REPORT ON THE WORK OF THE **CONSTITUTIONAL COURT** OF THE REPUBLIC OF **LATVIA** 2022

Report on the work of the Constitutional Court in 2022.
Riga: Constitutional Court of the Republic of Latvia, 2023.
Riga: Satversmes tiesa, 2023. – 120 pp.

ISBN 978-9934-627-01-9

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INTRODUCTION

This report provides an overview of the Constitutional Court's work from 1 January 2022 to 31 December 2022.

A foreword by Aldis Laviņš, the President of the Constitutional Court, introduces the report. After this, the statistical indic ators of the performance of the Court are provided.

The second section of the report comprises information on the case-law of the Court. It contains, first of all, information on the development of case-law in the cases heard during the reporting period, as well as brief descriptions of those cases. The cases are divided into the following areas of law: fundamental rights, state law, tax and budget law, civil law and civil procedure, and criminal law and criminal procedure. Decisions of the Court to terminate court proceedings, as well as decisions of the panels of the Court on initiating or refusing to initiate a case are also examined here.

The third section of this report describes the dialogue of the Court with society and State institutions, as well as the dialogue of courts in the European judicial area and international cooperation. The speeches given by Sanita Osipova, the President of the Constitutional Court, and Dainis Īvāns, the First President of the Popular Front of Latvia, at the formal opening of the Court's Judicial year on 4 February 2022 have also been published. Finally, the report comprises a list of publications by the justices and staff of the Court, as well as key conclusions from these publications.

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FOREWORD

The year 2022 was extremely busy and dynamic, with the family of the Court taking the first steps in the second century of the fundamental law of our State, working hard on the cases under consideration, maintaining an active conversation with all constitutional organs of the Republic of Latvia as well as international cooperation partners, ensuring the continuity of the Court's work in energy-saving conditions, as well as engaging in constant communication with our colleagues at the Constitutional Court of Ukraine at a time when the Ukrainian people are fighting for freedom.

Throughout the year, we have celebrated the centenary of the Constitution of the Republic of Latvia (hereinafter – the Constitution) in various ways. To commemorate the occasion, the Court cooperated with the Bank of Latvia to design a silver coin, with Latvia Post to issue a unique stamp, and with the official gazette of the Republic of Latvia to create the educational film "Open the Constitution", which had a magnificent première at the *Splendid Palace* cinema. The anniversary events were crowned by the ambitious international conference of the Constitutional Court "Sustainability as a Constitutional Value: Future Challenges", which was attended by 132 judges and legal scholars from 30 countries. With this central topic, the conference celebrated the values permeating the fundamental law of the Republic of Latvia on the occasion of its centenary.

The Court continued to promote its openness to the Latvian society by reaching out to various groups through different activities and modern communication mechanisms. Justices and court employees worked to strengthen the dialogue between the court and society by becoming ambassadors of the Constitution in the educational campaign for schoolchildren "Me, You and the Constitution" and participating in the opening of the exhibition "Constitution 100 plus" at the Latvian National History Museum. In the tenth iteration of *Conversations On Latvia*, we tried to answer the question "Does the Constitution define the ideal Latvian society, which is still in the making?". More than a thousand people visited the Constitutional Court during the Night of Museums, and the Court opened a virtual tour of its history room on its 26th anniversary. The pupils' drawing and essay competitions have already become an annual tradition, while this year, for the first time, the Court cooperated with the Art Academy of Latvia to organise the plein-air "Story of the Constitution".

In 2022, two global crises converged into one major turbulence, and the root causes of both crises were not, i.e., economic, but related to other, unprecedented extremes in our lives. With the hostilities in Ukraine, the widespread difficulties in the energy sector and the challenges of managing the Covid-19 pandemic, we were faced with unprecedented choices in many areas and our country found itself facing new forms of threats to democracy, fundamental rights and the environment over a long period of time. In these extremely difficult times, every law enforcer, including the Court, was confronted with new challenges. It was these institutions that had the biggest impact on promoting confidence in the law and in the effectiveness of law enforcement mechanisms. In this respect, the specificity, independence and competence of the judiciary, which is very different from that of the other branches of government, have been crucial: the judiciary must ensure that the guarantees of

fundamental rights are upheld by both the legislature and the executive at all times, even amid national and global crisis.

It should be emphasised that also in this anniversary year of the Constitution, the main task of the Court remained unchanged: first and foremost, to deliver judgment by examining cases on compliance of laws and other regulations with the Constitution of the Republic of Latvia and protecting fundamental human rights of the people. In the previous year, Latvian society slowly recovered from the difficulties arising from the Covid-19 pandemic. Last year, cases concerning restrictions on the spread of infection were heard in all judicial institutions of our State, including the Court. In this respect, it would seem that the Court is currently specifying new standards of fundamental rights in its case-law, which are appropriate for the circumstances of crisis. However, it should be stressed that a crisis cannot impose other guarantees for the protection of fundamental rights or any reliefs for public authorities. In 2022, when examining "crisis cases", the Court came to a rather universal approach – at times of uncertainty which calls for immediate action on the part of the State, the legislator may, in case of doubt, choose from multiple possible regulatory alternatives the one which will ensure the protection of rights and interests of persons or society with a higher degree of probability (*Judgment of 10 March 2022 in Case No 2021 - 24 - 03*). However, this does not mean that the legislator is exempt from the obligation to identify and assess these alternatives.

In all cases, the fundamental rights standard must be upheld via an assessment of proportionality in relation to the graveness of the crisis. The context of all the circumstances of the matter at hand must always be given decisive weight. For example, in the so-called "distance learning case" examined in 2022 (*Judgment of 26 May 2022 in Case No 2021 - 33 - 0103*), the Court did not allow a narrow and formalistic view of the unprecedented circumstances: the mere fact that a state of emergency has not been declared in a State does not mean that urgent action of the State is not required to prevent threats to the health and well-being of individuals. On the one hand, the State must ensure that it fulfils its duty to protect people's health. On the other hand, the right to education imposes obligations on the State which must be fulfilled in the face of the spread of infection, regardless of national capacities, resources, the epidemiological situation, or other aspects. In such circumstances, expert and specialist advice and expertise have become even more important for the State. The person enforcing the law must, in turn, reach a fair decision by weighing the experts' observations in their totality and applying provisions of the law accordingly.

The Constitutional Court is increasing its focus on international visibility and reputation. Over the years, the family of the Court has carefully and continuously developed a tradition of international cooperation, convinced that it makes a significant contribution to the development of the rule of law in Latvia and worldwide. As a result, some historic milestones in the international cooperation of the Court have been achieved in 2022. In October, at the 5th Congress of the World Conference on Constitutional Justice in Bali, Indonesia, the Court was confirmed as a member of the Bureau of the World Conference on Constitutional Justice, where it will represent the interests of all the constitutional courts of Europe. The World Conference on Constitutional Justice is a strategic forum for promoting dialogue among constitutional courts worldwide. The mandate given to the Constitutional Court to represent the interests of all European constitutional courts in the Bureau of this organisation demonstrates confidence in the values that the Court upholds.

However, the Court being approved as a member of the Bureau of the World Conference on Constitutional Justice is no coincidence, as it has actively participated in international cooperation, both bilateral and multilateral, for many years, shaping the development of legal thought at the global level. Building experience in organising international events, the Court made an effort to address a wide variety of partners of the international community on the basis of the principle of equality, as well as to maintain long-term relations with many constitutional courts in Europe and the world. The Court organises its work to ensure constant communication with international organisations and courts, and regularly holds events in cooperation with the Court of Justice of the European Union

and the European Court of Human Rights. The international conference held in Riga in September also played a major role in promoting confidence in the Constitutional Court.

It is also important to emphasise the cohesiveness of the Court family and its ability to work as a team. During the course of the year 2022, the Court returned to hearing cases with a full bench of seven judges. The principle of collegiality not only effectively ensures the impartiality of the Court, but also contributes to its strength by working as a united team, in which the unique personality, specific knowledge and the vivid and unique experience of each justice and court employee play an important role.

To promote more efficient administration of justice, the Court worked on a daily basis to implement its strategic objectives. For example, the Constitutional Court Working Group on the Implementation of the Ecase worked hand-in-hand with the Ministry of Justice and the Judicial Administration throughout the year to prepare for the accession of the Constitutional Court to the ecase project, thus facilitating the accessibility of the Court to everyone. It should also be noted that sustainability is respected as an essential value both in the administration of justice as our primary task and in the management of the Court as an institution, including by striving to promote an environmentally friendly mindset. In 2022, the Constitutional Court continued to implement the green policy guidelines and to adapt its premises to ensure accessibility for people with disabilities. In support of Ukrainian children in Latvia, the Court also participated in the charity marathon "Dod pieci!".

Due to the pandemic, hearings with the participation of the parties were held remotely for two years. However, in 2022, the Court gradually switched to conducting public judicial proceedings first in a hybrid mode, and now in person, while retaining the skills acquired in using technology whenever it is objectively necessary for more efficient conduct of judicial proceedings and protection of fundamental rights. These changes are truly welcome.

Looking back on the work carried out during one of the most dynamic years in the history of the Court, we realise that it is in turbulent times that we demonstrate our true ability to act, to find strength and inspiration to move forward as one. While significant anniversaries do highlight the importance of our State's Constitution, it is in our daily routine that the Constitution serves as the legal basis inviting every citizen of Latvia to take active part in its governance and development. It teaches you to be responsible towards your fellow humans, the environment, and future generations. If the Constitution lives in its people, its longevity is guaranteed. Therefore, the task of the Court is to always stand in vigilant guard of the Constitution, both by giving everyone the opportunity to learn about the fundamental law of our State and to further strengthen the values enshrined in the Constitution by spreading word to those around them, and by defending the fundamental values and freedoms of every person in judicial proceedings.

Aldis Laviņš
President of the Constitutional Court

1 STATISTICS

In the period from 1 January 2022 to 31 December 2022, the Constitutional Court received 495 applications. Of these, 264 were either found to be clearly inadmissible or they were answered in accordance with the procedures laid down in the Freedom of Information Law. In the same period, 231 applications regarding the initiation of a case were submitted to the panels of the Court, and 44 cases were initiated.[1]

The largest number of cases, 33, were initiated on the basis of constitutional complaints from individuals. Three cases were initiated following applications from administrative courts. Five cases were initiated on the basis of applications by local government councils and three cases – on the basis of applications by no less than twenty members of the *Saeima*. Several cases were initiated on identical or similar points of law.[2]

During the reporting period, cases were most frequently initiated on compliance of legal provisions (acts) with Article 1 of the Constitution (12 cases), the principle of legal equality and the principle of non-discrimination enshrined in Article 91 of the Constitution (10 cases), the right to a fair court enshrined in Article 92 of the Constitution (18 cases) and the right to property enshrined in Article 105 of the Constitution (12 cases).

Cases have also been initiated on compliance of legal provisions (acts) with Articles 96, 101, 102, 106, 107, 109, 112, 114 and 115 of the Constitution, as well as with the European Charter of Local Self-Governments, the Law On Gambling and Lotteries, the Spatial Development Planning Law, the Law On Local Governments and the Law On Taxes and Fees.

The provisions challenged most frequently were those of the Criminal Procedure Law with slightly more than 50 applications, the provisions of the Civil Procedure Law with 13 applications, the provisions of the Covid-19 Infection Control Law with 11 applications and the provisions of the Cabinet Regulation of 28 September 2021 No 662, Epidemiological Security Measures to Control the Spread of Covid-19 Infection, with 10 applications.

During the reporting period, the Court examined 22 cases. Judgments were delivered in 18 cases, and decisions to terminate proceedings were delivered in four cases. The Court's opinions run to 895 pages.

In Case No 2022-01-01, the Constitutional Court adopted a decision on referral to the Court of Justice of the European Union for a preliminary ruling. The

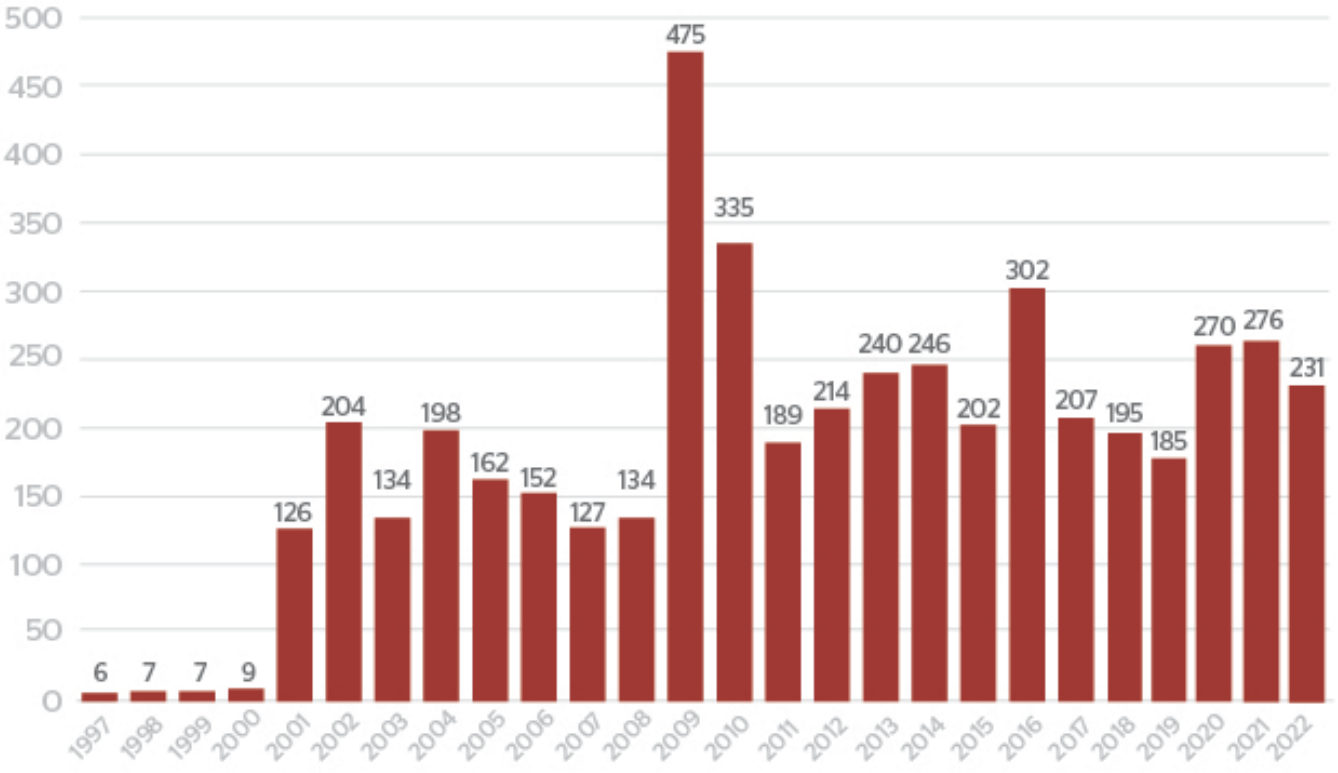
1 In 2021, 47 cases were initiated and 301 applications regarding the initiation of a case were referred to the panels.

2 Case No 2022-04-01, No 2022-07-01, No 2022-10-01, No 2022-12-01, No 2022-14-01, No 2022-15-01, No 2022-18-01, No 2022-21-01, No 2022-23-01, No 2022-24-01, No 2022-26-01, No 2022-27-01, No 2022-29-01, No 2022-30-01, No 2022-35-01, No 2022-37-01, No 2022-38-01, No 2022-39-01, No 2022-40-01, No 2022-42-01 and No 2022-43-01.

issues to be addressed in this case concern the scope of procedural safeguards in proceedings regarding criminally acquired property. Last year, the Court of Justice of the European Union adopted three preliminary rulings in relation to questions raised by the Court: in Case No 2019-28-0103 on the right of a natural gas user to connect to the natural gas transmission system, in Case No 2020-02-0306 on restrictions on advertising of medicinal products and Case No 2020-33-01 on the implementation of study programmes of private higher education institutions in the official language.

The judgments assess the constitutionality of 47 legal provisions.[3] In total, 16 legal provisions were declared compliant with the Constitution, and 26 legal provisions were declared to be non-compliant. The contested provisions were most often declared to be non-compliant with Article 105 of the Constitution (10 legal provisions), as well as with the first sentence of Article 92 of the Constitution (seven legal provisions). The Justices of the Court added 6 separate opinions to the judgments.[4]

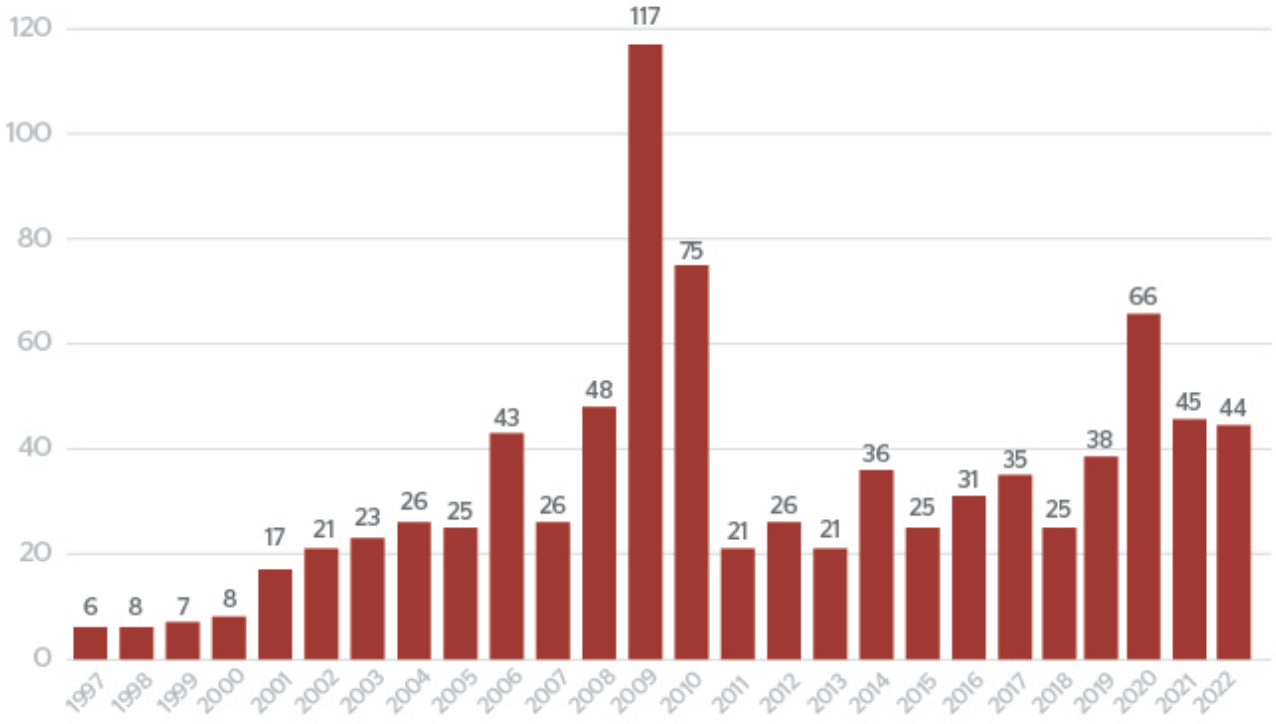
Number of applications received



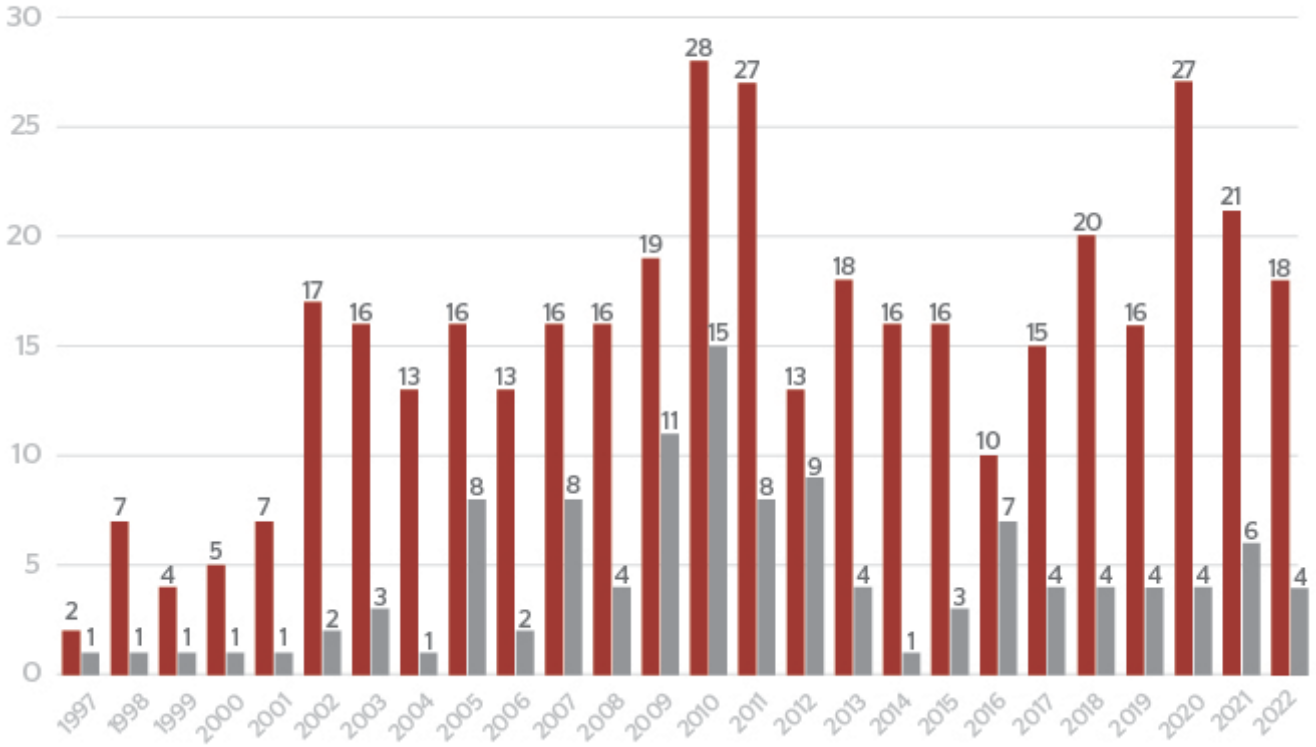
3 The proceedings in Case No 2021-33-0103 on compliance of Section 14, Clause 45 of the Education Law with Article 112 of the Constitution and the proceedings in Case No 2021-31-0103 on compliance of Section 31.[3,] Paragraphs one and three of the Electricity Market Law and Paragraph 21.3 of the Cabinet Regulation of 2 September 2020 No 560, Regulations Regarding the Generation of Electricity Using Renewable Energy Resources, and also the Procedures for Price Determination and Monitoring, and Annex 3 thereto with Article 1 and the first sentence of Article 105 of the Constitution were terminated.

4 Including the separate opinion of Artūrs Kučs, Justice of the Constitutional Court, of 12 January 2022 on the judgment in Case No 2021-09-01, adopted on 29 December 2021.

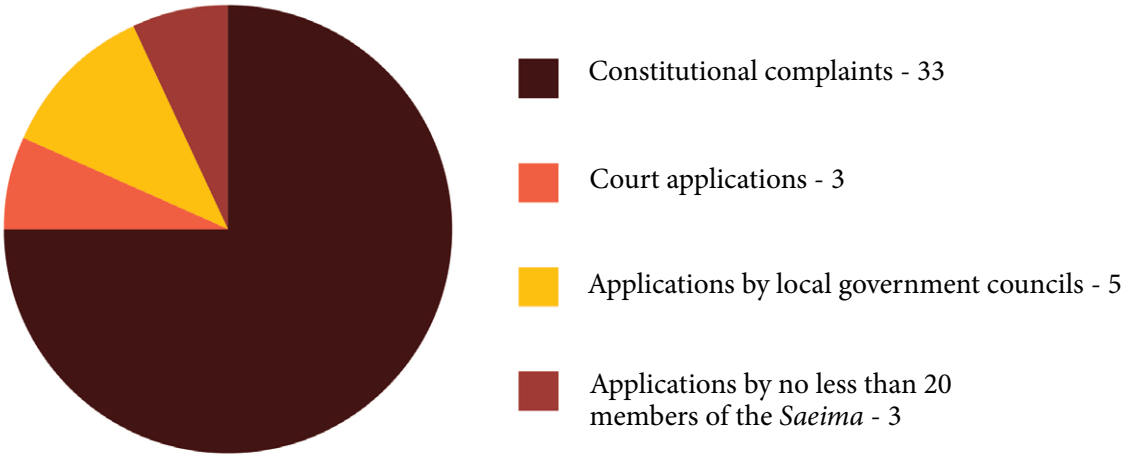
Number of cases initiated



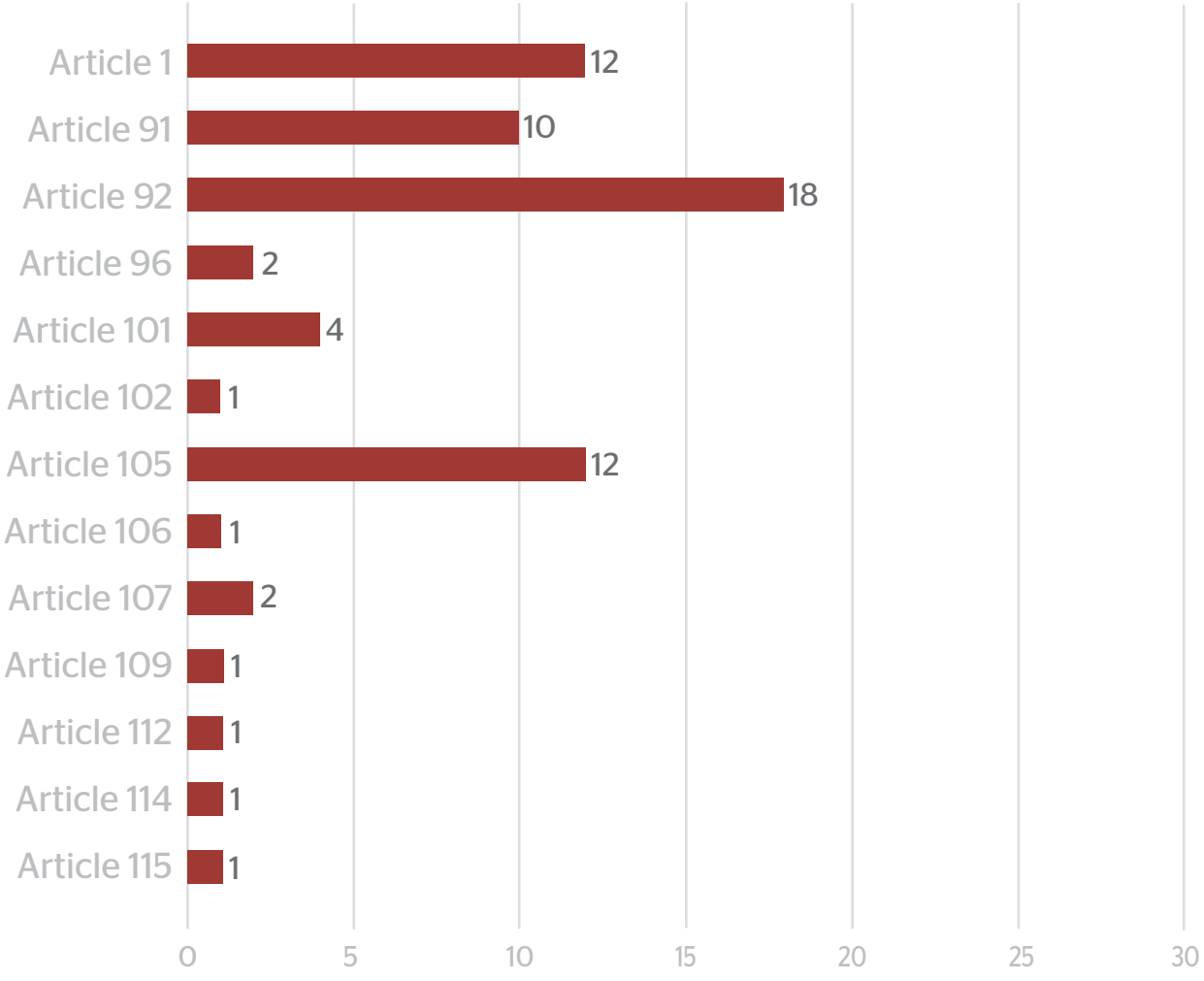
Number of cases examined
(judgments and decisions to terminate proceedings)



Number of cases initiated by type of application



Cases initiated by Article of the Constitution



2 CASE-LAW

2.1. FUNDAMENTAL RIGHTS

Principle of legal equality

During the reporting period, compliance of legal provisions with the principle of legal equality enshrined in the first sentence of Article 91 of the Constitution was assessed in four cases. In two cases, the above-mentioned principle was examined in conjunction with the right to property enshrined in Article 105 of the Constitution,[5] in one case – with the right to freely choose employment enshrined in Article 106 of the Constitution,[6] and in one case the compliance of the contested provision with the first sentence of Article 91 alone was assessed. Namely, in Case No 2021-36-01 on the allocation of state financing to political parties,[7] the Court held that a person may directly invoke the principle of legal equality to protect their rights and that the right to legal equality is an independent fundamental right protected by the Constitution. The Court thus expanded its previous case-law holding that the principle of legal equality generally is applied together with other fundamental rights.[8]

In Case No 2021-24-03 concerning restrictions on the operation of large shopping centres during the Covid-19 pandemic, the Court established a difference in treatment between stores in large shopping centres, to which separate external access could be provided, and stores in separate premises with the same access. The former could operate with the restrictions in force at the time of the emergency, while the latter had no such restrictions. The Court concluded that there is no legitimate aim in this difference in treatment, since the stores in question do not substantially differ in terms of the risk of spreading Covid-19 infection. In addition, large shopping centres were also compared with stand-alone stores of more than 7000 m2. In such stores, trade could take place in line with the epidemiological safety requirements, whereas trade was prohibited in large shopping centres, except for individual stores. The Court held that this difference in treatment also did not have a legitimate aim.

Case No 2021-27-01 on the education of construction engineers compared persons who had completed a first-level higher vocational qualification in construction engineering and wished to pursue an independent practice in: (1) engineering research; and (2) designing or expert examination. Without a second-level vocational higher education, persons could continue their independent practice in engineering research without a time limit, while in designing or expert examination – until 31 December 2020 at the latest. However, the legislator did not provide reasons why persons who have obtained a lower level of education than the second-level vocational higher education should be allowed to continue their independent practice in engineering research. In this case, the Court concluded that the different treatment did not have a legitimate aim.

Case No 2021-18-01 on confiscation of criminally acquired property[9] dealt with two groups of persons who have a claim against a credit institution in insolvency proceedings: (1) the State confiscating the proceeds of crime; and (2) creditors of the credit institution who have a claim against the credit institution in insolvency proceedings. The applicant considered that the State was a creditor on the same level as other creditors of the credit institution, therefore the State could not bypass other creditors by confiscating the criminally acquired property. However, the Court determined that rather than exercising its right of claim like any other creditor, the State acts as a subject entitled to expropriate criminally acquired property. Therefore, these groups of persons are not comparable in terms of the legal equality principle.

5 Case No 2021-24-03 and Case No 2021-18-01.

6 Case No 2021-27-01.

7 In Case No 2021-36-01, the Court recognised that national-level political parties were not comparable to regional-level political parties; therefore, the legislator had respected the principle of legal equality by providing for financing from the State budget only for national-level political parties. Information on this case is included in the "State law" section of this Report.

8 See, for example, Judgment of the Constitutional Court of 29 October 2010 in Case No 2010-17-01, paragraph 6.2.1.

9 Information on Case No 2021-18-01 is included in the "Criminal law and criminal proceedings" section of this Report.

In addition, the following groups of persons were also considered in Case No 2021-18-01: (1) creditors of a credit institution in insolvency proceedings; and (2) creditors of a credit institution that is not in insolvency proceedings. The applicant submitted that these groups of persons were in different circumstances, but that they were unjustifiably treated in the same way. In particular, if a credit institution has not been declared insolvent, the rights and possibilities of a creditor to obtain satisfaction of their claim do not depend on the fact that a deposit made by another creditor in the credit institution is recognised as criminally acquired property and confiscated for the benefit of the State. In insolvency proceedings, on the other hand, the ability of a credit institution's creditor to obtain satisfaction of their claims depends directly on the amount of the credit institution's property and the claims of other creditors. However, as the Court recognised, the groups of persons in question were alike both in terms of their status as a creditor and their right of claim against a credit institution. In turn, the ability of a credit institution to satisfy its creditors' claims depends mainly on the amount of property available thereto. The existence of insolvency proceedings is therefore not in itself a criterion that would place the groups of persons concerned in different circumstances.

It should be noted that last year the Constitutional Court published the bookazine "Latvijas Republikas Satversmes 91. pants: tiesiskās vienlīdzības princips. Satversmes tiesas judikatūra" [Article 91 of the Constitution of the Republic of Latvia: the Principle of Legal Equality. Case-law of the Constitutional Court]. It comprises a comprehensive collection of the Court's judgments that can be used to explore the essence of the principle of legal equality.

Right to a fair court

During the reporting period, four cases concerning the right to a fair court guaranteed by Article 92 of the Constitution were examined. All cases examined the contested provisions' compliance with the first sentence of Article 92 of the Constitution.

Case No 2021-25-03 dealt with the issue of the maximum amount of legal aid expenses to be reimbursed. The Constitution has examined matters related to the legal aid expenses twice before – in Case No 2010-11-01 on the right to receive reimbursement of legal aid expenses in administrative proceedings, as well as in Case No 2013-04-01 on the obligation to reimburse expenses only for legal aid provided by a person referred to in the Advocacy Law. The case examined last year is a significant addition to the established case law. The Court examined the right to receive qualified legal aid enshrined in the fourth sentence of Article 92 of the Constitution in conjunction with the right to access to court provided for in the first sentence of Article 92 of the Constitution. Access to court is ensured if a person has a sufficiently wide choice of legal aid providers and if the State has established a legal framework which, where the case is decided in their favour, provides for the reimbursement of legal aid costs in a reasonable amount. Moreover, in this case the Court recognised for the first time that the right to a fair court enshrined in Article 92 of the Constitution is a general principle of law.

The right of access to a court was also examined in Case No 2021-22-01 on the exemption of a private-law legal person from the obligation to pay a security deposit for submitting an ancillary complaint in civil proceedings.[10] Applying to a court is a way for a person to protect their rights and legitimate interests and to obtain justice, which is the ultimate aim of the legal system of a democratic state governed by the rule of law. The legislator is therefore obliged to ensure that any person who does not have sufficient financial means to pay a security deposit – including a legal person governed by private law – has access to a court during the appeal procedure. A legal person governed by private law may also find itself in financial difficulties, which would affect its ability to make various payments in connection with court proceedings.

The first sentence of Article 92 of the Constitution also includes the right to defence in criminal proceedings. These rights have been examined in two cases so far – Case No 2019-15-01 on the time limit for submitting a cassation complaint, as well as Case No 2021-38-01 on the time limit for submitting a notice of appeal.[11] Both cases, inter alia, emphasise that the defence counsel, i.e., the sworn advocate, plays a significant role in ensuring the right of defence in full. Case No 2021-38-01 states that, thanks to their professional knowledge, the defence counsel can assess the court's judgment more quickly to see whether there are grounds for an appeal and justify the respective complaint. Moreover, a sworn advocate must take into account that the particular complexity and volume, the procedural stage of the criminal case and the time limits determined may require certain adaptations and changes in how they organise their work. Neither the fact that the time limit for appeal against a judgment of a court of first instance includes weekends or public holidays, nor the fact that a sworn advocate may have other cases in their records besides particularly complex and voluminous criminal proceedings should adversely affect the way in which an advocate assists their clients in exercising their rights to defence.

Case No 2021-42-01 on access to the materials of operational activities[12] analyses one of the requirements that the right to a fair court imposes on the procedure of criminal proceedings, i.e. the principle of equal opportunities of the parties. It provides that every

10 Information on Case No 2021-22-01 is included in the "Civil law and civil proceedings" section of this Report.
11 Information on Case No 2021-38-01 is included in the "Criminal law and criminal proceedings" section of this Report.
12 Information on Case No 2021-42-01 is included in the "Criminal law and criminal proceedings" section of this Report.

party to proceedings should have adequate access to procedural remedies and that no party to proceedings should be unduly disadvantaged compared to other parties to those proceedings. This principle also applies to the right of access to evidence. However, as the Court pointed out, the right to familiarise with all evidence is not absolute – this right may be narrowed in cases relating to national security. However, there must also be certain safeguards in such cases. Therefore, where the defence is denied the right to familiarise with the materials of operational activities, the court must inspect them and provide a reasoned opinion on the admissibility of the evidence.

Prohibition of torture, cruel or degrading treatment
The Constitutional Court has so far examined two cases on compliance of the contested provisions with the prohibition of torture, cruel or degrading treatment provided for in the second sentence of Article 95 of the Constitution: Case No 2010-44-01 on the height of the wall separating sanitary facilities in temporary places of detention and Case No 2021-40-0103 on the provision of a pillow and towel to detainees which was heard during the reporting period.

Case No 2021-40-0103 comprehensively analysed the content and scope of the second sentence of Article 95 of the Constitution, explaining the terms "torture", "cruel treatment" and "degrading treatment", emphasising the absolute nature of the prohibition contained in the second sentence of Article 95 of the Constitution, and examining the relationship of this prohibition to human dignity. The case also touches upon the importance of quality sleep and body hygiene. The Court recognised that it was incompatible with human dignity and, consequently, with the second sentence of Article 95 of the Constitution that detainees were not provided with a pillow and a towel. In particular, the contested provisions stipulated that a mattress and a blanket (but not a pillow), as well as a toothbrush, toothpaste, toilet paper and toilet soap (but not a towel) are provided to detainees. The Court emphasised that since the adoption of the contested provisions, society has continued to develop, with a growing awareness of human dignity, and the State's financial resources have increased as well. Consequently, the legislator had grounds to reassess the conformity of the contested provisions with the actual situation to prevent treatment incompatible with human dignity.

Right to inviolability of private life
During the reporting period, one case concerning the right to inviolability of private life enshrined in Article 96 of the Constitution was examined. Case No 2022-09-01 assessed whether a legal provision requiring the data on acquitted persons to be stored in the database of the Punishment Register Archive is compatible with the right to the protection of personal data within the scope of the aforementioned right.

This case can be compared with the earlier Case No 2015-14-0103 concerning the storage of suspects' DNA profiles in the national DNA database. In the above-mentioned case, the Court recognised that storing a DNA profile was lawful as long as the person had the status of a suspect. In Case No 2022-09-01, however, the Court concluded that the storage of personal data of an acquitted person may be necessary to ensure the conduct of criminal proceedings if the acquittal or the decision to terminate criminal proceedings must be reconsidered due to newly discovered circumstances or due to a significant breach of material or procedural provisions of law. However, keeping the data of an acquitted person in the database of the Punishment Register Archive for 100 years from the date of birth or for one year after the death of the person is not proportionate. The Court also rejected the argument that such storage of data is necessary in order to enable the person themselves to obtain official confirmation of acquittal in criminal proceedings from the State information system. Individuals have the right to take decisions about their data, even if these decisions make it more difficult for them to exercise their rights afterwards. Accordingly, in the absence of another legitimate purpose for keeping the data, there is no reason for a state to store a substantial amount of personal data on the reservation that the data might at some point be useful to the individual. Such processing can only take place with the consent of the individual and should therefore no longer be regarded as a restriction of a fundamental right.

Right to return freely to Latvia
The right to return freely to Latvia enshrined in the second sentence of Article 98 of the Constitution has been examined in three cases so far – Case No 2004-15-0106 on the status of a Latvian non-citizen, Case No 2010-64-01 on change of legal status of a person, as well as in Case No 2021-10-03 on testing for Covid-19 before entry into Latvia by plane.[13]

Case No 2021-10-03 underlines the absolute nature of the right to return freely to Latvia – this right may not be restricted. Under this right, the state is prohibited from creating insurmountable obstacles that make it impossible to return to Latvia. However, the obligation to present a negative Covid-19 test result to an international passenger air carrier before entering Latvia is not such an insurmountable obstacle. It is only a burden that delays the person from entering Latvia in the way they prefer. The Court held that it is necessary to distinguish between the right of a person to return to Latvia and the person's wish and possibility to use a particular mode of transport for that purpose. No one has a subjective right to, for example, an air ticket.

Case No 2021-10-03 is also special in that it describes Latvian citizens as a whole, which is one of the constitutive elements of the Latvian State in the sense of international law and constitutes Latvia's national

13 Information on Case No 2021-10-03 is included in the "Decisions to terminate proceedings" section of this Report.

identity. The Court also concluded that both the right to leave Latvia freely and the right to return to Latvia are closely linked to the constitutional axiom contained in the first sentence of the Preamble to the Constitution: Latvia, as a democratic state governed by the rule of law, is based on human dignity and freedom. Determining one's location and place of residence is an expression of personal freedom and self-determination.

Right to freedom of expression

Case No 2021-34-01 on the invitation to abolish the national independence of the Republic of Latvia[14] is one of the few cases in which the Constitutional Court examined the right to freedom of expression enshrined in the first sentence of Article 100 of the Constitution. For example, Case No 2003-02-0106 on the right of commercial broadcasters to broadcast in a foreign language, Case No 2003-05-01 on criminal liability for defamation, as well as case No 2015-01-01 on placing the Latvian flag in front of residential buildings.

Case No 2021-34-01 describes freedom of expression as a value of a democratic state. The essence of democracy is its ability to solve problems through open debate, for which freedom of expression is crucial. However, freedom of expression does not mean permissiveness, so it comes with specific duties and responsibilities. For example, a democracy should not be afraid to debate even shocking and anti-democratic ideas. By contrast, certain acts preparatory to the overthrow of a government are criminal acts that are not covered by freedom of expression. Thus, the first sentence of Article 100 of the Constitution also includes the right to express views that challenge the existing state order – but only if these views are exercised by peaceful means. This is in line with the principle of defensive democracy. In particular, to guarantee the stability and effectiveness of its democratic system, a state may need to take specific measures of self-defence, including by criminalising offences against the state. Individuals have to be prepared to have some of their freedoms curtailed at times to ensure greater stability for the state as a whole.

