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# The role of national human rights institutions in compliance with fundamental rights in the implementation of European Union funds:

## The situation of Latvia

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## Abbreviations and terms used

CFCA	Central Finance and Contracting Agency
EU	The European Union
MoE	Ministry of Economics
MoF	Ministry of Finance
HP	the horizontal principle
Moi	Ministry of the Interior
MoES	Ministry of Education and Science
CPR	Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy
MoC	Ministry of Culture
MoW	Ministry of Welfare
CSO	civil society organisation
Regulation No 1303/2013	Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006
SOA	specific objective of the assistance
CI	cooperation institution
MoT	Ministry of Transport
MoJ	Ministry of Justice
MoEPRD	Ministry of Environmental Protection and Regional Development
HP EI	HP “Equality, Inclusion, Non-discrimination and respect for Fundamental Rights”
MoH	Ministry of Health
SC	State Chancellery
MoA	Ministry of Agriculture

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## Introduction

Articles 5 and 48 of Regulation No 1303/2013 determine<sup>1</sup> the national authorities and relevant bodies which must be included in the supervision of the EU funds at the level of the national Member States. In the certain case, it is necessary to set up a Monitoring Committee consisting of “the relevant bodies representing civil society, including environmental partners, non-governmental organisations and bodies responsible for promoting social inclusion, gender equality and non-discrimination.”<sup>2</sup> Also Articles 8 and 38 of the CPR provide for the establishment of an analogous Monitoring Committee with a similar composition.<sup>3</sup> In addition, the European Commission invites Member States to include fundamental rights structures in Monitoring Committees.<sup>4</sup> In Latvia, such a fundamental rights structure, which protects and promotes human rights, is the Ombudsman.<sup>5</sup>

At the end of 2021, the Ministry of Finance of the Republic of Latvia invited the Ombudsman to participate in the EU funds Monitoring Committee, but the Ombudsman did not agree. At the same time, it should be noted that the Ombudsman has examined cases regarding possible violations of the prohibition of discrimination in the implementation of the EU funds. These irregularities are found both in the implementation of specific projects and in the design of programmes. These violations also concern different grounds of discrimination, such as both gender and disability.

The **aim of this report** is therefore to examine the actual situation regarding the implementation and monitoring of EU structural funds in Latvia in the context of human rights, in particular the prohibition of discrimination.

In accordance with Regulation No 1303/2013 and the CPR, funding is available in Latvia under several EU funds. Their administration management is divided between MoF and MoA. This study will focus on the EU funds under the supervision of the MoF, as the MoF administers most of the EU funds. The EU Funds administered by the MoA (European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund) will not be analysed in this study due to the limited scope of the research. This study will not look at other programmes operating in Latvia, where it is possible to receive support within the framework of two, three countries or

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<sup>1</sup> [Regulation \(EU\) No 1303/2013](#) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, 20.12.2013, L 347/320

<sup>2</sup> [ibid.](#)

<sup>3</sup> [Regulation \(EU\) 2021/1060](#) of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy

<sup>4</sup> [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the committee of the regions. Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#). Brussels 2.12.2020, COM (2020) 711.

<sup>5</sup> [Ombudsman Law](#). Adopted on 6 April 2006, entry into force on 1 January 2007

regional cooperation.<sup>6</sup> These programmes are excluded from the analysis because they are not implemented under the EU Structural Funds.

The study of the actual situation is designed as desk-based research, in which the EU and national laws governing the use of the EU funds were used.

In addition, the following **methods** were used:

a) interviews with representatives of CSOs — interviews as a method were chosen to obtain more detailed information on how and how effectively the mechanism for monitoring and implementing the EU funds in Latvia is working from the point of view of CSOs. Four CSOs were interviewed between 10 and 14 February 2023. Interviews were held with representatives of CSOs active in the field of human rights and included in the Monitoring Committee. The names of CSOs will not be identified in this study, as CSOs wanted to remain anonymous. Each CSO was interviewed separately. Interviews were organised online and were recorded. Interview questions can be found in Annex 1.

b) survey of public authorities — the survey was chosen as a method to obtain written information about the previous and current programming period under the supervision of the EU funds, with an emphasis on HP EI. The national authorities in the EU fund supervision structure — MoF, MoE, MoI, MoES, MoC, MoW, MoT, MoJ, SC, MoH, MoEPRD, MoA, CFCA — were interviewed. The survey was conducted in the period from 10 to 24 February 2023. The questions of the survey are set out in Annex 2.

c) discussion with the national authorities involved in the monitoring structure of the EU funds — the discussion as a method was chosen to clarify and supplement the information obtained in the survey. The discussion was organised online on 20 February 2023 and it was recorded. Representatives of the MoF, MoJ, MoA, CFCA, MoH, MoW, MoES, SC and MoE participated in the discussion. The discussion questions are set out in Annex 3.

The period for study of the actual situation is the EU budget programming period 2014-2020 (hereinafter — the previous programming period) and the EU budget programming period 2021-2027 (hereinafter — the current programming period). The previous programming period was chosen because it has largely been completed, so that specific conclusions can be drawn on the activities of the institutions involved during that period. On the other hand, a comparison of the two programming periods shows the changes that have occurred.

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<sup>6</sup> [European Union funds](#)

## **1. Implementation of the EU funds: challenges and opportunities for ensuring fundamental rights**

### **1.1. Management of the EU funds: the institutional structure**

In accordance with Articles 8 and 9 of the CPR, Member States shall establish a framework (institutional and organisational) for the management of the EU funds, which includes:

- a) partnership with bodies promoting fundamental rights;
- b) the implementation of the HP based on the following criteria of discrimination: gender, disability, racial or ethnic origin, religion or other belief, age and sexual orientation;
- c) the implementation of the above aspects in the preparation, implementation, monitoring, reporting and evaluation of programmes.<sup>7</sup>

Therefore, it is necessary to investigate whether and how such system has been established in Latvia.

In Latvia, management of the EU funds under shared<sup>8</sup> management based on the Regulation No 1303/2013 and the CPR is mainly implemented by the MoF.<sup>9</sup> In the current programming period, as in the previous programming period, the institutions of the EU funds' management are distributed into six<sup>10</sup> groups (figure No 1):

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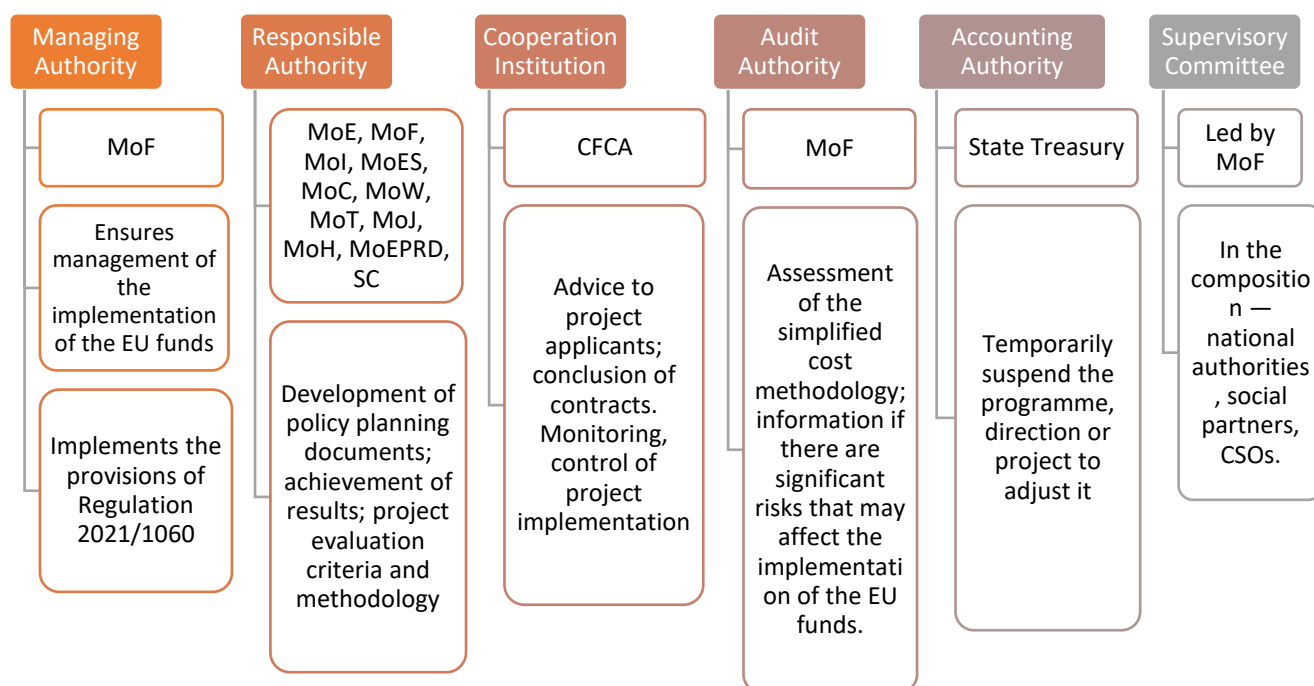
<sup>7</sup> [Regulation \(EU\) 2021/1060](#) of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy

<sup>8</sup> [European Union funding, grants, and subsidies](#)

<sup>9</sup> [Ministry of Finance of the Republic of Latvia. 2022. European Union Cohesion Policy 2021-2027. European Regional Development Fund. Cohesion Fund, European Social Fund Plus, Just Transition Fund](#) (information in Latvian)

<sup>10</sup> [The Law on the Management of the European Union Funds for the 2021-2027 programming period](#). Adopted on 7 April 2022, the first paragraph of Article 9 shall enter into force on 4 May 2022

Figure No 1 “Management of the EU funds in Latvia”



Compared to the previous<sup>11</sup> programming period, no significant changes have taken place in the national management structure of the implementation of the EU funds. The MoF has maintained the functions of the managing authority and chairing the Monitoring Committee in both programming periods, in addition to becoming the responsible authority in the current programming period. The number of responsible institutions has changed during the current programming period, but this is not significant in the context of this evaluation.

Special attention should be paid to the Monitoring Committee. Its establishment, membership and functions are enshrined both Regulation No 1303/2013 and the CPR. In the current programming period, 66<sup>12</sup> members are included in the Monitoring Committee, which is more than in the previous programming period (52)<sup>13</sup>. The members of the Monitoring Committee may be divided into the following categories: public authorities (27 representatives); local governments (4 representatives); academia (3 representatives); civil society sector (29), four of which representing discrimination risk groups; other social partners (3 representatives). The Monitoring Committee also includes representatives from the ministries responsible for the implementation of HP EI. Unlike the previous programming period, instead of one representative responsible for coordination of HP EI in the current programming period there are representatives of two ministries (2 representatives in total). An organisation representing gender equality is additionally included in the Monitoring Committee of the current programming period. Although the

<sup>11</sup> [Law on Management of European Union Structural Funds and the Cohesion Fund for the 2014-2020 Programming Period](#). Adopted on 3 July 2014, the first paragraph of Article 9 enters into force on 11 July 2012

<sup>12</sup> [Cabinet Order No 825 of 15 November 2022 “On the Composition of the Monitoring Committee of the European Union Funds for the Programming Period 2021-2027”](#) (available in Latvian)

<sup>13</sup> [Cabinet Order No 661 of 21 November 2014 “On the composition of the Monitoring Committee of the European Union Structural Funds and the Cohesion Fund for the 2014-2020 programming period”](#) (available in Latvian)

Monitoring Committee is centralised, it includes representatives from all levels of government and social partners.

The Monitoring Committee has subcommittees. In the previous programming period, there were eight subcommittees.<sup>14</sup> In the current programming period, there are six subcommittees set up according to the policy objectives, i.e., Smarter Europe, Greener Europe, etc.<sup>15</sup>

In addition, it should be noted that the HP EI Guidelines (2021-2027)<sup>16</sup> (hereinafter referred to as the Guidelines) have been developed both in the previous and the current programming period. The Guidelines for the current programming period also include the principles of the EU Charter of Fundamental Rights.<sup>17</sup> In the previous programming period, the institutions involved in the management of the EU funds were trained in HP EI based on the Guidelines. Similar training is planned for the current programming period.

The Guidelines state that HP's impact on specific objectives, programmes and projects is direct, indirect and with no impact, they also provide for the number of points for project evaluation in each of these categories. This means that in certain cases it is possible to reject a project or ask for clarification if it does not comply with the principle of non-discrimination.

The HP EI is also included in the project application forms (Chapter 3<sup>18</sup>). Upon drafting legislation, it is necessary to include information on human rights, gender equality, equal opportunities, and rights of persons with disabilities in the initial impact assessment of the project (ex- ante (annotation)).<sup>19</sup>

Given that HP EI is applicable to the entire EU fund management process, and any part of it may have disputes between the parties involved, it is also important to consider dispute resolution arrangements.<sup>20</sup> Figure 2 illustrates the dispute resolution process when the dispute concerns the decision taken to participate in the project, while Figure 3 shows how disputes can be resolved after the contract between the parties has already been signed.

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<sup>14</sup> [The Monitoring Committee. EU funds](#) (available in Latvian)

<sup>15</sup> [EU Structural Funds. Monitoring Committee 2021-2027](#) (available in Latvian)

<sup>16</sup> Ministry of Welfare. [Horizontal principle of equality, inclusion, non-discrimination and respect for fundamental rights, guidelines for implementation and monitoring \(2021-2027\)](#) (available in Latvian)

<sup>17</sup> Ibid

<sup>18</sup> [Cabinet Regulation No 784 of 16 December 2014 Procedures by Which the Institutions Involved in the Management of the European Union Structural Funds and the Cohesion Fund Ensure Preparation of Planning Documents and Implementation of These Funds during the 2014-2020 Programming Period](#)

<sup>19</sup> [Cabinet Regulation No 617 of 7 September 2021 "Initial Impact Assessment Procedures for a Draft Legislative Act"](#) (available in Latvian)

<sup>20</sup> Article 27 of the [Law on Management of the European Union Funds for the 2021-2027 programming period](#). Adopted on 7 April 2022, entry into force on 4 May 2022



Figure 2. Pre-contractual dispute resolution

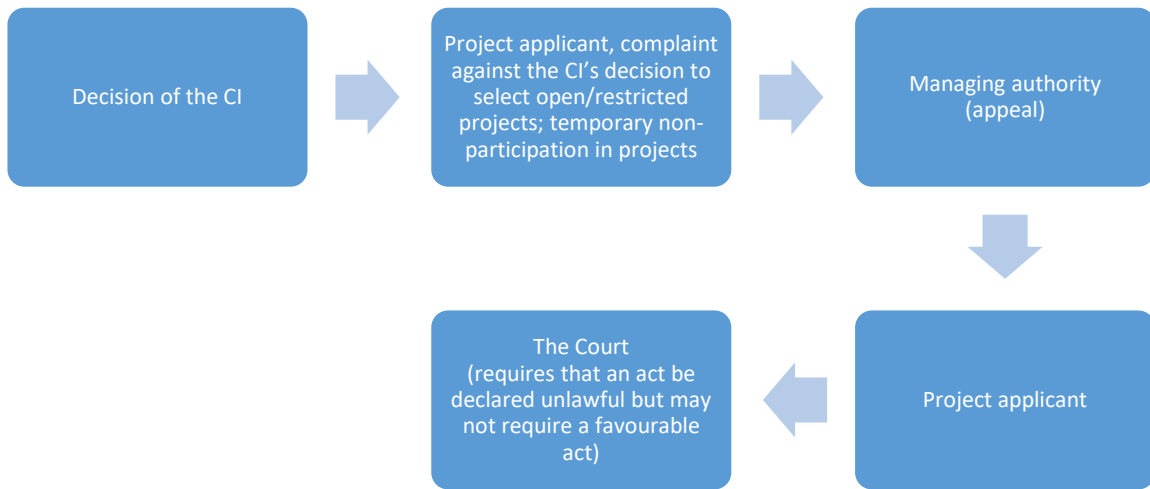
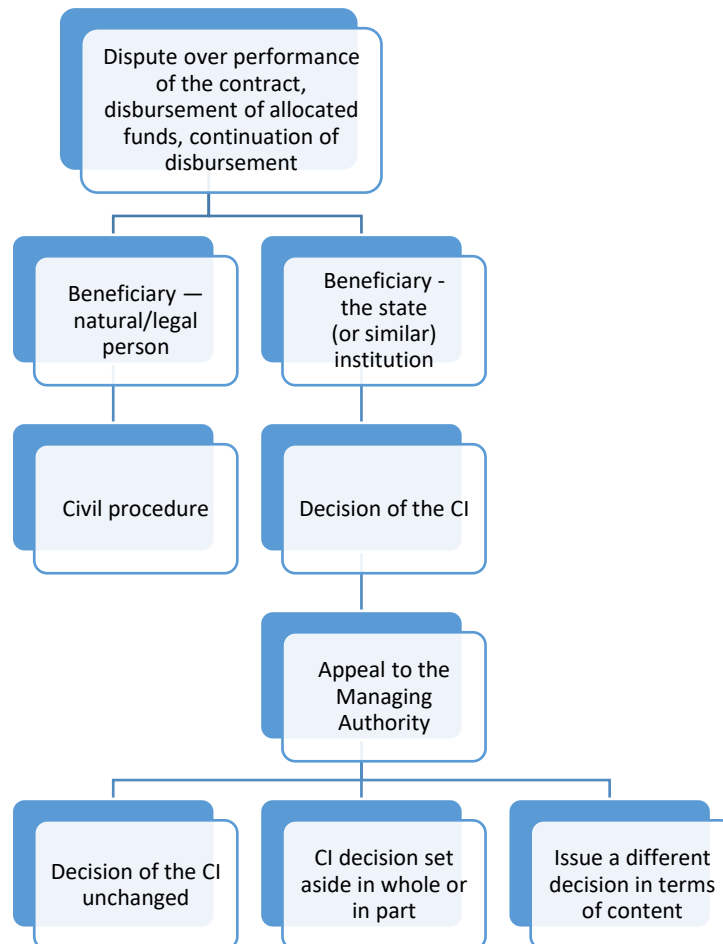


