



IFICIL

Position Paper No. 2

FOREIGN INVESTORS'
COUNCIL IN LATVIA

POSITION PAPER ON PEOPLE

02.11.2023

EXECUTIVE SUMMARY

Latvia is still lagging behind its neighbours in economic competitiveness. One important factor for improving competitiveness is the labour force. In relation to both Estonia and Lithuania, according to the IMD World Competitiveness Booklet 2023¹ Latvia ranks 52nd whilst both our Baltic neighbours rank much higher, closer to the low 30s². Moreover, investors³ see little to no progress over the last years in addressing the labour or poor demographic situation in Latvia. Finally, also the Ministry of Economics in its Medium and Long-term Labour Market Forecasts⁴ has recognised that the labour force shortage has reached its critical point.

As a result, FICIL continues to maintain the need for a two-fold strategy. Firstly, to address the critical short-term and medium-term labour shortage issues for ensuring economic activity. Secondly, to thoroughly introduce more effective policies that would ensure requalification and upskilling of the whole population. FICIL has also previously expressed its concerns regarding the process of issuing sick leave certificates and the process of the mandatory health examination. FICIL still considers these issues to be relevant in the context of the shortage of a labour force, because only by knowing the true state of health of employees is it possible to adequately evaluate the state of the whole labour market⁵.

1 <https://imd.cld.bz/IMD-World-Competitiveness-Booklet-2023/90/>

2 LT 33; LV 52; EE 34

3 FICIL Sentiment Index 2022: Governance Edition

4 The Ministry of Economics. Informative report on medium and long-term labour market forecasts 2022. Labour market | Ekonomikas ministrija (em.gov.lv)

5 During the preparation of the position paper, FICIL continues discussions with the public sector, including the Ministry of Health, on the mentioned issues. FICIL continues to put forward several recommendations to enhance the control system for sick leave certificates and to prevent potential abuses of the system.



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RECOMMENDATIONS

Refine governance

- Ensure sufficient mandate for one entity responsible for human capital policy and strengthen the newly created Human Capital Development Council.

Improving the availability of workforce

- Address the labour availability issues by improving the flexibility of the legal framework and granting greater benefits to employers who are ready to invest in the wellbeing of their workforce.
- Introducing part-time aggregated working time;
- Adopting zero-hour contracts in the existing regulation;
- Creating a regulatory framework for fixed-term employment contracts so they are more flexible.
- Accepting an option for communication with employees via the officially accepted electronic communication channel.
- Raising the liability of trade unions for unjustified refusals to give consent to the termination of employment relationships;
- Raising the exemption to tax for increasing employee wellbeing and their mobility.

- Address the short-term availability of labour by attracting a foreign workforce.

- Introducing a unified "Work in Latvia" platform to attract a foreign workforce and re-emigrants and create a one-stop-shop centre.
- Adopting a "smart immigration strategy" that concentrates on attracting a workforce from specific country groups.
- Reducing financial and bureaucratic barriers for a foreign workforce to work in Latvia.

Boost upskilling & requalification of human capital

- Re-evaluate the current set up of Industry Expert Councils, focusing on the key industries that are prioritised in the National Development Plan until 2027. Reform the Industry Expert Council regulations, through its integration within the new Human Capital Development Council.
- Amend the legislation to motivate employers to invest in the further education of employees thereby contributing to their upskilling.
- Implement best practice and processes from businesses to train employees in the public sector whilst also adopting policies to encourage greater knowledge transfer from the public to private sector and vice versa.



RATIONALE FOR RECOMMENDATIONS

Refining governance over the labour force policy

An effective labour policy requires strengthening the Human Capital Development Council and ensuring that one responsible authority has sufficient mandate regarding human capital matters (including retraining, skills, labour availability, and legislative policy).

Previous government in the document “On the Government’s action plan for the implementation of the Declaration on the planned activities of the Cabinet of Ministers headed by Arturs Krišjānis Kariņš”⁶ set out the Ministry of Economics as the responsible institution for developing the labour force policy in Latvia. This was the first necessary step to ensure accountability and improve the level of coordination over labour force policy. The Declaration also tasked the Ministry of Economics together with other institutions to create a Human Capital Development Strategy that is yet to be published. The strategy will very much dictate the future labour force policy, including upskilling and requalification. Therefore, it must be effective, sufficient and goal oriented, and in line with other plans, such as the National Development Plan until 2027, by focusing on those priority sectors that would bring the most added value to the economy.