Right to participate in the work of the State and local governments

During the reporting period, four cases were examined on compliance of legal provisions with the right to participate in the work of the State and local governments enshrined in Article 101 of the Constitution. Three cases concerned the rights of prisoners.

Case No 2021-32-0103 assessed whether the prohibition for an arrested person to use a personal computer to perform their duties as a local government councillor complied with the first part of Article 101 in conjunction with the first sentence of Article 106 of the Constitution. The Court agreed that the restriction was justified, as it was established in the public interest to prevent threats to order and safety, as well as to ensure the smooth course of criminal proceedings. The Court's reasoning thus differs from that expressed in Case No 2018-23-03 concerning the prohibition of a convicted person from using a personal computer for studies.[15] The Court stressed that the purpose of arrest as a precautionary measure is different from that of a custodial sentence. Therefore, a person under arrest is not comparable to a convicted person serving a sentence of deprivation of liberty.

Case No 2021-23-01 assessed whether the restriction for a person arrested outside the territory of the electoral district in which the person was registered to vote to elect a local government council was compatible with the first part and the first sentence of the second part of Article 101 of the Constitution. The Court pointed out that a citizen of Latvia who was subject to arrest as the security measure was a full citizen of Latvia within

14 Information on Case No 2021-34-01 is included in the "Decisions to terminate proceedings" section of this Report.

15 The Court recognised in Case No 2018-23-03 that the legal provision which does not provide for the right of the prison administration to decide on granting permission for a convicted person to use aids to continue their studies in order to acquire higher level education does not comply with Article 112 of the Constitution.

the meaning of the first sentence of Article 101 of the Constitution and had the right to participate in local government council elections. The State is obligated to make sure that every citizen is able to exercise their right to vote and participate in election of local government councils without unjustified restrictions. Consequently, the Court concluded that the restriction of fundamental rights established in the contested provisions does not have a legitimate aim. The Court had reached a similar conclusion earlier in Case No 2002-18-01 on the prohibition of an arrested person from participating in the parliamentary elections.

Case No 2021-43-01 assessed whether the prohibition for a person serving a sentence of deprivation of liberty to elect a local government council complied with the first sentence of the second part of Article 101 of the Constitution. The Court referred to the general principle of the right to vote, noting that it was essential that every citizen could exercise their right to vote without unjustified restrictions. Therefore, automatic exclusion of any group of society serving sentence at a place of deprivation of liberty from participating in local government elections contradicts the principle of universal suffrage. The *Saeima* had not indicated the legitimate aim of the restriction of fundamental rights provided for in the contested provision, and the Court also recognised that there was no such aim.

Case No 2021-41-01 assessed whether the prohibition for a person against whom criminal proceedings had been dismissed for non-exonerating reasons to stand as a candidate for the office of a judge was compatible with the first part of Article 101 in conjunction with the first sentence of Article 106 of the Constitution. Similarly to Case No 2020-50-01 on the prohibition for a convicted person to serve in the State Police, the Case No 2021-41-01 also emphasised the importance of public trust. The Court noted that values of importance to the individual and society such as ascertaining the truth, justice and freedom could be protected by judges who both performed their duties in accordance with the highest professional standards and enjoyed the trust of society. Public confidence in the courts is an element of a democratic state governed by the rule of law and of an open, just and harmonious society. The legislator therefore has not only the right but also the duty to ensure that every judge and the judiciary as a whole enjoys public confidence.

Right to property

The right to property enshrined in Article 105 of the Constitution is the fundamental right that was the subject of the largest number of cases last year.

Case No 2021-24-03 assessed the restrictions on the operation of large shopping centres during the Covid-19 pandemic. This was the second case on the impact of epidemiological safety measures on the right to property; the first was Case No 2020-26-0106 on restrictions on the organisation of gambling. In both cases, the Court examined whether the legislator had balanced the right to property and the right to health protection fairly. Case No 2021-24-03 concluded that the ability of all citizens to receive health care and thus to exercise their right to health depends on the proper functioning of the health care system. These rights apply directly to everyone and are an essential precondition for the exercise of all other fundamental rights. The Court also recognised that non-pharmaceutical measures – in particular measures that prevent people from congregating in certain high concentration areas, including shopping areas – are a way of significantly reducing the spread of SARS-CoV-2. Although commercial activities are important for the national economy to develop and disruption of commercial activities negatively impacts not only traders and owners of trading venues but the national economy as a whole, the legitimate interests of individual traders cannot be placed above the interests

of society. However, the Court also emphasised the legislator's duty to protect these interests by the most lenient means possible.

Case No 2021-31-0103 concerns the right to sell electricity under mandatory procurement. The Court recognised that, in the European Union, state aid in the energy sector was an important instrument for promoting a climate neutral policy and that the state had a wide margin of discretion in the implementation of such aid. However, the state must take into account the objectives for which the state aid was introduced in the first place, as well as the contribution of the technologies used to achieve climate objectives. In the present case, the contested provisions laid down requirements for biogas power plants to produce energy efficiently and to use thermal energy effectively. Although the contested provisions helped reduce electricity costs for end-consumers and promoted the efficient use of thermal energy, the State failed to take into account that the requirements laid down in those provisions may be impossible to meet for reasons beyond the control of electricity producers. Since the right to sell electricity under mandatory procurement depended on compliance with the requirements, the Court recognised that the contested provisions disproportionately restricted the property rights of electricity producers.

Case No 2021-06-01 assessed the procedure for determining the income of economic operators subject to personal income tax.[16] This case is remarkable in that it was the first time that the Court described a principle of tax law derived from the principles of fairness and legal equality – the objective net principle. It provides: to determine the income subject to personal income tax, there must be a possibility to deduct expenses related to economic activity. The legislator may provide for exceptions to this principle, including by using the presumptive method to determine taxable income. However, such a restriction on the right to property must be justified on objective and rational grounds aimed at ensuring the principles of fairness and legal equality. In the present case, the departure from the objective net principle was not justified.

Case No 2021-18-01 on confiscation of criminally acquired property[17] concluded that the essence of such confiscation is the compulsory expropriation of property without compensation to the State. However, confiscation of criminally acquired property cannot be assessed as compulsory expropriation of property provided for in the fourth sentence of Article 105 of the Constitution, but as a restriction of the right to property within the first three sentences of Article 105 of the Constitution. Moreover, a person's right to property is protected by the first three sentences of Article 105 of the Constitution insofar as that person is not the unlawful acquirer of criminally acquired property. In the present case, a credit institution in liquidation, where the funds deposited had been declared to be proceeds of crime and therefore confiscated, claimed that its fundamental right had been infringed. The Court recognised that the fundamental rights of the credit institution had not been infringed. The credit institution must transfer these funds to the State budget, while the obligation to repay the funds to the person who deposited them ceases to apply in the insolvency proceedings. Consequently, the confiscation of financial resources that would otherwise be due to a depositor or other creditor within the framework of the insolvency proceedings do not cause any adverse consequences for the credit institution specifically.

Case No 2019-28-0103 on the connection of natural gas users to the natural gas transmission system[18] dealt with the question whether the contested legal act which infringed the rights of a subsidiary also infringed the rights of the parent company. The Court noted that the scope of the right to property also included the right of a person to carry out commercial activity on the basis of a licence. However, the rights deriving from a licence or any other rights held by a capital company are generally vested in the person to whom the licence or rights are granted, and not in the members of the capital company as such. The Court also stressed that fundamental rights are, inter alia, based on personal autonomy – if a person is unwilling to defend their rights, others cannot defend their rights for them or impose such defence on them.

Right to freely choose employment

During the reporting period, three cases on the right to freely choose employment enshrined in Article 106 of the Constitution were examined – Case No 2021-27-01 on the education of construction engineers, Case No 2021-32-0103 on the prohibition of an arrested person from using a personal computer to perform their professional duties as a local government councillor and Case No 2021-41-01 on the prohibition of a person against whom criminal proceedings have been terminated for non-exonerating reasons from standing as a candidate for the office of a judge.

Case No 2021-27-01 elaborated on the essence of the right to freely choose one's employment, linking the virtue of work with freedom of occupation, self-preservation, self-development, and self-determination. The virtue of work, which is legally strengthened by freedom of employment enshrined in the first sentence of Article 106 of the Constitution, serves as the basis for the duty to take care of oneself, one's family and the common good of society. In addition to providing a living, work also enables people to express themselves as creative beings, building part of their identity and self-esteem through work. Employment is therefore

16 Information on Case No 2021-06-01 is included in the "Tax and Budget Law" section of this Report.

17 Information on Case No 2021-18-01 is included in the "Criminal law and criminal proceedings" section of this Report.

18 Information on Case No 2019-28-0103 is included in the "Decisions to terminate proceedings" section of this Report.

both a personal necessity and a personal freedom, and the two cannot be separated. At the same time, a person has the right not to choose a particular occupation or profession as a form of self-determination. The right to employment makes it possible for a person to achieve a certain level of income or social status, but by no means are they obliged to achieve such goals.

Case No 2021-32-0103 stated that the right to freely choose employment included the right to actually pursue that occupation. In other words, there would be no point in protecting a person's right to choose their employment if they could not pursue it because of restrictions imposed by the State. In the specific case, the Court held that the fundamental rights of a person had been restricted on reasonable grounds: although a local government councillor retains their powers even if they are detained, the computer equipment with access to the internet necessary to exercise those powers is denied to the detainee so that it cannot be used to carry out activities contrary to prison order or the aim of imprisonment.

In Case No 2021-41-01, the Court analysed the requirements for the office of a judge. These requirements are aimed at ensuring that only those persons who are considered to be a highly qualified lawyers with integrity and of good repute are appointed to the office of a judge. By the very nature of their work, judges are the guarantors of the rule of law in their State, and their conduct, even outside their professional duties, must be such as to maintain and enhance public confidence in the judiciary. Society expects a much higher standard of good repute in the case of a judge, and even in the case of many other professions of public importance, than in the case of the average member of society. This is because judges are entrusted by the State and society with the responsibility to ensure justice based on the rule of law for the rest of society, and also by the great power vested in them to make decisions about the lives of others as part of their duties. This means that the legal framework must ensure that only highly qualified lawyers with developed professional abilities and skills, an impeccable reputation and appropriate personal qualities can stand for the office of a judge. At the same time, however, the legislator must assess in which cases of terminating criminal proceedings for non-exonerating reasons the circumstances are such that a person may nevertheless become a candidate for judicial office without jeopardising public confidence in the judiciary.

Right to remuneration commensurate to the work done

The right to remuneration commensurate to the work performed, enshrined in Article 107 of the Constitution, was analysed last year in Case No 2022-08-01 on the non-determination of remuneration for an insolvency administrator (hereinafter also – administrator) if they are removed from insolvency proceedings. Previously, the remuneration of the administrator had been examined in Case No 2009-100-03 on the right to remuneration in case the debtor has no funds – however, in that case the compliance of the contested provision with the right to property established in Article 105 of the Constitution in conjunction with the principle of legitimate expectations was assessed.

In Case No 2022-08-01, the Court specified the scope of Article 107 of the Constitution by recognising that it also applied to administrators as self-employed persons. The legislator has involved in regulating the remuneration of administrators by providing for the procedures for determining and paying remuneration, as well as a control mechanism. Thus, the legislator has regulated the exercise of the fundamental rights enshrined in Article 107 of the Constitution.

The Court also assessed how to ensure that the administrator performs their duties efficiently and lawfully. This could seemingly be achieved by various means – both the denial of compensation in the event of certain infringements, as provided for in the contested provision, and other forms of legal liability. However, as the Court held, neither administrative liability, nor criminal liability, nor civil liability can be equated with a denial of compensation. In other words, none of the aforementioned forms of legal liability are capable of achieving the objectives for which the contested provision was adopted. The Court also stressed that substantial violations committed by an administrator are incompatible with the element of remuneration.

Right to education

Case No 2021-33-0103 on distance learning during the Covid-19 pandemic is the only case examined during the reporting period that dealt with the right to education guaranteed by Article 112 of the Constitution.

In this case, the Constitutional Court assessed the educational system's adaptation to a challenge such as the Covid-19 pandemic. The right to education entails the State's duty to develop a sustainable education system capable of adapting to changing circumstances. As part of this obligation, the Covid-19 pandemic introduced distance learning into the education system with the aim of enabling learners to continue their education while limiting the spread of infection and thus protecting human health.

The Court recognised that the quality of education may decrease due to distance learning. However, the possible reduction in the quality of education for a certain period of time after the Covid-19 pandemic did not mean in itself that the State had failed to act adequately to ensure the right to education. At the same time, the Court pointed out that distance learning requires a high level of digital literacy and professionalism on the part of educators, and methodological support from the State. In addition, the State has a duty to monitor the quality of education on an ongoing basis to detect possible changes therein. The Court also emphasised that Article 112 of the Constitution in conjunction with Article 91 of the Constitution inter alia, implied the State's obligation to ensure an education system that promotes equal access to education for all, including pupils from socially disadvantaged families. The State has a duty to provide all learners, regardless of their financial means or social status, with the necessary resources and technical equipment so that they can benefit equally from distance learning programmes at a time when educational institutions are closed due to the Covid-19 pandemic.

Case No 2021-23-01

About the case [in English]
Judgment [in English]
Press release [in English]
A Justice's video commentary [in Latvian]

On 30 March 2022, the Court adopted a judgment in Case No 2021-23-01 "On Compliance of Section 32, Paragraphs four and eight of the Law on the Election of Local Government Councils with Article 101 of the Constitution of the Republic of Latvia".

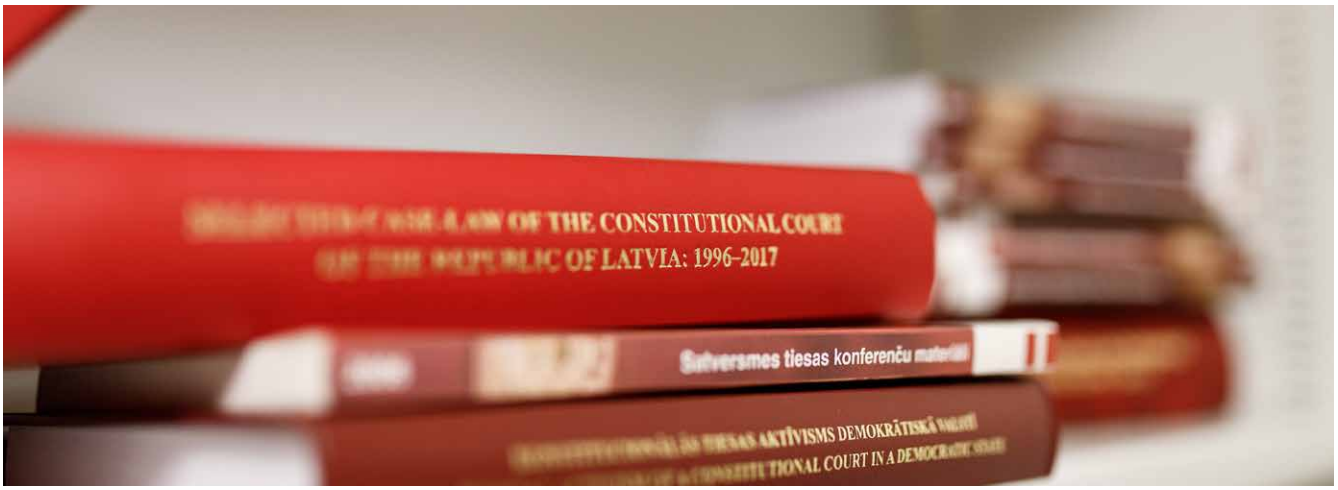
The case concerned the legal provisions restricting the right of persons subject to arrest to participate in local government elections.

The case was initiated on the basis of a constitutional complaint. It stated that at the time of the local government elections of 5 June 2021, the applicant was registered in the electoral roll of Ventspils State City and their electoral district was the local government of that State City. The applicant wished to vote in the elections of their local government, however, the contested provisions prevented them from doing so, since the applicant's location was outside the territory of the electoral district of Ventspils. Namely, the applicant was subject to arrest as a precautionary measure and during the elections they were detained in Riga Central Prison. The applicant considered that their right to participate in the local government elections had thus been unjustifiably restricted.

First, the Court recognised that the right to vote ensured representation of citizens in the activities of national and local governments, and it is one of the cornerstones of a democratic State. Every citizen's right to vote matters. Every citizen's vote is a sign of respect and civic responsibility towards their country. It is essential for every citizen to be able to exercise their right to vote, and the State has a duty to ensure that the right to participate in local government elections can be exercised without unjustified restrictions.

Second, the Court indicated that the contested provisions restricted the right of arrested persons to participate in local government elections if the actual location of those persons does not coincide with the territory of the electoral district in which those persons are registered on the electoral roll. Such a restriction of fundamental rights does not protect any important public interest. Since the restriction on fundamental rights established in the contested provisions did not have a legitimate aim, it did not comply with the first part and the first sentence of the second part of Article 101 of the Constitution.

At the same time, the Constitutional Court drew the legislator's attention to the fact that Section 32,



Paragraph four of the Law on the Election of Local Government Councils also restricted the right of persons to vote in the election of local government councils who, due to their health condition, cannot attend the polling stations. These persons may also vote in local government elections only if they are located in the territory of the electoral district in which they are registered on the electoral roll. Therefore, the *Saeima* needs to consider the constitutionality of the restriction of fundamental rights also in relation to these persons.

In a democratic State governed by the rule of law, a situation where the right of citizens to vote in local government council elections is restricted without a legitimate aim cannot be tolerated.

Case No 2021-24-03
About the case [in English]
Judgment [in English]
Press release [in English]
Press conference [in Latvian]

On 10 March 2022, the Court adopted a judgment in Case No 2021-24-03 "On Compliance of Paragraph 24.[18] of the Cabinet Regulation No 360 of 9 June 2020, Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection (in the wording in force from 7 April to 1 June 2021), with the first sentence of Article 91 and the first and third sentences of Article 105 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which stipulated that the operation of shops, except for shops of certain categories, was prohibited in a shopping centre with a total area of more than 7000 m^2 (hereinafter – large shopping centre).

The case was initiated on the basis of constitutional complaints submitted by three commercial companies. One of the applicants was a retailer of household goods in specialised stores. Its store was located in a large shopping centre with the possibility of separate external access, but the exceptions laid down in the contested provision did not apply to that store. The other applicants are owners of large shopping centres, which rent space to merchants and service providers. All the applicants considered that the contested provision unjustifiably restricted the right to property, as well as infringed the principle of legal equality.

First, the Court indicated that in the case under review, the legal regulation to be examined contained several wordings of the contested provision – the wording in force from 7 April to 9 April 2021 (contested provision 1), the wording in force from 10 April to 19 May 2021 (contested provision 2) and the wording in force from 20 May to 1 June 2021 (contested provision 3).

Second, the Court concluded that in terms of the risk of spreading Covid-19 infection, there was no significant difference between a store in a large shopping centre, which was separated from the common premises of the shopping centre and had a separate external access, and any other store located in separate premises and having a separate external access. Consequently, the legitimate aims of the restriction of the fundamental right contained in the contested provision 1 and the contested provision 2 could have been achieved equally effectively by a legal regulation which allowed those stores of large shopping centres which can be separated from the common areas of the shopping centre and to which a separate external access can be provided to continue operating. Thus, the contested provision 1 and the contested provision 2, in so far as they applied to the affected trader, were recognised as non-compliant with the first and third sentences of Article 105 and the first sentence of Article 91 of the Constitution.

Third, the Court recognised that the contested regulation interfered with the right of the owner of a large shopping centre to use the property at its own discretion. However, the contested regulation benefited society as a whole – it protected both people from getting sick and the healthcare system from being overburdened. Given the prevalence of the Covid-19

virus and the threat it posed to the health system, the legitimate interests of individual traders could not be placed above those of society as a whole. Consequently, the contested regulation, in so far as it applied to the owner of a large shopping centre, was declared to be compatible with the first and third sentences of Article 105 of the Constitution.

Finally, the Court noted that a large shopping centre was comparable in terms of size and, consequently, epidemiological safety, to stores in separate premises with an area of more than 7000 m^2 (hereinafter – a large store). At the time when the contested regulation was in force, trade could take place on the premises of a large store in compliance with epidemiological safety requirements. In contrast, the premises of a large shopping centre could not be used for trade, except for stores which were exempted under the contested regulation. The Court held that the different treatment provided for by the contested regulation did not have a legitimate aim. Consequently, the contested regulation, in so far as it applied to the owner of a large shopping centre, was declared to be compatible with the first sentence of Article 91 of the Constitution.

Where there is uncertainty and immediate actions from the State is required, the legislator may, in case of doubt, choose the regulatory alternative which is more likely to ensure the protection of the rights and interests of persons or of society. However, this does not mean that the legislator is exempt from the obligation to identify and assess these alternatives.

Case No 2021-25-03
About the case [in English]
Judgment [in English]
Press release [in English]
A Justice's video commentary [in Latvian]

On 25 March 2022, the Court adopted a judgment in Case No 2021-25-03 "On Compliance of Paragraphs 3, 4 and 5 of the Cabinet Regulation No 859 of 8 November 2011, Regulations Regarding the Maximum Amount of Legal Aid Expenses to be Reimbursed to a Natural Person (in the wording in force from 8 May 2015 to 9 April 2020), with the first sentence of Article 92 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions determining the maximum amount of legal aid expenses to be reimbursed to a natural person.

The case was initiated on the basis of a constitutional complaint. It stated that administrative offence proceedings were initiated against the applicant and a fine was imposed on them. To defend their rights, the applicant obtained legal aid from a sworn advocate. After unlawful conduct was established on part of the institution in the administrative case, the applicant turned to the institution and the court to receive reimbursement of the expenses related to legal aid. Although the legal aid expenses amounted to more than EUR 22,000, only EUR 421.86 were reimbursed under the contested provisions. The applicant held that the amount of compensation was disproportionately low and that the contested provisions were thus incompatible with the right to a fair trial.

First, the Court recognised that the obligation to regulate the reimbursement of legal aid expenses in an just manner derives from the first sentence of Article 92 of the Constitution. To ensure access to court and the right to qualified legal assistance, the legislator should establish a legal framework that ensures the possibility of obtaining reasonable reimbursement of the necessary expenses related to legal aid.

Second, the Court indicated that the Cabinet of Ministers had the discretion to determine the extent to which the expenses related to legal aid should be reimbursed. However, the legal framework must be such as to enable the legal practitioner to assess each individual case related to the reimbursement of legal aid expenses and, taking into account the objective justification for the necessary costs incurred in the case, to determine their reimbursement at a reasonable level. This would ensure a balance between the efficient use of public funds and a person›s right of access to court and to qualified legal aid.

Third, the Court stressed that in accordance with the principle of a State governed by the rule of law, the legal framework must be such that does not prevent a person from applying to court at all and does not create a situation where, after the court proceedings, the person finds themselves in a financially less favourable situation than before, provided that the expenses incurred by the person were objectively justified and necessary. The Court also added that the Cabinet is obliged to periodically reconsider whether the determined reimbursable amount is proportionate and still in line with social reality.

Taking into account the above, the Court concluded that the Cabinet had not established the legal regulation properly, providing for reimbursement of necessary expenses related to legal aid in a reasonable amount. Therefore, the contested provisions, insofar as they do not provide for the reimbursement of necessary expenses related to legal aid in a reasonable amount, are not compatible with the first sentence of Article 92 of the Constitution. At the same time, the Court recognised that not only the legal regulation in force from 8 May 2015 until 9 April 2020, but

also the regulation in force since 10 April 2020 was unconstitutional.

The right to reimbursement of reasonable legal expenses is an essential element of the right of access to court.

Case No 2021-27-01
About the case [in English]
Judgment [in Latvian]
Press release [in English]
Separate opinions [in Latvian]: 1; 2.

On 21 April 2022, the Court adopted a judgment in Case No 2021-27-01 "On Compliance of the First Sentence of Paragraph 4 of Transitional Provisions of the Construction Law with Article 1, the First Sentence of Article 91 and the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

The case concerned a legal provision requiring the acquisition of a second-level vocational higher education to obtain the right of independent practice in the field of construction in the profession of construction engineer.

The case was initiated on the basis of a constitutional complaint. It stated that some time ago, the applicant had obtained a certificate of construction practice and the right of independent practice in designing water supply and sewerage systems. However, the legislator subsequently provided that the right to independent practice in designing requires a second-level vocational higher education. However, it follows from the contested provision that the said education had to be obtained by 31 December 2020. Since the applicant had not complied with this requirement, they lost the right to independent practice. The applicant considered that their right to freely choose their occupation had thus been disproportionately restricted and the principle of legitimate expectation had been infringed. Moreover, the principle of legal equality had not been complied with, since in a comparable situation – in the case of engineering research – the right to pursue an independent practice with a first-level vocational higher education was provided for.

First, the Court recognised that, in accordance with the Preamble to the Constitution, everyone has the duty to take care of themselves, their family and the common good of society. This is based on the virtue of work as a person's ethical choice in relation to work, perception of work and awareness of the meaning of work in one's life. Virtue of work is legally strengthened by freedom of employment, which is enshrined in Article 106 of the Constitution. The Court also stressed that employment is an expression of self-preservation and self-development. Work is not just a way for people to earn their living; it also enables them to express themselves as creative beings, building part of their identity and self-esteem through work.

Second, the Court noted that the construction manager, the construction engineer and the construction expert were professions regulated in the field of construction. Designing, on the other hand, is one of the specialisations of these professions regulated in the construction sector, where it is possible to obtain the right of independent practice. This right allows a person to independently draw up the documents necessary for the implementation of a construction plan and to manage the work of persons who do not have this right. Therefore, the right of independent practice meant an additional right of a designer to work in their profession in a self-sufficient manner and, as a fundamental aspect of the profession, it should be separately protected.

Third, the Court established that under the contested provision, persons who have obtained the right to an independent practice in the field of construction in the profession of a construction engineer and who have acquired the first-level vocational higher education in the study programme of a construction engineer are entitled to continue their independent practice in engineering research without time limitation, but in design or building expert-examination – not longer than until 31 December 2020. Thus, to retain the right of independent practice in designing, persons must have completed a second-level vocational higher education qualification in specified study programmes within that time limit.

Fourth, the Court concluded that the acquisition of a second-level professional study programme could have positive impact on the work quality of construction specialists' – designers with the right to independent practice. Improving a person's level of education contributes to their ability to do their job well, thus ensuring respect for the rights of other individuals and the protection of public safety interests. These objectives cannot be achieved by other, more lenient means. Moreover, the transitional period provided for in the contested provision was sufficiently long for a person to have an actual chance to obtain the required education, provided that they actively used the opportunities provided and defended their rights. Thus, the contested provision complies with Article 1 and the first sentence of Article 106 of the Constitution.

At the same time the Court recognised that persons who had obtained a first-level higher vocational education and wished to pursue an independent practice in engineering research, designing or building expert-examination, were in equal and, according to certain criteria, comparable circumstances. However, the legislator has provided for a different treatment of these persons by stipulating that persons may pursue independent practice in engineering research, as opposed to designing and building expert-examination, with a first-level vocational higher education. This differential treatment does not have a legitimate aim

and therefore the contested provision does not comply with the first sentence of Article 91 of the Constitution.

Justice Artūrs Kučs of the Constitutional Court added his separate opinion to the judgment. The opinion pointed out that the legislator had failed to justify in accordance with the principle of good lawmaking why it would be necessary to oblige persons with a first-level vocational higher education and experience in the sector to obtain a second-level vocational higher education.

Justice Jānis Neimanis of the Constitutional Court added his separate opinion to the judgment as well. He indicated that the legislator has failed to justify that it was necessary to apply the restrictions provided for in the contested provision to persons with first-level vocational higher education.

Improving a person's level of education contributes to their ability to do their job well.

Case No 2021-31-0103
About the case [in English]
Judgment [in Latvian]
Press release [in Latvian]

On 27 October 2022, the Court delivered a judgment in Case No 2021-31-0103 "On Compliance of Section 31.[3], Paragraphs one and three of the Electricity Market Law, as well as Paragraphs 21.3, 28, 30, 31, 48.4 of the Cabinet Regulation No 560 of 2 September 2020, Regulations Regarding the Generation of Electricity Using Renewable Energy Resources, and also the Procedures for Price Determination and Monitoring, and Annex 3 thereto with Article 1 and the first sentence of Article 105 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions which, in the framework of the mandatory procurement of electricity, impose requirements on biogas power plants regarding the efficiency of energy production and the efficient use of thermal energy.

The case was initiated on the basis of a constitutional complaint. It stated that the applicants were merchants who had been granted the right to sell electricity produced by processing biogas under the mandatory procurement. The applicants were entitled to sell only the electricity which was recognised as being produced in co-generation within the framework of mandatory procurement. The actual overall efficiency of the power plant is calculated to determine this electricity. One of the calculation variables is the use of useful heat. By failing to achieve the efficiency indicator set out in the contested provisions, the applicants were forced to sell part of their electricity at a lower price. The applicants' failure to comply with the requirements on the efficient use of thermal energy results in a significant reduction of the applicants' revenues. Thus, the contested provisions disproportionately restrict the right to property and violate the principle of legitimate expectations.

First, the Court terminated the proceedings in the part concerning the constitutionality of Section 31.[3], Paragraph three of the Electricity Market Law, as well as Sub-paragraph 21.3 of and Annex 3 to the Cabinet Regulation No 560, as it did not establish that the applicants' fundamental rights had been infringed. However, proceedings in the part concerning the constitutionality of Section 31.[3], Paragraph one of the Electricity Market Law were terminated as the applicants had missed the deadline for filing their application. At the same time, the Court extended the claim and assessed the constitutionality of Sub-paragraph 21.6 of Cabinet Regulation No 560.

Second, the Court recognised that the ability of the present and future generations to live in a benevolent environment depended on the willingness of States to implement sustainable development by protecting the Earth's climate system, anticipating and preventing or neutralising the causes of climate change and mitigating their harmful effects. Energy efficiency, including the efficient use of heat, is one of the tools for achieving climate goals.

Third, the Court concluded that the contested provisions served the common interests of society as regards effective and targeted provision of State support to electricity producers using renewable energy sources without making the end consumers overpay for the electricity used. The contested provisions have encouraged electricity generators to diversify their business to continue receiving State aid. However, the applicants had not been able to achieve the overall energy efficiency for reasons beyond their control. Biogas production requires heat, which varies seasonally. Similarly, the energy value of biogas varies depending on the range of raw materials of biogas available to producers. The location of power plants can also affect their ability to attract heat consumers. The Court stressed that there are alternative means which would allow to consider the changing circumstances affecting the efficiency of energy production. Consequently, Sub-paragraph 21.6, Paragraphs 28, 30 and 31 of Cabinet Regulation No 560 disproportionately restrict the fundamental rights of persons and therefore were declared to be non-compliant with the first sentence of Article 105 of the Constitution.

Fourth, the Court noted that Sub-paragraph 48.4 of the Cabinet Regulation No 560 empowers the State Construction Control Bureau of Latvia to revoke the mandatory procurement right granted to a merchant if the producer does not ensure efficient use of heat energy. In cases where the legislator imposes requirements on producers, the relevant provision is designed to exclude dishonest and uneconomic producers from the mandatory procurement system. Therefore, Sub-paragraph 48.4 of Cabinet Regulation No 560 complies

with Article 1 and the first sentence of Article 105 of the Constitution.

Latvia is bound by greenhouse gas reduction targets, including in the field of agriculture. Biogas power plants play a key role in achieving these goals.

Case No 2021-32-0103
About the case [in English]
Judgment [in Latvian]
Press release [in English]
Separate opinion [in Latvian]

On 5 May 2022, the Court adopted a judgment in Case No 2021-32-0103 "On Compliance of Section 13, Paragraph One, Clause 10 of the Law on the Procedures for Holding under Arrest and Paragraph 10 of Annex 4 to Cabinet Regulation No 800 of 27 November 2007, Internal Rules of Conduct of Investigation Prison, With the First Sentence of Article 101 and the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

The case concerned the legal rules governing the items that may be possessed by an arrested person.

The case was initiated on the basis of a constitutional complaint. It stated that by a judgment of the court of first instance which had not entered into legal force, the Applicant had been sentenced, inter alia, to deprivation of liberty, and they were subject to arrest as security measure. While in custody, the applicant asked the Chief of the investigation prison for permission to use their personal computer equipment with internet access. This request was rejected, however, as the contested provisions did not provide for the right of the arrested person to use such an object. The applicant considered that the right to participate in the activities of the State and local governments and the right to freely choose an occupation had been infringed, since the prohibition to use computer equipment with access to the Internet prevented them from remotely performing the duties of a local government councillor.

First, the Court recognised that by prohibiting the use of personal computer equipment with access to the Internet, the contested provisions restricted the possibility of a local government councillor who was under arrest to participate in remote meetings of the City Council and its committees. In particular, they were restricted in their ability to speak, ask questions, obtain information and exercise their right to vote. This deprived the local government councillor of the most important rights related to participating in the work of the local government.

Second, the Court pointed out that the prohibition on an arrested person to use personal computer equipment with internet access was been established in the interests of society to prevent threats to order and safety, as well as to ensure smooth course of criminal proceedings. Before the criminal proceedings in a particular case are concluded, there is a possibility that the suspect or accused person could influence them, thereby jeopardising the interests of the criminal proceedings and the fair settlement of the criminal-law relationship.

Third, as the Court emphasised, providing the arrested person with computer equipment with access to the Internet would jeopardise the observance of the restrictions imposed on prisoners. Moreover, the time that the applicant would need to work with the computer equipment is not compatible with the arrest. In particular, being under arrest in investigation prison means that a person is obliged to observe, the same as other detainees, the daily routine and restrictions on the right to communicate established in investigation prison, but not the routine or working hours established by the local government council.

Taking into account both the fact that arrest, as well as restrictions on other rights resulting therefrom, are of a limited duration and the necessity of their application is reviewed on regular basis, as well as the fact that a local government councillor cannot fully exercise all of their rights and obligations while being in custody, the Court concluded that the adverse consequences that a person may suffer as a result of a restriction on fundamental rights enshrined in the contested provisions do not outweigh the overall benefit of society as. Thus, the contested provisions comply with the first sentence of Article 101 and the first sentence of Article 106 of the Constitution.

Justice Jānis Neimanis of the Constitutional Court added his separate opinion to the judgment. The Justice disagreed with the conclusion that the performance of the duties of a local government councillor fell within the scope of the fundamental right – the right to occupation – enshrined in Article 106 of the Constitution. The Court should have examined the compliance of the contested provisions with Article 101 of the Constitution only, assessing it not as a guarantee of fundamental rights of a person, but as a guarantee that a councillor of a local government may exercise the right entrusted to them to participate in the exercise of public authority.

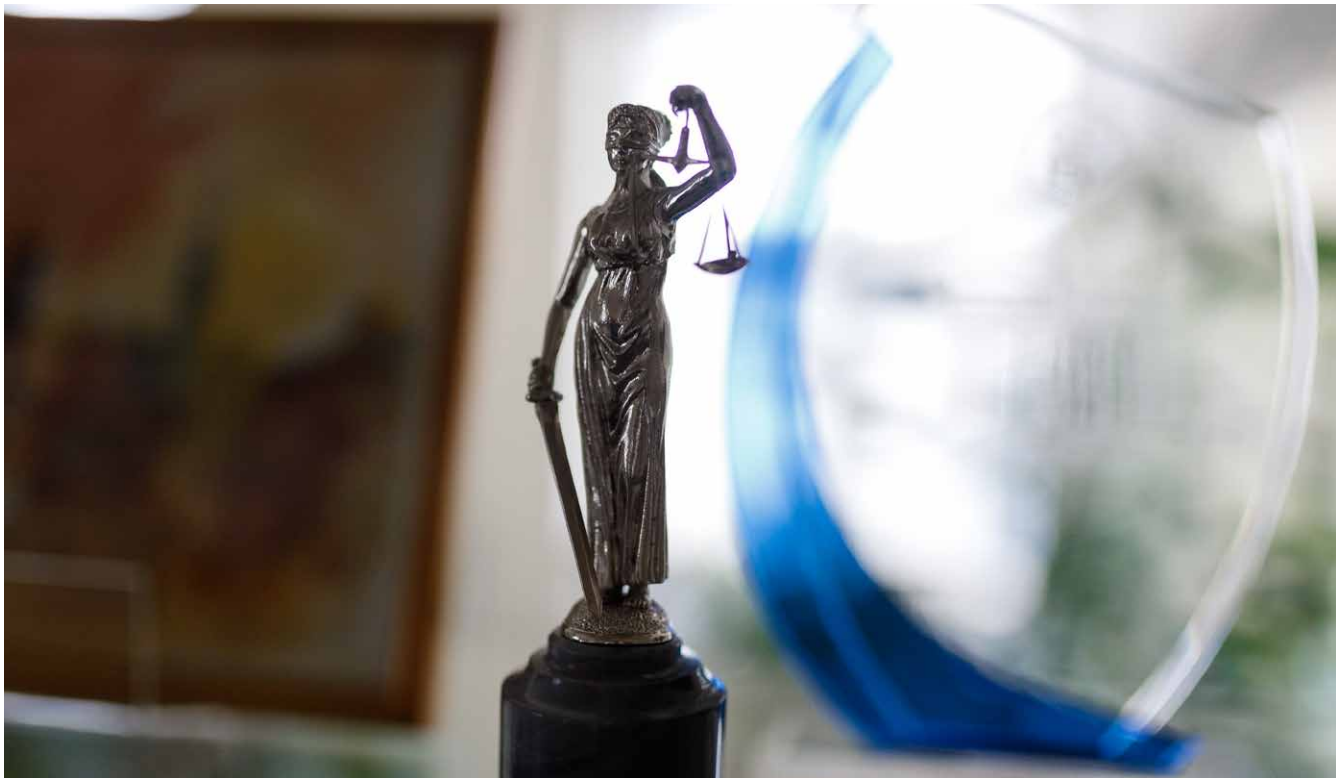
Placing a person under arrest implies various restrictions, which are both objective and inevitable by their very nature. Otherwise, it would defeat the purpose of arrest.

Case No 2021-33-0103
About the case [in English]
Judgment [in Latvian]
Press release [in English]
A Justice's video commentary [in Latvian]

On 26 May 2022, the Court adopted a Judgment in Case No 2021-33-0103 "On Compliance of Section 4, Paragraph One, Clause 8 of the Law on the Management of the Spread of Covid-19 Infection, Section 1, Clauses 1.[1] and 12.[4], Section 14, Clause 45 of the Education Law, as well as Sub-paragraph 27.1.3, Paragraph 32.[7], Sub-paragraph 2, and Paragraph 32.[7], Sub-paragraph 3 of the Cabinet Regulation No 360 of 9 June 2020, Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection, with Article 112 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions governing the organisation of the educational process during the spread of the Covid-19 infection.

The case was initiated on the basis of a constitutional complaint submitted by several pupils. The applicants indicated that the contested provisions required that general education be acquired by distance learning even after the end of the state of emergency declared in the country. Distance learning reduced the content of subjects, so students did not receive quality education. In addition, pupils were deprived of opportunities to communicate with each other, to practice sport and develop, including creatively. Closing educational establishments should be considered a last resort and should only be considered if there are no alternatives. However, when adopting the contested provisions, no



proper assessment of possible alternatives was carried out. This has led to disproportionate restrictions on the right to education.

First, the Court terminated the proceedings in the part concerning compliance of Section 14, Paragraph 45 of the Education Law with Article 112 of the Constitution of the Republic of Latvia, as this legal provision refers to the organisation of the education process after the end of the spread of the Covid-19 infection and was not applied to the applicants.

Second, the Court recognised that the education system must be flexible enough to respond to the challenges posed by the Covid-19 pandemic. On the one hand, the State must ensure that it fulfils its duty to protect people's health. On the other hand, the right to education imposes obligations on the State which must be fulfilled in the face of the spread of Covid-19 infection, regardless of national capacities, resources, the epidemiological situation, or other aspects. In particular, the State must ensure that everyone has access to education and curricula without discrimination; that the education programmes offered meet the objectives set out in international treaties on the right to education; and that mandatory primary education is guaranteed.

Third, the Court rejected the applicants' argument that the implementation of distance learning would be permissible only during a declared state of emergency. The absence of a national state of emergency does not mean that there are no longer significant threats to the health and well-being of individuals that require urgent action on the part of the State. By implementing distance learning, the legislator ensured the right to education at a time when the Covid-19 infection continued to spread rapidly, and the gathering of individuals could have posed a risk of uncontrolled spread of the infection.

Fourth, the Court concluded that information and communication technologies offered new opportunities to adapt the education system, ensuring its functioning in face of the new reality caused by the spread of the Covid-19 infection. The State was therefore obliged to provide all learners with the necessary resources and technical equipment to enable them to benefit equally from distance learning programmes, regardless of their financial means or social status. The Court also pointed to the need to consider the risks associated with access to internet resources, technical equipment and a suitable learning environment, as their inadequate provision creates a risk of discrimination between learners.

Finally, the Court emphasised that a reduction in the quality of education could be justified only by special circumstances, in the particular case – the consequences caused by the spread of the Covid-19 infection. At the same time, the Court added that the obligation to promote the child's right to education and to provide support to the child in the educational process is not only incumbent on the State, but also on the child's parents or other persons exercising guardianship over the child.

Taking into account the above, the Court concluded that the contested regulation, in so far as it concerns the organisation of the educational process during the period of the spread of the Covid-19 infection, complies with Article 112 of the Constitution.

Various exceptional circumstances, such as the Covid-19 pandemic, pose challenges to the State in terms of ensuring fundamental rights.

Case No 2021-40-0103
About the case [in English]
Judgment [in Latvian]
Press release [in English]

On 8 June 2022, the Court adopted a judgment in Case No 2021-40-0103 "On Compliance of Section 7, Paragraph four, Clause 2 of the Law on the Procedures for Holding the Detained Persons and Annex 4 to the Cabinet Regulation No. 38 of 10 January 2006, Regulations Regarding Nutritional Provision Norms and Provision Norms of Washing Products and Personal Hygiene Products for Persons Placed in a Short-term Place of Detention, With the Second Sentence of Article 95 of the Constitution of the Republic of Latvia".

The case concerned the legal framework which does not provide for a detainee to be given a pillow and a towel.

The case was initiated on the basis of an application by the Administrative District Court. It stated that the failure to provide detainees with a pillow and a towel violates the prohibition of cruel and degrading treatment.

