by the Member State is discriminatory or if it is not discriminatory – also based on the concept of “reasons in the public interest” developed in the case law of the CJEU (see Paragraph 31 of the judgment of 28 January 2016 of the CJEU in Case C-375/14 *Laezza*). The Applicants have not indicated and the Constitutional Court does not find that the restriction on fundamental rights included in the contested norms is discriminatory.

19.1. The *Saeima* emphasises that the primary objective of the restriction of fundamental rights included in the contested norms is to prevent the breeding, keeping and killing of animals solely for the purpose of fur harvesting as an unethical, cruel and incompatible with the values of the majority of the society form of commercial activity. This objective is consistent with the legitimate purpose under Section 116 of the Constitution: the protection of public morals.

19.1.1. As stated in Article 2(1) of the Recommendation concerning Fur Animals adopted by the Standing Committee of the European Convention for the Protection of Animals kept for Farming Purposes on 22 June 1999, under natural conditions the mink are solitary and highly territorial, spend part of their time in water when hunting and part on the land, walking and climbing. Articles 2(3) and (4) of this Recommendation state that foxes move at least six kilometres daily in the wild, that they run, dig and swim. Red and Arctic foxes have variable social behaviour – they can live alone or in packs.

Research by the association Animal Freedom shows that fur farms keep minks and foxes in cramped cages, where they cannot meet their basic needs and natural behaviour. These studies also focus on severely injured and sick animals, as well as the harrowing killing of minks and foxes (see, for example, the 2021 study “*Born on a Fur-Farm*” and the 2018 study “*Three Weeks on a Fur-Farm*” of the association Animal Freedom. Available at: dzivniekubrīviba.lv).

It follows from the jurisprudence of the Constitutional Court that morals are understood as the perception of the majority of society on what behaviour is unacceptable in a democratic state governed by the rule of law and threatens the harmonious

functioning of society (*see Paragraph 16.2 of the judgment of 24 November 2017 of the Constitutional Court in Case No 2017-07-01*).

Morals encompass the social, ethical and moral norms that prevail in a society and on which there is consensus that they are necessary for the harmonious functioning of society. In the preamble to the Animal Protection Law, the legislator formulated the position that every animal is valuable in itself and that society has an ethical and moral obligation to ensure the welfare and protection of animals. No one may cause pain, suffering or other harm to an animal without good reason. In the case under consideration, the contested norms protect public morals by prohibiting the infliction of suffering on animals whose breeding and keeping is solely or primarily for the purpose of obtaining fur. This has been found to be morally and ethically wrong.

The European Court of Human Rights has also recognised that the protection of public morals is not limited to the protection of human dignity in interactions between individuals. The European Convention for the Protection of Human Rights and Fundamental Freedoms is “not indifferent” to the environment and animals in particular. The protection of animals has been recognised as an objective of general interest covered by the legitimate purpose of human rights restrictions, namely, the protection of public morals (*see Paragraphs 94 and 95 of the judgment of the European Court of Human Rights of 13 February 2024 (not final) in case Executief van de Moslims van België and Others v. Belgium, application No 16760/22*).

Moreover, moral norms can change over time and vary from country to country. What was once considered morally acceptable, and therefore moral, may not be so after a certain period.

19.1.2. Article 52 TFEU provides that the right of establishment under Article 49 TFEU may be restricted, inter alia, on grounds of public policy. The Court of Justice of the European Union has ruled that public policy can be invoked where the fundamental interests of society are at stake. Moreover, the specific circumstances which might justify the invocation of public policy considerations may differ from one country to another and from one time to another (*see Paragraphs 30 and 31 of the judgment of the Court of Justice of the European Union of 14 October 2004 in case C-36/02 Omega*). The interests of the protection of public policy under 52 TFEU are compatible with, inter alia, the legitimate purpose enshrined in Section 116 of the Constitution – the protection of public morals.

The World Trade Organisation's Dispute Settlement Body on the seal ban has also recognised that public morality may be an objective that would justify such a ban. Public morality is generally defined as the norms of right and wrong behaviour maintained by or on behalf of a community or nation. The content of the concept of public morality may vary over time and space depending on various factors, including prevailing social, cultural, ethical and religious values (*see Paragraph 5.199 of the WTO Appellate Body report of 22 May 2014 in the case European Communities — Measures Prohibiting the Importation and Marketing of Seal Products, DS400/AB-2014-1 and DS401/AB-2014-2*).