In addition, a Human Capital Development Council was created as a new institution for policy setting and information exchange for the labour force policy. The Council has been created with the aim to increase the effectiveness of inter-departmental cooperation, and make decisions in the planning, development, implementation and monitoring of the necessary labour market reorganisations, promoting the development and availability of human resources in accordance with future labour market demand and structural changes in the economy for the creation of higher added value that would benefit society as a whole⁷. **FICIL strongly encourages avoiding the duplication of functions between the different institutions such as the Ministry of Economics, the Human Capital Development Council, State Education Development Agency, State Employment**

Agency, and others that are involved in the labour force policy.

To increase the much-needed speed, effectiveness, and quality of future labour force policies, FICIL recommends strengthening the Human Capital Development Council by amending the Cabinet of Minister Regulation No. 290 that regulates its work. It is important for future Council meetings to have concrete action points and outcomes. FICIL proposes to change the decision-making threshold to a majority instead of a consensus to avoid paralysing the decision-making process⁸. Moreover, FICIL strongly encourages that these meetings should be open, as it would increase transparency and accountability⁹. To ensure a speedy response to issues, regularity, and progression, FICIL proposes that the frequency of the meetings be changed to take place once a month instead of each quarter¹⁰.

Addressing problems with availability of workforce

FICIL continues to advocate for policies that boost productivity and reverse the current falling demographics, and also facilitates the return of re-emigrants. However, policies that address these issues usually see benefits in the long-term, but the current situation requires immediate solutions. Therefore, it is imperative for policy-makers to actively assess and modernise current legislation to tackle the contemporary challenges and trends facing the labour market. Otherwise, there is a high risk that Latvia will be faced with the inability to sustain the current rates of economic activity and their consequent proliferation. The proposed actions would enhance flexibility for both employers and employees and empower those who are willing, but currently unable to work to contribute to increasing economic activity. Flexibility in the employment relationship framework would allow employers to respond more quickly to workforce needs and also to attract those who are not ready to work full-time or on a permanent basis, thus also increasing the involvement of workforce reserves in the labour market.

6 <https://likumi.lv/ta/en/en/id/341317>

7 <https://likumi.lv/ta/id/342561-cilvekkapitala-attistibas-padomes-nolikums>

8 No. 9 in Cabinet of Minister Rules

9 No. 11 in Cabinet of Minister Rules

10 No. 15 in Cabinet of Minister Rules

As a result, FICIL proposes four concrete amendments to the Labour Law, that have been explained in more details in the previous year, as well as a specific suggestion regarding the obligations of trade unions in case of the termination of employment relationships and promoting the wellbeing of employees during employment relationships:¹¹

- Introduce part-time aggregated working time¹²;
- Allow zero-hour contracts in the existing regulation¹³;
- Introduce a regulatory framework for fixed-term employment contracts so they are more flexible. Supplement Section 44 by allowing employees to enter a fixed-term employment contract where they are required for fulfilment of a particular contract or specific project¹⁴;
- Establish an option for communication with employees via the officially accepted electronic communication channel – “e-address”. Supplement Section 40 and amend Section 112¹ of the Labour Law¹⁵;
- The previous experience of employers shows the need to increase the level of responsibility for trade unions in cases when employers are obliged to get their consent for termination of employment relationship. Quite often the employers are faced with situations when trade unions refuse to give their consent for the termination of employment relationships without any reasoning. Therefore, it would be crucial to ensure that trade unions are obliged to motivate their refusal and are also held liable in a case when the claims on the termination of an employment relationship raised by employers are satisfied. At a time of acute workforce shortages and a need for employers to focus on finding a quality workforce, it is essential that employers do not waste time litigating cases

where trade unions have acted irresponsibly and refused to agree to the termination of employment for no objective reason.

In addition, FICIL calls for developing new personal income tax exemptions for employers that enhance overall employee well-being and promote the inclusion of less protected workers in the company. This would allow such employers to use higher limits for various non-taxable expenses, such as increasing the 480 EUR limit for food and health expenses within the workplace to 780 EUR¹⁶. Also, to foster greater mobility and attract local workers from different regions, FICIL suggests introducing the possibility for an employer to pay non-taxable supplements to an employee for commuting from a distant place of residence, for example, when employees workplace is 30 or more km from their respective actual place of living. Also, FICIL recommends introducing the option for employers to provide non-taxable transportation services for the employees they transport to the workplace¹⁷. With reference to the Level Playing Field position paper¹⁸ we would like to also draw attention to the problems related to the debtors and their possibilities to return to the labour market. It is crucial to find a balance between their obligation to pay debts and the ability to work officially without using most of their income to repay debts, but instead doing it gradually.

