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Social entrepreneurship: A placebo or a genuine solution?

**Peer Review on "Social economy and social enterprises
in legislation and practice"**

Bratislava (Slovakia), 20-21 June 2019

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Table of Contents

Executive summary	1
1 Situation in the Slovak Republic	2
1.1 Brief history of social entrepreneurship in Slovakia	2
1.2 Municipal social enterprise – a Slovakian phenomenon	3
1.3 Perception of social enterprises in Slovakia	4
2 Policy measure: Act 112/2018 on Social Economy and Social Enterprises	6
2.1 Rationale for introduction of the new legislation in Slovakia	6
2.2 Key terms and definitions	6
2.3 Management of the new Act	8
2.4 The registration process	8
2.5 Support schemes: financial aid	9
2.6 Support schemes: non-financial aid	10
Public procurement	10
Service vouchers	11
Other types of non-financial support	12
2.7 Measures to prevent abuse of public support by enterprises	12
3 Results	13
3.1 Number of registered social enterprises	13
3.2 The establishment of the Institute of Social Economy	13
3.3 Assessing the impact of the new legislation	13
4 Key findings and conclusions	14
4.1 Strong focus on work integration of long-term unemployed	14
4.2 Future challenges	14
Building entrepreneurial skills among social economy organisations	15
4.3 Potential refinements of the current Act	15
5 List of references	16

Executive summary

The first legal regulation on social entrepreneurship in Slovakia was adopted in 2008 under Act 5/2004 on Employment Services. This is one of the main reasons why the concept of social entrepreneurship in Slovakia is still very often narrowly associated with work integration supported by active labour market policies. With the aim to extend the narrow understanding of social entrepreneurship and to create a supporting ecosystem, the Slovak Republic adopted in 2018 a comprehensive legal framework regulating social entrepreneurship.

The adoption of Act 112/2018 on the Social Economy and Social Enterprises (hereinafter referred to as Act 112/2018) came into effect on 1 May 2018. Its adoption was preceded by approximately two years of consultations involving a wide range of stakeholders.

The ambition of the new Act is to establish social entrepreneurship as a fully-fledged component of the social economy and of the private sector. It also introduces numerous major changes in several fields connected to social entrepreneurship and institutes systematic and comprehensive support of social entrepreneurship in Slovakia. Beside 'social enterprises' Act 112/2018 introduces the notion of 'enterprises with the social impact'.

Despite the fact that a significant part of the new Act is devoted to social enterprises for labour market integration, special attention is also paid to social housing enterprises. Notwithstanding the focus on these two types of social enterprises, it does not rule out other social enterprise specialisations as long as they contribute to the achievement of measurably positive social effects.

The range of assistance offered to social enterprises under Act 112/2018 includes the combination of financial and non-financial assistance focused on investment aid, compensation aid and demand support aid. In connection with financial assistance (investment and compensatory aid), the emphasis is on the combination of financial instruments and non-repayable aid. Non-financial assistance (demand-support aid) focuses on the introduction of the service vouchers model and use of public procurement to strengthen the position of social enterprises. An important role is envisaged for the Institute of Social Economy which aims to provide potential and existing social enterprises with free-of-charge technical assistance on all topics related to social entrepreneurship.

Given that this Act was only recently adopted, its impacts yet to be seen and assessed. The register of social enterprises currently counts only 10 entities. This is not necessarily a low number, considering a natural slower onset curve in case of any new topic.

A variety of social enterprises have existed in Slovakia before the adoption of Act 112/2018. They operate in a wide range of fields of general interest and they take various legal forms. Some of them may consider registering under Act 112/2018 thus the number of registered social enterprises could potentially increase significantly once the full range of support mechanisms is in place.

In addition, Slovakia has developed a model of municipal social enterprise. Its emergence reflected the specific situation in Slovakia, characterised by a fragile financial situation for the NGO sector, low levels of civic engagement in creating local job opportunities, and a high percentage of the population living in rural areas. Thanks to several examples of good practice extensively communicated in media, the municipal social enterprise is a model recognised and valued by politicians, policy makers as well as the public.

