**European Commission fact finding visit to Latvia: LBAS follow – up comments**

1. **Social partners’ involvement in RRP design and implementation, main implementation challenges ahead. How do you assess the process?**

The social partners were not involved in the design of the RRP at the earlier stage despite invitation and the initiative shown, however involved at the later stage. Currently no meetings and no consultations take place to discuss implementation of the RRP.

1. **What are your views on the contribution of Latvia’s RRP to tackling poverty and inequality?**
	1. **RRP and access to education**

A significant amount of the RRF is earmarked for skills development, especially for digital skills, but projects have not yet started. LBAS is cautious about skills development for those with low skills, as this group involvement is the most difficult and vulnerable to inequality, therefore, it may be more difficult to achieve goals.

No projects in education sector have been presented or started. Several concerns have to be raised regarding implementation of the RRF in education sector and the RRF contribution to decrease inequality in access to education.

Full implementation of the RRF will not be possible without additional domestic policy issues: if the issues of unfilled vacancies of teachers and remuneration of teaching personnel are not solved at the national level, there will be no teaching personnel to implement learning content and ensure equal access to education. The Ministry of Education and Science has developed a large-scale unfilled vacancy reduction plan with partners, but its implementation requires financial investment, therefore it is not likely to be executed.

The next concern is lack of support mechanisms. If the RRF envisages the promotion of STEM subjects, there is a need for high-quality and timely teaching support mechanisms, for instance, an appropriately equipped classroom, a teaching assistant in large classes or halving of the number of students in the classroom to promote growth and individual approach. There is not enough time for individual counselling during the workload, there is not enough support staff (psychologist, social pedagogue) to solve students' learning and behaviour problems. The RRF funding is foreseen for digital infrastructure, but not for human resources. At the same time, human resources are paramount for acquisition of STEM.

Another concern is digitization. The digital divide will be increased and contribute to inequality if the purchase of computers for students is stretched for many years.

The third concern is inclusive education, namely, equal access to education for students with special needs. In order to include children with special needs in the "ordinary schools" and facilitate equal access to education, several aspects and preconditions are essential, for instance, infrastructure, teaching aids and materials, trained assistants, appropriate training of teachers, adequacy of support personnel (speech therapists, psychologists, social and special educators) which also requires public investment. In addition, the Faculty of Pedagogy of the University of Latvia (LU) was forced to suspend implementation of a significant part of the support personnel study programs. There is a lack of support personnel and it is not possible to meet the demand for these specialists today, but the LU does not support the implementation of study programs the support personnel.

The fourth concern is remuneration of university management and administrative personnel. Currently, financial resources for remuneration of management and advisers are provided from the EU project financing. It is not clear what will happen to the new higher education governance model when the EU funding ends. It is planned to develop and test the academic career model financing from the EU funding. However, it is unlikely that public budget financing will be allocated to actually implement it.

* 1. **RRP and access to health care**

According to the WHO conclusions for Latvia, increase in the government spending on health took place mainly due to the growth in total government spending and not because health care received higher political priority. The share of health care within the government budget in Latvia is one of the lowest among high-income countries in Europe. Chronic underfunding of health services contributes to high avoidable mortality in Latvia. Moreover, public spending on health in Latvia is lower than what would be expected at the level of fiscal capacity.

Please see attached the WHO presentation “Health spending, budgetary space for health and financial protection in Latvia” (13.10.2021).

In addition to the low public funding, the still insufficient remuneration levels for medical personnel must be stressed. According to the Cabinet Regulation No. 851 “Provisions on the Minimum Monthly Wage and Special Allowance for Employees in Health Care” (“*Noteikumi par zemāko mēnešalgu un speciālo piemaksu veselības aprūpes jomā nodarbinātajiem*”) the assistants of nurse, who bear most of the front-line work, receive the monthly minimum wage of only 723, 00 euro (gross) which was not increased in 2022 comparing to 2021.