Addressing the short-term availability of a workforce by attracting a foreign workforce

FICIL has primarily supported the retraining of local employees, effective employment, and raising productivity for years. However, labour availability has become an increasingly critical problem for business development over several years. According to the latest State Employment Agency data, the unemployment rate in Latvia in the first half of 2023 is 5.5% (reaching 4.3% in the city of Riga).

11 https://www.ficil.lv/wp-content/uploads/2022/09/FICIL_PP_Labour-Force-Challenges_EN_2022.pdf

12 In order to guarantee the safeguarding of employees' rights, it could be a requirement that, in the case of part-time aggregated working time, it is necessary to determine the minimum guaranteed number of hours for an employee which may not be less than, for example, five hours a week (on average in the reporting period).

13 On the one hand, the employer would be given the option of establishing a contractual relationship with an employee without guaranteeing certain working hours but offering them the opportunity to carry out work in the short-term and when there is irregular demand. On the other hand, employees would be able to accept or reject the specific offer made by the employer for particular assignments.

14 The current regulatory framework for fixed term employment contracts (Section 44) is outdated and not flexible. Although there is an option to sign fixed term employment contracts in case of a short-term increase in workload or production volume, this is not compatible with the modern economic relations, which are mostly based and understood as fulfilment of particular contracts and implementation of projects.

15 FICIL proposes supplementing Section 40 of the Labour Law by introducing an additional item to be provided in employment contracts – the officially accepted electronic communication address (e-mail) of employees where all communication from the employer regarding employment relationships can be delivered. Furthermore, and in connection with the previous proposal, it is suggested to amend Section 112.1 by stating that the sending of an e-signed termination notice to an employee's e-mail is also one of the default options (i.e., that no special agreement with the employee is required in this regard).

16 Amendments to reduce the limitations set in Enterprise Income Tax Law's, Section 8., Clause 5., Sub-clause 1.

17 Amendments to reduce the limitations set in Enterprise Income Tax Law's, Article 8., Clause 5., Sub-clause 2.

18 Available on <https://www.ficil.lv/position-papers/>

This level of unemployment signals that the labour force available in Latvia has been used to its maximum extent for several years. Based on the analysis, the labour shortage may become acute starting from 2023 or 2024¹⁹. To mitigate the labour shortage, FICIL proposes implementing policies with the aim of easing the attraction of foreign workforce to Latvia. In addition, although FICIL supports fostering re-emigration, it is important to understand that such policies will not solve the labour shortage in the short or medium term. Greater re-emigration is just a consequence of other successful policies, and cannot be an adequate solution for the current workforce shortage problem. FICIL recommends the following:

- ▼ **Introducing a unified “Work in Latvia” platform to attract a foreign workforce and re-emigrants and create a one-stop-shop centre for a foreign workforce and re-emigrants to have access to all the relevant information about working and living in Latvia.**

The platform would act as an intermediary between proficient foreign workers, re-emigrants and employers in Latvia, with the objective of attracting international labour to fill existing job vacancies that cannot be met under the current labour market conditions. Such a platform should be interactive and offer a feature that allows employers to share their insights, encouraging more information exchange and simplifying the process for other employers interested in using this system. Such platform should also consider pro-actively allowing foreign persons and re-emigrants to upload their CVs as a way to pre-apply for any upcoming positions. FICIL advises the government to take this idea further by setting up a one-stop-shop centre that provides guidance and support to labour forces from abroad on all the fundamental requirements for residing in Latvia, including both the legal requirements and everyday questions.

- ▼ **Adopting a “smart immigration strategy” that concentrates on attracting a workforce from specific country groups by working with higher education institutions and business associations.**

In addition to the aforementioned, it is important to adopt a clear immigration strategy that has concrete aims and target countries. To establish Latvia as a desirable location for international talents, it is essential to conduct focused recruitment efforts in particular countries²⁰. Therefore, FICIL would suggest adopting a comprehensive smart

immigration strategy by working with different higher education institutions, business associations and other partners abroad to evaluate and decide upon concrete specific country groups where targeted efforts would yield the most results in the attraction of foreign talent. Nonetheless, it is key to remember that each person should be admitted to Latvia and evaluated individually/separately.

- ▼ **Salary amounts for foreigners in the following sectors should be in line with the average gross salary in their respective sector.**

The current regulation fosters inequality of pay, in turn forcing employers to pay more (the average salary in the country) to foreign workers in certain positions than local workers, as it artificially inflates the minimum salary in certain sectors that foreign workers must receive. Lowering the salary amount for foreign workers in specific sector, in line with the average gross salary in their respective sector, could provide a temporary remedy for labour shortages among less skilled workers, ensuring that economic growth does not stagnate. In general, FICIL advocates adopting this approach not only to one or two sectors, but instead focus on all sectors. However, if certain sectors have to be mentioned then a wider range of industries should be focused on, such as the hospitality industry (hotels, restaurants etc.); road transport; logistics; food production; retail trade (insofar as knowledge of the official language is not required for the performance of duties).