The Court of Justice of the European Union has recognised that one of the interests of the European Union is to ensure the health and protection of animals (*see Paragraph 23 of the judgment of 17 January 2008 of the Court of Justice of the European Union in Joined Cases C-37/06 and C-58/06 ZVK*). Under Article 13 TFEU, the European Union and its Member States should pay due attention to the welfare requirements of animals as sentient beings. Animal welfare means avoiding excessive and unnecessary suffering of animals (*cf. Paragraph 65 of the judgment of 29 May 2018 of the Court of Justice of the European Union in Case C-426/16 Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*).

It follows that, since animal welfare aims at protecting public morals, the prohibition on breeding and keeping animals where the sole or main purpose of their breeding or keeping is the production of fur is even more aimed at protecting public morals.

In light of all the above, it must be recognised that the protection of animals as sentient beings from unnecessary suffering is a value of a democratic society. Consequently, the legitimate purpose of the restriction of the Applicants' fundamental rights caused by the contested norms is the protection of public morals.

19.2. According to the *Saeima*, the fundamental rights of the Applicants have also been restricted to protect the rights of others. The restriction is based on several protected rights and interests: to prevent pollution of the environment caused by farming and killing animals, to reduce the intensity of greenhouse gas emissions and the risks of climate change, and to promote the conservation of biodiversity.

The State Environmental Service explains that the main environmental risks posed by fur farms are related to the management of manure and production wastewater to prevent it from soaking into the ground, groundwater and direct runoff into surface

waters. The discharge of manure and slurry or untreated wastewater into surface waters is very dangerous, as it leads to a deterioration of the ecological quality of the water, a reduction in the oxygen required by living organisms, increased overgrowth of water bodies (eutrophication), sedimentation, mass growth of potentially toxic cyanobacteria (“water blooms”) and eventually to water bodies that are no longer usable for livestock watering or recreation.

A study on the environmental impact of mink farms found that the fur production process is up to 28 times more harmful to the environment than any other textile production, polluting land, air and water. The climate change impact of producing one kilogram of mink fur is five times greater than that of the second most influential textile, wool (*see: Bijleveld M., Korteland M., Sevenster M. The Environmental Impact of Mink Fur Production. Delft: CE Delft, 2011, p. 7*).

According to the State Environmental Service, fur farms also pose a risk that animals that are not native to Latvia, namely American mink, which are bred for fur, may escape into the wild. The threats to biodiversity posed by invasive alien species can take many forms, including competition for resources, disease transmission, displacement of native species and population declines.

The Constitutional Court concludes that all mentioned protected rights and interests are interrelated and overlap; therefore, they cannot be considered in isolation from each other. In general, they aim to protect the rights of others to live in a favourable environment. The case law of the Court of Justice of the European Union has also recognised the protection of the environment as an objective of general interest which can justify restrictions on economic freedoms (*see, for example, Paragraph 9 of the judgment of the Court of Justice of the European Union of 20 September 1998 in Case C-302/86 Commission v Denmark and Paragraph 50 of the judgment of 11 March 2010 in Case C-384/08 Attanasio Group*).

It follows from the jurisprudence of the Constitutional Court that the right of people to live in a favourable environment must be viewed not only as the right of particular people in a particular period but in a broader context, thinking about sustainable development and future generations (*cf. Paragraph 17.1 of the judgment of the Constitutional Court of 24 September 2008 in Case No 2008-03-03*). Sustainable development involves the integrated and balanced development of social well-being, environment and economy, which meets the social and economic needs of people today

and ensures that environmental protection requirements are met without compromising the ability of future generations to meet their needs. The opportunities of the present and future generations to live in a favourable environment depend on the readiness of countries to pursue sustainable development by protecting the Earth's climate system, anticipating and preventing or neutralizing the causes of climate change, and mitigating its harmful effects. Environmental sustainability, in turn, is closely related to Section 115 of the Constitution, which stipulates that the State protects everyone's right to live in a favourable environment by providing information on the state of the environment and taking care of its preservation and improvement (*see Paragraph 36.1 of the judgement of 27 October 2022 of the Constitutional Court in Case No 2021-31-0103*).

