

## 1. Specific legal statute

Social enterprises are often locally based, and expansion is not always a priority. An aspect which is usually raised is the need (at national level or European level) for a specific legal statute for this type of enterprises, next to the existing in a lot of Member States legal statuses (charities, non profit associations, foundations, provident societies).

- What are the legal difficulties that social businesses specifically encounter in the internal market?
- Are there any disadvantages, or unequal treatment endured by social enterprises in comparison with traditional businesses, both in legislation and practice?
- Do they need a specific European legal form when they want to expand across the frontiers?
- Should the Commission consider a study on new legal forms for social enterprises in all Member States?
- How could EU rules better take into account the specificities of social businesses to make sure they enjoy a level playing field with traditional capital companies?
- Is it necessary to have at national or European level special standards (regarding corporate governance, codes of conduct, audits measuring of social impact, accounting rules, supervisory authorities) for Social Enterprises?

## 2. Addressing social objectives through public procurement

Public authorities can make an important contribution to the promotion of social enterprises by using their purchasing power to procure goods and services with high "societal" value. Through public procurement, they may facilitate the access of social enterprises to procurement opportunities and to better reward their "social" efforts. Procurement of innovations is a proven tool to stimulate public sector innovation, for example in transport, healthcare and education – even in times of budget restraints. More than half (55%) of public organisations surveyed by Innobarometer in 2010, indicated that the procurements delivered or contributed to innovative service solutions.<sup>1</sup>

- What are the main difficulties that social enterprises encounter in the internal market in relation to public procurement procedures?
- Are these difficulties linked to the rules themselves, or rather to the way they are interpreted and enforced (by the Commission, or by national or local public authorities)?
- How can public procurement be used to promote social objectives?
- Is it enough for the contracting authorities to include social requirements at the different stages of the procurement process?
- It should be noted that social/societal requirements must be related to the tasks necessary for the performance of the contract and may not concern the global activity or nature of the contractor; therefore do you believe that it is feasible to have harmonized requirements at EU level so as that economic operators are not asked to comply with different conditions for every procurement or for each contracting authority?

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<sup>1</sup> Innobarometer 2010 - [http://ec.europa.eu/public\\_opinion/flash/fl\\_305\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_305_en.pdf) and [http://ec.europa.eu/enterprise/policies/innovation/policy/public-procurement/index\\_en.htm](http://ec.europa.eu/enterprise/policies/innovation/policy/public-procurement/index_en.htm)

- How could EU public procurement rules be adapted to encourage the participation of social enterprises to public procurement or to reward their "social" efforts through public procurement?

### **3. Possibilities that the current State aid framework offers to social businesses**

Social enterprises business model is characterised by the fact that, contrary to mainstream commercial companies, they offer a lower return on investment, and often lower profits. Since their corporate objective focuses more on social/societal added value than on profit-making, they may have higher costs if it is to offer a correct service, than the traditional commercial companies. Social enterprises may need to receive compensation for the specific difficulties they may have as social businesses, in order to be ensured a level playing-field with companies using other their business model.

- Do you believe that the in the context of the reform of the SGEI package, further simplification be envisaged for local SGEI and social services?
- The General Block exemption regulation already covers many types of state aid that could concern social enterprises; do you feel there is a further need to take into account the specific nature of social enterprises?
- If it is considered that the present framework isn't appropriate, are the difficulties encountered by social enterprises linked to the rules themselves, or rather to the way they are interpreted and enforced (by the Commission, or by national or local public authorities)?

### **4. Taxation issues**

Comprehensive studies on the fiscal situation of social businesses are scarce, particularly due to a lack of harmonised definition and data of what social enterprises are. According to a study on practices and policies in the social enterprise sector in Europe (2007), the taxation framework features among the external barriers for the development of social enterprises. A number of national support measures do not explicitly target at such entities, though many countries grant tax exemptions or tax privileges for non-governmental organisations, non-profit organisations, or associations, which are common legal forms for social enterprises.

- Is it believed that a stable and predictable funding instrument would better meet the requirements of social enterprises, than the current system of granting tax exemptions on the basis of annual petition proceedings?
- Would a specific study to provide an overview of the current tax treatment of social businesses and social enterprises in the EU be needed?
- What would be the most appropriate tax environment for social businesses?