First, the Court recognised that conditions in a place of deprivation of liberty (including a place of temporary detention) may be restrictive only to the extent that corresponds to the nature of the prison. These conditions must not be cruel or degrading, belittling or humiliating. In particular, they must respect human dignity. The Court also added that society's understanding of what constitutes human dignity is changing.

Secondly, the Court noted that quality sleep of sufficient duration was essential for every person. Correct positioning of the head and neck is an integral part of quality sleep. The pillow's main function during sleep is to support the cervical spine in a neutral position. While a few hours of sleep without a pillow would not be seen as cruel or degrading treatment in a typical case, several nights spent in such a state may cause health

problems and impair the well-being of the detainee. In addition, the absence of a pillow can cause not only physical suffering, but also mental suffering and a deep sense of resentment. Such circumstances in themselves function as part of the sentence, notwithstanding the presumption of innocence. This constitutes cruel and degrading treatment. Consequently, the contested provision of the Law, insofar as it does not provide for a pillow to be given to detained persons, does not comply with the second sentence of Article 95 of the Constitution.

Third, the Court emphasised that a truly humane environment was not possible without the possibility to keep one's body clean. Being stripped of the ability to wash exposes a person to humiliation and health risks, and can cause mental suffering and deep resentment. One of the tools you need to maintain your hygiene is a towel. The Court noted that the authorisation granted by the legislator did not prevent the Cabinet of Ministers from providing that detainees should also be given a towel; on the contrary, such action would be in line with the essence of that authorisation. The Cabinet of Ministers should assess for how long persons would be held in places of short-term detention and what is required to ensure that their stay complies with the principle of human dignity. Namely, the means necessary for hygiene must not be granted formally, treating the person receiving them as an object. By not ensuring that persons in temporary detention should be given a towel, the Cabinet of Ministers has infringed the prohibition of cruel and degrading treatment. Consequently, the contested regulation of the Cabinet Regulation, insofar as it does not provide for detained persons to be given a towel, is does not comply with the second sentence of Article 95 of the Constitution.

The prohibition of torture and inhuman or degrading treatment is a value of civilisation, closely linked to respect for human dignity.

Case No 2021-41-01
About the case [in English]
Judgment [in Latvian]
Press release [in Latvian]

On 15 December 2022, the Court adopted a judgment in Case No 2021-41-01 "On Compliance of Section 55, Clause 3 of the Law On Judicial Power with the First Part of Article 101 and the First Sentence of Article 106 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which prohibits a person against whom criminal proceedings have been terminated for non-exonerating reasons from being a candidate for the office of judge.

The case was initiated on the basis of a constitutional complaint. It indicated that the applicant wishes to become a candidate for the office of a judge, but is

not entitled to do so under the contested provision. In particular, the applicant was held criminally liable more than 20 years ago for a criminal offence committed through carelessness, but was released from criminal liability following a settlement with the victim. Since the release from criminal liability does not exonerate a person, the applicant is considered guilty of the committed criminal offence. The applicant is of opinion that the absolute prohibition provided for in the contested provision is disproportionate, since it is based on an unfounded notion that a person who once committed a criminal offence is incapable of change. Thus, the contested provision is incompatible with the right to perform civil service and the right to freely choose employment.

First, the Court recognised that all institutions exercising State authority, and in particular, the courts, must perform their functions in a way that promotes public confidence. Only when the judiciary and judges enjoy the confidence of the public is it possible to exercise the judicial function in full. Trust in the judiciary influences the willingness of individuals not only to seek judicial remedy, but also to comply with court decisions. The legislator therefore has not only the right but also the duty to ensure that every judge and the judiciary as a whole enjoys public confidence.
Second, the Court noted that a judge must ensure that their conduct is regarded by the public as impeccable, and such conduct and behaviour must justify trust in the integrity of the judge. If a judge condemns in a judgment what they do in private, they may lose public trust and thus affect society's confidence in the judiciary as a whole. This does not apply only to persons who have been appointed judges. Public confidence in the judiciary can also be negatively affected by the fact that a person who has previously committed a criminal offence becomes a judge.

Third, the Court emphasised that the fact that a person's attitude towards what they have done and their value system has changed over time does not necessarily mean that a person may be suitable for the office of a judge. If a person who has committed a criminal offence deliberately (intentionally) or whose actions have reached a high degree of harmfulness were to become a judge, a conflict could arise between being a guarantor of justice and having themselves committed an act incompatible with the office of a judge. In such a case, it is justified to prohibit the person concerned to become a candidate for the office of a judge in the future. The situation is different when the criminal proceedings against a person are terminated for non-exonerating reasons where the person is guilty of negligence. This, together with other considerations, such as the fact that the degree of harmfulness of the criminal offence committed by the person is sufficiently low and that a sufficient period of time has passed since its commission, makes it doubtful that, in any event, such a person becoming a candidate for the office of a judge would undermine public confidence in the judiciary.

Finally, the Court concluded that most of the situations to which the contested provision applied were indeed such that required the restriction provided for in that provision. However, the legislator's choice to prohibit in all cases the right to become a candidate for judicial office to any person against whom criminal proceedings have been terminated for non-exonerating reasons without taking into account other considerations, indicates that persons who would not jeopardise public trust in the judiciary and the democratic order of the State could also be excluded from the circle of candidates for the office of a judge. Thus, the contested provision does not comply with Article 101, Paragraph One, and the first sentence of Article 106 of the Constitution.

The conduct of judges, even outside of their professional duties, must be such as to maintain and enhance public confidence in the judiciary. As a result, judges must meet high standards of conduct in both their professional and private lives.

Case No 2021-43-01
About the case [in English]
Judgment [in English]
Press release [in English]

On 3 November 2022, the Court adopted a judgment in Case No 2021-43-01 "On Compliance of Section 6, Clause 2 of the Law on the Election of Local Government Councils with the First Sentence of Article 101, Paragraph Two of the Constitution of the Republic of Latvia".

The case concerned a legal provision preventing persons serving a sentence involving deprivation of liberty from participating in local government elections.

The case was initiated on the basis of a constitutional complaint. It states that the applicant is serving a prison sentence in Jēkabpils Prison. They had wished to vote in the local government elections of 5 June 2021, but the prison administration refused their request on the basis of the contested provision. The applicant held that the contested provision unjustifiably restricts the right to elect a local government, inter alia, because this restriction has no legitimate aim.

First, the Court recognised that the contested provision establishes a general and automatic restriction on the right to elect local government of persons serving a sentence in a place of deprivation of liberty. However, the contested provision does not take into account whether there is a detectable and sufficient link between restriction on suffrage and the criminal offence committed by the person in question, and the circumstances of the case. Moreover, a restriction on suffrage for every person serving a sentence in a prison

did not motivate the persons in questions to participate civically and reintegrate into society after their release. Such restriction on suffrage is also in contradiction with the aim of the criminal punishment to socially rehabilitate the punished person.

Second, the Court pointed out that the suffrage guaranteed by the first sentence of the second paragraph of Article 101 of the Constitution was decisive in establishing and maintaining such efficient, meaningful democratically elected institutions which are guided by the principles of the rule of law. Universal suffrage is a principle corroborated both in the legal system of Latvia and international law and implying that it is important for each citizen to be able to exercise their voting rights without unfounded restrictions. Automatic exclusion of any group of society serving a custodial sentence from participating in local government elections contradicts the principle of universal suffrage. Thus, it is not possible to establish that the general and automatic restriction of the fundamental rights of the persons serving a sentence related to deprivation of liberty would protect any significant and important interests of the society. Thus, the restriction of fundamental rights contained in the contested provision does not have a legitimate aim and it does not comply with the first sentence of the second part of Article 101 of the Constitution.

Any restrictions of the right to vote must be assessed in the context of democratic development of the State. The necessity for these restrictions must be considered on a regular basis, balancing them against the level of democratic development in society and the State at that particular moment.

Case No 2022-08-01
About the case [in English]
Judgment [in Latvian]
Press release [in English]

On 29 September 2022, the Court adopted a judgment in Case No 2022-08-01 "On Compliance of Section 169, Paragraph six of the Insolvency Law with Article 107 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which prohibits specifying remuneration for an insolvency administrator (hereinafter – administrator) if they are removed from insolvency proceedings of a legal person.

The case was initiated on the basis of a constitutional complaint. It states that the applicant acted for several years as administrator in insolvency proceedings of a legal person. The applicant was removed from these duties by a court decision. The Applicant pointed out that, in accordance with the contested provision, they had been completely deprived of the right to receive remuneration for the work performed in the insolvency proceedings in question. Thus, the right to remuneration enshrined in Article 107 of the Constitution was disproportionately restricted.

First, the Court recognised that an administrator must perform their duties efficiently and lawfully. This may be achieved by various means, one of which may be the denial of the benefit for which the person has chosen the relevant occupation and assumed the duties of the relevant office. By anticipating that they will be denied remuneration for certain misconduct, a person can predict the importance and impact of their conduct and avoid actions that may result in a violation. Thus the contested provision promotes prevention of serious violations by administrators. In this way, interests of the debtor and the creditors in particular insolvency proceedings are safeguarded, as is the public interest in a lawful and efficient insolvency process.

Second, the Court recognised that substantial violations committed by a person to whom the legislator had granted the broadest powers in order to restore the solvency of a commercial company in financial difficulties to the maximum extent possible and to cover the claims of creditors were incompatible with the element of remuneration. If even one insolvency proceeding were allowed to be conducted unlawfully without a proper response, the financial interests of the debtor and creditors would be irreparably harmed and public confidence in insolvency proceedings would be undermined. Putting the administrator's economic interests above other interests would create a sense of injustice in society.

In view of the above, the Court recognised that the contested provision was compatible with Article 107 of the Constitution.

Substantial violations in the conduct of an insolvency administrator are incompatible with the element of remuneration. Putting the administrator's economic interests above other interests would create a sense of injustice in society.

Case No 2022-09-01
About the case [in English]
Judgment [in Latvian]
Press release [in English]

On 22 December 2022, the Court adopted a judgment in Case No 2022-09-01 "On Compliance of Section 23, Clause 1 of the Punishment Register Law, insofar as it

Relates to Information on the Acquitted Person, with Article 96 of the Constitution of the Republic of Latvia".

The case concerned a legal provision providing for the storage of information on an acquitted person in the archive database of the Punishment Register.

The case was initiated on the basis of an application by the Administrative District Court. It indicated that according to the contested provision, information on an acquitted person is kept in the archive database of the Punishment Register throughout the person's life. The applicant submitted that such a legal framework disproportionately restricts the right to inviolability of private life, as it is not in line with the objectives determined for the establishment of the Punishment Register and the principles of processing personal data in the field of criminal law.

First, the Court recognised that storing personal data of a person acquitted in criminal proceedings in the archive database of the Punishment Register throughout their lifetime constituted processing of personal data and thus restricted the right to inviolability of private life. This restriction is primarily aimed at protecting public safety, as the data stored in the database may be used to decide whether to reopen criminal proceedings due to newly discovered circumstances or to reconsider rulings that have entered into force. The person can also use them to obtain official confirmation that they have been acquitted and to claim compensation for the harm they have suffered in criminal proceedings.

Second, the Court concluded that both of the above-mentioned objectives could be achieved by less restrictive means. Criminal proceedings can only be reopened due to newly discovered circumstances within the statute of limitations laid down in the Criminal Law, which in most cases is two to fifteen years from the day of committing the crime, depending on the seriousness of the crime. This means that storing the data of an acquitted person in the archive database of the Punishment Register for their lifetime results in the data being processed for much longer than necessary. However, the processing of the information in the database is not decisive for the purpose of applying for a review of a ruling which has entered into effect. Moreover, there is no reason for a State to store a substantial amount of personal data on the reservation that the data might be useful to the individual at some point in time. Individuals have the right to take decisions about their data, even if these decisions make it more difficult for them to exercise their rights afterwards.

Third, the Court established that the data on a person acquitted in criminal proceedings contained in the archive database of the Punishment Register were used by law enforcement authorities, for example, to put forward theories about the persons involved in the event, to establish the person's links with the criminal environment, to provide information on the person's reputation or to carry out an in-depth examination of personal data in the framework of operational activities. However, such actions against acquitted persons are impermissible because the authorities effectively presume the involvement of an innocent person in a criminal offence, despite the acquittal. The Court stressed that the presumption of innocence protects acquitted persons from being treated as if they were guilty by public officials and authorities.

Taking into account the above, the Court concluded that the restriction of fundamental rights included in the contested provision was not proportionate and the contested provision did not comply with Article 96 of the Constitution.

Individuals have the right to take decisions about their data, even if these decisions make it more difficult for them to exercise their rights afterwards.

2.2. STATE LAW (INSTITUTIONAL PART OF THE CONSTITUTION)

During the reporting period, the Constitutional Court examined one case on issues of State law – Case No 2021-36-01. It assessed whether the regulation of the Law on Financing of Political Organisations (Parties), which does not provide for granting State financing to regional parties, complies with the principle of legal equality included in the first sentence of Article 91 of the Constitution. Regional parties are the parties that only participate in local government elections.

The case law of the Court previously had not dealt with the financing of regional parties. Case No 2014-03-01, inter alia, in the light of the principle of legal equality enshrined in the first sentence of Article 91 of the Constitution, assessed whether associations of voters should be granted the same rights as political parties with regard to the right to participate in elections to local councils with a population exceeding 5000. In this case, the Court held that political parties are an important element of a democratic state and form a link between society and the State power, ensuring organised public participation in the political process. Political parties differ from other political organisations in that they make proposals to the electorate for a comprehensive model of society and are able to implement these proposals if they come to power. However, the legislator is not obliged to establish a legal framework for local government elections that would allow every citizen to choose their own procedure for exercising the passive right to vote beyond that already provided for by law.

The Court noted that legal equality belonged to fundamental rights and was derived from the general principle of justice, which is a fundamental value of a democratic state governed by the rule of law. The requirement of legal equality implies an obligation on the legislator to be reasonable and impartial in determining different legal situations.

The Court emphasised that political parties aiming to gain representation in the *Saeima* have different functions compared to regional political parties. Every citizen of Latvia can participate in determining the overall goals and development directions of the State by taking part in the elections of *Saeima*. This ensures the participation and involvement of civil society in public governance, as well as the opportunity to decide for the common good. Decisions taken at the national level, from the point of view of the overall national interest, are comprehensive, in contrast to those taken at the local level. This is why national-level political parties, which have won more than two per cent of the vote, have a better chance than regional political parties of representing the will of the sovereign for the common good of society. Regional political parties, on the other hand, are an important element of local governance and their functions are linked to the economic and commercial development of the local government.

Political parties operating at the national level which have managed to win the support of more than 2% of the electorate, and those operating at the regional level have different roles to play in sustainable policy-making and strengthening democracy. The functions of political parties at the national and regional levels are therefore different and cannot be compared.

The allocation of state funding to political organisations (political parties) is a legislative decision based on the fundamental principles of a democratic state governed by the rule of law. The legislator had weighed the objective differences between national and local government elections and, when exercising its discretion, had decided to grant State funding only to those political parties which participated in national elections and had won a certain number of votes. Such a decision cannot be considered biased or unreasonable.

Case No 2021-36-01
About the case [in English]
Judgment [in English]
Press release [in Latvian]

On 15 December 2022, the Court delivered the judgment in case No. 2021-36-01 "On Compliance of Section 7.[1] Paragraph one, Clause 2 of the Law on Financing of Political Organisations (Parties) with the First Sentence of Article 91 of the Constitution".

The case concerned a legal provision that provides for state budget funding of national-level political parties (i.e. those for which more than 2% of voters gave their votes in the last *Saeima* elections) and at the same time does not provide for funding of regional political parties (i.e. those that participate in local elections only).

The case was initiated on the basis of a constitutional complaint. It stated that the applicant is a political party that participated in the elections to the Talsi local government council and won several seats. However, according to the contested provision, no State budget funding was granted to the applicant, since it did not participate in the *Saeima* elections. Allegedly, such differential treatment is biased and lacks reasonable grounds and, therefore, is incompatible with the principle of legal equality.

First, the Court recognised that political parties were an important element of a democratic state and formed a link between society and State power, ensuring organised public participation in the political process. However, political parties are not obliged to participate in elections, as the activities of political parties are based on the principle of freedom of association enshrined in Article 102 of the Constitution. Political parties thus enjoy discretion as to whether they choose to participate in elections and at what level.

Second, the Court noted that national-level political parties and regional-level political parties had different functions in shaping sustainable politics and strengthening democracy. Decisions taken at national level are comprehensive, in contrast to those taken at local level. National-level political parties are therefore better placed than regional-level political parties to represent the will of the sovereign for the common good of society. Regional political parties, on the other hand, are an important element of local governance and their functions are linked to the economic and commercial development of the local government. The functions of these parties are therefore different and cannot be compared.

Third, the Court concluded that the legislator had weighed the objective differences between national and local government elections and, when exercising its discretion, had decided to grant State funding only to those political parties which participated in national elections and had won a certain number of votes. Such a decision cannot be considered biased or unreasonable. Therefore, the contested provision does not comply with the first sentence of the Article 91 of the Constitution.

If the legislator decides to grant financial support to political parties, it must do so on the basis of objective, fair and reasonable criteria.

2.3. TAX AND BUDGET LAW

During the reporting period, the Constitutional Court adopted two rulings which concern different aspects of tax law. Case No 2021-06-01 concerned the procedure for determining the income of performers of economic activity subject to personal income tax. Meanwhile, Case No 2020-24-01 concerned the imposition of value added tax on the compulsory lease of land.

In its judgment in Case No 2021-06-01, the Court drew special attention to the principle of fairness and legal equality when the legislator adopts legal regulation in the field of tax policy. The Court has previously held that a State has a wide margin of discretion when it comes to establishing and implementing its tax policy. In assessing whether a tax regulation is appropriate to achieve its legitimate aim, the court may primarily examine whether the regulation is based on objective and rational grounds.[19] However, in Case No 2021-06-01, the Court emphasised that, when adopting decisions in the field of taxation, the legislator's discretion must be exercised in a manner that complies with the general principles of law and other provisions of the Constitution, as well as ensures justice, which is the main objective of the legal system of a democratic state governed by the rule of law. The legislator has a duty to establish a tax system that is fair and respects the principle of legal equality and other general principles of law. This promotes taxpayers' trust in the State and in law, and contributes to the sustainable development of the State. Therefore, when assessing whether the solution chosen by the legislator is appropriate for achieving the legitimate aim of the fundamental rights restriction, the Court must also ascertain that the restriction of the right to property has been established on the basis of objective and rational considerations aimed at ensuring fairness and legal equality.

The Court has previously recognised in its case-law that ensuring tax revenue is directly related to a person's constitutional obligations towards the State of Latvia. These obligations are aimed at the sustainable implementation of the sovereign will: to live in a democratic state governed by the rule of law, enshrined in the fundamental provision of the Latvian State. Failure to fulfil such obligations undermines the existence of any democratic state governed by the rule of law.[20] In Case No 2021-06-01, the Court further emphasised that taxpayers are more inclined to pay taxes voluntarily when they are convinced that the tax policy is fair. Unfair tax legislation undermines taxpayers' confidence in the State and the law, and does not contribute to the fulfilment of a person's constitutional duty to pay taxes established in due procedure.

Case No 2020-24-01 is significant in that the Court referred questions to the Court of Justice of the European Union for a preliminary ruling while preparing for the examination thereof. Although the Court adopted a decision to terminate the proceedings in the course of its examination, the Court applied the interpretation of European Union legislation provided by the Court of Justice of the European Union in determining the scope of the right to property enshrined in the first, second and third sentences of Article 105 of the Constitution. In particular, it held that the legislator has the discretion to determine whether the letting of immovable property, including in the case of compulsory lease, is exempt from value added tax.

The decision on termination of proceedings in Case No 2020-24-01 also contains important findings on the obligation of the applicant of a constitutional complaint to exhaust all available general remedies before applying to the Court. The Court emphasised that in a situation where a person challenges the constitutionality of a provision of law adopted in the field of tax law on the ground that a particular taxable object should be exempt from tax and not on the ground that it has been calculated erroneously, the submission of an application before an administrative

19 Judgment of the Constitutional Court of 20 May 2011 in Case No 2010-70-01, paragraph 9, and Judgment of 3 July 2015 in Case No 2014-12-01, paragraphs 18.2 and 19.

20 Judgment of the Constitutional Court of 6 April 2021 in Case No 2020-31-01, paragraph 16.1.

court cannot be regarded as a possibility to defend their rights by means of general legal remedies. Moreover, in such a case, the proceedings before the court of general jurisdiction cannot be considered a general remedy within the meaning of Section 19.[2], Paragraph two of the Court Law, since the court of general jurisdiction has no competence to decide whether the compulsory lease of land is a service subject to value added tax.

Case No 2021-06-01
About the case [in English]
Judgment [in Latvian]
Press release [in English]

On 7 January 2022, the Court pronounced a judgment in Case No 2021-06-01 "On Compliance of Section 11, Paragraph 3.[1] and Section 11.[1], Paragraph 6.[1] of the Law On Personal Income Tax with Article 105 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions which stipulate the procedure for determining the income subject to personal income tax for performers of economic activity.

The case was initiated on the basis of an application submitted by the Ombudsman. It indicated that the performer of economic activity who has chosen to pay personal income tax for the income from the economic activity is obliged to pay the said tax even if the economic activity was carried out with losses. Such a regulation was said to be contrary to the economic nature of personal income tax and thus unfair. In particular, the legislator unjustifiably departed from the principle that only the income consisting of the difference between the income from economic activity and the expenses related to economic activity is subject to personal income tax. Thereby the contested provisions unjustifiably restrict the right to property.

First, the Court recognised that, in general, the Law On Personal Income Tax was established on the basis of the taxpayer's ability to pay the tax. The ability to pay taxes in the case of income tax is also assessed according to the objective net principle, which states that in order to determine the income subject to personal income tax, it must be possible to deduct expenses related to the economic activity. The amount of personal income tax is therefore based on actual income, so that the financial burden caused by the tax obligation is proportionate.

Second, the Court noted that the contested provisions established the income subject to personal income tax as a presumption. Therefore, the contested provisions allowed for a situation where the tax was payable even if no income was actually earned. Such application of presumption is a departure from the objective net principle. Since this principle derives from the demand for fairness and legal equality in the field of tax law, departure from this principle cannot be justified solely on the grounds of fiscal benefit to the State budget.

Third, the Court concluded that the departure from evaluating the taxpayer's actual ability to pay the tax, including departure from the objective net principle, was not justified. The restriction of the right to property contained in the contested provisions has not had the intended effect on the conduct of the performers of economic activity for whose benefit the contested provisions were adopted. Moreover, although the contested provisions are aimed at increasing tax revenues by reducing the possibility of avoiding paying personal income tax, they also affect performers of economic activity who have fulfilled their tax obligations in good faith. The Court also noted that the presumption underlying the contested provisions – 20 per cent commercial profitability – is an inaccurate indicator and does not reflect the ability of all performers of economic activity to pay the tax. Moreover, the application of the contested provisions leaves some performers of economic activity outside the scope of the risk analysis, even though the possibility remains that the business expenses they have indicated may not be fully attributable to their economic activity.

Taking into account the above, the Court recognised that the restriction of the right to property included in the contested provisions was not established on the basis of objective and rational considerations aimed at ensuring the principles of justice and legal equality and that, therefore, the means used by the legislator were not appropriate for achieving the legitimate aim of this restriction. Hence, the contested provisions do not comply with the first three sentences of Article 105 of the Constitution.

Justice Gunārs Kusiņš of the Constitutional Court appended his separate opinion to the judgment. He noted that according to the methodology of the proportionality test, the compliance of the contested provisions with the principle of fairness and legal equality should have been assessed at the third stage of the proportionality test by examining whether the legislator had achieved a fair balance between the interests of society and the individual.

Taxpayers are more inclined to pay taxes voluntarily when they are convinced that the tax policy is fair.

2.4. CIVIL LAW AND CIVIL PROCEDURE

During the reporting period, the Constitutional Court has rendered one judgment on an issue related to civil procedure. It contained a number of new insights into the legislator's obligation to ensure access to court for everyone – including legal persons governed by private law – in the process of appealing a court decision.

The case-law of the Court has already established that the situation where the right to a fair trial should depend only on a person's financial capabilities is unacceptable in a democratic state governed by the rule of law. The legislator must ensure that persons who do not have sufficient financial resources have the ability to defend their rights and legal interests before a fair court.[21]

Case No 2021-22-01 assessed the legal provision which did not provide for the right of a legal person governed by private law to request the court to decide on the exemption of that person from the obligation to pay a security deposit for the submitting an ancillary complaint in civil proceedings. The Court pointed out that the very nature of the right to a fair court requires that it can be exercised not only by a natural person but also by a legal person governed by private law. The Latvian legal system grants the status of a legal person to various legal entities – both those established for profit and those established for other, non-profit purposes. In addition, a legal person governed by private law established for profit, even though it has not been declared insolvent, may also find itself in financial difficulties. This may affect its ability to make various payments in connection with the court proceedings. The Court emphasised that the presumption that a legal person governed by private law is solvent is not, as such, sufficient to exclude an assessment of its ability to make the payment in order.

The Court recognised that, in accordance with the first sentence of Article 92 of the Constitution, the legislator was obliged to take necessary measures to ensure that a legal person governed by private law whose financial resources were insufficient to pay the security deposit for submitting an ancillary complaint also had access to an adequate appeal procedure against a court decision and could achieve a fair decision. If the legislator has failed to take measures that ensure access to a court for such a person in the procedure of appeal against a court decision, then the obligation enshrined in the first sentence of Article 92 of the Constitution has not been duly fulfilled. That is, this obligation has not been fulfilled in accordance with the general principles of law and other provisions of the Constitution.

Case No 2021-22-01
About the case [in English]
Judgment [in English]
Press release [in English]

On 23 February 2022, the Court adopted a judgment in Case No 2021-22-01 "On Compliance of the Second Sentence of Section 444.[1], Paragraph three of Civil Procedure Law (in the wording in force from 1 March 2018 to 19 April 2021) with the First Sentence of Article 92 of the Constitution of the Republic of Latvia".

The case assessed the legal provision which does not provide for the right of a legal person governed by private law to request the court to decide on its exemption from the obligation to pay a security deposit for submitting an ancillary complaint in civil proceedings.

The case was initiated on the basis of a constitutional complaint lodged by a limited liability company in liquidation. During the enforcement phase of the court decision, the applicant filed an ancillary complaint against the court decision granting the request of the acquirer of the immovable property to take possession of the acquired property. At the same time, the applicant requested to be released from the payment of the security deposit in the amount of EUR 70, as it did not have the necessary funds to pay the bail bond. However, the Court rejected this request, since the contested provision does not provide that a legal person

21 See Judgment of the Constitutional Court of 14 March 2006 in Case No 2005-18-01, paragraph 17, and Judgment of 20 April 2012 in Case No 2011-16-01, paragraph 15.

governed by private law in financial difficulties may be exempted from the obligation to pay a security deposit for submitting an ancillary complaint. The applicant holds that the right to a fair court is not ensured thereby.

First, the Court recognised that the right to a fair court implied the legislator's obligation to take the necessary measures to ensure, that a person who did not have sufficient financial resources had access to court in the procedure of appeal against a court decision (for example, by establishing a legal regulation that provides for full or partial exemption of such a person from the obligation to make a certain payment). At the same time, the Court underlined that the very nature of the right to a fair court requires that this right may be exercised not only by a natural person but also by a legal person governed by private law. The legislator is therefore obliged to ensure that the court is also accessible to a legal person governed by private law in the course of an appeal against a court decision, including in the case where it lacks the financial means to pay the security deposit for lodging an ancillary complaint.

Second, the Court noted that the fact that a legal person governed by private law cannot be exempted from the obligation to pay a security deposit for lodging an ancillary complaint by a court decision was based on the legislator's assumption that any legal person governed by private law, if it has not been declared insolvent, has sufficient financial resources to make this payment. However, there is no objective basis for such an assumption when it comes to exercising the right to a fair court. This can lead to a situation where a person is unable to exercise their right to a fair court and obtain a fair decision because they do not have the financial means to make the payment, which is unacceptable in a democratic state governed by the rule of law. It is possible that a legal person governed by private law had sufficient financial resources to pay the state duty for a statement of claim, but its financial situation has deteriorated during the proceedings to the extent that it no longer has the financial resources to pay the security deposit for lodging an ancillary application.

Third, the Court elaborated that the legislator was not expected to provide for a regulation according to which a legal person governed by private law should be exempted from the payment of a security deposit as soon as it claims to be in financial difficulties. Only objective circumstances duly established, including the financial situation of the person concerned which would make it impossible for them to pay security, may constitute grounds for the total or partial exemption of that person from the payment of the security deposit. The subject matter of the claim, the applicant's reasonable prospects of obtaining a favourable result, the effect of the payment requested on the person's right to effectively defend their rights may also be taken into account. The form of the respective legal person governed by private law and whether or not that legal person has a profit-making purpose may also be taken into account, as may the financial capacity of its members or shareholders and their ability to raise the sums necessary to pay the costs of litigation.

Taking into account the above, the Court concluded that the contested provision, in so far as it does not provide for the right of a legal person governed by private law to request that the court decide on its exemption from the obligation to pay a security deposit for submitting an ancillary complaint, does not comply with the first sentence of Article 92 of the Constitution. The Court also applied the conclusions contained in the judgment to the second sentence of Section 43.[1], Paragraph two of the Civil Procedure Law, which regulates in the same way the same legal relations that were once regulated by the contested provision.

The legislator has a duty to establish a legal framework in order to ensure access to court for any person, including a legal person governed by private law, who does not have sufficient financial means to pay the security for lodging an ancillary complaint during the appeal against a court decision.

2.5. CRIMINAL LAW AND CRIMINAL PROCEDURE

During the reporting period, the Constitutional Court adopted three important judgments in the area of criminal procedure and criminal law.

In Case No 2021-18-01, the Court assessed the interaction between the confiscation of criminally acquired property and the insolvency proceedings of a credit institution for the first time. In this case, the Court had to decide, inter alia, whether, in the case of confiscation of criminally acquired property, the State must take the place of a creditor in the insolvency proceedings and exercise its claim as a creditor, or whether the confiscation of criminally acquired property from an insolvent bank must be carried out as a matter of priority outside the insolvency proceedings. The Court made it very clear that if the criminal origin of the property is proven and it is concluded that it should be removed from civil legal circulation, the confiscation of such criminally acquired property has priority and must be carried out immediately, regardless of whether the credit institution is in insolvency proceedings. Otherwise, there is a risk that money laundering continues and the chain of laundering is not broken. The Court emphasised that the confiscation of criminally acquired property as compulsory expropriation without compensation into the State's ownership cannot be considered as the exercise of the State's right of claim as a creditor under the Credit Institution Law – in such a case the State is not exercising its right of claim like any other creditor, but is acting as a subject entitled to expropriate criminally acquired property.

The Court had already assessed in Case No 2019-15-01 whether the time limit for filing a cassation complaint in particularly complex and voluminous criminal proceedings complied with the right to a fair court. However, in Case No 2021-38-01 which was examined last year, the Court assessed the time limit for filing an appeal in such criminal proceedings. The Court held that the drafting and lodging of an appeal is part of the accused person's defence and the sufficiency of the time-limit for appeal must be assessed in conjunction with other balancing mechanisms in the legal system (including the availability of summary judgment, the possibility to lodge a supplementary appeal and the presence of a qualified lawyer – a sworn advocate). With regard to the role of a sworn advocate in criminal proceedings, the Court emphasised the obligation of the sworn advocate, firstly, to take into account the need to defend their client when deciding on how to organise their working time and, secondly, of advocates to cooperate with each other – including, if necessary, by engaging an advocate from another law firm to provide full legal assistance in particularly complex and extensive criminal proceedings.

In Case No 2021-42-01 on materials of operational activities, the Court developed the principle of equal opportunities of parties which had already been specified in its case-law.[22] In this case, the Court had to assess whether the principle of equal opportunities of parties was complied with by a provision of the Criminal Procedure Law which did not provide the accused with the right to familiarise with materials of operational activities which were not attached to the criminal case and which related to the object of evidence in this criminal case. The Court held that the right to familiarise with such materials was subject to the guarantees of equal opportunities of parties enshrined in the first sentence of Article 92 of the Constitution. However, in cases involving national security, derogations from the principle of equal opportunities of parties are permissible, insofar as such derogations are necessary and the safeguards protecting the accused person's right to a fair court are respected. When ascertaining whether the contested provision struck a fair balance between the principle of equal opportunities of the parties and the interests of national security, the Court concluded that procedural guarantees had been provided in criminal proceedings which sufficiently ensured the right of the defence to a fair trial in cases when the defence was denied access to certain materials. In particular, a judicial review

22 Previously, the Court assessed the principle of equal opportunities of parties in relation to the investigative secret (see Judgment of 23 May 2017 in Case No 2016-13-01) and in relation to access to official secret (see Judgment of 10 February 2017 in Case No 2016-06-01).

mechanism has been established, according to which the court is obliged to assess the merits of the specific information contained in the materials of operational activities with regard to the admissibility of evidence in criminal proceedings. Under this control mechanism, the court must ensure, first, that the factual information resulting from the operational activities has been lawfully obtained. Second, the court must examine whether the information obtained in this way unduly prejudices the accused person's right to a fair court in any other way. Third, the court must give a reasoned opinion on the access to the materials of the operational activity in which the objections of the parties to the admissibility of the evidence have been duly evaluated.

Case No 2021-18-01
About the case [in English]
Judgment [in English]
Press release [in English]
Press conference [in Latvian]

On 23 May 2022, the Court rendered a judgment in Case No 2021-18-01 "On the Compliance of Section 70.[11], Paragraph Four of the Criminal Law and Section 358, Paragraph One of the Criminal Procedure Law with the First Sentence of Article 91 and Article 105 of the Constitution of the Republic of Latvia".

The case concerned the legal provisions governing the confiscation of criminally acquired property.

The case was initiated on the basis of constitutional complaints lodged by a credit institution in liquidation (hereinafter – Bank) and its creditor. The applications pointed out that after the Bank was declared insolvent, the funds deposited in its accounts were declared to be criminally acquired property. As the deposited funds become the property of the credit institution at the time of deposit, confiscation of the funds declared as criminally acquired property reduces the amount of property belonging to the Bank. This in turn reduces the Bank's ability to satisfy a creditor's claim against the Bank. Moreover, the confiscation places the State, as a creditor of the Bank, in a more favourable position than other creditors. In other words, by transferring the confiscated funds to the State budget, the Bank's other creditors are "bypassed". Therefore, the contested provisions unjustifiably restrict the rights of the Bank and its creditor to property and do not comply with the principle of legal equality.

First, the Court recognised that the Bank had to transfer the funds recognised as proceeds of crime to the State budget. At the same time, however, insolvency proceedings imply that the Bank is no longer obliged to pay the funds to the person who deposited them. Consequently, the confiscation of financial resources that would otherwise be due to a depositor or other creditor of the Bank within the framework of the insolvency proceedings do not cause any adverse consequences specifically for the Bank. Since the confiscation of criminally acquired property does not directly affect the fundamental rights of the Bank, the proceedings in respect of the Bank's claim on the compatibility of the contested provisions with the Constitution were terminated.

Second, the Court pointed out that the creditor's right to recover the deposited financial resources within insolvency proceedings according to the rounds of satisfaction of creditors' claims does not entitle it to claim for the property recognised as criminally acquired. This is due to the fact that criminally acquired property is subject to confiscation and removal from civil legal circulation. Thus, the contested provisions which provide for the confiscation of the criminally acquired property do not cause direct negative consequences for the creditor of an insolvent credit institution, since the property, to the confiscation of which the creditor attributes the infringement of their fundamental rights, is criminally acquired and, therefore, must be removed from civil legal circulation. Consequently, the proceedings in respect of the claim of the Bank's creditor regarding compliance of the contested provisions with the first three sentences of Article 105 of the Constitution were terminated.

Third, the Court emphasised that the confiscation of criminally acquired property is different from the cases where the State exercises its right to claim in insolvency

proceedings, related, for example, to taxes and other payments to the State budget. Thus, rather than exercising its right of claim like any other creditor, the State acts as a subject entitled to expropriate criminally acquired property. Consequently, the groups of persons identified by the creditor of the Bank: the State, for the benefit of which the criminally acquired property is confiscated, and such creditors of the credit institution as the creditor of the Bank, who have right of claim against the credit institution subject to insolvency proceedings, are not comparable in terms of the principle of legal equality under the circumstances of the present case. The Court also rejected the argument that the contested provisions provide for unjustified equal treatment of creditors of a credit institution in different circumstances depending on whether the credit institution is in insolvency proceedings or not. Consequently, the Court held that the contested provisions comply with the principle of legal equality enshrined in the first sentence of Article 91 of the Constitution.

Confiscation of criminally acquired property is aimed at ensuring respect for the principle that crime does not bear fruit.

Case No 2021-38-01
About the case [in English]
Judgment [in Latvian]
Press release [in English]
Separate opinion [in Latvian]

On 14 April 2022, the Court adopted a judgment in Case No 2021-38-01 "On the Compliance of Section 529, Paragraph One, Clause 3.[1] and Section 550, Paragraph One of the Criminal Procedure Law with the First Sentence of Article 92 of the Constitution of the Republic of Latvia".

The case assessed whether provisions setting the time-limit for submitting an appeal in particularly complex and voluminous criminal proceedings are compatible with the Constitution.

The case was initiated on the basis of a constitutional complaint. It is noted therein that the applicant has the status of an accused in a criminal case. In line with the contested provisions, the time limit for appeal against a judgment of a court of first instance is 10 days, but in particularly complex and voluminous criminal proceedings the court may extend this time limit only up to 20 days. Although the applicant and their defence counsels had time to lodge an appeal within the 20-day time-limit, the applicant pointed out that such time-limit was not sufficient to prepare an appeal of decent quality. Thus, the contested provisions were said to disproportionately restrict the right to fair court.

First, the Court recognised that the accused person must be guaranteed the right to appeal against the judgment of the court of first instance within a time limit sufficient to exercise their right to defence. When assessing whether the period of time allocated is sufficient, inter alia, the following circumstances must be taken into account: procedural stage of the case; whether the person had the opportunity to follow the proceedings; whether the defendant himself conducted the defence or had an advocate; as well as other guarantees contained in the Criminal Procedure Law.

Second, participation of the defendant and their defence counsel in the proceedings before the court of first instance allows the accused to have an idea of both the circumstances of the case actually taken into account by the court and what violations of the law that court might have committed. The summary judgment also gives such an idea. This allows the defendant to prepare for drawing up and submitting an appeal in good time. Moreover, the right to defence before the court of appeal is also facilitated by the possibility to submit appeal supplements provided for in the Criminal Procedure Law. This allows the accused person to supplement their original arguments if, for some reason, the appeal could not be developed in full.

Third, the Court emphasised that a defence counsel plays a significant role in ensuring the right to defence. Thanks to their professional knowledge, the defence counsel can assess the court's judgment more quickly to see whether there are grounds for an appeal and justify the respective complaint. Moreover, the professional skills and experience of the defence counsel imply the assumption that they will organise their work during the proceedings in a way that allows them to prepare in advance for an appeal against the judgment, should that be necessary. The defence council must be aware that the particular complexity and volume, the procedural stage of the criminal case and the set time limits might require certain adaptations and changes in how they organise their work.

Fourth, the Court took into account that the Criminal Procedure Law also provides for a number of other guarantees to fully ensure the right to defence before the court of appeal. The accused has the opportunity to remedy an appeal which does not comply with the requirements of the law. During the appeal procedure, the parties to the criminal proceedings have the right to put forward new legal arguments to clarify their submissions or to submit new evidence. The court of appeal must take into account the facts of the case not mentioned in the appeal and their evaluation, if they cast doubt on the guilt of a person or on aggravating circumstances. The court of appeal must assess the content of the appeal on its merits, not just within the scope of the formal claims made in the part of claims.

Taking into account the competence of the court of appeal and its place within the criminal proceedings system, the need to balance the rights of the accused with the rights of other participants to the criminal proceedings and the public interests, as well as additional procedural

guarantees established by the Criminal Procedure Law in the court of appeal, the Court concluded that the contested provisions do ensure the right of the accused to appeal in particularly complex and voluminous criminal proceedings against the judgment of the court of first instance within a time limit sufficient to exercise the right to defence. Consequently, the contested provisions, in so far as they relate to the time-limit for lodging an appeal in particularly complex and voluminous criminal proceedings, comply with the first sentence of Article 92 of the Constitution.

Justice Artūrs Kučs of the Constitutional Court added his separate opinion to the judgment. He stated that the contested provisions do not ensure that the court may, in every instance of complex and voluminous criminal proceedings, including atypical cases, decide on a time limit for lodging an appeal which is fair and sufficient to prepare the defence.

The time limit for lodging an appeal must be such as to allow the person to appeal effectively against the decision of the court of first instance.

Case No 2021-42-01
About the case [in English]
Judgment [in English]
Press release [in English]

On 2 December 2022, the Court adopted a judgment in Case No 2021-42-01 "On Compliance of Section 500, Paragraph Six of the Criminal Procedure Law with Article 92 of the Constitution of the Republic of Latvia".

The case concerned a legal provision which does not provide the accused with the right to familiarise with the materials of operational activities not attached to the criminal case, which relate to the object of evidence.

The case was initiated on the basis of a constitutional complaint. It stated that in accordance with the contested provision the applicant was denied access to the materials of operational activities during the hearing of the criminal case, although the information obtained during the operational activities was used in the criminal case as evidence and the prosecutor was not denied the right to familiarise with these materials. The principle of equal opportunities of parties arising from the right to fair court has thus not been complied with.

First, the Court recognised that the right to a fair court does, inter alia, impose the principle of equal opportunities of parties on criminal proceedings. According to this principle, the parties have an equal right of access to the material relevant to the evidence. However, in cases involving national security, derogations from this principle are permissible, insofar as they are necessary and the safeguards protecting the accused person's right to a fair court are respected.

Second, the Court indicated that in certain cases, the information obtained in the course of operational activities, which is accessible to all participants in the proceedings, may be used as evidence in criminal proceedings. This information must be distinguished from the materials of operational activities, which contain information that serves only to substantiate the admissibility of evidence in a criminal case, and this information is accessible to the prosecutor and the court only. The prohibition on the defence to inspect the materials of operational activities is mainly due to the need to protect official secrets. Operational activity materials may contain both information on the subjects of the operational activity, the organisation, methodology and tactics of its activities, which constitutes official secret, as well as information on the identity of other persons who have cooperated with the subjects of operational activity and the fact of their cooperation. The disclosure of such details could irreversibly jeopardise the conduct of further operational activities, as well as the life, health and safety of the officials and third parties involved in the operational activities.