- ▼ **Introduce a shorter maximum time limit for evaluating and processing the immigration applications, for example, 30 days.**

At present, individuals from third countries often face an extensive process to obtain all required documents, leading to uncertainty for businesses and making planning complicated. As a solution, FICIL would propose introducing a shorter maximum time limit for evaluating and processing the applications for short-term and long-term visas, for example, 30 days (include the thorough check) instead of the current maximum limit of 60 days²¹. It is also important to ensure that applications for residence permits are in fact processed within a maximum of 30 days, whereas the normal processing time for residence permits could be 15 days, as is the case for visas. In general, a shorter time limit would mean that companies have greater certainty. Moreover, FICIL reiterates the need to allocate adequate resources and increase the capacity of the Office of Citizenship and Migration Affairs, while also focusing on training and improving soft skills and customer service.

19 <https://titania.saeima.lv/livs/saeimasnotikumi.nsf/0/883AFE15695EC4ECC225897A0032F1E4?OpenDocument>

20 Investment and development agency of Latvia and PwC (2023) “Summary of practice for foreign talent attraction and practical recommendations for implementation in Latvia”.

21 Immigration Law Section 15.

▼ Allow the submission of residence permit documents by post (as was done during Covid-19).

During the Covid-19 period, a practice was introduced that allowed foreigners to send their documents for TUAs (Temporary Residence Permits) by mail. Since Covid-19, these regulations are no longer applied to foreigners, and submission of documents is only possible upon arrival in Latvia or at a Latvian embassy abroad. Many countries do not have Latvian embassies, so foreigners must physically travel to Latvia to submit documents in person (even without knowing how long it is worth staying and waiting for review, as the terms are often extended) or go to another country where there is a Latvian embassy. All this complicates the submission process and incurs unnecessary expenses, etc. FICIL recommends allowing foreigners to send documents by mail or a courier service, specifying an email address for communication with the Office of Citizenship and Migration Affairs.

▼ Stop the requirement for prior publication of a job advertisement within the State Employment Agency for businesses that are objectively evaluated as the “good taxpayers”.

Businesses initially look for employees in the local market, and the attraction of foreign labour is an emergency measure when suitable specialists cannot be found in the local market. Therefore, the requirement for the prior publication of a job advertisement in the State Employment Agency is a formality that unnecessarily slows the recruitment process. A measure to stop the requirement for prior publication of job advertisement could be adopted, for example, for those companies that are looking for employees and are objectively evaluated as “good taxpayers”.

Enhance the upskilling and requalification of human capital

Almost 60% of businesses see the local labour market skills gap as the largest barrier to business transformation, while 44% employers estimate that workers’ skills will be disrupted in the next five years²². This highlights the ever present need to have a clear long-term strategy that ensures effective upskilling and requalification of the workforce, to avoid labour skill discrepancies and slowed economic growth.

Close to half of the organisations surveyed state that funding for reskilling and upskilling is the right public policy to increase talent availability in the next 5 years²³. However, the continually low, below EU average (under 10%²⁴) participation in adult learning in Latvia, combined with a predicted shortage in a high qualified workforce in ICT, natural sciences and engineering²⁵ means it crucial to adopt effective policies that both motivate employers to upskill their workforce and ensure that appropriate (needed) high quality requalification courses are available to both unemployed and employed persons to both reskill and upskill.

In light of the upcoming Human Capital Development Strategy, FICIL reiterates that together with clearly set ambitions and goals, an efficient requalification system requires four characteristics:

- Strong set of available data for an objective evaluation of the job market needs, with an added supply of data from the educational sector.
- Flexibility in the design and delivery of the upskilling investments.
- Capacity to monitor the upskilling programs.
- Capacity to provide incentives to the workforce.

▼ Re-evaluate the current set up of Industry Expert Councils²⁶, focusing on the key industries that are prioritised in the National Development Plan until 2027²⁷ for highest added value to the economy. Reform the Sectoral Expert Council regulations, through its integration within the new Human Capital Development Council, avoiding overlapping of functions, securing clear accountability and alignment between the vocational education strategy and the key priorities for the development of the jobs market.

