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EUROPEAN SOCIAL CHARTER

9th National Report on the implementation of the
European Social Charter

submitted by

THE GOVERNMENT OF LATVIA

(Articles 5 and 6 for the period
01/01/2008 – 31/12/2011)

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**MINISTRY OF WELFARE
OF THE REPUBLIC OF LATVIA**



**Ninth Report
on the implementation of the
European Social Charter
(Article 5 and Article 6)**

**Riga
October 2013**

For the period from 1 January 2009 to 31 December 2012 made by the Government of the Republic of Latvia in accordance with Article 21 of the European Social Charter, on the measures taken to give effect to the accepted provisions of the European Social Charter, the instrument of ratification of which was deposited on 31 March 2001.

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Text abbreviations

Constitution – Constitution of the Republic of Latvia;
CSB – Central Statistical Bureau;
ESF – European Social Fund;
IDAL – Investment and Development Agency of Latvia;
ILO – International Labour Organization;
LBAS – Free Trade Union Confederation of Latvia;
LDDK – Employers' Confederation of Latvia;
LIZDA - Latvian Education and Science Workers' Trade Union;
NGO – Non-governmental organisation;
NTCC – National Tripartite Cooperation Council;
NVA – State Employment Agency;
SDC – Social dialogue coordinator;
SEC – Sectorial Expert Council;
SLI – State Labour Inspectorate;
SME – Small and medium-sized company;
STCLA – Sub-council for Tripartite Cooperation in Labour Affairs;
The Register of Enterprises – Register of Enterprises of the Republic of Latvia.

ARTICLE 5: THE RIGHT TO ORGANIZE

“With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.”

1. Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

During the time period from 2009 till 2012 there has been no substantial change to the legal framework governing the right to organise in Latvia.

Article 108 of the Constitution includes special protection for trade unions determining that the State shall protect the freedom of trade unions. Thus, the freedom of association and freedom of forming trade unions at the constitutional level are recognized as one of the fundamental human rights and democratic society values. However, Article 116 of the Constitution provides the possibility to restrict the freedom of association in circumstances provided for by law in order to protect the rights of other people, the democratic structure of the State, and public safety, welfare and morals.

In addition to the Constitution the right to organise is governed also by separate provisions of the Labour Law, the Trade Union Act, the Associations and Foundations Law, the Law on Employers' Organisations and the Associations thereof, the Regulation No 849 of the Cabinet of Ministers of 8 November 2005 „The Regulation of the national scale of fees for the trade union registration, its pay arrangements and facilitations”.

Concerning the provisions of the Labour Law on 4 March 2010 the amendments to the Article 8, Paragraph 1 of the Labour Law have been made. According to those amendments the Article 8, Paragraph 1 of the Labour Law was updated determining that employees, as well as employers have the right to freely, without any direct or indirect discrimination in relation to any of the circumstances referred to in Article 7, Paragraph 2 of this Law, unite in organisations, to join them in order to defend their social, economic and occupational rights and interests, as well as use the benefits provided by such organisations.

There have not been made any amendments to the Law on Employers' Organisations and the Associations thereof. Article 2 of this Law still envisages that an employers' organisation is a public organisation established by at least five employers which represents and protects the economic, social and professional interests of its members, as well as other interests that conform to the objectives and functions of the employers' organisation. Members of an employers' organisation may be natural or legal persons who on the basis of a contract of employment employ at least one employee.

As well as, there has been no change to the provisions of the Associations and Foundations Law and the Regulation No 849 of the Cabinet of Ministers of 8 November

2005 „The Regulation of the national scale of fees for the trade union registration, its pay arrangements and facilitations” regarding the right to organise.

For its part, the last amendment to the Trade Union Act has been made on 14 June 2012. The Article 2 of the Law was supplemented with new Paragraph 4 which determines that the matters referable to keeping a register of trade unions, their formation, reorganization and liquidation, organizational structure, competence of the members` meeting, it`s convocation and conduction, decision-making and declaring invalid, the board powers and representation rights and responsibility of the board members, as well as other issues relating to the activities of trade unions are governing according to the provisions of the Associations and Foundations Law regarding associations in so far as this Act provides otherwise.

At the same time the amendments supplemented the Trade Union Act with transitional provisions prescribing that until 1 May 2013 the Cabinet of Ministers should develop and submit to the Parliament a new draft law governing the activities of trade unions. On 4 June 2013 the new draft Trade Union Law has been accepted by the Cabinet of Ministers and submitted to the Parliament for approval. The draft Law will improve and modernize the legal framework of the activities of trade unions.

As regards the right to organise of public servants, the information on the restrictions described in the previous Report on the Article 5 of the European Social Charter has not changed. In addition, concerning soldiers right to organise we would like to inform that in 2012 the Minister of Defence accepted the Rules of Procedure for the Military Service Structure specifying that before the establishment of the association or foundation within the Latvian National Armed Forces, a soldier observing a chain of command has to receive written approval of the Minister of Defence. Currently two soldiers` foundations are established within the Latvian National Armed Forces - Cadets` club of the National Defence Academy and Ādažu soldiers` club of the Land Forces.

Concerning the negative aspect of the right to organise we would like to inform that all legislation governing the right to organise shall be interpreted in such a way that everyone is free to join or not to join a trade union. Besides the new draft Trade Union Law (hereinafter for this section – draft Law) prescribes that trade union is a voluntary association of persons established to represent and defend the employees` employment, economic, social and professional rights and interests. Furthermore the draft Law clearly provides that everyone has the right freely, without any discrimination, to establish trade union and the right to join it, taking into account the statutes of the respective trade union, as well as the right not to join a trade union. Person`s membership to a trade union or person`s desire to join or not to join it cannot be the ground for limiting the rights of person.

The information on the establishment of trade union governed by the draft Trade Union Law is described in the replay to the first question on the Responses to the Comments raised by the European Committee of Social Rights in its Conclusions XIX-3 (2010) (Latvia) in relation to Article 5 (the Right to Organize).

Also the draft Law provides the amendments on the representativeness. According to the draft Law the representation of trade unions in the institutions of social dialogue shall be implemented on the bases of an agreement between trade unions and employers, their organizations or their associations. The trade union association which unites the

largest number of workers in the country represents the interests of trade unions at the national level in relations with the Cabinet of Ministers. The trade union which is a part of the association that unites the largest number of workers in the country represents the interests of trade unions at the sectorial, professional and administrative territory level in relations with state and local government institutions. If necessary, the state and local government institutions can cooperate with other trade unions or their associations.

The draft Law provides that the trade union association which unites the largest number of workers in the country nominates the representatives of trade unions for the NTCC and their sub-councils. The trade union or their association which unites the largest number of workers at the respective sector, profession or administrative territory nominates the representatives of trade unions for sectorial, professional or territorial tripartite cooperation institutions.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

In the framework of the operational program “Human resources and employment” for the ESF’s planning period from 2007 till 2013 the state has granted the ESF resources to both social partners (LBAS and LDDK) for the implementation of several projects with an aim to support and promote the right to form trade unions and collective bargaining. This was also ensured by other granted resources as well.

During the time period from 2009 till 2012 LBAS and LDDK implemented several ESF projects:

1. On 1 September 2008 LBAS has launched the ESF project “Practical implementation of the legislation of labour relations and occupational safety in sectors and undertakings” (duration of the project: from 2008 till 2013). The aim of the project is to improve the working conditions of employees and to promote observance of labour rights at every workplace, thereby reducing the number of violations in labour relations and accidents at work.

The main objectives of the project are:

- to educate workers on labour rights and safety at the workplace issues;
- to inform workers on practical application of the legislation of the labour relations and safety at work;
- to advise and assist workers and find practical solution in the event of labour dispute.

According to the project advisor’s task is to coordinate the activities of trade unions of LBAS in regions, to promote the activities of trade unions and benefits of collective agreements, as well as to cooperate with local employers, local authorities, the SLI and NVA.

In terms of this project, in order to ensure the unified register of collective agreements and general agreements, which would be available to anyone interested in a convenient and accessible form, the electronic database has been set up. The establishment of the electronic database could promote an understanding of content of the collective agreements and of the general agreements in undertakings.

2. On 1 January 2009 LBAS has launched the implementation of the ESF project “Strengthening of the administrative capacity of Free Trade Union Confederation of Latvia” (duration of the project: from 2009 till 2015). The aim of the project is to support and develop the level of regional social dialogue, contributing the enhancement of social dialogue in company and in sectorial level.

In terms of this project the strengthening of the regional structures of LBAS is planned, as well as creating a cooperation system of trade unions, carrying out a training and exchange of experiences of the head and experts of LBAS with the heads and experts of sectorial trade unions, as well as to carry out an expertise of the legislation and policy documents, to organize seminars, conferences, information and publicity activities.