Third, the Court emphasised that criminal proceedings in which operational activities were carried out needed to ensure such a balancing of the rights and interests of the participants thereto that would achieve the objectives of both the criminal proceedings and the operational activity. The court can strike this balance by examining the operational material and ensuring that the evidence was obtained lawfully. The court must also ensure that the information contained in the operational activity materials does not unduly prejudice the accused's right to a fair court in any other way. Moreover, the court must formally state not only that it has read and evaluated the materials of operational activities, but must also deliver its own opinion, duly considering the objections of the parties to the proceedings as to the admissibility of the evidence and including the reasoned conclusions of the court.

Taking into account the above, the Court concluded that the legal regulation established by the contested provision, according to which the court must assess the materials of operational activities and include a relevant opinion in the ruling, is sufficient to ensure the right of a person to fair court. Therefore, the contested provision does not comply with the first sentence of the Article 92 of the Constitution.

A party's right to familiarise with all the evidence is not absolute – it may be narrowed in cases relating to national security. However, there must also be certain safeguards in such cases.

2.6. DECISIONS TO TERMINATE COURT PROCEEDINGS

In 2022, the Constitutional Court adopted four[23] decisions to terminate court proceedings: in Cases No 2019-28-0103, No 2020-24-01, No 2021-10-03 and No 2021-34-01.

In Case No 2021-10-03 concerning the Covid-19 test prior to entry into Latvia, the decision to terminate court proceedings was adopted on the basis of Section 29, Paragraph one, Clause 6 of the Constitutional Court Law, as it was not established that the applicant's right to return freely to Latvia enshrined in the second sentence of Article 98 of the Constitution had been infringed. A highlight of this case that improved the Court's case-law is the recognition that the right enshrined in the second sentence of Article 98 of the Constitution is absolute and that its infringement can be established only if the State has created such insurmountable obstacles that make the right of a Latvian citizen to freely return to Latvia impossible.

In Case No 2021-34-01 which dealt with an invitation to abolish the national independence of the Republic of Latvia, the decision to terminate court proceedings was adopted on the basis of Section 29, Paragraph one, Clause 6 of the Constitutional Court Law, as it was not established that the contested provisions infringed the fundamental rights of the applicant. A significant conclusion important for future application of the Criminal Law is that a person can be held criminally liable only for such a public invitation to abolish the national independence of the Republic of Latvia which poses a real threat to the interests of the State and society and encourages such an action that would realistically enable the aim of the invitation to be achieved.

In Case No 2020-24-01 on the obligation to pay value added tax from the land lease fee, the decision to terminate court proceedings was adopted on the basis of Section 29, Paragraph one, Clauses 3 and 6 of the Constitutional Court Law. The decision was based, first, on the fact that the applicants missed the deadline for applying to the Constitutional Court. Secondly, the contested provision does not entail the legal consequences referred to by the applicants and does not affect their right to legal equality.

In Case No 2019-28-0103 concerning the connection of natural gas users to the natural gas transmission system, the decision to terminate court proceedings was adopted on the basis of Section 29, Paragraph one, Clause 6 of the Constitutional Court Law. The decision was based on the grounds that the applicant's fundamental rights under Article 105 of the Constitution have not been infringed, since they had no rights within the scope of this Article with regard to the licence of the divested joint stock company in their ownership and the possibilities of its use, as well as the permanence of the value of their group.

Case No 2019-28-0103
About the case [in English]
Decision on termination of court proceedings [in Latvian]
Press release [in Latvian]

On 28 October 2022, the Court adopted a decision to terminate court proceedings in Case No 2019-28-0103 "On Compliance of the Decision of the Council of the Public Utilities Commission No 1/7 of 18 April 2019, Regulations on Connecting to the Natural Gas Transmission System for Biomethane Producers, Liquefied Natural Gas System Operators and Natural Gas Users, with Article 1, Article 64, Article 89 and the first sentence of Article 105 of the Constitution of the Republic of Latvia, as well as with Section 45, Paragraph Seven and Section 84.[1], Paragraph One of the Energy Law, and Compliance of Section 84.[1], Paragraph One of the Energy Law with Article 64 of the Constitution of the Republic of Latvia".

Case No 2019-28-0103 was initiated on the basis of a constitutional complaint filed by a legal person – joint stock company Latvijas Gāze. It indicated that the contested decision of the Council of the Public Utilities Commission allows any natural gas user to

23 This compares with seven decisions to terminate proceedings in the 2021 reporting period and four decisions to discontinue proceedings in the 2020 reporting period.

connect to the natural gas transmission system without the intermediation of the joint stock company Gaso, the natural gas distribution system operator wholly owned by the applicant. Thus, the applicant's right to carry out commercial activities in the field of natural gas distribution, acquired on the basis of a licence granted to JSC Gaso, part of the applicant's group, is allegedly restricted. As a result, the value of Gaso's shares was reduced, consequently affecting the value of the applicant's group.

In this case, the Court decided to refer questions to the Court of Justice of the European Union for a preliminary ruling. Accordingly, CJEU delivered a judgment in Case C290/20 Latvijas Gāze, concluding that the contested decision of the Council of the Public Utilities Commission did not infringe European Union law. CJEU held, inter alia, that Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC permits Member States to adopt legislation under which the transmission of natural gas includes the transmission of natural gas directly to the natural gas supply system of a final consumer.

The decision to terminate the proceedings stated that the scope of the right to property also includes, inter alia, a person's right to carry out commercial activities on the basis of a licence. However, this does not generally mean that other persons were prohibited from exercising these rights at the same time as the merchant in question. That is to say, the rights deriving from a licence or any other rights held by a capital company are vested in the person to whom the licence or rights are granted, and not in the members of the capital company as such. Otherwise, the rights to property would overlap, meaning that two or even more persons, i.e. both the capital company and its members, could claim that their rights are infringed by the same legal provision in the same factual situation. The rights of members are limited essentially to their general ability to influence the affairs of the capital company and to profit from that company.

In general, actions that are directed against a capital company but are not related to specific rights of the members do not constitute an infringement of the fundamental rights of the members. However, the fundamental rights of the sole member of a capital company may be considered infringed if the contested legal regulation is directed against the capital company. This approach is based on the assumption that, in the case of a single member, the views of the members, or of the member and the board, as to the existence of a fundamental rights infringement or the appropriate action necessary protect those rights, cannot differ. In such a case, distinction between the two subjects of fundamental rights would be too formalistic.

Both the applicant and Gaso have an interest in maximising Gaso's profits, which may have a corresponding impact on the applicant's profits. However, such a common interest is also characteristic of capital companies with several members and therefore does not allow the applicant and Gaso to be considered as a single subject of fundamental rights. Moreover, the fact that the management of Gaso is independent of the applicant and that Gaso itself had the means to defend its allegedly infringed rights precludes such a conclusion.

The Court also recognised that the right to property enshrined in Article 105 of the Constitution protected certain existing values against unjustified interference by the State power. However, the value of a group in itself is generally not permanent and unchanging, as it is affected by a variety of circumstances.

Consequently, the Court did not find that the fundamental rights of the applicant had been infringed and therefore recognised that it was not possible to continue the proceedings in the case.

Case No 2020-24-01
About the case [in English]
Decision on termination of court proceedings [in Latvian]
Press release [in English]

On 29 September 2022, the Court adopted a decision to terminate legal proceedings in Case No 2020-24-01 "On Compliance of Section 1, Clause 14, Sub-clause (c) of the Value Added Tax Law, Insofar as it Applies to the Leasing of Land in Cases of Compulsory Lease, with the First Sentence of Article 91 and the First, Second and Third Sentences of Article 105 of the Constitution of the Republic of Latvia".

Case No 2020-24-01 was initiated on the basis of a constitutional complaint by a legal person. Later, Case No 2021-39-01 was added to this case, which was also based on a constitutional complaint by a legal person.

In this case, the Court adopted a decision to refer questions to the Court of Justice of the European Union for a preliminary ruling. On 1 December 2021, the Court of Justice of the European Union issued an order in Case C-598/20. The order held that Article 135(1) (l) and (2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as permitting such a national legislation which excludes the letting of land on compulsory lease from the exemption from value added tax. This means that the State is entitled to adopt a legal framework under which the lease of land is subject to value added tax in the case of compulsory lease.

The decision to terminate court proceedings established that the applicants were registered in the State Revenue Service register of value added tax payers. They own land on which structures belonging to other persons are located, thus establishing a legal relationship of compulsory lease of land. According to the contested provision, compulsory lease relations are to be regarded as a service subject to value added tax. As the applicants were unable to reach an agreement with the owners of the structures on the compulsory lease fee for that land, they applied to the court for the recovery of the lease rent and the value added tax due thereon from the owners of the structures. The court dismissed the claim in the part of recovery of value added tax from the owners of the structures.

The applicants were of the opinion that they, as owners of land, cannot be obliged to pay value added tax on the remuneration for compulsory lease of land, since in such case the contested provision would significantly reduce the total income which the owner of the land gains from the lease of their own property. Such a procedure also violates the principle of legal equality, since persons who are not registered in the State Revenue Service register of value added tax payers are not obliged to pay value added tax on compulsory lease of land under comparable circumstances. Allegedly, there was no objective and reasonable basis for such a difference in treatment, and it is said to be disproportionate.

The *Saeima* indicated in its replies that the proceedings in the cases should be terminated for several reasons: first, the infringement of the applicants' right to property did not arise directly from the contested provision. Second, the applicants had not exercised all possibilities to defend their fundamental rights by means of general legal remedies. Third, the time-limit for lodging a constitutional complaint with the Court was also overdue.

The Court held that the first two observations of the *Saeima* were unfounded. In particular, the Court concluded that the contested provision is part of the

legal regulation which provides for the obligation to pay value added tax. It restricts the applicants' right to property, since it is precisely because of this provision that compulsory lease of land is regarded as a service subject to value added tax. Thereby the contested provision causes the applicants the infringement of the rights enshrined in the first, second and third sentences of Article 105 of the Constitution, as it reduces the income from land lease in the case of compulsory lease.

The contested provision is also mandatory in nature and unambiguously formulated. It does not allow exceptions and applicants are in a situation typical of its scope. In the present case, contesting or appealing against the decision of the State Revenue Service cannot be considered as an actual and effective remedy for a person to achieve that the compulsory lease of land is not subject to value added tax. Consequently, the lodging of an application before the administrative court in the present case did not constitute an opportunity to defend the applicant's rights by means of a general remedy.

However, the Court recognised that the argument of the *Saeima* that the applicants had missed the time-limit for filing a constitutional complaint was well-founded. In particular, the Court found that the proceedings before the courts of general jurisdiction dealt with the question whether value added tax was recoverable from the owners of the buildings in addition to the rent paid on land, and not with the question whether compulsory lease as a service was subject to value added tax. In particular, the courts of general jurisdiction did not have jurisdiction to decide whether the compulsory lease of land was a service subject to value added tax. The case file and the Court Information System evidenced that the applicants had provided services within the framework of compulsory land lease relations and were aware that the rent paid on land was subject to value added tax for more than six months before they applied to the Court. Therefore, the applicants had missed the deadline for submitting their constitutional complaints to the Court.

Taking into account the above, the Court terminated proceedings in the case in the part concerning compliance of the contested provision with the first, second and third sentences of Article 105 of the Constitution.

As regards the claim to assess compliance of the contested provision with the first sentence of Article 91 of the Constitution, the Court concluded that the contested provision did not entail legal consequences of the kind indicated by the applicants. In particular, the inclusion of value added tax in the land lease fee results from Section 34, Paragraph one and seven of the Value Added Tax Law and not from the contested provision. This provision therefore does not affect the applicants' right to legal equality. In addition, the decision also concluded that the value added tax was included in the land lease fee and thus the applicants had come within the scope of the contested provision more than six months before they applied to the Court.

Thus, the Court terminated the proceedings in the case also in the part concerning compliance of the contested provision with the first sentence of Article 91 of the Constitution.

Case No 2021-10-03
About the case [in English]
Decision on termination of court proceedings [in Latvian]
Press release [in Latvian]
A Justice's video commentary [in Latvian]

On 18 February 2022, the Court adopted a decision to terminate the proceedings in Case No 2021-10-03 "On Compliance of Paragraph 35.[3] of Cabinet Regulation No 360 of 9 June 2020, Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection, with the Second Sentence of Article 98 of the Constitution of the Republic of Latvia".

The case was initiated on the basis of a constitutional complaint. It indicated that the contested provision

of the Cabinet Regulation was incompatible with the second sentence of Article 98 of the Constitution because it denies the applicant the right to freely enter Latvia without having undergone a Covid-19 test abroad, which they were unable to do due to the high costs of such a test. Thus, the Applicant's right to return to Latvia, enshrined in the second sentence of Section 98 of the Constitution was restricted.

In its reply, the Cabinet of Ministers stated that the contested provision was adopted to limit the spread of the Covid-19 infection in Latvia and to prevent unpredictability in the field of international passenger transport at the same time. Moreover, Latvian nationals and permanent residents of the European Union with a residence permit in Latvia who tested positive in the Covid-19 test were not restricted from entering the territory of Latvia when travelling in a non-commercial means of transport.

The Court found that the contested provision was no longer in force. At the same time, it noted that, in light of the materials of the case under consideration, the continuation of the proceedings was necessary, inter alia, because it related to citizenship – a person's legal connection with Latvia. One of the manifestations of this link is the right of a Latvian citizen to return to Latvia, which is a fundamental issue of constitutional law. Moreover, in a situation where the Covid-19 pandemic continued even after the contested provision had already expired, the issue of imposing restrictions on the entry of citizens into Latvia remains relevant. Consequently, the Court held that changes in the legal regulation contained in the contested provision were not in themselves sufficient grounds to terminate the proceedings in the case.

In clarifying the content of the second sentence of Article 98 of the Constitution, the Court noted that the right to return freely to Latvia applied, inter alia, to the body of its citizens attached to the territory of Latvia. The will of the people to live in a democratic state governed by the rule of law can only be exercised within a defined geographical area. Only in this territory – the territory of Latvia – can Latvian citizens live and fully enjoy the rights enshrined in the Constitution. Taking into account the above and Latvia's international human rights obligations, the Court concluded that the right of Latvian citizens to freely return to Latvia is absolute and may not be restricted.

The court also emphasised that there are different ways for a Latvian national to return to Latvia: by crossing a land border or entering via a port, airport, train station or other means. However, it is necessary to distinguish between a person's right to return to Latvia and a person's willingness and ability to use a particular mode of transport for that purpose, and to bear in mind that no one has a subjective right to, for example, an air flight. A Latvian citizen's right to return freely to Latvia is restricted only if the state has created insurmountable obstacles that make return to Latvia impossible.

The Court concluded that Latvian citizens who entered Latvia in a non-commercial vehicle and tested positive for Covid-19 were not restricted from entering the territory of the State. Moreover, the State Border Guard, assessing the individual circumstances of a person, could make exceptions from the obligation provided for in the contested provision. Finally, Latvian citizens could, if necessary, receive material assistance to cover, inter alia, travel expenses from the person's location to the country of destination, as well as costs related to exit formalities. In light of the above, the Court noted that the contested provision could have caused a certain burden to the person, as it prevented them from entering the country in the desired manner. However, this does not constitute an insurmountable obstacle – Latvia had not banned the entry of its citizens and had not closed its borders.

Thus, the Court recognised that the applicant's right to freely return to Latvia enshrined in the second sentence of Article 98 of the Constitution had not been infringed and there were legal grounds to terminate the proceedings.

Case No 2021-34-01
About the case [in English]
Decision on termination of court proceedings [in English]
Press release [in English]

On 27 May 2022, the Court adopted a decision to terminate court proceedings in Case No 2021-34-01

"On Compliance of Section 82, Paragraph One of the Criminal Law in the Wording in Force from 1 April 2013 to 10 May 2016 with the First Sentence of Article 100 of the Constitution of the Republic of Latvia and of the Transitional Provision of the Law 'Amendments to the Criminal Law' of 21 April 2016 with Article 1 and the Second Sentence of Article 92 of the Constitution of the Republic of Latvia".

The case was initiated on the basis of a constitutional complaint. It stated that a person cannot be held criminally liable for publicly calling against the independence of the Republic of Latvia in the manner provided for in the Constitution, since Article 100 of the Constitution protects the right to express such an invitation. However, if the legislator amends a provision of the Criminal Law and declares a particular offence of a person to be non-punishable, the legislator is obliged to provide that the more favourable provision has retroactive effect.

In its reply, the *Saeima* indicated that the contested provision of the Criminal Law essentially provides for criminal liability for a public statement that calls not only for unlawful action (because there are no legal means to end the existence of the State of Latvia), but also for actions that are clearly unconstitutional, and such a public invitation does not deserve the protection of the first sentence of Article 100 of the Constitution. However, the amendments to the Criminal Law of 21 April 2016 are not such as to provide more favourable provisions for the applicant.

When assessing the scope of the contested provision of the Criminal Law, the Court concluded that it was systematically consistent with the fundamental rights of a person included in both the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms and thus did not in itself constitute a conflict with the right to freedom of expression. The Court emphasised that the contested provision of the Criminal Law could not be interpreted broadly, without taking into account the legal framework system in which it functioned. Having regard to the first sentence of Article 100 of the Constitution and Article 10 of the Convention, the Court held that a conclusion that the contested provision of the Criminal Law provides for criminalisation of any kind of public calls to eliminate national independence would be contrary to the systemic interpretation thereof. Namely, it is not sufficient to establish the fact of making a public invitation to hold a person criminally liable for the criminal offence provided for in the contested provision of the Criminal Law, unless the particular situation and the substance of the person's statements are assessed.

The Court emphasised that the contested provision of the Criminal Law served to protect the state and its democracy. This provision contributes to the principle of defensive democracy. The objective purpose of the contested provision of the Criminal Law is to target persons who made such public calls for the abolition of national independence which exceed the limits of freedom of expression and pose a genuine threat to the national independence and democratic order of the Republic of Latvia.

Consequently, the Court concluded that the contested provision of the Criminal Law, according to its objective and true meaning, provided for criminal liability only for such a public invitation to abolish the national independence of the Republic of Latvia which poses a real threat to the interests of the state and society and incites to such an action which would actually enable the aim of the invitation to be achieved. Such interpretation of the contested provision of the Criminal Law ensured protection of the fundamental rights of a person included in the first sentence of Article 100 of the Constitution. In such a way, by interpreting and applying the contested provision of the Criminal Law in accordance with the Constitution, the grounds for doubting its constitutionality are also eliminated. Thus, the Court dismissed the applicant's assumption that this contested provision of the Criminal Law causes conflict with provisions of higher legal force.

Whereas, with regard to the principle of retroactivity of a provision favourable to a person in criminal law, applicable also in the case where the offence in question has been decriminalised, the Court noted that this principle was enshrined in Article 1 in relation with the second sentence of Article 92 of the Constitution. The applicant essentially believed that by adding to the new wording of the legal provision the indication "in a manner not provided for in the Constitution" the legislator had decriminalised making a public invitation to take action against the national independence of the Republic of Latvia in a manner provided for in the Constitution. However, the Court recognised that the indication "in a manner not provided for in the Constitution" only clarified the form of the invitation, but it did not change the content and meaning of the action. Section 81 of the Criminal Law provides, inter alia, for criminal liability for the same criminal offence as provided for in the contested provision of the Criminal Law. The Court also added that the offence under Article 81 of the Criminal Law is punishable more severely and the new legal provision is even more unfavourable to the applicant.

Consequently, the Court concluded that since the amendments to the Criminal Law of 21 April 2016 did not provide for decriminalising the criminal offence provided for in the contested provision of the Criminal Law and the new regulation was not otherwise more favourable, it could not be established that the fundamental rights of the applicant had been infringed.

2.7. DECISIONS BY THE PANELS

In 2022, 231 applications regarding the initiation of a case were submitted to the Constitutional Court Panels.

As usual, constitutional complaints accounted for the largest share of applications. In total, 212 constitutional complaints were submitted to the Constitutional Court in 2022, representing more than 90 per cent of all applications received by the Court. About 85 % of the constitutional complaints were submitted by natural persons, and about 15 % by legal persons governed by private law (limited liability companies, joint-stock companies, associations, foundations, foreign-registered merchants, and one application by an entirety of property of an estate).

As in previous years, the second most active type of applicant was a court when dealing with a specific civil case, an administrative offence case, a criminal case or an administrative case. In total, nine applications were submitted by the courts. Local government councils submitted six applications. Three of these applications concerned cases where the Minister for Environmental Protection and Regional Development had suspended the operation of binding regulations of a local government council, while three applications challenged the constitutionality of legal provisions.

2022 continued the trend observed in previous years that a number of constitutional bodies – applicants referred to in Section 17, Paragraph one, Clauses 1 to 12 of the Constitutional Court Law, namely, the President of Latvia, the *Saeima* and the Cabinet of Ministers – do not submit applications to the Constitutional Court. Similarly, no applications were received from the Council of the State Audit Office, the Judicial Council, the Prosecutor General or the Judge of the Land Registry Office when registering immovable property or rights related thereto in the Land Register.

In accordance with the State Ensured Legal Aid Law, legal aid from the State was received to prepare a written opinion in Case No 2021-43-01 and one application regarding initiation of a case.

The applications submitted covered almost all the fundamental rights contained in Chapter VIII of the Constitution, with the exception of Articles 99, 103, 104 and 113.

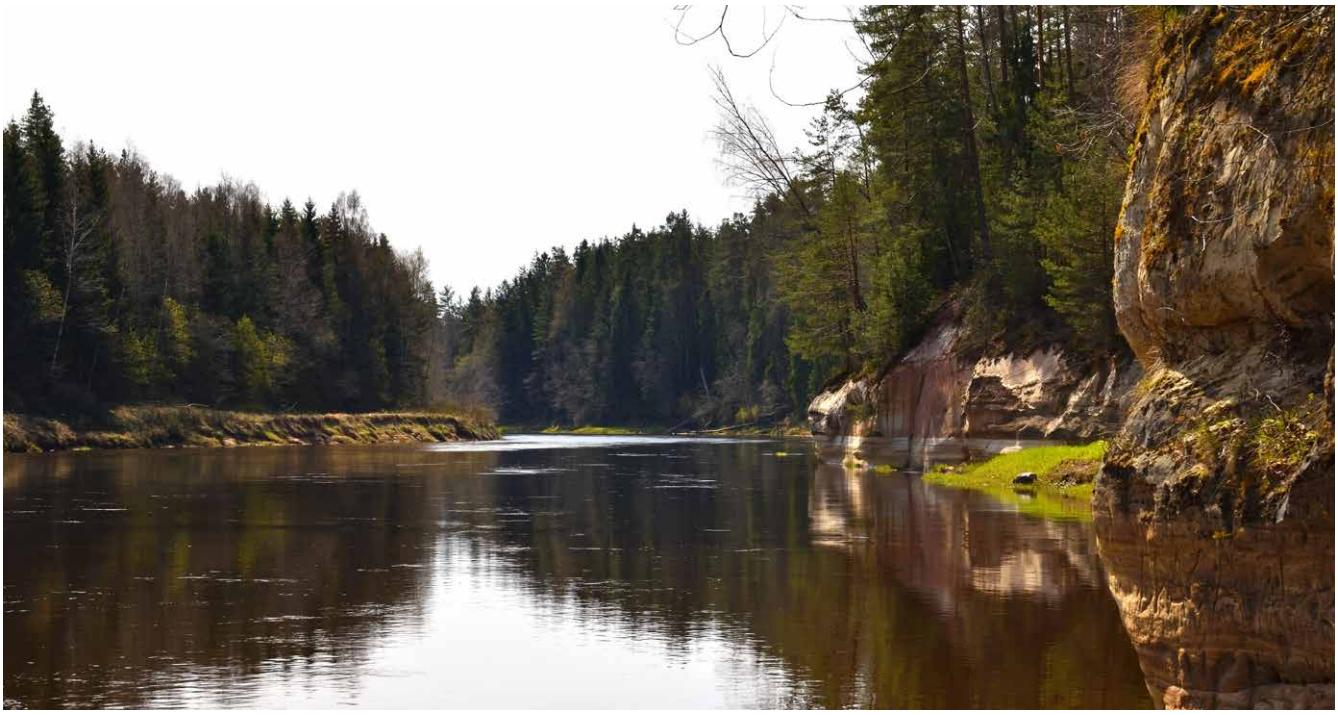
According to Section 20, Paragraph seven of the Constitutional Court Law, the decision regarding initiation of a case or refusal to initiate a case must be taken within one month from the day when the application was submitted. In complicated cases the Court may extend this period of time for up to two months. In 2022, the Panels adopted 23 decisions[24] to extend the time limit for the examination of an application. Of these applications, three were submitted by local government councils, one by no fewer than 20 members of the *Saeima*, and the rest by private individuals. After an in-depth assessment and receipt of additional information, a decision to initiate proceedings was taken in respect of nine applications.

Section 20, Paragraph 7.[1] of the Constitutional Court Law provides: if the panel takes the decision to refuse to initiate a case and a justice – a member of the panel – votes against such a ruling by the panel, moreover, they have reasoned objections, the examination of the application and the taking of the decision shall be transferred to the assignments sitting with the full composition of the Court. In 2022, nine applications were examined at the Assignments Hearing.[25] In all these cases, it decided not to initiate a case.

In 2022, just under 50 repeatedly submitted applications were examined by the Panels. Of these, decisions to initiate proceedings were taken in nine

24 For example, in 2021, the Court Panels adopted 11 decisions on extending the time limit for examining an application, and nine such decisions in 2020.

25 Applications regarding the initiation of a case No 237/2021, No 256/2021, No 258/2021, No 7/2022, No 15/2022, No 76/2022, No 92/2022, No 126/2022 and No 194/2022.



cases.[26] Eight of the applications on which cases were brought were made by private individuals, and one by a local government council.

All decisions on initiating cases are available under the relevant case in the "Cases" section of the website of the Constitutional Court.[27] In turn, those decisions on refusal to initiate a case, which indicate significant aspects of the application of the Constitutional Court Law, are published in the section "Decisions of the Panels on Refusal to Initiate a Case" of the website of the Constitutional Court[28]. These decisions allow for a better understanding of the Constitutional Court Law and facilitate the preparation of an application that complies with the requirements of the Law. More than 60 redacted decisions[29] taken by the Panels were published during the reporting period.

Decisions to Initiate a Case

The cases initiated by the Court dealt with a wide range of legal issues. As in previous years, the most important cases in 2022 were those relating to fundamental rights. Specifically, the cases related to: land use rights and the fees for the use of such rights; the time limit for a person's right to participate in the mandatory procurement of electricity; the exclusion of an insolvency administrator from remuneration in the case they have been removed from the insolvency proceedings of a legal entity; the storage of information on acquitted persons in the archive database of the Punishment Register; the exclusion of a person from the number of sworn advocates if criminal proceedings against that person for committing an intentional criminal offence are terminated for non-exonerating reasons; the obligation of a Member of the *Saeima* to vaccinate against Covid-19 infection; the prohibition to import minks into the territory of Latvia in conditions of the spread of the Covid-19 infection; the recognition of a tax infringement as a repeated offence in the event that the previous tax infringement has been appealed against in court; the amount of remuneration of teachers working in pre-school educational institutions; the prohibition for a soldier to engage in the work of a political party; the amount of the State-guaranteed minimum income thresholds and the period of their review; the period of revocation of citizenship if a person has provided false information to acquire it; the acquisition of education exclusively in the official language in private education institutions.

Civil procedure issues included the right to request annulment of an arbitral decision in a court of general jurisdiction and the right of a legal person to ask a court to reduce the amount of the state fee.

Criminal procedure issues were addressed in cases concerning familiarisation with the case-file in proceedings regarding criminally acquired property, appeals against court decisions in proceedings regarding criminally acquired property, and cases concerning conditions included in an object of evidence in proceedings regarding criminally acquired property.

State Law and Administrative Law covered cases concerning changes to the model of port management and a case on the obligation for a local government to dismantle objects glorifying the Soviet regime.

26 Cases No 2022-06-03, No 2022-08-01, No 2022-20-01, No 2022-32-01, No 2022-33-01, No 2022-37-01, No 2022-40-01, No 2022-41-01 and No 2022-43-01.

27 See the website of the Constitutional Court: satv.tiesa.gov.lv/cases

28 See the website of the Constitutional Court: satv.tiesa.gov.lv/decisions

29 Decisions of the Panels on applications submitted by private individuals are redacted.

Three cases were initiated on the lawfulness of the **orders of the Minister for Environmental Protection and Regional Development** suspending: the operation of the binding regulations of Ķekava Municipality Council on the prohibition of gambling in Ķekava Municipality, the operation of the binding regulations of Jūrmala City Council on the increase of the entry fee to the city of Jūrmala, and the operation of the binding regulations of Riga City Council on the Regulations Regarding Land Use and Building in the Territory of Riga.

In 2022, the Court also initiated a relatively large number of cases regarding the compliance of the same legal provisions with those of higher force. Applications to initiate such cases included a claim, a statement of the facts or the legal basis similar to those already initiated before the courts. Therefore, about 10 decisions by the Panels on initiating a case noted that due to considerations of procedural economy it was not necessary to request the institution, which issued the contested act to re-submit a written reply presenting the facts of the case and their legal reasoning. At the same time, a new approach was also used in the decisions of the Court Panels on initiating cases. In particular, where the *Saeima* had already been invited to reply in a similar case, the Panel invited the *Saeima* to submit a reply in case it had any additional observations. [30]

If the application submitted to the Court is recognised as compliant with the Constitutional Court Law, the Panel of the initiates a case on the basis thereof. Therefore, the decisions to initiate a case usually do not comprise extensive review of the content or form of the applications. However, in some cases the Panels ruled on certain requests of the applicants or provided new findings on the compliance of the application with the requirements of the Constitutional Court Law.

The applicant in application No 44/2022 requested the Court to refer the matter to the Court of Justice of the European Union for a preliminary ruling. When assessing this request, the Panel referred to the Decision of the Constitutional Court of 28 February 2017 "On the Procedure for Adopting a Decision on Referring a Question to the Court of Justice of the European Union for a Preliminary Ruling" noting that the question of referral to the Court of Justice of the European Union should be decided in the event that a case is initiated before the Court and its outcome depends on the interpretation of the EU legislation. Thus, the Constitutional Court decides on the question of referral to the Court of Justice of the European Union at later procedural stages. Consequently, the Panel held that the request did not fall within its competence and should be left without examination.[31]

In accordance with the procedure established by the Court, at the stage of examining an application, the Panel also decides on the issue of accessibility of the information contained in the application and documents attached thereto.

Having examined the application No 25/2022 of the Administrative District Court, the Panel noted that it contained information on the applicant in the administrative case pending before the Court: namely, information identifying the natural person, as well as information on the criminal proceedings in which they were prosecuted and acquitted. Moreover, the Constitutional Court also received an application from the above-mentioned person, in which they requested that their anonymity be ensured.

The Panel held that the information referred to in the application concerning the prosecution of the person falls within the scope of the right to inviolability of private life enshrined in Article 96 of the Constitution and, together with personal information, constitutes personal data within the meaning of Article 4(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (hereinafter referred to as the General Data Protection Regulation). The disclosure of these personal data, in turn, constitutes processing within the meaning of Article 4(2) of this Regulation.

Consequently, the Panel concluded that disclosure of the personal data indicated in the application would cause such damage to the rights and legitimate interests of a person that would outweigh the benefit to society, and it was not necessary for the Court to disclose those data in order to exercise its competence and duties established by law. Therefore, the information in the application identifying the applicant in that administrative case was given restricted access, which is valid until the Court adopts its final ruling.[32]

The application regarding the initiation of a case No 80/2022 and the documents annexed thereto also contained information on criminal proceedings initiated and terminated against the applicant. The Panel held that this information fell within the scope

30 See for example: Decision of the 1st Panel of the Constitutional Court of 24 March 2022 to initiate a case on the basis of application No 45/2022, Decision of the 4th Panel of 22 April 2022 to initiate a case on the basis of application No 44/2022, Decision of the 2nd Panel of 15 June 2022 to initiate a case on the basis of application No 102/2022, Decision of the 3rd Panel of 10 June 2022 to initiate a case on the basis of application No 167/2022, Decision of the 3rd Panel of 9 November 2022 to initiate of a case on the basis of application No 185/2022, Decision of the 3rd Panel of 21 November 2022 to initiate of a case on the basis of application No 193/2022 and Decision of the 3rd Panel of 29 November 2022 to initiate of a case on the basis of application No 197/2022.

31 Decision of the 4th Panel of the Constitutional Court of 22 April 2022 on initiating a case on the basis of application No 44/2022.

32 Decision of the 4th Panel of the Constitutional Court of 1 March 2022 on initiating a case on the basis of application No 25/2022 .

of the right to inviolability of private life of a person under Article 96 of the Constitution and, together with personally identifiable information, constituted personal data within the meaning of Article 4(1) of the General Data Protection Regulation. The disclosure of these personal data, in turn, constitutes processing within the meaning of Article 4(2) of the Regulation.

Consequently, the Panel concluded that the disclosure of the applicant's data would cause such harm to their rights and legitimate interests as to outweigh the public benefit. In the given case, the Court did not need to disclose personal information of the person to exercise its competence and perform its statutory duties. Therefore, the information identifying the applicant was redacted in this decision and the information on their identity was given restricted access, which is in force until the Court adopts its final decision.[33]

In their application regarding the initiation of a case No 137/2022, the applicant asked the court to ensure their anonymity, as the application expressed their views on obtaining a vaccination certificate as a mandatory requirement for military service. The applicant also pointed out that expressing such views could lead, inter alia, to their dismissal from military service.

The Panel concluded that the disclosure of the applicant's data would cause such harm to their rights and legitimate interests as to outweigh the public benefit. In the given case, the Court did not need to disclose personal information of the person to exercise its competence and perform its statutory duties. Therefore, the information identifying the applicant was redacted in this decision and the information on their identity was given restricted access, which is in force until the Court adopts its final decision.[34]

The decisions on initiating cases also addressed questions of potential future infringements of fundamental rights. In particular, in application No 80/2022, Section 16, Clause 3 of the Advocacy Law of the Republic of Latvia was challenged, which stipulates that persons against whom criminal proceedings regarding committing an intentional criminal offence have been terminated for reasons other than exoneration are debarred from the number of sworn advocates. The application to the Constitutional Court was submitted by a sworn advocate, against whom criminal proceedings had been initiated at one time, but later terminated by the decision of the person directing the proceedings for reasons other than exoneration.

The applicant indicated that before applying to the Court, they had received a letter from the Latvian Council of Sworn Advocates stating that there were prima facie grounds for debarring the applicant from the number of sworn advocates on the basis of the contested provision, and that the issue of her compliance with the requirements for sworn advocates established in the Advocacy Law of the Republic of Latvia would be examined at the meeting of the Council. However, taking into account that several sworn advocates intended to challenge the prohibition to continue to perform the duties of a sworn advocate established in Section 16, Clauses 3 and 4 of the said Law before the Constitutional Court, the adoption of a decision on the applicant and other sworn advocates in the circumstances established in these provisions had been postponed.

The Panel of the Court noted that the contested provision did not provide for discretionary power of the Latvian Council of Sworn Advocates to adopt a decision on debarring of a person from the number of sworn advocates. Therefore, it is inevitable that Section 16, Clause 3 of the Advocacy Law of the Republic of Latvia will be applied to the applicant and will result in an infringement of the fundamental rights included in the first sentence of Article 106 of the Constitution. The Panel thus found that the application provided a basis for the applicant's claim that their fundamental rights would be infringed in the future.[35]

Application No 137/2022 challenged the constitutionality of the provisions of the Military Service Law that prevented a soldier from engaging a political party. The applicant indicated that they wished to join a particular political party, but the contested provisions prohibit her from performing the duties of a soldier and engaging in political party at the same time. They could only be subjected to the contested provisions by breaching that prohibition. However, it would be unreasonable to require the applicant to act unlawfully. If the applicant were to join a political party, they would have to leave their post as a professional soldier within one month. Thus, it is inevitable that in the event of application of the contested provisions, the fundamental rights included in Article 102 of the Constitution would be infringed.

Having assessed the above considerations, the Court held that the application provided substantiation that the applicant's fundamental rights would be infringed in the future.[36]

Similarly, the Panel recognised that the applicants' fundamental rights would be affected in the future in the case of application No 199/2022. The application challenged the regulation of the Education Law which stipulates that from 1 September 2023, the content of pre-school education and primary education will have to be taught exclusively in the Latvian language.

33 Decision of the 4th Panel of the Constitutional Court of 2 June 2022 on initiating a case on the basis of application No 80/2022.
34 Decision of the 2nd Panel of the Constitutional Court of 18 August 2022 on initiating a case on the basis of application No 137/2022.
35 Decision of the 4th Panel of the Constitutional Court of 2 June 2022 on initiating a case on the basis of application No 80/2022.
36 Decision of the 2nd Panel of the Constitutional Court of 12 August 2022 on initiating a case on the basis of application No 137/2022.

Consequently, the applicants will be obliged to receive education in the official language in private educational institutions at the pre-school and primary education levels, and thus the contested provisions will result in a violation of their rights in the future.[37]

In 2022, the Panels of the Court adopted several decisions to initiate cases challenging the provisions of the Criminal Procedure Law governing proceedings regarding criminally acquired property. Specifically, the challenge was brought against Sections 124, 125 and 126 of the Criminal Procedure Law which regulate the circumstances included in the object of evidence in proceedings regarding criminally acquired property, Section 627, Paragraphs four and five which regulate a person's right to familiarise with the case file in proceedings regarding criminally acquired property, as well as Section 631 of this Law on appeal against court decisions adopted in such proceedings. The cases were initiated on compliance of these provisions of the Criminal Procedure Law with the right of a person to a fair court enshrined in Article 92 of the Constitution. At the same time, several applications requested to assess compliance of the above-mentioned provisions of law with the principle of legal equality enshrined in the first sentence of Article 91 of the Constitution, as well as with the right to property enshrined in Article 105 of the Constitution.

When assessing the claim in relation to Article 105 of the Constitution, the Panels referred to the case-law of the Constitutional Court, indicating that a person must provide credible justification that the adverse effects caused by a legal provision result in an infringement of their fundamental rights. Moreover, there must be a direct link between the infringement of the fundamental rights of the person and the contested provision. The Panels held that the applications and the documents attached thereto do not confirm that the provisions of the Criminal Procedure Law regulating the content of the decision of the person directing the proceedings to initiate proceedings regarding criminally acquired property, the status and accessibility of the case file of the said proceedings to the person related to the property, as well as the appeal against the decision of the Regional Court on recognition of property as criminally acquired, would in themselves prejudice the applicants' right to property under Article 105 of the Constitution. Consequently, the applications in respect of this claim were held to be non-compliant with the requirements of Section 19.^{2}, Paragraph one and Paragraph six, Clause 1 of the Constitutional Court Law.[38]

As regards the claim to assess compliance of the Criminal Procedure Law provisions with the principle of legal equality enshrined in the first sentence of Article 91 of the Constitution, the applicants indicated that the comparable groups of persons were: (1) a person related to property who has not been granted the status of a person entitled to a defence in criminal proceedings and whose property is confiscated in separate proceedings regarding criminally acquired property; (2) a person who has been granted the status of a person entitled to a defence in criminal proceedings and whose property is confiscated in accordance with general procedures. On the contrary, the panels referred to the case-law of the Constitutional Court and pointed out that the proceedings regarding criminally acquired property were an exception to the procedure for resolving property issues in the basic criminal proceedings, and such proceedings could have different rules aimed at the swift and effective achievement of its objective. Given the different nature and purpose of proceedings regarding criminally acquired property, there is no reason to compare these proceedings. Consequently, it was concluded that the applications do not provide a legal basis for the comparability of the groups of persons identified.[39]

The Constitutional Court Panel assesses the compliance of an application with the requirements of the Constitutional Court Law, but it is limited in terms of the materials at its disposal. It is during the hearing of a case that the Court can take into account the material gathered during its preparation. Consequently, there may also be situations where a broader assessment and determination of certain procedural issues is deferred to when the case will be prepared and heard, for the court to decide on them in a ruling.[40] The Panel did the same for application No 62/2022. The application was submitted by the Jūrmala State City Council, requesting to declare the order of the Minister for Environmental Protection and Regional Development on the suspension of the binding regulations of the local government as incompatible with several provisions of the Constitution and laws. In its application and in its supplementary explanations, the City Council pointed out that the binding regulations suspended by the Minister had been adopted in compliance with the objections raised in the opinion of the Ministry of Environmental Protection and Regional Development. However, Section 49 of the Law On Local Governments, which provides for the requirements for the local government council to submit an application to the Constitutional Court, does not directly regulate such a legal situation in which the Minister issues an order

37 Decision of the 1st Panel of the Constitutional Court of 27 December 2022 on initiating a case on the basis of application No 199/2022.

38 Decision of the 4th Panel of the Constitutional Court of 6 January 2022 to initiate a case on the basis of application No 268/2021, Decision of the 4th Panel of 22 April 2022 to initiate a case on the basis of application No 44/2022 and Decision of the 1st Panel of 24 March 2022 to initiate a case on the basis of application No 45/2022.

39 See, for example, the Decision of the 1st Panel of the Constitutional Court of 17 August 2022 to initiate a case on the basis of application No 123/2022 and the Decision of the 3rd Panel of 29 November 2022 to initiate a case on the basis of application No 197/2022.

40 See, for example, the Decision of the 3rd Panel of the Constitutional Court of 14 February 2018 to initiate a case on the basis of No 207/2017, paragraph 5 and Judgment of 15 November 2018 in Case No 2018-07-05, paragraph 14.

after the binding regulations have been clarified in accordance with the Ministry's instructions. The Panel recognised that such an opinion of the applicant on the observance of the procedure established in Section 49 of the Law On Local Governments should be assessed during the preparation and examination of the case and concluded that the application of the Jūrmala State City Council complied with the requirements established in Section 19, Paragraph two of the Constitutional Court Law.[41]

In deciding to initiate a case on the basis of application No 123/2022, the Panel of the Court had to decide, inter alia, on the applicant's request to invite them to provide additional oral explanations at the hearing of the Panel. When examining this request, the Panel noted that, according to Paragraph 58 of the Rules of Procedure of the Constitutional Court, when preparing an application for examination, the Panel or a Justice, if necessary, may invite the applicant to provide additional explanations. The application under review, on the other hand, contained a detailed statement of facts, and the applicant's observations on the alleged unconstitutionality of the contested provisions and compliance of the application with the requirements of the Constitutional Court Law were set out on more than 300 pages. Moreover, the applicant had applied to the Court repeatedly and the applicant's opinion was elaborated in the initial application. Thus, the Panel of the Court did not establish any circumstances which would make it necessary to invite the applicant to provide additional explanations at the hearing of the Panel, and rejected the request.[42]

Decisions on Refusal to Initiate a Case

In 2022, the Constitutional Court adopted 179 decisions on refusal to initiate a case.[43] The legal grounds for refusal to initiate a case are laid down in Section 20, Paragraph five and six of the Constitutional Court Law.