1 Situation in the Slovak Republic

1.1 Brief history of social entrepreneurship in Slovakia

The topic of social entrepreneurship is not new in Slovakia. Discussions about social entrepreneurship started to be more intensive at the end of the 1990s. After a decade of a strong presence of foreign donors, the structure of resources supporting public service objectives implemented by the third sector had significantly changed. At that time, social entrepreneurship was perceived mostly as a means of support for multiple-source financing of non-governmental organisations (NGOs) and the debate focused solely on the topics of entrepreneurship of NGOs as an instrument for co-financing their activities.

In the 90s, several initiatives aimed at supporting the entrepreneurship of NGOs appeared in Slovakia (e.g. Nonprofit Enterprise and Self-Sustainability Team (NESST)) and initiatives such as 'charity shops' or the selling of fair-trade products from rural areas started to emerge. The main objective of these initiatives was to obtain additional financial resources and to develop a model of multiple-source financing required for the operation of core organisations. A number of these initiatives can be considered as pioneering social entrepreneurship in today's sense of the word. At that time, they were carried out as separate business initiatives, conducted in a regular business setting, which in practice created complications for NGOs. Only a few of these initiatives survived.

An important incentive for promoting social entrepreneurship in Slovakia was the Community Initiative EQUAL, funded under the European Social Fund (ESF), which Slovakia implemented from 2004, after its entry into the EU. As part of the priority 'Encouraging Inclusive Entrepreneurship', a number of projects dealt with initiatives similar to the current work integration social enterprises. For most of the Slovak organisations involved, this was the first contact with social entrepreneurship and it meant the systematic creation of work opportunities for the most vulnerable groups. Many of the supported projects were missing a viable business plan and their activities were not financially sustainable after the end of the EQUAL support.

Subsequently, in 2008, the first legal regulation of social entrepreneurship was adopted in Slovakia. It was placed in the context of Act 5/2004 on Employment Services, as a response to the rapidly increasing unemployment rate due to the global economic crisis. It established a new measure within the active labour market policy framework – a contribution towards the labour costs of an employee of a social enterprise. This regulation brought the first definition of social enterprise into the Slovak legal framework¹. Social enterprise was seen narrowly as a tool for the integration of people distant from the labour market. This significantly influenced the understanding of social entrepreneurship, limiting it to the issue of employment of long-term unemployed with an emphasis on people from Roma communities.

Provisions relating to wage contributions to social enterprises employees were removed from the Act on Employment Services in 2011 as a result of a scandal in the allocation

¹ Extract from Act 5/2004 on Employment services as valid in 2008.

§ 50b Integration of disadvantaged employment applicants in work integration social enterprises-

- 1) For the purposes of this law, a work integration social enterprise is defined as a legal or physical entity that:
- a) employs employees who, prior to their engagement, had been disadvantaged employment applicants, in an amount that constitutes at least 30% of its total number of employees,
 - b) provides support and assistance in connection with finding employment on the open labour market to employees who, prior to their engagement, had been disadvantaged employment applicants,
 - c) annually uses at least 30% of its financial resources acquired in income from its commercial activities, which remain after the payment of all expenditures for maintaining said activities in a given tax period according to a tax return, for creating new work positions or improving working conditions,
 - d) is registered with the Work Integration Social Enterprises Register.

of funds for selected social enterprises and parliamentary elections in 2010. This created a specific situation, as the definition of social enterprise existed in the legal context, however, social enterprises did not have access to any support or any other type of recognition.

In the context where an entry in the register of social enterprises provided no benefits whatsoever, the organisations have quite naturally paid no attention to delivering their annual reports and lost their registered status. As of On 1 January 2018, only 10 social enterprises were in the register², whilst 89 entities were removed from it as they had failed to fulfil their obligation to deliver an annual report. Thus, despite the existing legal framework from 2008, social enterprises in the period 2010-2018 worked rather organically without any registration or systematic support targeted exclusively at them.

The negative connotation of the term 'social enterprise' in Slovakia, caused by the misuse of public funds in the period 2008-2010, presented social enterprises as well as policy makers with a significant problem. The terms 'social entrepreneurship' or 'social enterprise' were categorically rejected by policy makers for a number of years. To mitigate this problem, during that period, social entrepreneurship was relabelled with alternative terms, such as 'interim labour market', 'inclusive labour market' and so on.