Consequently, the legitimate purposes of restricting the Applicants' fundamental rights created by the contested norm, in terms of the right to live in a favourable environment, are the protection of the rights of other persons and the well-being of society.

19.3. The *Saeima* points out that the purpose of the restriction of fundamental rights contained in the contested norms is also to reduce the spread of COVID-19 infection and other zoonoses among animals and people working in fur farms, as well as to prevent health risks to fur farm workers and consumers that may result from the fact that fur is treated with toxic chemicals.

The Centre for Disease Prevention and Control says that mink are susceptible to all influenza viruses. Previously, swine, avian and seasonal influenza viruses have been observed in these animal populations. Mink can be co-infected with different influenza viruses (e.g. seasonal and avian influenza), possibly rearranging the genetic material of the virus and producing an influenza virus to which the human population has no immunity and which has the ability to cross the species barrier and pass from animal to human. Mink are also highly susceptible to coronaviruses, and since 2020, several cases of SARS-CoV-2 introductions have been detected in mink farms. From 17 February 2021 to 7 October 2021, an outbreak of COVID-19 was reported in Latvia at a mink farm, both among animals and workers. Crossing of the species barrier (mink-human) has been observed, i.e., both mink were infected by humans and humans were infected by mink. It has been predicted that the evolution of the virus, due to prolonged circulation and mutation, could lead to the development of more dangerous variants of SARS-CoV-2. The Centre for Disease Prevention and Control indicates that it is important to prevent

the introduction of avian and seasonal influenza into mink farms to avoid co-infection and the rearrangement of viral genetic material.

Thus, the possible spread of COVID-19 and other zoonoses in fur farms may pose a risk to public health.

The case file shows that fur is treated with toxic chemicals that can cause cancer and genetic defects. So, chemicals and heavy metals used in the fur production process can endanger the health of workers involved in fur production and consumers.

Therefore, the prohibition on breeding and keeping animals for fur production, established by the contested norms from 1 January 2028, aims to protect people's right to health. The case law of the Court of Justice of the European Union recognises health protection as an overriding reason of general interest justifying a restriction on the freedom of establishment (*see Paragraph 58 of the judgment of the Court of Justice of the European Union of 21 September 2017 in Case C-125 Malta Dental Technologists Association and Reynaud*).

The Constitutional Court has recognised that the health of an individual and society is a value that is of undoubted importance in ensuring the well-being of society (*see Paragraph 17 of the judgment of 11 December 2020 of the Constitutional Court in Case No 2020-26-0106*). Thus, the objective of the restriction of fundamental rights established by the contested norms to protect people's right to health likewise relates to the interests of the protection of public welfare and cannot be considered in isolation from them. Consequently, the legitimate purposes of the restriction of fundamental rights included in the contested norms in the aspect of health protection must be recognised as the protection of the rights of other persons and the well-being of society.

Consequently, the legitimate purposes of the restriction of fundamental rights contained in the contested norms are to protect the public morals, public welfare and the rights of other people.

20. When assessing the proportionality of a restriction on fundamental rights, the Constitutional Court must first examine whether the means chosen are appropriate for achieving the legitimate purposes, i.e., whether the means chosen are capable of achieving those aims.

20.1. As a result of the restriction laid down in the contested norms, the breeding and keeping of animals, if their sole or main purpose is the production of fur, will be

prohibited in Latvia and the suffering of animals kept in inadequate conditions will consequently come to an end. Thus, the legislator has acted taking into account the opinion of the majority of society that the cruel treatment of animals inevitably associated with the relevant type of commercial activity is no longer acceptable. Therefore, the measure selected by the legislator is suitable for achieving the legitimate purpose – to protect public morals.

20.2. When assessing whether the restriction of fundamental rights laid down in the contested norms is appropriate for the achievement of the legitimate purposes – protection of the rights of others and public welfare – it should be considered that these purposes include several interrelated interests, both in terms of environmental protection and protection of human health.

20.2.1. The contested norms will prohibit commercial activities that harm the environment and thus infringe on the right of others to live in a favourable environment. In particular, the risk of manure and industrial wastewater entering the ground, groundwater or surface waters will be avoided and the intensity of greenhouse gas emissions will be reduced. Ending the breeding of American mink will likewise help preserve Latvia's biodiversity. Thus, the restriction of fundamental rights contained in the contested norms is appropriate to achieve the legitimate purposes – the right of people to live in a favourable environment and the protection of public welfare.

