

RIGA TECHNICAL UNIVERSITY

Faculty of Engineering Economy and Management
Institute of Civil Engineering and Real Estate Economics

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**EVALUATION OF THE STATE’S OPENNESS TO
INTERNATIONAL REAL ESTATE
TRANSACTIONS**

Summary of the Doctoral Thesis

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DECLARATION OF ACADEMIC INTEGRITY

I hereby declare that the Doctoral Thesis submitted for the review to Riga Technical University for the promotion to the scientific degree of Doctor of Science (*Ph. D.*) is my own. I confirm that this Doctoral Thesis had not been submitted to any other university for the promotion to a scientific degree.

Jānis Viesturs (signature)

Date:

The Doctoral Thesis has been written in Latvian. It consists of an introduction, three chapters; nine sections; conclusions and proposals; 13 figures; 20 tables; 11 appendices; the total number of pages is 172 not including appendices. The Bibliography contains 264 titles.

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INTRODUCTION

Land has been a special asset and an object of innumerable wars, disputes, competition and rivalry both between countries (fighting for a state's territory) and their inhabitants (fighting for the land as real estate). Territories, borders and political regimes change, and hence also the meaning of ideas of 'land' or 'real estate' and of the types of land ownership or tenure; such change also affects the procedures, traditions and legislation governing land transactions. Attitudes towards land property, tenure or usage (tenure rights) have changed over time too, depending on the socio-political regime in the state or state-like territory or on the politico-economic concepts prevailing in the region (union of states). Principles of land management demand that good land (real estate) management, private land property and property safety are the basis for long-term development of socioeconomic politics in the state¹. When it comes to land management, there are several key questions: how are the land resources being used, and who or what controls them at the national level? In the international context – what are the options for foreigners to access the land resources? Theoretically, two extremes are possible: one says that foreigners should not be allowed to own the land, whereas the other believes foreigners to be equal to local subjects in real estate transactions, or suggests the application of a so-called 'open doors' principle, i.e. the principle of liberal economic relations or even more – specifically encouraging investment by foreigners in real estate. In a majority of the worlds' countries and state-like entities none of these extremes exist, and in each of them the possibility of foreigners owning land must be evaluated, and one should consider whether such ownership is promoted directly or indirectly, and if, perhaps, different obstacles are created for foreigners' transactions involving land or land ownership.

Today, the development and protection of land use as a valuable factor in manufacturing and the object of property rights are intrinsically associated with issues such as land affiliation, property rights and rights of use, land use systems created by such rights and the attraction of investment (including from other countries). When global land concentration processes are taking place and one observes 'land-grab' transactions in Latvia, and Europewide, and equally in a majority of the countries of the world, questions arise about the equilibrium between super liberal, free capital flow² among European Union countries and also about real estate transactions which do not discriminate against foreigners as well as the protectionist approach in land administration politics pursued in certain states. These questions spark special interest.

Traditionally, it is believed that Latvia is a small country with a small open economy which largely depends on external circumstances³. It is a country where one can freely enter

¹ Land Administration Guidelines. With Special Reference to Countries in Transition.

² Chapter 4 of the Treaty on the Functioning of the European Union (Article 63) stipulates that all capital flow restrictions are prohibited, but the terms 'capital' and 'capital flow' are not explained. Similarly, these terms were not explained in the Treaty establishing the European Community, therefore in 1988 the Directive 88/361/EEC was adopted stating that non-resident investments in real estate situated in the state's territory and residents' investments in real estate located abroad are also considered capital flow.

³ Jēkabsone S., Skribāne I., Sproģe I. Monetārā, fiskālā un tirdzniecības politika Latvijā. p. 85.

into international transactions and where the level of previously mentioned restrictions is relatively low. However, market freedom is conditional and economic development is explicitly or implicitly regulated through international trade restrictions. One essential restriction concerns the limitations imposed on foreigners to own land and do transactions in real estate. Generally, a growing intensity of the protectionist approach in international economic relations has been observed worldwide over recent years. It is evidenced, for example, by Global Trade Alert data pointing to the increasing overall number of protectionist measures, mainly manifested as international trade restrictions. However, not only do such restrictions on foreigners' transactions hinder (or to the contrary – does a lack of restrictions promote) international real estate transactions, the possibility of transactions is also mainly dictated by the state's readiness for prospective international transactions or its ability to attract international investments as real estate transactions, which translates into the state's openness to international real estate transactions.

During recent decades, the internationalisation of the global economy, liberalisation, globalisation and a global demand for real estate products, food, energy and other goods derived from the land, and entry into the market of new, relatively easily available real estate products⁴ have encouraged foreign investment in many countries worldwide. Especially in this regard, investments have developed in regions such as Africa, Latin America and Eastern Europe in relation to so-called 'land-grab' transactions during the last decade. Recently land concentration has grown dramatically, with the result that increasingly fewer people are taking hold of civilisation's main resources. While the French economist Thomas Piketty, in his book "Capital in the 21st Century", published in 2013, attributes this to assets in general (when analysing mainly the history of capital accrual of developed Western countries), it should, however, also apply to land resources. Retrospectively, the land has long been a symbol of wealth and well-being, and land tenure, especially in the Middle Ages, played a huge socio-political role, even outscoring the economic role. Historically, there was a special attitude towards foreigners' property and land rights, mainly in the belief that such people should not be allowed due considerations of loyalty. Nevertheless, influenced by modern neoliberalism ideas (manifesting in the extreme in a unique union of states – the European Union), the resource of land itself has become a conditionally freely traded international asset. Regardless of the manifestations of international neoliberalism in land administration, the states (also within the framework of the European Union) try to bring a protectionist approach to the land market. In several real estate market studies, in any of the states there have been attempts to classify states as 'open', 'free', 'less restricted' in international real estate transactions (see Clause 1.2 "Classification of foreigners' real estate transactions and restrictions of real estate property rights"). In addition, states are classified by the quantitative indicators of international real estate transactions. The states are compared, for example, by trade to GDP ratio (economic openness) or other criteria. However, real estate is a special asset, and the essence of restrictions of international real estate transactions and other circumstances hindering international transactions can often be found outside the economic

⁴ For example, an apartment property in the middle of the 20th century and especially after World War II; indirect investments – real estate investment funds and REIT, mainly since the end of the 20th century.

relations. In this regard Latvia stood out from other countries with a heavy protectionist approach, when on 1 July 2017 it adopted a restriction on international real estate transactions regarding agricultural land – a buyer must speak Latvian at level B2 as a minimum⁵. Based on this and on other factors hindering international real estate transactions in Latvia, the **hypothesis of this Doctoral Thesis** is as follows:

Without prejudice to the basic guidelines of free capital flow applicable to the European Union, Latvia's openness to international real estate transactions is low, and in order to evaluate it on a regular basis, one must define a methodology for determining the state's openness to international real estate transactions (henceforth – IREO).

Goal of the Doctoral Thesis

The goal of the Doctoral Thesis is to conduct research on international transactions in real estate in Latvia and to create a methodology for evaluating the state's openness to international real estate transactions, which would provide information to the public authorities and to foreigners about the state's openness to international real estate transactions in terms of a possibility to enter into a real estate transaction.

The following tasks were determined to achieve the proposed goal

1. To determine if one can see indications of land grabbing in Latvia under global economic circumstances.
2. To analyse types of direct and indirect restrictions on foreigners' real estate transactions and property rights thereof.
3. To identify the main arguments why restrictions should be imposed on international real estate transactions.
4. To define evaluation criteria for the state's openness to international real estate disposal transactions and their elements.
5. To evaluate Latvia's openness to international real estate transactions according to previously stated criteria and to come up with proposals that would lead to better indicators.
6. To determine and introduce an IREO index in Latvia according to the methodology elaborated within the framework of the Doctoral Thesis.

Research object

The object of the Doctoral Thesis is international real estate transactions in Latvia.

Research subject

The subject of the Doctoral Thesis is the evaluation of the state's openness to international real estate transactions.

⁵ In a resolution of the EU Court of Justice in case No. C-206/19 "SIA "KOB" vs. Madona county Council's Administrative Dispute Council" of 22 June 2020 these highly restricting criteria for international real estate transactions in Latvia were ruled as discrimination by citizenship.

Theoretical and methodological substantiation of the Thesis

The methodological and theoretical basis of the research comprises the following sources:

- Contribution given by and results achieved by the scientists analysed by the author in the following areas: institutional economy (Commons J. R., Ayres C. E.), new institutional economy and transaction costs (Coase R., North D. C., Williamson O. E., Furubotn E. G., Richter R., Vītola A.), restrictions imposed on foreigners in real estate transactions (Hall D., Bell R. L., Savage J. D., Schmid C. U., Hertel C., Wicke H., Ciaian P., Kancs A., Swinnen J., Van Herck K., Vranken L., Hodgson S., Cullinan C., Campbell K., Visser O., Spoor M., Price P. J., Grant N., Tirres A.), characterisation of real estate transactions (Murray P. L., Kālin Ch. H., Taylor A., Schmid C. U., Hertel C., Wicke H.), arguments supporting the restrictions of international real estate transactions (Antonelli M., Siciliano G. M., Turvani M. E., Rulli M. C., Bell R.L., Savage J. D., Burger A., Cotula L., Daurova Y., Esenkulova B. B., Edelman M., Oya C., Borrás S. M., Fairbairn M., Florit P., Piedracueva M., German L., Schoneveld G., Mwangi E., Grant N., Gugushvili A., Hodgson S., Cullinan C., Campbell K., Karodia A. M., Soni P., Lazarus M. L., Mycoo M., Perrone N. M., Price P. J., Qin X., Tesser L. M., Tirres A. B., Vrontas C. T., Wilson G., Wood S., Zoomers A.), land grabbing transactions (Cotula L., Oya C., Friis C., Reenberg A., Edelman M., Borrás Jr. S. M., White B., Hall R., Scoones I., Wolford W., Balestri S., Maggioni M. A., Franco J. C., Van der Ploeg J. D., Petrescu-Mag R. M., Petrescu D. C., Petrescu-Mag I. V., Vermeulen S., Hunsberger C. A., Deninger K., Zoomers A.), historical aspects of real estate transactions and land ownership (Powelson J. P.), agricultural land transactions (Grumolte-Lerhe I., Avotniece Z., Beizītere I., Valtenbergs V., Marks-Bielska R., Babuchowska K., Mickiewicz B., Swinnen J., Van Herck K., Vranken L.), preemptive right (Agraval A., Naudé T., Švemberga A., Göhner T.), property right registration systems (Švemberga A., Camara-Lapuente S.), land management (Auziņš A., Beatly T.), real estate transaction costs (Williamson O. E., Vitikainen A., Lindqvist S., Quigley J. M.), due diligence (Hellerforth M., Lars R., Woroniecki R. C., Woroniecki J. L., Jasińska E., Connolly A., Morton M., Matter L., Olson H. G., Bergamini T.), introduction of conceptually new, innovative types of real estate (Schweizer D., Zhou T., Wardrop R., Zhang B., Rau R., Gray M., Vogel Jr. J. H., Moll B. S.), temporary residence permits in Latvia (Vanags J., Usenieks D., Siliņa-Osmane I., Ieviņa I., Briede I., Blūzma O.).
- Institutional studies on global land grabbing transactions – Journal of Peasant Studies, Land Matrix project, international non-profit organisation GRAIN, International Institute for Environment and Development, the International Food Policy Research Institute, Oxfam, FIAN International, The Oakland Institute, European Coordination Via Campesina, European Coordination Via Campesina and The Transnational Institute, The International Land Coalition, The International Food Policy Research Institute.
- Indexes characterising the economic environment of the states – Tax Attractiveness Index, Financial Secrecy Index, Index of Economic Freedom, International Property

Rights Index, Open Markets Index, Global Trade Alert, Global Competitiveness Index, Global Real Estate Transparency Index, Doing Business ranking.

- UN, OECD, World Bank research and informative materials.
- Sources of laws of the Saeima of the Republic of Latvia, the Cabinet of Ministers of Latvia, European Union institutions and foreign countries.
- The Saeima of the Republic of Latvia (Economic, Agricultural, Environmental and Regional Policy Committee) legislation databases.
- State Land Service, Land Registers and Lursoft data, as well as research conducted by these institutions.
- Databases of LR Central Statistics Bureau.
- Statistics databases of the Bank of Latvia.
- Materials from international and scientific conferences and seminars.
- Studies and scientific literature from SCOPUS, Web of Science, EBSCO and other databases, as well as from international scientists' publications and research website <https://www.researchgate.net>.
- The author of the Doctoral Thesis has more than 25 years of experience in real estate management, real estate development and construction project management, evaluation and management of the legal and economic aspects of real estate transactions and is an author of study materials and scientific publications.

Research period and restrictions

The state's openness to international real estate transactions is evaluated regarding the foreigners' asset disposal transactions with all types, or real estate available in the country.

10 IREO criteria and 35 IREO elements in total have been analysed in the Doctoral Thesis. They are not examined in greater detail in this Doctoral Thesis.

The methodology for determining the IREO index can be used both in Latvia and abroad, provided that there is no ultimate international prohibition to dispose of a real estate asset in the state.

The IREO index was evaluated between 2015 and 2020. However, individual IREO criteria and elements were studied for longer, and they have been determined in the context of individual pieces of research, mainly based on considerations of data availability and usefulness.

Scientific relevance and innovations of the research

1. A unique methodology was elaborated at the global level for evaluating the state's openness to international asset deal transactions.
2. The main arguments which are used to identify the restrictions of international real estate transactions were determined.
3. Evaluation criteria for the state's openness to international real estate transactions and their elements were determined.
4. Latvia's openness to international real estate transactions was evaluated, and recommendations were provided to improve the indices.
5. IREO 2018 and 2019 in Latvia was determined.

Practical significance of the Doctoral Thesis

The elaborated methodology for determining the state's openness to international real estate allows spotting this index regularly (annually) and identifying both the state's openness to international real estate transactions in general and indexes of individual criteria as a part of land administration policy. When conducting the same assessment abroad (for example, in the Baltic states), the foreign investors will be able to evaluate openness of each country to such transactions and to cross-check individual criteria at the international scale.

Approbation and practical application of the research

Constituents and results of the Doctoral Thesis were presented in scientific conferences, various forums, seminars and discussions, including participation in the sittings of the work groups of the Economic, Agricultural, Environmental and Regional Policy Committee of the Saeima of the Republic of Latvia concerning the draft law "Amendments to the Law on Land Privatisation in Rural Areas" (from September 2016 until the adoption of the draft law on 18 May 2017).

The author has applied the theoretical conclusions presented in the Doctoral Thesis practically when running the seminars on Latvia's openness to international real estate transactions in the Association of Real Estate Agents LANĪDA, Riga Technical University, as well as in interviews with industry experts for determining the IREO, which has involved meeting with 50 professionals of the real estate industry.

Materials of the Doctoral Thesis have been used in the study courses developed by the author "International Real Estate Transactions", "Economic Aspects of Real Estate Transactions Abroad", "International Market of Construction Products and Real Estate", "European Law", and also in seminars "Evaluation of Latvia's Openness to International Real Estate Transactions", "Introduction to Real Estate Transactions: Theory, Technology and Practice", "Disposal of Real Estate for Public Needs", "Identification Problems of International Real Estate Transactions and Review of Related Terminology" and "Real Estate Registration System. Land Register Principles in Countries Following the German Law System. Land Register in Latvia".

Methods used in the research

Defining the research as a logically consequential system of methodological, methodical and organisationally technical procedures, allowing the researcher to obtain credible data on the phenomenon or process of the research and use them in further practice to manage and predict the process, the following methods were used for the elaboration of the Doctoral Thesis and achieving the goals and solving the tasks stated in it:

- common scientific research methods – methods of analysis and synthesis, induction and analogy, historical approach, modelling, data analysis, collection and comparison;
- sociological research methods – structured expert interviews, surveys (methodology – survey questionnaire and oral instruction [in seminars or individual expert surveys]) and focus group method, Delphi method and its derivative – eDelphi method;

- systemic, teleological and social interpretation methods applied to legal provisions;
- quantitative content analysis method applied to the scientific literature;
- scientific literature analysis and document study was used to arrive at the theoretical conclusions;
- evaluation of IREO criteria and their elements, each of them evaluated on a scale from 1 to 10; the IREO index measures the level of the state's openness to international real estate transaction as the sum of mean linear independent indexes, applying the relative weight (significance) of each criterion.

Theses to be defended

1. During the last decades, liberalisation of the global economy and global demand for real estate products, as well as entry into the market of new, relatively easily available real estate products have stimulated foreign investments in many states across the globe, and investments in regions such as Africa, Latin America and Eastern Europe have developed in particular during the last decade.
2. The increasing openness to international real estate transactions has led also to transactions described as 'land grabbing'. International land grabbing is not typical in Latvia and it can be designated as 'gentle' land grabbing, because it features an especially high land administration quality.
3. For the purpose of international investment, real estate is a commercial asset and transactions involving this asset are regulated in all countries. However, the restrictions are often based on non-commercial grounds, exploiting the arguments from various sectors (cultural, social, political, etc.), frequently outplaying the commercial ones. Introducing restrictions on foreigners' land transactions gives rise to the 'bypassing' of these restrictions, allowing the belief that restrictions in many countries have merely a 'declarative role'.
4. A national economy is essentially aimed at sustainable development which can be achieved through beneficial institutional conditions for investments. In order to evaluate these from the perspective of international real estate transactions, one must evaluate the state's openness to international real estate transactions by listing the criteria in advance.

Volume and structure of the Thesis

The Doctoral Thesis consists of scientific research which was elaborated and written in Latvian. The Thesis comprises an introduction, three chapters, and a final part presenting the main conclusions and recommendations. The total volume of the Thesis without annexes is 172 pages. The Thesis has 20 tables, 13 figures, one equation and 11 annexes. More than 290 data and information sources were used for the Doctoral Thesis; 264 of them are included in the bibliography.

Scientific publications and textbooks

Results of the research are integrated in 20 scientific publications and one textbook, including some articles published in internationally recognised reviewed periodicals.

1. Sekace E., Viesturs J. Opportunities for Improving Housing Affordability for Young Adults. *Riga Technical University 60th International Scientific Conference "Scientific Problems of Engineering Economics of Construction and Real Estate Management, Regions and Territories Development ICEREE'2020"*. Book of Abstracts, Latvia, Riga, 1–3 October 2020. Riga: Riga Technical University, 2020, p. 24. ISBN: 978-9934-22-369-3.
2. Gorbato N., Viesturs J. Demographic Impact on REIT Performance. *Riga Technical University 60th International Scientific Conference "Scientific Problems of Engineering Economics of Construction and Real Estate Management, Regions and Territories Development ICEREE'2020"*. Book of Abstracts, Latvia, Riga, 1–3 October 2020. Riga: Riga Technical University, 2020, p. 9. ISBN: 978-9934-22-369-3.
3. Viesturs J., Auziņš A. Implementation of the International Real Estate Transactions Openness Assessment in Latvia. *21st International Scientific Conference "Economic Science for Rural Development 2020": Proceedings of the International Scientific Conference*, Latvia, Jelgava, 12–15 May, 2020. Jelgava: Latvia University of Life Sciences and Technologies, 2020, Iss. 54, pp. 28–33. e-ISBN 978-9984-48-345-0. e-ISSN 2255-9930. DOI: 10.22616/ESRD.2020.54.003 (**Web of Science; EBSCO**).
4. Viesturs J., Auziņš A. Real Estate Transaction Costs in Latvia. *Riga Technical University 60th International Scientific Conference "Scientific Problems of Engineering Economics of Construction and Real Estate Management, Regions and Territories Development ICEREE'2019"*. Book of Abstracts, Latvia, Riga, 27–28 September 2019. Riga: Riga Technical University, 2019, pp. 59–60. ISBN 978-9934-22-369-3.
5. Viesturs J., Auziņš A. Justification of the Abolishment of Local Governments Real Estate Right of First Refusal in Latvia. *20th International Scientific Conference "Economic Science for Rural Development 2019"*, Latvia, Jelgava, 9–10 May 2019. Jelgava: LLU ESAF, 2019, Iss. p. 50 225-232. e-ISBN 978-9984-48-320-7. ISSN 1691-3078. e-ISSN 2255-9930. DOI: 10.22616/ESRD.2019.028 (**Web of Science; EBSCO**).
6. Viesturs J., Auziņš A. Nekustamā īpašuma 'due diligence' process starptautiskajos darījumos ar nekustamo īpašumu Latvijā. From: *Nekustamais īpašums un ekonomikas attīstība: zinātnes un prakses sinerģija*. S. Geipele, R. Kočanova red. Zinātniskā monogrāfija. Rīga: RTU Izdevniecība, 2019. pp. 192–205. ISBN 978-9934-22-230-6. e-ISBN 978-9934-22-231-3. DOI: 10.7250/9789934222313.10
7. Viesturs J., Auziņš A., Šnore I. Indications of Gentle Forest Land Grabbing in Latvia. *Economic Science for Rural Development: Proceedings of the International Scientific Conference*, Latvia, Jelgava, 9–11 May 2018. Jelgava: 2018, Vol. 47, pp. 359–367. ISBN 978-9984-48-292-7, ISSN 1691-3078, DOI: 10.22616/ESRD.2018.042 (**Web of Science; EBSCO**).