In 2015, the Act on Employment Services was amended to introduce the term 'subject of social economy'. This adjustment offered a partial widening of the perception of social entrepreneurship, since it dropped the strict connection with labour integration. However, from the aspect of existing support structures, it did not produce any change and remained almost unnoticed.

In May 2018, Act 112/2018 on Social Economy and Social Enterprises (hereinafter referred to as Act 112/2018) came into force. The new legislation brought a change in terms of creating a supporting ecosystem offering a spectrum of financial as well as non-financial assistance designed exclusively for social enterprises and funded by the state. Given the short implementation period since its adoption, it is still too early to talk about any tangible impacts from the new law.

1.2 Municipal social enterprise – a Slovakian phenomenon

Under the new legislation, the social enterprises is not considered a specific form of legal entity, but a status that may be obtained by entities of various legal forms. A phenomenon specific to Slovakia is the 'municipal social enterprises' which again is not a legal form. They are initiated by the local government and their operation is monitored by the municipal council. These are entities of various legal forms (usually limited companies), whose founders and owners (or majority owners) are municipalities or regional governments.

The development of municipal social enterprises in Slovakia started in 2005, in the context of the EQUAL initiative that supported social entrepreneurship projects. Initially, projects planned to cooperate with NGOs, which traditionally deal with social entrepreneurship. This intent, however, faced the reality of the non-profit sector in Slovakia, which is primarily characterised by significant financial instability. Given the absence of strong NGOs in the field of social entrepreneurship, the administrators of one of the projects supported under EQUAL decided to shift their attention towards local government, jointly supporting job creation for those furthest away from the labour market, mainly people from Roma communities.

An example of municipal social enterprise set up under EQUAL is Hrhovské služby s.r.o. which was established by the municipality of Spišský Hrhov, a small village in Eastern Slovakia, with a population of approximately 1,500. In the village, a blacksmith workshop was established using the project framework. Its business activities gradually

² The social enterprises registered in accordance with Act 5/2004 on employment services, i.e. under the legal definition on social entrepreneurship from 2008. This register was cancelled by adopting the new law in May 2018.

expanded to construction work, production of wood chips, road repair, etc. Today, the municipal enterprise Hrhovské služby s.r.o., employs more than 50 people and also performs activities connected to a business incubator, which is unique in the Slovak rural environment. Spišský Hrhov is an inspiring example for many, encouraging other municipalities to establish social enterprises in order to create new job opportunities and ensure community development through municipal enterprises³.

Nowadays the number of existing municipal social enterprises is not clear, as most of them are not registered under Act 112/2018, thus not included in the register of social enterprises established under Act 112/2018. The number of municipal social enterprises cannot be tracked even based on the attribute 'social', as several of these enterprises deliberately do not include the word 'social' in their name. The public perception is that municipal social entrepreneurship is mainly associated with employment of people from Roma communities. Some municipal enterprises that display all the characteristics of a social enterprise worry that their reputation may suffer from prejudices in society against Roma communities, thus preferring not to include 'social' in their names. The number of municipal social enterprises also cannot be identified based on their ownership structure, as not every entity wholly owned by a municipality can be considered a social enterprise.

Nevertheless, the interest in establishing a municipal social enterprise is high. Based on research carried out in 2017 (Škobla et al, 2017), from a total of 528 local governments involved in the research⁴, 23% declared a high interest in establishing a municipal enterprise (approx. 122 municipalities), 22% categorically refused this option and the rest were open to considering the possibility of establishing a municipal social enterprise. Based on the research, 6% of the municipalities declared having a municipal social enterprise (approx. 32 municipalities), 11% of municipalities indicated that they have past experience in managing municipal social enterprises (approx. 58 municipalities). Experts estimate the number of existing municipal social enterprises at 10-15 across Slovakia.