Figure 3. Post-contractual dispute resolution



An assessment of the institutional framework leads to the conclusion that several CSOs representing groups at risk of discrimination are members of the Monitoring Committee; guidelines on HP EI have been developed; the project application forms contain a separate section on HP EI; participating institutions are trained on HP EI; *ex ante* reports (annotations) are conditional on the inclusion of information on the impact of the legislation on human rights and HP EI.

The current process provides for the resolution of disputes between project parties or potential parties. It is not possible for third parties to engage in the proceedings if they consider that the project carried out does not comply with fundamental rights. In this case, the third party may apply to the Ombudsman based on the general procedures laid down in Articles 11 and 12 of the Ombudsman's Law<sup>21</sup> on the elimination of all forms of discrimination, the protection of human rights and respect for the principle of good governance.

## **1.2. Management of the EU Funds: HP EI within projects**

The study looked at European Social Fund (now European Social Plus Fund) projects because it puts a strong emphasis on investing in people, with a particular emphasis on employment, social and education policies, as well as support for structural reforms in these areas.<sup>22</sup> These are the areas the Ombudsman works the most with, so it was necessary to look at the activities of the fund.

According to Latvia's national EU project database, 333 ESF projects have been approved in the 2014-2020 period, 140 of which have been completed and 193 are still active. Within this study, completed projects were investigated (140).<sup>23</sup> Of these, 70 projects mention different groups at risk of discrimination. Persons with disabilities and children with disabilities are the most affected by projects. Young people, seniors, foreigners, low-income people, needy people, as well as persons living in territorially separated areas are also mentioned.

It should be noted that the information provided in the database is not detailed, accordingly, it is not possible to conclude directly whether and how the rights of certain groups have been safeguarded. The same was pointed out by the representatives of the national authorities, stressing that the database contains general and not detailed information on the projects, so it is likely that information on how fundamental rights are directly ensured may not be indicated.<sup>24</sup> It was also impossible to obtain more detailed information from the Operational Programme "Growth and Employment" approved by the European Commission.<sup>25</sup>

Overall, the completed projects of the ESF were related to education, social rehabilitation (including day centres), health promotion, various technical rules for the implementation of the EU funds (e.g., public information), some projects were related to employment.

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<sup>21</sup> [Ombudsman Law](#). Adopted on 6 April 2006, entry into force on 1 January 2007

<sup>22</sup> [European Commission. European Social Plus Fund](#)

<sup>23</sup> [The European Union. The Structural and Cohesion Funds of the European Union](#) (available in Latvian)

<sup>24</sup> Discussion on management of EU funds with representatives of national authorities on 20 February 2023.

<sup>25</sup> Ministry of Finance. [Operational programme "Growth and Employment" 2014](#) (available in Latvian)

A brief assessment of projects according to the impacts set out in the Guidelines — direct, indirect, no impact — leads to the conclusion that projects with a direct impact on specific target groups include clearer and more detailed information on safeguarding the rights of the people at risk of discrimination. For indirect impact projects, information on HP EI is more general, but it might be explained due to a wider target group. At the same time, there were projects whose description raised doubts as to the extent to which the project promoters understand HP EI. On the other hand, for projects that have no impact on HP EI, this information was not provided accordingly. In addition, the question arose whether public authorities requested financing for technical assistance, such as publicity about the EU funds, implement HP EI or consider that HP EI had no impact on these measures. It was noted in the discussion that accessibility of publicity (providing information in alternative ways and formats to specifically ensure the rights of persons with disabilities) will be given more attention in the current programming period.<sup>26</sup>

Consequently, when assessing projects, the focus of HP VI should be on indirect and non-impact projects as well as technical assistance projects.

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<sup>26</sup> Discussion on management of EU funds with representatives of national authorities on 20 February 2023.

## 2. The role of national human rights institutions in ensuring fundamental rights in the implementation of the EU funds

According to Article 11 of the Ombudsman Law, the Ombudsman protects and promotes human rights, promotes the compliance of the principle of equal treatment and prevents of all forms of discrimination, as well as promotes the compliance of the principle of good governance in public administration. Within the framework of these functions, the Ombudsman acts in the following directions — handles complaints; informs the public; makes recommendations to the authorities responsible for issuing or amending legislation; submits applications to the court; conducts research; visits closed-type institutions (without special permission). Therefore, the Ombudsman does not have any restrictions at the level of regulatory enactments to be able to participate in any of the stages of management of the EU funds.

However, it is necessary to assess the usefulness of the involvement by evaluating the existing institutional structure as well as the dispute resolution arrangements. Therefore, analysis of the Ombudsman’s possible involvement in the parts of the process related to the management of the EU in accordance with Ombudsman’s functions will follow, using information obtained from CSOs interviews and discussions with national authorities (Figure 4).

Figure 4 “Possible involvement of the Ombudsman in the management of the EU funds”

No	Processes of EU Funds management	Correspondence to the CPR)
1	Monitoring Committee	Partnership with bodies promoting fundamental rights (Article 8 and 38);
2	Guidelines on HP EI	Implementation of the HP based on the following criteria of discrimination: gender, disability, racial or ethnic origin, religion or other belief, age and sexual orientation (Article 9);
3	Training of relevant national authorities on HP EI	Implementation of the HP based on the following criteria of discrimination: gender, disability, racial or ethnic origin, religion or other belief, age and sexual orientation (Article 9);
4	HP EI in practice and disputes on specific projects and actions where prima facie <sup>27</sup> non-discrimination is not respected	Implementation of the above aspects in the preparation, implementation, monitoring, reporting and evaluation of programmes. (Article 9)

**[1] Monitoring Committee.** According to the above, the Monitoring Committee in Latvia has been set up in accordance with the requirements of the CPR in relation to the social groups to be included in the structure, including the CSOs representing the various groups at risk of

<sup>27</sup> At first view. Note

discrimination. It should be noted that the number of members of the Monitoring Committee in the current programming period has increased compared to the previous programming period. According to the Ombudsman, quantity does not mean quality.