As a result of the project, the social dialogue in regions will be strengthened by making and coordinating the activities of regional cooperation coordinators, issuing methodical materials, organizing seminars, as well as carrying out the activities in order to inform society in whole territory of Latvia. The main targets of the project are:

- to strengthen the capacity of regional structures, creating a network of regional coordinators;
- to strengthen the capacity and social dialogue in regions, carrying out information activities (for example, materials on implementation of European Union directives at workplace, on formation of social dialogue in regions etc.);
- to strengthen the capacity by educating employees on the need to strengthen social dialogue and it's opportunities, the importance and development of human resources, on the socio-economic actualities in regions and the role of trade unions in circumstances of regional reforms and structural restructuring, and other topics;
- to implement the information and communication activities.

3. In 2012 LBAS has launched the project with the aim to strengthen the impact of confederation at national level of tripartite dialogue (duration of the project: from 2012 till 2014). The project has four goals which have to be reached: 1) adoption of the confederation draft laws at national level; 2) conclusion of general agreements; 3) increase of the number of concluded collective agreements; 4) formation of new trade unions at undertaking level.

4. In 2007, LDDK began work on the activity “Strengthening of the Employers' Confederation of Latvia administrative capacity in regions” (the project will be carried out until 30 June 2015) in partnership with the local governments of Latvia, regional entrepreneurs' associations and strategic partners – the State Chancellery and LBAS, working on the strengthening the social dialogue at the regional level and a successful implementation of the administrative reform with the aim of increasing employment and business activity.

LDDK is currently carrying out a project “Strengthening of the Employers' Confederation of Latvia administrative capacity in regions” within the ESF planning period for 2007-2013, aimed at facilitating the development of a regional social dialogue and increasing the possibilities for social partner involvement in the formulation and policy implementation, and setting up, as the result, five regional LDDK structures, which will operate in Rīga, Liepāja, Rēzekne, Cēsis and Jēkabpils to ensure the representation the employers' interests in policy decision making at the national and EU level. LDDK is to carry out training for representatives from employees' and employers' organisations, take part in experience sharing events, provide expert opinion on laws and regulations

of various levels, organize workshops and publicity and information events in order to enhance social dialogue in the regions and enable employers' engagement in the formulation and implementation of policies.

5. In 2009 LDDK has also launched the ESF project "Practical implementation of the legislation of labour relations and occupational safety in sectors and undertakings". The project objectives:

- facilitation of practical enforcement of the legal provisions on labour relations and occupational safety;
- reducing the number of the workplace accidents and violations of labour relations;
- promoting the social responsibility of business, thus also reducing illegal employment;
- promoting higher awareness of employers, employees and society, and the understanding among labour law subjects of legal provisions on requirements in the field of labour relations, occupational safety and professional health.

The expected result: the number of detected violations of the legal provisions on labour relations and occupational safety in inspected undertakings reduced by 15 per cent comparing in 2014.

6. LDDK is carrying out a project co-financed under the Fund for Decent Work and Tripartite Dialogue "Improvement of sectorial social dialogue in Latvia" (duration of the project: from 2013 till 2014), aimed at strengthening bilateral social dialogue between sectorial associations and their trade unions, and enhancing a tripartite sectorial social dialogue in order to promote the participation of sectorial association in the NTCC and to ensure and raise awareness of decent work in Latvia.

3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

1. Complaints/applications on the right to organise.

From 2009 till 2012 SLI has not received complaints/applications on violations of the right to organise according to the Article 8 of the Labour Law. As well as the Ombudsmen of the Republic of Latvia has not received any complaints on the right to organise.

2. Information on the registered and excluded trade unions.

Statistics of the Register of Enterprises show the registered and excluded trade unions (1 January 2009 until 31 December 2012):

Table No 1**Registered and excluded trade unions**

Taxation year	2009	2010	2011	2012
Registered in the period of taxation year	4	12	8	11
Registered at the end of taxation year in total	174	186	194	205
Active at the end of taxation year	162	169	176	186
Excluded in the period of taxation year	1	5	1	1
Excluded at the end of taxation year in total	12	17	18	19

Source: The Register of Enterprises

Statistics show that on 31 December 2012 there were 205 trade unions registered, from which 186 were active and 19 were excluded from the Register of Enterprises.

At the same time the information received from LBAS shows that during the time period from 2009 till 2012 the number of established trade unions, including structural units of trade unions is:

Table No 2**Number of established trade unions**

	2009	2010	2011	2012
Trade unions	2430	2339	2266	2176
Trade unions newly created	26	25	51	40

Source: LBAS

Probably, the decrease of trade unions` membership in recent years could be connected with the fact that most companies are so small that trade unions are not formed due to the objective reasons. According to the information of CSB on the economically active statistical units by sectors and groups of size, the number of micro-enterprises (with number of nine employees and below) from 2009 till 2011 is:

Table No 3**Number of micro-enterprises**

	2009	2010	2011
Micro-enterprises	115939	123924	129394

Source: CSB

3. A trade union membership.

According to the information of LBAS this organization unites 20 different branch trade unions or professional trade union organisations.

At the same time LBAS has summarized the information of the number of employees in enterprises, where are trade unions. This information is compared with the number of members of trade unions. According to the information:

Table No 4

Number of employees in enterprises, where are trade unions

	2009	2010	2011	2012
Number of members of LBAS	117 229	110 602	100 035	100 155
Number of employees in enterprises, where there is a trade union	198 461 (trade union unites 59.1 %)	186 168 (trade union unites 59.4 %)	170 305 (trade union unites 58.7%)	160 455 (trade union unites 62.4 %)

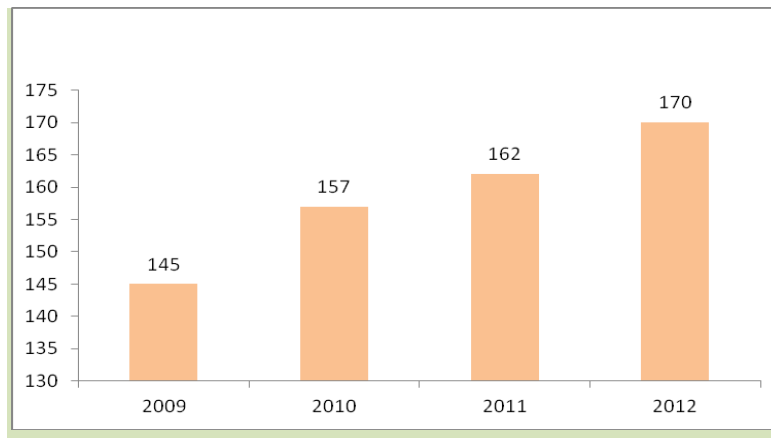
Source: LBAS

4. Membership to the Employers` organization.

According to the information received from LDDK the membership of this organization is expanding year by year, which indicates that increasingly larger numbers of entrepreneurs have corporate responsibility and get involved in dealing with the matters of importance for employers and employees, thus developing the practice of social dialogue in Latvia. Please see below the information on the number of LDDK members during the time period from 2009 till 2012.

Table No 5

Number of members of LDDK



Source: LDDK

ARTICLE 6: THE RIGHT OF WORKERS TO BARGAIN COLLECTIVELY

ARTICLE 6 PARA. 1

“With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

to promote joint consultation between workers and employers;”

1. Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

As regards promotion of joint consultations between workers and employers, on 4 March 2010 the amendments to the Article 18, Paragraph 4 of the Labour Law have been made. According to the amendments the Paragraph 4 of the Article 18 now provides, that if members of an organisation of employers or an association of organisations of employers employ more than 50 per cent of the employees in a sector, or the turnover of their goods or the amount of services is more than 60 per cent of the turnover of goods or amount of services of a sector, a general agreement entered into between the organisation of employers or association of organisations of employers and an employee trade union or an association (union) of employee trade unions shall be binding on all employers of the relevant sector and shall apply to all employees employed by such employers. With respect to the referred to employers and employees, the general agreement shall come into effect on the day of its publication in the newspaper *Latvijas Vēstnesis* [the official Gazette of the Government of Latvia] unless the agreement specifies another time for coming into effect. The general agreement shall be published in the newspaper *Latvijas Vēstnesis* on the basis of a joint application of the parties.

Besides on 16 June 2011 the amendment to the Article 11, Paragraph 1, Point 1 of the Labour Law has been made, determining that employee representatives, when performing their duties, have the rights to request and receive from the employer information regarding the current economic and social situation of the undertaking, and possible changes thereto, as well as relevant information regarding the employment in the undertaking of an employee appointed by the work placement service. The amendment has been made with the aim to transpose the legal provisions of the Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

In relation to promotion of joint consultations between workers and employers the state carries out several activities, especially, connected with the ESF projects. Concerning the ESF projects launched by LBAS please see also information provided on the 2nd point of the Article 5 in the 9th Report.

As regards the ESF projects launched by LDDK, we would like to note that as part of the projects implemented by this organization “Strengthening of the Employers` Confederation of Latvia administrative capacity in regions”, “Practical implementation of

the legislation of labour relations and occupational safety in sectors and undertakings” and “Improvement of sectorial social dialogue in Latvia”, the practice of a bilateral social dialogue is being promoted when employers agree with employees on the matters of current importance in the context of occupational safety, working environment and other issues.