8. Viesturs J., Tambovceva T. Characteristics of Environmental Due Diligence Process in Latvia. *AIMS Journal of Research*, Peenya, Bangalore, India, 2018, Vol. 13, Iss. 1, pp. 3–13. ISSN 2321-8487.
9. Auziņš A., Viesturs J. A Values-Led Planning Approach for Sustainable Land Use and Development. *Baltic Journal of Real Estate Economics and Construction Management*, 2017, Vol. 5, Iss. 1, pp. 275–286. e-ISSN 2255-9671. DOI: <https://doi.org/10.1515/bjreecm-2017-0021> (**EBSCO**).
10. Viesturs J., Puķīte I., Vanags J., Nikuradze I. Limiting the Program of Temporary Residence Permits for Foreigners Based on Real Property Investment in Latvia. *Baltic Journal of Real Estate Economics and Construction Management*, 2017, Vol. 5, Iss. 1, pp. 248–258. e-ISSN 2255-9671. DOI: <https://doi.org/10.1515/bjreecm-2017-0019> (**EBSCO**).
11. Viesturs J., Geipele I., Puķīte I., Nikuradze I., Vanags J. The Reasons for Significant Limitation of the Program of Temporary Residence Permits for Foreigners Who Have Invested in Immovable Property in Latvia. *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship” (SCEE’2017): Proceedings*, Latvia, Riga, 13–14 October 2017. Riga: Riga Technical University, 2017, pp. 57–58. ISBN 978-9934-22-000-5, ISSN 2256-0866.
12. Auziņš A., Viesturs J. Introduction of Values-led Planning Approach a Gate towards Improving Land Use and Spatial Development Practice in the Light of Dynamic Spatial Planning Systems. *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship” (SCEE’2017): Proceedings*, Latvia, Riga, 13–14 October 2017. Riga: Riga Technical University, 2017, pp. 12–13. ISBN 978-9934-22-000-5, ISSN 2256-0866.
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14. Viesturs J., Auziņš A., Štaube T. Arguments Used for Restricting International Real Property Transactions: Case Study of Latvia. *Baltic Journal of Real Estate Economics and Construction Management*, 2017, 5, pp. 62–75. e-ISSN 2255-9671. DOI: <https://doi.org/10.1515/bjreecm-2017-0006> (**EBSCO**).
15. Adlers A., Viesturs J., Geipele I. Adequate Compensation in Compulsory Acquisition of Land in the Albanian Trans Adriatic Pipeline Project. *Economic Science for Rural Development: Proceedings of the International Scientific Conference*, Latvia, Jelgava, 27–28 April 2017. Jelgava: 2017, Iss. 44, pp. 14–20. ISBN 978-9984-48-260-6, ISSN 1691-3078 (**Web of Science; EBSCO**).
16. Viesturs J., Geipele I. Starptautiskie darījumi ar nekustamo īpašumu. *Mācību grāmata*. Rīga: RTU Izdevniecība, 2017. p. 220.

17. Viesturs J., Auziņš A. Main Arguments Applied for Restricting International Real Property Transactions. *57th International Riga Technical University Conference "Scientific Conference on Economics and Entrepreneurship SCEE'2016" Proceedings*, Latvia, Riga, 29–30 September 2016. Riga: Rīgas Tehniskā universitāte, 2016, pp. 227–228. ISBN 978-9934-10-860-0. ISSN 2256-0866.
18. Viesturs J., Auziņš A. International Real Estate Transactions in Latvia 2011-2015: Theoretical and Practical Aspects. *Proceedings of the 2016 International Conference "Economic Science for Rural Development"*, Latvia, Jelgava, 21–22 April 2016. Jelgava: Latvia University of Agriculture, 2016, Vol. 41, pp. 291–299. ISBN 978-9984-48-223-1, ISSN 1691-3078 (**Web of Science; EBSCO**).
19. Viesturs J. Floating Homes – Vessels or a Real Property? *Proceedings of the 18th International Conference "Maritime Transport and Infrastructure – 2016"*, Latvia, Riga, 21-22 April 2016. Riga: Latvian Maritime Academy Research Institute, 2016, pp. 33–34. ISSN 1691-3817. (**Included in the National Bibliography of Latvia, in the database of Monographs and Continued Publications**).
20. Viesturs J., Auziņš A. Real Estate *Due Diligence* Process in International Real Estate Transactions in Latvia. *Baltic Journal of Real Estate Economics and Construction Management*. Vol. 3, 2015, pp. 91–102. ISSN 2255-9604. e-ISSN 2255-9671. DOI: <https://doi.org/10.1515/bjreecm-2015-0010> (**EBSCO**).
21. Viesturs J., Auziņš A. Real Estate *Due Diligence* Process in International Real Estate Transactions in Latvia. *56th International Riga Technical University Conference "Scientific Conference on Economics and Entrepreneurship SCEE'2015" Proceedings*, Riga, Latvia, 14–17 October 2015. Riga: Riga Technical University, 2015, pp. 217–218. ISBN 9789934827532, ISSN 2256-0866.

Publishing of study results in conferences and seminars

The author of the Doctoral Thesis has reported the research results in 19 scientific and scientifically practical conferences and seminars.

1. *Opportunities for Improving Housing Affordability for Young Adults*. Elīza Sekace (co-author Jānis Viesturs). *Riga Technical University 60th International Scientific Conference "Scientific Problems of Engineering Economics of Construction and Real Estate Management, Regions and Territories Development ICEREE'2020"*. 1–3 October 2020.
2. *Demographic Impact on REIT Performance*. Nikita Gorbatko (co-author Jānis Viesturs). *Riga Technical University 60th International Scientific Conference "Scientific Problems of Engineering Economics of Construction and Real Estate Management, Regions and Territories Development ICEREE'2020"*. 1–3 October 2020.
3. *Implementation of the International Real Estate Transactions Openness Assessment in Latvia*. Jānis Viesturs (co-author Armands Auziņš). *21th International Scientific Conference "Economic Science for Rural Development 2020"*. Jelgava, Latvia, 12–15 May 2020.

4. *Real Estate Transaction Costs in Latvia*. Jānis Viesturs (co-author Armands Auziņš). *Riga Technical University 60th International Scientific Conference “Scientific Problems of Engineering Economics of Construction and Real Estate Management, Regions and Territories Development ICEREE’2019”*. 27–28 September 2019.
5. *Justification of the Abolishment of Local Governments Real Estate Right of First Refusal in Latvia*. Jānis Viesturs (co-author Armands Auziņš). *20th International Scientific Conference “Economic Science for Rural Development”*. Jelgava, Latvia, 10 May 2019.
6. *International Real Estate Transactions and Due Diligence of Real Estate or Due Diligence Management – Theory and Practice*. Jānis Viesturs. Seminar in Latvian Association for Real Estate Transactions “Professionals Club” on 23 November 2018.
7. *Introduction to real estate transaction: theory, technology and practice*. Jānis Viesturs. In cooperation with the real estate agency and property development company REMAX, seminars were available for all industry representatives between 2 October 2018 and 6 November 2018.
8. *Indications of Gentle Forest Land Grabbing in Latvia*. Jānis Viesturs (co-authors Armands Auziņš and Inga Šņore). *19th International Scientific Conference “Economic Science for Rural Development”*. Jelgava, Latvia, 11 May 2018.
9. *Characteristics of Environmental Due Diligence Process in Latvia*. Jānis Viesturs (co-author Tatjana Tambovceva). *International Round Table Conference “Circular Economy for Global Sustainability” from Aspiration to Implementation on 6 April 2018 at AIMS institute of Higher Education, Bangalore, India, 6 April 2018*.
10. *The Reasons for Significant Limitation of the Program of Temporary Residence Permits for Foreigners Who Have Invested in Immovable Property in Latvia*. Jānis Viesturs (co-authors Ineta Geipele, Iveta Puķīte, Irakli Nikuradze and Jānis Vanags). *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship”*. 13–14 October 2017.
11. *Characteristics of Land Grabbing in the 21st Century*. Jānis Viesturs (co-author Armands Auziņš). *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship”*. 13–14 October 2017.
12. *A Values-Led Planning Approach for Sustainable Land Use and Development*. Armands Auziņš (co-author Jānis Viesturs). *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship”*. 13–14 October 2017.
13. *Disposal of the Real Estate for Public Needs*. Jānis Viesturs. Seminar in RTU Faculty of Engineering Economy and Management, Institute of Construction Business and Real Estate on 10 October 2017.
14. *Adequate Compensation in Compulsory Acquisition of Land in the Albanian Trans Adriatic Pipeline Project*. Āris Ādlers (co-authors Jānis Viesturs and Ineta Geipele). *18th International Scientific Conference “Economic Science for Rural Development”*. Jelgava, Latvia, 27–28 April 2017.

15. Problems with Identifying International Real Estate Transactions and Review of Related Terminology. Jānis Viesturs. Seminar in RTU Faculty of Engineering Economy and Management, Institute of Construction Business and Real Estate on 24 March 2017.
16. *Main Arguments Applied for Restricting International Real Property Transactions*. Jānis Viesturs (co-author Armands Auziņš). *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship”*. 29–30 September 2016.
17. *International Real Estate Transactions in Latvia 2011–2015: Theoretical and Practical Aspects*. Jānis Viesturs (co-author Armands Auziņš). *17th International Scientific Conference “Economic Science for Rural Development”*. Jelgava, Latvia. 21–22 April 2016.
18. *Floating Homes – Vessels or a Real Property?* Jānis Viesturs. *18th International Conference “Maritime Transport and Infrastructure – 2016”*. Riga, Latvia. 21–22 April 2016.
19. *Real Estate Due Diligence Process in International Real Estate Transactions in Latvia*. Jānis Viesturs (co-author Armands Auziņš). *Riga Technical University 58th International Scientific Conference “Scientific Conference on Economics and Entrepreneurship”*. 29–30 September 2015.

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1. IDENTIFICATION OF CURRENT PROBLEMS IN INTERNATIONAL REAL ESTATE TRANSACTIONS IN A GLOBAL CONTEXT

1.1. Terms ‘Real Estate’, ‘International’ and ‘Transactions’, Diversity of Definitions

When conducting research on aspects of international real estate transactions in Latvia and abroad, one comes across a vast diversity of terminology for defining the subjects, objects and processes falling under the category ‘international real estate transactions’. Therefore, it is essential to identify and define them, to outline their context and limits in each study. Current international economic relations are largely governed by bilateral and multilateral investment protection contracts, stimulating an increase in foreign investments and creating a predictable investment climate, thus enhancing the foreign investors’ reliability. “The convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital” is central to international contracts when it comes to defining the notion of real estate. It states that “the notion of ‘real estate’ shall have the same meaning as in the legislation of the state, which is a party to the convention, where said property is situated.”⁶ The notion of ‘real estate’ includes: (a) property affiliated to real estate; (b) cattle and agricultural and forestry devices; (c) rights subject to the general provisions of land property law; (d) real estate usufruct; (e) rights to variable or fixed payments for rights to use mineral deposits, natural deposits and other natural resources or their use. It is a very extensive but also highly accurate description of ‘real estate’. It has historical grounds, because no general notion of real estate or land exists, and instead there is land (real estate) under certain socio-political conditions – in a particular state or state-like entity. The content of real estate in the context of world history is different and changes over time in each state or state-like entity, hence it explains many definitions given, and for this reason the author of the Doctoral Thesis believes spatial and temporal restrictions of each definition of real estate to be inefficient.

Economic theory describes immovable property as land and other objects often defined (or not defined) as immovable properties, and they are such only because they can be elements of the land⁷ (for example, structures [also floating⁸], vegetation, individual objects defined as immovable in legal sense [German *im rechtlichen Sinne*]⁹, rights derived from land property (including superficies, or ‘legally defined land plot’ [German *juristisches*

⁶ For example, Art. 6(1) of the Convention on avoidance of double taxation and tax evasion with respect to taxes on income signed between the Republic of Latvia and the Republic of Estonia.

⁷ The classical understanding of immovable property was particularly distorted in the socialist countries (partly still in Cuba, Vietnam, North Korea) claiming that the land belongs to all people, therefore the inhabitants of said countries started to believe in structures which exist as if separated and independent from the land. Such an understanding in Latvia, during the property referendum of the 90s in the last century, led to a notion of real estate, very rarely met anywhere else in the world, which says that the structures can be ‘independent real estate objects’ to which one can corroborate ownership rights in the Land Register compartment separated from the land and without the institute of superficies.

⁸ Viesturs J. Floating Homes – Vessels or a Real Property? p. 33.

⁹ For example, this term was defined in Paragraph 293 of the Civil Code of Austria. It is used also in scientific research, denoting also ‘superficies’ as ‘legal real estate’.

Grundstück]¹⁰), etc.), or, in special cases, otherwise movable objects which have been ‘demobilised’ or ‘immobilised’, and vice versa – ‘mobilised’¹¹ (for example, aircraft and sea vessels, inland water vessels [floating structures], space objects). Individual definitions can be explained by the fact that the land or immovable property is located in countries following a different legal system¹², and also as a result of historical and socio-political circumstances that change over time. It complicates research, because in the literature on factors influencing international real estate transactions authors use a wide range of terms even within the confines of one industry (and especially in interdisciplinary research), for example using rich terminology in English¹³ (Table 1.1). A similar amount of synonyms, or terms with similar content, to designate land and its elements or real estate has been used historically, for example, also in the German cultural domain, referring to immovable properties as *liegendes Gut*, *Liegenschaften*, *terra*, *res*, *possessio*, *proprietas*, *hereditas*, *eigen*, *erbe*¹⁴, and also nowadays – *Grundstück*¹⁵ and *grundstück gleiches Recht*, *Gebäude*, *Grund und Boden*, *Liegenschaft*, *Grundbesitz*, *Realvermögen*, *Grungvermögen*, *Anwesen*, *Realitäten*, *unbewegliches Vermögen*. There are several terms also in Latvian, such as ‘immovable property’, ‘land’, ‘land plot’, ‘land property’, ‘land unit’, ‘immovable object’, ‘fixed subject of real estate rights’, etc.

The terminology used in the special law provisions of Latvia and the scientific literature to designate land and derived immovable properties is burdensome and unjustifiably complicated, which can be explained by a failure to comply with the undivided historical land-structure concept following the property conversion in the 1990s. According to the historical Civil Law of the Republic of Latvia of 1937, immovable property is a ‘land plot’ (analogous to German *Grundstück*), while other ‘immovable properties’ are only components of the land plot. Nevertheless, according to the special legal provision adopted in the updated Civil Law of Latvia in the 90s, the historical land-structure unity was not observed and made the notion of real estate unfairly complicated in terms of terminology, inconsistent and fluctuating in time.

Such an extensive range of terminology used in the scientific literature is rooted in a state’s affiliation to various legal systems – and hence, in each state or even in different types of real estate or land and its elements, created under diverse socio-political and historical

¹⁰ Handschumacher J. Immobilienrecht praxisnah. S. 53.

¹¹ Viesturs J., Geipele I. Starptautiskie darījumi ar nekustamo īpašumu. p. 50.

¹² For example, it would be recommended to use the term ‘real estate’ only in an Anglo-American legal system, while in the Roman-German legal system the states do not have an analogue for the term ‘real estate’ containing full or partial rights or interest, or possibly, temporarily restricted rights to real estate. Therefore, the notion of ‘real estate’ should be replaced with real (immovable) property, as is the case increasingly often in the EU documents.

¹³ Viesturs J., Auziņš A. International Real Estate Transactions in Latvia 2011–2015: Theoretical and Practical Aspects. p. 293.

¹⁴ Huebner R. A. History of Germanic private law. p. 165.

¹⁵ According to the Civil Code adopted in Germany in 1900, the objects can be divided into movable property and land plots (in German *Grundstück*). The same terminology existed also in the “Collection of Local Baltic Laws” preceding the Civil Law of Latvia. Nowadays terminology for designating immovable property is used without any consequence or historical succession in the laws and regulations and expert circles alike.

circumstances, there are such great differences that some terms are almost untranslatable, since no such types of property, tenure or holding exist in other legal systems.

Table 1.1

Synonyms or Terms ‘International’, ‘Real Estate’ and ‘Transactions’ Found in the Scientific Literature with Similar Meaning in English

| <i>International</i> | <i>Land</i> | <i>Transaction</i> |
|-------------------------|--|------------------------------|
| <i>Cross border</i> | <i>Real estate</i> | <i>Deal</i> |
| <i>Foreign</i> | <i>Real property</i> | <i>Acquisition</i> |
| <i>Global</i> | <i>Immovable (things, property)</i> | <i>Purchase</i> |
| <i>Alien</i> | <i>Immobile</i> | <i>Disposal</i> |
| <i>Non-citizen</i> | <i>Rights in rem / Real rights</i> | <i>Transfer</i> |
| <i>Foreigner</i> | <i>Residential/Commercial property</i> | <i>Conveyance</i> |
| <i>Non-resident</i> | <i>Agricultural etc. land</i> | <i>Grab</i> |
| <i>Foreign national</i> | <i>Land tenure</i> | <i>Transfer of ownership</i> |
| <i>Non-national</i> | <i>Land holding</i> | <i>Sell</i> |
| <i>Overseas</i> | <i>Landed property</i> | <i>Investment</i> |
| <i>Transnational</i> | <i>Property rights</i> | <i>Changing hands</i> |
| <i>Other</i> | <i>Other</i> | <i>Turnover</i> |
| | | <i>Foreignization</i> |
| | | <i>Subdivision</i> |
| | | <i>Other</i> |

In economic theory land is one of the production factors designated as ‘primary real estate’, ‘prototypical real estate’¹⁶, ‘paradigmatic real estate’¹⁷, ‘real estate’ or ‘primary immovable property’¹⁸, and also ‘primary form of real estate’¹⁹. However, the typical object of a disposal transaction is not ‘land’, but rather different **real estate products derived from the land property or forms of real estate tenure or ownership arising out of the land property**, essential to be identified when analysing the state’s openness to international real estate transactions, because any of them may have different restrictions imposed on foreigners or measures promoting the transactions, and also completely different periodization of transactions, transaction costs, economic nature, transaction timing, governing legislation, etc. The most often used categories of property rights or rights of land use derived from land property are as follows:

1. Different forms of direct property rights to real estate (in countries with Roman-German legal systems – real estate property rights).
2. Property rights in countries with Anglo-American legal systems are shared interests in one object or estate, dividing them into freehold and leasehold. Rights to immovable property, defining them as a bundle of sticks or bundle of rights, which can be alienated separately; this is how different interests of real estate – land – are created, where each is a property or real estate and hence each (interest) may be the subject of

¹⁶ Stubkjær E., Frank A., Zevenbergen J. Modelling real property transactions. An overview. p. 7.

¹⁷ Zaibert L., Smith B. Real Estate: Foundations of the Ontology of Property. p. 38.

¹⁸ Vanags J. Nekustamā īpašuma ekonomika. p. 137.

¹⁹ *Ibid.*, p.120.

a transaction without (as in states with German legal systems) the juxtaposition of full and restricted real estate property rights.

3. The Anglo-American legal system uses different types of immovable property ownership or tenure (from Latin *tenēre* – ‘hold’ or ‘have’)²⁰, which are broken down in more detail in “Secure land rights to all”, the book published by the World Bank in 2008 (the author of the Doctoral Thesis has intentionally not added the translation, because, for instance, such terms as ‘freehold’ and ‘leasehold’ do not have analogous terms in the Roman-German legal system): (1) *freehold*; (2) *delayed freehold*; (3) *registered leasehold*; (4) *public rental*; (5) *private rental*; (6) *shared equity*; (7) *co-operative tenure*; (8) *customary ownership*; (9) *religious tenure systems (e.g. Islamic)*; (10) *intermediate, or temporary, tenure systems*; (11) *non-formal tenure systems*. Each of these rights may be the transaction subject – for example, land which is used according to customary rights.
4. Indirect real estate property rights – Real Estate Investment Trusts [REIT] and Real Estate Operating Companies [REOC].
5. Indirect property rights – investment in commercial undertakings.
6. The right to leasehold or right to other’s property (Latin – *re aliena*) – *emphyteusis*, *superficies*, *usufruct*, *us*, *habitatio* etc. – where superficies (German *Erbbaurecht*) is the most suitable, or alienable or inheritable land construction right, which is also in force regarding non-residential structures in Latvia as of 1 January 2017. This means that construction is also a right: namely ‘legal real estate’ has been created as a land-related commodity or a right arising out of the land property, allowing the creation of a separate property right to the land and structure (and which is related to the land [construction right]). For example, inheritable construction rights in Germany were introduced as early as in 1919 under the law *Gesetz über das Erbbaurecht (Erbbaurechtsgesetz)*, when “World War I had led to a strong deficiency of apartments, but the existing principle of land-structure indivisibility delayed solving this problem”²¹.

