



Position Paper No. 4

FOREIGN INVESTORS'  
COUNCIL IN LATVIA

# POSITION PAPER ON SUSTAINABLE FOR THE FUTURE

02.11.2023

# EXECUTIVE SUMMARY

The ongoing invasion of Ukraine by Russia, and the ensuing energy crisis in Europe, as well as the climate catastrophes occurring worldwide, continue to highlight the need for climate and energy to be on the agenda of every government and parliament. Any human catastrophe or potential conflicts in the future will only contribute to these concerns. It is therefore our common obligation and duty, both to ourselves and the future generations, to seriously change our habits, modes of operations and businesses so that in the short and long-term we all have a sustainable place to live in.

Last year, the formation of a new ministry in Latvia, specifically designed to tackle the climate and energy issues, promised real, well-considered and powerful actions to tackle climate change issues in Latvia. However, its political invisibility together with the lack of a wider mandate and insufficient resources prevented the new ministry from actually meeting its initial expectations.

Since climate issues have been considerably neglected, with priority being given to the solving of the energy crisis, FICIL has prepared this position paper to emphasise the following three main subject areas:

1. The overall role of a climate and energy policy in Latvia.
2. The crucial role of the private sector in boosting sustainable growth.
3. The need for greater transparency and predictability of the energy market to truly achieve well-balanced energy security and, ultimately, energy independence.



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# RECOMMENDATIONS

## Better climate and energy policy

- // Increase the resource capacity and mandate of the Ministry of Climate and Energy, by adding the environment to the scope of its mandate. This will ensure far more effective administration of climate, energy and environment matters, involve other ministries, and ensure that these topics are consistently addressed on both the Cabinet of Ministers and Parliament's agendas.
- // Increase investigations of environment-related crimes to ensure compliance with green economy principles and requirements not only in the EU, but also nationally funded projects. This would also help reduce the shadow economy.
- // Adopt concrete instruments, procedures, and designate accountable entities for the implementation and monitoring of policies aligned with principles like the circular economy, Green Deal, and Sustainable Development Goals.
- // Implement timely and dynamic monitoring of the climate plans and policies to provide responsive and flexible adjustments, if needed.

## Enabling the private sector as a driver to achieve the aim

- // Simplify and make green transition cost-effective for private companies by reviewing and adjusting current policies, initiatives, and laws.
- // Eliminate overlapping state support mechanisms, especially in transport and logistics, and introduce sustainable financing instruments to promote goals such as urban mobility, greening fleets, and other aspects of the Green Deal and circular economy.
- // Encourage and institutionalise energy efficiency across public, industrial, and household sectors.
- // Set up specific KPIs for local municipalities outside of Riga to foster sustainable habits and mobility solutions.

- // Where economically feasible, the private sector must be encouraged to research and invest in CO<sub>2</sub> capture, transport, and storage, seeking synergies across industries to position Latvia as a competitive player in the relevant field. Abstain from banning CO<sub>2</sub> storage, since this would render the respective R&D null and void.
- // Facilitate the ability of SMEs to maintain their position in the supply and value chains of larger businesses, by providing publicly accessible data and tools, especially considering the impending mandatory obligations of due diligence for large corporations.

## Ensuring transparent and predictable development of the energy market

- // Create a strategy for a forward-looking energy policy that is aligned with the EU's objectives. Energy strategy should be intertwined with broader national priorities, reinforcing the idea that energy policy is a feature of collective national development.
- // Avoid use of such instruments for crisis solutions which unjustifiably and disproportionately limit or even eliminate competition. Discontinue the measures introduced during the previous energy crisis.
- // Ensure the electric transmission and distribution grid is robust and secure. The Government should provide clear and transparent communication about the direction of energy and closely related sectors<sup>1</sup> by clarifying the role and expectations for private companies and defining the desired results.
- // Foster the conditions for greater investment in research and development, involving individuals and cooperation among state-owned companies, academic institutions, and private businesses. R&D efforts must be in line with market needs, technological advancements, and societal demands and foster innovation that is practical and beneficial to the country.

<sup>1</sup> Such as cleantech.

# RATIONALE FOR RECOMMENDATIONS

## Better climate and energy policy

Last year, when supporting the creation of the Climate and Energy Ministry (MCE), FICIL expected to see a wide mandate and sufficient resources allocated to the new Ministry in order for it to become the flagship for the rapid development of short-, mid- and long-term policies needed to implement and continuously improve compliance with the core principles of the circular economy, Green Deal, Taxonomy, ESG, Sustainable Development Goals of the UN and other similar policies that are binding on Latvia. For several years, climate change has no longer been a matter of choice but a reality that is on our doorstep.