### **[1.1] Challenges identified by CSOs in the Monitoring Committee:**

**[1.1.1] Formalism** — the assessment of CSOs about the Monitoring Committee depends on the duration of their involvement, i.e., the shorter the experience in the Monitoring Committee, the more positive is the attitude. The CSOs provided the following views on the Monitoring Committee:

- a) The possibility for CSOs to influence processes, to bring up the issues they work with, to receive answers on the merits. CSOs are feeling heard.
- b) Initially, this seemed as a possibility to change and influence things, as in other countries CSOs were not offered the opportunity to participate in the Monitoring Committee, but in reality, this was not the case (other committees/working groups have a greater impact).
- c) CSOs feel as if the Monitoring Committee has been set up due to requirements in the EU framework, but the activity is very formal to show that civil society is included. CSOs define it as a 'self-sufficient regime', i.e., ministries consult and make decisions, CSOs feel powerless and senseless.
- d) There are too many involved parties, which does not look too serious. Everyone decides on everyone, but in fact, no one decides on anything.

**[1.1.2] The volume of documents** — both CSOs and public authorities have recognised that the volume of documents related to the evaluation of the EU funds is massive. It also discourages CSOs and reduces their activity in the Monitoring Committee. National authorities indicated that the evaluation of the EU funds (excluding accounting programmes and record-keeping systems) does not involve artificial intelligence or any other digital software to facilitate the work.

**[1.1.3] The complex language** of documents requires legal knowledge, knowledge of the use of funds or experience in public administration to be able to understand the language used in the documents. This can be very cumbersome for CSOs to be able to play an active role in the Monitoring Committee from the very beginning.

**[1.1.4] Human resources** — participation in the evaluation of the EU funds requires a lot of human resources. Considering that the European Commission has recommended that countries include fundamental rights institutions in the Monitoring Committee, the question of human resources, which is directed exclusively to the management of the EU funds, was asked to both national authorities and CSOs. The national authorities indicated that human resources depend on the functions performed by the relevant institution, as well as the amount of financial resources it manages. Thus, the number of workloads can range from 2.5 load to several dozen people in different departments.<sup>28</sup> On the other hand, CSOs pointed out that at least two people from CSOs would be needed for the successful functioning of the Monitoring Committee. Some CSOs

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<sup>28</sup> Discussion on management of the EU funds with representatives of national authorities on 20 February 2023.

indicated that they had initially looked at all EU funds horizontally on their topics, but given the limited human resources, the large number of documents and the specific language, they chose to see only one fund's themes or not to go into all the documents. CSOs pointed out that it is important for them to participate in subcommittees, but then everything cannot be combined, as the subcommittees are much more active than the Monitoring Committee, and the volume of documents under consideration is even larger. The national authorities, on the other hand, stressed that the subcommittees were intended to discuss the disputed issues timely and, consequently, to have consensus in the Monitoring Committee. At the same time, the national authorities pointed out that if there is one representative of an CSO in a subcommittee, but another in the Monitoring Committee, it is often so that the question is agreed upon in the subcommittee, but problems occur in the Monitoring Committee. It makes the work difficult if there is no unified information from CSOs.

**[1.1.5] Preliminary preparations**, i.e., the need to obtain the status of public official. This requirement makes it very difficult for CSOs, especially since it is formal in order to account to the State Revenue Service, since the representatives of CSOs do not receive any remuneration for its participation in the Committee.

**[1.1.6] Voting procedure** — meetings usually include more representatives of national authorities, fewer CSO representatives (meetings take place during working hours), which means that public authorities have more possibility to vote thus public authorities dominate. Unless public authorities (1 or 2) do not share the opinion of CSOs, then it is impossible for CSOs to implement their opinion.

**[1.1.7] Content of voting** - although there are many documents, members are provided with minimal and general information on the programmes/actions to be voted on, e.g., there is no information on the implementer. This information can be found on the websites of public authorities, but this means additional search, and each programme has its own nuances. Given the scope of the Monitoring Committee's agendas, it is not possible to search for additional information on the websites of ministries.

**[1.1.8] Organisation of meetings** — there are tens of documents during one meeting, each of which may have several proposals. It is physically impossible to understand everything in detail. As a rule, one meeting takes place throughout the day, regularly lacking time to ask questions.

**[1.1.9] Sense of disappointment** — there is an example that the activity had been agreed upon in the Monitoring Committee, however, the Cabinet Regulation, which was further developed based on the activity, included various restrictions that CSOs were unable to influence. In this case, all good intentions and ideas remained without a result.

## **[1.2] Positive aspects of the Monitoring Committee**

The CSOs were asked to provide information on the positive aspects working in the Monitoring Committee. They indicated two main aspects, firstly, that at European Union level, it is appreciated that CSOs are in the Monitoring Committee because such possibility is not offered in other countries, especially, with voting rights and the right to complain.

Secondly, that it is possible to inform the European Commission once every semester about the activities of the Monitoring Committee, thus preparing recommendations from the European Commission on improving the work of the Monitoring Committee.

### **[1.3] Examination of non-discrimination issues**

CSOs indicated that the Monitoring Committee is provided with information on the general activities (not specific projects) covering all EU funds administered by the MoF. Thus, the Monitoring Committee is not able to ascertain whether the principle of non-discrimination is respected in all areas horizontally. In addition, HP is also difficult to follow due to the large volume of documents. Accordingly, the competent authorities shall carry out an assessment of compliance with the principle of non-discrimination.

### **[1.4] Inclusion of additional CSOs representing the non-discrimination**

Opinions differed on the matter of additional CSOs. On the one hand, it was pointed out that it would be necessary to include diverse organisations of persons with disabilities to avoid coordinating information, as it is often sent too late to allow enough time to coordinate with others. On the other hand, it was pointed out that additional CSOs could be included if they were provided with training, and that the committee's activities should be organised so as not to wasting CSOs time.

### **[1.5] Proposals for improving the functioning of the Monitoring Committee**

To improve the functioning of the Monitoring Committee CSOs proposed the following:

- a) Training on the process, handling of documents, etc. for CSOs included in the Monitoring Committee is necessary. The views of public authorities on training differs – some pointed out that such training already exists, it has been organised in the past and will continue to be provided; other institutions indicated that such training was not planned.<sup>29</sup> As a result, there was no unified opinion about the training.
- b) In other countries, technical funding for CSOs is foreseen in the implementation of the funds so that they can employ people for the evaluation of the EU funds. The national authorities pointed out that practices vary from one country to another and that it is possible to obtain funding through existing funds (e.g., the Recovery Fund).<sup>30</sup>
- c) It is necessary to provide more information on each item during the meetings to make it clear what is being voted on.
- d) It is necessary to include a less items on the Committee's agenda. The problem could be that this would lead to more meetings, and then the question would remain whether the civil society organisations could ensure their presence at committee meetings.
- e) National authorities should provide the Monitoring Committee with qualitative rather than quantitative feedback, for example, more detailed information, as well as about the impact of the

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<sup>29</sup> Discussion on management of the EU funds with representatives of national authorities on 20 February 2023.

<sup>30</sup> Ibid

project on the public. The national authorities indicated that an analysis of the impact of HP on EU fund measures was carried out, with an emphasis on the impact on society. The problem arose because it was impossible to assess everything unequivocally, as it had to be assessed together with the processes taking place in the society. Therefore, the conclusions are quite conditional. In the previous programming period, such analysis was carried out twice, in the middle phase and at the end of the programming period. In the current programming period, the analysis will be carried out at the end of the programming period, as no data are available at mid-term.<sup>31</sup>

**[2] Guidelines on HP EI** — In accordance with Article 7 of Regulation No 1303/2013 and the Partnership Agreement, there was/is an obligation<sup>32</sup> to establish HP. MoW is responsible for HP EI, while MoEPRD is responsible for HP “Sustainability Development”<sup>33</sup>. This study highlights HP EI. According with the regulatory framework, the authorities responsible for the supervision of HP have the following responsibilities:

- a) to develop methodological materials regarding the monitoring of implementation of the relevant horizontal principles, to provide advisory and methodological support related to the monitoring of implementation of the relevant horizontal principle in the relevant areas of the specific objectives;
- b) to provide opinions on the draft planning documents of the EU funds, draft laws and regulations regarding the EU funds, and to provide opinions to the Monitoring Committee and sub-committee on the draft criteria for evaluation of project applications related to the HP;
- c) to perform analysis regarding the conformity of contribution of the EU funds with the relevant HP and the achievement of horizontal indicators in implementation of the operational programme, and to submit a summary of results of the abovementioned analysis to the managing authority.<sup>34</sup>

Evaluating practical implementation of the tasks set in the legislative acts, it should be noted that the Guidelines for HP EI have been developed for both the current and the previous programming period. In the previous programming period, four priority criteria for discrimination — gender, disability, age, and ethnicity — were identified based on the national situation. Although it was noted in the discussion<sup>35</sup> that any criterion of discrimination is supported not only priority criteria, in their written replies several national authorities indicated that in the previous programming period more attention was paid to the priority criteria of gender, disability, age, and ethnicity. In the current programming period, the focus is on six discrimination criteria — gender, race/ethnicity, religion, disability, age, and sexual orientation. During the investigation of the situation, the national authorities were also asked about the assessment of intersectional discrimination, in this case, most national authorities pointed out that discrimination was not

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<sup>31</sup> Discussion on management of the EU funds with representatives of national authorities on 20 February 2023

<sup>32</sup> The same obligation is set in the CPR. The previous planning period is referred to show that this is not a new requirement.