Jurisdiction of the Constitutional Court Over the Case

Section 20, Paragraph five, Clause 1 of the Constitutional Court Law provides that the Panel shall be entitled to refuse to initiate a case the case is not under the jurisdiction of the Constitutional Court. In 2022, this rule was applied in about 15 decisions on refusal to initiate a case.

The Court's competence is established by Article 85 of the Constitution and the Constitutional Court Law. The cases which may be examined by the Constitutional Court are exhaustively specified in Section 16 of said Law. It follows from the decisions adopted in 2022 that the Constitutional Court does not have jurisdiction over, for example, the following claims:

1) to declare the provisions of the Cabinet Order No 720 of 9 October 2021, Regarding Declaration of the Emergency State, as unconstitutional. The Panels held that the regulation contained in the Order constituted a general administrative act and was subject to review by an administrative court;[44]

2) to assess whether there is a conflict between legal provisions of equal legal force;[45]

3) to assess the compliance of the provisions of

41 Decision of the 2nd Panel of the Constitutional Court of 3 May 2022 to initiate a case on the basis of application No 62/2022.

42 Decision of the 1st Panel of the Constitutional Court of 17 August 2022 to initiate a case on the basis of application No 123/2022.

43 In 2020, the Constitutional Court Panels adopted 172 decisions on refusal to initiate a case, while 252 such decisions were taken in 2021.

44 Decision of the 3rd Panel of the Constitutional Court of 15 February 2022 on refusal to initiate a case on the basis of application No 27/2022 and Decision of the 1st Panel of 14 September 2022 on refusal to initiate a case on the basis of application No 143/2022.

45 Decision of the 4th Panel of the Constitutional Court of 27 January 2022 on refusal to initiate a case on the basis of application No 6/2022.

Cabinet Regulations with the provisions of the vaccine instruction;[46]

4) to recover from the *Saeima* the unpaid salaries of its members;[47]

5) to reassess or annul the decision of a court of general jurisdiction;[48]

6) to issue or amend a legislative act or to add new provisions thereto;[49]

7) to assess the lawfulness of actions and decisions taken by State administration institutions;[50]

8) to declare the Regulation on Selection of Candidates for the Office of Prosecutor, insofar as it does not provide for notification of the conclusion of the Prosecutors' Attestation Commission to the candidate for the office of prosecutor within one month from the meeting of the Prosecutors' Attestation Commission, to be incompatible with Article 91 of the Constitution and Section 64, Paragraph one of the Administrative Procedure Law. The Panel acknowledged that these rules were drawn up by the Prosecution Office as an internal document for its operation. According to Section 1, Paragraph six of the Administrative Procedure Law, a legal act which has been issued by a body governed by public law with the aim of determining its own internal working procedures or those of its subordinate authority or to clarify the procedures regarding application of an external legal act in the area of its activity is an internal legal act. After coming into effect of the Administrative Procedure Law, reviewing the legality of internal legal acts could be under the Court's jurisdiction only in exceptional cases, if the application substantiated that the internal legal act infringed on a person's fundamental rights and this infringement could not be remedied in the administrative procedure. Pursuant to Section 104, Paragraph three of the Administrative Procedure Law, it is the administrative court which reviews the compliance of internal legal acts with external legal acts and, in case of contradictions, does not apply the internal legal act. Thus, review of the constitutionality of an internal legal act could fall in the Court's jurisdiction in exceptional cases only. The applicant had not substantiated why the Regulation on Selection of Candidates for the Office of Prosecutor would be such an internal legal act that its constitutionality should be reviewed by the Court;[51]

9) to decide whether to grant State-ensured legal aid;[52]

10) to assess whether the public authorities and officials have correctly applied legal provisions to the applicant in a given case;[53]

11) to restore the procedural time limit for taking a specific legal action before a public authority;[54]

12) to decide on restitution of the rights infringed;[55]

13) to assess the compatibility of a legal provision with the Universal Declaration of Human Rights.[56]

With regard to the competence of the Court to assess the compliance of a legal provision with a directive of the European Union, decision of the Court's Assignments Hearing on application No 76/2022 is of note. The Decision states that Latvia became a member of the European Union on 1 May 2004. By ratifying the Treaty of Accession to the European Union, Latvia also recognised as binding the secondary legislation of the European Union, including directives. In accordance with Article 54 of the Treaty of Accession, the new Member States shall put into effect the measures necessary for them to comply, from the date of accession, with the provisions of directives and decisions within the meaning of Article 288 of the Treaty on the Functioning of the European Union. The Treaty on the Functioning of the European Union is an international treaty concluded by Latvia. Accordingly, Section 16, Clause 6 of the Constitutional Court Law the requirement to assess the compliance of a legal provision with a directive of the European Union is within the jurisdiction of the Court.[57]

46 Decision of the 4th Panel of the Constitutional Court of 27 January 2022 on refusal to initiate a case on the basis of application No 6/2022.
47 Decision of the Constitutional Court's Assignments Hearing of 8 March 2022 on refusal to initiate proceedings on the basis of application No 7/2022 and Decision of the 3rd Panel of 18 March 2022 on refusal to initiate proceedings on the basis of application No 16/2022.
48 Decision of the 1st Panel of the Constitutional Court of 8 February 2022 on refusal to initiate a case on the basis of application No 22/2022 and Decision of the 3rd Panel of 9 May 2022 on refusal to initiate a case on the basis of application No 79/2022.
49 Decision of the 2nd Panel of the Constitutional Court of 14 March 2022 on refusal to initiate a case on the basis of application No 38/2022 and Decision of the 3rd Panel of 11 May 2022 on refusal to initiate a case on the basis of application No 95/2022.
50 Decision of the 2nd Panel of the Constitutional Court of 24 January 2022 on refusal to initiate a case on the basis of application No 273/2022, Decision of the 1st Panel of 27 July 2022 on refusal to initiate a case on the basis of application No 121/2022 and Decision of the 2nd Panel of 23 August 2022 on refusal to initiate a case on the basis of application No 140/2022.
51 Decision of the 4th Panel of the Constitutional Court of 8 April 2022 on refusal to initiate a case on the basis of application No 52/2022.
52 Decision of the 3rd Panel of the Constitutional Court of 9 May 2022 on refusal to initiate a case on the basis of application No 79/2022.
53 Decision of the 2nd Panel of the Constitutional Court of 27 May 2022 on refusal to initiate a case on the basis of application No 94/2022.
54 Decision of the 2nd Panel of the Constitutional Court of 27 May 2022 on refusal to initiate a case on the basis of application No 94/2022.
55 Decision of the 4th Panel of the Constitutional Court of 22 December 2022 on refusal to initiate a case on the basis of application No 206/2022.
56 Decision of the 4th Panel of the Constitutional Court of 11 November 2022 on refusal to initiate a case on the basis of application No 186/2022.
57 Decision of the Constitutional Court of 7 June 2022 on refusal to initiate proceedings on the basis of application No 76/2022 .

The applicant is not entitled to submit an application

Section 20, Paragraph five, Clause 2 of the Constitutional Court Law provides that the Court may refuse to initiate a case if the applicant is not entitled to submit an application. This rule has been applied in one Panel decision in 2022. The application was submitted to the Court by a private person who requested that the Decision of *Saeima* of 23 January 2019, On Expressing Confidence in the Cabinet of Ministers, be declared non-compliant with Article 1 and Article 116 of the Constitution.

The Panel recognised that according to Section 17, Paragraph two of the Constitutional Court Law, the right to submit an application to initiate a case regarding compliance of other acts of the *Saeima* with law, except for administrative acts, is held by the President, the *Saeima*, not less than twenty members of the *Saeima*, the Cabinet and the Judicial Council within the scope of the competence stipulated by law. Thus, the applicant was not among the persons who may submit an application on the compliance of the acts referred to in Section 16, Clause 4 of the Constitutional Court Law with the law. Therefore, they were not entitled to submit an application and request the Court to assess the constitutionality of the *Saeima*'s decision of 23 January 2019, On Expressing Confidence in the Cabinet of Ministers.[58]

Non-compliance of the application with the requirements set out in the Constitutional Court Law

Section 20, Paragraph five, Clause 3 of the Constitutional Court Law provides that the Court may refuse to initiate a case if the application does not comply with the requirements specified in Sections 18 or 19–19.[3] of this Law. This provision of law was applied most frequently in the decisions of the Panels on refusing to initiate a case during the reporting period.

The application does not substantiate the infringement of a fundamental right

From Section 19.[2], Paragraph one and Paragraph six, Clause 1 of the Constitutional Court Law follows the obligation for the submitter of a constitutional complaint to substantiate that the contested provision infringes the fundamental rights enshrined in the Constitution. The decisions of the Panels have repeatedly indicated that an infringement of fundamental rights of a person is to be established if: first, the person has specific fundamental rights enshrined in the Constitution, i.e. the contested provision falls within the scope of the specific fundamental rights; second, the contested provision directly infringes the fundamental rights enshrined in the Constitution. On the basis of these provisions of the Constitutional Court Law, the Panels adopted slightly less than 80 decisions in 2022 refusing to initiate proceedings in respect of the entire application or in respect of a claim contained therein. As in previous years, so in 2022 a large part of these decisions concerned cases where: a person submitted a complaint in favour of the general public (*actio popularis*); a person did not challenge the constitutionality of a legal provision, but rather the substantive interpretation and application of that provision. The provisions of the Constitutional Court Law in question are also applied in cases where the Panel cannot establish whether and exactly when the contested provision has caused an infringement of the fundamental rights of a person enshrined in the Constitution.

An example of a situation in which a person applies to the Constitutional Court with a complaint in favour of the general public (*actio popularis*) is application No 272/2021. The petitioner, who was not a Member of the *Saeima* himself, asked the court to declare Section 2 of the Law On Temporary Additional Requirements for the Work of Members of the *Saeima* and Councillors of Local Government Councils as incompatible with several provisions of the Constitution. The contested provision regulated the right of a Member of the *Saeima* to participate in the work thereof based on the existence of an interoperable Covid-19 certificate.

Referring to the case-law of the Constitutional Court, the Panel noted that the concept of infringement was established in the Constitutional Court Law with the aim to distinguish a constitutional complaint from actio popularis, i.e. a complaint in favour of the general public. The application stated in general terms that the right of Members of the *Saeima* to participate in the work thereof should not be restricted on the basis of the lack of an interoperable Covid-19 certificate. However, it did not provide grounds for the manner in which the alleged non-compliance of the contested provision with the constitutional provisions specified therein would result in the infringement of the fundamental rights of the applicant. The application also failed to set out the facts of the case and, consequently, did not establish that the contested provision had been applied to the applicant or that they had otherwise come within its scope. Consequently, the Panel held that the application did not comply with the requirements set out in Section 19.[2], Paragraph one and Paragraph six, Clause 1 of the Constitutional Court Law.[59]

Issues related to the application of legal provisions were also raised in the decision of the Assignments Hearing on application No 76/2022, in which the applicant requested the court to declare the second sentence of Section 140, Paragraph one of the Labour Law not compliant with, inter alia, Article 106 of the Constitution. The provision of Labour Law regulated

58 Decision of the 1st Panel of the Constitutional Court of 19 April 2022 on refusal to initiate a case on the basis of application No 73/2022.
59 Decision of the 4th Panel of the Constitutional Court of 13 January 2022 on refusal to initiate a case on the basis of application No 272/2021.

the employer's obligations in a situation where the employee is assigned to work on a aggregated working time.

The applicant indicated that the contested provision did not provide for the manner and time-limit within which the employee has the right to request the employer to produce the work schedule referred to in that provision. It was said to follow that an employer may record the hours worked by an employee and determine their work schedule without making them aware of the relevant documents. For that reason, the applicant was denied the opportunity to familiarise and object to the timesheets prepared by the employer. However, the court, when examining the applicant's claim, had assessed only the content of the information specified in the contested provision, but did not examine whether the employee had been familiarised with the work schedule.

During the hearing, the Constitutional Court noted that the application provided a detailed statement of the facts of the particular situation, quoted legal provisions and expressed the applicant's opinion on the resolution of the labour dispute before a court of general jurisdiction. It followed from the application that, in essence, the applicant attributed the infringement of their fundamental rights to the way in which the court of general jurisdiction had assessed the employer's obligation to notify them of their work timetable and to prove the amount of the hours worked. However, the Constitutional Court does not examine questions of interpretation and application of legal provisions. This means that the Court cannot verify whether the general jurisdiction court's assessment of the evidence and its considerations regarding the drawing up of the working schedule, notification thereof and recording of the hours worked are justified and lawful. The application did not establish that it is the contested provision, and not its application in the given situation, which caused the applicant an infringement of the fundamental rights enshrined in the Constitution. Consequently, it was held that the application did not comply with the requirements laid down in Section 19.[2], Paragraph one and Paragraph six, Clause 1 of the Constitutional Court Law.[60]

An infringement of the applicant's fundamental rights enshrined in the Constitution was assessed in the Panel decision on application No 134/2022, in which the applicants requested the Court to declare the first sentence of Section 8, Paragraph five of the Public Transport Services Law non-compliant with several provisions of the Constitution as well as provisions of EU legislation. The contested provision provided that a single carrier may together operate no more than 40 % of a network of regional local and regional intercity routes, except in the case of carriage by rail.

The Panel found that the applicants were carriers who had obtained special authorisations (licences) for carriage and had provided public transport services. The applicants, on the other hand, indicated that they are both providers of public transport services and potential participants on the market for public transport services.

The Panel recognised that the application expressed the applicants' view that the limitation on the volume of public transport services established in the contested provision did not comply with the provisions of higher

60 Decision of the Constitutional Court of 7 June 2022 on refusal to initiate proceedings on the basis of application No 76/2022 .

legal force and that it did not achieve the objective set by the legislator to prevent a dominant position. However, a reasonable interpretation of the considerations presented in the application does not allow for an irrefutable conclusion as to whether it is the contested provision that causes an infringement of the applicants' fundamental rights enshrined in the Constitution, nor as to when exactly this infringement of fundamental rights occurred for each of them.

The Panel also found that the application provided contradictory information as to when the infringement of the applicants' fundamental rights occurred. Namely, it stated that the infringement is both present and foreseeable in the future. The Panel drew the applicants' attention to the fact that present (existing) infringement and future or potential infringement are different, mutually exclusive forms of infringement. If the applicants consider that the infringement is foreseeable in the future, they must provide both reasons that the restriction will inevitably affect them and reasons that the adverse consequences of applying the provision would cause them substantial harm. Consequently, the Panel concluded that the application did not comply with the requirements set out in Section 19.^{2}, Paragraph one and Paragraph six, Clause 1 of the Constitutional Court Law.[61]

The applicant has not exhausted all available general remedies

Section 19.^{2}, Paragraph two of the Constitutional Court Law provides that a constitutional complaint may be submitted only if all the options have been used to protect the specified rights with general remedies for protection of rights: a complaint to the higher authority or higher official, a complaint or statement of claim to a general jurisdiction court, or if such do not exist. This provision provides for the obligation of the applicant to exhaust all available general remedies before applying to the Constitutional Court. In 2022, on the basis of Section 19.^{2}, Paragraph two of the Constitutional Court Law, the Panels adopted approximately 15 decisions on refusal to initiate a case.

In application No 275/2021, the applicant requested the Constitutional Court declare Section 8, Clause 20.^{4} of the Law On Personal Income Tax to be non-compliant with Article 105 of the Constitution. This provision stipulated that prizes of lotteries and gambling should be regarded as the rest of the income of a natural person for which the tax must be paid.

The applicant submitted that they had general remedies available to them in a dispute with the tax administration. At the same time, according to the applicant, these means are not effective, since the regulation of the contested provision is clear and neither the institution nor the court can decide contrary to the law.

The Panel, on the other hand, held that the specific amount of the tax liability imposed on an individual and the correctness of the execution of the liability are finally determined in administrative proceedings before the authorities and the courts. In the present case, the State Revenue Service had not even issued an administrative act on the matter in dispute. It also follows from Sections 81, 86 and 103 of the Administrative Procedure Law that both the higher authority and the court in administrative proceedings are obliged to verify not only the correctness of the obligation imposed on a person, but also the compliance of the applicable legal provision with legal provisions of higher legal force. Section 104, Paragraph two of the Administrative Procedure Law also determined that if a court considers during administrative proceedings that the applicable provision does not conform to a provision of higher legal force, it may submit an application to the Constitutional Court, thus verifying the validity of its opinion. Research on appeals against tax administration decisions to higher authorities and courts also shows that these decisions are often reviewed, amended or overturned.

Thus, the Panel concluded that the applicant had real and effective possibilities to defend their fundamental rights by means of general remedies before applying to the Constitutional Court, but they had not used these possibilities. Hence the application was recognised to be non-compliant with the requirements laid down in Section 19.^{2}, Paragraph two of the Constitutional Court Law. [62]

In application No 69/2022, the Constitutional Court was requested to declare several provisions of the Law on Management of the Spread of Covid-19 Infection unconstitutional. They regulated how employers organise work to meet the requirements of Covid-19 infection control and epidemiological safety in the working environment.

The applicant indicated that the legal dispute concerning the dismissal of an employee, termination of employment and the determination of furlough is not subject to review by a court of general jurisdiction, since the employer acted in accordance with the contested provisions. However, the Panel acknowledged that the applicant had the possibility to defend their fundamental rights by means of a general remedy. In particular, a person who has been wrongfully suspended from work or wrongfully placed on furlough had the right to apply to a court of general jurisdiction for the protection of their rights under Section 58 and Section 74, Paragraph two of the Labour Law, which respectively determine the employee's right to compensation for wrongful suspension or placement on furlough. A person whose employment has been terminated by the employer's

61 Decision of the 2nd Panel of the Constitutional Court of 23 August 2022 on refusal to initiate a case on the basis of application No 134/2022.

62 Decision of the 3rd Panel of the Constitutional Court of 27 January 2022 on refusal to initiate a case on the basis of application No 275/2021.

notice also has the right to bring an action under Section 122 of the Labour Law to have the employer's notice of termination declared null and void. The application failed to substantiate why an appeal to a court of general jurisdiction would not be considered an effective remedy in the applicant's situation within the meaning of the Constitutional Court Law. Hence the Panel concluded that the application does not comply with the requirements of Section 19.^{2}, Paragraph two of the Constitutional Court Law.[63]

In application No 88/2022, the applicant requested the Constitutional Court to declare Section 74, Paragraph one, Clause 8 of the Labour Law incompatible with several provisions of the Constitution. According to the contested provision of the Labour Law, the employer has the obligation to disburse the agreed remuneration if the employee does not perform work due to justifiable reasons.

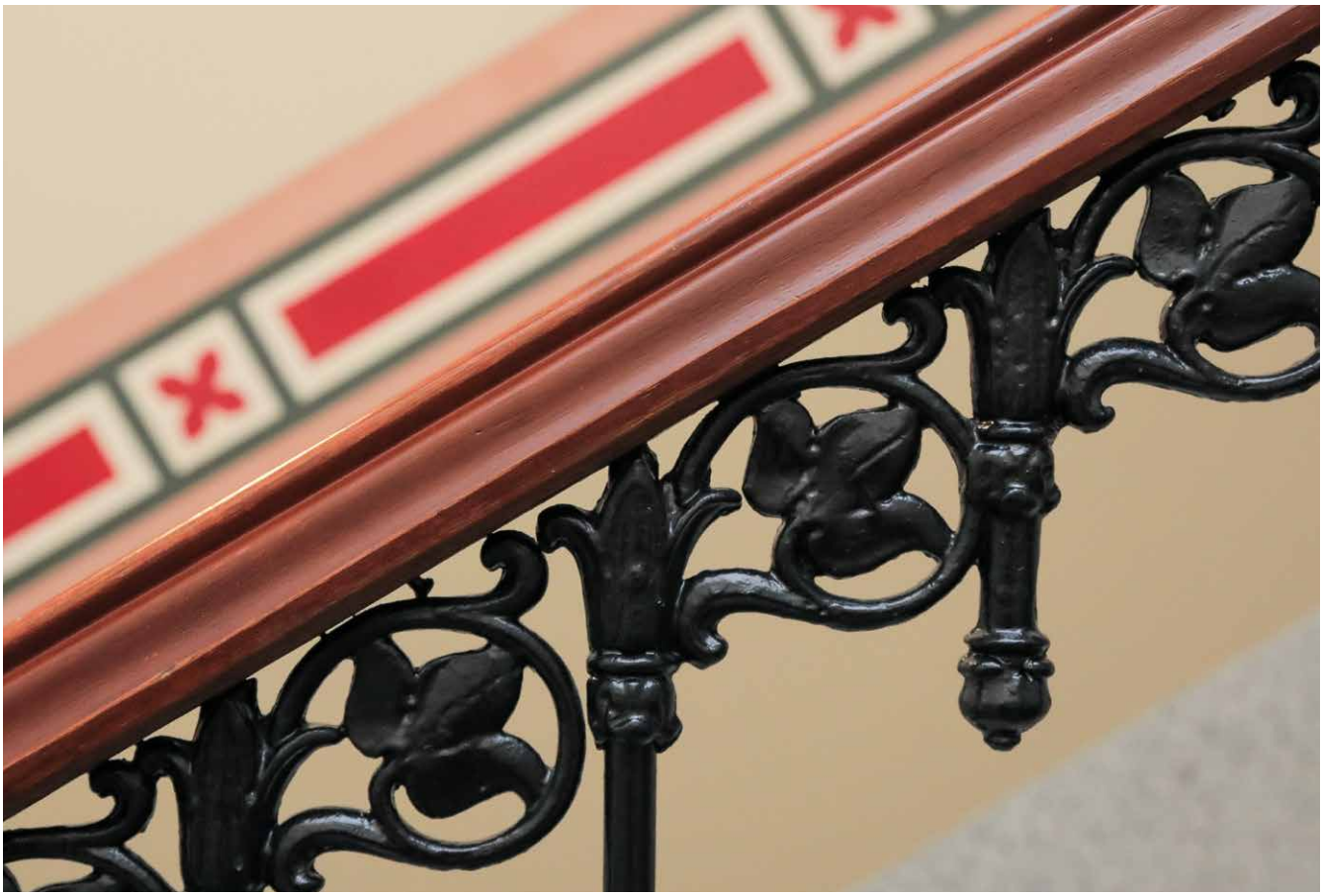
The applicant indicated that applying to the court of general jurisdiction was not an effective remedy for the violation of their fundamental rights, since the court should apply the contested provision and reject the claim for payment of compensation.

However, the Panel held that in the present situation the applicant had the possibility to defend their fundamental rights by means of general remedies. In particular, they had the right to bring an action against their employer before a court of general jurisdiction. In resolving a labour dispute, only a court of general jurisdiction can best and most fully ascertain the facts of the case, the moment of the infringement of the applicant's fundamental rights, and how the contested provision is relevant and applicable to the applicant's situation. The applicant's contention that the court should dismiss their claim against the employer by applying the contested provision cannot be accepted. This is a matter for the court to assess. Similarly, proceedings before a court of general jurisdiction cannot be recognised as an ineffective remedy within the meaning of the Constitutional Court Law, even if a decision adverse to another person has been rendered in another, possibly similar, case. Hence the Panel concluded that the application does not comply with the requirements of Section 19.^{2}, Paragraph two of the Constitutional Court Law.[64]

The applicant missed the deadline for submitting an application

Section 19.^{2}, Paragraph four of the Constitutional Court Law provides that a constitutional complaint may be submitted to the Constitutional Court within six months after coming into effect of the decision of the last authority or, if it is not possible to defend the fundamental rights stipulated in the Constitution using general remedies for protection of rights, – within six months from the time when the fundamental rights were infringed. In 2022, nine decisions refusing to

63 Decision of the 1st Panel of the Constitutional Court of 27 April 2022 on refusal to initiate a case on the basis of application No 69/2022.
64 Decision of the 4th Panel of the Constitutional Court of 20 May 2022 on refusal to initiate proceedings on the basis of application No 88/2022.



institute proceedings were taken by Panels on the basis of this provision.

Several decisions of the Panels established that the application did not comply with the requirements of Section 19.[2], Paragraph four of the Constitutional Court Law where persons challenged the constitutionality of Section 627, Paragraph four and five of the Criminal Procedure Law. The above provisions of the law stipulate that the materials contained in the proceedings regarding criminally acquired property constitute investigative secret, as well as that the decision of the person directing the proceedings to reject the request for familiarising with the case materials may be appealed to a district court, whose decision is not subject to appeal.

For example, in application No 63/2022, the applicants stated that the infringement of their fundamental rights had occurred at the time when the court of appeal had adopted a decision declaring the applicant's property to be criminally acquired and confiscating it for the benefit of the State. If the final decision of the Court in this case had been in favour of the applicants, they would not have suffered an infringement of their fundamental rights.

The Panel, in its turn, held that, under the contested provisions, the issue of the right to familiarise with the materials of the proceedings regarding criminally acquired property is regulated separately from the issue of recognising property as criminally acquired. Therefore, in the present case, the time-limit for filing the application should be calculated not from the date when the court of appeal adopted the decision on recognition of property as criminally acquired, but from the moment when the Court of Economic Affairs adopted its decision on the applicants' complaint.[65]

The application does not contain a legal basis

Section 18, Paragraph one, Clause 4 of the Constitutional Court Law provides that an application must contain the legal basis. In 2022, the Panels took around 40 decisions on refusal to initiate a case after establishing that the application did not include this. This ground for refusal was mostly applied in cases of constitutional complaints.

In general, the applications on which the Panel took the above decisions were characterised by their relatively concise statement of facts. Namely, the applicant provided a statement of the facts of the particular case, a general opinion on the content of the specific constitutional provision and the contested provision, as well as cited, for example, other legal provisions, case-law of courts, or conclusions of legal doctrine. Such considerations are most often not considered by the Panels as legal basis for an application within the meaning of the Constitutional Court Law. In individual cases, the Panels applied Section 18, Paragraph one, Clause 4 of the Constitutional Court Law also in a situation where the applicant only pointed, for example,

65 Decision of the 3rd Panel of the Constitutional Court of 11 April 2022 on refusal to initiate a case on the basis of application No 63/2022.

to certain aspects of the restriction of fundamental rights established in the contested provision.

In application No 22/2022, the applicant requested the Court to declare the Section 440.[8], Paragraphs seven and eight of the Civil Procedure Law incompatible with, inter alia, Article 92 of the Constitution. The provisions of this law state that: if the judges of the simplified civil procedure unanimously recognise that none of the grounds for initiation of appeal proceedings referred to in the law exists, they take a decision to refuse to initiate appeal proceedings, and such decision may not be appealed.

According to the applicant, the contested provisions are incompatible with the right to a fair court enshrined in Article 92 of the Constitution, since a person is not guaranteed the right to have a case examined by a court of appeal and such a court decision is drawn up in the form of a resolution without including motivation.

Referring to the case-law of the Court, the Panel pointed out that to facilitate the work of the court of appeal, the legislator is entitled to relieve it from hearing certain categories of complaints. Moreover, where the State has provided for a right of appeal, the right of access to a court of appeal does not include a requirement to examine the merits of each case and to draw up a full judgment.

Similarly, the principle of reasoning contained in the first sentence of Article 92 of the Constitution does not imply a requirement for a ruling to reply to the arguments and observations of the parties which are irrelevant to the resolution of the legal relationship in question, which are not relevant to that legal relationship, or which are not relevant in view of the nature of the legal relationship or other conclusions already reached. In accordance with the principle of stating reasons enshrined in the first sentence of Article 92 of the Constitution, the nature of the decision in question must be assessed to decide whether a decision should state the reasons on which it is based and what level of detail should be provided, This means that the obligation to state the reasons for a decision, as well as the extent and level of detail of the reasons depend on a number of interrelated systemic factors that characterise the decision. Such factors include, inter alia, the legal relationship which the decision resolves, as well as the legal procedure and basis for the adoption thereof.

The Panel concluded that the application did not provide the legal basis as to whether the right of a person under Article 92 of the Constitution required the initiation of appeal proceedings even in cases where none of the grounds for initiating appeal proceedings mentioned in the law existed. In particular, it is not justified that Article 92 of the Constitution included an obligation for the legislator to ensure that all simplified procedure cases would be examined on their merits also at the appellate instance. Consequently, it was recognised that the application on compliance of the contested provisions with Article 92 of the Constitution did not comply with the requirements of Section 18, Paragraph one, Clause 4 of the Constitutional Court Law.[66]

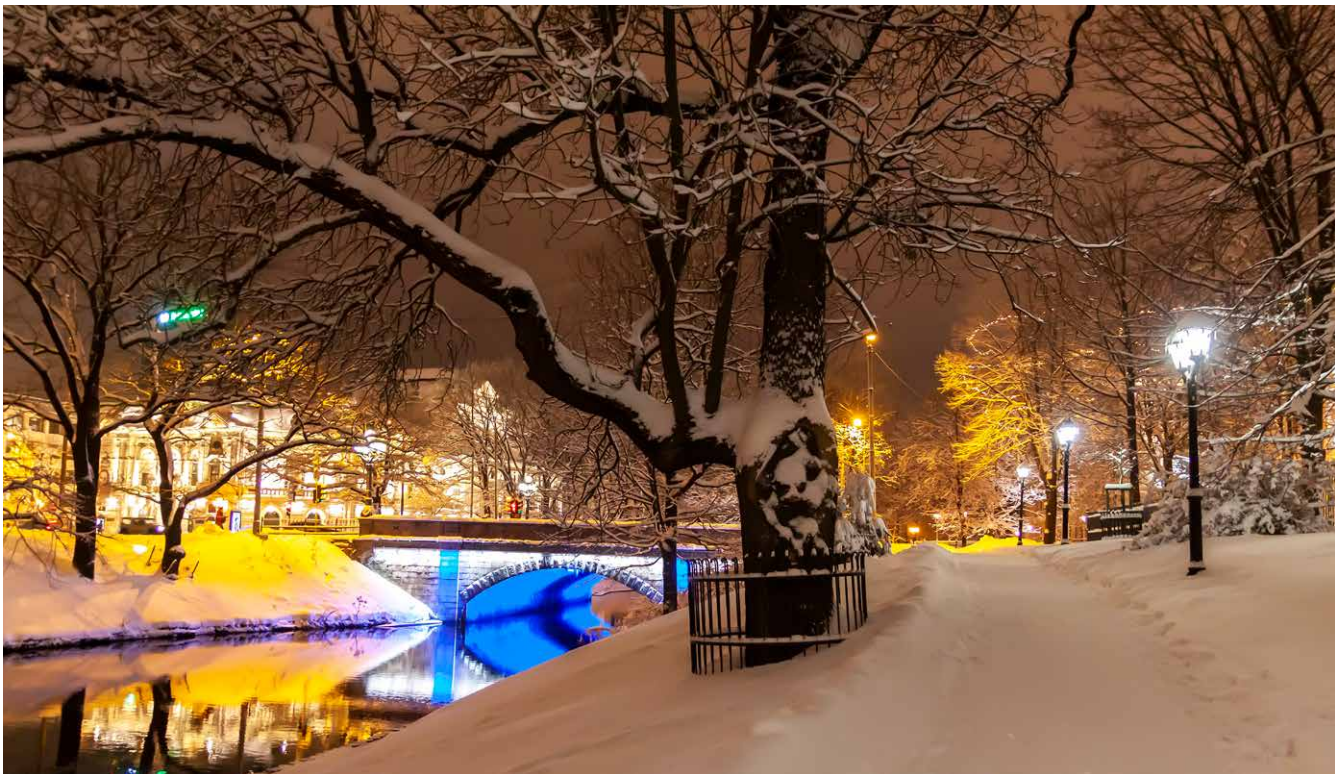
The application does not comply with other requirements laid down by the Constitutional Court Law
Section 18 of the Constitutional Court Law sets out the general requirements to be complied with by all applicants.

Application No 237/2021 was signed by a sworn advocate and stated that it was made on behalf of an entirety of property of an estate. The application was accompanied by a power of attorney issued by the estate-leaver, by which the estate-leaver authorised the sworn advocate to take all necessary steps to manage the immovable property belonging to them.

During the hearing, the Court indicated that according to Section 2312, Clause 5 of the Civil Law, an authorisation contract terminates upon the death of either party. However, according to Section 2316, Paragraph one of the Civil Law, the death of the authorising person determined the contractual relations in the same way as revocation. Section 2316 of the Civil Law also provides for two exceptions to this rule. Although the power of attorney of the estate-leaver for the management of the immovable property in question contains a broad scope of the rights of the authorised person, it does not cover the preparation and submission of a constitutional complaint almost two years after the death of the authorising person. Moreover, the contested provisions were adopted on 30 September 2021, i.e. after the death of the estate-leaver, which, inter alia, also indicates that, in the present case, the submission of a constitutional complaint for the assessment of the constitutionality thereof cannot be regarded as a continuation of the assigned case – the management of immovable property.

The person who had signed the application indicated that they had the right to represent the entirety of property of an estate before the Constitutional Court, inter alia, because the son of the deceased had authorised them to represent her in the inheritance case. With regard to this consideration, the Court noted that, according to Section 251 of the Notariate Law, such a power of attorney may include, for example, the filing of an application for the acceptance, renunciation or protection of an estate. The actions to be carried out when conducting inheritance matters are also specified in the Cabinet Regulation No 618 of 4 August 2008, Regulations on the Keeping of Inheritance Register and Conducting Inheritance Matters. It is therefore a special power

66 Decision of the 1st Panel of the Constitutional Court of 8 February 2022 on refusal to initiate proceedings on the basis of application No 22/2022.



of attorney within the meaning of Section 2291 of the Civil Law, issued for the performance of all legal actions necessary in the context of the inheritance matter. In particular, such a power of attorney is limited to representation in the inheritance matter. However, the right to represent a natural person in an inheritance matter does not in itself include the right to represent the entirety of property of an estate. Thus, as the Constitutional Court concluded, the application and the documents attached thereto did not show that the particular sworn advocate had been appointed as the guardian of the entirety of property of an estate, and therefore the application was declared to be non-compliant with the requirements of Section 18, Paragraph three of the Constitutional Court Law.[67]

Application No 12/2022, however, made the Court assess the right of a person to challenge the constitutionality of two different provisions of law in a single application. In particular, the application challenged the compliance of the provisions of both the Law on the Procedures for Holding under Arrest and the Sentence Execution Code of Latvia (hereinafter – the Code) with the first sentence of Article 91 of the Constitution.

The application indicated that the contested provisions form a single legal regulation. They provide that persons who have been sentenced by a court judgment which has not entered into effect and who are under arrest as the security measure are subject to the regime established for all detainees under the Law on the Procedures for Holding under Arrest, without being subject to the progressive sentence execution system contained in the Code.

The Panel held that the first sentence of Section 4, Paragraph one of the Law on the Procedures for Holding under Arrest, which was challenged in the application, determined the place of arrest execution, Section 1, Paragraph two of the Code determined its scope, and Section 4, Paragraph one of the Code determined the basis for the execution of a criminal sentence. In particular, the contested provisions each determine specific aspects of a particular form of deprivation of liberty and there is no close connection between them. It could be concluded, therefore, that an assessment of their constitutionality in the context of a single case would facilitate a comprehensive and expeditious examination of the case. Hence the application was recognised to be non-compliant with the requirements laid down in Section 18, Paragraph two of the Constitutional Court Law.[68]

The Assignments Hearing of the Court also decided on the legal assessment of a situation where a Member had withdrawn their signature from the application to the Court submitted by no less than twenty Members of the *Saeima*. Namely, at the time of its submission to the Constitutional Court, application No 194/2022 had been signed by twenty members of the *Saeima*, but about a week later, a petition was received by which one deputy withdrew their signature from the application.

During the hearing, the Constitutional Court noted that one of the signatories of the application had

67 Decision of the Constitutional Court of 5 January 2022 on the refusal to initiate a case on the basis of application No 237/2021.
68 Decision of the 3rd Panel of the Constitutional Court of 7 February 2022 on refusal to initiate proceedings on the basis of application No 12/2022.

expressed their will not to associate themselves with the application of the Members of the *Saeima* submitted to the Court. Until an application is considered, any expression of will by a Member is binding on the Constitutional Court. Their signature on the application reflects their will that the case be brought before the Constitutional Court. It would be contrary to the legislator's purpose to initiate a case on the basis of an application where only nineteen or fewer Members of the *Saeima* have expressed such a wish. Consequently, the Court concluded that the application was no longer supported by the signatures of no less than twenty Members of the *Saeima* at the time of its examination and recognised that the application did not meet the requirements of Section 18, Paragraph three of the Constitutional Court Law.[69]

Res judicata

Section 20, Paragraph five, Clause 4 of the Constitutional Court Law provides that the Constitutional Court may refuse to initiate a case if an application is submitted regarding a claim that has already been tried. The Panels adopted four decisions based on this provision in 2022.

Application No 41/2022 asked the Court to declare Section 50.[4], Paragraph four and Section 50.[5], Paragraph three of the Code as not compliant with Article 91 of the Constitution. These provisions regulated the conditions for serving sentences in the lower levels of closed and partly-closed prisons. The Applicant's objections to the progression of convicted persons within the framework of the system of progressive execution of sentences governed by the contested provisions and their incompatibility with Article 91 of the Constitution were related, inter alia, to the procedure established in Sections 50.[4] and 50.[5] of the Code that for committing a crime of equal gravity (serious or particularly serious), men and women start serving sentences in different regime prisons.

The Panel noted that its judgment of 7 November 2019 in Case No 2018-25-01 declared Section 50.[4] of the Code as not compliant with Article 91 of the Constitution. In this judgment, the Court examined the entire legal framework of Section 50.[4] of the Code as a whole while also taking into account the legal framework of Section 50.[5]. Consequently, the Panel recognised that the request to assess the compliance of the contested provisions with Article 91 of the Constitution had been submitted in respect of an adjudicated claim.

At the same time, the applicant argued: Section 50.[4], Paragraph four of the Code also does not comply with Article 91 of the Constitution because it provides for equal treatment of all convicted persons in the highest level of the regime of serving sentences in closed prisons, although these persons are in different circumstances. In particular, this provision prevents an individual assessment and does not allow the time spent under arrest to be included in the sentence to be served at the highest level of the penal regime.

The Panel recognised that in the judgment in Case No 2018 - 25 - 01, non-compliance of Section 50.[4] of the Code with Article 91 of the Constitution was related to the differential treatment of male convicts insofar as it had no objective and reasonable grounds. This judgment regarding the progress of the convicted person within the framework of the system of sentence progressive execution did not assess the equal treatment of persons who are in different and in comparable circumstances according to certain criteria, as allegedly provided for in Section 50.[4] of the Code. Thus, the claim could not be considered as adjudicated in this part and Section 20, Paragraph five, Clause 4 of the Constitutional Court Law did not apply thereto.[70]

Changes to the legal basis or statement of facts of a case in a repeatedly submitted application

Section 20, Paragraph five, Clause 5 of the Constitutional Court Law grants the Panel of the Court the right to refuse to initiate a case if the legal justification or statement of actual circumstances included in the application has not changed on its merits in comparison to the previously submitted application regarding which a decision was taken by the Panel. In 2022, just over 30 decisions refusing to initiate a case were taken on the basis of this provision.

Section 20, Paragraph five, Clause 5 of the Constitutional Court Law is based on the principle of procedural economy. This relieves the work of the Panels in cases where the Court is faced with repeated applications which are similar in legal reasoning or to an earlier application in terms of the facts and circumstances.

When examining application No 147/2022, the Panel established that the applicant requested the Court to declare Section 10, Paragraph one of the Law on Management of the Spread of Covid-19 Infection as incompatible with Article 89 and the first sentence of Article 92 of the Constitution, Article 6 of the European Convention on Human Rights and Article 14 (1) of the International Covenant on Civil and Political Rights. The contested provision granted courts the right to hear civil and administrative cases in the written procedure.

The Panel acknowledged that, in comparison with the previously submitted application on which the Panel had taken a decision, application No 147/2022 had been supplemented with arguments on why Latvia's international human rights obligations should also be taken into account when ascertaining the content of the constitutional provisions. The applicant had also specified that it is necessary to provide for oral proceedings at least in one instance in cases involving

69 Decision of the Constitutional Court of 13 December 2022 on refusal to initiate a case on the basis of application No 194/2022.
70 Decision of the 1st Panel of the Constitutional Court of 23 March 2022 on refusal to initiate a case on the basis of application No 41/2022.

complex legal issues. The application also clarified the claim: the applicant requested that compliance of the contested provision with Article 89 of the Constitution and the first part of Article 14 of the International Covenant on Civil and Political Rights also be examined.

However, the Panel concluded that changes in the presentation and structure of the arguments put forward in the application, their expansion or enlargement, as well as the addition to the application of other substantively similar provisions of higher legal value did not constitute changes which altered the content of the legal reasoning contained therein. The application still failed to provide legal grounds for the fact that the obligation of the legislator to establish compulsory oral proceedings in at least one instance in civil cases would follow from the constitutional provisions. The application also failed to state reasons why the compatibility of the contested provision with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms or Article 14(1) of the International Covenant on Civil and Political Rights should be assessed separately from the provisions of the Constitution. Thus, the additional observations contained in this application did not remedy the deficiencies identified in the previous decision of the Panel.[71]

The legal basis is evidently insufficient to satisfy the claim

Pursuant to Section 20, Paragraph six of the Constitutional Court Law, the Panel has the right to refuse to initiate a case if the legal basis included in the complaint is evidently insufficient to satisfy the claim. In 2022, the Panels adopted just under 40 decisions refusing to institute proceedings on the basis of this provision.