Categories of commonly used real estate products derived from the land property (types of real estate) are as follows:

- 1) land (land plot or land unit);
- 2) land with appurtenances (for example, structures, trees, etc.);
- 3) structures as stand-alone real estate objects (for example, in Latvia);
- 4) apartment and non-residential premises property;
- 5) other, new types of real estate.

A wide range of terminology is used to designate a group of premises or apartment property or non-residential premises property with terms such as ‘apartment’, ‘flat’, ‘horizontal property’, ‘owned units’, ‘owned apartments’, ‘ownership of storeys’, ‘unit

²⁰ *Tenure* is defined as follows: “the way in which rights in land are held is called ‘tenure’”.

²¹ Rūda G., Laviņa L., Līkops J. Nekustamā īpašuma tiesību regulējums pēc zemes reformas pabeigšanas – Civillikuma zemes un ēku (būvju) nedalāmības koncepta pilnīgas ieviešanas problēma. p. 18.

ownership'. The main types are unitary and dual property²², and other types of apartment property are also common, where special property types exist, for instance, in (a) Catalonia, the autonomous region of Spain, having apartment leasehold (Catalan *proprietat temporal*), which is uncharacteristic of the Roman legal system and rather similar to the American concept of leasehold; (b) apartment property as servitude in Switzerland (German *Dienstbarkeit*); (c) apartment property in Scandinavian countries – apartment property rights are owned by a company (e.g., in Finland *Asunto-osakeyhtiö*), where their shares belong to the apartment owners and disposal transaction involves shares in the company²³; (d) in Latvia – apartment property or flat, artist's workshop, non-residential premises transferred for ownership until privatisation of the residential house (but excluding the land on which it is built), and land property in Latvia with ownership rights corroborated in the Land Register excluding the land. The largest number of international asset deal transactions involve apartment (group of premises) property, as is the case, for example, in Latvia.

A current trend nowadays is the creation of new types of land property-derived real estate and intensified investment into alternative real estate sectors, calling for better market transparency in a much wider real estate range²⁴ and the improvement of professionalism of persons working in the real estate industry.

Considering the aforesaid, the notion of 'real estate' is used in this Doctoral Thesis to designate all the possible land property-derived products existing in each state or state-like entity or types of land-related real estate, whereas the notion of 'land' is used where the transaction subject is a land property or land and its appurtenances (for example, structures, trees, etc.) without prejudice to different, country-specific types of property rights.

The object of the Doctoral Thesis is international real estate transactions, distinguishing between asset deal and share deal transactions. Asset deal transactions can be used as a research object to identify the state's openness to international real estate transactions because they reveal the most accurate quantitative data on transactions registered in the Land Register. Additionally, restrictions designed for foreigners in Latvia are mainly imposed on asset deal transactions²⁵. Other restrictions (in asset deal transactions) are analysed in Section 1.2 of the Doctoral Thesis: "Classification of foreigners' real estate transactions and restrictions imposed on real estate property rights".

A real estate transaction involves voluntary, consecutive activities with the real estate, aimed at establishing, amending or terminating the legal relations or related activities. Based on new institutional economy theory, a real estate transaction must be analysed as a process

²² European Condominium Law. Edited by Cornelius van der Merve. p. 5.

²³ K. Čakste, when analysing apartment property types in Latvia and abroad, wrote in his book "Nama sadalīšana dzīvokļos", published in 1933: "This structure too cannot be acknowledged as correct. Here, a new, excess rights subject is being construed, which holds ownership rights to the house. The real intent of the apartment acquirers is not to establish a company which would own the house but instead to get a share of the house in their ownership." Scandinavians have recognised it partially: for example, Norway incorporated a dual apartment property concept, used in the countries with a Roman-German legal system in the Property Unit Ownership Act of 1997.

²⁴ Global Real Estate Transparency Index 2018. Transparency: Data, Disclosure and Disruption. p. 8.

²⁵ In laws of the Republic of Latvia "On Land Privatisation in Rural Areas" and "On Land Reform in Towns and Cities of the Republic of Latvia".

rather than merely a point in time (refer to Section 2.1 “Theoretical aspects of institutional economy and real estate transaction costs”). Transactions not qualifying for the country’s procedure are designated as ‘quasi-transactions’ or ‘seeming transactions’ and they remain the responsibility of the persons involved. There are no sufficient data about them, they do not enjoy state protection and they are recognised as invalid, and, regardless of the fact that they entail some economic activities, they lack legitimacy and therefore fall outside the notion of ‘real estate transaction’. The notion of ‘real estate transaction’ usually has a narrower meaning in the scientific literature, namely as disposal transactions or transactions leading to a change of real estate owner, and also actions related to these transactions – everything needed to transfer the real estate from one owner to another. The purchase, or purchase transaction, is the most frequent disposal transaction performed and analysed in economic theory. However, each study should define in their introduction what is understood by terms ‘transaction’ or ‘real estate transaction’ in each particular case. If it is a purchase, it is more suitable to use the term ‘purchase’ or ‘purchase transaction’. The term ‘real estate transaction’ in this Doctoral Thesis bears a narrower meaning – any transaction where voluntary, consecutive real estate transactions entail a change of real estate owner. Real estate transactions are also lease, rental, lending transactions and others stated in the Thesis. Rent transaction is a special transaction category to be emphasized in a case where foreigners acquire rights to use the land if the ownership rights are not allowed or are restricted.

A representative of the new institutional economy, Nobel Prize winner in economics O. E. Williamson, mentions two assumptions regarding the actions of persons involved in transactions in order to identify the transactions: (1) the parties act reasonably (it is necessary to distinguish from irrational and hyperrational conduct), each representing their interests; (2) at least one party is ready for opportunism, or to adapt. So, relying on the complexity of all these aspects, the achieved agreement as a manifestation of opportunism is considered as the best possible²⁶, harmonising with the will of each party. An agreement or contract is signed when the element of will in accordance with the transaction is achieved. This means that a transaction arises from a person’s will, and it is equally important that where a transaction involves several parties, one must harmonise the will of two or more parties. In economic theory the term ‘transaction’, with other terms aiming to designate the same (Table 1.1) usually, but not always, is used to understand the real estate asset or share deal transaction – it is typically identified from the restrictions of a particular piece of research, since transactions tend to differ, and their efficiency manifests only where the management structures are adapted to the specific needs of each transaction type²⁷.

In research about land management and in this Doctoral Thesis, when evaluating the state’s openness to international real estate transactions, the definition ‘disposal transaction’ is used, because a purchase is not the only way how foreigners acquire property rights or tenure rights to real estate. It means that in the Doctoral Thesis real estate transactions are defined as disposal transactions, and some sections of the Thesis specify additional transactions where foreigners acquire land tenure or ownership rights or access to land resources (for example,

²⁶ Williamson O. E. The Economics of Organization: The Transaction Cost Approach. p. 554.

²⁷ Williamson O. E. The Economics of Organization: The Transaction Cost Approach. p. 568.

rent, concession [or not using thereof]²⁸, etc.). It must also be kept in mind that a real estate transaction is not the only way how foreigners can lose their property rights to land (it can also occur with land disposal for public needs, nationalisation, confiscation, an inability to acquire rights of entitlement to a property [and the related duty to alienate the property within a defined time frame]). The possibility of losing the property is one of the factors taken into account by foreigners before they make investments abroad. It is usually defined in international conventions on promotion of investments and mutual protection. However, regardless of regulated ownership guarantees, it is one of the main constituents of due diligence of safe real estate property rights for foreigners.

1.2. Principles of Accounting of International Real Estate Transactions and Foreigners' Real Estate Property Rights

In the scientific research there is no globally accepted uniform accounting approach for 'real estate transactions' or 'investments', especially with a view to the wide range of real estate property rights or tenure rights (see Section 1.1 "Terms 'real estate', 'international' and 'transactions', diversity of definitions"). Usually foreigners' transactions or international, 'transactions' are mainly listed by the following principles:

1. **In individual research the terms 'transactions' or 'real estate transactions' are defined in the context of that specific research.** For example, within the framework of the project where globally largest land grabbing transactions are recorded, Land Matrix (<http://www.landmatrix.org>) information about land grabbing transactions worldwide is collected insufficiently, and the author of the Doctoral Thesis believes it to be too inaccurate to qualify as a scientifically valid source (see Section 1.4 "Consequences of high openness to international real estate transactions in today's situation – cases of international land grabbing"). This project reveals that the recorded transactions are those **in the planning phase, already signed, or pending efforts to acquire rights of land resource use in the form of purchase, rent or concession**. However, regardless of shortcomings characteristic of this data collection, the Land Matrix information is also used in the scientific studies. In order to identify the shortcomings of Land Matrix information, the author of the Doctoral Thesis chose as one of the research tasks to examine the Land Matrix information, specifically the information stating that in Latvia there have not been any real estate transactions showing indications of land grabbing.
2. **Direct foreign investments.** The Bank of Latvia manages statistical data on foreign direct investment (FDI) in Latvia, collected under Regulation No. 1893/2006 of the European Parliament and of the Council of 20 December 2006, establishing the statistical classification of economic activities NACE (from the French: *Nomenclature Statistique des activités économiques dans la Communauté européenne*). These are

²⁸ Academic Term Database *AkadTerm* (<http://termini.lza.lv/term.php?term=koncesija&list=koncesija&lang=LV>).

investments in commercial undertakings performing real estate ‘activities’²⁹; economic activities under NACE are designated in Latvia as ‘operations’ and it is a misleading translation which should be replaced with ‘activities’. In an investment company, where economic activity means ‘real estate activities’, the process may turn out to lack a real estate transaction, because the company only carries on business in this sector, for example, manages properties it does not own, or alternatively provides real estate agent services, but does not perform any real estate transactions. Meanwhile, large-scale real estate transactions can be carried out by companies but fall under another category of NACE, for example, “Silviculture and other forest management activities”. In Latvia, FDI is accounted also in SIA Lursoft statistical reports on foreign direct investments in the registered fixed capital of companies with a separate inventory of direct foreign investments exceeding 1.4 million EUR³⁰. Statistical data on the amount of investments accrued by the companies having registered their type of activities according to NACE (2.0 according to NACE) are collected and classified by sectors.

3. **Investments in real estate.** For instance, in Latvia investment reports are prepared by companies CBRE and Colliers International. Both of these companies define investment criteria within the framework of their study so that data on such transactions can be used for the research. For example, a number of transactions in the report on the Baltic investment market in 2016, prepared by Colliers International³¹, includes both asset and share deal transactions if the transaction amount exceeded 0.4 million EUR, excluding land transactions and end-user deals.
4. **In order to determine foreigners’ impact on the real estate market, in some studies, land property rights of the foreigners are analysed.** For example, in the Doctoral Thesis the author uses ‘foreignness’ identification method when writing about land grabbing transactions, because the transactions performed by economic operators registered in Latvia using foreign shares when corroborating the property rights in the Land Register do not show any ‘foreign element’.
5. **‘Asset transactions’ performed with real estate by foreigners (natural and legal persons), corroborating the ‘asset deal’ property rights of the foreigners in the Land Register.** The dynamics of the number of real estate purchase transactions performed by foreigners between Q1 2011 and Q2 2020 shows that the number of transactions where foreigners acted as ‘buyers’ or ‘sellers’ has been approximately the same recently, and in some quarters the amount of real estate sold by foreigners even exceeds the amount of bought real estate. This means that the amount of real estate ‘directly’ owned by foreigners since Q3 2014 has not increased. When analysing the statistical data on real estate transactions performed by foreigners and registered in the Land Register of Latvia, it can be concluded that (1) estates bought by foreigners are

²⁹ Regulation No. 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE.

³⁰ Foreign direct investments exceeding 1.4 million euro (https://www.lursoft.lv/lursoft_statistika/?id=5).

³¹ Real Estate Market Overview. Annual Report, 2016. Colliers International.

on average more expensive than those sold; (2) foreigners mainly buy groups of premises (apartment properties); and (3) a considerable reduction in purchase transactions by foreigners is observed since Q3 2014.

1.3. Classification of Foreigners' Real Estate Transactions and Restrictions Imposed on Real Estate Property Rights

Openness to international investments, including international investments in real estate manifesting as real estate transactions, is one of the main indicators of national economy. Historically, different restrictions or barriers (with related verbs 'restrict', 'prohibit', 'regulate', 'limit') have existed globally for foreigners wishing to acquire property rights of real estate (land). The international real estate (land) market, with some exceptions (for example, EU, OECD), has always been strikingly illiberal³², having many restrictions, and only since World War II has a trend to alleviate these obstacles emerged. Restrictions have been associated with racism, prejudice, xenophobia, lack of foreigners' loyalty and other aspects of protectionism. Decisions on foreigners' property rights are usually driven by two extremes: on the one hand they are led by fear, prejudice and suspicion of foreigners, and on the other hand – the need for foreign investments³³. Nowadays there are countries where foreigners are free to perform whatever real estate transactions they like, and their property rights are not restricted if obtained through inheritance rather than transaction. At the same time, there are countries (a minority among European states^{34,35}) where transactions are subject to different direct and indirect restrictions. The topic of foreigners' property rights remains 'heated' in many states³⁶.

Restrictions in international commercial relations are broken down as follows:

1. **Tariff barriers**, which are rarely applied to real estate transactions; they are mainly used as elevated transaction costs³⁷. Tariff restrictions imposed on foreigners as stamp duty or tax related to real estate transactions do not exist in Latvia. Elevated stamp duty (6 %) introduced to hold back bank's subsidiaries from real estate transactions – in the case of apartment property disposal for legal persons – is deemed to be an indirect tariff restriction, applicable as of 29 October 2013. However, this provision does not classify banks' subsidiaries by their capital affiliation, and it is, therefore, not a restriction imposed directly on companies owned by foreigners. Not only the

³² Hall D. Land. p. 89.

³³ Bell R. L., Savage J. D. Our Land is Your Land: Ineffective State Restriction of Alien Land Ownership and the Need for Federal Legislation.

³⁴ Schmid C. U., Hertel C., Wicke H. Real Property Law and Procedure in the European Union. General Report. Final Version.

³⁵ Ciaian P., Kancs A., Swinnen J., Van Herck K., Vranken L. Sales Market Regulations for Agricultural Land in EU Member States and Candidate Countries. p. 6.

³⁶ Hodgson S., Cullinan C., Campbell K. Land Ownership and Foreigners: A Comparative Analysis of Regulatory Approaches to the Acquisition and Use of Land by Foreigners.

³⁷ For example, in several States of USA, foreigners are subject to elevated transaction tax – 2–2.8 % (in addition to 15 % of real estate sale tax since 15 February 2016), when disposing of real estate in South Carolina, Georgia, Hawaii, California, Colorado, Maine, Maryland, Mississippi, New Jersey, New York, Oregon, West Virginia, Rhode Island, Vermont and North Carolina.

elevated transaction costs in the case of a real estate purchase but also special provisions in the form of elevated tax for foreigners who are not local tax residents when selling a property (e.g. in Russia) fall under the category of tariff restrictions.

2. **Extra-tariff or non-tariff barriers.**

The scientific literature also uses other classifications for foreigners' land ownership. For example, states are divided into several groups³⁸:

1. **States with restrictors and leviers** – states restricting property rights of real estate owners and increasing transaction costs for foreigners (e.g. regarding residential real estate – Australia, China, Hong Kong, Singapore, and regarding commercial property – Australia, Mexico).
2. **States with restrictors** – states imposing restrictions on foreigners in their real estate transactions (e.g. on residential real estate – Switzerland, Denmark, New Zealand, Mexico, Costa Rica, and regarding commercial property – China, Denmark, New Zealand, Costa Rica).
3. **States with leviers** – states increasing transaction costs for foreigners (e.g. regarding residential real estate – USA, United Kingdom, and regarding commercial property – Hong Kong, Singapore, USA, United Kingdom).
4. **States with with 'open door'** – states which give foreigners the same rights and obligations regarding acquisition of residential real estate and property rights as their citizens and residents (e.g. regarding residential real estate – Japan, Nicaragua, France, and regarding commercial property – Japan, Switzerland, France, Nicaragua).

Division of types of non-tariff barriers to foreigners' real estate property rights and transactions into eight groups:

1. **By way of using real estate (usually land) or a location in a country.** Such restrictions are mainly imposed on agricultural and forest land, mining fields³⁹ (e.g. in Russia, Near East and North African countries), land by waters, dune areas, public water protection zones and islands in the sea (e.g. Greece), and also for land in a borderland area. In Latvia, just as in a majority of states, (in the borderland area, which is up to 2 km wide) foreigners face restrictions of land transactions, and a particularly wide area is created, for instance, in Latin America Countries – Mexico (100 km along the inland border and 50 km along the coast), Honduras (private land property can belong only to citizens born in the country [in Spanish *por hondureños de nacimiento*] and commercial undertakings owned by them in a 40 km wide zone along the state border) and Bolivia (40 km along the state border), land in natural reserves and nationally protected areas and around military sites.

In Latvia, special types of land use or location restrictions on land disposal transactions for foreigners are set down in the Law of Latvia On Land Privatisation in Rural Areas: on (a) land in the borderland area, (b) land in nature reserves and other areas of national

³⁸ Policies on Non-resident Property Ownership: A review of residential policies from around the world and Non-resident Ownership of Commercial and Industrial Property: A review of policies from around the world.

³⁹ In countries with Anglo-American legal systems where the legal estates of several persons may exist on one parcel of land or immovable property, mining fields can be alienated separately from other legal estates or mineral estates. However, such transactions may be subject to restrictors for foreigners.

protected territories, (c) land in the protection zone of dunes of the Baltic Sea and Riga Bay, (d) land in protection zones of public waters and watercourses, except for the areas intended for construction according to the relevant municipality's planning, (e) agricultural and forest land, except for the areas intended for construction according to the relevant municipality's spatial planning, and (f) land in mining fields of national significance. The restrictions stated in the Law On Land Reform in Towns and Cities of the Republic of Latvia are imposed on transactions with (a) land in the borderland areas, (b) land in the protection zone of dunes of the Baltic Sea and Riga Bay and in the protection zones of other public waters and watercourses, except when they are intended for construction according to the city's master plan, and (c) agricultural and forest land according to the municipality's spatial planning.

With the free movement of capital principle in action among the EU countries in the European Union, after lifting the moratorium on selling agricultural land, in several Eastern European countries, including Latvia, foreigners have been subject to indirect restrictions regarding agricultural land purchases⁴⁰.

Globally, the most restricted real estate transactions are agricultural land transactions, providing the argument that agricultural resources have special social status, ensuring food safety, and therefore food safety is one of the main restrictors in foreigners' transactions for land.

Referring to one of the fundamental principles of the European Union – free movement of capital – this principle is recognised as not absolute regarding, for example, agricultural land – one should also consider the specific characteristics of each EU country which drive the need for restrictions, and all EU efforts to protect agricultural land from threats such as speculative agricultural land transactions and property concentration, allowing for (1) previous permission given for land purchasing by public authorities; (2) restrictions on the size of the land to be purchased; (3) the right of first refusal, entitling certain buyer categories to purchase the agricultural land before it is sold to other persons (buyers who can exercise these rights could include farmers renting the land, neighbours, co-owners and the state); (4) state's intervention on pricing. Among the discriminating restrictions there are: (1) a statutory obligation for the buyer (landowner) to cultivate the land; (2) a prohibition for companies to buy the land; (3) a pre-requisite for land purchase – a qualification in agricultural industry⁴¹.

2. **By restrictions on the right to use the land.** The rights given to foreigners to use land, mainly via rent or concessions without acquiring the property rights, are established due to various reasons, especially where foreigners are prohibited from acquiring ownership (e.g. foreigners cannot own agricultural land in Albania, Kazakhstan, Russia, Moldova and Ukraine, and therefore foreigners use the land resources most often by establishing a

⁴⁰ Grumolte-Lerhe I., Avotniece Z., Beizītere I., Valtenbergs V. Lauksaimniecībā izmantojamās zemes tirdzniecības ierobežojumi Eiropā un tirgus situācija Latvijā. p. 54.