<sup>33</sup> [Cabinet Regulation No. 784 Procedures by Which the Institutions Involved in the Management of the European Union Structural Funds and the Cohesion Fund Ensure Preparation of Planning Documents and Implementation of These Funds during the 2014-2020 Programming Period](#). Article 7.

<sup>34</sup> Ibid

<sup>35</sup> Discussion on management of the EU funds with representatives of national authorities on 20 February 2023.



assessed in this respect. All the consulted national authorities acknowledged that the Guidelines were used in the previous programming period and that they were planned to be used also in the current programming period.

Based on the Guidelines, the responsible authorities shall develop quality criteria for the evaluation of project applications. MoW makes sure that these criteria include HP EI. Each SOA determines the impact on HP — direct, indirect or without impact. All national authorities identified their SOAs according to the influence of HP.

Depending on the impact of the HP, it is possible to score points or extra points for HP execution. If HP EI is not properly included, it may result in the rejection or invitation to clarify the project. None of the national authorities indicated that a project had been rejected in the previous programming period due to being not in line with HP EI.

In addition, a project<sup>36</sup> application form has been developed and approved by the Cabinet of Ministers, in Section 3 of which it is necessary to provide information on HP EI. In addition, the MoW shall verify the compliance of draft legislation resulting from the implementation of EU funds with HP EI. At the same time, the MoW consults and provides methodological support to EU fund project applicants, implementers, evaluators, and institutions involved in the control, as well as monitors un evaluates the programmes.

### **[3] Training on HP EI of the relevant institutions**

Since 2014, around 60 seminars have taken place on HP EI. Initially, trainings were more intensive, the content was adapted according to the functions of the institution; national and international level speakers were invited.<sup>37</sup> Intensive training on the principle of non-discrimination within six modules (discrimination on grounds of sex, age, etc.) as well as training on the implementation of HP, which will be more specific and technical, are planned in the current programming period.<sup>38</sup>

### **[4] HP EI in practice and disputes on specific projects and actions where prima facie<sup>39</sup> non-discrimination is not respected.**

Assessing the information provided in the EU Funds project database and cases in the Ombudsman's Office concerning EU funds, it may be pointed out that the implementation of HP EI in practice could be the key factor to focus on.

Firstly, as stated before, more attention should be paid to projects with indirect impact and without the impact of HP EI, as well as technical assistance projects, as their evaluation did not give any assurance that HP EI was understood or respected.

Secondly, at the national level, a problem may arise when all aspects of discrimination have not been covered in detail in the project, but the project has been approved. After the

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<sup>36</sup> [Cabinet Regulation No 784 of 16 December 2014 Procedures by Which the Institutions Involved in the Management of the European Union Structural Funds and the Cohesion Fund Ensure Preparation of Planning Documents and Implementation of These Funds during the 2014-2020 Programming Period](#)

<sup>37</sup> Discussion on management of EU funds with representatives of national authorities on 20 February 2023.

<sup>38</sup> Discussion on management of EU funds with representatives of national authorities on 20 February 2023.

<sup>39</sup> At first view. Note.

implementation of the project, it is possible to determine its non-conformity with the regulatory framework, however, the responsible authorities indicate that the specific elements of discrimination are not indicated in the project, so it is not necessary to implement them and the infringement has not occurred. This leads to a circle that does not contribute to the implementation of HP EI in practice.

Thirdly, the Ombudsman has been in contact with EU funds in various verification procedures (inspection cases) where the Ombudsman has concluded that the principle of non-discrimination had been infringed or *prima facie*<sup>40</sup> alleged to a possible breach of the prohibition of discrimination.

According to the national regulatory framework, disputes with supervisory authorities may be examined in two ways (see section 1.2) — the project applicant versus the supervisory authorities or in accordance with the procedures laid down in the Ombudsman Law. It is to be noted that if the case is examined in accordance with the procedures laid down in the Ombudsman Law, the involved institutions usually do not recognise the violation of the prohibition of discrimination. In addition, the national authorities may stress the reconciliation of the programmes with the European Commission, which is considered a sufficient reason not to study the subject in more detail.

In this respect, the Ombudsman considers that better cooperation with the European Commission should be developed on the implementation of HP EI.

Additionally it is necessary to look more detailed on consequences if the European Commission admits the violations. Currently following consequences may occur:

- a) amendments to or annulment of legislative acts;
- b) suspension of payments from EU funds;
- c) opening of an additional inquiry (audit, activities of the EU Ombudsman, etc.);
- d) fact-finding mission (monitoring);
- e) initiation of court proceedings;
- f) the opening of infringement procedure.<sup>41</sup>

It should be noted that none of those activities pursues the objective – to ensure implementation of the HP EI in practice. A discussion on how to achieve the implementation of HP EI and not just to punish would be more than necessary.

## **[5] Reasons given by CSOs regarding difficulties in respect of human rights in EU fund projects**

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<sup>40</sup> At first view. Note.

<sup>41</sup> European Network of Equality bodies. Investing in equality — a practical guide into EU funds. Training. “Why monitor EU funds?”, September — October 2022. Available: & <https://equineteurope.org/workshop-series-investing-in-equality-a-practical-guide-into-eu-funds/>

To obtain more information on possible obstacles of ensuring fundamental rights in practice within framework of the EU funds, the Ombudsman invited CSOs operating in the Monitoring Committee to provide information on reasons why within the framework of the EU funds the result is sometimes not compliant with human rights. CSOs drew attention to the following potential reasons:

- a) The Monitoring Committee does not have sufficient information on specific actions to be able to draw attention to the HP;
- b) At the same time, the volume of documents is too large to be able to become acquainted with the actions of all funds and to evaluate them horizontally (CSOs need to choose);
- c) Implementation of the HP remains at the discretion of the competent authorities;
- d) If Monitoring Committee has been concerted in accordance with a certain human rights discipline, it does not mean that it will be exercised in the legislative acts relevant to the action (Cabinet Regulations);
- e) Even if the action or the project complies with human rights, this does not mean that the project will be properly implemented. For example, in construction, there is no authority in Latvia to control that accessibility requirements are met, and appropriate sanctions are imposed in case of deficiencies. This has also been pointed out by the Senate of the Republic of Latvia, drawing the attention of the Cabinet of Ministers that Latvia has an obligation to ensure compliance with accessibility requirements arising from international obligations and calls upon the Cabinet to evaluate the legal framework providing for the monitoring of compliance with these requirements in public buildings<sup>42</sup>;
- f) Even if the non-payment of EU funding is considered a sanction, this does not mean that the responsible party resolves the situation and, for example, ensures accessibility. As a result, new buildings constructed using EU funding, which should be accessible and human rights-compliant, may be incompliant, and the EU has paid for it.

Evaluating the points indicated by the CSOs it can be concluded that points (a) and (b) are linked to the large volume of documents mentioned above, which makes it difficult to track all activities on the Monitoring Committee. As regards point (c), the national authorities also acknowledged that practical implementation of the HP EI was more carried out in the projects. Indication in the point (d) might be a specific communication error between the state and the CSOs or a separate direction where problems might arise. As regards point (e), it should be noted that in Latvia the problem is not so much in the regulatory framework as in its implementation in practice. In addition, there is also a court judgment in the present case. The Ombudsman agrees with what has been mentioned in the point (f), because the aim is to implement fundamental rights, and not to punish someone. Therefore, it is also necessary to review the nature of the sanctions.