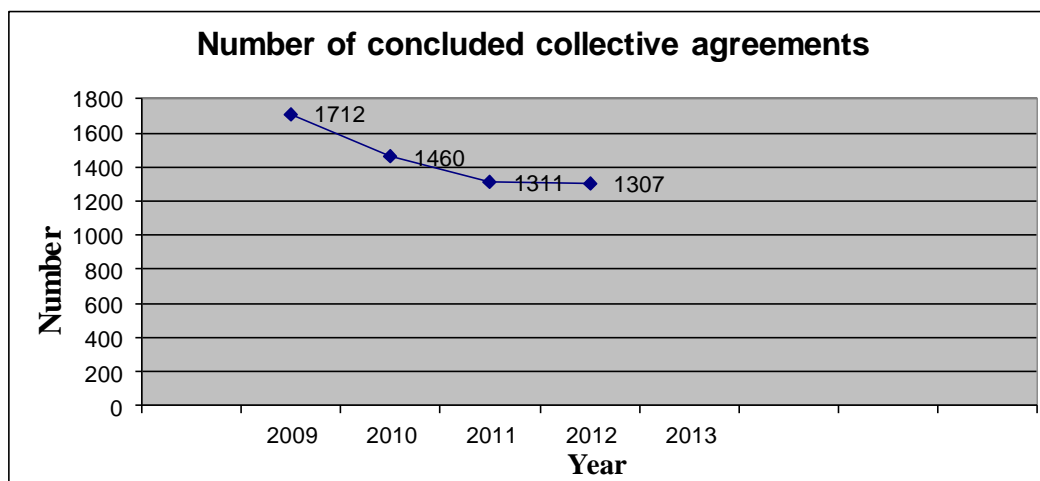
For instance, a representative from the State stock company “Rīgas starptautiskā autoosta” (*Riga International Bus Station*), which is one of the receivers of the LDDK's services, noted that the LDDK, by investing its own resources and making use of support from the ESF, carries out project activities targeting the practical implementation of legislation in enterprises, which has been a significant support for this stock company. For the descriptions of the projects launched by LDDK, please see also information provided on the 2nd point of the Article 5 in the 9th Report.

3. Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Information on the number of concluded collective agreements.

The information received from LBAS shows that during the time period from 2009 till 2012 the number of concluded collective agreements is following:

Table No 6



Source - LBAS

At the same time we would like to inform that LDDK in cooperation with the Agricultural University of Latvia, the Vidzeme University and the Business School of the Riga Technical University carried out an opinion survey among employers on collective agreements between employers and employees.

From among the companies – LDDK members interviewed, 36 per cent had concluded collective agreements. For its part, 64 per cent of the members had not concluded any collective agreement.

A more detailed interview among, for instance, companies in Vidzeme region, both large (more than 50 employees) and small (over 5 employees) revealed a much lower number of collective agreements; however, there was a clear upward trend of employment

agreements being signed to include provisions that can be considered as those of a collective agreement.

Accordingly, 5 per cent of the interviewed entrepreneurs of Vidzeme Planning Region had concluded the collective agreement and agreement on special conditions. For its part, 95 per cent of the entrepreneurs had not concluded any collective agreement or agreement on special conditions.

Entrepreneurs substantiate this approach (to apply a broader understanding of bonus elements in employment agreements instead of concluding collective agreements) by the fact that good workers are hard to come by and thus they need to be stimulated on an individual basis, and that the companies do not have organised trade unions interested in representing the employees. Consequently, the entrepreneurs themselves, in order to develop their companies, draw up employment agreements with elements of loyalty programmes.

ARTICLE 6 PARA. 2

“With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers’ organisations and workers’ organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;”

1. Please describe the general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

As regards private sector, the Article 1 of the Labour Law prescribes that employment legal relationships are regulated by the Constitution, the norms of international law which are binding to the Republic of Latvia, Labour Law and other regulatory enactments, as well as by collective agreements and working procedure regulations.

According to the Labour Law (Article 17, Paragraph 1) parties to a collective agreement shall reach agreement on the provisions regulating the content of employment legal relationships, in particular the organisation of work remuneration and labour protection, establishment and termination of employment legal relationships, raising of qualifications, work procedures, social security of employees and other issues related to employment legal relationships, and shall determine mutual rights and duties.

On 4 March 2010 the amendments to the Labour Law have been made supplementing the Paragraph 1 of the Article 22 and thereby prescribing that in order for a collective agreement entered into by an undertaking to be valid, its approval at a general meeting (conference) of employees is required, except those collective agreements which have been entered into by an employer and employee trade union which represents at least 50 per cent of employees of the undertaking.

Concerning the public sector, there have been several changes made to the legal acts. Respectively, on 31 December 2010 the Cabinet of Ministers Regulation No 995 „Regulations On the System of Remuneration and Qualification Levels of Civil Servants, Employees and Officials of Institutions of Direct Administration and Employees of the

Central Electoral Commission and the Central Land Commission, as well as Allowances and Compensation for Civil Servants” (adopted on 20 December 2005) became invalid. For its part, on 30 June 2010 the Cabinet of Ministers Regulation No 565 “Regulations on social guarantees of officials and employees of state and self-government authorities” (adopted on 21 June 2010) entered into force.

On 1 January 2010 the Cabinet of Ministers Regulation No 1651 of 22 December 2009 “Regulation on Remuneration, Qualification Levels of Officials and Employees of the State and Local Government Authorities, and Procedures for Determination Thereof” entered into force. These regulations determine remuneration, qualification levels of officials and employees of State and local government authorities, and the procedures for determination thereof.

On 1 January 2010 the Law on Remuneration of Officials and Employees of State and Local Government Authorities entered into force. Thereby the Law “On Remuneration of State and Local Government Institutions’ Officials and Employees in 2009” of 12 December 2008 became invalid. The purpose of the new Law is to attain that equal conditions are observed in the determination of remuneration for officials (employees) of State and local government authorities (Article 1). Within the meaning of this Law, monthly salary, additional payments and bonuses, social guarantees (compensation, benefits, and health insurance) and vocation form the remuneration of officials (employees) of State and local government authorities (Paragraph 1, Article 3).

A State or local government authority shall, in developing regulatory enactments and collective agreements, consult the representatives of officials (employees) regarding remuneration in accordance with the regulatory enactments regulating employment legal relations, position legal relations or course of the service. (Paragraph 2, Article 3). A State or local government authority do not disburse and intend another remuneration for an official (employee) in internal laws and regulations, binding regulations of the local government, collective agreements and labour contracts other than that which is determined in this Law (Paragraph 3, Article 3). A State or local government authority may, within the framework of the financial resources granted to it, provide remuneration for officials (employees) in internal laws and regulations, binding regulations of the local government, collective agreements and labour contracts only:

- for shortening of the duration of a working day for one hour before holidays;
- one paid holiday on the first day at school because of commencement of academic year of a child in Grade 1-4;
- no more than three paid holidays because of entering into marriage;
- one paid holiday in graduation day, when an official (employee) or his (her) child graduates educational institution;
- gratuity no more than one minimum monthly salary amount due to the significant event (achievement) of an official (employee) or a state or local government institution, taking into account a contribution of an official (employee) in respective institution attainment of objective;
- an allowance up to 50 per cent of the monthly salary once a calendar year for the official (employee) who has a dependant, disabled child under 18 years of age;
- an allowance up to 50 per cent of the monthly salary once in a calendar year, when the annual paid leave is used, taking into account the length of employment in the state or local government authority, the performance of the work results and other

criteria determined by the state or local government authority, as well as the fact that the allowance of annual leave is not moved to the next calendar year and ending the position (service, work) relations, it is not reimbursed in the case when the running annual leave is not used;

- the compensation for the period during which the official (employee) does not spend at workplace or in other place specified by the institution and which the official (employee) uses for his/her own discretion, but upon the respective request arrives in the specified place and immediately commence his/her duties (Paragraph 4 of Article 3).

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

With an aim to promote, where necessary and appropriate, mechanism for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements, the state carries out several activities, especially, connected with the ESF projects. Concerning the ESF projects launched by LBAS please see also information provided on the 2nd point of the Article 5 in the 9th Report.

3. Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in the private and public sector at national and regional or sectorial level, as appropriate.

Please see the statistics on the number of collective agreements provided on the 3rd point of the Article 6 Paragraph 1 in the 9th Report.

ARTICLE 6 PARA. 3

“With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;”

1. Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.

The Articles 25, 26 and 27 of the Labour Law provide general framework for the settlement of collective disputes.

According to these Articles the disputes regarding rights and interests which arise from the collective agreement relations or which are related to such agreement shall be settled by a conciliation commission. A conciliation commission shall be established by the parties to a collective agreement, both authorising an equal number of their representatives (Paragraph 1, Article 25). In case of a dispute, the parties of the collective agreement shall draw up a report regarding the differences in opinions and not later than within a three-day period submit it to the conciliation commission. The conciliation commission shall examine the report within a seven-day period (Paragraph

2, Article 25). The conciliation commission shall take a decision by agreement. The decision shall be binding on both parties to the collective agreement and it shall have the validity of a collective agreement (Paragraph 3, Article 25).