20.2.2. The Constitutional Court has already established that SARS-CoV-2 can spread between fur farms in various ways: through direct contact with infected animals, indirect contact with, for example, contaminated materials, feed or employees and visitors of the farms who transmit the virus through their clothes, equipment or vehicles. Employees and other persons who come into contact with mink are exposed to a high risk of disease (*see Paragraph 15 of the judgment of 21 December 2023 of the Constitutional Court in Case No 2022-28-03*).

As the spread of SARS-CoV-2 is linked to the movement of animals, people, vehicles and other materials, a ban on the breeding and keeping of mink for fur production could reduce the potential spread of SARS-CoV-2 virus and its variants in animal populations and among people who come into contact with animals. This is particularly important given that the incidence of COVID-19, caused by SARS-CoV-2, is still detectable. The same conclusion can also be applied to the possible spread of other zoonoses in mink farms. Preventing human infection will also reduce the likelihood of

contacts becoming infected with SARS-CoV-2 or other zoonotic viruses. Banning the respective type of business may also prevent health risks for consumers and fur farm workers by reducing the likelihood of individuals coming into contact with toxic substances used in fur processing. This will protect the health of people who come into contact with animals or fur and the health of the general public.

Consequently, the restriction of fundamental rights contained in the contested norms is an appropriate means of protecting the right to health and public welfare.

Thus, the means chosen by the legislator is appropriate to achieve the legitimate purposes of protecting fundamental rights – public morals, well-being and protection of the rights of others.

21. When assessing the proportionality of a restriction on fundamental rights, the Constitutional Court must also examine whether the means chosen are necessary to achieve the legitimate purpose, namely whether the legitimate purpose cannot be achieved by other means that are less restrictive of the individual's rights and would be equally effective. A more lenient measure is not any other means but only the means whereby the legitimate purpose can be achieved at least in the same quality (*see, Paragraph 16 of the judgement of the Constitution Court of 21 December 2023 in Case No 2022-28-03*).

21.1. The Applicants consider that the interest of animals to live in conditions suitable for them could be protected by introducing stricter welfare requirements and monitoring compliance with them. The *Saeima*, on the other hand, considers that the introduction of stricter welfare requirements would not achieve the objective of preventing animal suffering and avoiding the killing of animals for fur.

The association Animal Freedom points out that welfare problems are caused by caging wild animals where they cannot fulfil their physiological and ethological needs.

From the materials for the drafting of the bill, it can be inferred that the legislator, by establishing the restriction contained in the contested norms, intended to stop the use of animals in a way incompatible with public values. The very fact that animals are killed for their fur, and the methods used to kill them, means unnecessary suffering and cruelty to animals. The problems identified by the legislator cannot therefore be addressed by improvements in welfare requirements, as they cannot prevent the suffering of animals incurred not only from being kept in unsuitable conditions but also from being killed.

Improvements in welfare requirements would aim to ensure that the breeding and keeping of fur animals for fur would continue. However, the legislator's intention was the exact opposite: to stop this commercial activity. Consequently, the improvement of welfare requirements cannot be regarded as an alternative means of achieving the legitimate purpose of protecting public morals.

The alternative means indicated by the Applicants, namely the imposition of stricter welfare requirements, must also be assessed in light of the achievement of the other legitimate objectives, namely the protection of the rights of others and public welfare.

Welfare requirements are based solely on the recognition that animals are capable of suffering and that these requirements should be used to try to reduce animal suffering (see, for example: *Adminis S. Dzīvnieku tiesības: pelēkā zona starp lietas un personas statusu (Animal rights: the grey area between the status of a thing and a person). Jurista Vārds, 21 March 2023, No 12, p. 14*).

Improving welfare requirements cannot prevent environmental pollution from fur farms, reduce the intensity of greenhouse gas emissions and the risks of climate change, or contribute to the conservation of biodiversity; therefore, it cannot ensure a favourable environment for future generations. In other words, stricter welfare requirements would not eliminate the risk that farming and keeping fur animals could harm the environment.