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<sup>42</sup> Additional decision of the Senate of the Republic of Latvia of 7 June 2022, case No A420291913, SKA-280/2022.

According to the above and the four elements of the procedure set out at the beginning of this chapter, the following conclusions can be drawn:

**a) Monitoring Committee** — CSOs see it as a formal committee whose functioning needs to be improved. The effectiveness of the Monitoring Committee is the responsibility of the State and not the Ombudsman. Currently human rights CSOs are included in the Monitoring Committee, it also includes designated representatives of the national authorities with the aim to implement the HP EI. Therefore, the **involvement of the Ombudsman at this stage is not necessary**, as more participants does not mean greater efficiency.

Given the high volume of documents indicated by CSOs and national authorities, it is necessary to make estimates of the human resources that should be assigned to the evaluation of the EU funds documents. The Ombudsman's Office would not draw up documents for the Monitoring Committee, so in this respect the Ombudsman's Office would not be comparable to national authorities. Since the Ombudsman's Office would check the content of the documents, the work of the Ombudsman's office would be comparable to that of CSOs. CSOs have pointed to the need for the presence of at least two people in the work of the Monitoring Committee, while the national authorities have indicated to the need to participate in the work of subcommittees which are more active than the Monitoring Committee. Moreover, according to the CSOs, the evaluation of HP EI requires more human resources in order to apply the HP EI to all funds. Thus, it can be concluded that at least three people from the Ombudsman's Office would be needed to work in the Monitoring Committee. It should be especially noted that there are two Monitoring Committees in Latvia, which accordingly means additional work regarding the HP EI.

It is necessary to note that this activity cannot be outsourced as within the framework of the EU funds sufficient knowledge is needed to assess the exercise of fundamental rights. As a result, human resources would be needed from the personnel of the Ombudsman's Office, who primarily handle cases and provide practical assistance to people of Latvia. Thus, in order to participate in the monitoring of the EU funds on the merits and effectively, it would be necessary to redirect the personnel of the Ombudsman's Office with expertise in the HP EI from handling cases to reading the EU Funds documents.

Such a solution does not seem useful, so it would be necessary to assess whether it is possible to improve the work of the Monitoring Committee with its existing CSOs representing groups at risk of discrimination.

**b) Guidelines on the HP EI** – both in the current and previous programming periods, national authorities developed Guidelines on the HP EI. Based on the Guidelines, also project application forms were developed stressing the HP EI. According to the Guidelines, information should also be provided in the ex-ante evaluation of draft legislation on HP EI. Therefore, the presence of the **Ombudsman is not necessary at this stage either**.

**c) Training on HP EI of the relevant institutions** — training on the HP EI was organised in the previous programming period and is also planned in the current programming period. Thus, the Ombudsman does not have to organise training on HP EI for the parties involved in the

implementation of the EU funds. The experts of the Ombudsman's Office, upon the invitation of the training organisers, can participate as lecturers. Therefore, **the Ombudsman does not see his involvement at this stage of the process.**

**d) HP EI in practice and disputes on specific projects and actions where prima facie<sup>43</sup> non-discrimination is not respected**

It can be concluded both from the practice of the Ombudsman's Office and the CSOs' observations that merely the establishment of an institutional monitoring structure, the development of guidelines and training on HP EI does not ensure that HP EI is exercised in practice. More attention should be paid to those projects results of which do not comply with the fundamental rights or national legislation. This would allow other project developers as well as responsible institutions learn from the mistakes, and to better understand how HP EI is being implemented in practice.

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<sup>43</sup> At first view. Note

### 3. Critical success factors

When assessing the above and the provisions of the CPR, the Ombudsman notes that:

- 1) in the management of the EU Funds the state must establish a partnership with bodies promoting fundamental rights (the Monitoring Committee);
- 2) the implementation of the HP considering the following discrimination criteria — gender, disability, racial or ethnic origin, religion or other belief, age and sexual orientation;
- 3) The provision of the HP must be implemented as part of the whole process, i.e., the preparation, implementation, monitoring, reporting and evaluation of programmes.

[1] According to above mentioned it is necessary to improve the work of the **Monitoring Committee** to ensure successful functioning of CSOs within the Committee. According to the Ombudsman, it could be done with the following activities:

[1.1] The managing authority shall inform the CSO of the necessary preparations to become a member of the Monitoring Committee.

[1.2] Training is provided for the new members of the Monitoring Committee on the work of the Committee and subcommittees.

[1.3] The possibility of providing funding for CSOs to participate in the work of the Monitoring Committee should be assessed at the EU level.

[1.4] To purposefully ensure the implementation of the HP EI, cooperation among the national authorities ensuring the implementation of the HP EI in the Monitoring Committee and CSOs representing groups at risk of discrimination needs to be established.

[2] Regarding the implementation of the HP EI, it should be noted that the **Guidelines on the HP EI** have been developed; the project application forms contain a separate section on the HP EI; relevant national authorities are trained on the HP EI; ex ante reports (annotations) are conditional on the inclusion of information on the impact of the legislation on human rights and the HP EI. Therefore, according to the Ombudsman, this is already ensured by national authorities.

[3] The Ombudsman is most concerned about the provision of the HP EI in the whole process, as merely the development of the regulatory framework does not mean that the HP EI is being implemented in practice. Therefore, the Ombudsman calls for attention to be paid to the following aspects:

[3.1] **Dispute Resolution Mechanism** — The Ombudsman considers that in Latvia it would be most effective to act as a dispute resolution mechanism in case there were projects not complying with fundamental rights at any stage. At the same time, it is necessary to point out that past practice has shown that the institutions involved in the management of the EU funds do not recognise possible violations of fundamental rights in projects and programmes. This would require greater involvement of an EU-level institution - the European Commission.

[3.2] **Involvement of the European Commission in the dispute resolution** — more detailed information from the European Commission is needed on the ways it examines and assesses possible violations of fundamental rights, as well as on the practice of the European Commission in recognition or rejection of the fundamental rights' violation.

[3.3] **Sanctions.** As is apparent from the preceding section, the consequences of a breach of fundamental rights may be more linked to financial constraints or fines. However, according to the Ombudsman, it is necessary to review the sanctions, since only a fine does not ensure the exercise of fundamental rights. For example, if a new public building does not meet the accessibility requirements, then only by imposing a fine on the owner of the building, persons with disabilities will not be able to use the building anyway, even if the fine was paid. It would be necessary to pay attention to the sanctions to be efficient and as a result of implementing them the project would comply with the fundamental rights.

## **4. Conclusions**

According to the Ombudsman of Latvia, in order to ensure the management, preparation, implementation and monitoring of the EU funds compliant with the fundamental rights, attention should be paid to the following aspects:

### **1) Digitalising the preparation, implementation, and monitoring of the EU funds**

The EU highlights the importance of digitalisation in its policy planning documents,<sup>44</sup> but full use is not made of it in the implementation of the EU funds, resulting in an increasing number of documents that promote bureaucracy. Bureaucracy interferes with the principle of good governance which is one of the fundamental rights. As previously pointed out, national authorities informed that technologies are not used in the management of the EU funds (except accounting and record-keeping programmes), at the same time, both national authorities and CSOs indicated the large number of documents. Consequently, to reduce the volume of documents and promote environmental sustainability at the EU level, it is necessary to ensure that various technologies are used by both the national authorities and CSOs in the adoption, implementation, management, and monitoring of the EU funds.

It should be noted that the development and use of such technologies needs to be initiated at the EU level.

### **2) The Monitoring Committee**

Although the EU legislation (CPR) provides for the involvement of organisations and authorities of different fields and levels in the Monitoring Committee, it should be noted that quantity does not mean quality. According to the Ombudsman, if the Monitoring Committee already includes national authorities responsible for ensuring the implementation of HP EI and CSOs representing different groups of people subject to discrimination, thus it is not necessary to include the fundamental rights authority in the Monitoring Committee, unless it wishes to participate in it. At the same time, it is necessary to ensure the efficient rather than formal functioning of the Monitoring Committee, as well as train the new members of the Monitoring Committee representing the CSOs and other social partners. A more detailed information can be found in the previous chapter.