If a conciliation commission does not reach agreement on a dispute regarding rights, such dispute shall be settled by a court or an arbitration board (Paragraph 1, Article 26). A court shall have jurisdiction to rule on any dispute regarding rights between parties to a collective agreement in respect of the following:

- 1) claims arising from the collective agreement;
- 2) application of provisions of the collective agreement; and
- 3) validity or invalidity of provisions of the collective agreement (Paragraph 2, Article 26).

The parties to a collective agreement may agree to refer any dispute regarding rights – both a dispute that has already arisen and such as may arise between the parties to the collective agreement – for settlement to an arbitration board. An agreement to refer a dispute for settlement to an arbitration board shall be entered into in writing. Such agreement may be incorporated into the collective agreement as a separate provision (arbitration clause) (Paragraph 3, Article 26).

If a conciliation commission does not reach agreement on a dispute regarding interests, such dispute shall be settled in accordance with the procedures prescribed by the collective agreement (Article 27).

For its part, the Labour Dispute Law provides full regulation on this subject. The purpose of this Law is to ensure the fair and rapid settlement of labour disputes, determine labour dispute settlement bodies and the procedures for settlement of labour disputes (Article 1).

A labour dispute is any differences in opinions arising from employment legal relations or related to employment legal relations between an employee, employees (a group of employees) or representatives of employees and an employer, employers (a group of employers), an organisation of employers or an association of such organisations, or the administrative authority of the sector (Paragraph 1, Article 2 of the Labour Dispute Law). Depending on the object of a dispute and persons involved, labour disputes shall be divided into individual disputes regarding rights, collective disputes regarding rights and collective disputes regarding interests (Paragraph 2, Article 2). In settling individual and collective disputes regarding rights, the Labour Law and the Civil Procedure Law shall be applied unless otherwise prescribed by this Law (Paragraph 2, Article 3). In settling collective disputes regarding interests, the Labour Law and the Strike Law shall be applied unless provided otherwise by this Law (Paragraph 3, Article 3).

According to the Labour Dispute Law individual disputes regarding rights in an undertaking shall be settled as far as possible in negotiations between an employee and an employer (Paragraph 1, Article 5). The employer and the representatives of employees may agree regarding the establishment of a labour dispute commission in the undertaking for the settlement of individual disputes regarding rights in relation to which an agreement between the employee and the employer has not been reached in negotiations. The employer and the representatives of employees may also agree regarding other procedures according to which individual disputes regarding rights are settled in the undertaking (Paragraph 2, Article 5).

Any party to an individual dispute regarding rights has the right to apply to the court if the individual dispute regarding rights has not been settled in negotiations between an employee and an employer or any of the parties is not satisfied with the decision of the labour dispute commission (Paragraph 2, Article 7). The following individual disputes

regarding rights shall be settled directly in court not applying to the labour dispute commission:

- 1) regarding the declaration of employer's notice of termination invalid, as well as reinstatement of the employee to the previous employment;
- 2) following an application from the employer if the employee trade union does not agree to the notice of termination of the employment contract concluded with a member of the employee trade union;
- 3) regarding the recovery of work remuneration not paid in a timely manner;
- 4) regarding violation of the prohibition of differential treatment;
- 5) following an application from an employee or employer if the undertaking does not have a labour dispute commission; and
- 6) upon an application of an employee or employer if a third person requests to terminate the employment contract (Paragraph 3, Article 7).

An individual dispute regarding rights shall not be settled in an arbitration court (Paragraph 4, Article 7).

If there is a basis for a collective dispute regarding rights, the party to the collective dispute regarding rights shall submit a submission in writing to the other party in which its requirements shall be specified (Paragraph 1, Article 10). Collective disputes regarding rights shall be settled in a conciliation commission. Parties to the collective dispute regarding rights shall establish a conciliation commission not later than within a time period of three days following the time period referred to in Article 10, Paragraph two of this Law by authorising an equal number of representatives (Paragraph 1, Article 11). Any party of the collective dispute regarding rights has the right to apply to the court within a time period of a month if the collective dispute regarding rights is not settled in the conciliation commission. Any party of the collective dispute regarding rights has the right to apply to the court if a conciliation commission is not established or the settlement of the collective dispute regarding rights is not commenced in a conciliation commission within a time period of a month from the day of submission of the submission referred to in Article 10, Paragraph 1 of this Law (Paragraph 1, Article 12). If parties agree in writing, a collective dispute regarding rights may be transferred to an arbitration court for settlement (Paragraph 2, Article 12).

If there is a basis for a collective dispute regarding interests, the party of the collective dispute regarding interests shall submit a submission in writing to the other party in which requirements thereof shall be specified (Paragraph 1, Article 14). Collective disputes regarding interests shall be settled in a conciliation commission (Paragraph 1, Article 15). If a conciliation commission does not reach agreement, the collective dispute regarding interests shall be settled in accordance with the procedures prescribed by the collective labour contract. If such procedures have not been prescribed, a collective dispute regarding interests shall be settled by a conciliation method or in the arbitration court (Paragraph 4, Article 15). If a collective dispute regarding interests is not settled in a conciliation commission and parties thereto do not agree on settlement of the collective dispute regarding interests by a conciliation method, parties have the right to protect their interests by a collective action. Parties to a collective dispute regarding interests have also such rights when they do not agree on transferring the collective dispute regarding interests for settlement to an arbitration court in accordance with Article 20 of this Law. Rights to a collective action shall also arise if within a time period of 10 days from the day of submission of the submission referred to in Article 14, Paragraph 1 of this Law a conciliation commission is not established or settlement of the

collective dispute regarding interests is not commenced in an arbitration court, in a conciliation commission or utilising a conciliation method (Paragraph 5, Article 15).

Within the meaning of this Law, mediation is a settlement of a collective dispute regarding interests by inviting a third person as an independent and impartial mediator who shall help the parties to the collective dispute regarding interests to settle differences of opinions and to reach agreement (Paragraph 1, Article 16). Settlement of a collective dispute regarding interests by a mediation method shall be commenced following a mutual agreement of parties to the collective dispute regarding interests. (Paragraph 2, Article 16). During the time period when a collective dispute regarding interests is settled utilising a mediation method the parties to the collective dispute regarding interests must refrain from exercising the right to a collective action (including a strike and lockout) (Paragraph 3, Article 16).

The settlement of a collective dispute regarding interests is a method for dispute settlement which provides for that the third neutral party has been authorised to take a decision and to settle a collective dispute regarding interests by trying to achieve a fair solution and balancing the economic interests of employees or representatives of employees and employers and interests related thereto (Paragraph 1, Article 20).

If for the settlement of a collective dispute regarding interests the representatives of employees or the employees (a group of employees) use a strike as a final means for the settlement of the dispute, the employer, employers (a group of employers) or an organisation of employers, or an association of such organisations have the right to a response action for the protection of their economic interests – to a lockout (Paragraph 1, Article 21).

From the time period of 2009 till 2012 no changes have been made to the articles of the Labour Law and the Labour Dispute Law regarding conciliation and arbitration procedures. At the same time we would like to inform that on 17 January 2013 the Parliament approved the new draft Mediation Law at first reading. The provisions of the draft Law will also govern the mediation process solving the labour disputes.

As regards the Strike Law, it prescribes:

- 1) the rights and duties of the parties to a collective interest dispute during the strike procedures;
- 2) restrictions on the right to strike;
- 3) the grounds for recognising a strike or declaration of a strike illegal;
- 4) the procedures for the supervision of strike procedures; and
- 5) liability for violation of this Law.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No change.

3. Please provide pertinent figures, statistics or factual information, in particular: information on the nature and duration of Parliament, Government or court interventions in collective bargaining and conflict resolution by means of, inter alia, compulsory arbitration.

In order to promote voluntary dispute resolution, SLI has taken measures to improve knowledge of employers and employees about peaceful settlement of labour disputes and has also facilitated the negotiation procedure of the involved parties. Trade unions have been actively involved in the social dialogue. Participants of the social dialogue had been oriented to listen to the partner of the negotiations, to understand diverse interests and to explain their interests to each other. As far as possible, negotiations between parties have been directed towards the reasonable solution that could meet the highest level of interests of both parties, fairly resolving arising conflicts.

SLI arranged 10 social dialogues in 2009, trade unions' representatives of the particular company as a third party took part in 7 of them. Social dialogue was oriented to consideration of actual social and economic employment issues arising from the conflict situation, for example, work remuneration, working hours, holidays etc. In spite of fundamental diverse interests between the involved parties in 8 cases negotiation process was successful, both parties maintained mutual business relations and came to common solution of the problem; social dialogue was not continued in 1 case and in another case the parties held their own views deciding to resolve it in the court.