Section 20, Paragraph six of the Constitutional Court Law applies only to one type of application – a constitutional complaint. The decisions of the Panels adopted on the basis of this provision generally relate to such matters of law in respect of which the Court has established case-law. For example, application No 200/2022 requested the Court to assess compliance of the provisions of Cabinet Regulation No 353 of 7 June 2016, Procedure for Determining the Extent of Losses to Land Owners or Users Related to Significant Damage Caused by Specially Protected Non-Game Species and Migratory Species of Animals and Minimum Requirements for Protection Measures to Prevent Damage, with, inter alia, Article 105 of the Constitution. The contested provisions of the Cabinet Regulation stipulated the conditions to be complied with when applying for compensation for losses caused by specially protected non-game species and migratory species of animals.

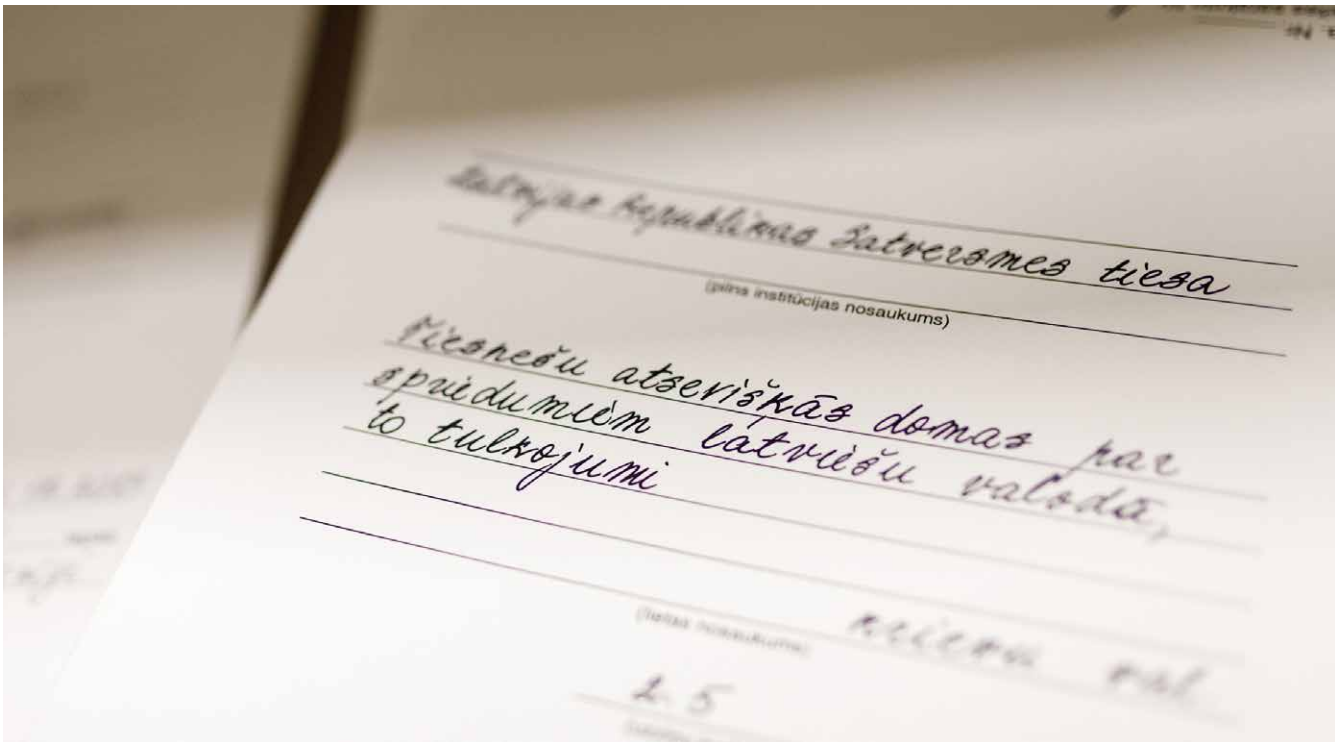
The applicant indicated that by restricting a person's right to property by the contested provisions, the Cabinet had failed to assess and review in due time the compliance of the restriction with Article 105 of the Constitution, taking into account also the case-law of the Constitutional Court. The principle of good lawmaking was therefore not respected. Allegedly, it is also doubtful that the restriction on Article 105 of the Constitution established by the contested provisions has a legitimate aim. Moreover, the restriction of fundamental rights contained in the contested provisions is said to also be incompatible with the principle of proportionality, since there are less restrictive means of restricting the applicant's fundamental rights.

Referring to the case-law of the Constitutional Court, the Panel recognised that not every violation of procedure is a sufficient ground to consider that the adopted legal act does not have legal force. For an act to be declared invalid due to procedural irregularity, there must be a reasonable doubt that, had the procedure been followed, a different decision was taken. However, the applicant has not substantiated why the alleged infringements of the principle of good law would be so significant that the contested provisions should be declared unconstitutional.

Article 116 of the Constitution establishes the cases under which a person's fundamental rights may be restricted. The legitimate aim of a restriction on fundamental rights – protection of the general public welfare – primarily concerns the general material well-being of society. The legislator's objective of saving financial resources is in itself aimed at protecting the public welfare, and such an objective is legitimate. There may also be situations where the legitimate aim of a restriction of fundamental rights is primarily aimed at saving financial resources, but it also protects public welfare in a broader sense by helping to save financial resources. When assessing the suspension of the compensation for significant damage caused by protected species, the Constitutional Court had already indicated in its case-law that restrictions on the payment of such compensation were established to protect the well-being of society by balancing the State budget revenues and expenditures.

The only means which may be regarded as less restrictive of the fundamental rights of a person are those which achieve the legitimate aim at least to the same degree and do not involve a disproportionate effort on the part of the State or society. The application did not contain arguments that the legitimate aim of the restriction of the fundamental right contained in the contested provision would be achieved at least to the same extent by the means indicated by the applicant. On the contrary, the alternative means identified application could require additional State contributions.

71 Decision of the 4th Panel of the Constitutional Court of 13 September 2022 on refusal to initiate proceedings on the basis of application No 147/2022.



Moreover, merchants cannot base their business solely on state aid. Business activity involves initiative and courage in the face of constant risk and economic uncertainty, i.e. it involves many difficulties and unforeseen situations that may arise both as a result of decisions taken by the merchant and due to circumstances beyond the merchant's control. The application did not provide any legal justification that the potential damage to specially protected non-game species and migratory animals in the natural environment should not be considered as such a hardship linked to the applicant's economic activity.

The Panel also took note of the judgment of the Court of Justice of the European Union of 27 January 2022 in Case C238/20, SātiņiS. In particular, Article 17 of the Charter of Fundamental Rights of the European Union, entitled 'Right to property', allows compensation granted by a Member State of the European Union for the losses suffered by an economic operator as a result of protective measures applicable under Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds to be significantly less than the damage actually incurred by that operator.

Consequently, the Panel held that the legal substantiation included in the application concerning the alleged incompatibility of the contested provisions with Article 105 of the Constitution was evidently insufficient to satisfy the claim.[72]

Other requests from applicants

Other requests from the applicants have also been decided in the Panels' decisions not to initiate proceedings. In most cases, upon concluding that the application did not comply with the requirements of the Constitutional Court Law and therefore court proceedings cannot be initiated, the Panel leaves these requests without consideration. However, in individual cases, the assessment of the applicant's request may be relevant for the subsequent interpretation of the Constitutional Court Law.

In application No 126/2022, the applicant – Daugavpils City Council – requested to apply a provisional remedy and to suspend the enforcement of the contested provision of the law until the Constitutional Court's judgment enters into force.

During the hearing, the Constitutional Court recognised that Section 19.^{2}, Paragraph five of the Constitutional Court Law provided for only one provisional remedy – the right to suspend the enforcement of a court ruling if a constitutional complaint had been submitted. The request to suspend the contested regulation is not an unregulated procedural matter which the Court would be entitled to decide. Consequently, the request to suspend the application of the provision of law was dismissed.[73]

72 Decision of the 2nd Panel of the Constitutional Court of 20 December 2022 on refusal to initiate a case on the basis of application No 200/2022.

73 Decision of the Constitutional Court of 14 September 2022 on refusal to initiate a case on the basis of application No 126/2022.

3 DIALOGUE

The key function of the Constitution is to ensure continued existence of Latvia as a democratic state governed by the rule of law throughout the ages. The provisions, principles and values of the Constitution provide that the continuity of the Latvian state is ensured, and the development of society takes place within a legal framework in accordance with the rule of law. There are no issues for which the principle of the rule of law does not impose certain quality criteria. The constitutional duty of the Court under Article 85 of the Constitution is to ensure the supremacy of the Constitution and, therefore, the comprehensive rule of law. In each judgment, the Constitutional Court indicates the legal framework within which the priority work for the development of the Latvian State should be carried out. At the same time, to ensure the sustainability of a democratic state governed by the rule of law, the principle of rule of law the State must sustain a dialogue with society and constitutional authorities.

In such a state, dialogue between different groups in society and the authorities of State power is necessary to build relations of mutual trust and confidence, as well as to realise a shared vision for the future of the country (Preamble and Article 1 of the Constitution). Belonging to the international community and trusting in the idea of a united Europe requires active international cooperation and maintenance of a supranational dialogue in order to promote international peace and security (Preamble and Article 68 of the Constitution). The Constitutional Court is thus engaged in a dialogue at national, European, and international level.

The purposes of strengthening national consciousness, encouraging participation in State affairs and developing understanding of the fundamental values of Latvia as a democratic state governed by the rule of law require an active dialogue with the public to broaden knowledge and understanding of the Constitution and the functions of the Constitutional Court. Openness and professionalism are the principles guiding the Court's dialogue. The information provided by the Court to the public is prompt, accurate, comprehensible and educational. The Constitutional Court explains the complex legal terms in an understandable way, elaborating of the key ideas behind them. The dialogue conducted by the Constitutional Court on all levels is aimed at providing relevant information, listening attentively to the other party, and studying each situation in depth. Through dialogue, the Court identifies and seeks the most appropriate solutions to legal challenges of the modern era. Access to information and active communication contribute to public confidence in the judiciary.

Alongside dialogue with society, dialogue with constitutional authorities is also vital. As the Constitutional Court has held before, its task is not only to resolve disputes related to compliance of laws with the Constitution, but also to give its assessment on issues of constitutional importance. Annual meetings of the Justices of the Court with the President of the State, the Chairperson of the *Saeima*, the Prime Minister, the Minister of Justice and other state officials have become an established tradition.

The judicial dialogue in the European legal area and international cooperation includes the dialogue of the Constitutional Court with the courts of Latvia, the constitutional courts of other EU Member States and third countries, the Court of Justice of the European Union, the European Court of Human Rights, as well as the International Court of Justice. This judicial dialogue allows to share experience, accumulate new knowledge, engage in constructive discussions and exchange views on current issues and challenges in constitutional law not only at the national level, but also at the European and global level. The Court's international

cooperation also includes active participation in the World Conference on Constitutional Justice, which is a strategically important forum for promoting dialogue among constitutional courts worldwide.

The Court's Work During Covid-19 Pandemic

Given that Covid-19 infection continued to spread rapidly, the state of emergency was extended throughout Latvia until 28 February 2022. During the emergency situation, the Court took measures to continue working and examining cases within the time limits established by law, while preventing risks to the health of justices, court employees, participants and visitors alike. To help contain the spread of Covid-19, the hearings and dialogue events were held remotely, using technology.

The Court established a special procedure for organising work and receiving visitors for the duration of the emergency state related to Covid-19. The work of the Court was organised in a way that allowed the Court's justices and employees to work remotely, and only the employees ensuring the continuity of the Court's work performed their duties on site.

In view of the Covid-19 epidemiological security measures in place in the country, hearings with parties to cases took place remotely via videoconferencing. During the reporting period, the Court remotely delivered a ruling in Case No 2021-06-01 on the procedure for calculation and payment of personal income tax for performers of economic activity. Court hearings with participants can be watched live on the website of the Constitutional Court and on the Court's *YouTube* channel.

During the emergency situation, the Constitutional Court regularly informed the public about the continuity of the Court's work and the procedure for submitting applications, familiarisation of the parties with the case materials and reception of visitors in accordance with the requirements for epidemiological safety. The Constitutional Court regularly reviewed the procedures governing the organisation of the Court's work in the different circumstances of the spread of the Covid-19 infection and adapted its work to the situation.

Changes in the composition of the Constitutional Court Justices

On 9 December 2021, the *Saeima* confirmed *Dr. iur.* Irēna Kucina, the Deputy Head of the Chancery of the President of Latvia, Head of the Office of Advisers to the President of Latvia and Adviser on Rule of Law and European Union Law Policy, Associate Professor at the Faculty of Law of the University of Latvia, as a Justice of the Constitutional Court. On 11 February 2022, Dr. iur. Irēna Kucina took the oath (solemn vow) and assumed the office of a Justice of the Constitutional Court. The mandate of Justice Sanita Osipova of the Constitutional Court thus ended.

On 10 March 2022, the Justices of the Constitutional Court elected Justice Aldis Laviņš as the President of the Constitutional Court, while Justice Irēna Kucina was elected as the Vice-President of the Constitutional Court. The election of the President and Vice-President of the Court was held remotely by videoconference. The secret ballot was organised electronically.

On 23 May 2022, the mandate of Justice Daiga Rezevska of the Constitutional Court expired. According to Section 8, Paragraph two of the Constitutional Court Law, prior to expiration of the term of office, a Justice of the Constitutional Court may leave the office upon their own wish by notifying the Constitutional Court thereof in writing.

On 16 June 2022, the *Saeima* confirmed the Senator of the Department of Administrative Cases at the Supreme Court Senate, Professor of the Faculty of Law at the University of Latvia Dr. iur. Jautrīte Briede. *Dr. iur.* Jautrīte Briede took the office of a Justice of the Court on 1 September 2022. Jautrīte Briede took the oath (solemn vow) of a judge in 2004, when she became a Senator of the Department of Administrative Cases at the Supreme Court Senate.

11.02.2022

Irēna Kucina takes office as a Justice of the Constitutional Court.

Press release [in English]. Tweets [in Latvian]: 1; 2.

10.03.2022

Aldis Laviņš is elected President of the Constitutional Court.

Irēna Kucina is elected Vice-President of the Constitutional Court.

Press releases [in English]: 1; 2. Tweets [in Latvian]: 1; 2; 3. Photo.

16.06.2022

Jautrīte Briede is appointed as a Justice of the Constitutional Court.

Tweet [in Latvian].

01.09.2022

Jautrīte Briede takes office of a Justice of the Constitutional Court.

Press release [in English]. Tweets [in Latvian and English]: 1; 2; 3. Photo.

3.1. DIALOGUE WITH THE PUBLIC

The democratic discourse and information space of the 21st century require a wide-ranging dialogue using a variety of communication tools. The Constitutional Court maintains active dialogue with the public.

The Constitutional Court communicates with the public and media to spread information on court proceedings and rulings on a daily basis. Regular information is prepared and provided on cases initiated and pending before the Court, as well as on the latest developments in the Court's work and the dialogue activities. In addition, the Court informs the public about its cooperation at the national, European and international levels. The Court offers high-quality, comprehensive and easy-to-understand information on its work and the values enshrined in the Constitution.

In view of the public's need for accessible information, the Court actively communicates via the social network *Twitter* and its *YouTube* channel. The *Twitter* account is used to publish concise and straightforward tweets with visuals to accompany the information. During the reporting period, the Court's *Twitter* account @Satv_tiesa had 676 posts and 1,898 followers. The *Twitter* administration environment shows that during the reporting period, the records had around 600,000 views and more than 20,000 interactions. The Court's *YouTube* channel stores all the videos it has prepared: hearings with parties to the cases, webinars, videos from events, video greetings and other information in audio-visual form. The *YouTube* account has 83 followers and gathered 21,148 views in the reporting period.

The Constitutional Court's podcast *Tversme*, which discusses the values enshrined in the Constitution and the role of the Court in a democratic state governed by the rule of law, has become a favourite among listeners. The podcast had 358 listeners during the reporting period. The podcast is available on the website of the Constitutional Court and on streaming site *Spotify*. The new season of the podcast focuses on sustainability issues, highlighting areas such as the supremacy of the Constitution and the protection of values, fundamental rights and the environment in a democratic state governed by the rule of law. Three new conversations were published during the reporting period. The podcast's third episode, dedicated to the centenary of the Constitution, featured a discussion between Sanita Osipova, the former President of the Constitutional Court and Dita Plepa, Head of the Communications and Protocol Unit. In the fourth episode of the podcast, President of the Constitutional Court AldisVLaviņš talks to Serhiy Holovaty, Acting President of the Constitutional Court of Ukraine, about the Ukrainian people's struggle for freedom. In the fifth episode of the programme, Justice Artūrs Kučs of the Constitutional Court and Herdis Kjerulf Thorgeirsdóttir, Vice-President of the European Commission for Democracy through Law (Venice Commission), discuss the sustainability and adaptation of fundamental rights to the modern technological age.

Information on court proceedings

The website of the Constitutional Court provides a wide range of information on cases initiated and pending before the Constitutional Court, as well as applications received.

For the fifth year in a row, the Constitutional Court cooperates with the *LV portāls*' creative team to produce Justices' video commentaries to reflect the content of the adopted decisions fully and comprehensively. They set out the merits of the case, highlight the legal issues and main findings, and explain the impact of the ruling on society. During the reporting period, four video commentaries were produced on the following cases: No 2021-10-03 on the requirement to take the Covid-19 test before entering Latvia; No 2021-23-01 on the restriction for arrested persons to participate in the elections of a local government council; No 2021-25-03 on the maximum amount of legal aid costs to be reimbursed to a private person; No 2021-33-0103 on organising the educational process during the spread of the Covid-19 infection.

A press conference on litigation is convened to inform the public about the main conclusions of a Constitutional Court's ruling. These press conferences are usually attended by the President of the Court and the Justice who prepared the case. Members of the

media are also invited to the press conference. Last year, press conferences were held remotely and broadcast live. All video recordings have been preserved and are available to interested parties on the *YouTube* channel of the Constitutional Court. Three press conferences were held during the reporting period on the rulings in the following cases: No 2021-06-01 on the procedure for calculating and paying personal income tax for performers of economic activity; No 2021-18-01 on confiscation of criminally acquired property in insolvency proceedings; No 2021-24-03 on restrictions on the operation of large shopping centres in the context of the Covid-19 pandemic.

To make available the information on the merits of a case to be examined by the Court at a hearing with parties, an opportunity has been created to receive an oral explanation of the factual and legal circumstances of the case shortly before the hearing. Information is provided by the Communications and Protocol Unit of the Constitutional Court.

In the summer of 2022, the Constitutional Court published a bookazine under the name "Article 91 of the Constitution of the Republic of Latvia: the Principle of Legal Equality. The Right to a Fair Trial". Almost 160 Court decisions were used to prepare the publication, and conclusions from 109 decisions were included therein. Thus, this bookazine can be considered the most extensive collection of the Court's judgments on the content of the principle of legal equality. The bookazine was prepared by the Legal Department of the Constitutional Court: Head of Department Kristaps Tamužs, as well as Advisers to the Constitutional Court Gatis Bārdiņš, Sandijs Statkus, Uldis Krastiņš, Elīna Podzorova and Aleksandrs Potaičuks. The index of decisions used was compiled by Anete Suharževska, Assistant Justice of the Constitutional Court. The aim of the Court's bookazines on fundamental rights is to provide quality information on the Court's decisions, to promote understanding of the essence of the fundamental rights enshrined in the Constitution, and to strengthen public confidence in both the Court and the constitutional order of the State as a whole.

Last year, the Court also invited citizens to use the database of the Court's case-law. It contains the most important findings from the judgments of the Constitutional Court, decisions on termination of court proceedings and separate opinions of justices. These insights are organised by keywords and categories. The database also contains statistics on applicants, contested provisions, the institutions which issued thereof, as well as other information related to the Constitutional Court proceedings. The database is available after downloading and installing the *Citavi* software on your computer.

Current events beyond legal proceedings

The year 2022 marked the centenary of the adoption and entry into effect of the Constitution. Consequently, the Court's dialogue activities in 2022 were held in the spirit of the celebration.

In January, the Constitutional Court and its partners launched an information campaign with the theme "Open the Constitution!". The Chancery of the President of Latvia, the *Saeima*, the Supreme Court, the Ministry of Justice, the Ministry of Education and Science, the Ministry of Culture, the official publisher *Latvijas Vēstnesis* (*Jurista Vārds* and *LV portāls*), the National History Museum of Latvia, the National Archives of Latvia, Latvian Television and the portal LSM.lv were also involved in the project activities. The project also resulted in a new interactive logo *Satversme 100*. An overview of all the project activities can be found on the inter-institutional website satversme100.lv. All centenary activities on social media were tagged with the hashtag #Satversme100.

To make the text of the Constitution accessible and user-friendly for everyone, the Constitutional Court prepared an e-Book of the Constitution, which can be read on a computer or other device (smartphone, tablet or special e-reader).

The opening ceremony of the Constitution's jubilee year was held on 15 February 2022, the 100th anniversary of the adoption of the Constitution. Vice-President of the Constitutional Court Aldis Laviņš gave a speech at the formal event at the *Saeima*. This was also the opening day of the *Jurista Vārds* special edition bookazine dedicated to the centenary of the Constitution, which included the Court's justices' essays on the values enshrined in the Constitution. President of Latvia Egils Levits, Vice President of the Constitutional Court Aldis Laviņš and Member of the Council of the Bank of Latvia Zita Zariņa unveiled the silver collection coin "100 Years of the Constitution" at the Riga Castle. The coin and its concept was developed in close cooperation between the Bank of Latvia, the Constitutional Court and the Chancery of the President of Latvia.

On 16 February 2022, the Justices of the Constitutional Court participated in the international scientific conference "100 Years of the Constitution of the Republic of Latvia". Aldis Laviņš, Vice-President of the Constitutional Court, delivered an address, while Justice Irēna Kucina presented a paper titled "Latvia as a Member State of the European Union and the Framework of European Law in the Constitution". At the opening event of the educational campaign "Me, You and the Constitution" on 28 February 2022, Vice-President of the Constitutional Court AldisVLaviņš addressed the Constitutional Ambassadors who visited Latvian schools with lectures on the values enshrined in the Constitution.

In early May, Latvian Post issued a thematic stamp "100 Years of the Constitution" developed in cooperation with the Court, which symbolically depicts the solid and resilient value of the Constitution in the life of every citizen of our State. Along with the stamp, a special envelope featuring the logo of the Centenary of the Constitution was issued to invite everyone to learn more about the Constitution, the values enshrined therein, its significance today, as well as the history of its drafting.

In mid-May, the Court invited the public to visit the Court within the framework of the Night of Museums, to learn about its work and discover its newly established Constitutional Court History Room. The History Room is a cherished project under which a study on the development of constitutional review in Latvia was carried out, materials on the Constitution and the values enshrined therein were prepared, as was an exhibition on the development and traditions of the Court. A virtual tour of the Constitutional Court History Room was prepared as well. The Constitutional Court History Room was the labour of the justices and staff of the Constitutional Court in cooperation with the National History Museum of Latvia. The creative process and opening ceremony of the Constitutional Court History Room was captured on video.

The Constitutional Court cooperated with the magazine *Jurista Vārds* and the official gazette of the Republic of Latvia *Latvijas Vēstnesis* to create an educational film titled "Open the Constitution", which provides commentaries on the meaning of the Constitution and readings of the Constitution by lawyers. The film premièred on 26 May 2022. "Open the Constitution" is an ambitious project, intended as a call for every citizen of Latvia to try and understand the mechanisms of democratic state and the fundamental human rights enshrined in the Constitution of the Republic of Latvia.

Premiere of the film "Atver Satversmi" (Open the Constitution) produced by the Constitutional Court, "Jurista Vārds" and "Latvijas Vēstnesis".

At the end of June, President of the Constitutional Court Aldis Laviņš took part in a solemn event organised by the CJEU on the occasion of the centenary of our Constitution. At the ceremony, a work of art from Latvia – the painting "Immigrants" by the exiled artist Daina Dagnija (1937-2019) – was bestowed to the CJEU.

At the beginning of September, the National Encyclopaedia published an article on the Constitutional Court which summarised the most important information on the aims and tasks of the Court, its establishment and functioning, competences, as well as the composition and structure in a way that is accessible to everyone. The article, prepared by Legal Adviser Elīna Podzorova and Head of the Secretariat of the Judicial Council, former employee of the Court Alla Spale, features rich visual materials in the form of photographs, documents and videos describing the history and activities of the Constitutional Court.

In mid-September, the Court organised the international conference "Sustainability as a Constitutional Value: Future Challenges" to mark the 25th anniversary of the Constitutional Court and the centenary of the Constitution. Sustainability was put forward as the central theme Court's international conference on the centenary of the Constitution. Sustainability is one of the constitutional principles aimed at implementing and protecting the goals and values enshrined in the Constitution. This implies the obligation for constitutional courts to address in their rulings questions related to the sustainability of the nation, the State, the people, humanity and the world. In its judgments to date, the Court has addressed issues such as environmental protection, use of natural resources, the State budget, tax policy, social security, legislation and defensive democracy. The conference brought together judges from the European constitutional courts and the Court of Justice of the European Union, as well as representatives from the European Commission for Democracy through Law (Venice Commission).

In September, the Constitutional Court published the 2022 Green Policy. In developing and implementing the Green Policy, the Court committed to reducing the amount of waste generated, including printed paper, recycling waste as far as possible, saving resources and promoting other environmentally friendly actions. The employees of the Constitutional Court are invited to weigh their current habits from the point of view of sustainable development and, where possible, to act in a way that minimises their negative impact on the environment. The Court respects the external legal acts which include requirements for the protection of the environment and sustainable use of natural resources. In addition, the Court also implements other measures that do not directly result from external legal acts, since every person's participation and actions matter in ensuring environmental sustainability at the individual and institutional level. The Court developed its Green Policy to promote environmentally friendly and sustainable management of the Court.

On 9 December, the 26th anniversary of the Court's establishment, the Court organised a constitutional law think-tank "The Principle of Legal Equality". The think-tank was attended by justices of the Constitutional Court, President of the Republic of Latvia Egils Levits, Auditor General Rolands Irklis, members of the Council of the State Audit Office Kristīne Jaunzeme and Maija Āboliņa, Chairman of the Judicial Committee of the *Saeima* Andrejs Judins and sworn advocate Matīss Šķiņķis.

On 21 December, Vice-President of the Constitutional Court Irēna Kucina attended the charity marathon "Dod pieci!" studio in Riga, Town Hall Square. The Vice-President addressed the possibilities of our society to help Ukrainian children, the protection of children's rights and the cooperation between the Court and the Constitutional Court of Ukraine in strengthening the rule of law. Irēna Kucina wished everyone to be united in thoughts and deeds in support of Ukraine, and delivered to the charity the joint donation made by the Court family.

Students and teachers

The Constitutional Court assigns particular value to its dialogue with school youth and teachers, as this is an opportunity to strengthen the national consciousness in pupils and encourage participation in the democratic procedure by exploring and promoting the values of the Constitution.

Justices and employees of the Court participated in the educational campaign "Me, You and the Constitution". As part of the campaign, pupils and teachers had the opportunity to meet with justices and staff of the Court to discuss the Constitution and everyone's role and responsibility in the everyday life of a democratic state governed by the rule of law. The educational campaign "Me, You and the Constitution" was implemented by the Ministry of Justice in cooperation with the Ministry of Education and Science. As part of the educational campaign, the ambassadors of the Constitution – Latvian lawyers – visited educational institutions throughout Latvia to introduce pupils to the fundamental law of the State, its values and importance in our daily lives.

In February, the closing ceremony of the school drawing competition "Constitution for a Happy Latvia" and the essay competition "Article 100 in the Centenary of the Constitution: How Freedom of Expression and Self-Expression Make Me Happy and Latvia Strong" was held online. 45 schools were represented, covering all regions of Latvia. 187 drawings were submitted to the 6th-grade drawing competition "Constitution for a Happy Latvia", while 38 essays in the 9th-grade group and 40 essays in the 12th-grade group were submitted to the essay competition "Article 100 in the Centenary

of the Constitution: How Freedom of Expression and Self-Expression Make Me Happy and Latvia Strong". To ensure that the works of the competition could be viewed throughout Latvia, the Court also published a catalogue of pupils' works last year. The catalogues have been sent to the participating schools and to the largest libraries in Latvia.

In September, on the centenary of the Constitution, the Court announced the sixth drawing and essay competition. The second century of the Constitution calls us to continue thinking, doing and creating for the future. It is important to be aware of our role and importance in making Latvia, Europe and the world a better place to live in, as well as for peace, order and the rule of law to prevail. We all do so many important things so that our fellow human beings can enjoy a fulfilling life today. At the same time, our work and thoughts impact the future – the State and the world that future generations will live in. Through the drawing and essay competition, the Court invites students to visualise and put into words the many and varied ways in which the values enshrined in the Constitution contribute to sustainable development. The theme of the latest drawing and essay competition is "My responsibility to future generations".

Within the framework of the Shadow Day, nine pupils visited the Court to follow the President of the Constitutional Court Aldis Laviņš, the Vice-President of the Constitutional Court Irēna Kucina, the Head of the Communications and Protocol Unit Dita Plepa and the Assistant Justice Elīna Circene throughout their working day. The pupils had the opportunity to get acquainted with the day-to-day work of the Court, to take part in a hearing with the parties, as well as to meet representatives of their chosen professions and discuss issues related to the choice of future profession and duties at the Constitutional Court.

Law students and student organisations

To promote excellence in higher education, the Constitutional Court cooperates with higher education and scientific institutions and law students.

On the occasion of the centenary of the Constitution, the Court collaborated with the Art Academy of Latvia to implement a new dimension of dialogue with youth by organising the summer school (plein air) "Story of the Constitution". During the summer school (plein air), justices and employees of the Court, legal scholars, writers and artists conducted lectures and master classes so that students could prepare written, audio, video or visual works to convey the values enshrined in the Constitution, as well as to reflect young people's vision of the sustainability of a democratic state governed by the rule of law. The theme of the summer school (plein air) was one of the central concepts of the Constitution – freedom. The aim of the Constitution is to ensure the existence of a free and independent State of Latvia where everyone can exercise their fundamental rights and freedoms. The idea of freedom is reflected both in the text of the Constitution and in the case-law of the Court. Article 113 of the Constitution provides that the State recognises and protects the freedom of artistic and other creative activity. Artistic freedom is therefore a value that is important for any democratic society.

The Constitutional Court supports organisations that hold moot courts every year. In 2022, the justices and staff of the Court supported the moot constitutional court proceedings organised by the Professor Kārlis Dišlers Foundation. Holding moot court finals in the Chamber of the Constitutional Court has become an established tradition. The justices and staff of the Court also supported the human rights moot court organised by the Ombudsman.

Representatives of creative industries

In cooperation with the National Library of Latvia, the Constitutional Court continued the tradition started in 2018 of organising interdisciplinary discussions on Latvia, the State, society and the fundamental values enshrined in the Constitution. The *Conversations On Latvia* have become one of the most important events in the Court's dialogue with society. Two *Conversations On Latvia* took place during the reporting period.

In mid-June, the Court held the ninth iteration of its *Conversations On Latvia* under the name "United in Diversity". The event was opened with a video greeting from Aldis Laviņš, the President of the Constitutional Court. The discussion was moderated by Sanita Osipova, former Justice and President of the Court, Professor at the Faculty of Law of the University of Latvia. The discussion was attended by doctor of philosophy Skaidrīte Lasmane, sculptor Gļebs Panteļejevs, culturologist Deniss Hanovs and journalist Kārlis Arājs. The final summary of the discussion was given by Ineta Ziemele, former Justice and President of the Constitutional Court and Judge of the Court of Justice of the European Union. A video recording of the conversation is available on the website of the Constitutional Court.

At the end of November, on the occasion of the centenary of the Constitution, the tenth episode *Conversations On Latvia* was held on the topic "Does the Constitution define the ideal Latvian society, which is still in the making?" The President of the Constitutional Court Aldis Laviņš moderated the discussion. The discussion was attended by political scientist Vita Matīss, assistant professor at the Faculty of Theology, University of Latvia Juris Cālītis, and a participant of the Summer School (plenary) of the Court Krišjānis Kaļāns. The final summary of the discussion was given by Ineta Ziemele, former Justice and President of the Constitutional Court and Judge of the Court of Justice of the European Union. The participants shared their thoughts on how the Constitution helps to shape and guide Latvian society, each citizen and the State as a

whole towards sustainable development. A video recording of the conversation is available on the website of the Constitutional Court.

Conferences, discussions and other news

18.01.2022
Justice Gunārs Kusiņš of the Constitutional Court takes part in the expert discussion "Latvian Parliament Through the Ages" within the framework of the opening ceremony for the centenary year of the *Saeima*.
Tweet [in Latvian].

26.01.2022
President of the Constitutional Court Sanita Osipova makes a presentation at the international scientific conference "The Impact of Covid-19 on Children: Rights and Responsibilities".
Tweet [in Latvian].

02.02.2022
The Constitutional Court announces the results of the competition of pupil's drawings and essays dedicated to the centenary of the Constitution of the Republic of Latvia.
Press release [in Latvian]. Tweet [in Latvian].

07.02.2022
Justices Artūrs Kučs and Anita Rodiņa of the Constitutional Court participate in the plenary session of the 80th International Scientific Conference "100 Years of the Constitution of the Republic of Latvia" at the University of Latvia.
Tweet [in Latvian].

09.02.2022
The first episode of the new season of the Constitutional Court's podcast *Tversme*, dedicated to the centenary of the Constitution of the Republic of Latvia, is published.
Press release [in Latvian]. Audio recording [in Latvian].
Tweet [in Latvian].

09.02.2022
Vice-President of the Constitutional Court Aldis Laviņš participates in the 80th International Scientific Conference of the University of Latvia "Latvian Private Law in the Twists and Turns of Time".
Tweet [in Latvian].

15.02.2022
The Constitutional Court publishes the text of the Constitution in e-book format.
Press release [in English]. Tweet [in Latvian].

15.02.2022
Justices of the Constitutional Court participate in the opening event of the Constitution's jubilee year at the *Saeima* House. Vice-President of the Constitutional Court Aldis Laviņš gives an address.
Press release [in Latvian].

15.02.2022
Vice-President of the Constitutional Court Aldis Laviņš makes a speech at the opening event of the coin dedicated to the centenary of the Constitution at Riga Castle.
Press release [in English]. Tweets [in Latvian]: 1; 2; 3.

16.02.2022
Vice-President of the Constitutional Court Aldis Laviņš delivers a speech at the international scientific conference "100 Years of the Constitution of the Republic of Latvia", while Justice Irēna Kucina presents her paper "Latvia as a Member State of the European Union and the Framework of European Law in the Constitution".
Press release [in Latvian]. Tweets [in Latvian]: 1; 2.
Video [in Latvian].

28.02.2022
Vice-President of the Constitutional Court Aldis Laviņš participates in the opening of the educational campaign for pupils "Me, You and the Constitution".

Press release [in Latvian]. Tweet [in Latvian]. Video [in Latvian].

11.03.2022
Anita Rodiņa, Justice of the Constitutional Court, chairs the 80th International Scientific Conference of the University of Latvia "*Person before the Constitutional Court. Comparative aspects*".
Tweet [in Latvian].

17.03.2022
Vice-President of the Constitutional Court Irēna Kucina, Justices Gunārs Kusiņš and Anita Rodiņa participate in the international conference "Safeguarding the State. Then and Now: The Baltic Experience of National Resistance and Ukraine".
Tweet [in Latvian]. Video [in Latvian].

25.03.2022
The Constitutional Court commemorates the victims of the communist genocide.
Press release [in Latvian]. Tweet [in Latvian].

01.04.2022
President of the Constitutional Court Aldis Laviņš, Vice-President Irēna Kucina, Justices Gunārs Kusiņš and Artūrs Kučs participate in the discussion "How to Tell History? Research, Politics, Communication".
Tweet [in Latvian].

06.04.2022
The Constitutional Court organises a Shadow Day.
Press release [in Latvian]. Tweet [in Latvian]. Photo.

08.04.2022
New judges visit the Constitutional Court to initiate a dialogue on the application of the Constitution.
Press release [in Latvian]. Tweet [in Latvian]. Photo.

29.04.2022
Justice Artūrs Kučs of the Constitutional Court gives a lecture on the Constitution at Galēni Primary School as part of the "Me, You and the Constitution" campaign.
Tweet [in Latvian].

30.04.2022
The final of the human rights moot court is held in the Chamber of the Constitutional Court.
Tweets [in Latvian]: 1; 2. Video [in Latvian].

01.05.2022
Justices of the Constitutional Court lay flowers at the burial place of Jānis Čakste, President of the Constitutional Assembly and President of Latvia.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2. Photo.

04.05.2022
A greeting of the Constitutional Court on the anniversary of the restoration of independence of the Republic of Latvia.
Tweets [in Latvian]: 1; 2; 3.

06.05.2022
President of the Constitutional Court Aldis Laviņš opens the first day of stamping the centenary stamp issued by Latvian Post and the Constitutional Court.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2; 3.

14.05.2022
For the first time, the Constitutional Court opens its doors to the public as part of Museum Night.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2; 3; 4; 5; 6.

16.05.2022
Justice Artūrs Kučs of the Constitutional Court visits the Salaspils Municipality Library to give a lecture on

the Constitution and the Constitutional Court.
Tweet [in Latvian].

17.05.2022
Justice Gunārs Kusiņš participates in the authors' discussion "Reading the Constitution after 24 February".
Tweets [in Latvian]: 1; 2.

20.05.2022
Pupils from the Līgatne Young Leaders Secondary School visit the Constitutional Court.
Tweet [in Latvian].

26.05.2022
Première of the educational film *Atver Satversmi* [Open the Constitution] by the Constitutional Court, the magazine *Jurista Vārds* and the official publisher of the Republic of Latvia *Latvijas Vēstnesis*.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2; 3; 4; 5; 6. Photo.

14.06.2022
The Constitutional Court commemorates the victims of the communist genocide.
Press release [in Latvian]. Tweet [in Latvian].

17.06.2022
Ninth *Conversations On Latvia* "Are We United in Diversity?"
Press release [in Latvian]. Tweets [in Latvian]: 1; 2; 3; 4; 5; 6; 7; 8. Photo. Video [in Latvian].

29.06.2022
Justices and staff of the Constitutional Court meet with representatives of the State Data Inspectorate to discuss current issues in the area of European Union law.
Tweet [in Latvian].

25–28.07.2022
Justices and staff of the Constitutional Court participate in the 18th Constitutional Law Seminar in Ratnieki.
Press release [in Latvian]. Tweet [in Latvian].

21.08.2022
The Constitutional Court's greetings on the adoption of the Constitutional Law On the Statehood of the Republic of Latvia.
Press release [in Latvian]. Tweet [in Latvian].

22.08.2022
Justices Gunārs Kusiņš and Artūrs Kučs of the Constitutional Court participate in the Statehood Award ceremony.
Tweet [in Latvian].

29.08–02.09.2022
The Constitutional Court in cooperation with the Art Academy of Latvia organises a summer school (plein air) in Kuldīga.
Press releases [in Latvian]: 1; 2; 3. Tweets [in Latvian]: 1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 11; 12; 13; 14; 15.

30.08.2022
Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, gives a lecture "The right to a benevolent environment as a fundamental human right in the Latvian context. Case-law of the Constitutional Court" at the Professor Kārlis Dišlers Summer School of Public Law.
Tweet [in Latvian].

02.09.2022
The National Encyclopaedia publishes an article on the Constitutional Court.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2.

05.09.2022
Vice-President of the Constitutional Court Irēna Kucina, Justices Gunārs Kusiņš, Artūrs Kučs and Jautrīte Briede participate in the conference "10 Years of the Opinion on the Unamendable Core of the Constitution".
Tweets [in Latvian]: 1; 2.

06.09.2022
Justice Gunārs Kusiņš of the Constitutional Court receives the medal of the President of Latvia.
Tweet [in Latvian].

13.09.2022
The Constitutional Court opens the possibility for visitors to the hearing to receive information about the case in person.
Tweet [in Latvian].

14.09.2022
The Constitutional Court publishes the Green Policy for Environmental Sustainability.
Press release [in Latvian]. Tweet [in Latvian].

23.09.2022
The Constitutional Court announces the sixth competition for pupils' drawings and essays on the Constitution.
Press release [in Latvian]. Tweet [in Latvian].

14.10.2022
Pupils and teachers from the Riga English Gymnasium visit the Constitutional Court.
Tweet [in Latvian].

17.10.2022
Justice Anita Rodiņa of the Constitutional Court participates in the discussion "State Language in 21st Century Higher Education and Science" dedicated to the State Language Day.
Tweets [in Latvian]: 1; 2.

18.10.2022
Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, gives a lecture on the Constitution and the Constitutional Court at Riga Secondary School No 64 as part of the educational campaign "Me, You and the Constitution".
Tweet [in Latvian].

21.10.2022
Students from *ELSA Latvia* visit the Constitutional Court to get acquainted with its work.
Tweet [in Latvian].

24.10.2022
Justices of the Constitutional Court attend the seminar "The Methods of Interpretation of the EU Law" at the Riga Graduate School of Law.
Tweet [in Latvian].

27.10.2022
Justices of the Constitutional Court take part in the concert "Continuation. Our Voices" dedicated to the centenary of the *Saeima*.
Tweet [in Latvian].

07.11.2022
The Constitutional Court celebrates the 100th anniversary of the entry into force of the Constitution.
Tweets [in Latvian]: 1; 2.

07.11.2022
Justice Gunārs Kusiņš of the Constitutional Court participates in the event "Latvian Parliamentarism in the Centenary of the *Saeima*" organised by the *Saeima*.
Tweet [in Latvian].

07.11.2022
The Student Council of the Faculty of Law at the University of Latvia visits the Constitutional Court.
Tweet [in Latvian].

07.11.2022
President of the Constitutional Court Aldis Laviņš gives a speech at the opening of the exhibition on the history of the Constitution "Constitution 100+" at the National History Museum of Latvia.
Tweets [in Latvian]: 1; 2; 3. Photo.

09.11.2022
Justice Gunārs Kusiņš of the Constitutional Court participates in the lecture "The "Original" Constitution: Meaning, Search, Discovery" at the Latvian National History Museum's exhibition "Constitution 100+".
Tweet [in Latvian].

10.11.2022
Dita Plepa, Head of the Communications and Protocol Unit of the Constitutional Court, gives a lecture on the Constitution and the Constitutional Court at the ISMA Secondary School *Premjers* as part of the educational campaign "Me, You and the Constitution".
Tweet [in Latvian].