Although the “Law on the Financing of Health Care” provided for a salary increase of 20% in 2020 and 2021, the increase in remuneration grew only by 10% in practice. The law was amended in a way to provide no increase the remuneration of medical personnel. The remuneration of nursing assistants and medical assistants has not changed in 2022. The new remuneration model proposed by the Ministry of Health (not approved by the government) does not envisage an increase in the remuneration of nursing assistants and medical assistants in either 2022 or 2023.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Profession** | **2022** | **2021** | **2020** | **2019** |
| Doctor | 1555 | 1489 | 1187 | 1079 |
| Nurse | 1032 | 985 | 785 | 714 |
| Assistants of nurse (nursing assistants) | 723 | 723 | 576 | 524 |

Although the Ministry of Health claims that all doctors receive Covid-19 related supplementary benefits, in reality, not all doctors in the public sector have received and still do not receive these benefits.

LBAS affiliated organisation, the Health and Social Care Workers Trade Union (LVSADA), opposed the government decision not to increase remuneration of health care personnel and on August 23, 2021 submitted two strike (collective action) demands to the Ministry of Health, demanding to increase the salaries of health workers. Negotiations have been unsuccessful and a strike is currently being considered (<http://www.lvsada.lv/>)

In addition, aging of healthcare personnel must be underlined. According to the LVSADA almost half of medical personnel are more than 50 years old, which might create further challenges of work force availability unless remuneration of medical personnel is raised in proportion to the significance and level of risk attached to the profession.

Finally, we would like to draw attention that according to trade union observations there is a growing number of migrating doctors. Therefore, the government invests in educating medical personnel, however this investment does not provide the return added value to the society since medical personnel moves to work in higher wage countries.

Providing decent remuneration is necessary to raise the prestige of the profession and would allow to attract more young doctors to fill the medical labour force gap and stop the growing medical personnel migration to the countries with higher wages.

**Access to health care during COVID-19**

In the public sector access to health care is reduced due to the Covid-19 impact, in the private sector the situation is slightly better. This is explained by the focus on emergency care, acute illness and treatment of Covid-19 patients in the public sector. Outpatient treatment admission was suspended under epidemiological rules, as was the possibility of day-care treatment, since the primary focus was on the care and treatment of Covid patients.

The situation was also exacerbated by spread of Covid-19 among medical personnel. This led to longer queues to receive state-paid services, in particular affecting the access to health care for low-income receivers, for instance pensioners.

* 1. **Minimum wage in Latvia**

First of all, it should be noted that the last time minimum wage was increased in 2021 to EUR 500 and further increase has been skipped in 2022.

This in large has characterized the minimum wage setting mechanism at national level for the last decade at least, where the minimum wage increases have not been constant and the discussions tend to get opened only when it is clear the minimum wage is ‘embarrassingly’ low by any standards.

As shown in the above graph, the minimum wage tends to stagnate for periods of time falling considerably below any standards of 50% from average or 60% from median during these periods.

This is exactly why LBAS strongly supported the Directive for minimum wage in EU, for development of a mechanism that would allow a stable and economy-based changes in minimum wage.

To account for different taxation, in the below graph we can look at a comparison between Latvia (blue), Estonia (orange) and Lithuania (grey) and the labour costs of minimum wage employees.

This shows that Latvia is considerably lagging behind its neighbouring countries in the minimum standard for employees after both wages and taxes (including social guarantees) have been paid.

1. **How do you assess the progress in fight against shadow economy and undeclared work in Latvia?**
	1. **Shadow economy in Latvia has been increasing**

Size of the shadow economy in Latvia is still high compared to other European countries. The shadow economy promotes unequal competition, distorts the market and has a negative effect on tax collection. Different assessment methods are used to determine the share of the shadow economy, and the results of the assessment may differ depending on the method used. There are two research sources, according to which the Ministry of Finance evaluates the share of the shadow economy in Latvia and its trends. For almost ten years now, Latvian researchers Dr. A. Sauka and Dr. T. Putniņš publishes research data on the shadow economy index in the Baltic States.