SLI arranged 19 social dialogues in 2010, trade unions' representatives of the particular company as a third party took part in 4 of them. Adopted decisions of social dialogue were fulfilled in 18 cases, in 1 case – they were fulfilled partially. SLI has called the parties to resolve the complicated and difficulty resolving conflict situation at the company within the social dialogue. The social dialogue was oriented to review actual social and economic employment issues arising from the conflict situation, for example, ensuring the work, leave, redundancy from work etc.

SLI arranged 26 social dialogues in 2011. Trade unions' representatives of the particular company as a third party took part in 9 of them. Adopted decisions of social dialogue were fulfilled in 21 cases, in 4 cases – they were fulfilled partially, but in 1 case – they were not fulfilled. Issues related to the work remuneration, aggregated working time, redundancy from work, supplementary leave etc.

SLI arranged 19 social dialogues in 2012, trade unions' representatives of the particular company as a third party took part in 6 of them. Adopted decisions of social dialogue were fulfilled in 17 cases, in 2 cases – they were fulfilled partially. In 2012, social dialogues were related to employees' essential, actual social and economic issues arising from the conflict situation, for example, work remuneration calculation and/or not payment, under-recording of working time etc.

ARTICLE 6 PARA. 4

“With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake and recognise:

the right of workers and employers to collective action in case of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.”

1. Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by

courts and other judicial bodies, if possible. Please also indicate any restrictions on the right to strike. Please specify the nature of, reasons for and extent of any reforms.

No changes have been made to the Strike law during the time period from 2009 till 2012.

2. Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.

No change.

3. Please provide pertinent figures, statistics or any other relevant information, in particular: statistics on strikes and lockouts as well as information on the nature and duration of Parliament, Government or court interventions prohibiting or terminating strikes and what is the basis and reasons for such restrictions.

According to the information received from SLI during the collective negotiations between the employer and the employee no strikes were declared to SLI in 2009, 2010 and in 2012.

On 1 August 2012 one declaration of strike in the metal working field has been submitted to SLI. The reasons of the strike were regular and continuous delay in paying of salaries. Altogether 40 employees took part in the strike. During the strike a settlement was reached between the both parties and the strike was interrupted.

Responses to Queries raised by the European Committee of Social Rights in its Conclusions XIX-3 (2010) (Latvia)

Article 5 – The right to organize

Forming trade unions and employer associations

Query: In its last conclusions (Conclusions XVII-2; XVIII-2 and XIX-3) the Committee indicates on non-conformity with Article 5 on the ground that the high number of members required to form a trade union constitutes an unreasonable obstacle to the right to organise.

Response: Latvia has always interpreted the registration terms of trade union included in Article 3 Paragraph 2 of the Trade Union Act in such a way that sufficiently effective rights to form a trade union are ensured. Moreover the registration terms of trade union included in the above mentioned legal provision (not fewer than 50 members or not less than one fourth of the people employed in an undertaking are required for registration of a trade union) do not have cumulative character, therefore employers of the companies which employ less than 50 persons have the right to establish a trade union, providing that one fourth of the employees join the trade union. In such case the requirement on the necessary 50 persons in order to establish a trade union is not applied.

Taking into account the opinion of the European Committee of Social Rights, the new draft Trade Union Law has been accepted by the Cabinet of Ministers on 4 June 2013 and submitted to the Parliament for approval. The draft Law contains specific regulation on the establishment of trade union and prescribes explicitly that the number of trade union founders in the undertaking shall not be less than 15 or less than one-quarter of employees working in the undertaking, but not less than 5 employees. The number of founders of the trade union which is established outside the undertaking shall not be less than 50. The trade union association can be founded if at least three trade unions associate together, and they have been registered at the procedure prescribed by Law. It means that minimum number of trade union founders will be 5 persons. Thereby the amendments will not only prevent any uncertainties establishing trade union, but also, according to our understanding, will ensure conformity with requirements of the Social Charter, also supporting the establishment of enterprise organizations in small enterprises. Freedom to join or not to join a trade union

Query: In its last conclusion (Conclusions XIX-3 (2010) (Latvia)), the Committee asked for further information on remedies and the nature and scale of the penalties to which employers are liable for the discrimination based trade union membership or intention to join a union. It asks for further information on the amounts that can be awarded by domestic courts in case of discrimination based on trade union membership.

Response: At the moment in the case-law in Latvia there does not exist any submitted cases of discrimination based on union membership, thereby we cannot indicate the particular amounts that can be awarded by the courts in the mentioned cases. However we would like to stress that Paragraph 2 of the Article 1635 of the Civil Law prescribes that the amount of compensation for non-pecuniary damage shall be determined by a

court at its own discretion, taking into account the seriousness and the consequences of the non-pecuniary damage.

Personal scope

In spite of the Article 2 of the Trade Union Act, which provides that only Latvian residents who work or study have the right to form trade unions, trade unions unite not workers of the enterprise (or industry) only but also those workers who used to work there, including pensioners. That is provided by the statutes of trade unions. For instance, the Statute of LIZDA provides that LIZDA unites workers, students who work in the industry of education and science as well as pensioners and self-employed, who worked in the industry of education and science; Independent Police Trade Unions members can, for example, be Latvian internal affairs system workers and the workers in the service, and, if so decided by the Board of the Trade Union, ex-workers of the internal affairs system and ex-workers in the service, as well as the other workers of the State and local government authorities and institutions` administration; the Statute of the Latvian Trade Unions of Pharmaceuticals states that for the union member can become any of pharmaceutical company worker, pharmacy student or not working pensioner, who has an interest in the Trade Union's successful activity and who recognizes the Statute of the Trade Union.

In addition we would like to remind that the right to organise of retired persons and unemployed persons is ensured in accordance with the Associations and Foundations Law. In correspondence with the Article 2 of the Associations and Foundations Law an association is a voluntary union of persons founded to achieve the goal specified in the articles of association, which shall not have a profit-making nature. Natural persons and legal persons may be founders of an association, as well as partnerships with legal capacity. The number of founders may not be less than two (Article 23 of the Associations and Foundations Law).

Moreover, according to the Article 102 of the Constitution everyone has the right to form and join associations, political parties and other public organisations. On 14 September 2005 in its judgement the Constitutional Court has indicated that the Constitution, by its nature cannot predict lower amount of the protection of fundamental rights than it is provided in any law of international human rights.

Additionally we would like to inform that the draft Trade Union Law will prescribe that everyone has the right freely, without any discrimination, to form trade union and to join it, taking into account the trade union statutes.

Query: The Committee therefore asks whether the associations of unemployed and retired workers which exist in Latvia are entitled to participate in consultation procedures which are concerned with public policies of legislative developments which can affect their situation.

Response: At the moment there are no organizations of unemployed workers in Latvia. As regards associations of retired workers, we would like to inform that Senior Affairs Council was established by order No.3 of the Ministry of Welfare on 27 May 2013. Minister of Welfare is the head of the Council. Aim of the Council is to ensure effective cooperation between NGO and government institutions in identification of pensioners'

problems, its evaluation and elaboration of possible solutions. Representatives of the following organizations are in the Council: Latvian Pensioners' Federation, Latvian Alliance of Seniors, Active Seniors Alliance of Riga, Ministry of Welfare, Ministry of Health, Cross-Sectoral Coordination Centre and the State Social Insurance Agency. Meetings of the Council are held once a month.

Social partners, such as LBAS and LDDK, are participating in elaboration of policy planning documents as well as in drafting of normative acts.

All projects regarding pensions and benefits are obligatory coordinated with social partners. Furthermore prior proclamation at the meeting of the State Secretaries all drafts of policy documents and normative acts are published at the home page of the Ministry of Welfare and everyone has the opportunity to express his/her views on the draft.

Besides that on 25 August 2009 the Cabinet of Ministers passed by regulation No 970 „Participation procedure of society in development planning process”. According to the Paragraph 3 of the regulation participation of society shall be implemented by formal society groups (for example, by associations, foundations, trade unions, employer organizations, religious organizations) and by informal society groups (by unregistered initiative groups, special-interest associations), as well as by individual natural persons. The participation of society is possible in the decision-making process in order prescribed by the institution making the decision. The representatives of society can participate in the inter-institutional working groups and advisory boards, they can participate in public debate, as well as engage in public consultation, discussion groups, forums and other participation activities. They can provide a written opinion on the development of the planning document and legislative developments, prepare the opinion before a decision is made, provide objections and proposals on the draft document and participate in policy implementation according to the Public Administration Law (Paragraph 6.4; Paragraph 7 of the Regulation).

In Latvia there are several involvement mechanisms of the NGOs in state administration as:

- Working groups;
- Advisory boards;
- Civic consultations – the meeting in which the representatives of society participate and provide their objections and proposals;
- Public consultations – with an external legal act or institution prescribed period of time in which the representatives of society provide their objections and proposals or participate in the other activities of society involvement organized by institution (for example, in public discussions or in public opinion polls);
- Empowerment and delegation (the opportunity for authority to delegate the implementation of separate objective of the state administration to private person or to other public person);
- Annotation of legal acts;
- Reconciliation of draft legislation;
- Memorandum of the cooperation of NGOs and The Cabinet of Ministers and Memorandum Implementation Council;
- NTCC;
- Application of legislation governing the consultation procedure.