From a social economy and social entrepreneurship theory perspective, it can be discussed whether municipal social enterprises, which are anchored in public administration, can be considered true social enterprises or whether they rather represent a social innovation in public administration. Critics also argue that municipal social enterprises may have an advantage in public procurement compared with other social enterprises, which may distort economic competition. Regardless of the outcome of the debate and criticism, it should be noted that municipal social enterprises cannot be considered a universal solution but an ideal model for areas where institutions other than local government often do not exist. These are areas without any business entities or NGOs, thus local government is often the only institution able to offer the human, social or financial resources necessary to implement any development initiatives. Slovakia has a high level of territorial administrative decentralisation, with 2,927 local authorities (for a population of approximately 5.5 million). Therefore, it is natural that the local government often substitutes the function of the sectors that are absent in the area.

1.3 Perception of social enterprises in Slovakia

Social entrepreneurship in Slovakia has a strong focus on work integration. It is often misconceived as a synonym of employment of the most disadvantaged groups, with the emphasis on people from Roma communities or people with disability. It is not unusual that an organisation displays all the characteristics of a social enterprise but does not

³ The business of many municipal social enterprises are related to the administration and maintenance of municipal property.

⁴ Research was carried out using questionnaire on a sample of all municipalities from three regions with local governments (Košice, Prešov, Banská Bystrica: regions, where socio-economic situation is considered to be the most complicated). Out of 1 621 local governments, the response rate on the questionnaire was 33% (528 municipalities).

consider itself as one since it does not employ people distant from the labour market. It can be argued that the significant orientation of social entrepreneurship towards employment issues and work integration is a legacy of the first legal framework on social entrepreneurship from 2008.

The current legislation goes beyond the job creation aspects of social entrepreneurship. Nevertheless, the public stereotypically perceives it in the context of employment, since the proposal for the current legal framework came from the Ministry of Labour, Social Affairs and Family of the Slovak Republic. In addition, in the media, social entrepreneurship is mostly represented by representatives from the Ministry of Labour, Social Affairs and Family who focus on its role to support the employment of disadvantaged and vulnerable groups. Considering that no other departments see social entrepreneurship as an effective instrument for their agenda, the public view of social entrepreneurship as facilitating the employment of disadvantaged groups continues to deepen.

This is evident in the types of registered social enterprises in accordance with Act 112/2018. All 10 registered entities are social enterprises that fulfil their public service objective through the work integration of disadvantaged and vulnerable groups.

On the other hand, the introduction of Act 112/2018 expanded the debate on the nature of social entrepreneurship. Gradually it started to appear in the portfolio of new organisations and departments, i.e. in the context of the Slovak Business Agency⁵(considered as the most important institution for SMEs in Slovakia). The topic of social entrepreneurship started to resonate also within the Ministry of Economy. On the basis of Act 112/2018, it announced a dedicated call to support social enterprises and social innovation among SMEs. Interest was also shown by the Ministry of Culture in the context of the protection of cultural monuments. The Ministry of Education, Science, Research and Sport is interested in social entrepreneurship as means for increasing adults' qualifications and lifelong learning. The Ministry of Labour, Social Affairs and Family is intensively establishing meetings with various ministries and, in cooperation with them, gradually creates a favourable environment for the creation and development of social economy and social entrepreneurship.

An important advocate of social entrepreneurship in Slovakia is also the Ministry of Finance. Due to its emphasis on financial instruments and on supporting social enterprises through other mechanisms than only non-refundable financial aid, it attracted a number of significant financial institutions and banks into the debate. As a result, they started to develop specialised banking products aimed at promoting social entrepreneurship in Slovakia.

⁵ Entity established as a joint initiative of Ministry of Economy the Entrepreneurs Association of Slovakia and the Slovak Tradesmen Association.

2 Policy measure: Act 112/2018 on Social Economy and Social Enterprises

2.1 Rationale for introduction of the new legislation in Slovakia

The preparation of Act 112/2018 on the Social Economy and Social Enterprises was preceded by a debate as to whether a separate law on social entrepreneurship is necessary and, if so, what issues it should address. Slovak legislation recognises a number of legal forms for non-profit organisations, which may be considered to be the traditional bearers of social entrepreneurship. Also, it can be argued that the law does not prohibit them from undertaking economic activity. Some experts argued that to support social entrepreneurship, it is sufficient to amend existing legislation securing better access to financial resources and to the market. Nevertheless, with time the political decision of the Ministry of Labour, Social Affairs and Family to introduce a separate legal framework for social economy should be assessed as a right one.