FICIL notes the truly challenging work that MCE has to undertake. For the MCE to succeed, FICIL sees the need to delegate a wider mandate to MCE to go forward with the climate and energy issues, requesting other ministries to actively cooperate and perform their policies and functions under the overarching considerations of climate change. Simply by adding the environment sector will not be sufficient to strengthen their mandate. At the same time, MCE should be awarded adequate resources, both human and financial, for it to move Latvia's economy and society closer towards a circular economy, the Green Deal goals and ensuring a smooth green transition.

Already back in 2022, the State Audit Office of the Republic of Latvia<sup>2</sup> drew dramatic conclusions with respect to the ability of Latvia to reach compliance with the Sustainable Development Goals of the UN. A substantial lack of supervision and control over the processes, responsible public bodies, the plan and tasks was identified. If no changes were introduced, by 2030 Latvia would achieve only 18% of the Sustainable Development Goals. Moreover, the report found that it is impossible to track the state budget allegedly spent on ensuring compliance with the Sustainability Development Goals.

However, in practice there is still no initial draft of the revised National Climate and Energy plan 2030, which had to be filed with the European Commission

by end of June 2023<sup>3</sup>. Several major policies and initiatives have apparently been put on hold despite the urgent need for them to reduce the uncertainty for businesses and cope with the climate change. Moreover, MCE has already publicly stated that certain SEG emission and CO<sub>2</sub> reduction plan goals for the year 2030 cannot be attained. Therefore, revision of these measures is promised sometime in the future, in the updated National Climate and Energy Plan<sup>4</sup>. However, in the meantime, Latvia is running out of time for any further delays.

It is of the utmost importance that both a comprehensive understanding of the climate change issues, as well as deliberate actions to introduce and implement the core principles associated with green transition are boosted into all areas of economy, finance, tax, transport, labour, education, health etc. To this end, **FICIL recommends that climate and environment considerations are identified, described, and included into the document package for all stages of the draft legislation**, which would add transparency and ensure that the climate and environment is considered at all stages of the legislative process.

The climate and environment should also become a natural and integral part of the legislation process, cascading down to the interpretation, application, and execution thereof, not only on the agenda of the public and private sectors, but also the courts and other law enforcement institutions. This approach would add value to the legislative process and help consolidate the dominance of the climate and environment into practically all areas, such as fair competition and public procurement.

Considering that the combatting of severe and organised environmental crimes has been identified as one of the EU priorities<sup>5</sup>, more and more evidence is becoming available publicly on the importance of these crimes in the monitoring of the EU-funded projects, public- private partnerships and other regionally or locally funded programs.

2 English - [https://www.lrvk.gov.lv/en/getrevisionfile/29654-pMxs84mPi1\\_xo1cJ5ogygylKpzgBjalZ.pdf](https://www.lrvk.gov.lv/en/getrevisionfile/29654-pMxs84mPi1_xo1cJ5ogygylKpzgBjalZ.pdf)

Latvian - <https://www.lrvk.gov.lv/lv/getrevisionfile/29654-IT9ehAcFVSYieufEpp805nIcXyW5jGp.pdf>

3 By 30 June 2023, EU countries were expected to submit their draft updated NECPs to the Commission, in line with Article 14 of the Governance Regulation.

4 <https://www.kem.gov.lv/lv/jaunums/cudars-ar-ieprieks-planotiem-pasakumiem-klimata-merkus-2030-gada-nesasniegsim-jaiev-ies-jaunas-politikas-un-pasakumi>

5 <https://www.europol.europa.eu/crime-areas/environmental-crime>



Failure to notice and avoid environmental crimes may lead not only to the reduction or refusal of financing, but also to complex and serious criminal investigations. Among several other things, the combatting of environmental crimes contributes to the overall reduction of the shadow economy in the respective project areas. Therefore, FICIL strongly encourages increasing the motivation and practical ability of the law enforcement institutions to investigate environmental crimes. In addition, the awareness of the public sector responsible for organising and implementing nationally or EU-funded projects should be increased, specifically about the tools and instruments to prevent environmental crimes by use of tender regulations and contracts, to monitor compliance with the anti-environmental crime provisions, and to report alleged crimes to the competent institutions.

