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GOVERNMENTS

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European Public Prosecutor's Office (EPPO)
European Anti-Fraud Office (OLAF)
Committee on Budgets of the European Parliament (BUDG)
Directorate General for Regional and Urban Policy (DG REGIO)

Open Letter

Call for more active action in assessing the possibility of ending criminal proceedings, thus restoring the damaged reputation of the officials and local governments involved.

The Latvian Association of Local and Regional Governments (LALRG) is an association which associate on voluntary basis municipalities and cities of the Republic of Latvia. The main goals of LALRG are development of local government policy in Latvia, solving common problems of local governments and defending interests.

Corruption, fraudulent use of European Union (EU) funds must be tackled in a persistent and consistent manner. These crimes are often cross-border in nature, so it is good that EPPO is set up, capable of conducting independent investigations in different countries. However, it is equally important that these investigations are objective, professional and based on clearly understandable principles and regulatory requirements, understanding not only their letter but also the spirit. It is also very important that the authorities and persons involved in the investigation share an understanding of importance and specifics of business facilitation, especially in economically disadvantaged regions.

Unfortunately, in several investigations in local governments in Latvia, initiated by the EPPO, to our mind, it emerges that this understanding is insufficient and the normative provisions are interpreted very narrowly or even illogically. Taking into account the abovementioned, on 7 December 2024, the LALRG organised a meeting of local government leaders with the Prosecutor of the EPPO, calling for speeding up of initiated investigations as far as possible in order to remove existing uncertainties and ensuring public awareness. Senior local government officials were involved in investigations, thus adversely affecting and undermining reputation and credibility of officials. In spite of what was discussed during the meeting initiated by the LALRG, no action has been taken by the EPPO to ensure a swifter progress of initiated investigations and adoption of the final rulings.

We would like to draw attention to the nature of the cases under investigation, namely that for several periods of the EU long-term budget for development of local governments the state has chosen to promote production by creating industrial parks and industrial areas, the infrastructure of which is suitable for production. According to the LALRG, support for business in regions is essential not only for local economy but also for the long-term

development and stability of the country. Promoting entrepreneurship in regions creates new jobs, reduces unemployment and improves the quality of life to local people. This is particularly important in regions where unemployment is often higher than in large cities. Reducing depopulation is often a discussion, therefore one of the economic incentives recognised by the EU is to promote entrepreneurship in regions, as it is the only way to attract and retain population in regions, thus preventing depopulation and preserving local culture and traditions.

According to the LALRG, the operational strategy and communication of the EPPO is not acceptable, as the directives and strategies currently driven by the Green Deal require a reorganisation of economics and this must be done without delay. This is a critical issue, if we think national, so that local entrepreneurs can continue to work in export markets, meet taxonomy requirements, be able to apply themselves to large value chains. We are convinced that there is a need to stimulate innovation and development of new technologies. Local entrepreneurs are looking for creative solutions to compete in a market where exactly new industrial areas and parks with a green component provide an essential support.

Similarly, from the point of view of resource efficiency, it is better if the infrastructure is in line with economic operator's production processes. If this infrastructure is inadequate and requires significant investments from the business community, there will be no interest in this facility. In assessing this process, it must be borne in mind that local governments have the right to lease these areas for a period of only 30 years. This in turn means that an entrepreneur may not be able to recover the initial investments within 30 years. It is therefore justified that in case of large investments, industrial areas should be optimally established.

We would like to draw attention to the nature of the cases under investigation, namely that for several periods of the EU long-term budget for urban development, the country has chosen to promote production by setting up industrial parks in which infrastructure is suitable for production. This infrastructure is to be leased by tender. The better the infrastructure is in line with the entrepreneur's manufacturing process, the better business development. If this infrastructure is inadequate and entrepreneurs do not apply, the project's resources prove to be wasted. In leading the process, local governments must balance between economic benefits (spatial planning and available networks are ideal for the winner of the competition) and promotion of competition (a larger pool of bidders and a greater variety of bids). Local governments in these circumstances tried to achieve greater savings by meeting requirements of the laws.