⁴¹ Sale of agricultural land: The Commission issues guidelines for the Member States.

concession or by renting⁴²). Nevertheless, foreigners' land rental rights may also be regulated within the framework of the land management policy. When it comes to renting, measures regulating the land market usually involve (1) rent fee restrictions, (2) restrictions on the duration of a lease contract (e.g. in Kazakhstan, it was stipulated between 1 January 2011 and 1 January 2015 that foreign natural persons and legal persons with more than 50 % of shares from the fixed capital owned by foreigners could enter into a land rent agreement for not more than 10 years, and since 1 January 2015 – for not more than 25 years), (3) an automatic extension of the lease contract, (4) certain conditions for termination of the lease contract, (5) a lessee's right of first refusal (also in Latvia)⁴³, and (6) an area of the rented land (e.g. in Brazil⁴⁴). The land rental rights for foreigners were also subject to time restrictions in Latvia between 11 November 1991 and 1 January 2005 – the Law of Latvia On Foreign Investments in the Republic of Latvia stated that foreign investors may use the land under the legislation of the Republic of Latvia in the case where they enter into a lease agreement, the duration of which may not exceed 99 years.

Land rent transactions are also used to 'bypass' the restrictions imposed on land ownership for foreigners, for example, carrying out large-scale international land grabbing transactions. It means that the land ownership restriction does not prohibit foreigners from using land resources or, according to the theory of access, considering the options of using real estate, one must bear in mind that the property right is only one facet of the wider possible resources of access⁴⁵. Land ownership prohibition for foreigners is a restriction rather than insurmountable barrier, and it encourages foreigners to use land resources through leasing, concessions, or another type of access to land resources.

3. **By a different approach to foreigner's identification or so-called foreignness criteria.** There are diverse approaches to determining the status of foreigners in many countries; it can be based on citizenship, ethnicity⁴⁶ and residence⁴⁷ principles in the case of natural persons, or registration (place of establishment), management (main headquarters) and beneficial owner principles in the case of legal persons and the like. There is a widely spread requirement of the state for limited companies registered in the country where it wants to buy real estate to establish joint ventures with more than half of the shares from the fixed capital held by the citizen or a local economic

⁴² Visser O., Spoor M. Land Grabbing in Post-Soviet Eurasia: The World's Largest Agricultural Land Reserves at Stake.

⁴³ (a)–(e) – Vranken L. Land markets and regulations in Europe. p. 7.

⁴⁴ Investment Climate Statement – Brazil 2012 (<https://www.state.gov/e/eb/rls/othr/ics/2012/191115.htm>).

⁴⁵ Sikor T., Lund C. Access and Property: A Question of Power and Authority.

⁴⁶ Historically, such restrictions on land ownership with ethnic motifs are mainly related to so-called 'unwanted' immigrants from Asia (mostly from China and Japan) in several States of the U.S. (Idaho, Arizona, Arkansas, Utah, Kansas, California, Louisiana, Minnesota, Nebraska, Oregon, Texas, Wyoming and Washington) in the late 19th and early 20th century. This opposing policy was declared anti-constitutional only in 1952.

⁴⁷ For example, the principle of accounting non-resident property rights was implemented in the study Policies on Non-resident Property Ownership: *A review of residential policies from around the world* and *Non-resident Ownership of Commercial and Industrial Property: A review of policies from around the world*, conducted by the Real Estate Institute of British Columbia.

operator determined by the state (e.g. in Russia; also in Latvia – without restrictions for citizens of other EU Member States, EEZ and the Swiss Confederation). Foreigners in Latvia are divided into those who may or may not perform real estate transactions, i.e. selective protectionism aimed against the countries outside a special list of communities⁴⁸. A similar protectionist policy in European countries is exercised also, for example, in Austria, Czech Republic, Croatia, Lithuania, Romania, Slovakia, Slovenia and Hungary.

4. **By restrictions on international real estate transactions.** In a majority of cases the states restrict transactions – the way foreigners are allowed to, prohibited from or restricted in acquiring real estate property rights. Land transaction restrictions in Latvia are laid down in the Law on Land Privatisation in Rural Areas, Chapter VI “Land Property Transactions” and the Law on Land Reform in Towns and Cities of the Republic of Latvia, Chapter V “Land Property Transactions” – regarding the fact which foreigners and what restrictions are imposed on land transactions. From this we can see that restrictions determine the way that real estate is acquired – through transactions⁴⁹.
5. **By the property right restrictions.** The regulation of foreigners’ land ownership is applied less frequently and is more radical, entailing land management policy in three directions:
 - a. Ownership restrictions are implemented by determining that a foreigner can acquire real estate property rights, for example, by inheriting them or by a court judgement, but they must then also receive a permission from the local authority (typically this is local government) and, failing to do so, the **property must be alienated within a certain time frame**. This type of regulation on foreigners’ ownership existed until 2012 in Georgia, before the Supreme Court of Georgia ruled that it contradicted the Georgian Constitution. However, in 2018, the Georgian Constitution imposed other ownership restrictions on foreigners, this time on agricultural land as a particularly important resource. In 2018, in twelve States of the U.S. the legislation demanded that properties of foreigners are alienated if they have failed to receive a permission for permanent residence within a certain time frame⁵⁰. In 2020, for example, in the Ukraine there was also a condition that agricultural land inherited by a foreigner or a stateless person must be alienated within one year⁵¹. There is a similar regulation in Russia demanding that land property, owned by a foreigner who is not entitled to keep it if situated in a certain territory where foreigners are banned from ownership (for example, in the

⁴⁸ When Latvia acceded to the OECD in 2016, there was a restriction imposed until 31 December 2019 on other subjects of OECD states when performing land transactions in Latvia, and the land market regarding the said subjects became more liberal starting from 11 March 2020.

⁴⁹ In the Law of Latvia On Land Privatisation in Rural Areas as of 1 August 2014, transactions are defined as “any transactions resulting in change of the land owner”, meanwhile in the Law On Land Reform in Towns and Cities of Latvia of September 2018, a definition “any transactions resulting in change of land owner” is complemented with a casuistic list of transactions: “including contractual inheritance of land, disposal of pledged land and investment of land in the fixed capital of limited companies”.

⁵⁰ Policies on Non-resident Property Ownership: A review of residential policies from around the world. p. 13.

⁵¹ Ukrainian Land Code. p. 81 (<https://meget.kiev.ua/kodeks/zemelnyy-kodeks/razdel-3/#14>).

borderland area), is alienated voluntarily within one year. Until 1 September 2005, inherited property in Latvia had to be alienated within two years unless a consent was received from the local government. One such example of this type of restriction on land ownership in Latvia is the obligation of a limited company to dispose of land property within two years if changes in its fixed capital have been made leading to a situation where the shares no longer belong to citizens of Latvia and citizens of other EU Member States or the Swiss Confederation, or limited companies owned by them, unless consent was received from the local government according to the defined procedure.

- b. **The prohibition to dispose of a property for a certain period** is also classified as a property right restriction. For example, a five-year prohibition of disposing of property is determined in Saint Kitts and Nevis Federation if the real estate was bought to receive the so-called economic citizenship.
- c. The most radical ownership restriction for foreigners is the expropriation of property, which is not a disposal of property for public needs, but instead, is directed at foreigners as such or at a particular group of foreigners mainly due to political or conditional considerations. For example, such restriction of ownership (expropriation) in the history of Latvia was implemented in 1939 during the Baltic German expatriation (German *die Umsiedlung*) and in 1941 during the Baltic German post-expatriation (German *die Nachumsiedlung*), determining in 1939 that “the Latvian Government takes over the supervision of the undisposed real estate left by the expatriates starting from the day of expatriation”⁵². It was the central topic for many years after the restoration of Latvia’s independence due to the denationalisation of Baltic Germans’ property from the 90s of the previous century, and it was discussed in great detail in the works of Baltic German lawyer, political scientist and historian Dietrich André Loeber⁵³, and also in scientific research of other authors⁵⁴.

When deciding on the restoration of property rights of the German Baltic post-expatriates from 1941, the Supreme Court of the Republic of Latvia initially perceived the Baltic German expatriation which began in 1939 and continued until spring of 1941 (e.g. judgement of the Supreme Court of Latvia in case SKC-2, 1998) as a single process. The Court, however, changed its case law some time later, recognising the rights of post-expatriates from 1941 to property denationalisation, and returned property to their legal owners or the owners’ heirs, acknowledging that the relocation of Baltic Germans in 1939 and 1941 was not a single process, since the expatriates of 1939 had acted on the basis of an international treaty between Latvia and Germany. In 1941, the State of Latvia no longer existed, and it determined the following: “Considering that the fundamental principles of international law recognise the agreement between two countries

⁵² Contract on relocation of Latvian citizens of German origin to Germany. Year of 1939.

⁵³ Loeber D. A. Diktierte Option. Die Umsiedlung der Deutsch-Balten aus Estland und Lettland.

⁵⁴ Feldmanis I. Vācbaltiešu izceļošana no Latvijas (1939–1941). p. 55.

against the third country illegal and void *ab initio* (since the beginning), not to recognise any mutual agreements of third countries about the Republic of Latvia and the property of legal and natural persons”⁵⁵.

6. **By number or quotas.** This restriction is implemented by limiting the amount or number of a certain type of real estate for foreigners that can be acquired as their property. For example, Brazil introduced a national policy opposing the land grabbing by foreigners in 2011, which ruled that the land area bought or rented by foreigners may not exceed 25 % of the municipal territory, and also that not more than 10 % of the land in a local government’s territory can belong to the subjects of any one foreign country⁵⁶. Thailand has issued apartment property quotas for foreigners in residential buildings, and the property must not exceed 49 % of the total number of apartments. A negative aspect of such quotas involves possible corruption⁵⁷ or various schemes ‘bypassing’ the law.

The quota system for real estate transactions in Latvia was proposed in 2013 in the context of a discussion on amendments to the Immigration Law of Latvia. These were expected to restrict real estate transactions performed by foreigners for the purpose of receiving temporary residence permits. One of the suggestions to limit the scope of the so-called ‘golden visa’ programme in Latvia was to introduce quotas – a fixed number of temporary residence permits per year available for foreigners. If compared to previous years, it would be a significant restriction on the temporary residence permit programme relied upon by foreigners when buying real estate in Latvia. The proposal was turned down at the second reading of the draft law.

When evaluating foreign investments in the agricultural sector, with caution it can be concluded that the limitation of the scope of agricultural land transactions was especially topical in the new EU countries of Eastern Europe. After accession to the European Union, restrictions were imposed on the acquisition of the right to land ownership and also on the areas of land purchased by one market participant as his own property (in Latvia [2000–4000 ha], Lithuania [300–500 ha or more, depending on the economic activity], Poland [500 ha], Romania [100 ha] and Hungary [1–300 ha, depending on the economic activity])⁵⁸. However, they were binding on all market participants and were not specifically targeting a restriction of land ownership for foreigners.

7. **By restrictions on international share deal transactions.** These are the restrictions imposed on foreigners to perform transactions with the capital of commercial undertakings. It is one of the ways by which foreigners can acquire land in Latvia regardless of the existing restrictions; buying shares in a company opens up possibilities to acquire land ownership through a share deal transaction. A working

⁵⁵ Resolution of the Supreme Council of the Republic of Latvia “On Property Rights in Foreign Relations between Latvia and Other Countries”.

⁵⁶ Investment Climate Statement – Brazil 2012 (<https://www.state.gov/e/eb/rls/othr/ics/2012/191115.htm>).

⁵⁷ Transcript of the 11th autumn session of the Saeima of the Republic of Latvia, the ninth sitting on 31 October 2013 “Amendments to the Immigration Law”, second reading (<http://saeima.lv/lv/transcripts/view/198>).

⁵⁸ Restriction on an area of agricultural land which can be acquired as property applied also to restriction of forest management activity, because a majority of real estate in Latvia comprising forest land also includes land units of agricultural land.

group of the Economic, Agricultural, Environmental and Regional Policy Committee of the Saeima of the Republic of Latvia led conceptual discussions about restrictions on such transactions, mainly to restrict agricultural land transactions performed by foreigners, from autumn 2016 until the adoption of amendments to the Law on Land Privatisation in Rural Areas on 18 May 2017. Since 1 July 2017, a provision has been in force in Latvia stating that if the fixed capital of a company changes, whereby the company no longer meets the specified requirements (for example, shares of the company no longer belong to subjects from EU, EEA, OECD and Swiss Confederation countries), this company must receive a consent from the municipal council within one month to keep the land property. If the municipal council does not provide such consent, the company shall dispose of the land within two years.

8. **By investment restrictions.** By investments we here mean direct foreign investments which are broken down into: (1) equity capital; (2) reinvested profit⁵⁹; (3) trade credits, borrowings and loans between direct investors and direct investment companies. Any measures hindering direct foreign investments are perceived as a share deal transaction subject to real estate restrictions.

National politics is usually aimed at restricting direct foreign investments in certain economic industries vital for the state. For example, after the Law On Foreign Investments in the Republic of Latvia expired on 1 January 2005, there were restrictions on foreign investments in the Republic of Latvia controlling the companies running business in (1) national defence, (2) manufacturing and sale of drugs, (3) manufacturing and sale of weapons and explosives, (4) manufacturing of securities, banknotes, coins and postmarks, (5) mass media (6) national education, (7) all renewable and non-renewable natural resources, also continental shelf resources and mining, (8) fishery in inland waters under Latvian jurisdiction, (9) game farms and (10) port management.

The restrictions in 2018 regarding transactions with capital shares in companies, if such companies were of national importance in terms of security, were applied if the subject of transaction was (1) an economic operator dealing with electronic communications with a significant influence in the market, subject to tariff regulation and cost calculation obligations according to Latvian Law On Electronic Communications, (2) audio electronic mass media with a transmission range via terrestrial broadcasting equipment, according to the license issued by the National Electronic Mass Media Council, covering Latvia or at least 60 % of its territory, or audio-visual electronic mass media with a transmission range via terrestrial broadcasting equipment, according to the license issued by the National Electronic Mass Media Council, covering Latvia or at least 95 % of its territory, (3) an economic operator which has received a license in the Republic of Latvia for natural gas transport, distribution and storage, or which owns liquid natural gas equipment connected to the transport system, (4) an electrical or

⁵⁹ The new Law of the Republic of Latvia on Corporate Income Tax, entering into force on 1 January 2018, states that the reinvested profit considered to be a significant measure promoting investments is not subject to corporate income tax.

thermal power transport and distribution operator owning the heat networks spanning at least 100 km in length, and (6) an economic operator holding a license for transporting electrical power. It means that Latvia has not imposed restrictions on direct foreign investments by any investment object that would restrict investments in real estate in a related industrial sector.

1.4. Consequences of High Openness to International Real Estate Transactions in Today's Situation – Cases of International Land Grabbing

In the last decade the modern world has seen an increase in international real estate transactions and their scope, a widening of openness of international economic relations and also decreasing restrictions pertaining to foreigners' real estate transactions, and hence it encourages openness to international real estate transactions. During the last few years at the level of land management, protectionist arguments offered through trade restrictions have become increasingly evident in foreign economic relations.

This openness to international real estate transactions may result in transactions being described as land grabbing. The terms 'land grabbing' (French *accaparement des terres*, Spanish *acaparamiento de tierras*; several foreign authors do not translate this term and prefer using the English term, for example, Brazilian scientist Lorena Izá Pereira, in her Portuguese texts⁶⁰), 'land stealing' (German – especially where real estate transactions are related to a violation of the law – uses the terms *Landraub* or *Raub von Land*⁶¹) or 'land grab'⁶² have been widely used in the scientific literature since approximately 2008⁶³, and they relate to a considerable spike in world agricultural product prices, thus ensuring demand for the expansion of agricultural land territories⁶⁴. The term '*land grabbing*' in the scientific literature has synonyms, and in English-speaking circles these are *large-scale land acquisitions (deals, transactions)*, *land grab*, *land rush*, *global land grabbing*, *global land rush*, *rush for farmland*, *large-scale transnational land deals*, *large-scale land acquisitions*, and *transnational land deals*.

The term 'land grabbing' is used to describe large-scale transactions in the form of land purchase, long-term rent or concessions mainly by foreign companies or international

⁶⁰ Pereira L. I. O jeitinho estrangeiro: as estratégias do capital internacional para o controle do território no Brasil.

⁶¹ Giger M., Rist S. Boden als Investitionsobjekt – Landkäufe und ihre internationalen Verflechtungen. S. 43.

⁶² The term 'land acquisition' is used in regulatory documents of the EU, for example in the Opinion of the European Economic and Social Committee of 15 January 2016 on the topic "Family Business in Europe as a Source of Renewed Growth and Better Jobs". However, a lack of terminological consistency is evident and the Resolution of the European Parliament of 12 March 2015 on Tanzania, especially regarding the land grabbing issue (2015/2604(RSP)), uses the term 'land grabbing'.

⁶³ According to the data of the World Bank, there were large-scale transactions with agricultural land in an area of 4 million ha before 2008, whereas in 2009 the area of such land reached 56 million ha. Besides, 70 % of these transactions involved agricultural land in African countries – Ethiopia, Mozambique and Sudan.

⁶⁴ A spike in agricultural product prices, however, is not the only cause behind the increasing number of such transactions. The scientific literature also mentions others: (1) the expected increase in the number of world population and consequently a growing demand for agricultural products; (2) the provision of foodstuffs to countries lacking their own agricultural land; (3) the renewable energy policy of the European Union and further investments in production of biofuel; (4) speculations with land; (5) diversification of investments.

corporations and also by foreign governments in order to obtain agricultural, forest, water or bioenergy production resources, not ruling out local land grabbing without investing foreign capital. Although this term has been widely used in the research in the last decade, it lacks a commonly agreed explanation. Many authors and organisations have a different approach and methodology to identify which transactions should and should not be designated as land grabbing. Accordingly, the scope, goals and causes of land grabbing are evaluated differently⁶⁵, accurate and credible information about these transactions is highly restricted and inaccurate⁶⁶, and there is lack of reliable empirical data⁶⁷. The most complicated issue discussed in the context of global land grabbing transactions is: how to disclose and evaluate such transactions⁶⁸. One must also bear in mind that not all land transactions are transparent and publicly available, and they are most probably being concealed⁶⁹. Therefore, the author of the Doctoral Thesis believes that all research on land grabbing transactions requires a reference to a data source and a definition guiding the criteria of transactions designated as land grabbing in that particular research.

In many places in the world, and especially in Africa, Latin America and the Caribbean region, the former Soviet countries of Eurasia, Europe, including Eastern Europe (mainly Ukraine, Russia, Bulgaria and Romania), large-scale land transactions have reached unimaginable proportions, urging the countries to make decisions on restricting such transactions (see Section 1.3. Classification of foreigners' real estate transactions and restrictions imposed on real estate property rights) and on accepting general international principles, forcing investors to respect the interests of local residents.

The term 'land grabbing' is nowadays used in a wider context implying not only land grabbing transactions (mainly agricultural, forest, coastal land, and land underneath water, for terrestrial wind energy equipment construction and expanding urban construction, or land for other purposes), but any transaction aimed at the acquisition of land resources. According to the theory of access⁷⁰, when assessing the possibilities of using real estate, one must take into account that land grabbing is also possible without direct property rights, instead using the confidentiality clause of a transaction, and hence ownership might be concealed; the essence of a transaction may lie not only in the land itself but also in the resources derived from the land, such as water grabbing⁷¹, which is of particular importance in areas with restricted access to water, and whose significance must be viewed in the context of land availability.

⁶⁵ Cotula L., Oya C., Codjoe E. A., Eid A., Kakraba-Ampeh M., Keeley J., Kidewa A. L., Makwarimba M., Seide W. M., Nasha W. O., Asare R. O., Rizzo M. Testing Claims about Large Land Deals in Africa: Findings from a Multi-Country Study.

⁶⁶ Friis C., Reenberg A. Land Grab in Africa: Emerging Land System Drivers in a Teleconnected World.

⁶⁷ Menge T. How Far Does the European Union Reach? Foreign Land Acquisitions and the Boundaries of Political Communities.

⁶⁸ Edelman M., Oya C., Borras Jr. S. M. Global Land Grabs: Historical Processes, Theoretical and Methodological Implications and Current Trajectories.

⁶⁹ White B., Borras Jr. S. M., Hall R., Scoones I., Wolford W. The New Enclosures: Critical Perspectives on Corporate Land Deals.

⁷⁰ Sikor T., Lund C. Access and Property: A Question of Power and Authority.

⁷¹ Franco J., Mehta L., Jan Veldwisch G. The Global Politics of Water Grabbing.

Institutions focusing research mostly on direct land grabbing quoted by other researchers globally

The most fruitful research institution with the largest number of publications on land grabbing, the “Journal of Peasant Studies” under the lead of its editor Saturnino Borras Jr., has contributed greatly to land grabbing research. The first international conference on Global Land Grabbing was organised by the Institute of Development Studies and the Journal of Peasant Studies at the University of Sussex, England, 6–8 April 2011. It was followed by the second conference – “Global Land Grabbing II” – at Cornell University, USA, in October 2012, and the third conference – “Land Grabbing: Perspectives from East and Southeast Asia” – Chang Mai University, Thailand, 5–6 June 2015.