### **The private sector as a crucial element in achieving the aim**

FICIL reiterates that it will be impossible for Latvia to reach the set "green goals" with the help of foreign investors alone. All private sector companies, irrespective of their size or source of capital, should be pushed towards sustainability and green transformation. Effective 'carrots' should be introduced for voluntary movements in the preferred direction. The business motivation to do so should stem from the presumption that advancing towards the Green Deal and similar goals is simpler and cheaper, at least in the mid- and long-term.

In general, FICIL supports the plans of the Ministry of Transport to implement policies directed towards increasing mobility. The underlying concept of mobility is the ability of an individual to get from one point to another in the most acceptable way economically and technically, with the least amount of impact on the climate and environment. As far as possible, full overlaps of bus and shuttle bus routes with the railway routes should be eliminated. FICIL supports the direction of the draft proposal submitted by the Ministry of Transport on updating the National Climate and Energy Plan<sup>6</sup>. However, it is important to set concrete KPIs and allocate associated financing to the municipalities, also outside Riga, to actively transform their urban mobility and make their fleet greener.

Without a doubt significant investment is needed to secure transformation at this scale and breadth. However, the proportion of the public funding available for these initiatives is incredibly low, on several occasions not even reaching 10% of the estimated costs. A large gap in the availability of finances should not hinder the recommended

growth and, therefore, the National Climate and Energy Plan, as well as other policies intended to implement climate and environment goals, should be combined with the structuring and availability of new private financial instruments directed towards attainment of the said goals, including mobility and greening fleets.

At the same time certain barriers should be eliminated from the EU funding programs for the greening of fleets. For instance, considering the action priority of the Ministry of Transport to improve mobility for disabled persons<sup>7</sup>, individuals should not be criticised or held liable for their failure to drive a minimum number of kilometers with an electric car purchased with the help of EU funding. All kilometres, including those driven by disabled persons, count equally to reduce CO<sub>2</sub> emissions. Since private transport is expected to become the last choice for mobility, individuals should not be deprived of the motivation to follow this overarching goal of greener mobility. Also, no legal entity should face disproportionate energy audit requirements where they have become large electricity consumers solely due to changing their fleet to an electric one. The opposite should be true, and companies should be motivated to switch their fleet with the added benefit of fewer bureaucratic requirements.

Energy efficiency continues to be a self-evident need for households and the public and private sectors. The approach taken by the Government to grant state aid to the private sector and households in the previous season should not be repeated. While assistance should reach those in need, it should be targeted and efficient at emphasising long-term gains. FICIL encourages the Government to stick with the fiscal discipline requirements when attempting to address any further challenges. It is important that the Government does not take on the unnecessary financial burden of the private sector and households, in turn discouraging them from changing their habits and investing in long-term solutions while negatively affecting economic and fiscal issues. A clear line should be drawn between the financial responsibilities of the Government and the private sector.

With the newly proposed Climate Law<sup>8</sup>, unfortunately, the issues with the capture, transport and storage of CO<sub>2</sub> have still not been resolved to the satisfaction of the practical needs of businesses. The proposed legislation continues to ban CO<sub>2</sub> storage in Latvia, despite it having the suitable geological structure for the storage of various gases, CO<sub>2</sub> storage being economically justified, safe to manage and in line with the EU's Green Deal strategy.

<sup>6</sup> Presented as part of the Sustainable mobility work group for Climate and Energy Plan on 13 July 2023.

<sup>7</sup> Presented as part of the Draft Government Action Plan sections for the Ministry of Transport on 16 October 2023

<sup>8</sup> [https://tapportals.mk.gov.lv/legal\\_acts/7987de45-93fd-45e3-ac4c-948251c622d9](https://tapportals.mk.gov.lv/legal_acts/7987de45-93fd-45e3-ac4c-948251c622d9)

FICIL believes it is of the utmost importance that the Climate Law be endorsed in a form that legally enables the carbon capture, storage, and utilisation value chain. Due to technological advances, such opportunity would provide added value to the economy, finances, and society of Latvia by greening industries, improving the environment, creating new workplaces, and bringing in profit and taxes. Several aspects of CO<sub>2</sub> go together with the further development of industries, transport, and logistics, while others relate to the innovation, competition at the domestic and foreign markets, and the attraction of considerable financing for research and development, pilot projects, and commencement of market operations. Moreover, certain larger industries are under obligation to transform their businesses and practices, including substantial reductions in their CO<sub>2</sub> emissions. Up to now, the progress of Latvia on these aspects has been slow.