Based on Dr. A. Sauka’s research, in 2020 the most important component of the shadow economy in Latvia was “envelope wages”, which make up 46.9% of the total shadow economy, while the component of unreported income and unreported employees makes up 29.9% and 23.2%, respectively.

Taking into account that “envelope wages” is one of the most important components of the shadow economy, in 2020 the State Revenue Service (SRS) conducted an annual assessment of how the situation in the field of undeclared labor income or “envelope wages” in the country has changed. According to the data, the share of undeclared labor income in the commercial sector in Latvia is still high - according to the SRS estimates, in 2018 approximately 17.5% of total wage income was paid in “envelope wages”, while in 2019 - 17.3%, which means that the reduction was not significant. Additionally SRS estimates show that in 2019, the tax gap in social contributions from undeclared wages was 17.18% and, compared to 2018 (17.29%), it has decreased by 0.11 percentage points. In turn, the PIT gap in 2019 is 17.27% and, compared to 2018 (17.40%), it has decreased by 0.13 percentage points.

The above clearly shows that even though measures are being taken and Latvia government annually revises the progress of tackling shadow economy through its *Plan for Reducing the Shadow Economy*, the impact of COVID and even before the effects of COVID were felt this plan was not sufficient to really limit the envelope wages and undeclared employees as growth of shadow economy has been taking place seen since 2019.

LBAS has always maintained that in order to avoid shadow economy and undeclared work we need both incentives for the employers, as well as increased penalties for violations and capacity of control mechanisms. Incentives such as tax benefits through participation in social bargaining which has showed that companies participating social dialogue and signing collective agreements show lower rates of shadow economy.

**3.2. Impact of Covid-19 on Shadow economy**

The Latvian economy is experiencing an economic downturn due to the Covid-19 crisis. In 2020, GDP decreased by 3.6% compared to 2019. The development trends in the sectors have been uneven, including the value added of the manufacturing sectors increased by 0.4% in 2020, while the value added of the services sector decreased by 4.8%. Due to the spread of Covid-19 decrease in the number of workers and the increase in the number of unemployed can be observed in the labor market. In 2020, 78.7 thousand people aged 15 to 74 were unemployed, according to the results of the Central Statistics Bureau (CSB) labor force survey. Compared to 2019, the number of unemployed has increased by 17.4 thousand or 28.4%. Last year, the unemployment rate in Latvia was 8.1%, which is 1.8 percentage points higher than in 2019.

There is no doubt that the risk of developing a shadow economy is greatly exacerbated by the consequences of the spread of the Covid-19 virus, which affects the financial situation of certain sectors of the economy and the country as a whole. The impact of Covid-19 on economic development is contributing to rising unemployment, which in turn may encourage jobseekers to tolerate envelope wage offers or seek options completely outside of formal employment.

This has already been a somewhat noticeable problem through decline in employment which has fallen by about 30 thousand people since the start of pandemic and in October and November 2021 had fallen by about 10 thousand people compared to the same period a year ago.

**3.3. Impact of Covid-19 on labour market and inequality**

LBAS also sees the challenges posed by Covid-19 as one of the most important in highlighting the obligation under Article 7.3 of the Covid-19 Infection Management Act to suspend and dismiss employees without a vaccination or disease certificate. LBAS supports the fight against Covid-19 by introducing safety mechanisms in the workplace to reduce the spread of infection, but LBAS emphasizes the need for more proportionate methods of transmission and control that do not exclude a significant section of the labour market and could be considered discriminatory, encouraging them to seek income in the informal economy.

LBAS maintains strong objections to the adopted possibility provided for the employer to suspend an unvaccinated employee (official) without maintaining remuneration and called on the Parliament not to support the disproportionate and redundant legal regulation developed by the government allowing to dismiss workers without proof of vaccination or recovery.

LBAS supported and supports necessity to achieve public immunity through vaccination. At the same time, LBAS underlines that the right to work means not only the right to be professionally realized but also a possibility to provide means of subsistence for workers and their families. This right can be restricted only in limited cases where there are no alternative means to reach legitimate aim. LBAS considered the the requirement for mandatory vaccination of all employees in the public sector (disregarding whether they work remotely or on site) and all employees working on site in the private sector as unproportionate and emphasized that the virus transmission chain can be interrupted by other alternative instruments that are less “painful” for workers and employers and more socially friendly, such as telework, the use of nose and mouth shields, company and industry safety protocols, regular testing, isolation of patients, stricter border control.