The project *Land Matrix* which maintains the website of Global Observatory (<http://www.landmatrix.org>) bears international significance. It is believed to be the largest project collecting data on global land grabbing transactions by indicating the country receiving the investments and the country making the investment. Data are obtained from the following sources (usually using several sources): (1) scientific research, international and local organisations, as well as non-governmental organisations; (2) data delivered to the Global Observatory website personally; (3) special research projects; (4) official national registers; (5) websites of companies; (6) information published in the mass media. Transactions which are registered are those intended to take place or have already been signed, or remain pending subject to efforts to acquire the rights to use the land resources through purchase, rent or concessions if the transaction is related to agricultural land, to forest land or to possibilities for using the forest (as a source of timber), or for the production of renewable energy, the trading of emission quotas, industry, production of renewable energy and tourism in countries with low and average income. They should also fulfil the following criteria: (1) the transaction was not launched before 2000; (2) the transaction involves land with an area of not less than 200 ha; (3) the transaction involves the transfer of rights of use of the land from small farms or a local community’s rights of use to the commercial use of the land. Regardless of the criticised type of data sourcing by⁷² *Land Matrix*, some authors⁷³ and institutions⁷⁴ refer to the project’s data in their research. According to the *Land Matrix* data, there were no real estate transactions with indications of land grabbing in Latvia until the end of 2018. However, there is a reason to believe that the *Land Matrix* data do not sufficiently evaluate the real scope of the transactions⁷⁵.

International non-profit organisation GRAIN (<https://www.grain.org/>) has conducted several studies on land grabbing. When drawing up the global land grabbing map in 2016

⁷² Borras Jr. S.M., Seufert P., Backes S., Fyfe D., Herre R., Michele L., Mills E. Land Grabbing and Human Rights: The involvement of European Corporate and Financial Entities in Land Grabbing Outside the European Union.

⁷³ Carroccio A., Crescimanno M., Galati A., Tulone A. The Land Grabbing in the International Scenario: The Role of the EU in Land Grabbing.

⁷⁴ Opinion of the European Economic and Social Committee of 23 July 2015 on topic “Land Appropriation – a warning for Europe and a threat to family farming” (self-initiated opinion); Commission Interpretative Communication of 18 October 2017 on the Acquisition of Farmland and European Union Law.

⁷⁵ Giger M., Rist S. Boden als Investitionsobjekt – Landkäufe und ihre internationalen Verflechtungen. S. 46.

(GRAIN farmland grab deals 2016)⁷⁶, the data were sourced from public media reports. Referring to the obtained data, a map of global land grabbing transactions was created; it shows that there was only one land grabbing transaction in Latvia, when the ownership of 1895 ha was acquired in 2015. It was carried out by a Danish company, Ingleby Company, owned by the Rausing family. According to the GRAIN data, the Rausing family were owners of 102 843 ha agricultural and forest land in Argentina, Australia, Latvia, Lithuania, New Zealand, Peru, Romania, Uruguay and the USA in 2015. The author of the Doctoral Thesis believes this map to be incomplete and suggests not using it as an information source for scientific research. More detailed research, therefore, was conducted within the framework of the Doctoral Thesis to answer the question – whether there are indications of international land grabbing in Latvia?

Specialists from the World Bank have done significant studies on land grabbing transactions. Nevertheless, the activities of the World Bank have also been criticised⁷⁷ believing that in some cases the World Bank itself was the institution behind the land grabbing transactions, for example, in Ethiopia. The ambiguous position of the World Bank can be explained by a necessity to achieve two goals: to increase the output of world food product manufacturing, promoting investments (including global) in the agricultural sector, and serving the interests of local inhabitants by protecting them from land grabbing. In a communication from the World Bank of 8 April 2013⁷⁸ it was predicted that the world's population would increase by more than 2 billion before 2050, reaching 10 billion by 2056, which would exacerbate the demand for food. So, the specialists of the World Bank concluded that more investments were needed in agricultural production. Nowadays the total area of agricultural land in possession of all the countries⁷⁹, regardless of its productivity, is not enough to satisfy future demand for agricultural produce. Besides, there are many profiteers and dishonest investors in the market exploiting farmers, owners of small agricultural plots and others who lack the capacity to protect their rights, especially in countries with poor land management systems. Specialists from the World Bank recommend to protect the locals from land grabbing – using the term 'large-scale land acquisition' – in order to prevent the growing poverty among local people, mainly small agricultural producers. Therefore, specialists from the World Bank recommend (1) to improve land management via better transparency of ownership and transactions, responsibility and participation in decision-making, (2) to protect the rights of landowners⁸⁰, including those of small farmers, (3) to promote the policy which recognises property rights of all types of land and help women to achieve equal treatment in acquiring the rights to land, and (4) to promote socially sustainable agricultural investments.

⁷⁶ The global farmland grab in 2016: how big, how bad? (<https://www.grain.org/article/entries/5492-the-global-farmland-grab-in-2016-how-big-how-bad>).

⁷⁷ World Bank Ignores Land Grabbing (<http://www.ipsnews.net/2017/04/world-bank-ignores-land-grabbing/>).

⁷⁸ World Bank Group: Access to Land is Critical for the Poor.

⁷⁹ The area of agricultural land increases from year to year. The only exception is Latvia where the area of agricultural land continued to decrease until 2016 (Farm structure in Latvia in 2016. Collection of statistical data. p. 13).

⁸⁰ Even if their ownership rights are not corroborated in a generally recognised way, and instead are based on local customs (e.g. in Africa) according to customary law of certain countries.

There are other institutions which have contributed significantly to the studies of land grabbing transactions worldwide, including: (1) the International Institute for Environment and Development (<https://www.iied.org>); (2) the International Food Policy Research Institute (<http://www.ifpri.org>); (3) Oxfam (<https://www.oxfam.org>); (4) FIAN International (<http://www.fian.org/>); (5) the Oakland Institute (<https://www.oaklandinstitute.org>); (6) European Coordination Via Campesina (<http://www.eurovia.org/>); (7) *European* Coordination Via Campesina and The Transnational Institute (<https://www.tni.org/>); (8) the International Land Coalition (<http://www.landcoalition.org>); (9) the International Food Policy Research Institute (<http://www.ifpri.org/>); (10) other institutions and their representatives.

Generally, the number of global land grabbing cases has spiked during the last 10 years and the term ‘land grabbing’ is usually defined in every study with certain nuances perceived to have a special meaning to demarcate their research. The author of the Doctoral Thesis believes that it is not necessary to use several definitions for land grabbing with separate nuances, and instead he would like to identify 11 indicators used most often to define the term ‘land grabbing’.

1. **Large areas of land.** All authors are unanimous in their view that the primary trait of land grabbing transactions is a condition that transactions allow the acquisition of power to control large areas of land (a large area is considered to be 200–500 ha and more). Nevertheless, the size of the land varies from study to study. For example, a scientist from Stockholm University, T. G. Ango (*Tola Gemechu Ango*), admits that there is no universal classification for disposable land in the scientific literature and land grabbing areas are grouped as small (<100 ha), average (100–1000 ha), large (1001–10 000 ha) and very large (>10 000 ha) transactions⁸¹. Another, and even better criterion than the land area is deemed to be the amount of capital involved in the transaction⁸². Transactions are perceived as land grabbing when the size of land acquired for use is relatively large or when the acquired land is significantly larger than the average area of land owned by local farmers in a particular region.
2. **A global trend in world history.** Land grabbing is characterised by a condition that it is a global trend in world history, that can be observed not only in the south (the Global South – in African, Asian and Latin American countries), but also in the north (the North – in European countries). But it must be admitted that such land grabbing is not a brand-new trend in world history. There have been similar features of land resource acquisition, for example, the seizure of indigenous lands in North America, recurrent land grabbing in Central America since the late 19th century⁸³, and

⁸¹ Ango T. G. “Medium-Scale” Forestland Grabbing in the Southwestern Highlands of Ethiopia: Impacts on Local Livelihoods and Forest Conservation.

⁸² Hunsberger C. A., Borras Jr. S. M., Franco J. C., Chunyu W. Large-Scale Land Transactions: Actors, Agency, Interactions.

⁸³ Edelman M., Leon A. Cycles of Land Grabbing in Central America: an Argument for History and a Case Study in the Bajo Aguan, Honduras.

relocating the agricultural operations abroad or the use of agricultural outsourcing⁸⁴ since the 1890s.

3. **Low resource acquisition price or transactions below market value.** A land lease fee is ‘close to zero’, for example, in Ethiopia, from 1 to 5 USD per annum for one hectare of agricultural land, as highlighted by A. Zoomers in an article in *A Critical Review of the Policy Debate on Large-Scale Land Acquisitions: Fighting the Symptoms or Killing the Heart?* Land purchase transactions or the rights to use land acquired through a concession, mainly in Africa, Latin America and Eastern Europe, also tend to have a low purchase price. However, if a landowner receives a low fee from using the resources, even in the case of governmental concessions, it does not always necessarily mean that the investor pays a low price, because such transactions frequently involve land speculation, for instance, in Eastern European countries⁸⁵.
4. **Transactions related to violation of human rights.** Human rights violations related to land grabbing transactions mainly concern a restriction of power to control the land of local residents, predominantly farmers. Such transactions steal custom-based rights to use the land, which have existed for a long time yet have lacked clearly defined property rights, and hence people also lose the right to food and the provision of food. Human rights violated through land grabbing transactions also include the right to housing, the right to water, the right to an appropriate level of life, the right to employment, and the right to self-determination, gender equality and land accessibility.
5. **Low transparency of land ownership and transactions** also exist because transactions are being concealed, and in many countries, for example, in Africa, there is a poor land management situation and poor land records. Paradoxically, this can protect local people from land grabbing transactions, because they have customary land rights based on property rights which cannot be ‘grabbed’. Nevertheless, the land is grabbed by merely introducing a new ‘statutory’ land registry system, which is done seemingly to serve the interests of local inhabitants, although the outcome may prove to be quite the opposite. A study conducted by the World Bank in 2011⁸⁶ presented the opinion that customary land rights characteristic in Africa ‘belong’ to the state and therefore the land can be alienated without any compensation or respect for the interests of locals. All in all, we can see that modern international human rights require the obligation to respect and protect existing land rights, including customary and common property rights⁸⁷. Lack of transparency restricts the involvement of non-governmental organisations and stakeholders in discussions, and the possibility to affect the conditions of transaction in a timely manner. There is, nevertheless, a point

⁸⁴ Vandergeten E., Azadi H., Teklemariam D., Nyssen J., Witlox F., Vanhaute E. Agricultural Outsourcing or Land Grabbing: a Meta-analysis.

⁸⁵ Borras Jr. S. M., Franco J., Van der Ploeg J. Land Concentration, Land Grabbing and People’s Struggles in Europe: Introduction to the Collection of Studies.

⁸⁶ Deininger K., Byerlee D. Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits? p. 44.

⁸⁷ Approximately 1.4 billion of hectares of agricultural land were managed on the basis of customary rights in 2016 globally (<http://eur-lex.europa.eu/legal-content/LV/TXT/HTML/?uri=CELEX:52015IP0073&qid=1522735862275&from=EN>).

of view that improved transparency would not prevent land from being grabbed, and that improved transparency would only contribute to more ‘transparent’ transactions of that kind, and their number would not shrink⁸⁸.

6. **Land (mostly agricultural land) concentration in Europe.** For example, the average size of the total area of farmlands in Latvia has grown from 34.5 ha to 43.3 ha and the total agricultural land area – from 23.2 ha to 29.1 ha between 2010 and 2016⁸⁹. This is a dominant, even dramatic⁹⁰, trend in many countries and it can be seen to go hand in hand with land grabbing. Both trends – land grabbing and concentration – are equally important⁹¹, and in future it must be taken into consideration that they essentially affect the social, economic, cultural and political situation in the countryside and not only that – because ownership is one of the pre-requisites supporting a sense of identity and encouraging people to stay in the countryside. For example, during the first Republic of Latvia, the agrarian reform, which started in 1919, fitted into the economic understanding of that time, emphasizing the benefits of small farms juxtaposed with the big ones, aimed at keeping the people in rural areas. “Agrarian reform is the best weapon against the worst disease of our time – people walking off their land. During the last decade rural inhabitants have been observed to make a headlong rush to the cities, thus contributing to unemployment, poverty, the general decline of living conditions and other undesirable situations. Escape from the land has been especially brutal during the post-war period. Now we are witnessing a completely atypical phenomenon, where grand armies of unemployed are concentrated in cities while the countryside is becoming emptier and uninhabited”⁹². Modern agricultural and forest land grabbing and land concentration could be designated as agrarian reform aimed at completely the opposite – a decrease in the number of rural inhabitants, and this is also supported by the statistical data. For example, the number of people living in the countryside in Latvia between 2010 and 2016 has fallen in all counties, except those situated adjacent to Riga – Ādaži, Babīte, Carnikava, Garkalne, Mārupe, Ozolnieki, Salaspils, Sigulda and Stopiņi. There is, however, reason to claim that this decreasing number of residents is not directly linked to land concentration, but rather stems from socio-economic causes. There is an opinion that by increasing the land area of agricultural land held by one farm unit by 10 ha through agricultural land concentration, the number of inhabitants decreases by 1 % in that territory⁹³. In the absence of more accurate calculations about this trend, the author of the Doctoral Thesis suggests that population decrease due to land concentration is even greater, and, as stated before, it is not possible to identify the exact weight of the causes behind the shrinking population.

⁸⁸ G8 Should Implement the CFS Tenure Guidelines Rather than Launch a New Initiative Aimed at Increased Transparency in Land Transactions.

⁸⁹ Farm structure in Latvia in 2016. Collection of statistical data. p. 14.

⁹⁰ Kay S., Peuch J., Franco J. Extent of Farmland Grabbing in the EU. p. 11.

⁹¹ Van der Ploeg J. Land Concentration, Land Grabbing and People’s Struggles in Europe: Introduction to the Collection of Studies.

⁹² Latvijas agrārā reforma. Agrārās reformas likuma desmit gadu atcerei. p. 741.

⁹³ Nipers A., Pilvere I., Kozlinskis V., Bulderberga Z. Driving forces of rural development: a case from Latvia.

7. **Expulsion of local inhabitants.** The scientific literature uses also the term ‘dispossession by displacement’, often involving violence⁹⁴, for example, in Latin American countries – Columbia, Paraguay, Argentina, etc. Expulsion usually entails more far-reaching consequences, because as people are left without land, locals lose not only an economic basis of their lives but also their identity.
8. **Land grabbing transactions are carried out on the basis of unequal conditions between the investors and local landowners (users).** In all stages of a transaction – precontract, negotiations, signing, registration and post-registration – key investors (large international corporations, investment funds, foreign authorities) dominate in land transaction negotiations. Parties to the transactions are international corporations, governments of countries lacking agricultural land – South Korea, India, Japan, Persian Gulf countries (Saudi Arabia, United Arab Emirates, Qatar, Kuwait and Bahrain), North African countries (Lebanon and Egypt), and China. These investors are known for their wide use of resources, including corruption and cooperation with local power reps, failing to inform direct users of the land in order to seal the deal on the most advantageous transactions terms. Disadvantageous conditions are most often related to low land purchase or lease price, producing profits for investors who do not share them with the local community⁹⁵.
9. **Critical changes in rural lifestyle related to fast reorganisation of the type of land use.** With a shift from small farms and family farms as a form of land management to intensive agriculture characteristic of the large farms, some of the former small farmers who lost their rights to use the land become paid employees, while others are left without a source of food, or change their occupation. And some just move to the cities thereby contributing to the numbers of the urban population. Important aspect in such cases are a change of customs-rooted identity of local farmers; and an “adverse aspect of large-scale production is an increase in the unemployment level in rural regions, creating costs in the social field.”⁹⁶
10. **A threat to sustainable farming and environmental pollution risk.** Small farmer land cultivation technologies are replaced by the intensive use of land implemented by the large-scale farms, involving more intense technologies of agricultural production. Sustainable development⁹⁷ must be viewed in the context of each transaction: soil quality changes, air pollution and protection, local waste management systems, environmental pollution, water protection and securing of the right to water, as well as an impact (1) on biological diversity, (2) on ecosystems in general, since land grabbing transactions are often related not only to agricultural land, but also to other land-derived resources (for example, water resources), and (3) on climate change.

⁹⁴ Balestri S., Maggioni M. A. This Land is My Land! Large-Scale Land Acquisitions and Conflict Events in Sub-Saharan Africa.

⁹⁵ Von Braun J., Meinzen-Dick R. “Land Grabbing” by Foreign Investors in Developing Countries: Risks and Opportunities.

⁹⁶ Opinion of the European Economic and Social Committee “Land Appropriation – a warning for Europe and a threat to family farming” (self-initiated opinion).

⁹⁷ Vandergeten E., Azadi H., Teklemariam D., Nyssen J., Witlox F., Vanhaute E. Agricultural Outsourcing or Land Grabbing: a Meta-analysis.

11. Transfer of land resources into the hands of foreigners, or so-called foreignization⁹⁸ However, land grabbing does not necessarily involve engagement of foreigners: despite this aspect being highlighted and studied in the scientific literature, domestic land grabbing is of equal importance. When foreigners acquire land resources, this is a popular argument in order to restrict their access to them.

An opinion of the European Economic and Social Committee of 23 July 2015 on the topic “Land Appropriation – a warning for Europe and a threat to family farming” (self-initiated opinion) lists the drivers behind land grabbing. These drivers are: (1) growing globalisation and related principles of free movement of capital; (2) the growing number of world population and urbanisation; (3) a growing demand for food and bioenergy; (4) a growing demand for natural raw supplies; (5) adverse aspects of agricultural and environmental policy; (6) the opportunity to speculate with increased land value; (7) the opportunity to speculate on food products in international or at least the European market; (8) the opportunity to speculate on increasing land value at the expense of further subsidies; (9) the wish of large investors to invest the free funds from the global recession of 2008 in agricultural land, since it is a stable type of investment.

Scientific literature mentions both these and other main causes of land grabbing:

- 1) an expected increase in the world’s population entailing a growing demand for food products;
- 2) land resource limitations around the world;
- 3) demand for food products in the countries with insufficient agricultural land areas;
- 4) renewable energy policy in the European Union and related investments in biofuel production;
- 5) speculations on agricultural land and products;
- 6) the steep increase in land resource acquisition, tourism and urbanisation.

A task was set in the Doctoral Thesis to find out if indications of international land grabbing can also be observed in Latvia.

Indications of land grabbing transactions in Latvia

One of the main consequences provoked by globalisation and an increasing openness of states to international real estate transactions in the last decade is large-scale foreign investments in real estate products abroad, which again and again manifest as so-called land grabbing transactions. The *Land Matrix* data show that there have been no land grabbing transactions in Latvia before the end of 2018. The data from the international non-profit organisation GRAIN (<https://www.grain.org/>) reveal that only one transaction qualifying for the land grabbing criteria took place in Latvia in 2016. In a study, ordered by the European Parliament in 2015, on the scope of agricultural land grabbing in EU, and referring to outdated information, it was found that foreigners own 2 % of agricultural land in Latvia⁹⁹.

⁹⁸ Fairbairn M. Foreignization, Financialization and Land Grab Regulation.

⁹⁹ Kay S., Peuch J., Franco J. Extent of Farmland Grabbing in the EU. p. 20.