10.11.2022
Teachers from the Faculty of Law at Riga Stradiņš University visit the Constitutional Court.
Tweet [in Latvian].

11.11.2022
The Constitutional Court commemorates the heroes who fought for a free and independent Latvia on Lāčplēsis Day.
Press releases [in Latvian]: 1; 2. Tweets [in Latvian]: 1; 2. Photo.

11.11.2022
The Constitutional Court publishes an episode of the *Tversme* podcast in which the President of the Constitutional Court Aldis Laviņš talks to the Acting President of the Constitutional Court of Ukraine, Serhiy Holovaty.
Press release [in Latvian]. Tweet [in Latvian]. Audio recording [in Latvian].

16.11.2022
The family of the Constitutional Court visits the new exhibition "Constitution 100+" at the National History Museum of Latvia.
Tweet [in Latvian].

18.11.2022
The Constitutional Court gives greetings on the 104th anniversary of the proclamation of the Republic of Latvia and participates in the events dedicated thereto.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2; 3; 4; 5. Photo.

21.11.2022
President of the Constitutional Court Aldis Laviņš delivers a speech at the closing event of the educational campaign for pupils "Me, You and the Constitution" at the National History Museum of Latvia.
Tweets [in Latvian]: 1; 2.

23.11.2022
Students of the Faculty of Law at the University of Latvia visit the Constitutional Court.
Tweet [in Latvian].

25.11.2022
Justice Anita Rodiņa of the Constitutional Court gives a lecture on the Constitution at Ventspils Secondary School No 6 as part of the "Me, You and the Constitution" campaign.
Tweet [in Latvian].

25.11.2022
Conversations On Latvia "Does the Constitution define the ideal Latvian society, which is still in the making?"
Press releases [in Latvian]: 1; 2; 3. Tweets [in Latvian]: 1; 2; 3; 4; 5; 6.

05.12.2022
Vice-President of the Constitutional Court Irēna Kucina delivers a video address at the scientific and practical conference of the Riga Regional Court and the Faculty of Law of the University of Latvia.
Tweet [in Latvian]. Video [in Latvian].

09.12.2022
The Constitutional Court organises a constitutional law think-tank "The Principle of Legal Equality".

Press releases [in Latvian]: 1; 2. Tweets [in Latvian]: 1; 2; 3; 4; 5; 6; 7. Video [in Latvian].

09.12.2022
A virtual tour of the Court's history room is launched on the 26th anniversary of the Constitutional Court.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2. Video [in Latvian].

12.12.2022
Students of the Intensive Programme of the Riga Graduate School of Law visit the Constitutional Court.
Tweet [in Latvian].

13.12.2022
The Constitutional Court publishes an episode of the *Tversme* podcast, in which Justice Artūrs Kučs of the Constitutional Court talks to Herdis Kjerulf Thorgeirsdóttir, Vice-Chair of the European Commission for Democracy through Law (Venice Commission).
Press release [in English]. Tweet [in Latvian]. Audio recording [in Latvian].

16.12.2022
Justice Gunārs Kusiņš of the Constitutional Court participates in the conference "Sustainability of Latvia and the State Council".
Tweet [in Latvian].

17.12.2022
The final of the Professor Kārlis Dišlers Constitutional Law Moot Court is held at the Constitutional Court.
Press release [in Latvian]. Tweet [in Latvian]. Video [in Latvian].

21.12.2022
Vice President of the Constitutional Court Irēna Kucina visits the charity marathon "Dod pieci!" studio.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2. Video [in Latvian].

23.12.2022
The Constitutional Court's greetings on Christmas and New Year.
Press release [in Latvian]. Tweet [in Latvian].

3.2. DIALOGUE WITH PUBLIC AUTHORITIES

In a democratic state governed by the rule of law, a constant dialogue between public institutions is needed to ensure effective mechanism of checks and balanced in the relations between the branches of State power. From the perspective of effective functioning of the state, it is important that all branches of State power perform their functions duly, do not exceed the limits of competence granted to them, and respect one another. Close cooperation between constitutional bodies is particularly important in conditions of an emergency situation.

The Constitutional Court organises annual meetings with the heads of all constitutional bodies, as well as the Minister for Justice and other public officials. Last year, the main dialogue topics were the necessary amendments to the Constitutional Court Law and the introduction of the e-case, international cooperation of the Court and timely and effective enforcement of the Court's rulings. Relevant issues of constitutional law in Latvia and other important aspects related to increasing the public trust in the judicial power in Latvia were also discussed.

06.04.2022
President of the Constitutional Court Aldis Laviņš and Vice-President Irēna Kucina meet with President of the Republic of Latvia Egils Levits.
Press release [in Latvian]. Tweet [in Latvian]. Photo.

05.05.2022
The justices of the Constitutional Court discuss the need for amendments to the Constitutional Court Law with the Minister for Justice Jānis Bordāns.
Press release [in English]. Tweet [in Latvian].

24.05.2022
Justices of the Constitutional Court meet with Prosecutor General Juris Stukāns.
Press release [in Latvian]. Tweet [in Latvian].

07.06.2022
Justices of the Constitutional Court discuss current issues of constitutional law with the Speaker of the *Saeima* Ināra Mūrniece.
Press release [in Latvian]. Tweet [in Latvian]. Photo.

22.06.2022
Justices of the Constitutional Court meet with Prime Minister Krišjānis Kariņš.
Press release [in Latvian].Tweet [in Latvian]. Photo.

29.06.2022
The Vice-President of the Constitutional Court Irēna Kucina, Justice Gunārs Kusiņš and Court staff meet with representatives of the Ministry of Justice to discuss the introduction of the e-case.
Tweet [in Latvian].

05.09.2022
The Vice-President of the Constitutional Court Irēna Kucina and the Court staff meet with representatives of the Ministry of Justice and the Courts Administration to discuss the introduction of the e-case in the Constitutional Court proceedings.
Tweet [in Latvian].

11.10.2022
Justices of the Constitutional Court meet with President of Republic of Latvia Egils Levits.
Press release [in Latvian].Tweet [in Latvian]. Photo.

07.12.2022
President of the Constitutional Court Aldis Laviņš attends a meeting of the *Saeima* Foreign Affairs Committee.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2.

3.3. JUDICIAL DIALOGUE IN THE EUROPEAN JUDICIAL AREA

The European judicial area comprises the legal areas of the EU Member States, which are encompassed by the European legal system and to which the European Convention for the Protection of Human Rights and Fundamental Freedoms is directly applicable. The Constitutional Court's dialogue with the Latvian courts, the constitutional courts of other EU Member States, as well as the Court of Justice of the European Union and the European Court of Human Rights takes place within the European judicial area. This judicial dialogue allows to share experience, accumulate new knowledge, engage in constructive discussions and exchange views on current issues and challenges in constitutional law not only at the national level, but also at the European and global level.

Judicial dialogue in Latvia
In April, 11 young judges visited the Constitutional Court to initiate a dialogue on the court application to the Constitutional Court and the application of constitutional provisions. President of the Constitutional Court Aldis Laviņš gave a lecture on the principle of cooperation and the role of judges in civil proceedings. Kristaps Tamužs, Head of the Legal Department of the Constitutional Court, and the new judges discussed the methodology of interpreting and applying the Constitution. Legal Adviser Elīna Podzorova gave a presentation on the court application to the Constitutional Court. The presentation on the use of the Constitutional Court case-law database was prepared by the Legal Adviser Gatis Bārdiņš. The visit was a part of the training programme for young judges organised by the Latvian Judicial Training Centre. It is an introductory training for young judges to prepare them for independent judicial work.

Judicial dialogue at European and international level
In April, President of the Constitutional Court Aldis Laviņš met with Judge Ineta Ziemele of the CJEU to discuss issues of cooperation. At the end of April, the staff of the Constitutional Court of Lithuania visited the Constitutional Court to discuss with the advisers and assistants of the Court matters related to organisation of the two courts' work, current case law and the institution of the constitutional complaint.

In May, Judge Inga Reine of the European General Court visited the Constitutional Court to discuss cooperation with the European General Court and current developments in the case-law of both courts. The meeting was attended by the President of the Constitutional Court Aldis Laviņš, Vice-President Irēna Kucina, Justice Artūrs Kučs and Head of the Legal Department Kristaps Tamužs.

In June, the justices of the Constitutional Court met with the justices of the Constitutional Court of Lithuania and the Supreme Court of Estonia within the framework of tripartite cooperation. In three working sessions, the parties discussed the latest case law and a number of topical issues of constitutional law.

In August, the Cabinet of Ministers approved Justice Artūrs Kučs of the Constitutional Court as Latvia's representative on The EU Agency for Fundamental Rights.

Early September, Justice Anita Rodiņa of the Constitutional Court participated in the annual conference of the European Law Institute in Madrid. Late September, the President of the Constitutional Court Aldis Laviņš and Vice-President Irēna Kucina visited the Constitutional Court of Austria in Vienna to meet with the judges of the Austrian Constitutional Court and participate in the celebrations of the 102nd anniversary of the Austrian Constitution. During the visit, the President and the Assistant Vice-President of the Constitutional Court met with the President of the Constitutional Court of Austria Christoph Grabenwarter, Vice-President Verena Madner, and the Court's justices.

At the beginning of October, Justice Artūrs Kučs of the Court participated in the Conference of Experts on the Charter of Fundamental Rights of the European Union. And at the end of October, Justices of the Court met with the CJEU's President Koen Lenaerts and Judge Ineta Ziemele. Both parties discussed the Court's strategic goals, drawing special attention to priorities in international cooperation. The parties agreed to organise a mutual visit for justices of the Constitutional

Court and judges of the Court of Justice of the European Union in 2023. Meanwhile, late October, the President of the Constitutional Court Aldis Laviņš gave a presentation at the International Conference of the Constitutional Court of Lithuania on the anniversaries of the Constitutions of Lithuania.

In December, the President of the Constitutional Court Aldis Laviņš participated in the events celebrating the 70th anniversary of the CJEU. The celebrations also included a judicial forum of Member States "Justice Close to the Citizen". The Judicial Forum is an annual colloquium to maintain the vital link between the CJEU and the national courts that apply European Union law in close cooperation with the CJEU on a daily basis. The President of the Constitutional Court also took part in a workshop on judicial communication.

At the beginning of December, the judges of the Vilnius Regional Administrative Court visited the Constitutional Court for an experience exchange. Artūrs Kučs, Justice of the Constitutional Court, visited the European Court of Human Rights on a study visit.

During the reporting period, the staff of the Constitutional Court visited the Court of Justice of the European Union twice in order to learn how it organises its work and to exchange experience on litigation and communication issues.

Last year, within the framework of the exchange programme of the European Judicial Training Network, judges and prosecutors from EU Member States visited the Constitutional Court three times. During these exchange visits, the Court shared information on the model of constitutional review in Latvia, the functions, competences and working methods of the Constitutional Court. The participants also discussed the proceedings at the Constitutional Court and the latest developments in the case-law of the Court. The exchange visits of judges and prosecutors in Riga was organised by the Latvian Judicial Training Centre in the framework of the European Judicial Training Network project. The aim of this project is to promote transnational cooperation and the mutual recognition of legal practice between judges and prosecutors, strengthening the unity of the European judicial area.

21.02.2022
Vice-President of the Constitutional Court Aldis Laviņš and Justice Anita Rodiņa participate in the Conference of Constitutional Courts and Supreme Courts of the European Union.
Press release [in Latvian]. Tweet [in Latvian].

11.04.2022
President of the Constitutional Court Aldis Laviņš meets Judge Ineta Ziemele of the Court of Justice of the European Union.
Press release [in English]. Tweet [in Latvian].

21–22.04.2022
The Constitutional Court receives an exchange visit from the Lithuanian Constitutional Court.
Press release [in English]. Tweets [in Latvian]: 1; 2. Photo.

09.05.2022
The Constitutional Court discusses cooperation in the European judicial area with General Court Judge Inga Reine.
Press release [in English]. Tweet [in Latvian].

19.05.2022
Justices Gunārs Kusiņš and Anita Rodiņa of the Constitutional Court meet with Filippo Donati, President of the European Networks of Councils for the Judiciary.
Tweet [in Latvian].

09–10.06.2022
Justices of the Constitutional Court meet with the justices of the Constitutional Court of Lithuania and the Supreme Court of Estonia within the framework of the judicial dialogue.
Press release [in Latvian]. Tweets [in Latvian and English]: 1; 2; 3, 4.

Koen Lenaerts, President of the Court of Justice of the European Union, and Justice Ineta Ziemele visit the Constitutional Court.

24.06.2022
President of the Constitutional Court Aldis Laviņš attends the official opening of the Judicial Year of the ECHR.
Tweet [in English].

27.06.2022
President of the Constitutional Court Aldis Laviņš participates in the solemn event organised by the CJEU on the occasion of the centenary of our Constitution.
Press release [in Latvian]. Tweet [in Latvian].

28.06.2022
Judges and prosecutors from European Union countries visit the Constitutional Court on an exchange visit.
Press release [in Latvian]. Tweet [in English].

30.08.2022
Justice Artūrs Kučs of the Constitutional Court is appointed Member of the Board of the European Union Agency for Fundamental Rights.
Press release [in Latvian]. Tweet [in Latvian].

05–08.09.2022
Justice Anita Rodiņa of the Constitutional Court participates in the annual conference of the European Law Institute in Madrid.
Tweets [in Latvian]: 1; 2.

09.09.2022
Justices of the Constitutional Court participate in the international conference on the role of Supreme Courts in strengthening the values of the Constitution, organised by the Supreme Court.
Press release [in Latvian]. Tweet [in Latvian]. Video [in Latvian].

26–27.09.2022
Employees of the Constitutional Court visit the Court of Justice of the European Union on an exchange visit.
Press release [in Latvian].

29–30.09.2022
President of the Constitutional Court Aldis Laviņš and Vice-President Irēna Kucina visit the Constitutional Court of Austria.
Press release [in Latvian]. Tweet [in Latvian].

06–07.10.2022
Justice of the Constitutional Court Artūrs Kučs participates in the Conference of Experts on the Charter of Fundamental Rights of the European Union.
Tweet [in Latvian].

07.10.2022
Vice-President of the Constitutional Court Irēna Kucina participates in the Conference of European Constitutional Courts in Brussels.
Press release [in Latvian]. Tweet [in nglish].

13–14.10.2022
Vice-President of the Constitutional Court Irēna Kucina participates in the 30th anniversary conference of the Academy of European Law in Trier.
Tweets [in Latvian]: 1; 2.

24.10.2022
Koen Lenaerts, President of the Court of Justice of the European Union, and Justice Ineta Ziemele visit the Constitutional Court.
Press release [in English]. Tweets [in Latvian and English: 1; 2. Photo.

25.10.2022
President of the Constitutional Court Aldis Laviņš and Justice Jautrīte Briede participate in the international conference on the anniversaries of the Constitutions of Lithuania.
Press releases [in Latvian]: 1; 2; 3. Tweets [in Latvian]: 1; 2; 3; 4; 5. Video [in Latvian]. Photo.

04.11.2022
President of the Constitutional Court Aldis Laviņš participates in the annual conference of the Riga Graduate School of Law "Human Rights in Latvia and Europe: New Challenges".
Tweet [in Latvian].

01.12.2022
Judges and prosecutors visit the Constitutional Court as part of a study visit by the European Judicial Training Network.
Press release [in Latvian]. Tweet [in Latvian].

04–05.12.2022
President of the Constitutional Court Aldis Laviņš participates in the events celebrating the 70th anniversary of the CJEU.
Press release [in English]. Tweets [in Latvian]: 1; 2.

05.12.2022
The Constitutional Court presents a book on the history of the Court of Justice of the European Union to mark the 70th anniversary of the CJEU.
Tweet [in English].

05–09.12.2022
Justice Artūrs Kučs of the Constitutional Court pays a study visit to the European Court of Human Rights.
Tweet [in Latvian].

07.12.2022
Judges of the Vilnius Administrative Court visit the Constitutional Court.
Tweet [in Latvian].

22.12.2022
The Constitutional Court participates in the CJEU film which reflects the development and dialogue with the courts of the EU Member States.
Tweet [in Latvian]. Video [in Latvian].

3.4. INTERNATIONAL CO-OPERATION

One of the strategic objectives of the Constitutional Court is to ensure the international recognition and high reputation of the Court. The Court and its justices have gained wide recognition at the international level – this has been facilitated by the Court's justices' frequent participation in various international conferences and events.

In March, the Constitutional Court, the Supreme Court of Estonia and the Constitutional Court of Lithuania sent a letter to the Conference of European Constitutional Courts on solidarity with the Ukrainian judiciary and the Ukrainian people. The constitutional courts of the three Baltic States condemn the aggression of the Russian Federation against the independent state of Ukraine. To this end, the Constitutional Courts of the three Baltic States propose to exclude the Constitutional Court of the Russian Federation from the Conference of European Constitutional Courts and to consider excluding the Constitutional Court of Belarus from the Conference as an observer.

In April, the President of the Constitutional Court Aldis Laviņš and the Vice-President of the Constitutional Court Irēna Kucina met with the Ambassador Extraordinary and Plenipotentiary of the Republic of France to the Republic of Latvia Aurélie Royet-Gounin. President of the Constitutional Court Aldis Laviņš and Vice-President Irēna Kucina also met with the German Ambassador to Latvia Christian Heldt to discuss cooperation between the constitutional courts of the two States to strengthen the rule of law and exchange experience.

In May, the judges of the Court met with representatives of foreign representations in Latvia to present the latest developments and judgments of the Constitutional Court.

At the beginning of June, the Justices of the Court met with the President of the Hellenic Republic, Katerina Sakellaropoulou. During the meeting, the experiences of both States in strengthening the rule of law and case-law were discussed. In mid-June, President of the Constitutional Court Aldis Laviņš and Vice-President Irēna Kucina met with the Ambassador Extraordinary and Plenipotentiary of the Republic of Poland to the Republic of Latvia Monika Michaliszyn.

In mid-September, judges of the Constitutional Court of Ukraine visited the Court to discuss topical legal issues and strengthen mutual cooperation during a bilateral meeting. The Constitutional Court was visited by Serhiy Holovaty, Acting President of the Constitutional Court of Ukraine, Judges Oksana Hryshchuk and Galyna Yurovska, as well as Olga Kravchenko, Head of the International Cooperation Department.

At the beginning of October, President of the Constitutional Court Aldis Laviņš and his adviser Andrejs Stupins participated in the 5th Congress of the World Conference on Constitutional Justice "Constitutional Justice and Peace". President of the Court Aldis Laviņš gave a speech on the role of courts in ensuring social peace and the importance of applications to the Constitutional Court. The General Assembly also met as part of the WCCJ Congress and approved the Constitutional Court as a member of the WCCJ Bureau, where it will represent the interests of all European constitutional courts. The approval of the Court as a member of the WCCJ Bureau is a significant moment in the history of constitutional law in Latvia. The Vice-President of the Court Irēna Kucina took part in the Conference of European Constitutional Courts organised by the European Commission in Brussels. The conference focused on the protection of the rule of law in the EU and cooperation between EU constitutional courts.

During the reporting period, the Court also continued to interact actively with the European Commission for Democracy through Law (the Venice Commission) – traditionally, Latvian representatives on the Venice Commission are current or former justices of the Constitutional Court. At the same time, the Court uses the network established by the Venice Commission to regularly communicate with the constitutional courts of other Venice Commission member states.

04.03.2022
The Constitutional Court, the Supreme Court of Estonia and the Constitutional Court of Lithuania write a letter to express their solidarity with Ukraine.
Press release [in English]. Tweet [in English].

14–16.03.2022
Justice Jānis Neimanis of the Constitutional Court participates in the training organised by the American Bar Association in Kazakhstan.
Tweet [in Latvian].

04.04.2022
Aurélie Royet-Gounin, Ambassador of France to Latvia, visits the Constitutional Court.
Press release [in English]. Photo.

23.04.2022
President of the Constitutional Court Aldis Laviņš attends the 2022 Spring Conference of the European Criminal Bar Association.
Tweets [in Latvian]: 1; [in English] 2.

25.04.2022
The Constitutional Court and the German Ambassador to Latvia Christian Heldt discuss cooperation between the Latvian and German courts.
Press release [in English]. Tweet [in Latvian].

27.05.2022
Justices of the Constitutional Court meet with representatives of foreign missions in Latvia.
Press release [in Latvian]. Photo.

02.06.2022
Justices of the Constitutional Court meet the President of the Hellenic Republic Katerina Sakellaropoulou.
Press release [in Latvian]. Tweet [in Latvian].

13.06.2022
The Ambassador of Poland to Latvia Monika Michaliszyn visits the Constitutional Court.
Press release [in Latvian]. Tweet [in English].

17–18.06.2022
Justice Artūrs Kučs of the Constitutional Court attends the 131st plenary session of the Venice Commission.
Press release [in Latvian]. Tweet [in English].

28.06.2022
President of the Constitutional Court Aldis Laviņš participates in the International Conference of the Constitutional Court of Ukraine.
Tweet [in English].

14.09.2022
A delegation from the Constitutional Court of Ukraine visits the Constitutional Court.
Press release [in Latvian]. Tweets [in Latvian]: 1; 2; 3. Photo.

15–16.09.2022
The Constitutional Court organises the international conference "Sustainability as a Constitutional Value: Future Challenges".
Press releases [in English]: 1; 2; 3; 4; 5. Tweets: from 15 to 16.09.2022; as well as tweets with hashtags #Satversme100Conference and #SatversmesTiesa25Conference [in English]. Video: 1; 2. Photo.

21.09.2022
Irēna Kucina, Vice-President of the Constitutional Court, participates in the OECD Global Roundtable on Access to Justice.
Press release [in Latvian]. Tweet [in English]. Video [in Latvian].

23.09.2022
President of the Constitutional Court Aldis Laviņš and his adviser Andrejs Stupins participate in the Judicial Seminar on Constitutionalism and the Rule of Law at the University of Notre Dame in Rome.
Tweet [in Latvian].

04–06.10.2022
President of the Constitutional Court Aldis Laviņš participates in the 5th Congress of the World Conference on Constitutional Justice.
Press releases [in English]: 1; 2; 3. Tweets [in Latvian and English]: 1; 2; 3; 4; 5; 6; 7; 8; 9. Video [in Latvian]. Photo.

20–21.10.2022
Justice Jānis Neimanis of the Constitutional Court participates in the 30th Anniversary Conference of the Constitutional Court of Albania in Tirana.
Tweet [in Latvian].

21–22.10.2022
Justice Artūrs Kučs of the Constitutional Court attends the 132nd plenary session of the Venice Commission.
Tweet [in Latvian].

3.5. OPENING OF THE CONSTITUTIONAL COURT JUDICIAL YEAR

At the beginning of February, the fourth formal sitting of the Constitutional Court was held, symbolically opening the new judicial year of the Court. The formal sitting was opened by Sanita Osipova, the President of the Constitutional Court, with a report on the development of constitutional law in 2021. After the report, the guest of honour of the sitting – Dainis Īvāns, the First Chairman of the Popular Front of Latvia – made a speech.

After the formal sitting, a press conference was held to present an overview of the Court's work in 2021. The Court's formal sitting and the press conference were broadcast live.

Speech by the President of the Constitutional Court Sanita Osipova at the opening of the Constitutional Court's Judicial Year on 4 February 2022.

I. Introduction
Honourable Prime Minister, Honourable President of the Supreme Court, Honourable Mr Īvāns, Honourable Judge Mits of the European Court of Human Rights, Honourable Former Presidents of the State, Honourable Former Presidents and Justices of the Constitutional Court, ladies and gentlemen!

I am honoured to open the new judicial year of the Constitutional Court with the fourth formal sitting of the Court, where the Court reports to the public on its achievements of the previous year. This is important because in a democracy, every constitutional body exercises popular power. This public accountability provides feedback to the sovereign and reinforces the legitimacy of our actions. At the same time, the formal sitting of the Court symbolises dialogue between the constitutional bodies representing the three branches of State power, aimed at strengthening the judicial cultural area of our State. Moreover, this solemn sitting also marks the 25th anniversary of the Court, as well as the upcoming centenary of the Constitution. And this is the last hearing in which I take part as a Justice of the Court, as I will lay down my mandate on 11 February.

We have achieved so much in this past year due to people who choose to defend their rights, which allows the Court to strengthen Latvia, a democratic state governed by the rule of law, with its judgments. The legal issues that come before the Court are the tip of the iceberg of the deficiencies in Latvia's legal system. It is a mirror of our people's perception of justice; a mirror that every branch of government should look into to understand the problems that the Latvian sovereign cares about and which have to be addressed through law, thus bringing ordering into people's lives and making them easier.

II. Statistics
Last year, the number of applications submitted to the Constitutional Court increased, as did the complexity of the cases initiated. A total of 47 cases have been opened. Most cases were initiated on the basis of constitutional complaints by individuals (23 cases) and court applications (20 cases). Two cases were initiated on the basis of applications by local government councils, and one case each on the basis of an application by the Ombudsman and an application by members of the *Saeima*.

The largest number of cases challenged the compliance of legal provisions with the right to property enshrined in Article 105 of the Constitution (24 cases), the procedure for exercising the right to legislate enshrined in Article 64 of the Constitution (13 cases), as well as the principles of legal equality and prohibition of discrimination enshrined in Article 91 of the Constitution (11 cases).

In total, 27 cases were heard last year. They declared 66 legal provisions compatible and 34 provisions incompatible with the Constitution.

Given that this time was passed under the sign of the 25th anniversary of the Constitution, it is worth outlining the overall achievements of the Constitutional Court during this period. So far, the Court has delivered 379 judgments, taken 113 decisions on termination of proceedings, and dealt with more than 4,500 applications. The Court has given its opinion

on issues important for the State and the community, gaining social trust – the Constitutional Court is the most trusted constitutional organ of State power.[74] This is a very high award, which gives us great satisfaction for the work we have done.

In these 25 years, the Constitutional Court has developed a tradition of adjudication, a methodology for interpreting constitutional provisions, and has strengthened the values of a democratic state governed by the rule of law. I express my gratitude to every justice and staff member of the Court for their selfless work in standing guard over the Constitution. Thank you!

III. Dialogue

To foster trust and develop a shared vision for the future of the State, the Constitutional Court actively engages in dialogue – first and foremost with the public. This year, we have made sustainability the central topic of this dialogue. Sustainability is one of the constitutional principles aimed at protecting and implementing the goals and values enshrined in the Constitution.[75]

In order to develop new forms of dialogue with the public, the Court has launched a podcast called *Tversme*.[76] With this podcast, we aim to generate interest and increase knowledge about the values of a democratic state governed by the rule of law, the application of the Constitution and the work of the Court. The episodes of *Tversme* are intended to highlight, among other things, the recognition that the Constitution is capable of ensuring the sustainability of Latvia's statehood.

The Court's dialogue with the public continues to include children and young people. Through its fifth annual drawing and essay competition, the Court works to encourage creativity in children and young people and increase their knowledge of values. In addition, the competition includes webinars on the values enshrined in the Constitution, giving young people the opportunity to discuss topics of interest to them. By fostering an exchange of ideas between generations on what matters most, we contribute to sustainability and strengthen our civic future.

The Constitutional Court regularly holds *Conversations On Latvia* in cooperation with the National Library of Latvia. These events bring together representatives from different sectors to discuss issues of importance to Latvia as a whole. Another way in which the Court draws attention to the importance of democratic values is the *Lampa* discussion festival, as is the Court's tradition of organising a think-tank for constitutional law experts, which will be devoted to sustainability this year.

The Constitutional Court is entrusted with the great responsibility of ensuring the supremacy of the Constitution and enforcing the values of a democratic state governed by the rule of law. For this reason, at least once per year the Court meets with the heads of other constitutional institutions, as well as establishes cooperation with other institutions of the judiciary. This aspect of dialogue will also play an important role in Court's activities planned for the year.

Last year, the Constitutional Court continued its dialogue with foreign constitutional courts, thereby strengthening the rule of law in Europe. A special highlight is the conference "EUnited in Diversity: Between Common Constitutional traditions and National Identities". The conference took place in Riga in September 2021 and was organised by the Court together with the Court of Justice of the European Union. This was the first time in the history of the European Union that judges of the constitutional courts of the Member States and judges of the CJEU gathered to discuss EU's common legal traditions and how to reconcile them with the constitutional traditions and national identities of the Member States. The issues discussed at the conference are high on the EU's justice agenda.

IV. Recent case-law of the Constitutional Court

Administration of justice is also a part of dialogue with the Court.

Last year, the Constitutional Court continued to receive applications and initiate cases on issues related to the Covid-19 pandemic.[77] The Court also heard its first-ever case concerning restrictions on the organisation of gambling during the emergency situation related to the spread of Covid-19 infection.[78] This case is significant for several reasons. First, it assessed for the first time the competencies of the *Saeima* and the Cabinet of Ministers during a state of emergency. The Court held that the legislator's authorisation to the Cabinet of Ministers to adopt the legal provisions necessary to manage the emergency situation was established to remedy the emergency situation as quickly and efficiently as possible, taking into account its multi-layered nature and the wide range of persons affected, as well as the difficulty of foreseeing the development of that situation. The fact that the Cabinet of Ministers is empowered to

74 Public opinion survey "Views of the Latvian population on the Constitutional Court". Press conference, 27.08.2020. Available at: satv.tiesa.gov.lv

75 Judgment of the Constitutional Court of 6 October 2017 in Case No 2016-24-03, paragraph 11.

76 The Constitutional Court launches the podcast *Tversme*. Available at: satv.tiesa.gov.lv/press-release/satversmes-tiesa-atklaj-raidierakstu-tversme

77 Case No 2021-10-03 on the requirement to take the Covid-19 test before entry into Latvia, Case No 2021-24-03, Case No 2021-29-03 and Case No 2021-37-03 on restrictions on commercial activities in large shopping centres (all three cases merged into one), and Case No 2021-33-0103 on conduct of education in schools remotely after the end of the emergency situation.

78 Case No 2020-26-0106. See also Case No 2020-62-01.

take certain steps in an emergency, which would provisionally fall within the competence of the *Saeima*, is in line with the principle of separation of powers. At the same time, there are limitations on the executive in exercising this power, moreover, it does not alter the status of the parliament as a directly legitimised democratic legislator. Thus, if the *Saeima* concludes that it is able to remedy a particular emergency issue quickly and effectively on its own, it has the right to do so. However, the legislator must always respect general principles of law aimed at minimising harm to fundamental rights, democracy and the rule of law.

Secondly, the case under consideration emphasised the freedom of self-determination of the individual as the supreme value of a democratic state governed by the rule of law. Freedom of self-determination involves the right of a person to make their own choices on the basis of the information available to them without direct state interference, where those decisions affect exclusively them. This freedom extends to any human choice, as long as it does not undermine the rights of others, the constitutional order, or other interests essential to society. The legislator must respect this freedom and trust the individual's ability to appraise the consequences of such an expression of freedom, even if it could be a self-injurious act, as long as it affects only that individual. In turn, the person must take responsibility for the consequences of exercising their freedom. Even in times of emergency, the legislator must not adopt rules that are unduly broad and restrict the rights of persons to whom the legitimate aim of the restriction does not even apply. With regard to the contested provision[79], the Court recognised that the legislator had no grounds to restrict the possibilities of all people to choose where they wanted to invest their financial resources and how to spend their free time, as such protection was not necessary for all. Taking such decisions for citizens is a disproportionate paternalistic interference with people's right to freedom of choice and self-determination.

Last year, the Constitutional Court examined several cases related to the administrative-territorial reform[80]. A total of 19 cases were brought before the Court, which were consolidated into three cases with three judgments delivered.[81] The Court recognised that, taking into account the doctrine of relevance and the principles of parliamentary democracy, the legislator has the discretion to decide on issues related to the administrative-territorial division. The legislator must ensure balance between the different interests of specific local governments and the common interests of society, but it is not obliged to assess compliance of these decisions with the principle of proportionality in the sense that it does when imposing restrictions on fundamental rights. In line with the principle of good governance, the State has a duty to keep public administration and the administrative system under constant review and, where necessary, to improve it so that it operates as efficiently as possible. Thus the goal of the administrative-territorial reform, aimed at eliminating the identified shortcomings, is commensurate with the common interests of the Latvian society as a whole. At the same time, the Court pointed out that a reform cannot be based solely on economic considerations and financial gain. The Court stressed that, when deciding on the administrative-territorial division, the legislator is obliged to ensure that the legal framework developed is sustainable and to decide in a political procedure which considerations should prevail. Moreover, the legislator must respect the requirement arising from the principle of the rule of law that the criteria underlying the reform apply equally to all local governments, while any exception thereto must be rationally justified.

Last year, the Constitutional Court also examined a case on the compliance of several provisions of the Istanbul Convention[82] with the Constitution.[83] In this case, the Court answered major questions that have concerned society for quite some time. The Court held that all the obligations imposed on Member States by the Istanbul Convention relate exclusively to the elimination of violence against women and domestic violence. The concept of "gender" in the Convention is not intended to replace the concepts of "man" and "woman". Moreover, the Convention does not impose the adoption or implementation of any particular form of marriage or family. In addition, the case is significant for other reasons. In this case, the Court described for the first time the constitutional identity of Latvia, concluding that it is, inter alia, formed by Christian values and the postulate that the family is the foundation of a cohesive society. Describing the preamble to the Constitution was also a first for the Court, where it stated that this was a set of legal provisions and values from which the State derives certain constitutional obligations. Finally, it should be noted that the case on the Istanbul Convention was the first case in the history of the Court that assessed the constitutionality of an international treaty before its approval by the *Saeima*.

In the summer of last year, answers were received from the CJEU to the questions that the Court had included in a request for a preliminary ruling in the

79 The legal provision in question – Section 9 of the Law On Measures for the Prevention and Suppression of Threat to the State and Its Consequences Due to the Spread of Covid-19 – prohibited interactive gambling.

80 This administrative-territorial reform was established by the Law on Administrative Territories and Populated Areas of 10 June 2020.

81 Case No 2020-37-0106, Case No 2020-41-0106 and Case No 2020-43-0106.

82 Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence.

83 Case No 2020-39-02.

case on the driver demerit points.[84] On the basis of the judgment of the CJEU, the Court recognised that the contested provision was not proportionate – it provided that information on the driver demerit points was generally accessible, although it should be restricted information.

Building on its previous case-law, the Constitutional Court adopted several judgments on the constitutionality of restrictions of fundamental rights of an absolute nature or absolute prohibitions.[85] For example, the court assessed whether the legal provision that prohibited a previously convicted person from running for the position of a board member or the council of a public-private capital company for life was constitutional. Another case assessed a legal provision that barred a person convicted of a violent criminal offence from being a guardian of a child for life. These cases are significant with the effect that the Court specified the principle of good lawmaking in cases where the legislator decides to include an absolute prohibition in a legal provision. Namely, the court held that the legislator must justify the necessity for the absolute prohibition, assess the nature and consequences of such a prohibition, as well as justify that the legitimate aim of the restriction of fundamental rights would not be achieved to an equivalent degree by providing for exceptions to the absolute prohibition. Almost all the cases in which restrictions of fundamental rights of an absolute nature have been assessed are permeated by the Court's recognition that a person may change in the course of life and the fact of committing a criminal offence may not in itself affect the rest of a person's life. When providing for a prohibition that restricts person's fundamental rights one should not follow general presumptions, but promote the achievement of individual justice to the extent possible.

The Constitutional Court also examined issues of remuneration in two cases – in the case on the supplement for work on public holidays for officials with special service ranks in institutions of the Ministry of the Interior and the Prisons Administration system,[86] as well as in the case on financing for the increase in remuneration of medical practitioners.[87]

In the first case, the Constitutional Court described for the first time the meaning of holidays and rest periods. Official holidays sustain and strengthen shared historical memory, national consciousness and national identity. Official holidays must be paid days off, on which employees can both celebrate public holidays and rest. However, working on official holidays is allowed in special cases. To this end, the Constitution requires the establishment of a system of remuneration for work performed on official holidays that is both rewarding and compensatory.

In the second case, the Constitutional Court assessed the provisions of the State Budget Law, which provided for the financing of remuneration of medical practitioners. The Court noted that according to the Health Care Financing Law, increasing the remuneration of healthcare workers is a medium-term priority. When preparing the draft law on the state budget, the Cabinet of Ministers is granted discretion as to the extent to which the medium-term priority actions proposed by the various institutions should be financed, taking into account the balancing opportunities between these, the state of public finances, the urgency of the specific measures and the political priorities of the State. The Cabinet must also comply with the laws and regulations governing budget planning, which provide for ensuring a balanced and sustainable budget. The Court acknowledged that the Cabinet had considered the possibilities of providing a pay raise for doctors, but that these possibilities were balanced with other priorities and the State's capability, thus avoiding financially risky decisions. The Court held that the existence of the State was based on the principle of sustainability, and the requirement for sustainability of the State also influenced the preparation of the budget. The principle of sustainability is embedded, inter alia, in medium-term budget planning. This ensures that the annual state budget is directed towards long-term objectives and does not have a negative impact on the financial stability of the State.

The Constitutional Court also supplemented its case-law in the area of tax law. For example, in the case regarding the proportionality of a tax penalty[88], the Court recognised that ensuring tax revenue is directly related to a person's constitutional obligations towards the Latvian State. These obligations are aimed at the sustainable implementation of the sovereign will: to live in a democratic state governed by the rule of law, enshrined in the fundamental provision of the Latvian State. Whereas failure to fulfil such obligations undermines the existence of any democratic state governed by the rule of law. Namely, everyone must take care of themselves, their families and the common benefit of society by acting responsibly towards others, as well as future generations. This concern manifests, inter alia by the person fulfilling their the constitutional obligation to pay taxes contained in Article 66 of the Constitution and thus assuming responsibility for meeting the needs of society and maintaining the Latvian State. The Court also noted that the level of the shadow economy in Latvia was still high, while the understanding of the constitutional obligation of

84 Case No 2018-18-01. Last year, the CJEU issued a preliminary ruling in case No 2020-24-01 on the imposition of value added tax on the compulsory lease of land.

85 Case No 2020-18-01, Case No 2020-29-01, Case No 2020-36-01 and Case No 2021-05-01.

86 Case No 2021-07-01.

87 Case No 2020-40-01.

88 Case No 2020-31-01.

a person to pay taxes – insufficient. At the same time, the Court emphasised that the assessment of the nature of the offence and the individual circumstances of the taxpayer are of crucial importance for the application of penalties for tax offences. It is one of the tools that can give to the taxpayer assurance that the relevant tax incentives are fair. The existence of such an assessment would facilitate the taxpayer's confidence in the tax administration and, consequently, voluntary fulfilment of tax obligations.

V. Sustainability

As is evident, the Constitutional Court mentioned sustainability in several cases it heard last year. Sustainability is undeniably one of the topics whose importance is growing.

When considering sustainability, we can single out sustainability of the Latvian nation, the Latvian state, the Latvian people, humanity and the whole world. Each of these aspects is encoded in the Preamble to the Constitution: the sustainability of our nation throughout history which has forced us to safeguard our identity and unity; the sustainability of the State without losing the conviction that Latvia will persevere even in occupation; the responsibility of each person for their own life and well-being, that of their family and that of society as a whole, now and in the future.

We have come to believe that the purpose of the State is to ensure prosperity. But the Constitution teaches that prosperity cannot exist in isolation from sustainability. For example, we are still fighting the Covid-19 pandemic to protect human life and health. We are working to overcome the impact of the pandemic and inflation on the economy to ensure a decent life for everyone. But our victories will be short-lived if we do not look around us and further ahead. Alongside our daily concerns, we must pay mind to sustainability of our nation, our country, our people, humanity and the world.

An ancient folk wisdom says, "we have not inherited this land from our parents, but have borrowed it from our children". This wisdom encapsulates the idea of intergenerational solidarity, which is reflected, for example, in the 1987 report "Our Common Future" by the UN Commission on Environment and Development, chaired by Gro Harlem Brundtland[89]. Are we responsible to future generations in pursuit of our own well-being?

Albert Einstein founded the Bulletin of the Atomic Scientists with other scientists in 1945. The cover of the 1947 issue of the magazine featured a clock showing seven minutes to midnight. The illustration intended to show how close humanity has come to its doom. Since then, the editorial team, in collaboration with experts from various fields, has been regularly assessing the nuclear threat, climate change and disruptive technologies in order to move the clock forward or back. The clock is now the closest as it has ever been – 100 seconds to midnight.[90]

This metaphor is a reminder of just how important sustainability is. We often get caught up in our everyday needs and fail to see beyond them. We do not see what is happening in the oceans and the Baltic Sea, on other continents and in neighbouring countries. We do not wonder what will happen in 10 or 100 years. We live in the here and now. What we should be doing instead is live smarter – sustainably.

In its judgments to date, the Court has addressed issues such as spatial planning, use of natural resources, State budget, tax policy, social security, legislation and defensive democracy in the context of sustainability. I would like to stress that since last year, when the Court developed its Green Policy, sustainability has also entered the Court's daily practice. Under the Green Policy, the Court is committed to reducing the amount of waste it produces and recycling it as far as possible. The Court is committed to saving resources and promoting other environmentally friendly practices. Every Justice and employee of the Constitutional Court is invited to weigh their current habits from the point of view of sustainability, and to act in such a way that minimises their negative impact on the environment. When we think about it in the context of conserving resources, it would seem that the Court's commitment is practically nothing. But if we measure it in terms of highlighting the importance of sustainability, it means everything. We can embrace this conviction in all our ways.

VI. Conclusion

The founding fathers of the Latvian State laid down in the Proclamation that Latvia is an independent, democratic republic. They also prescribed the principles for electing the Constitutional Assembly to draw up the Constitution. Thus, the 'genetic code' for the sustainability of the Latvian State is a democratic state governed by the rule of law, where supremacy of the Constitution is exercised.

The Constitution has always stood alongside Latvia's statehood and ensured the existence of the Latvian State throughout the ages. The rise and decline of democracy, the severe consequences of authoritarianism and illegal occupation, as well as the story of restoring our independence and the Constitution have made us wise – they have taught us to think about future generations and our common responsibility to ensure that the Latvian State will exist forever. It is the unique experience of restoring independence and the Constitution that allows us to celebrate the continuity

89 Report of the World Commission on Environment and Development: Our Common Future. Available at: sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf

90 Mecklin J. At Doom's Doorstep: It is 100 Seconds to Midnight: 2022 Doomsday Clock Statement. Bulletin of the Atomic Scientists, 20 January 2022. Available: thebulletin.org/doomsday-clock/current-time

of statehood and to boast one of the oldest constitutions in force in Europe. A century of the Constitution confirms that responsibility is freedom.