In previous years, FICIL already outlined the mismatch between priority sectors. For instance, the Industry Expert Councils that shape the courses offered by the State Education Development Agency do not reflect some of Latvia’s Investment and Development Agency priority sectors, such as healthcare and food manufacturing²⁸. Moreover, in light of the current set up of Industry Expert Councils, FICIL recommends a two-way approach to their effectiveness.

22 https://www3.weforum.org/docs/WEF_Future_of_Jobs_2023.pdf

23 https://www3.weforum.org/docs/WEF_Future_of_Jobs_2023.pdf

24 https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Adult_learning_statistics

25 <https://www.em.gov.lv/lv/media/15413/download?attachment>

26 <https://likumi.lv/ta/id/283737-nozaru-ekspertu-padomju-izveidosanas-darbibas-un-darbibas-koordinacijas-kartiba>

27 Support focuses on 5 smart specialised areas – knowledge intensive bioeconomy; biomedicine, medical technologies, biopharmaceuticals, and biotechnologies; smart materials, technologies, and engineering systems; smart energy; information and communication technologies.

28 https://www.ficil.lv/wp-content/uploads/2022/09/FICIL_PP_Labour-Force-Challenges_EN_2022.pdf

Foremost, the current 13 work groups should be re-evaluated and aligned with key industries according to the key sectors for development mentioned in the National Development Plan 2027 and other high level policy-planning documents, in order to focus on the key sectors that will give the most benefit to Latvia's economy. Decision-making should be based on policy planning guidelines and supported by data. Secondly, to improve coordination and increase the diversity of participating companies, FICIL recommends reforming the Industry Expert Council regulation by integrating it within the new Human Capital Development Council, thus avoiding the overlapping of functions, securing clear accountability and alignment between vocational education strategy and the key priorities for the development of the job market.

Amend the legislation to motivate employers to invest in the further education of employees thereby contributing to their upskilling.

FICIL believes the Labour Law framework does not effectively protect or motivate business investment in the upskilling of employees. The Labour Law does not provide for employers' rights to request the reimbursement of training costs that are related to the change of an employee's position with the same employer (e.g. in case of promotion or change to another position (requalification)). The Labour Law also does not provide the right to enter into agreements on employee training for longer than two years in situations where the employer has invested substantial amounts in the training of the employees.

To encourage the investment by employers into the further education of employees, FICIL proposes amendments to Section 96, Paragraph two of the Labour Law, providing that an agreement on training expenses can also be entered into in situations, where the training is related to the change of an employee's position with the same employer. Furthermore, FICIL proposes to amend Section 96 of the Labour Law, providing that, in certain exceptional cases, the term of the agreement on professional training may be three years, particularly, if such training costs exceed 20 minimum monthly salaries as established by the State. At the same time, the Labour Law would retain a provision whereby the amount to be repaid be reduced proportionally to the time the employee worked for the employer after the end of the training.

Taking into account that the Government wants to promote higher education, the current regulation

of the Law on Personal Income Tax (PIT Law) and Cabinet Regulation No. 899 "Procedures for the Application of the Provisions of the Law On Personal Income Tax" does not contribute to such an aim, but in fact does the exact opposite - prevents employers from investing financial resources in the acquisition of a higher education by employees. Thus, FICIL recommends that Paragraph 18.², Sub-clause 3.1 of Cabinet Regulation No.899 of 21.09.2010 "Procedures for the Application of the Provisions of the Law On Personal Income Tax" be deleted.

Implement best practice and processes from businesses to train employees in the public sector whilst also adopting policies to encourage greater knowledge transfer from the public to private sector and vice versa.

Businesses play a crucial role in upskilling the workforce. According to a global survey, 40% of employees stated their company is upskilling²⁹. Moreover, the private sector understands that, as the labour market becomes scarcer and competition rises, it is clear that they will have to play an even bigger role in upskilling their employees. As large businesses invest a significant amount in their workers, it is important that such knowledge transfer is also ensured with the public sector and vice versa. FICIL calls for examining policies that would foster greater knowledge sharing and aim for the public sector to adopt the best practice and processes from businesses to train their employees and foster the learning process, not only focusing on hard skills but also soft skills where necessary.

Best practice from businesses include:

- Setting clear KPIs for learning outcomes for workers, based on results not processes.**
- Work with both hard and soft skills.
- When undergoing the task of centralising support functions, a comprehensive and unified e-learning platform should be created for public service.
- Use of targeted upskilling at the very beginning of a role to avoid a person starting from the most basic role (lowest grade role).
- Clearly estimate the necessary budget and study plan at the start of each year.
- Implement a specific number of hours annually for each employee skill enhancement.

²⁹ <https://www.pwc.com/gx/en/issues/workforce/hopes-and-fears-2022.html>



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