Table 1.2

10 Counties in Every Region of Latvia (Kurzeme, Zemgale, Vidzeme, and Latgale) with the Largest Proportion of Forest and Agricultural Land Owned by Foreigners

| Latgale | | Vidzeme | | Zemgale | | Kurzeme | |
|----------|----------------|-------------|----------------|-------------|----------------|-----------|----------------|
| County | Forest land, % | County | Forest land, % | County | Forest land, % | County | Forest land, % |
| Zilupe | 52.39 | Limbaži | 11.29 | Krustpils | 9.71 | Dundaga | 6.02 |
| Ludza | 40.37 | Alūksne | 11.21 | Koknese | 4.51 | Kuldīga | 5.45 |
| Dagda | 20.39 | Amata | 10.81 | Viesīte | 3.26 | Pāvilosta | 5.31 |
| Rugāji | 16.64 | Madona | 10.71 | Nereta | 3.13 | Talsi | 5.15 |
| Kārsava | 15.74 | Burtņieki | 9.82 | Plaviņas | 3.04 | Skrunda | 4.78 |
| Balvi | 13.96 | Aloja | 9.17 | Jaunjelgava | 2.64 | Saldus | 3.90 |
| Cibla | 13.26 | Vecpiebalga | 9.12 | Auce | 2.35 | Aizpute | 2.84 |
| Aglona | 12.70 | Mazsalaca | 9.00 | Tukums | 2.19 | Ventspils | 2.67 |
| Rēzekne | 12.34 | Ogre | 7.00 | Ozolnieki | 2.15 | Priekule | 0.51 |
| Krāslava | 11.83 | Smiltene | 6.96 | Jaunpils | 1.14 | Vainode | 0.43 |
| Latgale | | Vidzeme | | Zemgale | | Kurzeme | |
| County | LIZ, % | County | LIZ, % | County | LIZ, % | County | LIZ, % |
| Zilupe | 27.50 | Madona | 10.59 | Auce | 24.41 | Skrunda | 12.57 |
| Ludza | 24.54 | Alūksne | 9.24 | Skrīveri | 20.13 | Dundaga | 9.69 |
| Dagda | 12.11 | Burtņieki | 7.44 | Tukums | 11.00 | Aizpute | 9.51 |
| Kārsava | 12.12 | Amata | 6.85 | Ozolnieki | 10.74 | Ventspils | 7.50 |
| Rēzekne | 6.88 | Ērgļi | 6.23 | Dobele | 10.05 | Vainode | 6.34 |
| Rugāji | 6.83 | Priekule | 4.63 | Kandava | 8.39 | Talsi | 6.00 |
| Aglona | 6.03 | Mazsalaca | 4.30 | Krustpils | 7.67 | Priekule | 5.77 |
| Balvi | 5.75 | Gulbene | 3.17 | Plaviņas | 6.67 | Kuldīga | 4.25 |
| Cibla | 5.66 | Aloja | 3.10 | Jaunpils | 5.43 | Durbe | 4.19 |
| Viļāni | 5.26 | Ogre | 3.10 | Viesīte | 3.93 | Saldus | 3.89 |

A task was proposed in the Doctoral Thesis: to find out if there are any indications of international land grabbing in Latvia. To that end a study was conducted (henceforth – ‘Study’) – data were collected on approximately 400 companies with a majority of shares held by natural or legal persons (henceforth in this chapter – ‘foreigners’), and each of them owning at least 500 ha of agricultural or forest land located in one county of Latvia¹⁰⁰. The data were obtained from the Land Register of Latvia, State Land Service and the Register of Enterprises of Latvia. Afterwards, the agricultural and forest land area in each county of Latvia owned by foreigners was identified. It was found that the companies owned by foreigners, with at least 500 ha land in one county, owned 340 344 ha of agricultural and forest land or approximately 8 % of the total agricultural land and forest land in Latvia as of 1 January 2017¹⁰¹. It has to be considered that the area of agricultural and forest land in Latvia differs in several data sources. The data on agricultural land area may differ by as much as

¹⁰⁰ Viesturs J., Auziņš A., Šņore I. Indications of Gentle Forest Land Grabbing in Latvia.

¹⁰¹ Data from SLS on land with a particular ‘type’ of use were taken for this study. There is terminological ambiguity in Latvia, because in the Law of Latvia on Land Privatisation in Rural Areas restrictions on agricultural land transactions are imposed on land classified as ‘agricultural land’, but the data on land with assigned ‘type’ and ‘purpose’ are used in other sources.

25 %¹⁰². The main differences in data sources appear when using (1) the purpose of land use ‘agricultural land’¹⁰³, used by the Central Statistical Bureau in their calculations¹⁰⁴; (2) the category of land use ‘agricultural land’¹⁰⁵ which includes the types of use of agricultural land – arable land, orchard, meadow and pasture; (3) in some studies analysis involved the data from the information system of the Rural Support Service of Latvia and also from the farmlands applying for single area payments.

Between 15 and 16 January 2018, eight local governments of Latgale – Kārsava county, Cibla county, Ludza county, Zilupe county, Rēzekne county, Dagda county, Aglona county and Krāslava county – were visited, since the areas managed by these local governments have the highest share of forest land owned by foreigners in our country. The goal was to meet 10 representatives of the local government: seven mayors, two municipal deputies and one qualified local government officer were scheduled for interview. The goal of the interviews was to find out the opinion of municipal representatives on possible international land grabbing in municipalities (the results of interviews are shown in Table 1.3).

Table 1.3

Results of the Survey on Land Grabbing Indications in Certain Municipalities of Latgale (Kārsava, Cibla, Ludza, Zilupe, Rēzekne, Dagda, Aglona, and Krāslava) Involving 10 Representatives of Local Governments

| Ser. No. | Land grabbing indications | Yes | No | Partially |
|----------|--|-----|----|-----------|
| 1 | Transactions involving large land areas are carried out | 9 | 0 | 1 |
| 2 | Human rights of local inhabitants are violated | 1 | 9 | 0 |
| 3 | Low land purchase price | 8 | 1 | 1 |
| 4 | Poor transaction transparency | 0 | 8 | 2 |
| 5 | High land concentration | 10 | 0 | 0 |
| 6 | ‘Expulsion’ of locals from the land | 0 | 2 | 8 |
| 7 | Land grabbing transactions are carried out on the basis of unequal conditions between investors and local landowners | 5 | 4 | 1 |
| 8 | Threat to sustainable agriculture and environmental pollution risk | 0 | 10 | 0 |
| 9 | Critical changes in rural lifestyle related to fast reorganisation of the type of land use | 1 | 9 | 0 |

Transactions with agricultural and forest lands in rural regions of Latvia are regulated by the Latvian Law on Land Privatisation in Rural Areas. On 1 May 2004, when Latvia joined the European Union, a period of seven years was given to enforce restrictions on asset deal transactions in the rural areas of Latvia. These restrictions were extended to 30 April 2014.

¹⁰² Rural Development Programme 2007–2013.

(http://www.arei.lv/sites/arei/files/files/lapas/VPM_ataskaite_LANN.pdf).

¹⁰³ In compliance with Cabinet Regulation No. 562 of 21 August 2007, “Regulation on type of land use as procedure of classification and identification criteria”.

¹⁰⁴ Agriculture, forestry and fishery (http://data.csb.gov.lv/pxweb/lv/lauks/lauks__ikgad__03Aug/?tablelist=true&rxid=ce8aac91-f2b0-4f13-a25d-29f57b1468fb).

¹⁰⁵ According to the Cabinet Regulation No. 496 of 20 June 2006 “Classification of use of real estate and procedure for determining of purposes of use of real estate and change thereof”.

They motivated foreigners to ‘bypass’ these restrictions by establishing companies in Latvia to disguise share deal disposal transactions. Since 1 May 2014, legal and natural persons from EU Member States or EEA or the Swiss Confederation have equal opportunities to acquire land under the same conditions as local subjects. However, even after liberalisation of the acquisition of land ownership in 2014, foreigners continued using legal persons to acquire land. Therefore, in 2017, approximately 0.5 % of the total land area in Latvian rural territory belonged to natural persons from abroad. Meanwhile capital companies with foreign capital ownership registered in Latvia, mainly from Sweden, Norway, Denmark, Germany, Luxembourg, Netherlands, Cyprus, Austria, Lithuania, Guernsey, Estonia and Belgium (Fig. 1.1) own the largest agricultural and forest land areas in Latvia belonging to foreigners – approximately 8 %.

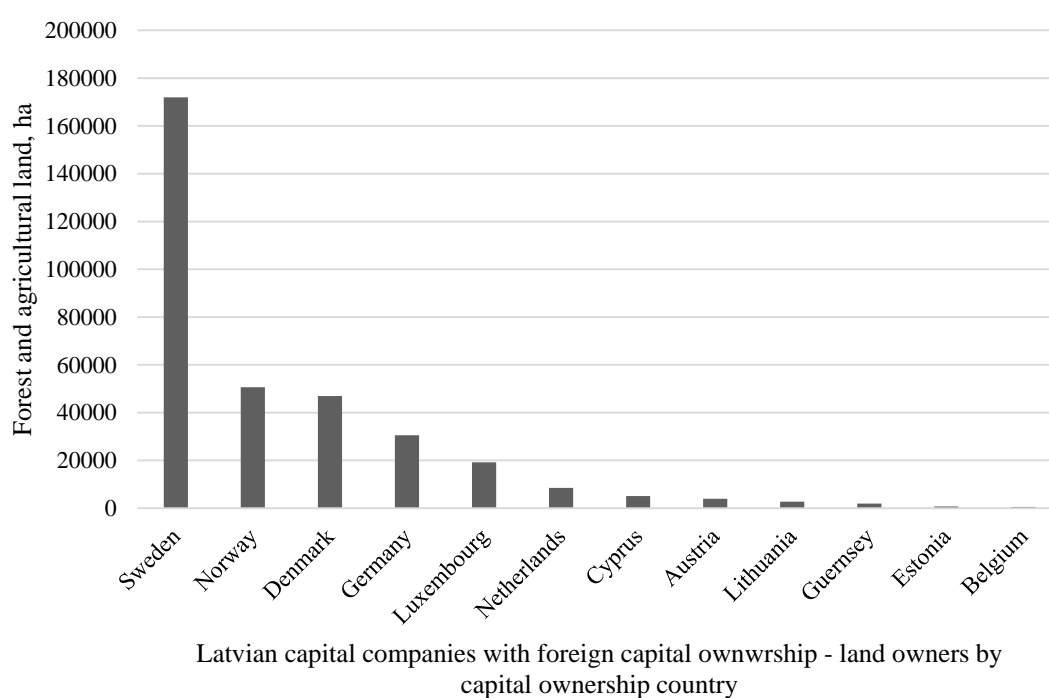


Fig. 1.1. Latvian companies with foreign ownership, which owned not less than 500 ha of agricultural or forest land in one county of Latvia in 2017, by capital ownership country. (Image by author; source: Land Register, The State Land Service [henceforth – SLS], Lursoft).

It can be concluded from the Study that in the Latvian region of Latgale foreigners have acquired the largest share of forest land in Zilupe county, reaching even 52.39 % of the total area of the county’s forest land. Therefore, the question whether there are land grabbing indications in Latvia was examined more scrupulously when analysing the forest land ownership in Latgale (Table 1.2). Land concentration in Latgale is evidenced by the fact that the average land area belonging to an owner in Latvia is 10.5 ha (a total of 144 000 private forest owners in Latvia own 516 164 ha of forest land), while the average land area owned by one company in 2017 was situated in 10 counties of Latgale with the largest proportion of foreign owners owning 1237 ha; besides, many of these companies have a related structure of owners. All in all, it is fair to conclude that land areas owned by foreigners in Latgale have

not increased over the last few years, and there is even a trend where foreign forestry companies dispose of the agricultural land to local farmers, because it cannot be afforested. This corresponds to the general trend in the country – the amount of real estate sold by foreigners in Latvia since Q2 of 2018 exceeds the amount of real estate bought by foreigners.

Local government representatives have emphasized in interviews that foreigners' land is managed well or even better than by the local landowners. The largest landowner in Latvia among foreigners with more than 100 000 ha of land is the Swedish company Bergvik Skog. In 2018, this company was sold to another Swedish company – Södra for 324 million euros. Bergvik Skog Ltd is an environmentally friendly forestry company, approved by the Forest Stewardship Council [FSC]. Bergvik Skog Ltd runs certified forest management according to FSC (<https://ic.fsc.org/en>) principles since 2013, which stand for good forest management quality. One can generally conclude that foreign forestry companies characterise their economic activity in Latvia as (1) abiding by FSC principles in forest management, (2) high quality land management, (3) intense afforestation of agricultural land with low agricultural value and (4) afforestation of land which is not reforested and felled areas.

One of the indications of land grabbing is the 'expulsion' of local inhabitants from the land. One can observe that the number of local residents in Latvia decreases in those counties with the largest number of international real estate transactions. The average population decrease in Latvia between 1 January 2010 and July 2016 was 7.33 %, whereas it was considerably higher in the counties of Latgale (Aglona county – 15.29 %, Dagda county – 14.31 %, Krāslava county – 14.09 %, Zilupe county – 14.05 %, Kārsava county – 13.53 %, Cibla county – 13.43 %, Ludza county – 12.79 %, Balvi county – 12.79 %, Rugāji county – 12.66 %, Rēzekne county – 9.65 %). However, the immediate cause of this population shrinkage was not land grabbing transactions, but rather a chain of socio-political factors, confirmed also in the interviews with local government representatives (Table 1.3).

Interviews with local government representatives in Latgale confirmed that the Latvian agricultural and forest land purchase price offered to foreigners is understood as a 'low purchase price'. However, speculative transactions in Latvia are quite popular. The main indication of such transactions is a condition that the land property is resold shortly after it was purchased. This was confirmed also by the study of SLS in 2012 when examining the agricultural and forest land market: "Approximately 25 % of forest land is involved in speculative transactions – the land was bought and sold shortly afterwards. The number of speculative transactions with agricultural land amounts to approximately 17 %. The proportion of speculative transactions in some counties is higher. For example, 30 % of agricultural land transactions and 40 % of forest land transactions in Alūksne county are speculative"¹⁰⁶.

Based on this Study on land grabbing indications in Latvia, we can conclude that **there are land grabbing indications in Latgale – transactions mostly feature large land areas acquired by foreigners, at a low purchase price and with high land concentration. However, the international land grabbing observed in Latvia is not typical; therefore,**

¹⁰⁶ Real estate market report Q4 2012. Agricultural and forest land market p. 15.

the author of the Doctoral Thesis suggests introducing a new term for such situations, namely gentle land grabbing¹⁰⁷, because it involves high quality land management. According to local government representatives, it was particularly noticeable when foreigners bought and afforested the land areas which had not been used by local owners for agricultural produce for a long time, and lands which were not cultivated and reforested.

¹⁰⁷ Viesturs J., Auziņš A., Šņore I. Indications of Gentle Forest Land Grabbing in Latvia.

2. SUBSTANTIATION OF RESTRICTIONS IMPOSED ON INTERNATIONAL REAL ESTATE TRANSACTIONS AND THEORETICAL ASPECTS OF EVALUATION CRITERIA FOR DETERMINING THE STATE'S OPENNESS TO INTERNATIONAL REAL ESTATE TRANSACTIONS

2.1. Theoretical Aspects of Institutional Economics and Real Estate Transaction Costs

A comparative historical analysis of the economic theory of policy allows the conclusion¹⁰⁸ that economic activities, conduct of actors, organisations and policy always exist in a wider context of social factors rather than in a vacuum. The history of global economics demonstrates that countries with similar availability of industrial resources, geographical location and other factors beyond the social environment still differ greatly in their economic development. The scientific literature deploys various terms¹⁰⁹ to describe the social factors driving economic development: for instance, habits, culture, religion, social capital, morals, ownership, fairness, etc. The scientists of institutional economics share the view that institutional factors govern mutual competition by countries, and therefore economic development differs greatly from country to country.

In 1931, one of the representatives of the first generation of institutional economists, the American, *John R. Commons*, in his work “Institutional Economics”, emphasized, when integrating the social dimension of human behaviour into economic theory, that the main subject of study in economic theory must be the transaction as an activity and study of its actors, and that not only the market regulates the economic process¹¹⁰. It is a significant hallmark also in the views of promoters of the new institutional economics, as distinct from the English analysts of conventional microeconomic, who focused on the transaction [i.e. event] itself rather than transacting [i.e. process]¹¹¹. According to the theory of J. Commons, the institutional infrastructure is that which directs and regulates the market. He examined case law in order to understand the way the court judgements affect a person's conduct and economic activities, because case law (in Anglo-American legal system countries; in German legal system countries the term ‘case law’ had to be substituted with the term ‘rule of law’) is the ultimate criterion of public will to maintain justice in society. Adam Smith in the 18th century had already emphasized that “trade and industry seldom can flourish in any country where there is lack of some trust to rulers’ justice”¹¹². J. Commons maintained that the state's economy must have transparent, fair, and strong management to administer laws and efficiently maintain civic order. However, governments easily give in to corruption, subject

¹⁰⁸ Boettke P. J., Coyne Ch., Leeson P. T. Comparative Historical Political Economy. p. 298.

¹⁰⁹ Vītola A. Institūciju sociālekonomiskās ietekmes novērtēšana. Doctoral thesis. p. 17.

¹¹⁰ Krilovs L. Ekonomiskās domas retrospekcija. p. 125.

¹¹¹ International Real Estate. An institutional approach. Ed. by Seabrooke W., Kent P., Hwee Hong How H. pP. 5.

¹¹² Smith A. An Inquiry into the Nature and Causes of the Wealth of Nations. p. 710.

legislation to the interests of narrow circles and generally step away from the rule of law¹¹³. Hence, institutional economics, according to the theory of J. Commons, manifests as a collective activity and collective control, which is implemented through national governance of a network of authorities, companies, trade unions, families, churches, socially accepted standards and other institutions, thus conditioning and regulating the activities of individuals. According to J. Commons, institutions are a particular regime or body of working rules¹¹⁴, found in laws, case law, human resource policies of companies, regulations of trade unions, collective agreements, socially accepted standards, religious doctrines, principles of ethics and traditions¹¹⁵.

A representative from the second generation of the school of institutional economics, Clarence Edwin Ayres, in his work "Theory of Economic Progress. A Study of the Fundamentals of Economic Development and Cultural Change" published in 1944 analysed social consequences of economic progress by asking a question if institutions such as companies, democracy, puritanism, etc. 'enable' development of the industrial economy? And his answer is – if the institutional structure which predominated in Western Europe for the last five centuries before the industrial revolution had been strong enough to keep technological changes at bay, then, no doubt, the changes would not have occurred. This means that the development of institutions can be either impeded or facilitated. This scientist posed the second essential question – what were the social consequences of economic progress? He concluded that the economy progresses if it is regulated by the market and competition; however, in order to achieve social justice, any economic benefit must have not only a market-driven value but also a social value, by which the state and social institutions contribute to social life¹¹⁶.

There are various strands in the new institutional economics which are mainly concerned with transacting costs, the role of property rights in the economy and contract theory. Douglass North starts with a simple observation – civic society needs rules of conduct, namely, institutional restrictions which eventually outline an individual's possibilities¹¹⁷. The new institutional economics tries to understand the economic activities of individuals through an approach giving significance to the political and legal environment where these activities take place, as well as those that individuals hold in their own particular environment. From this perspective, economic activities, economic organisations and economy politics are never found in a vacuum but always within a wider social context¹¹⁸. The market is conceptually defined as an interrelation of social norms, contracts, established relations and also informal relations, driven by a set of complex formal and informal norms. So, the institutional economics theory defines institutions as rules of the game in society or restrictions created by

¹¹³ Kaufman B. E. The Institutional Economics of John R. Commons: Complement and Substitute for Neoclassical Economic Theory. p. 14.

¹¹⁴ Kaufman B. E. The Institutional Economics of John R. Commons: Complement and Substitute for Neoclassical Economic Theory. P. 15.

¹¹⁵ Ibid.

¹¹⁶ Krilovs L. Ekonomiskās domas retrospekcija. Zinātniskā monogrāfija. p. 127.

¹¹⁷ North D. C. Institutions, Institutional Change and Economic Performance. Political Economy of Institutions and Decisions p. 67.

¹¹⁸ Boettke P. J., Coyne Ch., Leeson P. T. Comparative Historical Political Economy. p. 292.

society and regulating human interaction¹¹⁹.

Representatives of the new institutional economics are grouped as (1) formal, which in turn are divided into political (e.g. national constitution), economic (e.g. property law and commercial law) and market participant obligations law (e.g. purchase contract) and (2) informal, private (public) in certain institutions as values, norms and beliefs. Operational principles of institutions implemented by agency of state power (e.g. punishment) or social sanctions (e.g. loss of reputation) ensure that certain behavioural models are embedded in society.

Institutions are structures capable of restricting and impacting the subjects¹²⁰ and changing their habitual behaviour. The most influential representative of modern institutional economics, the editor of Journal of Institutional Economics, Geoffrey Hodgson, defines institutions as **an established and common system of social rules structuring social interaction. In the research he emphasizes an evolution of the institutions that entails change in society's behaviour and the change in habits of the followers.**

Today, real estate transactions are related to several complicated and interdependent activities to serve the needs of different economic and social interests, which in turn are related to an agreement on the transfer of real estate ownership, transfer (registration) and financing of possession as well as other activities related to this transaction. Representatives of the new institutional economics R. Coase and D. C. North, in contradiction to the economists of neoclassicism, put major emphasis on transaction costs (German *Transaktionskosten*), stressing that these internal (related to the administrative structure of company) or external (related to the real estate market) costs arise during the transaction in the absence of information, product evaluation costs, ownership examination and protection costs, and also contract signing and execution costs.

Winner of a Nobel prize for Economics O. E. Williamson has contributed significantly to transaction cost studies, and he has mainly focused on transaction costs in economics. He compares them to the sliding friction phenomenon in physics which hinders movement. The economic analogue of friction is transaction costs. In any case, parties involved in economic relations do not act harmoniously, and there are frequent misunderstandings and conflicts leading to delays, damages and other impediments in action¹²¹. Real estate transactions, by analogy with physics, are therefore impeded by transaction costs. These are transaction-related costs which are relatively large and payable in addition to the real estate purchase price, if compared to other commodity markets. Transaction costs also arise from other real estate transactions; for example marketing costs in the case of rent and lease, correct corroboration with the Land Register, inclusion of lease agreement, mortgage, etc. Therefore, since transactions come in many different forms¹²² and each of them have their own unique additional costs, each study must outline an exact definition. O. E. Williamson holds the view that the mission of institutions is to reduce transaction costs and those not performing the said

¹¹⁹ North D. C. Institutions, Institutional Change and Economic Performance. Political Economy of Institutions and Decisions. p. 3.