Concerning the need to protect other people's right to health, the Centre for Disease Prevention and Control points out that viruses are introduced through infected workers, infectious materials, birds, other animals or food/feed. Animal morbidity and mortality may not be evident in the holding and therefore testing and investigation for early identification of viral introduction may not always be initiated promptly, and there is insufficient information on the extent of asymptomatic spread of avian, swine and seasonal influenza viruses and coronaviruses in the mink population.

So, even if stricter welfare requirements for fur animals were imposed, this would require animal care that only humans can provide. This means that the spread of viruses between animals and humans and the potential transmission of these viruses to contacts could not be prevented. Stricter welfare requirements would also not prevent fur from being treated with toxic chemicals, thereby putting human health at risk.

In light of the above, the imposition of stricter welfare requirements for fur animals cannot be regarded as an alternative means of achieving the legitimate purposes

of the restriction contained in the contested norms – public morals and welfare, as well as the protection of the rights of other persons.

21.2. According to the Applicants, an alternative means of achieving the legitimate purposes of the restriction established by the contested norms could be another normative solution for ensuring a lenient transition, i.e. compensation for losses or establishing that the prohibition enters into force after a longer transition period. The *Saeima* considers that these solutions cannot be alternative means in themselves, as they do not replace the prohibition provided for in the contested norms but only make the transition to it more lenient.

Alternative means are only those means whereby the legitimate objective can be achieved in a different and less restrictive way. As pointed out earlier in this judgment, the restriction of the Applicants' rights is expressed in prohibiting them from continuing their previous commercial activities from 1 January 2028. Neither a longer transition period until the entry into force of the ban nor the payment of compensation for the ban is an alternative means of achieving the legitimate objectives.

A reasonable transition period or compensation for the damage suffered are the means to ensure a lenient transition to the new regulation (*cf. Paragraph 2 of the Conclusion Part of the judgment of 25 March 2003 of the Constitutional Court in Case No 2002-12-01 and Paragraph 16 of the judgment of 5 March 2021 in Case No 2020-30-01*). These aspects are an expression of the principle of the protection of legitimate expectations and must be assessed when examining the proportionality of a restriction on a fundamental right.

Consequently, there are no other, more lenient means of achieving the legitimate purposes of the restriction of the fundamental right.

22. When assessing the proportionality of a restriction on fundamental rights, it must also be ascertained whether the adverse consequences that a person experiences as a result of the restriction of their fundamental rights are not greater than the benefit that society as a whole derives from this restriction. Thus, the Constitutional Court must ascertain the interests to be balanced and determine which of those interests should be given priority.

In the present case, the right of economic operators engaged in the breeding and keeping of animals, where the sole or main purpose is the production of fur, to continue

and benefit from the commercial activity already commenced, on the one hand, and, on the other hand, the interests of public morals and well-being, as well as the protection of the right of others to live in a favourable environment and health, covered by the legitimate purposes of the restriction on fundamental rights specified in the contested norms, must be balanced against the interests of the legitimate purposes of the restriction. Consequently, the Constitutional Court must examine whether the contested norms have achieved a fair balance between these various rights and legitimate interests.

22.1. The Applicants argue that the contested norms will result in the cessation of their business activities and substantial losses. On 9 March and 26 April 2022, at the meetings of the responsible commission, the association indicated that the contested norms would cause harm to the Latvian economy, as the number of jobs and tax revenue from the Applicants' commercial activities would decrease, as well as the volume of exports would decline.

However, in the present case, the importance of the rights and legitimate interests protected by the restrictions specified in the contested norms must be taken into account.

Firstly, animals in today's society are not only seen as objects of property or agricultural products but as sentient beings. In particular, animals are no longer considered as mere property in many countries. Animals are recognised as having value in themselves, whether or not they are useful to anyone (*see: Fasel R. N., Butler S. C. Animal Rights Law. Oxford: Hart, 2023, p. 12*).

In Latvia and the EU, the protection of animal rights has gained increasing importance and support in society over time. For example, a December 2022 SKDS survey shows that 68 per cent of the Latvian population does not support the breeding and killing of minks for fur. The idea that the breeding and keeping of fur animals should be banned is being debated in the EU and is endorsed by the European Citizens' Initiative "Fur Free Europe". In addition, the breeding and keeping of animals for fur production is already banned or severely restricted in most European countries. As pointed out at the *Saeima* session of 20 January 2022, where the bill was considered at first reading, breeding and killing animals for fur is an unethical, cruel and disappearing commercial activity that has no justification nowadays.