The absence of vaccination or disease certificates is not acceptable as a reason for dismissing an employee.

The law envisages a significant deterioration of the legal position of an employee, as it entitles the employer to pay a lower severance pay (only one monthly salary) than is it is provided by the Labour law.

In addition, prior to implementing the restricting measures (mandatory vaccination of all employees in the public sector and all employees working on site in the private sector), no analysis has been made in relation to the impact on labour market, already existing lack of labour force, which for example created concerns over continuation of projects in the construction industry and, as stressed above, growing shadow economy (undeclared work).

Moreover, no special active labour market polices were foreseen for the persons dismissed due to lack of proof of vaccination or recovery to allow them to transfer to professions where remote work was possible.

Therefore, amendments should be made to the regulatory enactments to establish a more proportionate regulation so that persons without a Covid-19 vaccination or disease certificate can continue to work in person by performing Covid-19 tests or other measures.

Lastly, in order to support the employers affected by the COVID-19, the legal provisions permitted employers to delay payment of social security contributions to the tax authorities. This created a special risk for pre-pension workers, since calculation of pension is based on actual social security contributions made. To support workers the government allowed pre-pension workers to make social security contributions themselves to make sure the calculated pension amount is fare. This however resulted in workers paying double social security contributions, first, when they are checked off the remuneration by the employer, and second, when they additionally make contributions to the tax authorities. No analysis has been made regarding impact of the mentioned regulation on the social security and income of workers already affected by COVID-19 economic consequences thus growing inequality. In LBAS views, social security contributions cannot be part of employers’ support mechanism and the employer can not be allowed to delay these payments, since further social security benefits (pension, maternity, disability) of workers depend on it.

1. **Sectorial collective bargaining: what is the collective bargaining coverage and follow-up to the agreement in the construction sector? Are there any plans on other bi-partite or tri-partite agreements?**
	1. **Collective bargaining in the construction sector**

The General Agreement on the Construction Sector, which entered into force on 3 November 2019, is universally binding and applies to all employers and employees in the construction sector. According to the information provided by the State Revenue Service (SRS) on the average number of jobs in enterprises that have declared their economic activity in NACE F Construction, it can be concluded that there were 53,747 construction jobs in 2019, 52,960 in 2020 and 51,716 jobs in the first six months of 2021. At the same time, the General Agreement on the Construction Industry specifies the range of employees in the sector to whom the terms of the framework agreement apply. Among the conditions there is the list of professions (Annex 1 to the main agreement). Selecting only those professions that comply with Annex 1 of the General Agreement from the above-mentioned SRS data, it can be concluded that the General Agreement covered 37,693 jobs in 2019, 36,882 jobs in 2020 and 35,586 jobs in the first six months of 2021.

Comparing the coverage of LBNA collective agreements in 2018 (before the entry into force of the General Agreement) and in the first six months of 2021, **the coverage of collective agreements has increased 36 times from 1014 jobs to 36384 jobs.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | 2018 | 2019 | 2020 | 2021 |
| Work places in NACE F companies |  | 53 747 | 52 960 | 51 716 |
| Work places in NACE F, that comply with annex 1 of the General Agreement |  | 37 693 | 36 882 | 35 586 |
| Coverage | 1014 | 38 718 | 37 720 | 36 384 |

The new collective bargaining negotiations round has been started in the autumn of 2021. The union has proposed raising the minimum monthly wage in the industry **from 780 to 850 euros.** At the meeting of the Committee of the Parties to the General Agreement on 7 October 2021, it was decided to discuss the Trade Union offer at separate meetings [1]. The members of the Committee have met in 4 informal meetings (4 and 25 November 2021, 13 December and 12 January 2022) to discuss the main arguments for and against raising the minimum wage, such as the regional division of wages, opportunities to circumvent the terms of the General agreement, unclear rules for public procurement and the lack of a clear public funding plan for the industry which affects determination of the most appropriate time to raise the minimum wage.