The process of creating the specific legislation was rather participatory. The inputs generated from experts, public and stakeholders (social entrepreneurs, academics, representatives of non-governmental sector, local governments, etc.) allowed for the definition of clear objectives for the new law. It is unlikely that interest among the general public and experts would have been as high if the issue of social entrepreneurship had been integrated into already existing legislation.

The main expectation of the public regarding the new law was to set up an ecosystem which would ensure access to financial resources necessary for sustaining and investment, support of running social enterprise, and provide information necessary to establish one and create access to the market. The expectations of the new law concerned also: provision of institutional setting of state administration and self-government in the field of social entrepreneurship, demarcation between civil society sector and social entrepreneurship and clear definition of social enterprise that would allow for the comparison of situations in other countries and the quantification of the social entrepreneurship sector in Slovakia.

2.2 Key terms and definitions

Act 112/2018 on Social Economy and Social Enterprises came into effect on 1 May 2018. In this Act, social entrepreneurship is understood as an area of *social economy*, which is defined as:

*"the sum of production, distribution or consumer activities carried out by means of economic activity or non-economic activity independently from the state authorities, whose main objective is to achieve a positive social impact"*⁶.

The 'social economy' is defined as the collection of activities, which may be realised by any entity from the business or non-governmental sector. A particular entity performing activities in the social economy is not necessarily a 'subject of the social economy'.

Act 112/2018 considers '*subjects of the social economy*' to be civic associations, foundations, non-investment funds, non-profit organisations providing publicly beneficiary services, religious associations, trade companies, cooperatives or natural persons-entrepreneurs, who are also employers and that: a) are not mostly or fully financed and managed by the state; b) perform activities pertaining to an area of the social economy (i.e. their main objective is to achieve positive social impact); c) that are not-for-profit or the profit is used for purposes of achieving a positive social impact.

Social economy entities are established and managed under separate legislation relating to their specific legal form (e.g. NGOs are managed under the corresponding Act on non-profit organizations).

⁶ Act 112/2018 on Social Economy and Social Enterprises.

Act 112/2018 is trying to the highest possible extent to preserve the pluralism of legal forms considered as part of the social economy family. It brought a significant change to these organisations by expanding the definition of entrepreneurship. Adoption of Act 112/2018 extended the definition of entrepreneurship in the Commercial Code (Act 513/1991) to business opportunities aiming to achieve measurable positive social impacts. Thus, a business entity, recognised by the Commercial Code as such, does not have to be doing business to generate profit, but if the business entity is registered as a social enterprise, it may (only) undertake economic activity to achieve a positive social impact. This change opened opportunities for entities that are traditionally regarded as businesses and primarily established for profit, to join the group of social economy subjects. On the other hand, non-governmental and non-profit organizations have the opportunity to achieve their positive social impact through business activity.

The subjects of social economy cannot be considered equivalent to social enterprises. Under Act 112/2018 a social economy subject is considered a *social enterprise*, if:

- a) it performs economic activity systematically, independently, in its own name and on its own liability,
- b) its main objective is to achieve a measurable positive social impact,
- c) its achievement of positive social impact is done through goods or services, which it produces, supplies, provides or distributes, or contributes to the method of manufacture or provision,
- d) it
 - i. creates a profit from its activities, uses more than 50% of the profits after tax for achievement of the main objective as referred to in point b),
 - ii. distributes part of the profits under the Commercial Code, divides it according to the procedures and rules that do not disrupt the main objective as defined in point b),
- e) it involves stakeholders in the management of its economic activities.

When the enterprise does not satisfy any of c-e conditions, it can be considered as an *enterprise with social impact*. Such an enterprise has access to a range of support, but conditions for receiving support are more favourable and the support offer wider for registered social enterprises.

After fulfilling all of the above conditions, social enterprise may apply for the status of *registered social enterprise*, through which it obtains access to a wide range of support offered under Act 112/2018. An enterprise is not obliged to apply for this status. It can be expected that a large number of businesses displaying all features of a social enterprise will, for various reasons, never apply for the status. In such case, they voluntarily forgo the benefits and support which Act 112/2018 offers to registered social enterprises.