Thus, the contested norms will stop the treatment of fur animals, which the legislator considers unethical and inconsistent with the values of society. The prohibition laid down in the contested norms reflects how society's attitude towards animals has

changed. The public interest in the moral and ethical treatment of animals is more important than the rights and interests of individual economic operators.

Second, the right to protection of health applies directly to everyone and is an essential precondition for the exercise of all other fundamental rights. In the present case, the restriction on the fundamental right to breed and keep fur animals will benefit society as a whole. Moreover, this benefit will be achieved in many aspects, as the ban will protect both humans from contracting COVID-19 or other zoonoses and consumers and fur farm workers from diseases that can be caused by the chemicals used to treat fur. The legitimate interests of individual economic operators cannot be placed above those of society as a whole.

Third, by prohibiting the breeding and keeping of animals for the sole or main purpose of fur production from 1 January 2028, the legislator intends to reduce the environmental damage caused by such production facilities, i.e., to prevent the risk of manure and production effluents entering the ground, groundwater or surface water, to reduce the intensity of greenhouse gas emissions and promote the conservation of Latvia's biodiversity. Such a benefit to the entire society outweighs the rights and legitimate interests of individual economic operators in the present case.

22.2. The Applicants hold that the restriction included in the contested norms is not proportionate, as the principle of protection of legitimate expectations has been infringed. The *Saeima* does not share this view.

The Constitutional Court has recognised that the principle of protection of legitimate expectations falls within the scope of Section 1 of the Constitution (*cf. Paragraph 29.2 of the judgment of 27 May 2021 of the Constitutional Court in Case No 2020-49-01*). Therefore, when assessing the proportionality of a restriction on fundamental rights, an essential factor is also whether the legislator, when amending the legal regulation, has considered the rights, the preservation or exercise of which a person may have developed an expectation (*cf. Paragraph 11 of the judgement of 27 October 2010 of the Constitutional Court in Case No 2010-12-03*).

It also follows from the case law of the Court of Justice of the European Union that, where the measures taken by the Member States relate to the implementation of European Union law, they must respect the general principles of that law, including the principle of the protection of legitimate expectations (*see Paragraph 31 of the judgment of the Court of Justice of the European Union of 14 September 2006 in Joined Cases C-*

181/04 to C-183/04 *Elmeke*). Anyone who has been given a legitimate expectation by a public authority, based on specific promises, is entitled to refer to this principle. It is, therefore, necessary to examine whether the conduct of the institution in question has given rise to a legitimate expectation on the part of the right-holder and whether that expectation must be regarded as legitimate (*see Paragraphs 44 and 45 of the judgment of the Court of Justice of the European Union of 9 July 2015 in Case C-183/14 Salomie and Oltean*).

The legislator has the right to amend these norms but must ascertain the impact of the norms on existing legal relations and ensure that this impact is not disproportionate to the objective pursued. Namely, to assess the compliance of the contested norms with the principle of protection of legitimate expectations, it is necessary to establish in the present case: (1) whether the Applicants had a legal expectation that they would be able to continue breeding and keeping animals if their sole or main purpose is to obtain fur; (2) whether, by issuing the contested norms, a reasonable balance between the Applicants' legal expectation and the public interests for the sake of which the relevant regulation was changed was ensured (*cf. Paragraph 7.2 of the judgement of 3 December 2021 of the Constitutional Court in Case No 2021-12-03*).

22.2.1. The Applicants submit that the legal framework in the fur farming and keeping sector was sufficiently clear and stable, had existed for a sufficiently long time and, therefore, they had reasonably relied on its unchangeability. The *Saeima*, in its turn, considers that the Applicants could not reasonably and intelligently rely on the fact that the legal framework in the field of animal husbandry in Latvia would not be changed.

To determine whether the Applicants had a legitimate expectation, the Constitutional Court must assess whether their reliance on legal norms was lawful, justified and reasonable and whether the legal regulation was sufficiently definite and unchangeable in nature to be relied upon (*see Paragraph 13 of the judgment of 5 March 2021 of the Constitutional Court in Case No 2020-30-01*).