* 1. **Slow development of collective agreements dynamics in private sector**

On 17 December 2019 chairman of the board and member of the board of the joint-stock company Valmiera glass (AS “Valmieras stikla šķiedra") and the Latvian Industrial Workers Trade Union signed a general agreement in the glass fibre industry (<https://www.valmiera-glass.com/data/generalvienosanas_2019/general-agreement_lv_en_17.12.2019.pdf>). The purpose of this general agreement is to promote mutual collaboration in the development of social dialogue to ensure labour rights, labour protection, labour productivity and favourable social environment for employees and enable sustainable and competitive growth of the glass fibre industry and regulation of the business environment. This general agreement is generally binding and shall be binding for all employers in the glass fibre industry. The agreement sets minimum remuneration levels for employees in the glass fibre sector: for the highest qualification level with minimum amount at least 2.5 times of the 2019 minimum wage in the country; for the medium qualification level at least 2 times and for the lowest qualification level at least 20% higher than the 2019 minimum wage in the country.

On 16 March 2020 the Latvian Communication Workers Trade Union and three employers’ organizations (the Association of Hotels and Restaurants of Latvia, the Latvian Restaurant Association and the Latvian Traders Association) signed a general agreement in the hospitality sector. The hospitality sector is currently experiencing the most difficult time in the history of the industry, which has encouraged more active efforts to find solutions. The general agreement provides for minimum pay rates in the restaurant sector which vary depending on professional occupation and geographical region of Latvia where the employer is situated. The agreement also provides for loyalty bonuses for employees depending on employment years and establishes a sectorial committee. The agreement has not entered into force yet.

It can be highlighted that wages in Latvia mostly are set by law instead of being determined by collective agreements. Some existing collective agreements set minimum remuneration rates or have indications and guidance on how to set wages and organise wage system. However, minimum wage rates are mostly set by the Regulations of the Cabinet of Ministers.

Lack of sectorial collective bargaining can be explained by the developed culture to regulate employment standards in detail through legal regulations. The main negotiations on labour related issues therefore take place within the tripartite cooperation system and result in amendments to the Labour Law and other related legislative acts.

At the same time, in LBAS views, creating more autonomy for collective bargaining by allowing to deviate from separate provisions of Labour Law is possible only if workers’ rights and interests are effectively guaranteed and workers benefit from such provisions (general protection of workers ensured). This is possible through collective bargaining exclusively with trade unions representing workers’ interests.

In addition, current legislative framework does not set sufficient facilitating environment for those employers that conclude collective agreements. Stimulating factors like reduction of tax on benefits provided by collective agreements, can be motivational and open door for more collective agreements. LBAS has sent a proposal to the Ministry of Finance initiating discussion on potential tax reduction for benefits provided by collective agreements on health, education and training and transport.

Furthermore, challenges to sectorial collective bargaining can be explained by lack of awareness and understanding of benefits of collective bargaining among employers, as well as unionisation rates of the employers’ side to reach the representativity thresholds for extended collective agreements *(erga omnes*).

Finally, previously, section 1667 of the Administrative Violations Code “Non-conclusion of a collective agreement and non-compliance with the provisions of a collective agreement” provided a fine of up to 700 euros imposed on natural persons or members of the board for non-compliance with the provisions of a collective agreement. However, the new part E of the Labour Law, that incorporates administrative liability for labour law violations, does not include this or similar provision.

LBAS regrets, that provision providing for administrative liability for violating provisions of collective agreement is absent from the new provisions. Effective sanctions in LBAS views are important to facilitate in practice respect for the outcomes of collective bargaining and efficient implementation of collective agreements.

* 1. **No interest to sign collective agreements in the public sector**

In the public sector collective bargaining on wage rates is limited by the Law on Remuneration of Officials and Employees of State and Local Government Authorities (<https://likumi.lv/ta/en/en/id/202273-law-on-remuneration-of-officials-and-employees-of-state-and-local-government-authorities>).