The Standing Orders of the Cabinet of Ministers prescribe that every draft legislation submitted in the Cabinet of Ministers needs a possible initial impact assessment report of the planned legal framework, which consists of separate thematic sections (hereinafter - annotation). Drafting annotation the author must disclose the information on the participation of society in development of the project and the results of this participation.

On 15 June 2005 the Memorandum of the Cooperation has been signed between the Cabinet of Ministers and NGOs. The aim of this Memorandum is to promote operation of the effective and appropriate (for interests of society) state administration ensuring the participation of civil society in the decision-making at all levels and stages of state administration, thereby promoting the development of essential elements of a democratic state - civil society. The aim of the Memorandum Implementation Council is "to facilitate consummation of the aims of the Memorandum and implementation of its principles in state administration". The main function of this Council is to promote the cooperation of state administration authorities and NGOs in the process of implementation of the Memorandum.

In addition, we would like to inform that NGOs are better involved in policy development by forming the public opinion and by public discussion of their opinion about the political activities that have been undertaken, by participating in the assessment of various draft programmes and legal acts prior to their final approval by the government as well as in the capacity of co-operation partners (advisors) at the stage of formulating political activities. By emphasizing importance of the involvement of social partners in decision-making, the Cabinet of Ministers has stipulated that their participation in drafting legal acts is a mandatory requirement in formulating draft laws and other legal acts.

Moreover, the involvement of society is a significant part in the parliamentary work of a democratic country. Individuals and organisations have an opportunity to participate in the work of the Parliament and in the legislative process.

According to the Article 104 of the Constitution, everyone has the right to address submissions to state or local government institutions and to receive a reply on the essence of the question. The procedure for receiving and reviewing submissions is set forth in the Law on Submissions.

In order to receive a reply, the submitter should indicate his/her first name, surname and address to which the reply should be sent. The submission should be signed. The submitter may provide any other information that could be helpful in contacting him/her.

The Parliament provides a reply on the essence of the question within a month from the day the submission is received. If the content of the submission does not require an answer, the Parliament informs the submitter within seven weekdays that the submission has been received.

If the submission is intended for another institution, the Parliament forwards the submission to the relevant institution and within seven weekdays informs the submitter thereof.

Submissions are a significant source of information which is used by committees and parliamentary groups. Therefore, the Public Relations Department of the Parliament gathers information, prepares an overview of submissions received from individuals, and submits it to the Mandate, Ethics and Submissions Committee of the Parliament, which is composed of one member from each parliamentary group.

On 30 March 2006, the Parliament adopted a declaration which sets forth the principles for cooperation between the Parliament and NGOs, as well as tasks to be implemented for improving this cooperation.

Apart from the daily cooperation between the Parliament and NGOs in legislation procedure, it has now become a tradition to hold a forum of the Parliament and NGOs in order to assess the results of existing cooperation and to set the programme for further cooperation. When considering issues, committees invite NGOs' representatives and sector specialists as experts.

By evaluating legislative initiatives and submitting proposals, NGOs influence the decisions made by the Parliament.

Article 6 - The right to bargain collectively

Joint consultation

Matters for joint consultation

Query: The Committee understands that joint consultation between employers and employees or the organisations that represent them may take place on all matters of mutual interest, particularly productivity, efficiency, industrial health, safety and welfare, working conditions, etc. It wishes the next report to provide information showing that all these matters are indeed covered by the consultations.

Response: As regards joint consultations between employees and employers or their organisations, we would like to remind that in Latvia consultations take place, for example, within the NTCC and their eight sub-councils. In 2010 the new sub-council has been established – the Public Safety Sub-council, which ensures and promotes participation and cooperation between the state, the local government, the employers' organisations and their associations and the employees' trade unions in ensuring public safety and order.

The tripartite social dialogue plays an important role in policy decision making, the adoption and implementation, in particular, in the matters on labor market, labor legislation and social security. NTCC and its sub-councils examine the various social issues, in order to agree on the most appropriate decision for all parties involved.

NTCC examines the matters on social security, state budget guidelines, Strategy of the State Economic Development, regional development, health promotion, development of the general education and vocational education, employment, job classifier.

NTCC's 8 sub-councils examine issues within the scope provided for them. Four sub-councils have been established on the following issues: social insurance, professional education and employment, health care. In 2006 three sub-councils of the NTCC have been established on the issues such as environmental protection, regional development and transport, communications and information technologies. For its part, in 2010 the new sub-council has been established on the issue as the public safety and order.

As regards the STCLA, it is created to ensure and facilitate a social dialogue - a participation and cooperation of the state, the employers' organizations and their unions and employees' trade unions - in the issues of labour protection, regulation of legal labour relationships and ensuring equal opportunities in legal labour relationships.

STCLA is a part of the institutional system of the NTCC in which the government, LDDK and LBAS are represented.

On 8 March 2000, the statute of STCLA was approved. STCLA ensures and facilitates the cooperation and participation of the state, the employers' organizations and their unions in improvement of the fields of labour protection, legal labour relationships and equal opportunities in legal labour relationships.

Functions of STCLA are following:

- Review the proposals of conceptions, programs and legislative documents, the basic setup of the state budget proposal in the issues of labour protection, of regulations of the legal labour relationships and of equal opportunities in the legal labour relationships, elaborate its own proposals, and provide opinion before their revision in the committee of the Cabinet of Ministers and NTCC;
- Participate in the improvement of the legislation on labour protection, legal labour relationships and equal opportunities in legal labour relationships in accordance with the requirements and suggestions of the conventions of the ILO and with other international obligations of the Republic of Latvia;
- Participate in elaboration the proposals for ratification and denouncing the conventions of the ILO, review the proposals of the government reports about the fulfilment of the international obligations in the areas of labour protection, legal labour relationships and equal opportunities in legal labour relationships and provide opinion about these reports;
- Perform information and education work with the employers' organizations and their unions and with the employees' trade unions, and facilitate cooperation on the field and regional level;
- Review the overviews of the SLI about the situation in the areas of labour protection, legal labour relationships and equal opportunities in legal labour relationships.

Concerning the bilateral consultations between employees and employers we would like to note that these consultations take place on many various issues. According to the Paragraph 1 of the Article 17 of the Labour Law parties to a collective agreement shall reach agreement on the provisions regulating the content of employment legal relationships, in particular the organisation of work remuneration and labour protection, establishment and termination of employment legal relationships, raising of qualifications, work procedures, social security of employees and other issues related to employment legal relationships, and shall determine mutual rights and duties. Please see below the information received from LBAS on examples about the issues included in collective agreements.

Provisions incorporated in collective agreements:

Year	2009	2010	2011	2012
Number of collective agreements, which determine that employees receive additional leave (e.g., in the case of the birth of a child, in the case of the death of a near relation, etc.)	1268	1262	1168	1055
Number of collective agreements, which determine higher and different supplements than provided in the Labour Law	128	89	65	62
Number of collective agreements, which determine bonuses, another kind of the remuneration in connection with work (for example, paid telephone bills, transport, lunch, medical service, health insurance, supplementary pension)	220	127	114	123
Number of collective agreements, which determine that employees have aggregated working time	136	117	108	130
Number of collective agreements, which determine that education shall be paid for employees (the courses selected by employees, studies in the higher educational institution)	101	65	46	43
Number of collective agreements, which provide the conditions for reconciliation of work and family life (e-work or telework forms, flexible working time, extra leave days for parents who have children under the age of 16, etc.)	99	90	63	44
Number of collective agreements, which emphasize observance of the principle of gender equality and equal opportunities	221	189	175	120
Number of collective agreements, which contain special measures for elderly employees	n/a	37	24	46
Number of employees to whom the employer disburses the consumed working hours for performance of the duties connected with trade union work	546	506	425	441

Source - LBAS

Negotiation procedures

Legislative framework

Query: The Committee refers to its previous conclusions (Conclusions XVII-1 and XVIII-1) for a description of the rules governing collective bargaining in the private and in the public sector and recalls that it previously deferred its conclusions pending receipt of

information on measures taken by the Government to promote collective negotiations and clarifications on the rules governing collective negotiations in the public service.

Response: In Latvia collective negotiations in the public service are promoted, for example, through the NTCC which coordinates and organizes the tripartite social dialogue between employers` organizations, state institutions and trade unions with the aim to reconcile the interests of these organizations in social and economic matters, thereby ensuring social stability in the country. Many labour issues related to the public service are being examined in this Council, as well as the draft legislation if there is a need for that. Besides the declared strikes in sector can be examined in the NTCC to reconcile interests of all parts and to agree on conditions acceptable for all, thereby obtaining that the declared strike will not be organized.

At the same time in 2010 the Informative Report "On Proposals for Solutions to the Application of Legal Provisions Included in Collective Agreements in current economic conditions" was elaborated to identify problems and possible solutions to collective bargaining in the public administration and to improve legal regulations *inter alia* legal provisions included in the Law On Remuneration of Officials and Employees of State and Local Government Authorities. Objective of the aforementioned report was to develop proposals for amendments in the mentioned Law on Remuneration of Officials and Employees.