### **3) Guidelines on the HP EI**

CPR provides for the development of guidelines, but they must be sufficiently detailed and clear. In Latvia, the Guidelines provide extensive information on the discrimination criteria and explain the HP EI with direct, indirect or without the impact on projects. It is positive that HP EI is included in the project application forms, it is also necessary to include information on HP EI in the ex-ante report when drafting legislative acts.

### **4) Training on the HP EI**

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<sup>44</sup> European Commission. [The Digital Europe Programme](#)



It is certain that merely theoretical guidelines may not give a clear notion of the HP EI. It is therefore important that the responsible authorities receive training on how to implement HP EI in projects.

### **5) Dispute Resolution**

In case projects or activities do not comply with the fundamental rights it must be possible to submit a complaint on the merits. However, considering that admitting mistakes within the framework of the EU funds may lead to additional penalties for the country, it is understandable why the institutions involved in the management of the EU funds do not admit mistakes. Consequently, more attention should be paid to this aspect, as well as the possibility of involving the EU bodies in dispute resolution.

### **6) Involvement of the European Commission in dispute resolution**

In the implementation of the EU funds, funding comes mainly from the EU budget. It would therefore be important if the European Commission was also involved in the dispute resolution process. At the same time, more detailed information on the process, duration of the dispute resolution and made decisions within the European Commission would be needed.

### **7) Sanctions**

To see real changes in the exercise of fundamental rights within the framework of the EU funds, it is necessary to change the penalty system, i.e., so there would not merely be a fine or additional inspections, but the mistake would need to be corrected.

Considering all these processes, the Ombudsman considers that it is possible to improve the exercise of fundamental rights within the framework of the EU funds. At the same time, it is necessary to point out that fundamental rights institutions need not be involved in all these processes, if any of the processes is successfully implemented by another national authority in cooperation with CSOs representing people at risk of discrimination.

## **Annex 1 “Interview questions for CSOs on the effectiveness of the Monitoring Committee”**

1. How long does the CSO operate in the Monitoring Committee?
2. How exactly does the CSO work in the Monitoring Committee (including subcommittees)?
3. Does the CSO evaluate all EU funds or some of them?
4. What human resources are required from the CSO to participate in the Monitoring Committee?
5. In the opinion of the CSO, can it express its opinion in the Monitoring Committee and is the opinion taken into account?
6. What are the negative aspects working in the Monitoring Committee?
7. What are the positive aspects working in the Monitoring Committee?
8. Does the Monitoring Committee deal with non-discrimination issues? If so, how it is done?
9. Does the Monitoring Committee need additional organisations representing vulnerable groups?
10. Proposals to improve the functioning of the Monitoring Committee.
11. Why is it difficult to exercise human rights within the framework of the EU funds?

## **Annex No. 2 “Written survey questions to national authorities supervising the EU funds”**

1. In the previous programming period (2014-2020), had the principle of equality and non-discrimination been respected horizontally in the design of the national programmes and project evaluations of the EU funds (ESF, ERDF, CF, EMFF)<sup>45</sup>? If so, how was it done? If not, why?
2. Did the project application forms include a separate section on equality and non-discrimination?
  - 2.1. If yes, how important was the non-discrimination section for the project to be approved? For example, was it possible that the project would not be approved because it did not comply with the principle of non-discrimination or because the description of the principle of equality was not sufficiently detailed? Were there any such cases in the previous programming period?
  - 2.2. If not, is the equality and non-discrimination section foreseen in the forms of the current period of the EU funds (2021-2027)? If so, can a project be rejected due to an incomplete project description in the field of non-discrimination principle?
3. In the previous programming period, were the issues of equality and non-discrimination assessed intersectionally (more than one ground of discrimination, e.g., women with disabilities; Roma women)?
4. Are equality and non-discrimination issues being assessed intersectionally in the current programming period?

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<sup>45</sup> [EU funds. Projects](#) (available in Latvian)

### **Annex 3: “Discussion with the national authorities monitoring/supervising the EU funds”**

1. Discrimination criteria and how they were chosen in the HP EI Guidelines. The HP EI Guidelines (2014-2020) set out the discrimination criteria: gender, race or ethnic origin, religion or belief, age, disability, or sexual orientation. Indication that special attention is paid to the following discrimination criteria: gender, disability age, ethnicity (Roma).
  - 1.1. What does the term “special attention” mean? Are only projects for these target groups supported, additional points awarded?
  - 1.2. The guidelines for the current programming period contain the following discrimination criteria: gender, disability, racial or ethnic origin, religion or belief, age, sexual orientation. Do projects of the current programming period focus on certain vulnerable groups?
2. Terms/ verbs ‘preparation, implementation’ and ‘monitoring, reporting and evaluation’ are used in the Guidelines. Some of these terms are linked to certain discrimination criteria, others - to other discrimination criteria. Do all discrimination criteria equally apply to all these terms/verbs (EU fund processes) or are there any differences?
3. Are all discrimination criteria assessed together? If not, what happens if in one project one discrimination criterion is assessed with a maximum score, but the other discrimination criterion is not sufficient to approve the project?
4. How do evaluators make sure that what is written in the project will really be fulfilled in practice, not only formally (for example, the project indicates that accessibility will be ensured, but only ramps are mentioned, excluding the needs of other types of disability)?
5. How often are responsible institutions trained on the HP EI?
6. What human resources in ministries are devoted to work only with the EU funds?
7. Is AI programmes or other technologies involved in any part of the process relating to the administration of the EU funds (excluding accounting programmes) that can facilitate work (at the EU or national level)? Or are all processes managed with writing documents?
8. Functioning of the Monitoring Committee:
  - 8.1. Is it entitled to vote at any number of participants? Voting in subcommittees.
  - 8.2. What information is provided to the members of the Monitoring Committee — about programmes, actions?
  - 8.3. Is the functioning of the Monitoring Committee efficient?
  - 8.4. Is training planned for the CSOs on the functioning of the Monitoring Committee when the new committee starts work or when a new CSO is included in the committee?
  - 8.5. Remuneration to CSOs for the work in the Monitoring Committee.
9. HP EI direct, indirect, and non-impact projects. Is the project information available in the EU fund project database accurate?
  - 9.1. How are indirect impact projects being assessed?
  - 9.2. Are technical assistance projects (e.g., on communication activities) conditional on the provision of information in accessible formats? How are these projects generally assessed - as non-impact projects?

10. The guidelines indicate that it should be reported to the CFCA if responsible authority detects or receives complaints about breaches of non-discrimination (prevented, partially prevented, not prevented with a justification for non-prevention). Why report on the prevented discrimination matters? What does the CFCA do with this information?
11. Is the information on project results qualitative or quantitative? Upon conclusion of the project, is the real impact on the society also assessed in terms of human rights, or only the fact that the project has been completed?