¹²⁰ Hodgson G. The Evolution of Institutions: An Agenda for Future Theoretical Research. p. 115.

¹²¹ Williamson O. E. The Economics of Organization: The Transaction Cost Approach. p. 552.

¹²² *Ibid.*, p. 568.

function should lose in competition and disappear.

There are several ways to categorise transaction costs, and this is the reason why in each particular case of calculating transaction costs, or making a comparison between select countries, one must firstly define ‘transaction’ or ‘deal’ and also bear in mind that countries have different legal systems and hence contrasting procedures for transfer of ownership. Let’s say, in countries with a Roman-German legal system a notary public plays an important role in real estate transactions, whereas in countries with an Anglo-American legal system, real estate transactions do not require any activity on the part of the notary public. Several types of transaction costs exist in the scientific research and other information sources.

1. In his work “The Nature of the Firm”, published in 1937, R. Coase laid the basis for a new transaction cost concept of institutional economics theory; they are divided into internal and external costs.
2. R. Coase and D. C. North divide transaction costs into (1) search and information costs, (2) bargaining and decision costs, (3) supervision and enforcement costs.
3. E. G. Furubotn and R. Richter divide transaction costs into (1) fixed costs which are related to compliance with institutional demands and (2) variable costs¹²³ which are related to the scope of a transaction. The second division of transactions, invented by the authors, is (1) market transaction costs, (2) managerial transaction costs, and (3) political transaction costs.
4. O. E. Williamson divides transaction costs into *ex ante* and *ex post* transaction costs associated with the moment of transaction¹²⁴. By applying this division, one needs to specify the time of *ex-post* transaction. Finnish scientist A. Vitikainen in an article “Transaction costs concerning real estate”¹²⁵ classifies *ex ante* transaction costs as “contract (disposal) preparation, negotiations and signing of contract”. Hence, *ex post* transaction costs are those arising after the contract is signed. It can be applied only under the condition that the ‘central event’ of the transaction is the signing of the contract, which would be applicable to Anglo-American and Roman legal systems; for example, in France and Belgium where ownership is transferred at the moment of signing, whereas countries subject to the German legal system where disposal of contract is a consensual transaction, and a real estate transaction demands the registration of ownership in the land registers, do not qualify for such a division. Swedish scientist S. Lindqvist defines transaction as a situation where the ‘old’ owner has sold the property to the ‘new’¹²⁶, and in this case *ex-post* transaction costs should be calculated as those following the registration of the real estate both in a German legal system and in Scandinavian countries. This division would be very suitable for real estate transactions and unsuitable for real estate transactions in countries with a German legal system where *ex-post* transaction costs after registration of ownership

¹²³ Furubotn E. G., Richter R. Institutions and Economic Theory. The Contribution of the New Institutional Economics. p. 43.

¹²⁴ Vitikainen A. Transaction costs concerning real estate. In: Stubkjær E., Frank A., Zevenbergen J. Modelling real property transactions. An overview. p. 103.

¹²⁵ Ibid.

¹²⁶ Lindqvist S. Transaction Costs for Single-family Houses: An International Comparison. p. 26.

are minimal or almost null. A similar conclusion can be drawn regarding the transaction time designated as a 'post-registration period'.

5. J. M. Quigley emphasizes that transaction costs in transactions with residential real estate, which can actually be attributed to other types of real estate, differ considerably from the transactions with other commodities. The author divides these costs into five groups¹²⁷.

There are several opinions about the transaction cost (which should be designated also as institutional transaction costs¹²⁸) classification, but eventually all authors are united in the view that these are inevitable costs arising from the internal and external environment of a legal person (and also natural person), which occur in the real estate transaction additional to the purchase price. These are costs caused by the institutional environment which could be reduced if there were qualitative economic institutions¹²⁹ promoting entering into transactions at all stages.

Given the wide range of opinions on the institutional aspects of socioeconomic relationships (institutional richness) and admitting that no other word has been used more ambiguously and frequently in contemporary social sciences than 'institution', the author maintains that studies of the overall institutional environment (e.g., in Latvia – A. Vītola, M. Šenfelde) which help to determine the conditions for economic activities in general for a certain country are of high value. Nevertheless, the author of the Doctoral Thesis has stated the goal of this research – to determine the criteria of a state's international real estate openness and calculation of the IREO index, involving a **detailed assessment of the institutional environment of international real estate transactions**.

2.2. Determining IREO Criteria

When analysing the openness of a state to international real estate disposal transactions, the scientific literature usually analyses one or several institutional aspects, for example, (1) the degree of restrictions (see Section 1.3 "Classification of foreigners' real estate transactions and restrictions imposed on real estate property rights"); (2) transparency; (3) the scope of real estate transactions or investments, i.e. number, area, amount of investments or direct transactions within a certain period (see Section 1.2 "Principles of accounting of international real estate transactions and foreigners' real estate property rights"); (4) particular measures aimed at attracting foreign investments, for example, offering foreigners to acquire residence permits (investor visas, or even citizenship). However, these are merely fragmentary indicators of international real estate openness. Meanwhile, the quantitative indicators, for example, the scope of transactions or investments, do not reveal the level of qualitative indicators of the state's openness to international transactions, since real estate transactions are affected by a wide range of internal and external factors. This means that the quantitative indicators of transactions may be high despite existing restrictions, or the scope of

¹²⁷ Quigley J. M. Transacting Costs and Housing Markets.

¹²⁸ Cheung S. N. S. On the New Institutional Economics.

¹²⁹ Vītola A. Institūciju sociālekonomiskās ietekmes novērtēšana. p. 26.

transactions can be low regardless of a high degree of openness, for example, when there are no direct limitations to real estate transactions conducted by foreigners. Therefore, **in order to evaluate the state's investment attraction potential in the form of real estate transactions as a set of systemic qualitative criteria indicating the state's openness to international real estate disposal transactions, one must define a set of criteria indicating the state's openness to international real estate disposal transactions, a set of criteria by which to evaluate the state's openness to international real estate transactions.**

When measuring the relative significance (weight) of each criterion, the set of individual criteria as a numeric quantity is expressed as an index to characterise relative changes in the state's openness to international real estate transactions, determining the index periodically – on a yearly basis – and to analyse each criterion separately.

The author of the Doctoral Thesis substantiates the choice of criteria by the occurrence of individual indicators in the scientific literature, reviews of indexes characterising the economic environment of different countries (Tax Attractiveness Index, Financial Secrecy Index, Index of Economic Freedom, International Property Rights Index, Open Markets Index, Global Competitiveness Index, Global Trade Alert, Doing Business ranking), structured interviews with industry experts, approbation of the results and conclusions from studies and discussions at scientific seminars and conferences.

The most frequently used are indexes characterising the socioeconomic environment of the countries and rankings. Some of their criteria are used for determining IREO criteria by the analogy method (for compliance of indexes and rankings used with IREO criteria and elements refer to Table 2.1). Abbreviations of IREO criteria in this section are listed in the introduction of Chapter 3 of the Doctoral Thesis “Evaluation methodology for Latvia's openness to international real estate transactions analytic assessment thereof”. It is noteworthy that the methodology for determining several indexes changes periodically; for example, Doing Business ranking criteria ‘Registering property’ in the year 2016, in addition to the criteria ‘Time’, ‘Costs’ and ‘Procedures’, was supplemented with the criteria ‘Land administration quality index’. Meanwhile, the methodology for determining the Global Competitiveness Index was changed in 2018 to focus mainly on the analysis of factors promoting economic efficiency, with a special emphasis on specifics of the newest competition trends arising from globalisation and new digital technologies.

Table 2.1

Analogy of Indexes and Rankings Characterising International Economic Environment
with IREO Criteria and Elements

| No. | Indexes and rankings | IREO criteria | Elements of IREO criteria (Table 3.3) |
|-----|--------------------------|-------------------|--|
| 1. | Tax Attractiveness Index | Transparency | 6. Clear tax system and laws and regulations governing real estate industry and their predictability |
| | | Transaction costs | 14. Stamp duty in real estate disposal transactions |
| 2. | Financial Secrecy Index | Transparency | 2. Accurate and reliable real estate market and financial information |

Continuation of Table 2.1

| | | | |
|----|-------------------------------------|--|--|
| 3. | Index of Economic Freedom | Transparency | 1. Safe property rights of the real estate 3. Contact performance and court efficiency |
| | | Direct and indirect restrictions | 7.–11. Direct and indirect restrictions in real estate transactions |
| 4. | International Property Rights Index | Transparency | 1. Safe property rights of the real estate 3. Contact performance and court efficiency |
| | | Time | 1. Pre-registration period 3. Registration period |
| | | National policy promoting international investments | 18. National policy promoting international investments |
| | | National policy protecting international investments | 19. National policy protecting international investments. |
| 5. | Open Markets Index | Direct and indirect restrictions | 7.–11. Direct and indirect restrictions in real estate transactions |
| | | Transaction costs | 14. Stamp duty 15. Real estate agent services 16. Legal assistance (notary public, advocate or lawyer) |
| | | Administrative (bureaucracy) burden | 17. Administrative burden (except for transaction costs) – a need for various permits and references/statements, difficulty of acquiring thereof |
| | | Time | 12. Pre-registration period 1. Registration period |
| | | Transaction costs | 2. Stamp duty 3. Real estate agent services 4. Legal assistance (notary public, advocate or lawyer) |
| | | Direct and indirect restrictions | 7.–11. Direct and indirect restrictions in real estate transactions |
| 6. | Global Competitiveness Index | Transparency | 4. Update status of data entered in the information systems, coherence and transparency 5. Availability of information on real estate encumbrances and possibilities of using the real estate |
| | | Direct and indirect restrictions | 7.–11. Direct and indirect restrictions in real estate transactions |
| | | Professionalism of those involved in the industry: | 20–31. Level of expertise of real estate representatives |
| | | Administrative (bureaucracy) burden | 5. Administrative burden (except for transaction costs) – a need for various permits and references/statements, difficulty of acquiring thereof |
| | | National policy promoting international investments | National policy promoting international investments |
| | | National policy protecting international investments | National policy protecting international investments |

Continuation of Table 2.1

| | | | |
|----|--------------------|-------------------------------------|---|
| 7. | Global Trade Alert | Direct and indirect restrictions | 7.–11. Direct and indirect restrictions in real estate transactions |
| 8. | Doing Business | Time | 12. Pre-registration period 13. Registration period |
| | | Transaction costs | 14. Stamp duty 15. Real estate agent services 16. Legal assistance (notary public, advocate or lawyer) |
| | | Transparency | 1. Safe property rights of the real estate 2. Accurate and reliable real estate market and financial information 3. Contract performance and court efficiency 4. Update status of data entered in the information systems, coherence and transparency 5. Availability of information on real estate encumbrances and possibilities of using the real estate |
| | | Administrative (bureaucracy) burden | 17. Administrative burden (except for transaction costs) – a need for various permits and references/statements, difficulty of acquiring thereof |

3. EVALUATION METHODOLOGY FOR LATVIA'S OPENNESS TO INTERNATIONAL REAL ESTATE TRANSACTIONS AND ANALYTIC ASSESSMENT THEREOF

Evaluation criteria and constituent elements thereof for the state's openness to international real estate transactions were selected when elaborating the Doctoral Thesis. Afterwards, by using the multilevel research Delphi method and the derivative eDelphi method for interviews¹³⁰ between 1 January 2018 and 30 June 2019, these criteria were discussed and evaluated in individual expert interviews, focus groups, seminars as well as expert group surveys. 50 international real estate transactions experts participated in expert interviews, and evaluation provided by each expert was collected in the questionnaire.

Table 3.1

Phases of Determining IREO Index Using Delphi and eDelphi Methods

| Phases of Delphi methods | Action No. | Action |
|--------------------------|------------|---|
| 1. | 1 | Determining of the research goal |
| | 2 | Selection of IREO criteria and elements |
| | 3 | Determining of profession/occupation of interviewed persons |
| | 4 | Identification of experts |
| 2. | 5 | Preparation for expert interviews |
| | 6 | Preparation of interview questionnaires |
| | 7 | IREO interviews, focus group, seminars |
| | 8 | Collection of interview results |
| | 9 | Correction of IREO criteria and elements |
| | 10 | Determining of IREO criteria weight |
| 3. | 11 | Preparation of IREO 2018 survey questionnaires |
| | 12 | Creation of Google survey |
| | 13 | Sending of survey invitations |
| | 14 | Receiving and summarising of results |
| | 15 | IREO index calculation |

The experts for interviews were selected by several criteria:

1. **Competence and interdisciplinarity.** Persons representing 11 professions/occupations and considered the most competent in a real estate transactions context were identified. Therefore, the research qualifies as interdisciplinary. A strict principle – to make sure that the number of representatives from one profession/occupation constituted not less than 5 % and not more than 15 % of the total number of survey subjects – was adhered to.

¹³⁰ Pickard A. J. Research methods in information. Facet, 2007. pp. 126–127.

2. **Assessment of competence.** The competence of each expert was evaluated to qualify for a participation in the research (only two participants were recognised as non-compliant with IREO evaluation).
3. **Experience.** The experience of each expert was taken into consideration (the average professional activity in the industry of experts involved in the IREO-2018 survey – 12.9 years).
4. **Good reputation.** All the selected subjects represent companies and institutions of good reputation.

When interviewing the industry experts, the research was approved – evaluation of IREO criteria was achieved and recommendations and corrections made to create the methodology for determining the IREO index.

60 international real estate transaction experts participated in IREO-2018 interviews between 31 October 2018 and 30 June 2019. An eExpert survey questionnaire was created using the electronic Google survey tool via link: https://docs.google.com/forms/d/1zVLOjQmcKtaq_1HnLVXQ2sqqfnGbOg33FwzPOiSbTMM/edit.

According to the research results approved from IREO interviews, focus groups and seminars, the index of the state's openness to international real estate transactions (henceforth IREO index) must be determined periodically, i.e. on a yearly basis, to the following criteria:

IREO criteria and their elements (Table 3.2) to calculate the IREO index, which was possible due to the approval of IREO expert interviews and the results obtained, and the significance or weight of these criteria were determined.

Table 3.2

IREO Criteria and Their Elements

| Ser. No. | IREO criteria | Elements of IREO criteria |
|----------|----------------------------------|---|
| 1. | Transparency | <ol style="list-style-type: none"> 1. Safe property rights of the real estate 2. Accurate and reliable real estate market and financial information 3. Contact performance and court efficiency 4. Update status, coherence and transparency of data entered in the National Uniform Computerised Land Register and National Real Estate Cadastre Information System 5. Availability of information on real estate encumbrances and possibilities of using the real estate 6. Clear tax system and laws and regulations governing the real estate industry and their predictability |
| 2. | Direct and indirect restrictions | <p>Direct and indirect restrictions in real estate transactions</p> <ol style="list-style-type: none"> 7. Agricultural and forest land 8. Apartment property 9. Commercial property (with land) 10. Household construction land 11. For private houses (with land) |

Continuation of Table 3.2

| | | |
|-----|--|--|
| 3. | Time | 12. Pre-registration phase (also search, due diligence, corroboration request, right of first refusal, payment of stamp duty and office fees, etc.) |
| | | 13. Registration phase (time from document submission in the Land Register to court's judgement and receiving a document of ownership) |
| 4. | Transaction costs | 14. Stamp duty |
| | | 15. Real estate agent services |
| | | 16. Legal assistance (notary public, advocate or lawyer) |
| 5. | Administrative (bureaucracy) burden | 17. Administrative burden (except for transaction costs) – a need for various permits and references/statements, difficulty of acquiring thereof. For example, municipal permits for foreigners, offering of pre-emptive right, etc. |
| 6. | National policy promoting international investments | 18. National policy promoting international investments |
| 7. | National policy protecting international investments | 19. National policy protecting international investments |
| 8. | Professionalism of those involved in the industry | Level of expertise of real estate representatives |
| | | 20. Real estate agents |
| | | 21. Notary public |
| | | 22. Advocates, lawyers |
| | | 23. Real estate evaluators |
| | | 24. Economists |
| | | 25. Land Register employees |
| | | 26. SLS employees |
| | | 27. Local government staff |
| | | 28. Real estate managers |
| | | 29. Real estate insurers |
| | | 30. Real estate developers |
| | | 31. Credit institution employees |
| 9. | Technology development | Technology development level |
| | | 32. Real estate due diligence |
| | | 33. Data and information acquisition and collection |
| | | 34. Document circulation (including registration of property rights) |
| 10. | Activities of credit institutions encouraging real estate transactions | 35. Activities of credit institutions encouraging real estate transactions |

IREO index calculation

The IREO index must be determined by applying the relative weight (significance) of every criterion that was identified in the focus group and in individual expert interviews with the question: “In your opinion, how significant is each criterion in describing the state’s openness to international real estate?” Generally, in order to determine the relative weight of each criterion, answers were received from 24 experts and the relative weight of each criterion

as an average expert evaluation was determined. Based on the relative weight of such criteria (Table 3.3), the IREO index must be determined according to the following Equation (3.1):

$$\begin{aligned} IREO \text{ index} = & w_1 \sum_{n=1}^6 \frac{a_n}{6} + w_2(0.09(b_1 + b_3) + 0.10(b_4 + b_5) + 0.62b_2) \\ & + w_3 \sum_{n=1}^2 \frac{c_n}{2} + w_4 \sum_{n=1}^3 \frac{d_n}{3} + w_5(e + g) + w_6(f + j) + w_7 \left(\sum_{n=1}^{12} \frac{h_n}{12} + \sum_{n=1}^3 \frac{i_n}{3} \right), \end{aligned} \quad (3.1)$$

where

IREO index – Openness to International Real Estate Transactions index of the country;

a – Transparency of real estate and real estate transactions;

*a*₁–*a*₆ – elements of IREO criterion ‘Transparency of real estate and real estate transactions’;

b – Direct and indirect restrictions imposed on foreigners in real estate disposal transactions;

*b*₁–*b*₅ – elements of IREO criterion ‘Direct and indirect restrictions to foreigners in real estate disposal transactions’;

c – Time of real estate disposal transaction;

*c*₁, *c*₂ – elements of IREO criterion ‘Time of real estate disposal transaction’;

d – Transaction costs;

*d*₁–*d*₃ – elements of IREO criterion ‘Transaction costs’;

e – Administrative (bureaucracy) burden;

f – National policy promoting international investments;

g – National policy protecting international investments;

h – Professionalism of persons involved in the industry;

*h*₁–*h*₁₂ – elements of IREO criterion ‘Expertise of persons involved in the industry’;

i – Development of technologies related to real estate transactions;

*i*₁–*i*₃ – elements of the IREO criterion ‘Development of technologies related to real estate transactions’;

j – Activities of credit institutions encouraging real estate transactions;

*w*₁–*w*₇ – relative weight of criteria, *w*₁ + *w*₂ + *w*₃ + *w*₄ + 2*w*₅ + 2*w*₆ + 2*w*₇ = 1;

n – quantity of elements of each IREO criterion.

Considering the aforesaid, the IREO-2018 index in Latvia was 5.90 (Table 3.3), which qualifies as ‘average’, applying the evaluation of the state’s openness to international real estate transactions: 1.00–1.99 – ‘extremely low’; 2.00–2.99 – ‘very low’; 3.00–3.99 – ‘low’; 4.00–4.99 – ‘averagely low’; 5.00–5.99 – ‘average’; 6.00–6.99 – ‘averagely high’; 7.00–7.99 – ‘high’; 8.00–8.99 – ‘very high’; 9–10 – ‘extremely high’.