As has already been pointed out earlier in this judgment, the Applicants have been breeding and keeping minks and foxes for fur purposes for several years. In recent years, the most significant regulatory changes in this sector have been related to the need to control the spread of COVID-19. The legal framework concerning the right of the Applicants to engage in the mentioned commercial activities, in general, has been unchanged and has remained in force for a long period. The Applicants could therefore

trust it. The Applicants could have developed a legitimate expectation that they would be entitled to continue their long-standing commercial activities. Such reliance was both legitimate, justified and reasonable.

22.2.2. The principle of legitimate expectations does not exclude the possibility that an individual's rights, once acquired, may be subject to legal modification. That is to say, this principle does not provide a basis for believing that once a legal situation has been established, it will never change, but rather allows and, in certain circumstances, even requires the amendment of the existing legal framework. Otherwise, the State would not be able to adequately respond to the changing living conditions (*see Paragraph 22.2.1 of the judgment of 11 December 2020 of the Constitutional Court in Case No 2020-26-0106*). Concluding that the Applicants had acquired legitimate expectations, the Constitutional Court must examine whether the *Saeima* had ensured a reasonable balance between the Applicants' legitimate expectations and the public interests for which the contested norms were adopted (*cf. Paragraph 9 of the judgment of 3 December 2021 of the Constitutional Court in Case No 2021-12-03*).

In assessing whether a reasonable balance has been observed between the need to protect the individuals' legitimate expectations and safeguard the public interest, it should be considered whether a lenient transition to the new legal framework is envisaged. Such a lenient transition may take the form of establishing a reasonable transition period or providing for adequate compensation (*cf. Paragraph 18 of the judgment of 15 March 2010 of the Constitutional Court in Case No 2009-44-01 and Paragraph 16.2 of the judgment of 8 March 2017 in Case No 2016-07-01*).

The obligation to provide for a reasonable transition period is necessary primarily because a person has made commitments, plans for the future, etc., in reliance on a particular regulatory framework and the rights it contains. The transitional period is necessary to enable a person to reorient themselves to the procedure provided for in the new legal regulation (*cf. Paragraph 25 of the judgment of 26 November 2009 of the Constitutional Court in Case No 2009-08-01*).

22.3. According to the Applicants, the legislator should have provided for a longer transition period when deciding on a lenient transition. The closure of the industry of keeping and breeding fur animals will not result in the Applicants being able to reorient their business activities but only in the dissolution of their business activities. The Applicants state that the value of their fixed assets at the time of the winding-up of their

business activities would range from tens of thousands of euros to several million euros. The Applicants, considering the life cycle of minks (three years), have expected to generate this level of revenue. Moreover, the Applicants have made significant investments to improve their business activities and will not be able to recover them during the transition period. Five years is too short a timeframe to prevent the losses.

The *Saeima*, on the other hand, points out that the full fur production cycle for mink is 1.5 years, from birth to the slaughter of the kits at the end of their maturation period, in the first ten days of November. Knowing that from 1 January 2028, the breeding and keeping of fur animals for fur production will be prohibited, economic operators can prepare for this in advance by gradually reducing the breeding and purchase of animals and by disposing of all animals kept in fur farms for fur production within five years. The transition period is sufficient to allow economic operators to sell animals kept in fur farms for fur production until the entry into force of the ban, recover their investments in the business, reduce potential losses and prepare for business reorientation or liquidation.

Section 3 of the Law provides that the ban on breeding and keeping farmed animals where the sole or main purpose of breeding and keeping is fur production will enter into force on 1 January 2028.

As a result of the changes to the legal framework, the risk of some inconvenience or loss to those affected by the changes cannot be entirely excluded. In the case under review, the Constitutional Court has to assess whether the legislator, when deciding on a lenient transition to the new legal framework, has not acted arbitrarily, namely, whether rational and reasonable considerations have been taken and whether the negative consequences for the economic operators concerned have been mitigated as much as possible.

According to the materials of the meeting of the responsible commission on 11 January 2022, the original version of the bill provided that the ban on breeding and keeping fur animals would enter into force on 1 January 2026. At the same meeting, the Ministry of Agriculture was also of the opinion that, given the situation with the spread of COVID-19 in mink farms, the ban could come into force on 1 January 2024, which would give operators sufficient time to reorient and go full cycle, thus maximising the benefits of their commercial activities.