## Annex 4: Additional information (I)

In view of establishing a certain degree of comparability between the various reports consider to provide this information:

1. Planning phase and key documents	Comments
Does the Partnership Agreement refer to the horizontal principles, including the Charter?	EU Fundamental Charter was not referred to during the last budgeted period, however equality and non-discrimination principle were included in the previous budget period. EU Fundamental Charter is referred to during the current budgeted period.
Did your Member State submit to the Commission a self-assessment report specifically on the HECs a/o the Charter/CRPD compliance? Please provide link a/o doc.	Yes, two assessments were submitted (2019, mid-term assessment and end assessment, 2023). <a href="https://www.esfondi.lv/upload/izvertejumi/biss_petijuma_zinojums_08_03_2019.pdf">https://www.esfondi.lv/upload/izvertejumi/biss_petijuma_zinojums_08_03_2019.pdf</a> <a href="https://www.lm.gov.lv/lv/horizontala-principa-vienlidzigas-iespejas-istenosanas-ietekmes-2014-2020-gada-es-fondu-planosanas-perioda-izvertejums-0">https://www.lm.gov.lv/lv/horizontala-principa-vienlidzigas-iespejas-istenosanas-ietekmes-2014-2020-gada-es-fondu-planosanas-perioda-izvertejums-0</a> (in English document "kopsavilkums angļu valodā).
What are the implementing documents that refer to the horizontal principles, including the Charter? Is there a self-standing document on the "Charter arrangement"?	Latvia drafted guidelines for the previous and current budget periods regarding horizontal principles included in the Charter. Regulations of the government also includes rules on it. Every ministry (responsible institution) has its own rules. It was pointed out that European Commission believes that "everywhere where the equality principle is mentioned, also the Charter shall be mentioned." Ministry of Justice of Latvia believes that "Charter cannot be separated from the equality principle." (Please see page 14 of the research)
Are there any key horizontal documents concerning the EU funds that should refer to the Charter/CRPD conditionality but do not?	No. Latvia has drafted the guidelines according to the EU regulations ( mentioned in the questions 1-3, also in the research; <a href="https://www.lm.gov.lv/lv/vadlinijas-horizontala-principa-vienlidziba-ieklausana-nediskriminacija-un-pamattiesibu-ieverosana-istenosanai-un-uzraudzibai-2021-2027">https://www.lm.gov.lv/lv/vadlinijas-horizontala-principa-vienlidziba-ieklausana-nediskriminacija-un-pamattiesibu-ieverosana-istenosanai-un-uzraudzibai-2021-2027</a> ). Methodological materials are very strict in the current budget period. For example, if the project foresees publications, then it should also include finances for sign language translations and easy- to-read translations. Evaluation criteria for projects are discussed in the subcommittees of the Monitoring committee, then adopted in the government.

## Annex 5: Additional information (II): Feedback on the deliverable

### General recommendations

- Please discuss challenges and opportunities in all four phases of the funding cycle: (i) partnership agreement, (ii) programming, (iii) implementation, (iv) evaluation and complaints
- Please discuss what safeguards to ensure fundamental rights mainstreaming/compliance could be put in place at each of the above phases (e.g. a complaint mechanism, training for officials, Charter checklists, etc.)

Aspect of report	LV	Comments
Empirical research	Page 10: sounds if the implementation of the HP focuses only on non discrimination Interview with CSOs, survey of public authorities, discussion with relevant public authorities.	Yes, because non-discrimination is the only HP in the Charter. Every other article of the Charter, according to Article 52 of the Charter, shall be provided by law. In practice particular article of the Charter shall be implemented when the topic of the project is connected to the topic of the article of the Charter. While non-discrimination principle is connected with every article of the Charter (HP).
Identifying broader risks and challenges		Please see research, starting from page 22.
Funds covers	Focusing on ESF	Yes, as FRA pointed that one fund shall be chosen for country report.
Findings on monitoring committees	Page 12: 1.1.5. unclear Important challenges and opportunities identified based on interviews. However, they focus on CSOs but argue that the Ombudsman should not be involved.	1.1.5.it is a special status which shall be obtained. The employees of the Ombudsman's office are not considered state officials.  Chapter 2 focuses on 4 aspects: 1)possible involvement in Monitoring Committee. CSOs have shared their experience and highlights Committee's activities. 2)Guidelines on HP – HR principles involved. 3)Training on HP – provided. 4)HR disputes – problematic. Thus, page 18/19 of the research shows in which processes Ombudsman shall be/ shall not be included and why.
Concrete examples	p. 16 on top: unclear, a violation only occurs if its referred to in the project proposal? Concrete examples from each phase of	Yes, that's why the Ombudsman sent the case to the European Commission. Situation was as follows. A new school dormitory was built, yet only the first floor is accessible for people with movement disabilities. That means that people with movement disabilities cannot work in the dormitory, and students with movement

<b>Aspect of report</b>	<b>LV</b>	<b>Comments</b>
	the funding cycle would be useful.	disabilities cannot socialize with students who live in higher floors. All public buildings according to law shall be accessible for people with disabilities. Project itself did not include information and budget for ensuring accessibility higher than the first floor. Yet the project was approved. CFCA (evaluates complaints) concluded that if the project did not include this information, then there is no need to request accessibility higher than the first floor after the project is finished. The Ombudsman considered that the previous mentioned evaluation was formal and did not reflect CRPD standards, thus the Ombudsman sent the case to the European Commission (beginning of 2023).
Complaints	There is graph on how to complain, why it is not included?	Not clear. Yes, there are two graphs on complains. What should be included?
Sanctions	p. 17 lit d? Fines will not guarantee the respect of human rights. Sanctions should be efficient.	P 17 d) – the decisions of the Monitoring Committee are not legally binding. It becomes legally binding when the Government adopts it in a form of normative act etc. Thus, there can be situations that the Government adopts different wording of the norm or makes different decision, as it was discussed during the Monitoring committee meeting. Therefore participation in the Monitoring committee and decision of the Monitoring committee does not mean efficient result which reflects HR.
European level consequences of violations	Only theoretical possibilities: suspension of EU Funds, court proceedings, infringement procedures, etc. How to pursue to objective of respecting the Charter principles?	No, the research points out that currently there are only theoretical possibilities in punishing violations. It is emphasized that these solutions will not improve HR in practice. Page 21 (3.3 point) highlights possible solutions to ensure HR also in practice.
Role of NHRI	"Involvement not necessary in the monitoring committee". Is it only because of lack	The Ombudsman carefully evaluates involvement in any process as it has to be efficient, not bureaucratic and not formal only because there is EU regulation which mentions human rights in one article. Reasons why the



Aspect of report	LV	Comments
	<p>of human resources? What could be the role of the Ombudsman?</p>	<p>Ombudsman shall not be a part of the Monitoring Committee (as it is mentioned in the research) are:</p> <ul style="list-style-type: none"> <li>a)As the research shows then the Monitoring Committee has to improve its work to be efficient. It is not Ombudsman’s job to improve efficiency of the Monitoring Committee.</li> <li>b) there are already HR CSOs included, then there is no need for the Ombudsman.</li> <li>c)there are 2 state institutions already involved in the Committee which are responsible for Charter and HR (Ministry of Welfare and Ministry of Justice);</li> <li>d)participation in the Committee does not mean that HR will be followed in the further procedures;</li> <li>e)there are HP guidelines;</li> <li>f)there are trainings provided for responsible institutions on HR;</li> <li>g)possibility for additional tax procedural elements for employees of the Ombudsman who would represent the office;</li> <li>h)obligation to evaluate normative regulation according to HR principles etc.</li> </ul> <p>Thus, the theoretical part for HR implementation in EU funds is already managed by the state. The Ombudsman sees its role as mentioned in page 18/19.</p>
<p>European Commission</p>	<p>Recommending the involvement of EC in dispute resolution.</p>	<p>It is necessary to point out that when evaluating (through Ombudsman’s procedure) complains on EU funds the responsible institutions do not disagree among each other (that is not the situation when EU funds are not involved). The responsible institutions deny any wrongdoing or any breach of HR. Even when the Ombudsman concludes the breach of HR and issues the recommendations, it is not clear if the recommendations will be taken into consideration, as that would mean that the responsible institutions admit wrongdoing which can lead to problems with European Commission. If EU institutions are interested in ensuring HR not only in theory but in practice, then the European Commission shall be involved into dispute resolution as well, as long as evaluation is not formal.</p>

<b>Aspect of report</b>	<b>LV</b>	<b>Comments</b>
Trainings / capacity building	Recommended for CSO and responsible authorities on how to implement horizontal principles.	No, recommendation is to provide a training for CSOs on the Monitoring Committee procedure, thus, the CSOs can better understand their rights and obligations within the Monitoring Committee.
Special bodies/features		
		<p>It was pointed out to the Ombudsman that responsible institutions need the exchange of experience from other countries on HP and structure by the European Commission. Thus, before enlarging the number of institutions involved in the EU funding management and enlarging bureaucracy only because current system is not efficient enough, it is necessary to investigate if the EU institutions have done enough to ensure that member states can build appropriate EU fund system.</p> <p>Article 51 of the Charter puts the duty of EU institutions to ensure that EU norms are according to the Charter. It is first necessary to evaluate the EU institutions and procedures, for example, to access how easy it is for people with intellectual disabilities to understand the EU funding structure and apply for the project in EU funds.</p>