Amendments of 14 October 2010 to the Law on Remuneration of Officials and Employees of State and Local Government Authorities have been elaborated with purpose to promote the collective bargaining in the public administration. These amendments envisaged that the state or the local government institution may, within the framework of the financial resources granted to it, provide the additional fee related activities by collective agreements (characterized in the 1st Point of the Article 6 Paragraph 2 in the 9th Report).

Conclusion of collective agreements

Query: The Committee notes that on 4 July 2006 the Cabinet of Ministers of the Republic of Latvia adopted the National Development Plan for 2007-2013, which, *inter alia* acknowledges the fundamental role of social dialogue and encourages social partners to bargain collectively to implement the Plan. The Committee asks the next report to include information on the role effectively played by social partners in the implementation of the Plan.

Response: To indicate information on the role played by social partners in the implementation of the National Development Plan 2007-2013, we would like to remind that according to the Plan social partners are an important part of civil society and the driving force. Active position and jointly responsible participation in the problem-solving, the maintenance of social dialogue and the participation in local activities are only some aspects that characterize specific role of these partners in the implementation of the mentioned Plan and in the wider involvement of the society.

In Latvia the status of social dialogue at national level is prescribed by the Statute of the NTCC and the Trilateral agreement on socially economic partnership concluded between the Cabinet of Ministers, LBAS and LDDK on 1 October 2004. The aim of this

agreement is to promote the sustainable development of economics of Latvia as economically powerful member of the European Union, also to promote the creation of favourable social conditions by strengthening democratic civil society in Latvia and the creation of the state fair, open and successful administration, taking into account human rights, labour rights and environmental protection principles. In this agreement the parties expressed their commitment to strengthen and develop the tripartite consultation mechanism and the NTCC.

Besides, in order to reach objectives of the National Development plan within the framework of social dialogue, on 1 August 2011 LDDK and LBAS concluded the agreement on cooperation with the aim to continue and widen the former successful cooperation for the creation of favourable socio-economic environment and for ensuring social peace.

Concerning the implementation of The National Development Plan we would like to note that the Plan prescribes several tasks to the state authorities which are implemented in cooperation with national social partners – LBAS and LDDK. For example, the social partners had an important role in the implementation of several fields with the different tasks:

1) in the framework of training of workforce according to the demands of labour market we can mention the implemented project of the State Education Development Agency where LBAS is involved as cooperation partner.

With an aim to promote the improvement of quality and efficiency of vocational education according to the developmental needs of economic sectors, in 2010 the implementation of the ESF project “Development of the sectorial qualification system and improvement of the efficiency and quality of vocational education” has been launched. The State Education Development Agency as a receiver of funding of the project in cooperation with LDDK, LBAS, the National Center for Education and the Education Quality State Service has established 12 expert councils in which the representatives of sectors and business, employers` and employees` organizations in the dialogue with workers of the state institutions discuss the developmental visions in the context of the vocational education and the most important manageable tasks for the fortification of the business environment involvement and of the cooperation with the educational sector.

In 2012 the sector research for the needs of the vocational education has been completed. As a result the sector descriptions and sectorial, professional qualifications` structures are established. According to the sectorial, professional qualifications` structures the occupational standards are started to develop, as well as the improvement of the basic professions and the development of the basic requirements of professional qualifications for related professions and specializations are launched. The restructuring of the content of the vocational education is going on in cooperation with employers and trade unions according to the European Qualifications Framework and using flexible modular training programs.

2) with an aim to educate workers on the labour legal and occupational health and safety issues at the workplace, on the practical application of the legislation thereof, LBAS implements the ESF Project “Practical implementation of the legislation of labour

relations and occupational safety in sectors and undertakings” (duration of the project: from 2008 till 2013). In the framework of the project anyone can receive consultation on the labour legal relations and occupational health and safety in the consultation centers of LBAS in Riga, Liepaja, Jelgava, Daugavpils and Valmiera. The informative materials have been published regularly, as well as the conferences, debates and competitions on labour relations and occupational health and safety have been organized.

For its part, LDDK as part of the project “Strengthening of the Employers` Confederation of Latvia administrative capacity in regions”, in particular, the activity entitled “Establishing the Employers` Confederation of Latvia regional structures in five planning regions and providing employers with information on bilateral and tripartite dialogue, which will ensure the representation of employers' interests in decision-making at the regional, national and European Union level”, has set up and developed operations in five regional LDDK centres (in Rīga, Cēsis, Rēzekne, Liepāja, Jēkabpils). The centres provide information on social dialogue.

The nature of social dialogue, however, is promoted on a much broader bases, not only through the centres. SDCs, in cooperation with LDDK experts (who deal with regional development, employment, as well as education issues) take an active part in discussions on, and updating and improvement of regional development programmes, and also in the drawing up of development programmes and territorial plans of each local government and producing their implementation plans.

The SDCs have enabled the situation that many municipalities are setting up business advisory councils the aim of which is to promote cooperation of local authorities with businesses and/or business organisations (employer organisations), and with the NGOs` sector and employees' representatives. AS a result of the SDCs` efforts, a large number of municipalities have established a new staff unit – that of a coordinator of entrepreneurial activity, whose task is to assist business associations in preparing and spreading information on matters of interest for entrepreneurs. Through cooperation between the LDDK SDCs and business activity coordinators at municipalities, entrepreneurs and business/employer organisations (hereinafter - EO) are involved in the drafting of a number of national and regional level documents and debating of topical issues.

One example is the development of cooperation with the NVA and upgrading employment programmes administered by the NVA to meet regional demands and business sectors. The activities engaged businesses which had used the NVA programmes and had recommendations regarding a more successful integration of the unemployed into the labour market. LDDK experts on regional development and employment matters and on education matters initiated regional scale debate between employers, the NGOs sector, local authorities and trade unions on measures for improving the employment situation, which in 2012 resulted in several rational changes to the implementation of the NVA programmes. This enhanced the employers' activity and also increased the involvement of unemployed persons in measures facilitating their re-entering the labour market.

Another activity, which still is ongoing and has brought about a fundamental turn in the field of the vocational education, is the establishment of SEC based on an LDDK initiative towards making considerable improvements in the vocational training, so that the graduates of the vocational/professional school system would have received training responding as much as possible to employers' demands. Twelve SECs have been

established and their members are both the entrepreneurs and representatives from business organisations, i.e. sectorial associations, taking a very active part in the development and upgrading of education programmes at vocational schools, as well as in the work of examination commissions. For the past two years the SECs have been recognised as an innovative solutions towards improving the national system of education. The results of the SEC`s work are also taken as a basis for the new ESF planning period in order to plan for and make as rational as possible investments into vocational education.

In addition, it should also be noted that the LDDK SDCs are active in the drafting of concepts for business incubators and special economic zones, which is one of the objectives under the National Development Plan to improve business environment in the country.

LDDK is actively contributing recommendations for addressing the issues related to SMEs – for instance, the development and introduction of the micro-enterprise tax, as well as analysis of how the introduction of the micro-enterprise tax has benefitted the SME sector during the crisis, namely, a possibility for the self-employment sector to expand, which enabled a number of enterprising residents of Latvia to find self-employment in this country instead of emigrating for searching jobs abroad. This also reduced shadow economy by partly decreasing under-the-table wages.

LDDK is active in cooperating with sectorial associations and regional Employers` Confederations within the Coordination Council for Improving SME Operation, set up by the Ministry of Economy, the aim of which is to enhance environment for SMEs in Latvia.

LDDK is also strongly engaged in the activities of the Advisory Group for the Improvement of the Work of the IDAL to enhance the IDAL cooperation with businesses and Employers` Confederations for maximum positive effect on national economy.

Besides LDDK takes part in the working groups set up by the State Chancellery – On Improvements to the Procurement Law and On Reducing Administrative Burden for the ESF, to enable a more streamlined and effective absorption of the ESF by the public sector, municipalities and NGOs.

Both LDDK and LBAS are actively engaged in the work of the monitoring committees of the ESF planning period for 2007–2013. However, the highest level of LDDK and LBAS activities is the NTCC the agenda of which includes topics of importance for employers and workers, such as amendments to the Labour Law, the issue of a minimal monthly wage, the conditions for company tax and personal income tax, and others. All those activities demonstrate that the social dialogue is taking place and is being enhanced in Latvia both at the national and regional level.

3) with an aim to reduce unregistered employment the Action Plan on the Reduction of the Unregistered Employment 2010-2013 has been drafted and approved in the Cabinet of Ministers. The Action plan is a short-term planning document which prescribes 25 activities for reducing the unregistered employment. The Action Plan is developed by the Ministry of Welfare in cooperation with the above mentioned social partners and other state institutions.

In 2009 there have been organized several meetings with a purpose to concretize and evaluate in detailed manner the actions which should be included in this Plan. Also in

these meetings the social partners and other state institutions gave their opinions on the actions of the Plan.