From the perspective of operation and the positive social impact, Act 112/2018 recognises the following three types of *registered social enterprises*:

- a) integration social enterprise, which provides its positive social impact through the employment of disadvantaged and/or vulnerable groups;
- b) housing social enterprise, which provides its positive social impact through the provision of rental housing for individuals and families, whose monthly income is less than four times the subsistence minimum;
- c) other registered social enterprise, which provides its positive social impact through any of the following socially beneficial services:
 - provision of health care,

- provision of social assistance and humanitarian care,
- creation, development, protection, restoration and presentation of spiritual and cultural values,
- protection of human rights and fundamental freedoms,
- education and sports development,
- research, development, scientific and technical services and information services,
- creation and protection of the environment and protection of public health,
- support services for regional development and employment,
- provision of housing, administration, maintenance and renewal of residential property.

For the first two types of social enterprises (integration social enterprise and housing social enterprise), Act 112/2018 offers an additional type of support.

The first proposal of the new Act also included environmental social enterprises but this encountered some resistance during the consultation process. During this process, there was also a discussion on social enterprises providing social services but there was no clear link with the current Act regulating social services (Act 448/2008 on Social Services); therefore this consideration was eventually dropped. Nevertheless, nothing prevents individual social enterprises from achieving positive social impact through activities in the social or energy/environmental area under the category 'other social enterprises'.

2.3 Management of the new Act

The Ministry of Labour, Social Affairs and Family manages the implementation of the Act, inter alia, by granting and repealing the status of registered social enterprise, maintaining the register and providing free consultations on the application process for the obtaining the status of registered social enterprise. To provide these activities, the Ministry has established a department of social economy and social entrepreneurship which currently consist of five employees.

In relation to the self-government of the social economy sector, the Act introduces the status of an umbrella organisation. This status is granted by the Ministry and requires representation of a minimum of 30% of registered social enterprises with measurable positive social impact achieved through the same socially beneficial service. Once it obtains recognition, the umbrella organisation has the right to make binding recommendations to the Ministry on enterprises to be added to the register. When an enterprise is recommended for registration by an umbrella organisation, the Ministry is obliged to accept its application. This model assumes that umbrella organisations will recommend only businesses which fulfil all social entrepreneurship criteria and do not misuse the values of social entrepreneurship.

In addition, the new Act includes the status of the highest umbrella organisation which associates at least 50% of all umbrella organisations of the social economy sector. The Ministry is obliged to treat this association as an equal partner and provide it with information about all actions related to social economy implemented by the state.

Given the short time since Act 112/2018 was passed and the maturity of the social economy sector, no umbrella or highest umbrella organisation has been established yet. It is possible to assume that none will be established in the near future.

2.4 The registration process

The status of registered social enterprise is currently granted on the basis of a simple application form accompanied by appendices. New social enterprises are required to

provide a business plan, while existing enterprises are asked to provide financial statements or other documents clearly stating a business area and a way of achieving a positive social impact. As minimum the documents must contain:

- a description of the main objective of the applicant entity,
- a method for measuring positive social impacts,
- the subject of economic activity,
- a description of how goods or services, which the applicant produces, supplies, provides or distributes or the method of production or provision contribute to a positive social impact,
- a commitment from the applicant to use more than 50% of the profit for the achievement of the main objective and establishing of procedures and rules for the distribution of the remaining profit, which do not undermine the stated main objective, and
- a description stakeholder involvement through advisory committee or the application of democratic governance⁷.

The above-mentioned information must be included in the statutory documents of the applying entity.

The Ministry, as the registration office, has an obligation to consider all applications without delay. Once an application is approved an entity can be included in the social enterprise register. A registered social enterprise is obliged to present annually a report on its activities.

2.5 Support schemes: financial aid

The new Act recognises the following three types of support to enterprises in the social economy sector (social enterprises and enterprises with a social impact):

- investment aid,
- compensatory aid, and
- aid aimed at stimulating the market (or demand-support aid).