Meanwhile, public authorities do not show example or interest to sign collective agreements also within the framework permitted by the Law on Remuneration of Officials and Employees of State and Local Government Authorities.

 According to the information provided by LIZDA the Ministry of Education does not agree to start negotiations to sign a collective agreement in education sector.

Likewise, the Ministry of Welfare does not respond to the LVSADA proposal to renew the 2019 collective agreement in care sector. On 5 April 2019 the Minister for Welfare Ramona Petraviča signed a general agreement between the Ministry of Welfare and three trade unions - the Latvian Health and Social Care Workers Trade Union, the Latvian Trade Union of Employees of State Institutions, Self-governments and Finance Sector and the Latvian Nursing and Health Care Personnel Trade Union (please see the attachment). The general agreement regulates working time and rest time of employees, remuneration, health and safety aspects, occupational training or further professional education of employees, social guarantees for employees, supplementary paid annual leave, facilities for trade union work, as well as information and consultation between trade unions and the Ministry of Welfare. The general agreement is applicable only to state social care centres subordinated to the Ministry of Welfare and provides for the principles and minimum levels of remuneration (minimum pay rates) in line with the Remuneration Law. The general agreement provides that in determining the monthly salary of an employee, the head of the institution shall observe such criteria as the professional experience of the employee and the evaluation of work performance. The general agreement will be valid until 31 March 2022 and should be renewed.

* 1. **Public procurement**

The Free Trade Union Confederation of Latvia (LBAS) has received information that the Central Finance and Contracts Agency (CFLA) invites for the decisive tender selection criterion provided by Section 51, Paragraph seven of the Public Procurement Law (PIL) not to be included in the procurement documentation and recommends to include a criterion related to the subject matter of the contract in question.

Section 51 (7) of the PIL provides that *the contracting authority shall indicate in the procurement procedure documents* ***the decisive tender selection criterion*** *according to which it will select the tender, if, prior to taking a decision on award of the procurement contract, it would detect that* ***the score of at least two tenders is identical****. The contracting authority is entitled to set as the decisive tender selection criterion such criterion which describes the conformity of the economic operator to the social protection requirements, including that the selected tender has been submitted by the economic operator being the member of the organisation of employers of national level and has concluded a collective agreement with the trade union which is the member of the trade union of a national level (if the tender has been submitted by the partnership or association of persons, the collective agreement must be concluded with each member of the partnership and each participant of the association of persons).*

Here is a link to the PIL - <https://likumi.lv/ta/en/en/id/287760-public-procurement-law>.

LBAS wrote a letter questioning such invitation and asked to withdraw it explaining the benefits of collective agreement and connection to the public procurement.

The Agency sent a reply explaining that the specific invitation was sent to beneficiaries of European Union funds on the basis of instructions received from the European Commission's auditors on non-compliance with Article 67 (3) and Article 18 (1) of the Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (hereinafter - the Directive), therefore the essence of the Agency's invitation is to ensure compliance with the provisions of the Directive in the projects financed by the European Union funds.

LBAS cannot access the report, however the reference to the report is the following: European Commission 08.11.2021 audit report No. REGC214LV0182 (PPM “Thematic audits 2014-2020” Operational Program 2014LV16MAOP001 - Growth and Employment)).
In English 30.09.2021 Brussels, EMPL.REGIO.DAC.5/LB/ap (2021) 4912217. Subject: EPM 'Thematic audits 2014 - 2020' Operational Programme 2014LV16MAOP001 - Izaugsme un nodarbinātība. Ref.: Audit No REGC214LV0182 (to be used in all correspondence).