The opportunity to reflect on the application of the Constitution, as well as to reflect on the restoration of the independence of the Republic of Latvia and the functioning of the Constitution, is a symbolic opportunity to celebrate that Latvia is a free, independent, democratic state governed by the rule of law.

Under the sign of sustainability of the Latvian State and the Constitution, we have invited Mr Dainis Īvāns, the symbol of the restoration of our freedom, to this formal sitting of the Constitutional Court. Mr Īvāns, I invite you to take the stage. Thank you!

Speech by Dainis Īvāns at the formal sitting opening the Judicial Year of the Constitutional Court on 4 February 2022

When I accepted the invitation of President Sanita Osipova to speak at the Annual Meeting of the Constitutional Court, I had my doubts and still have doubts whether I would be able to give a speech on constitutional law to such a knowledgeable audience, much more knowledgeable than me, to say the least. I will try to outline with a few digressions my understanding of the Constitution and the path to its reinstitution, which I myself have followed both as a restorer and as a witness.

The review of the Court's past judicial year and the number of serious publications by the Constitutional Court justices, especially Ms Osipova, produced in this single year make me admire how mature our understanding of state law is, and how rapidly this understanding has evolved since the restoration of Latvia's independence. This is also evidenced by the third edition of the book "Constitutional Law" by Jānis Pleps, Edgars Pastars and Ilze Plakane, published at the beginning of last year. This thorough work, which is accessible even to a reader unfamiliar with the law, demonstrates the maturity and potential of Latvia's national and democratic thinking. I compared it with the Latvian translation of Jürgen Habermas's essay on the European constitution and concluded that our authors' flight of thought on state law and philosophy is on the same level. Whatever we may think of the actions of some politicians, political parties or officials, all of this is overlaid with firmly established democratic criteria and ideals of the rule of law, which allow me as a citizen to trust our Constitutional Court, the Government and the President of Latvia, the *Saeima* and other institutions of state power, despite the irrational conspiracy theories, disinformation campaigns and denigration of Latvia's statehood, which are organised mostly by one enemy. Therefore, today, in addressing my fellow citizens, I would like to appeal not so much to the rights granted by the Constitution, but to the duties, including the duty to pay taxes in good faith, to respect the law, to follow the ideals of the rule of law and democracy, which are enshrined in the Constitution. Kārlis Skalbe said this at the time of establishing the Constitution: "It's not good that all I hear are sighs. You should be asking: what can I do for you now, Latvia? Serving democracy and the Constitution means looking beyond the everyday affairs."

Since 1996, the Constitutional Court has generally been able to look beyond the everyday and the political conjuncture; not only to appear, but to be truly independent from the pressure of political parties. In Latvia's collective consciousness, it has, I dare say, taken its place as the upholder of our national will and the guardian of the spirit of our Constitution. It has managed to topple the "monument to the privatisation of the rule of law" that some politicians in the *Saeima* wanted to push by confirming Vineta Muižniece, accused of falsifying documents, as a Constitutional Court Justice. The Court has honourably resisted the tendency to unduly restrict the fundamental rights of citizens guaranteed by the Constitution.

If the Latvian State were compared to a ship in the ocean of the world, the Constitutional Court would be the helmsman in our nation's odyssey, whose task is not to deviate from the Constitution approved 100 years ago, no matter how the wind blows. It has crowned the course of our nation since its birth at the First Latvian Nationwide Song Celebration on 26 June 1873. On this day, the people of Kurzeme and Vidzeme entered the Baltic German metropolis through the gates of Riga, and left it as the Latvian nation. As I am working on the script for the feature film "The Land That Sings" about the first song festival, I am growing more and more aware of the heroic work of the Young Latvians, including Kronvaldu Atis, the author of the Latvian word for constitution, "Satversme". Seemingly out of nowhere, they summoned and united the Latvian people, oppressed by both the Russian Empire and the German nobility. In 1922, the Constitution was adopted, forever writing their names and deeds in the history of our nation. The 1922 Constitution crowned the struggle of the Latvian Riflemen defending Riga in the First World War and those who fought the Latvian War of Independence. It materialised the zeal expressed by Zigfrīds Meierovics in the Latvian Provisional National Council: "A democratic Republic of Latvia is the guiding star we must follow, it is our oath, our idea we must strive for, it is our maximum."

It is noteworthy that in the year the Constitution was adopted, the new Latvian state launched a beautiful 50-santim coin, decorated with an ancestral ship minted from a sketch by artist Rihards Zariņš, with a striking folk-maid at the helm. I wonder whether the former designer of the tsarist Russia banknotes could have imagined when designing the first Latvian currency that the Presidents of the last two convocations of the Constitutional Court would be women. He did know, however, that Latvia was one of the first democracies in the world with women's suffrage, that Baumaņu Kārlis' Latvian prayer did not praise leaders but asked

for blessings for his country. Meierovics' and other founders' vision of a democratic republic was no secret to him. In his vision, the symbol of the new Latvia was that Latvian beauty at the helm of a ship built from enduring national traditions, sailing from prehistory, from the Young Latvians to the present. From the west, if you liken this coin to a map.

The future is, of course, unpredictable, but if the helm of our State's ship is guided by a sure hand, with the Constitution as our map, we have no reason to panic or self-doubt.

In this anniversary year of our Constitution, I have repeatedly referred to this 50-santim coin, minted at the same time as the Constitution, which captivates me with its story. It connects us with an invisible string to the forbidden homeland that was once taken from us. It must have been something like that, some symbolic, accidental impulse that initiated the path to the Third Awakening for those born after the Second World War and knew nothing about the Constitution of Latvia that the occupiers had banned. In signs, symbols and hunches, the Constitution, refusing censorship, reminded us of her existence at every turn – say, in the Riga Brethren Cemetery at the Jānis Čakste monument, in the Daugavpils Unity House, in the Madona and Jēkabpils Guard Houses, in Latvian poetry and other places.

33 years ago, when I was 33 myself, Rihards Zariņš' folk-maid, framed in a pre-war 50-santim coin which I ever so often saw in my grandparents' dresser as a child, merged with other images and tokens to become a definitive symbol of the timeless Mother Latvia in my mind. I asked for her forgiveness and continued protection at the popular rally "For a State Under the Rule of Law" on 7 October 1988, on the stage of the Song Festival in Mežaparks. I was amazed to see thousands of people, including the invited leaders of the Soviet and Communist Party, rising to their feet and listening to these words in silence, while in the distance, in the very back of the stage, a gigantic white towel-like poster read the slogan "United for Latvia" in black letters.

Do I know where the prayer that moved and uplifted people at that time, including myself, came from? I do not. It was as if someone was reading it to me. As if the image of Mother Latvia in the Riga Brethren Cemetery and the goddess of beauty, certainty and fearlessness created by Rihards Zariņš in that Daugava boat, in the world sea, on the reverse of a coin that had lost its material value, was flashed by an invisible projector in the depths of my consciousness. At that time, I did not know much, not to say anything, about the pre-war Constitution. Now I know that Rainis called the Basic Law of our country the Blood Mother, and without it our country would cease to be.

At the historic Mežaparks rally "For a State under the Rule of Law", we were taking our first steps on the long road back home. The road back was probably no easier than the one taken by those framing the Constitution. Perhaps even harder. It is easier to build a new house than to renovate a ruin. At the end of year 1988, when I was elected Chairman of the Popular Front of Latvia, the ruins were gone, too. The foundation stones of the Constitution had been thrown and desecrated. The rule of law replaced with the Constitution of the Latvian SSR. Moreover, as Juris Jelāgins, former Justice of the Constitutional Court, rightly noted in his book "Latvia on the Road to the Rule of Law", so-called telephone law prevailed instead of the law. This is the reason why at times we cannot even prove this or that event in our history with documents. You'd call the judge and an illegal court ruling was handed down. You'd call the prosecutor and some truth would be falsified. You'd call the investigator, and non-existent evidence from an investigation emerged. The Central Committee of the Communist Party would call me, as Chairman of the Popular Front of Latvia, to prohibit coordination of the Baltic Way on Latvian radio, for example. All illegal, even under Soviet law. But you can't even catch the wrongdoer, because they are hiding behind fear instilled in others.

We see a very familiar picture of the Latvian courts of that time in today's Belarus and in Russia, where the slightest hint from a mad dictator empowers judges to justify any villainy and crime. To understand where they come from and to prevent them, it might be worth watching the documentary "The Trial" by the Ukrainian film-maker Sergei Loznitsa about the show trials of the 1930s demanded by Stalin and fabricated by his judges, where even those accused of non-existent crimes sprinkled ashes on their own heads and asked for the highest punishments. We, too, were not that far from that. One misstep in regaining our state, one compromise with the enemy, and we too could have woken up in the Belarusian dystopia that the writer Dmitrijs Savins outlined in his novel "A Morning in Free Latvia".

The Blood Mother – the pre-war Constitution, suspended by Kārlis Ulmanis but defying both him and the occupying powers – helped us to hold on, to endure. Now we know it. At the moment when we realised that regaining the State was tantamount to restoring the Constitution, that no one would hand us our independence, that it would have to be conquered, the Constitution became the goal and the value that allowed us to balance on a knife's edge. Neither Lithuanians nor Estonians had such a pre-war Constitution as a core value. It raised Latvia's prospects in the face of much more tragic circumstances of Sovietisation, colonisation, militarisation and Russification than Lithuania and Estonia endured. The Constitution had held as an anchor in the impenetrable depths of occupation and totalitarianism.

The memory of the pre-war Constitution as a weapon and a value took hold of the Popular Front rather quickly, although not easily. The first programme of the umbrella organisation for national liberation spoke only

of so-called sovereignty within the Soviet federation. This, too, was unacceptable to Moscow. However, the rulers of the Kremlin could not oppose the reference of the first Constitution or Statutes and Programme of the Popular Front of Latvia to the resolutions of Gorbachev's "perestroika" or reconstruction-era party conference and our desire to modify the Constitution of the Latvian SSR imposed by the Kremlin. It was a cunning tactic of non-violent resistance combined with direct democracy – voting in huge popular manifestations, using methods of popular protest and self-affirmation learned from the long history of the Song Festival.

The first programme of the Popular Front did not mention the inter-war Constitution. At the same time, the "small constitution" of the Popular Front already provided for the restoration of human and civil rights in accordance with the UN Universal Declaration of Human Rights, outlined the principles of the separation of powers, the abolition of the privileges of the Communist Party and the westernisation of the legislative system. Something of the new Constitution, something of what the pre-war legislators failed to put into words before the Ulmanis coup. The main task of the Popular Front's programme, in addition to restoring the principle of cultural autonomy for minorities, was first of all to prevent a further decline in the proportion of Latvians in their country who had been reduced to a minority and the exclusion of the Latvian language from all spheres of life. At the founding congress of the Popular Front of Latvia, Juris Bojārs, a professor at the Faculty of Law of the University of Latvia (if we disregard his speculation on how the Latvian SSR could obtain the gold of the Republic of Latvia), proposed that we demand a quota of about 60 per cent in the elected organs of Soviet power for Latvians to preserve our national identity. In the USSR, this seemed logical and fair. It was resistance to the melting pot into a solidified Russian-speaking "Soviet people" and "Russian world" that the Kremlin is now trying to impose on Ukraine by force, war, and genocide. Juris Bojārs classified the Russification of Latvia as a "bloodless occupation method". The Kremlin has not, of course, abandoned it, neither in the occupied lands of Georgia and Ukraine, nor here. I was threatened by the leaders of the USSR as late as 1988 with the establishment of pro-Russian enclaves in Daugavpils, Lithuania's Visaginas Municipality and Estonia's Narva in order to undermine the sovereignty of the Baltic states. They failed. However, in the liberated State of Latvia, they managed to organise the 2012 referendum on a second official language, they managed to leave behind monuments that humiliate the Latvian people, glorify the army of occupation and threaten our Constitution. They managed to poison the spiritual space of Latvia with fake news. Therefore, it should not be underestimated that our people and State institutions have so far been able to respond adequately and with integrity to both the language referendum and other threats to the Constitution. This is how it should continue, both in response to the threat of Russian invasion of Ukraine and in support of the draft law on dismantling the remaining Red Army weapons and monuments in Latvian public space, which was put into action in February 2021 by the farmer Gundars Kalva, who removed the Soviet invaders' cannon in front of the Krustpils House of Culture, in anticipation of action from the State and local governments which took too long to materialise. He did so in accordance with the spirit of the Constitution of a free Latvia, which cannot be said of the criminal case brought against him by our own prosecution office. If such a "monument" has no owner, no victims and it is not registered in local or international documents, but for decades it stood there like an obscene reminder of all Latvian citizens repressed by the Soviet authorities, then a criminal case against a citizen who removes dirt that should have been removed by the local government or the State is political. And we all know in whose interests it was done. What's encouraging is that the descendants of those repressed by the occupying power have not lost their vigilance, sense of justice and conscience, and are not afraid of an empire tormented by inferiority complex. The struggle for the Constitution continues in the memory of the occupation, in the condemnation of the occupation, and in eradicating its glorification from both the Latvian soil and the consciousness of its citizens. Even in conditions of peace and apparent security, it is often necessary to defend the spirit of the Constitution by seemingly illegal methods, as Gundars Kalva resorted to in circumstances where the State and local government institutions were unforgivably slow. Gunārs Astra did the same in Soviet times, when it required much more courage.

Are the courts, prosecution and police offices able and willing to act in a constitutional manner without the Constitutional Court?

Maybe it's just me, but judges, the advocacy, notaries and prosecutors work too much in isolation, devoid of the understanding of the awakening years that rule of law should be built with common interest, common efforts.

During the years of awakening, the Latvian Council of Lawyers, founded in an atmosphere of refined openness and uniting various professionals in an extremely active and powerful way, was actively involved in shaping the policies of the Popular Front. It involved legal authorities both at home and in exile in the restoration of our State. The majority of lawyers, not so much dependent on the law as on Soviet ideology, were willing and able to side with those who would regain independence. Of particular importance was the fact that after 4 May 1990, in the most intensive phase of restoring independence, with two antagonistic prosecution offices and two active governments, the courts and judges, including those who had previously answered to foreign power and had tried or been forced to try our freedom fighters, came to guard the rule of law in the Republic of Latvia. Sometimes, such judges were not confirmed in office again. However,

the general loyalty of the judiciary and its inclusion in the national awakening, even if we sometimes call it turning one's coat, was one of the pretexts that made the takeover in Latvia a success and why it did not turn into a bloodbath. With the rapid reorientation of the courts, the Soviet authorities had no legal weapon left to restrain society. All that was left were tanks – a very incapacitated and pathetic option that would only reveal the weakness of the authorities.

In his speech at the First Congress of the Popular Front of Latvia, Andris Teikmanis, then a judge and now the head of the Chancery of the President of Latvia, was the first to raise the idea of the need for a constitutional court to prevent the arbitrariness of the USSR Ministry of the Interior and KGB officers in restricting citizens' rights. At the same congress, the investigator Egons Rusanovs proposed to constitutionally enshrine the right of the Supreme Council of the Latvian SSR to appoint a prosecutor of the Republic of Latvia not in agreement with Moscow and to adopt a law On the Prosecution Office of the Republic of Latvia. Thus, the restored Latvia was, at that moment, already emerging as a State with independent judiciary. This was by no means a given for a society that had lived under authoritarian rule since 1934 and under absolute totalitarianism since 1940. By the way, in the transcripts of the Popular Front's Congress, the word "republic" was still written in lower case throughout, which means that the restoration of the State of 18 November 1918 as the final goal was not discussed in October 1988. The authoritarian Republic of Latvia of 1940, say, or the formally independent Latvian SSR of 1940, could also be restored. The idea of an "independent, socialist Latvian SSR" was put forward, among other things, by one of the then active organisers of the Popular Front, Jānis Rukšāns, in his congress speech.

However, the course of people's liberation towards a legal democracy was most precisely formulated at this Congress by one of the authors of the Latvian Popular Front's programme, Professor Edgars Meļķisis.

"One of the central tasks of the Popular Front's programme", he said, "is to consistently advocate the establishment of a state governed by the rule of law." The professor also expressed an idea of undiminished relevance that in a state governed by the rule of law, laws should not be made by the administrative apparatus, by the bureaucracy above and in accordance with ideological concepts, but in harmony with the true material and spiritual needs of the people.

Legislation in itself is not the responsibility of the Court or the Constitutional Court – it is what it is, and it is not for me to judge it. But if I have heard lawyers lament that even professionals cannot keep track of the mass of laws and regulations that come into force at the beginning of each year, it is hard to ask that of citizens, who have to adjust and adapt, who find it difficult to understand the rationale behind the all-too-frequent changes in the law. And more. Meļķisis, while working on the draft laws later proposed by the Popular Front, also pondered about the clarity and accessibility of the language in which laws were drafted, about the fact that the mission of the Latvian judicial system was also to develop the Latvian language.

The Popular Front initially had no deputies either in the Supreme Soviet of the Latvian SSR or in local councils. The Soviet role under the dictatorship of the Communist Party could be seen as ornamental, although it began to grow as a result of the freethinking that was gradually unleashed in society. Even now, no matter how "good" or "bad" each newly elected *Saeima* is, it will be worthless without civil society, the protection and strengthening of which, in my opinion, is the main task of the Constitutional Court.

The Popular Front was, in its time, an instrument of action for the newly born civil society, nothing more. Under pressure from the Popular Front, civil society ensured that the not-so-democratically elected Supreme Soviet of the Latvian SSR began to adopt more and more laws promoting the independence of the republic, even two declarations of sovereignty of the Latvian SSR, which laid the foundations for the Declaration of Independence on 4 May. The Supreme Soviet of the Latvian SSR, which cannot be considered a full-fledged parliament, adopted a rather strict law on the national language, national symbols and alternative service "outside the armed forces of the USSR". The Popular Front of Latvia secured a decision by the Council of Ministers of the Latvian SSR to stop the nation-threatening migration. It would not be wrong to assume that the Popular Front, in close connection with the positive majority of society, awakened by the will of the state, fulfilled the function of a Constitutional Court under the illegitimate regime. Another moment, besides the significant act of reinstituting the Constitution of the Republic of Latvia, would be hoisting the red-white-red flag on the mast at the house of the Supreme Soviet of the Latvian SSR. This duty was entrusted to the main instigator of the flag's civic rehabilitation, academician Jānis Stradiņš. When he made the sign of the cross in deep tenderness before touching the hitherto forbidden flag of independent Latvia, it seemed to me that the restoration of the State had become irreversible. For this reason it was possible to initiate the first major "constitutional protest", i.e. gathering of signatures against the amendments to the USSR Constitution in November 1988, together with the Estonian Popular Front and the Lithuanian Sajūdis movement. This was the Kremlin's biggest fear. The USSR leaders feared that the Baltic States would use the opportunity formally given by the USSR Constitution to withdraw therefrom, and they intended to make the relevant provisions even more unrealistic. We were ahead of them before they even realized it. The more than one million signatures achieved in two weeks – a plebiscite unprecedented in the Red Russian Empire – shocked the Kremlin so much that it suspended the draft amendment and invited the Baltic peoples' leaders for talks. As I realised, it was mainly to divide Baltic unity and to intimidate us individually. But the unprecedented

Baltic cooperation had already started, and it further encouraged us to break from the clamps of the USSR. But how could we do it? We had no armed forces. No allies. No real power. No justice system of our own?

Discussions on the parliamentary path began, which meant participating in Soviet elections at all levels to break the old power from within. We were enabled by the electoral reform signed by Mikhail Gorbachev, General Secretary of the Communist Party of the USSR, who came to power in the Kremlin in March 1985. If some Western Latvians and some national forces in occupied Latvia were still worried about how the participation of the national liberation umbrella organisation in the elections held by the occupying power would affect the policy of non-recognition of the occupation that had been maintained in the West, the majority of the Popular Front realised that there was no other option in its non-violent struggle. At this point, various ideas and lawyer working groups appeared with the intention of drawing up a new constitution for the Latvian SSR and even to introduce the institution of the President of the Latvian SSR. Perhaps the most fruitful aspect of the initial discussions was the shared commitment to decentralise Soviet governance, to dismantle the vertical of Communist Party power, and the conviction that this could be done under conditions of political independence and that it could not be achieved through pure "internationally legal" recognition.

Despite the objections of the movement's national radical wing and the Citizens' Committees, the Popular Front decided on the only action that could actually bear fruit – participation in the elections of the USSR People's Deputies on 18 March 1989. In these elections, candidates supported by the Popular Front won the largest number of elected seats from Latvia – enough to form, together with Estonian and Lithuanian allies, the Baltic Group of Deputies, the first opposition faction in the history of the USSR in its formally highest organ of power.

A few days later, a conference of supporters of the Canadian Popular Front was held in Gananokwe, Canada, bringing together, first of all Valdis Liepiņš, the Toronto Latvian organisation LATS, and a delegation of the Popular Front of Latvia. Here, for the first time in public discussions, the leaders of the Popular Front also debated the current and future status of the Constitution of the Republic of Latvia as we know it. In its own way, constitutionalism manifested in the speeches of the participants of the Chautauqua Conference, Visvaldis Klīve, Māris Ķirsons and Vaira Vīķe-Freiberga. We still doubted whether the pre-war Constitution, abolished by Ulmanis, would be suitable for the new circumstances, since nobody knew how and when we would get rid of the USSR. Back home, news reached us of the massacre committed by the Soviet army during the demonstrators in Tbilisi. Soviet customs searched our luggage at Moscow airport.

However, on 12 and 13 May, the Baltic Assembly of the liberation movements the Baltic nations was founded in Tallinn, with resolutions on the inclusion of the Baltic States in the USSR in accordance with the secret agreement between Hitler and Stalin, with a resolution to return to Europe, whether the more reserved and Moscow-sympathetic Western politicians wanted it or not. Before the departure of the Latvian delegation – about 500 people of the national-front – to Tallinn, the composer Boriss Rezņiks brought me a cassette with a song he had just composed, dedicated to Baltic unity. He asked me – will you take it? We took it. We did not have the opportunity to listen to the recording, but the composer himself organised a performance of the new song *Atmostas Baltija* in Tallinn's Old Town at an assembly rally in Latvian, Lithuanian and Estonian. The song was then performed at the café *Pegazs*, frequented by Estonian creative minds – so that we never repeat the mistakes of 1940 and that from thereon, we would stand united against any threat. I remember the toast that was left out of the minutes, although I have forgotten what was in the glasses or on our plates. That part was hardly worth remembering. However, when tracing the course of how the Constitution was restored, we must not forget, that in parallel with the Baltic Assembly, another, much smaller delegation of the Popular Front met with representatives of the World Federation of Free Latvians at Austris Grasis' Abrene Palace in France. There, Egils Levits delivered a fateful report that gave the impetus to obtain a constitutional majority in the Supreme Soviet of the Latvian SSR by parliamentary means, to dismantle the Latvian SSR in full accordance with the Latvian SSR Constitution and to restore the 1918 Republic and its Constitution to life. The World Federation of Free Latvians finally agreed to this tactic, and so did the Popular Front. This meant that the intellectual forces of the people had unified, followed by the 31 May call of the Board of the Popular Front to discuss the idea of regaining full independence and how it could be done. As a result, the second programme of the Popular Front of Latvia was drafted. The main task of the Baltic States USSR People's Deputies at the USSR Congress of People's Deputies was to condemn and annul the agreement between Hitler and Stalin, which had been denied by Moscow. In dramatic collisions, we managed to get copies of the secret documents from the German Bundestag archives, using the epic power amassed by the Baltic Way campaign. The USSR leadership was still hiding the original and did not shy away from open threats after the Baltic Way of 23 August 1989. After the Baltic Way, Gorbachev, the first and last President of the USSR, sternly declared at an international press conference: "You're not going anywhere!"

Only later did we learn that the Kremlin's threats were cooled off by the US President's warning that the US would not consider violence in the Baltics an internal affair of the USSR.

Against the background of these events, the Latvian Popular Front developed a programme for the full

restoration of independence and the Constitution, which was approved by the organisation's Second Congress.

Then Marshal Sergei Akhromeyev, Military Adviser to the President of the USSR, arrived at the headquarters of the Latvian Popular Front on Vecpilsētas Street to meet the newly elected leadership of the Front.

"Oh, independence? I'll let Gorbachev know," he said as he was leaving.

We met Marshall again on Christmas Day 1989, when the USSR deputies were voting in the Kremlin's Congress Palace on the proof of the existence of the secret protocols concluded between Ribbentrop and Molotov and the illegality of these protocols.

The Kremlin's aggressive majority, the generals and colonels, hissed in anger and frustration, knocked the Latvian speaker Mavriks Vulfsons off the podium, and then allowed him to finish the speech as if taking pity. This speech, which should have a place in the chronology of world's oratory art, or at least in our Constitutional restoration speeches, stripped the essence of the deal between Nazi Berlin and Communist Moscow down to its core. The first vote failed, but the second one made the USSR loyalists look completely disarmed in the face of irrefutable facts and international legal arguments. This was the moment our Constitution was truly liberated from Moscow's occupation. The truth it contained, its immortal core, had proved capable of surviving the times and overcoming incredible physical odds. In this context, I would again like to point to two documentaries – Vitaly Mansky's "Gorbachev. Heaven" and "Mr. Landsbergis" by Sergei Loznitsa. Both address the same time, the same events. Now, 30 years later, it is much clearer which of the two figures of recent history is the winner and which the loser. Which position was more stable? A former ruler of half the world and an empire of lies, or a democratically elected and then democratically unelected Speaker of the Lithuanian Parliament? I will always remember a conversation between the President of the USSR and Ilmārs Bišers, a member of the Board of the Latvian Popular Front and a professor at the Faculty of Law, Anatolijs Gorbunovs, Chairman of the Latvian Supreme Soviet, and myself. Lithuania had already declared independence and Landsbergis had become the head of the restored state, so Mikhail Gorbachev asked Ilmārs Bišers: "Tell me, what should I do with this Landsbergis?" Once again, the question had a thinly disguised element of the "divide and rule" approach. Bišers replied: "You won't scare him!"

This was also a story about us.

At that moment, Moscow had already begun an economic and energy blockade of Lithuania, isolated from the world by the Soviet border, and columns of Soviet tanks were moving demonstratively in Vilnius. Soviet tanks were supposed to scare Latvians not to follow Lithuania's example. Held by the firm foundations of our Constitution, we did not give in to fear.

What lesson does this teach us? A very important one. Do not be afraid when you're right. Do not be afraid if the Blood Mother, the Constitution of your nation stands behind you. Knowing this leaves no room for fear. It teaches the importance of perseverance, certainty and keeping our chins up, of holding tight to the truth and the rule of law, never letting go.

After the secret annexes to the Ribbentrop-Molotov Pact were recognised and condemned by the Kremlin itself, our further discussions with the USSR, which is something that we can truly appreciate in retrospect only, took place from the position of the current Latvian Constitution: The supreme power of the USSR, the Congress, recognised that we had never joined the Soviet Union, so we would deal with the divorce of a forcible marriage. The Supreme Soviet of the USSR, which had recognised the Ribbentrop-Molotov Pact as criminal, but believed that the Baltic States would try to leave the USSR in accordance with the USSR Constitution, became entangled in insurmountable contradictions, in a kind of cognitive dissonance that partially paralysed its decision-making power with regard to Latvia, Lithuania, and Estonia. However, although Gorbachev may have been resigned to the fact that his own lies about the absence of secret protocols were exposed, he was unable and unwilling to accept the idea that the Popular Front of Latvia had been given the mandate for independence and the restoration of the pre-war Constitution by the people. To prove this to him once and for all, the Popular Front organised a meeting of Soviet deputies at all levels at the Daugava Stadium at the end of April 1990. At this meeting, 8003 of the 8086 participants voted in favour of the Declaration of Independence drafted by Egils Levits and a working group of deputies. Was this not the most genuine act of constitutional rehabilitation by direct democracy, which again surprised Moscow?

Although the Constitution was restored on 4 May, and then immediately suspended, except for the first, most fundamental articles, 4 May must nevertheless be regarded as the day when our fundamental national law was reinstituted. The constitutional contradiction between it and the laws of the Latvian SSR retained during the transitional period, from which we regrettably dropped the abbreviation and not the substance, did not in fact permit the establishment of the Constitutional Court envisaged in the Declaration of Independence. At the same time, the enormous pressure that the Supreme Soviet felt from Moscow, including the physical attack on 15 May by Russian military cadets and soldiers, not to mention the bombs and explosions planted by Soviet special services in various locations, and the armed attack on the Riga barricade guards in January 1991, probably also influenced the convictions of some deputies who voted for independence as to whether or not it would be useful

to restore the pre-war Constitution. Marginal disputes about this recurred periodically after 4 May. Incidentally, even the first President of the Constitutional Court established in 1996 spoke against the legal restoration of the pre-war Constitution (paradoxically, it now seems) at one of the meetings of the Latvian Popular Front's Supreme Council. Understandably, it was due to the overwhelming counterforce, the constant threats of the "world's second army" to impose martial law on rebellious Latvia, "to restore the constitutional order of the USSR". It was difficult for any realist to accept that the phantom of the USSR Constitution, backed by a mass of resources and aggressive military, could collapse under the pressure of this new Constitution instituted by a territory held in the jaws of this phantom. But the Constitution was defended by far-sighted deputies of the Supreme Soviet, closely linked to its electorate.

It should be added here that the Latvian Popular Front's faction in the transitional parliament itself performed a sort of pre-parliamentary function. Everything formally adopted was discussed in advance and democratically approved. The officially opposing faction "Equality", comprising communists, Interfrontists and Soviet military officers, was in fact the armed opposition to the USSR, which did not recognise the Republic of Latvia. In the event of repeated military coups planned by Moscow, it would play the same role as the Crimean MPs supported by Putin's little green men in the Crimean annexation play.

We passed these tests. The people of Latvia endured. The Constitution remained standing. Stronger and hardened, it returned to the liberated Latvia on 21 August 1991.

In the 1922 coin minted by Rihards Zariņš, the beautiful woman symbolising Latvia calls us to stand by her, always. The monument to Gunārs Astra by Gļebs Panteļejevs, erected in front of the Palace of Justice on the 100th anniversary of the Constitution, also calls us not to fear. In the right place at the right time. I saw the judge who sentenced Gunārs Astra still working in the Supreme Soviet of the Latvian SSR during our national awakening. He headed the Legal Administration there and polished the laws drafted by the Latvian Popular Front, later honestly admitting his dependence on the KGB. Here too, we can reflect on who is the winner and who is the loser in the face of time and eternity. We must forever heed the words of pre-war deputy Mordechai Nurok that "the Constitution is everything to us". Those who guard and keep sacred the Constitution, will be guarded by her. May the Constitutional Court continue to uphold this fundamentally important belief!

3.6. PUBLICATIONS

This chapter summarises the publications of the Justices and employees of the Constitutional Court: books and book articles, articles in periodicals, interviews, speeches, as well as blog and encyclopaedia entries.

ALDIS LAVIŅŠ

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3.7. FINDINGS FROM PUBLICATIONS

This section comprises findings from the publications referred to above. Findings on topics such as the people, the State, the Constitution and the Constitutional Court are collected.

People

The Latvian people succeeded in ending the occupation and regaining their independence, however, history and events in today's world repeatedly urge us to bear in mind the painful realisation that people who have shed their blood for something may also have to defend it with their blood.[91]

The Latvian people will have a future only if they are willing to participate in the governance of their country, and for this reason, the self-organisation of society, the development of associations and other non-governmental organisations, which provide an opportunity for people to learn to collaborate and see the positive results of working together, should be encouraged.[92]

The State

Latvia's founding documents state that the purpose of establishing the State of Latvia was to create a democratic state of justice. This is also the raison d'ȇtre of the Latvian State. It is also enshrined in the Constitution.[93]

A democratic State is a free State, i.e. every citizen is free to make their own decisions and take responsibility for them. At the same time, each freedom must be reconciled with the freedom and common good of others, so the State can impose both obligations and prohibitions for the common good.[94]

The Constitution

The strong backbone of our statehood has been and will continue to be our Constitution. The values enshrined therein have led the Latvian people through darkness and allowed them to celebrate the existence of a free, independent State through the ages.[95]

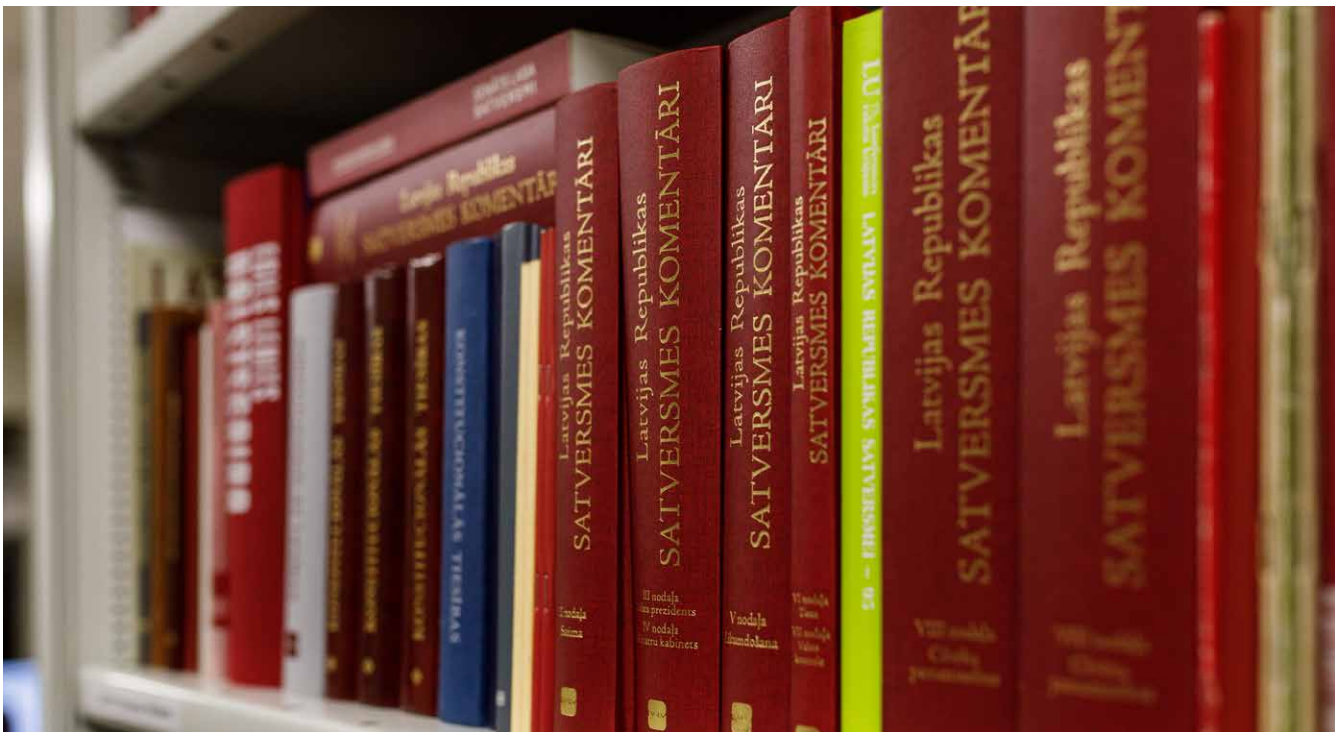
The Constitution provides a legal refuge for everyone who longs for freedom and justice. The Constitution defends human dignity and the right to self-determination, ensures that everyone has the opportunity to be heard and protected, and enables everyone to develop their personality. Our Constitution thus serves people first.[96]

The Constitution explains what Latvia is, what the people living in this country are, what their value system is. It also reflects and explains what guides our society's development. In other words, it is a roadmap for the development of the State and society.[97]

The values enshrined in the Constitution – the rule of law, individual freedoms, equality and human dignity – are our guiding light, helping us to navigate and find fair solutions, even in difficult circumstances.[98]

The Constitution has always stood by both the people of

91 Kusiņš G. Latvijas tauta [The People of Latvia]. Jurista Vārds, 15.02.2022, No 7, pp. 6–7.
92 Ibid., pp. 7.
93 Neimanis J. Demokrātija [Democracy]. Jurista Vārds, 15.02.2022, No 7, pp. 14.
94 Ibid,p. 15.
95 Laviņš A. Address at the opening of the International Conference of the Constitutional Court "Ilgtspēja kā konstitucionālā vērtība: nākotnes izaicinājumi" [Sustainability as a Constitutional Value: Future Challenges] in Riga, 15–16 September 2022. Available at: satv.tiesa.gov.lv
96 Laviņš A. Address at the formal sitting of the Saeima on the occasion of the 100th anniversary of the adoption of the Constitution in Riga, 15 February 2022. Available at: satv.tiesa.gov.lv
97 Rodiņa A. Satversme [The Constitution]. Jurista Vārds, 15.02.2022, No 7, pp. 4.
98 Laviņš A. Address at the opening of the International Conference of the Supreme Court "Augstāko tiesu loma konstitūciju vērtību stiprināšanā" [The Role of Supreme Courts in Strengthening the Values of Constitutions] in Riga, 9 September 2022. Available at: satv.tiesa.gov.lv



Latvia and the State as a refuge and a guarantee that Latvia will be a happy and strong country in a united Europe.[99]

The Constitution is not a document for lawyers only. The Constitution is a symbol of our statehood and a guarantee that each of may enjoy freedom and participate in the governance and prosperity of our State.[100]

The Constitution is the framework anchoring the web of freedom woven by the law, tailored to our nation's spirit of freedom and sense of justice.[101]

The Constitution is the mayor of all other laws and regulations. The entire justice and legal system of Latvia is shaped within the framework of the Constitution.[102]

Alongside the Latvian coat of arms, flag and anthem, the Constitution is the symbol of our statehood, ensuring the continued survival and development of the nation, our language and culture throughout the centuries, promoting the freedom and well-being of everyone.[103]

The Constitution lays a firm foundation for the work of every institution and requires that the work of public officials be devoted to the good of the Latvian people and contribute to the well-being of the Latvian State.[104]

The Constitution does not protect and empower only. This is what a modern democratic state governed by the rule of law requires. And rightly so, because a relationship must be reciprocal. The Constitution expects the individual to abide by its rules, seeing as those rules are presumed to serve the interests not only of the individual but also of society as a whole.[105]

The Constitution requires order: the exercise of one's rights, respect for the interests of others and, ultimately, the pursuit of the common interest. This means that while the Constitution protects the individual, it also protects everyone.[106]

The people who drafted the Constitution invite us to always look out towards the future. One could even say that the Fathers of the Constitution bequeathed us a wise formula – both the legislator, in drafting new legal provisions, and the executive, in enforcing said laws, must ask themselves: will the result of our work affect Latvia and a united Europe today and tomorrow? If yes, in what way? Will our work contribute to the

99 Laviņš A. Address at the presentation of the coin "Satversmei 100" [100 Years of the Constitution] in Riga, 15 February 2022. Available at: satv.tiesa.gov.lv

100 Laviņš A. Address at the première of the film "*Atver Satversmi*" [Open the Constitution] in Riga, 26 May 2022. Available at: satv.tiesa.gov.lv

101 Osipova S. Brīvība [Freedom]. Jurista Vārds, 15.02.2022, No 7, pp. 41.

102 Rodiņa A. Satversme [The Constitution]. Jurista Vārds, 15.02.2022, No 7, pp. 4.

103 Laviņš A. Address at the first day of stamping the centenary stamp "Satversmei 100" [100 Years of the Constitution] in Riga, 6 May 2022. Available at: satv.tiesa.gov.lv

104 Laviņš A. Address at the presentation of the coin "Satversmei 100" [100 Years of the Constitution] in Riga, 15 February 2022. Available at: satv.tiesa.gov.lv

105 Rodiņa A. Satversme [The Constitution]. Jurista Vārds, 15.02.2022, No 7, pp. 5.

106 Ibid.

development of a free, democratic State governed by the rule of law?[107]

The Constitution encourages us to look beyond the threshold of our hearth and home, beyond the horizon, as the sustainability of Latvia is only feasible in a sustainable world.[108]

Our ageless and modern Constitution in its centenary year encourages us to think about both today and the future, calling us to act in a way that promotes the sustainability of both the Latvian State and the world![109]

In his first article in Latvian titled "What is the Constitution", the poet and lawyer Rainis reminds us that the concept of the Constitution is the fundamental source from which all the art and wisdom of the Constitution emanates, as if on its own. Indeed, it is wisdom and art to apply the concise text of the Constitution in a way that allows to protect the freedom and dignity of every person and to promote the continued existence of a democratic Latvian State governed by the rule of law.[110]

The centenary of the Constitution is a relentless call to celebrate the Constitution – the fact that Latvia is a free, independent, democratic State governed by the rule of law, where everyone can enjoy freedom and achieve prosperity and happiness![111]

Constitutional Court

The Constitutional Court has proved to be a strong promoter of legal thought in Latvia, a firm defender of democracy, the rule of law, and all the freedoms enshrined in the Constitution. The Constitutional Court is a great asset for our country, and it must be defended at all costs.[112]

107 Laviņš A. Opening speech at the International Scientific Conference "Latvijas Republikas Satversmei 100" [100 Years of the Constitution of the Republic of Latvia], Riga, 16 February 2022. Available at: satv.tiesa.gov.lv

108 Laviņš A. Address at the formal sitting of the Saeima on the occasion of the 100th anniversary of the adoption of the Constitution in Riga, 15 February 2022. Available at: satv.tiesa.gov.lv

109 Laviņš A. Address at the opening of the International Conference of the Constitutional Court "Ilgtspēja kā konstitucionālā vērtība: nākotnes izaicinājumi" [Sustainability as a Constitutional Value: Future Challenges] in Riga, 15–16 September 2022. Available at: satv.tiesa.gov.lv

110 Laviņš A. Address at the presentation of the coin "Satversmei 100" [100 Years of the Constitution] in Riga, 15 February 2022. Available at: satv.tiesa.gov.lv

111 Laviņš A. Address at the first day of stamping the centenary stamp "Satversmei 100" [100 Years of the Constitution] in Riga, 6 May 2022. Available at: satv.tiesa.gov.lv

112 Ozoliņš A. Aldis Laviņš: Man ir bagātīga pieredze tiesu vadībā [I Have a Wealth of Experience in Court Management]. Interview with A. Laviņš. IR, 28.03.2022. Available at: ir.lv