At the meetings of the responsible commission on 9 March and 26 April 2022, a longer transition period was discussed: until 31 December 2027 or 1 January 2032. It was argued that a five-year transition period was sufficient, among others, for the State to avoid having to pay compensation to economic operators whose commercial activity is the breeding and keeping of fur animals. The Commission, considering the experience of other EU Member States, supported the proposal for the ban to enter into force on 1 January 2028, arguing that this deadline was linked to the animal breeding cycle and the possibility for economic operators to reorient or cease their business activities.

At the meetings of the responsible commission on 11 January and 9 March 2022, the industry representatives expressed their opinion that they were not in favour of the closure of the sector and did not comment at all on the transition period; however, they stressed that the legislator should decide on the compensation to be paid to those economic operators who would be affected by the ban in question.

Therefore, the legislator has assessed the length of the transition period for the ban on breeding and keeping fur animals and decided to fix it until 1 January 2028. The legislator has considered the ability of the fur farmers to reorient or cease their business activities and the ability of the industries related to the fur farming sector to reorient and decide where the products sold by the fur farms will be traded in the future. It also takes into account the potential for fur farmers to make a profit from the sale of their fur animals by 1 January 2028, recover investments made and reduce potential losses, including by keeping in mind the practices of other countries. The legislator's decision was therefore not arbitrary and was based on rational and reasonable considerations.

22.4. The Applicants stress that the legislator, by fixing the transition period as provided for in Section 3 of the Law, should have decided on the granting of compensation.

The Constitutional Court recognises that the prohibition for the Applicants to engage in the breeding and keeping of fur animals from 1 January 2028 is to be assessed as a restriction of the right to property, and not as an expropriation of property. It does not follow from Section 105 of the Constitution that in the event of such restrictions being established, the legislator would be obliged to establish compensation (*cf. Paragraph 22.2.3 of the judgment of 21 December 2020 of the Constitutional Court in Case No 2020-26-0106*). The existence of compensation is linked to the duration of the transition period. If the transition period is long enough, there is no need to determine

additional compensation. However, if the transition period is not long enough to ensure a smooth transition to the new legal framework, the legislator should also decide on compensation.

This is also the position taken in the case law of the Court of Justice of the European Union, namely that, while it may be appropriate to grant partial or full compensation in appropriate cases, it cannot be concluded that there is an obligation under European Union law to grant such compensation (*see Paragraph 85 of the judgment of 10 July 2003 of the Court of Justice of the European Union in Case C-20/00 and C-64/00 Booker Aquaculture and Hydro Seafood and Paragraph 36 of the judgment of 27 January 2022 in Case C-238-20 Sātiņi-S*).

The legislator has assessed the possibility of granting compensation to fur farmers to ensure a smooth transition. At the meetings of the responsible commission on 9 March and 26 April 2022, the relevant proposals were discussed and various views were heard. However, the legislator decided that a five-year transition period would be established instead of compensation to ensure a lenient transition. Thus, the *Saeima* provided a mechanism to mitigate the effects of the restriction of rights.

Taking into account all the above, it is recognised that the public benefit from the restriction included in the contested norms outweighs the adverse consequences caused to the Applicants. Moreover, the legislator has balanced the public interest and the legitimate expectations of fur farmers by postponing the entry into force of the new regulation until 1 January 2028 in the transition provisions of the Law.

Consequently, the restriction of the Applicants' fundamental rights contained in the contested norms is proportionate and the contested norms comply with Section 1, the first and third sentences of Section 105 of the Constitution and Article 49 TFEU.

Substantive Part

Pursuant on Sections 30 to 32 of the Constitutional Court Law, the Constitutional Court

decided as follows:

To recognise that Sections 2 and 3 of the law of 22 September 2022 on “Amendments to the Animal Protection Law” comply with Section 1, the first and third sentences of Section 105 of the Constitution of the Republic of Latvia and Article 49 of the Treaty on the Functioning of the European Union.

The judgement is final and not subject to appeal.

The judgement shall enter into force as of the date of its delivery.

Chairperson of the court hearing

Aldis Laviņš