FICIL reiterates that credit institutions and large companies are under obligation to publish data, for instance on the non-financial, ESG aspects and carbon footprint of their businesses. These obligations to verify product value chains, supply chains, investigate clients and business partners are growing from year to year. The number of employees engaged in the performance of these tasks, outsourced services and IT solutions continue to require enormous investment from the credit institutions and large companies. Considering the upcoming obligation to conduct due diligence on the product value chain, which in many cases includes small and medium enterprises (hereafter - SMEs), FICIL urges that data and tools are continuously adapted, updated, and made publicly available for the SMEs to deal with the obligation to reveal data more easily for the said due diligence. The quality, accuracy and granularity of data at the disposal of SMEs in most cases is not sufficient for the credit institutions and large companies to conduct due diligence. Publicly available data and tools for calculating, for example, different climate and environment-related parameters would substantially reduce the workforce, financial and IT related costs for the SMEs to comply with the upcoming obligations. Also, this would help credit institutions and large companies to systematise and centralise their IT solutions for the conduct of due diligence considering the publicly available data and tools.

## Transparent and predictable development of the energy market

For a couple of years, the energy sector of Latvia has functioned and developed inconsistently and non-

transparently. Statements have been made about the investment plans of state-owned companies in the off-shore and on-shore wind, solar, LNG, nuclear and hydrogen sectors. While some of the technologies are already widely used around the world, some require considerable research and verification before putting them into operation and adding them to the energy balance of Latvia. Claims have been made for the state-owned company to become a significant exporter of electricity in Europe. In parallel, the European Union is moving forward with the Green Deal, RePower Europe, Fit for 55 and other overarching policies to ensure a swift and fair transition to greener energy, with the aim of the energy supply being secure and reliable in the longer run.

Since Latvia has, to some extent, overcome the immediate energy crisis caused by Russia's invasion of Ukraine, no legal justification exists to continue maintaining those instruments which were introduced as a result, with no prior notice to the industry. A specific regulatory policy was introduced on the grounds of managing the energy crisis<sup>9</sup>. FICIL recommends avoiding the introduction of temporary measures into the legislation without first setting objective and transparent criteria, and defining the situations where the temporary measure would lose its effect or become invalid, and without clearly cooperating with the affected industry. The Constitutional Law of Latvia requires that such criteria are set at the time that temporary instruments are introduced.

The current inconclusive statements, together with the see-saw energy policy and lack of a clear-cut energy strategy often fail to convince companies operating in the energy or cleantech sectors to enter the market. FICIL does not disregard the ambitious plans of state-owned companies to increase the capacity and even become electricity exporters. However, **it is important that such a goal is not reached at the cost of distorted or even eliminated competition and the avoidance of fair market principles in the relevant sector.** Foremost, to avoid further frustration on the side of investors and the private sector, **FICIL calls for clear, open, and reliable communication about the short-, mid- and long-term perceptions of the market by the Government, so that the private sector can make informed and sensible decisions on investment and business operations.** Moreover, FICIL insists that this communication fully respects the rule of law, as well as the fundamental principles of fair competition and the single market.

<sup>9</sup> This makes it mandatory for heat production companies in Riga to sell the heat for a regulated tariff.

Furthermore, considering the potential growth for electricity consumption in Latvia (for instance, planned new electricity generation capacities in Latvia and off-shore, potentially increased export of electricity to Europe, electric motor vehicle fleets, electrification of the railways, and many more trends in the public and private sectors), it is obvious that transmission and distribution grids will need to be sufficient to receive electricity and deliver it to the consumers. Plans for the grid development and improvement should be made not only clear and comprehensive, but also non-fluctuating and realistic, and explained publicly. Businesses and households should be able to make informed decisions on the energy efficiency measures, as well as measures for the electricity production, consumption, storage, accumulation, cooling, ventilation, and heating to be introduced at their facilities, operations, or homes. Any further increase in tariffs or revision of the tariff structure and methodologies should be clearly explained and objectively justified prior to their entry into force. Their intentions to make their businesses and homes more sustainable and reliable

should not be limited by the lack of reasonable and justified technical possibilities of the grid.

There is no time left for recessive delays on the part of research and development. FICIL does not object to the initiative for the state-owned companies to get more involved in the research and development projects, as it is obvious that several of these possess a large amount of resources to proceed with them. FICIL would only expect that options are also given to other interested actors, such as universities and academic centres, independent researchers, NGOs, start-ups, and other private and public companies to take part in the research and development projects. Innovations are of crucial importance for the Latvian industries and businesses to continue developing. This refers not only to the formation and promotion of innovation-driven development projects, businesses, and markets, but also to the wider use of the innovation procurement by the public institutions.







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