The investment and compensatory aid involves financial assistance (combination of financial instruments and non-repayable aid), whereas the aid stimulating the market for social enterprises primarily involves non-financial assistance.

In case of *investment aid*, social enterprises and enterprises with a social impact may apply for non-repayable aid only when at least 20% of the total budget of the investment plan is acquired through a loan. The combination of loan and non-repayable forms of support, aims to stimulate a greater commitment to the quality of the investment plan on the applicant's side and lower level of risk on the donor's side. The quality of the business plan, for which the investment aid is requested, is reviewed by the financial institution⁸. Once the financial institution decides to provide the repayable component of the investment aid, obtaining the non-payable component should be rather a formal matter.

⁷ Characteristics of the advisory committee as well as the democratic governance of the social enterprise are precisely defined by Act 112/2018. In the framework of the democratic governance, in case the legal form permits it, employees are involved in the ownership structure of the company, if the legal form does not permit it, employees have an impact on appointment of the administrative board of the company. In the case of advisory committee, which has at least three members, of which at least one is an employee, it is an instrument through which issues related to management and functioning of social enterprise are shared and consulted with stakeholders (employees, customers, people in the communities where the social enterprise operates, etc.).

⁸ Selected through public procurement.

At the time of this report (May 2019), investment aid for the applicants was not yet available but its preparation was in the final stage. The public procurement process for the financial institution was completed and the legitimacy of the public procurement procedure was being inspected. The form of redistribution of non-repayable component of the investment aid has been also approved. The Central Office of Labour, Social Affairs and Family, through a national project financed under ESIF funds, will shortly redistribute the non-repayable part of the investment aid. A weakness of investment aid arrangements is the provision of non-repayable components by the Central Office of Labour, Social Affairs and Family. This will, again, reinforce the stereotypical connection of social entrepreneurship to employment issues, despite the fact that investment aid is available for social enterprises of any kind. On the other hand, it is necessary to state that the involvement of the Central Office of Labour, Social Affairs and Family is a result of a realistic assessment of the situation, since there are not many other organisations in Slovakia that would have the capacity to redistribute this type of aid.

The *compensatory aid* is financial aid, provided to enterprises operating in the social economy (i.e. social enterprises and enterprises with a social impact), and who find themselves at a disadvantage from achieving a positive social impact when compared to enterprises who provide similar services or run similar activities for a profit. Typical compensatory aid comes in the form of wage subsidies for disadvantaged or vulnerable employees of integration social enterprise.

Although Act 112/2018 sets out a number of forms of compensatory aid, the only one currently used is a wage subsidy (form of non-repayable aid) accessible for integration social enterprises. Aid intensity and duration of subsidy is contingent upon the type of employee disability and fully copies Articles 32-35 of the Commission Regulation (EU) No 651/2014 from 17 June 2014 declaring certain categories of aid compatible with the internal market under Articles 107 and 108 of the Treaty.

Existing compensatory aid assigned for subsidising the wages of disadvantaged and/or vulnerable employees of integration social enterprise is redistributed under Act 5/2004 on Employment Services. In it separate measure of compensatory aid for integration social enterprises was added with the adoption of Act 112/2018. Compensatory aid is an entitlement; thus, anyone who meets the conditions is entitled to obtain it. The aid is redistributed through local employment offices.

2.6 Support schemes: non-financial aid

Public procurement

Together with the adoption of Act 112/2018, an amendment to Act 343/2015 on Public Procurement was passed, serving as legal framework stimulating the market for social enterprises. While it was already possible to directly award contracts to sheltered workshops or 'subjects employing disadvantaged people' by virtue of the transposed Directive 2014/24/EU on Public Procurement, the new amendment includes registered social enterprise making it thus possible to directly award an *under-limit contract*⁹ to a registered social enterprise.

Effective from 1 January 2020, a quota system will be introduced. Under it each contracting authority, which is conducting more than 10 public procurements annually, is obliged to apply social aspect in case of min of 6% of procurement. Exact parameters and methodical guidelines for the successful implementation of this obligation are currently under discussion.