Table 3.3

IREO-2018 Index in Latvia

| No. | IREO criteria | Evaluation (average) | Relative weight of criterion ($w_1 - w_7$), % | Adjusted evaluation of criteria |
|----------|--|----------------------|---|---------------------------------|
| <i>a</i> | Transparency | 6.93 | 0.13 | 0.90 |
| <i>b</i> | Direct and indirect restrictions | 7.17 | 0.14 | 1.00 |
| <i>c</i> | Time | 6.80 | 0.05 | 0.34 |
| <i>d</i> | Transaction costs | 5.03 | 0.08 | 0.40 |
| <i>e</i> | Administrative (bureaucracy) burden | 4.56 | 0.10 | 0.46 |
| <i>f</i> | National policy promoting international investments | 4.12 | 0.11 | 0.45 |
| <i>g</i> | National policy protecting international investments | 5.00 | 0.10 | 0.50 |
| <i>h</i> | Professionalism of persons involved in the industry | 7.07 | 0.09 | 0.64 |
| <i>i</i> | Technology development | 6.49 | 0.09 | 0.58 |
| <i>j</i> | Activities of credit institutions encouraging real estate transactions | 5.63 | 0.11 | 0.62 |
| Total | | 58.80 | 1.00 | 5.90 |

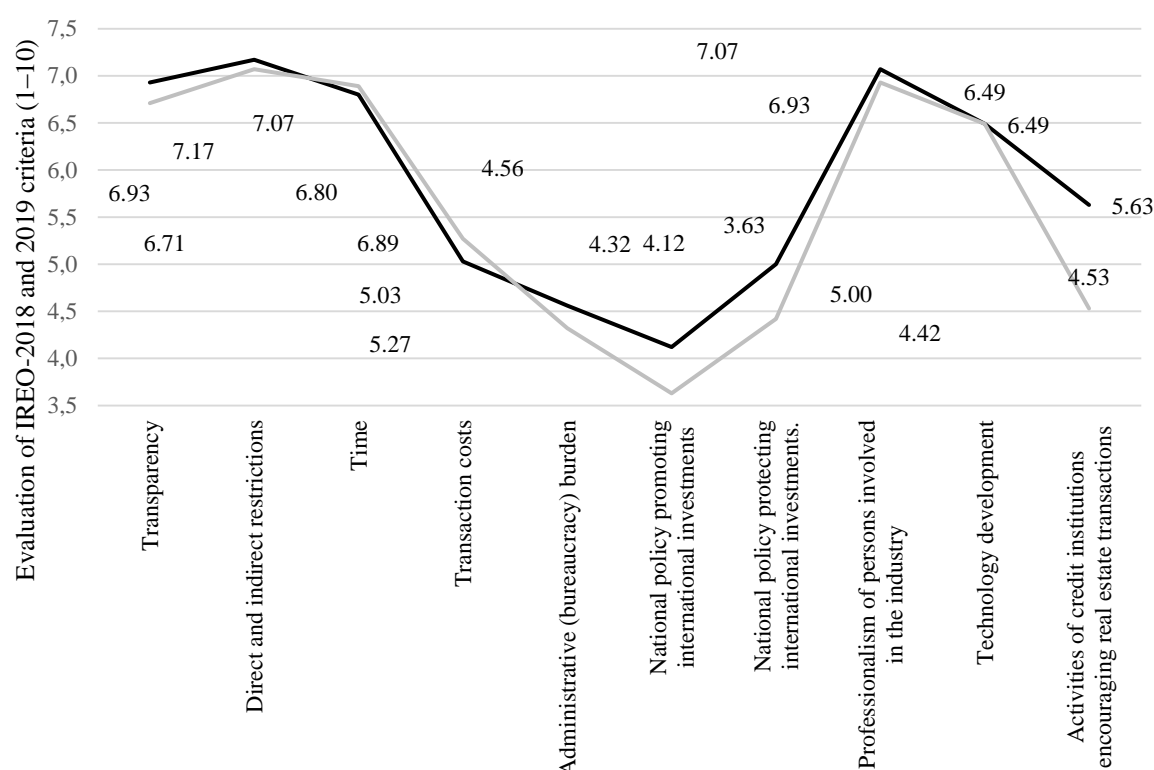


Fig. 3.1. Evaluation of IREO-2018 and 2019 criteria (Figure created by the author).

Results of the IREO survey show that from all IREO criteria the following ones were evaluated above 5.88, namely ‘Transparency’, ‘Direct and indirect restrictions’, ‘Time’, ‘Professionalism of persons involved in the industry’ and ‘Technology development’, while the following criteria were below the average – ‘Transaction costs’, ‘Administrative

(bureaucracy) burden', 'Policy promoting international investments', 'Policy protecting international investments' and 'Operation of credit institutions encouraging real estate transactions' (Fig. 3.1).

The IREO index shows Latvia's openness to international real estate transactions. Continuing to determine it in future on a yearly basis, taking 2018 as the reference year, it will be possible to identify strengths and weaknesses of Latvia and see the dynamics (improvements or deterioration) of every criterion and constituent elements in the context of real estate disposal transactions both for institutions shaping the land management policy and potential investors. By referring to said indexes, public authorities can adopt the decisions in order to improve the indexes, while potential investors can make timely and reasonable decisions on transactions in Latvia when analysing the index criteria and their elements.

In order to determine the IREO 2019 index, the author conducted an IREO survey by analogy of the survey of 2019 between 9 January 2020 and 8 February 2020. The results show that **IREO 2019 index was 'average'– 5.61** and had decreased, if compared to 2018. The evaluation has slightly increased in the criteria 'Time' and 'Transaction Costs', the criterion 'Technology development' has remained unchanged, but the evaluation of the others has gone down (Fig. 3.1).

CONCLUSIONS AND RECOMMENDATIONS

Theoretical and practical aspects of real estate transactions in Latvia were studied in this Doctoral Thesis to create a methodology for determining the state's openness to international real estate transactions. The state's openness to real estate transactions was defined as the state's readiness for potential international real estate transactions or the capacity to attract international investments through real estate transactions. During the elaboration of the Thesis, a set of criteria for determining the openness was created to be used in future to evaluate the state's openness to international real estate transactions, considering the weight or relative significance of each criterion. By determining this index on a regular basis – once a year – both the institutions dictating the land management policy and potential investors can identify the strengths and weaknesses of real estate disposal transactions in Latvia before the transaction even starts and can also see the dynamics (improvement or deterioration) of each criterion and its elements, taking the year 2018 as the reference year. By referring to said indexes, public authorities can adopt decisions in order to improve the IREO index parameters, while potential investors can make timely and reasonable decisions on transactions in Latvia when analysing index criteria and their elements.

Theoretical conclusions and results of empirical research which were included in the Thesis confirm that the goal of the Thesis was attained and the proposed hypothesis was verified. Referring to the goal set forth for this research and tasks solved, the author has arrived at several key conclusions:

1. In the context of international investment, real estate is a commercial asset and transactions involving this asset in all countries are regulated. However, the restrictions are often based on non-commercial grounds – referring to arguments from various sectors (culture, social, political, etc.), frequently outplaying the commercial ones. These restrictions are based on historical grounds, aiming at holding back 'the outlanders', foreigners and persons from 'other circles', disloyal persons and other kinds of persons from using the land resources. One argument of great importance is the view: "If I lose my land, I lose my country". This argument is used mainly to achieve political goals and it is declarative, because it is easy to 'bypass' restrictions imposed on foreigners' property rights.
2. The international real estate (land) market, with some exceptions (for example, EU, OECD union of states), has always been highly illiberal, with many restrictions, and only after World War II did a trend to alleviate limitations on international real estate trade emerge. These restrictions have related to racism, prejudice, xenophobia, lack of foreigners' loyalty and other aspects of protectionism.
3. A global modern trend is the origination of new types of real estate derived from the land property and more intense investments in alternative real estate sectors. It must be admitted that today we still lack scientifically proven research on new, alternative crowdfunding models not dependent on the banks, for example, crowdfunding and safety aspects, and also research on their impact on international real estate transactions.

4. During recent decades the internationalisation of the global economy, liberalisation, globalisation and a global demand for real estate products, and the entry into the market of new, relatively easily available real estate products have stimulated foreign investments in many countries worldwide. Especially in this regard, investments have developed in regions such as Africa, Latin America and Eastern Europe in relation to the so-called land grabbing transactions during the last decade. The counter-reaction to such global market liberalisation is an intensification of protectionism, which has also been observed in Latvia despite the principle of free capital flow in EU.
5. The question of property rights in Latvia in the context of the global economy and existing land grabbing transactions, as well as international real estate transactions, often have wide repercussions for the public. Similar processes have also been observed in other Eastern European countries. However, when the value of real estate transactions necessary for receiving temporary residence permits was significantly increased in Q4 2014, the amount of real estate transactions directly involving foreigners decreased considerably.
6. When doing the research on whether it is reasonable to believe that international land grabbing exists in Latvia, one can see that indications of land grabbing are present in the Latgale region in connection with forest land transactions by Scandinavian forestry companies. However, lately the area of Latvian land owned by foreigners has not increased significantly.
7. When analysing the real estate transaction classification and real estate definitions used in a global context, it was concluded that myriads of synonyms or terms with similar meaning to those of 'international', 'transaction', 'real estate' or 'land' exist. It complicates the research on factors affecting international real estate transactions even within one industry. It is specifically found in interdisciplinary research.
8. When analysing the openness of a state to real estate disposal transactions, the scientific literature usually analyses one or several institutional aspects, for example – the degree of restrictions, transparency of real estate and related transactions, property rights safety, scope of real estate transactions or investments, and the presence of measures aimed at attracting foreign investment. However, these are merely fragmentary indicators of the international real estate openness. Therefore, in order to evaluate the state's investment attraction potential in the form of real estate transactions as a set of systemic qualitative criteria indicating the state's openness to international real estate disposal transactions, a set of criteria indicating the state's openness to international real estate disposal transactions must be defined according to which one can evaluate the state's openness to international real estate transactions. During the research the following criteria were set to determine the IREO criteria: (a) the transparency of real estate and real estate transactions; (b) direct and indirect restrictions imposed on foreigners in real estate disposal transactions; (c) time of real estate disposal transaction; (d) transaction costs; (e) the administrative (bureaucracy) burden; (f) national policy promoting international investments; (g) national policy protecting international investments; (h) the professionalism of persons involved in the

- industry; (i) the development of technologies related to real estate transactions; (j) the operations of credit institutions encouraging real estate transactions;
9. Latvia's openness to international real estate transactions in 2018, evaluated according to certain criteria, is designated as 'average', evidenced also by the IREO-2018 index – 5.9, and IREO-2019 index – 5.61.
 10. When evaluating the transparency elements of the real estate and its transactions, there are grounds to believe that Latvia offers rather safe property rights. Some uncertainty has been lately aroused by the failure to comply with a *bona fide* real estate acquirer's protection principle in Latvia, where in order to ensure the rights of the victim and restore justice, the interests of said persons prevail over the public credibility of land register records. Among all the elements of IREO criterion 'Transparency of real estate and its transactions' the lowest evaluation was given to 'Contract performance and court efficiency', considering that precisely in the case of commercial relations court efficiency is so important that it even threatens normal business in general. However, Latvia has made some progress in this regard recently. In the very near future, taking into account recent amendments to legislation, indicators of a repeatedly criticised update status, coherence and transparency of data in the National Real Estate Cadastre Information System and National Uniform Computerised Land Register will improve. An important factor in improving real estate transparency parameters is a construction right introduced in Latvia since 1 January 2017.
 11. Of all the types of real estate, the most important restrictions in Latvia for foreigners concern agricultural land transactions. The requirement for subjects entering into agricultural land transactions to have Latvian language skills at least at level B2 is expected to be lifted in Latvia. Nevertheless, considering the agricultural land ownership management policy of some EU Member States and transactions with agricultural land, it can be concluded that agricultural land is not a straightforward commodity and it should be subject to special conditions which would take into consideration the specific historically developed socio-political situation, and with an emphasis on possible adverse consequences in the development of farm communities, the socioeconomic viability of rural areas and employment in the agricultural field. So, at different levels the EU Member States are expected to permit some exceptions regarding the selling of agricultural land. Regardless of the fierce protectionism of local farmers, for instance by demanding language skills, this measure in Latvia is the so-called 'declarative protectionism', because the restrictions imposed on agricultural land transactions in Latvia have long been 'bypassed' through the share deal transactions involving agricultural land.
 12. Time and safety of real estate property right registration are essentially linked with an electronic form of ownership registration in all real estate disposal cases, and it was not introduced in Latvia until as late as 2020. The introduction of such electronic registration of property rights in future is an important aspect of land management, which would considerably improve several IREO criteria.

13. Even though real estate transaction costs in Latvia at global scale are considered as low, they are still high if compared to the scale of other Baltic countries. It reduces the competitiveness of Latvia in this regard.
14. Latvia has a complicated, multilevel procedure for the use of pre-emptive rights based on the law, contract, court judgement or testament. From all types of pre-emptive rights, the most debated one is the right of first refusal of local governments, because this delays transactions significantly. The rights of first refusal of local governments in real estate transactions are exercised very seldom. However, the parties to the transaction evade or 'bypass' these pre-emptive rights leading to subsequent shortcomings in the land management system in our country: inaccurate registration of the number of transactions, false indication of purchase price, unjustifiably large spending of administrative resources by local governments, lack of trust in civil procedures in the country. Since 1 January 2020, there is a new procedure requiring the local government to send information on its decision regarding the exercise of pre-emptive rights in the case of buying real estate to the National Land Service electronically via a special online system. However, this is merely a procedural improvement and does not address the problems with the IREO criterion 'Administrative (bureaucracy) burden'.
15. Of all IREO criteria, the lowest evaluation in 2018 was given to 'National policy promoting international investments' and 'National policy protecting international investments'. These are indicators that public authorities must take into account to prove their intention to attract foreign investments, as well as to provide grounds to foreign investors for a cautious approach in making decisions on investment in Latvia.
16. The IREO survey reveals that of all the professionals involved in the management of real estate transactions in Latvia the lowest evaluation is given to real estate agents. It supports the opinion which has existed among industry professionals in Latvia for years – that a new procedure regulating this profession is needed. The new regulations for real estate agents in the Law on the Activity of Real Estate Agents were proposed to the Saeima of the Republic of Latvia in 2018 and 2019 with the main goal of preventing money laundering and terrorism financing and encourage the provision of stable, safe and reliable agency services. In the Law passed on 11 June 2002 by the Saeima of Latvia, the conditions for real estate agent activities, if they wish to legally provide real estate agent services as part of a professional business, are as follows: (a) a person has implemented an internal control system which prevents money laundering and financing of terrorism and proliferation in compliance with the provisions of the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing; (b) a person has not been punished for committing an offence regarding a property, an intentional economic offence or an offence related to terrorism, or a person has been punished for such offences, but the criminal record was removed or has expired; (c) a person has insured his/her business risk.
17. Evaluation of IREO criterion 'Technology development' is considered as low, especially because in Latvia one cannot submit documents to the Land Register

electronically in the case of a real estate disposal transaction entered into by private persons, despite the fact that it is a general trend in developed countries nowadays. In this respect Latvia must immediately make improvements, and it can be predicted that such changes would generally improve the IREO criterion ‘Technology development’ and its index. In the study ordered by the Latvian Ministry of Economics “Administrative procedures and business environment in Latvia”, which was completed in 2017, it was found that “It is necessary to completely rule out any situation where a company must transport one document issued by a state or local government institution to another when registering property rights. The following procedures must take place automatically when the company requests it electronically”. This principle is being introduced in Latvia too slowly.

18. **The IREO criteria in Latvia are considered to have been introduced. In future the dynamics of each criterion and their elements can be determined taking the year 2018 as the reference year for calculations.**

Referring to the goal set forth for this research and tasks solved, the author has come up with the following recommendations:

1. The elaborated methodology for determining the state’s openness to international real estate transactions will allow identifying this index regularly (once a year), taking the year 2018 as the reference year for calculations. The following persons are advised to become acquainted with it: (1) employees of the state and municipal authorities who are responsible for promoting foreign investments; (2) members of the Latvian Real Estate Association; (3) members of the Latvian Chamber of Commerce and Industry; (4) members of the Foreign Investors Council in Latvia; (5) foreign investors and (6) other persons whose professional activity is related to international real estate transactions.
2. The competences of Land Register divisions and SLS in Latvia were demarcated and a range of their procedures, which can be further improved by developing data exchange options with a goal to improve the quality of both information systems’ data and to alleviate the bureaucratic burden for people, was expanded. At the same time both systems are intended to follow closer cooperation and integration, while simply establishing clear boundaries regarding data. These are fundamental amendments which will improve the update status and coherence of data in both information systems and will expand the scope of data transferred online from the National Real Estate Cadastre Information System to the National State Land Service. In this regard the reforms should go on to improve information about real estate encumbrances and possibilities of using real estate. It would improve the evaluation of elements ‘Update status, coherence and transparency of data entered in the National Real Estate Cadastre Information System and National Uniform Computerised Land Register’ and ‘Availability of information on real estate encumbrances and possibilities of using the real estate’ of the IREO criterion ‘Transparency’.

3. In order to foster investments in the construction of rental houses in Latvia, there is a need to adopt a new law on rent of residential premises befitting the principles of the modern market economy, which would improve housing availability and build fairer social and economic relations between tenants and landlords. On 24 September 2020, another draft version of the Law on Residential Tenancy was adopted for the second reading. However, Latvia did not have sufficient political will to promote it further. New regulation of residential tenancy would improve the evaluation of the element of 'Clear tax system, laws and regulations governing the real estate and their predictability' of the IREO criterion 'Transparency'.
4. It is necessary to reduce the period given to the Land Register for reviewing corroboration requests, which is currently up to 10 days in Latvia, and in difficult cases the judge may allow a grace period of up to one month (see Section 3.1.3 "Time of real estate disposal transaction" about the average time given by judges to make a decision in the case of a real estate purchase contract). It would also improve the competitiveness of Latvia in the Baltic region regarding the time of ownership registration as well as the Doing Business ranking, because the Doing Business methodology, for example, shows that two days are given for the registration of real estate property rights in Lithuania, whereas it is eight days in Estonia (including filling out of the electronic form of the corroboration request). These amendments would improve the evaluation of the IREO criterion 'Time'.
5. The main component of transaction costs – stamp duty – is considerably higher in Latvia than in other Baltic countries. Therefore, in terms of transaction costs Latvia is less competitive. In order to encourage investing in the real estate industry, stamp duty should be reduced – for example, proposing a fixed annual reduction of the stamp duty by 0.2 % to prevent a rapid adverse impact on the state budget. These amendments would improve the evaluation of the IREO criterion 'Transaction costs'.
6. The stamp duty for real estate corroboration in the land register in all real estate disposal transactions should be calculated from the cadastral value of the real estate. If that was the case, contracts would less often stipulate a lower transaction amount than the actual one, which is often done to pay less stamp duty. Or, alternatively, personal income tax, corporate income tax and value added tax would be manipulated less, avoiding partial payment of the purchase price in cash and defining part of the real estate purchase price as payment for the movable property, such as furniture, equipment, etc. These amendments would improve the level of land management in Latvia considerably in terms of credibility. These amendments would improve the evaluation of the IREO criterion 'Transaction costs'.
7. The research on a number of cases where local governments used their right of first refusal and other aspects of decisions on exercising the right of first refusal by local governments, conducted within the framework of the Doctoral Thesis gives rise to a recommendation – to completely cancel the rights of first refusal of local governments in Latvia, because this procedure causes needless delay of real estate purchase transactions, creates conditions when the public do not have trust in civil procedures

and wish to ‘bypass’ it, and also encourages the parties to hide the true transaction data. These amendments would improve the Doing Business ranking of Latvia and also evaluation of the IREO criteria ‘Time’ and ‘Administrative (bureaucracy) burden’.

8. Latvia must continue the reforms related to the electronic circulation of documents, because in the case of a privately signed real estate disposal transaction in 2020, it was not possible to submit documents to the Land Register electronically, which is a rather common trend nowadays in developed countries. This circulation of documents would improve the evaluation of the IREO criteria ‘Technology development’, ‘Time’ and ‘Administrative (bureaucracy) burden’.
9. From all the IREO criteria in 2018 and 2019, improvement of those receiving the lowest evaluation ‘National policy promoting international investments’ and ‘National policy protecting international investments’ lies in the competence of national policy dealing with foreign investments in real estate. Industry experts confirmed in the individual interviews that they expect public authorities to engage proactively in improving these criteria.
10. In order to promote international investment in the real estate sector, it is advisable to support and promote a conceptually new range of real estate products or one that is already known abroad in our country, for example, real estate investment trusts (REIT), which have been introduced in many countries, crowdfunding models independent of the banks, and real estate products which have been created specifically for foreigners. If the bonuses which encourage political investments in the country are invented, for example, for temporary residence permits for foreigners who buy real estate, they should stay for a longer period and retain the same conditions. Such activities would improve the evaluation of the element ‘Clear tax system, laws and regulations governing the real estate industry and their predictability’ of the ‘Transparency’ criterion and criteria ‘National policy promoting international investments’ and ‘National policy protecting international investments’.
11. Not to focus merely on prevention of money laundering and terrorism financing, but also on the provision of stable, safe and reliable real estate agency services as an equal goal by putting forth the requirements for real estate agent profession in terms of education level, qualification upgrade and code of conduct after the adoption of the new Law on the Activity of Real Estate Agents.
12. In future it is advisable to conduct the same assessment of the institutional environment of the IREO abroad (for example in the Baltic states) so that foreign investors could evaluate the openness of each country to such transactions and to cross-check individual criteria at the international scale.

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