In business promotion projects, local governments have consulted with companies representing industry – potential tenants – to get an idea of the actual situation and market trends, as well as what type of infrastructure is actually needed and will be in demand. Such consultations shall not only be lawful and permissible from the point of view of laws and regulations, but also arise from good governance and prudent landlord principles laid down in the Law on Prevention of Squandering of the Financial Resources and Property of a Public Entity. It has to be taken into account that if a local government were to build unnecessary, inappropriate infrastructure for no one, both municipal and EU fund would actually be wasted.

It can be inferred from the publicly available information that the EPPO assesses these consultations as favouritism and that, according to the EPPO, the local government actually built the infrastructure for a particular operator, so that it was allegedly allowed to claim significantly less support from the EU funds. In order to make such statements, it must be borne in mind that the action of the local government was in line with the guidelines of the Ministry of Finance and the Central Finance (MoF) and the Central Finance and Contracting

Agency (CFLA). In a situation when action of local government is consistent with guidelines of the MoF and The CFLA, such statements cannot be made because this would mean that the local government has acted in accordance with the rules and regulations in force. The aim of a local government is to ensure business development and economic growth in regions in compliance with all regulatory requirements. The LALRG draws attention to the fact that the unsatisfactory pace of investigation and inaccurate interpretation of normative acts undermines Latvia's image, making it difficult for us to strengthen economics ensure well-being of citizens. This may have disruptive consequences for the economics. There is nothing worse than insults that are unfounded and not withdrawn.

It should be recalled that initially EU business support programmes in Latvia required conclusion of a letter of intent with a company that commits to invest the funds required in the programme and create new jobs¹. The CFLA even checked their balance sheets, i.e., whether they were able to make such investments before approving the project. The fact that other companies are also eligible for this lease was guaranteed by a fair and open auction of the lease rights. This well-established practice local governments continued to implement in future programme calls, being completely convinced that they are acting legally and ensuring the best and most effective possible way of using EU support.

In situations where action pursues a legitimate objective of promoting industry in the most efficient way and where the actions implemented contribute to that objective, the impact of certain regulatory discrepancies in relation to the public benefit obtained should be assessed in accordance with the principle of proportionality. If the public interest prevails and no embezzlement has been identified, statements should not be prematurely made since such statements damage reputation of local governments and make it difficult to attract future investments.

Experience from other EU countries has also shown that it is the existence of a fair, open auction of rental rights that determines whether an object is built for a particular tenant or accessible to any bidder. Questioning that principle causes a number of serious damages that is objectively verifiable:

- 1) Legitimacy of projects already carried out is questioned – allegations without final investigation result are made as a claim in the media and public;
- 2) Often the consulted entrepreneurs do not participate in auctions, thus reducing bidders and rents. There are auctions where no bidders participate because businessmen do not want to risk being prosecuted, thereby undermining their reputation;
- 3) Local governments abandon their plans to construct production buildings because without consultation with entrepreneurs and identification of market trends, they may prove

¹ Paragraph No. 260 of the operational programme "Growth and Employment" supported by the Cabinet of Ministers order No. 62 of 4 February 2015 on the operational programme "Growth and Employment" of the European Union Structural Funds and the Cohesion Fund for the 2014 – 2020 programming period provided that during the planning period of EU funds for the 2014 – 2020 programming period as a priority it is planned to support those projects which:

- 1) are identified as local government priorities and will be included in local government integrated development programmes based on the needs of local entrepreneurs;
- 2) within the framework of which the planned investments will supplement investments made within the framework of other projects promoting integrated development of the local government;
- 3) providing for private sector investments directly aimed at promoting economic activity and demonstrating the willingness of private investors to invest (including creation or expansion of activities of merchants, increase of productivity and export volume, creation of new jobs, repeated return on investments made).