The Agency explained that the European Commission's audit report (European Commission 08.11.2021 audit report No. REGC214LV0182 (PPM “Thematic audits 2014-2020” Operational Program 2014LV16MAOP001 - Growth and Employment)) states that “*Membership in employers' organizations and / or trade unions is voluntary and economic operators are free to choose to participate in them or to demonstrate compliance with legal requirements by other means. The obligation to apply to a national employers' organization or trade union is contrary to the rule of equal treatment and is discriminatory, as well as restricting access for economic operators. The award criterion is not related to the subject matter of the contract, as membership of the organization or collective agreements does not affect the performance of the contract. The contracting authorities therefore infringed Article 67 (3) of the Directive. The Commission's auditors consider that this requirement is contrary to Article 18 (1) of Directive 2014/24/EU and discriminates negatively against applicants from countries where collective agreements and trade unions are not common practice*." In addition, the European Commission's auditors state that “*Although the Directive does not regulate the choice between tenders with the same number of points and leaves the decision to the contractor, these criteria cannot be justified by discriminatory criteria such as trade union membership and must be linked to subject matter of the contract*".

According to the European Commission's auditors, "*the award criterion is not linked to the subject-matter of the contract, as membership of the organization or collective agreements does not affect the performance of the contract*". The Agency concluded that the decisive tender selection criterion must be such which, if awarded, gives the contracting authority greater added value to the performance of the contract, namely, that the contracting authority will receive an appropriate and as far as possible qualitative performance, therefore reaching the main goal of public procurement - efficient use of the contracting authority’s funds by minimizing the risk of poor performance.

The Agency also drew attention to the fact that the Agency, as a liaison body, is involved in the management of the European Union funds and is bound by the assessments and recommendations of the European Commission's auditors, at the same time, the Agency is not competent to check the adequacy of the recommendations made in order to ensure a European "common position". In addition, considering that the European Commission's auditors have found the specific tender evaluation criterion to be discriminatory, eligible costs may be reduced for projects funded by EU funds, if it would be discovered that this criterion has had an impact on the outcome of the procurement and if the procurement has been carried out in the projects financed by the European Union Funds.

LBAS has raised the issue at the European level and the ETUC has sent the letter to the Commissioner Thierry Breton asking to organise a meeting to better understand the European Commission’s approach to this issue and in particular how the Commission proposes to respect collective agreements and collective bargaining rights in public procurement and concessions rules and procedures.

Please see attached:

* the reply by the letter by LBAS (07.01.2022), explaining why collective agreement can not be a discriminatory criteria and should be used as a decisive criteria (in English and Latvian);
* the reply by the CFLA (27.01.2022) with a reference to the European Commission's auditors report (in English and Latvian);
* the letter addressed by the ETUC to the Commissioner Thierry Breton.
1. **Capacity building and the ESF projects**

Regarding national social partners involvement in the preparation phase of new planning period for the EU structural funds, especially ESF+ :

• as previously, main decisions are taken behind the closed doors. Within the written procedures the social partners can provide comments and raise objections on already prepared documents, however the objections are not taken into account mostly;

• prior to the preparation phase, the social partners sent several joint letters to the Managing authority initiating meetings and discussions to express their needs for capacity building. The needs of the social partners have been shifted to National Development Plan (NDP) as it is the base for money allocation from the Structural funds;

• further the social partners initiated several meetings with the Cross-sectoral Coordination Centre responsible for organizing and coordinating the work on NDP and the thematic work group meetings.

The trade unions were involved in the NDP preparation phase, represented in Monitoring Committees and sub-committees’ meetings and represented in the ESF Committee meetings organized by the EC.

However, the approved NDP allocated to the capacity building of the national social partners only 2 miln. EUR for both national social partners organizations for the next 7 years which is significantly small amount for supporting capacity. The objections of the social partners were not taken into account.

During the ESF Committee meetings the Deputy director General Andriana Sukova several times has stressed the high importance of involving and supporting the social partners and provided strong recommendations to the Managing authorities to dedicate investments for social partners capacity building asking the Managing authorities to report the state of play in this regard. Despite that no information has been provided regarding the social partners capacity building projects in the new planning period.

It must be highlighted that Latvian national social partners are not financially supported by the government and provide their core business solely from membership fees, the ESF+ therefore is an extremely important additional financial instrument to strengthen the capacity of national social partners and social dialogue in all levels.