As well we would like to inform that this Action Plan contains several actions, which shall be implemented by the social partners, for example, to inform and educate the society about the negative consequences of the unregistered employment, also the actions, which shall be implemented by the state institutions in cooperation with the social partners as the dissemination of the information on issues of the unregistered employment to employers, including to young entrepreneurs who start a business as well as to employees.

4) with a purpose to improve working conditions promoting the implementation of the legislation of labour relations, health and safety at work on 4 March 2010 the amendments to the Labour Law have been made. The amendments have been drafted by the Ministry of Welfare in close cooperation with the national social partners and other state institutions and provide several improvements to the Labour Law, for example, promote conclusion of collective agreements in the sector or in the territory (general agreements), facilitate the approval process of collective agreements, ensure effective protection of employees` rights and provide other improvements.

Also we would like to inform that in the process of reconciliation of the amendments there have been organized several meetings where the opinions of social partners and other state institutions have been taken in consideration.

Query: The Committee requests the Government to indicate what other measures it has taken or plans to take to facilitate and encourage the conclusion of collective agreements.

Response: Concerning the positive measures to facilitate and encourage the conclusion of collective agreements on 4 March 2010 the amendments to the Labour Law have been made. These amendments have been drafted by the Ministry of Welfare in close cooperation with national social partners and other state institutions and provide several improvements to the Labour Law, including the improvements which promote conclusion of collective agreements in the sector or in the territory (general agreements) and facilitate the approval process of collective agreements.

Respectively, the amendments to the Article 18, Paragraph 4 of the Labour Law have been made. The amendments to the Paragraph 4 of the Article 18 are characterized in the 1st point of the Article 6 Paragraph 1 in the 9th Report concerning the general legal framework applicable to the private and public sector.

At the same time the Paragraph 1 of the Article 22 of the Labour Law has been supplemented. The amendments to the Paragraph 1 of the Article 18 are indicated in 1st point of the Article 6 Paragraph 2 in the 9th Report concerning the general legal framework.

Also with an aim to facilitate and encourage the conclusion of collective agreements the state carries out several activities, especially, connected with the ESF projects. Concerning the ESF projects launched by LBAS and LDDK please see also information provided on the 2nd point of the Article 5 in the 9th Report.

Concerning the coverage of workforce by collective agreements we would like to stress that conclusion of collective agreements is voluntary right for both sides – employer's

and employee's representatives, without any compulsory character. Irrespective of various activities for improvement of the capacity of trade unions and employers and promotion of conclusion of collective agreements (please see also provided information on the ESF projects on the 2nd point of the Article 5 in the 9th Report), unfortunately, the number of concluded agreements has been decreased and thereby also the number of workforce covering by the collective agreements has been decreased.

It could be explained by the fact that during the time period from 2009 till 2012 in Latvia the influence of the economic crisis, a significant increase of unemployment and a sharp decrease of employment were still observed. In circumstances of the economic crisis, it was important for employers to retain labour and social guarantees in already existing collective agreements as a result at the same time the conclusion of new collective agreements decreased. According to Eurostat data, the overall employment rate in the group of age from 15 till 64 has decreased in total during the time period from 2009 till 2012 compared to 68.3 per cent in 2008. Accordingly, it decreased to 60.9 per cent in 2009 and further to 59.3 per cent in 2010. In 2011 the employment rate (taking into account census data) did not change significantly, but in 2012 a slight increase was observed - to 63.1 per cent, which is still below the pre-crisis rates. For its part in 2009 the unemployment rate (compared to the lowest point in 2007 - 6.5 per cent), increased to 18.2 per cent, reaching 19.8 per cent in 2010. Next followed a gradual decrease to 15.1 per cent in 2012. Besides the economic activity has returned to the level of 2008 - 74.4 per cent.

Furthermore, during the reference period a significant number of micro-enterprises has increased in Latvia (the information of the CSB on the number of micro-enterprises from 2009 till 2011 is provided on the 3rd point of the Article 5 in the 9th Report). In small companies like these employees effectively represent their interests by themselves and all labour matters, including a determination of new labour and social security guarantees are successfully settled by mutual negotiations with employer. Thereby the formation of trade unions and conclusion of collective agreements in these companies are not topical. Moreover, the decrease of trade unions' membership and of concluded collective agreements in recent years could be also connected with the fact that most companies are so small that trade unions are not formed due to the objective reasons.

Public sector

Query: According to the source other than the national report (2009 ITUC Survey of violations of trade union rights), collective bargaining in the public administration is a formal procedure with no real substance, since all employment conditions are fixed by law. The Committee asks the Government to comment on the above statement.

Response: By reference to the request to comment on the statement included in ITUC Survey of violations of trade union rights of 2009, we would like to note that the mentioned statement is inadequate.

In the public sector, there is right to conclude collective agreements. Furthermore, all provisions of collective agreements are not fixed by law. The Law On Remuneration of Officials and Employees of State and Local Government Authorities of 1 December 2009 provides only the frame for remuneration. Besides the purpose of the Law is to attain that equal conditions are observed in the determination of remuneration for

officials (employees) of State and local government authorities. Furthermore, this law has been developed having regard of the current economic situation and taking into account requirements of the International Monetary Fund – to restrict budget expenditures of officials (employees) remuneration in State and Local Government budget funded institutions.

Besides, in 2010 the Informative Report “On Proposals for Solutions to the Application of Legal Provisions Included in Collective Agreements in current economic conditions” was developed to identify problems and possible solutions to collective bargaining in the public administration and to improve legal regulations *inter alia* legal provisions included in the Law On Remuneration of Officials and Employees of State and Local Government Authorities. Objective of the aforementioned report is development of proposals for the amendments in mentioned Law.

The amendments of October 14, 2010 to the Law On Remuneration of Officials and Employees of State and Local Government Authorities, with purpose to promote the collective bargaining in the public administration, envisaged that the state or the local government institution may, within the framework of the financial resources granted to it, provide the additional fee related activities by collective agreements (characterized in 1st point of the Article 6 Paragraph 2 in the 9th).

Moreover, in the collective agreements there is no problem to agree on such issues as organisation of work remuneration (taking into account the requirements included in the Law On Remuneration of Officials and Employees of State and Local Government Authorities) and labour protection, establishment and termination of employment legal relationships, raising of qualifications, work procedures, social security of employees and other issues related to employment legal relationships, and shall determine mutual rights and duties.

Regarding the civil servants' right to participate in the processes that result in determination of regulations applicable to them, we would like to note that conclusion of a collective agreement in State or local government authority is for this authority's head's own discretion. Furthermore, a State or local government authority shall, in developing collective agreements, consult the representatives of officials (employees) regarding remuneration in accordance with the regulatory enactments regulating employment legal relations, position legal relations or course of the service. Thereby an officials (employees) of the State or local government authorities are being involved in the process of conclusion of collective agreements through their representatives.

Query: The Committee asks the next report to contain examples of collective bargaining in the public sector.

Response: Concerning the examples of the collective bargaining in the public sector we would like to inform that on 29 December 2010 the general agreement have been concluded between the Ministry of Welfare and the Trade Union of Health and Social Care Employees of Latvia. This general agreement regulates working time and rest time, including supplementary leave, work remuneration, including lowest rate of a monthly salary and supplementary payment, provisions on raising of qualifications of employees, social security provisions, including employees' health insurance, for medical practitioners. According to the general agreement, for example:

- regular weekly working time not more than 35 hours a week is stated to employees associated with a special risk if they are engaged in such work for not less than 50 per cent of their working time;
- annual supplementary leave of 8 working days shall be granted to medical practitioners who's fulfilment of the post duties exceeds set requirements for his/her post;
- supplementary payment shall not be lower than 5 per cent of the amount of employees` monthly salary;
- institutions shall pay the courses for raising of qualifications of medical practitioners of at least 50 per cent;
- as far as possible institutions shall cover the expenses of vaccination and medication etc.

As well as, on 23 January 2009 the collective agreement have been concluded between the state stock company "Latvijas Dzelzceļš" and the Trade Union of Railway Transport of Latvia. The collective agreement regulates minimum level of the preferences and guarantees for the employees, for example, supplements for night work, overtime work and for work on public holiday, compensations, work remuneration issues, leaves and other labour issues.

Number of concluded collective agreements in institutions subordinated to the ministries of Latvia:

Ministry	Number of concluded collective agreements in subordinated institutions			
	2009	2010	2011	2012
Ministry of Finance	0	0	0	1
Ministry of Interior ¹	0	1	0	0
Ministry of Culture	4	4	5	3
Ministry of Welfare ²	17	5	4	4
Ministry of Defence	1	0	0	0
Ministry of Justice	5	5	3	1
Ministry of Environmental Protection and Regional Development	4	1	1	2
Ministry of Health	15	17	6	4
Ministry of Transports ³	19			

Source – information aggregated by the Ministry of Welfare in 2013

¹ in 2010 1 concluded collective agreement in state capital company where the Ministry of Interior has the shares

² in 2010 the Ministry of Welfare concluded 1 general agreement.

³ from the time period of 2009 till 2012 concluded collective agreements in total