In order to demonstrate readiness to implement, among other things, the abovementioned settings, a memorandum of intent entered into by the merchant with the local government is necessary, making specific commitments (job creation, increase of turnover, increase of export capacity, improvement of performance indicators, attraction of investments, etc.)

unnecessary to anyone. It leaves the country, especially regions, without new, modern jobs and the economic backwardness of regions is increasing and the objective of the EU cohesion policy are not met;

4) Foreign companies abandon their intention to invest in Latvia and especially in regions because they believe the environment is corrupt and they do not want to risk their reputation;

5) Reputation of local government leaders and employees is irreversibly destroyed;

6) There is a lot of stress and a loss of faith in justice among local government employees;

7) In society, without a real and factual basis, there is a misconception that large amounts of EU funds are being defrauded in local governments for the personal benefit of politicians.

All the above mentioned conditions have a significant negative impact on foreign investors' already negative perception of Latvia as an investment-friendly environment. In the study "Foreign Investment Environment Index 2023" by the Council of Foreign Investors in Latvia (FICIL), foreign investors assessed the investment climate in Latvia with the historically lowest mark (1,9 points out of five). In the study, investors have admitted they are being heard, but there is a lack of a real action after the dialogue launched.

This hinders the development of Latvia, especially in regions, and cohesion, as well as widens the gap between Riga and the rest of Latvia. It also undermines the image and trust to Latvian local governments, as well as state and EU institutions.

Similarly, the abovementioned circumstances affect not only Latvia's overall image to the world and in the eyes of potential investors, but also on internal level, causing concern and distrust to state and local government officials. According to the Organization for Economic Cooperation and Development (OECD, 2023), an average of 41% of the population trust the government. Only a quarter of the population trusts the government in Latvia. This in turn creates new security risks.

In the light of the above, and wishing to find a fair and legal solution to the problem described above, we call for a constructive dialogue and call for an examination of the possibility of ending criminal proceedings initiated in connection with the market investigation carried out by local governments in consultation with undertakings representing the sector in which there is no indication that anybody from the management or employees of the local government has benefited personally, requested bribery or artificially increased construction costs. We would like to draw attention to the fact that individuals, businesses and local governments have the right to draw attention to the fact that individuals, businesses and local governments have the right to reputation protection, so we call for a critical assessment of the consequences of criminal proceedings initiated and for the prevention of new, incorrect and legally unfounded case-laws.

We also invite to take into account the fact that, in accordance with the Paragraph 3.1 of the Cabinet of Ministers regulations of the Central Finance and Contracting Agency (CFLA), the functions of the CFLA include, *int.al.*, the functions of the EU fund cooperation institution. Respectively, in accordance with the Sub-paragraphs 4.1, 4.3, 4.5 and 5.6 of the abovementioned Cabinet of Ministers regulations, in order to ensure the performance of functions, the CFLA shall perform the following tasks: implement and monitor programmes and projects within the competence of the institution in accordance with the procedure specified in regulatory enactments; establish and implement a system for the management, monitoring and control of the financial resources of programmes and projects falling within the competence of the Authority; develop proposals for improving the system of implementation and monitoring of programmes and projects falling within the competence of the Authority; take information and advisory measures to ensure the implementation of programmes and projects falling within the competence of the Authority.

Taking into account the abovementioned functions of the CFLA together with the fact that prior to acceptance of projects, allocation of EU funds and implementation thereof, local governments shall consult with CFLA, which evaluates the conformity of the relevant projects and, by its acceptance, actually certifies the correctness of the actions of local governments, we believe it is unreasonable to take allegations against local governments and their officials regarding the performance of criminal punishable activities, if the competent authority in the implementation, supervision and administration of the EU fund projects has in fact confirmed the conformity of projects with the requirements of regulatory enactments.

Yours sincerely,
Chairman



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