The possibility of reserved contracts¹⁰ and the emphasis on social dimension in public procurement ensured by quota system was welcomed by the social enterprises. However, they are often unable to fully respond to created opportunities. Most of them

⁹ Under limit contract' is financial threshold applied in public procurement process. The threshold varies depending on the types of goods or services.

¹⁰ Reserved contract is a type of the contract which may be used in specific processes of public procurement.

do not have experience in participation in public procurement which is perceived in Slovakia as very complicated and risky process. The problem is also a relatively low number of registered social enterprises, for which the reserved contract may be intended, the contracting authorities therefore use reserved contracts only rarely and in small scale.

Service vouchers

Another non-financial instrument to stimulate the registration of social enterprises are the service vouchers. These are bonds issued by the Ministry of Labour, Social Affairs and Family, which the client uses to pay for services to a registered social enterprise. Value of one service voucher is EUR 10, service vouchers are intended for two types of clients:

- general households – they pay the social enterprise the full amount of the voucher (EUR 10) which is later subsidised by the Ministry (EUR 3) when the voucher is bought back from the social enterprise;
- persons who are dependent on assistance from another person (e.g. person with disability, health issues or senior) – they pay a reduced price for the voucher (EUR 5). The remaining amount is paid to the social enterprise by the Ministry.

Services, for which it is possible to pay with a service voucher, are in particular services connected with care for the home and garden. The voucher does not necessarily constitute a payment per hour of service. The scope of the services per one voucher is subject to the price policy of the specific social enterprise.

The original intention, beside creating the demand for social enterprises services, was to utilise service vouchers as a tool for improving the availability of home caregiving services, which, by law on social services have to be provided to the citizen by local government. Given the financial situation of local governments, in many municipalities, home caregiving services are not provided and people remain without assistance. The situation is the most critical in the regions of East Slovakia, which are characterised by a significant outflow of young people toward more economically prosperous regions. Thus, additional support for caregiving services is most needed in small municipalities experiencing financial difficulties and affected by a rapidly aging population. This situation offers good market opportunities for registered social enterprises to provide their services with the use of service vouchers.

The system of service vouchers was initially planned to be fully operational as of 1 January 2019. However, its full implementation is still prevented by the practical issues relating to linking the service vouchers with Act 448/2008 on Social Services. This Act specifies that the caregiving service may be provided only by an accredited entity. It is unlikely that integration social enterprises, employing disadvantaged and vulnerable people, will be able to fulfil conditions related to the qualification of staff in order to become an accredited social service agency. In near future, it is necessary to clearly define which services and activities are performed as caregiving service within the law on social services and which are performed by integration social enterprise as services connected with care for the home and garden.

Another issue related to the implementation of service vouchers was is the establishment of a distribution network. It should be provided through local governments or PES offices. The orientation towards local governments was chosen to ensure a distribution network as close as possible to the citizens. However, the practice shows that local authorities often do not have the capacity to manage this task.

The development of the service voucher model has encountered a number of challenges, which have significantly complicated and delayed its launch. At the time of this report (May 2019), service vouchers are in the preparatory stage. Decree of the Ministry of Labour, Social Affairs and Family implementing certain provisions of the Act on Social

Economy 112/2018 and which regulates the service voucher system entered into force on 1 May 2019.

Other types of non-financial support

Among other non-financial support instruments which Act 112/2018 offers to registered social enterprises, is, for example, the possibility to be awarded a contract for the purposes of fulfilling the compulsory rate of employees with disabilities. In Slovakia, there is legislation pursuant to which, employers that employ more than 20 employees, have the obligation to employ people with disabilities (the exact number is determined based on the size of the employer and the extent of the disability of the employee). In the event that the employers fail to employ persons with disabilities, they are required to pay the state either in the form of a fine or by awarding a contract to a protected workshop or a social enterprise. However, this option is relevant only for integration social enterprises employing people with disabilities.

Act 112/2018 also provides for the possibility of reducing the value added tax rate to 10% for goods and services provided by a registered social enterprise that uses 100% of its profit after taxation to achieve its primary objective.

2.7 Measures to prevent abuse of public support by enterprises

Act 112/2018 includes a number of dedicated measures to prevent the misuse of both financial and non-financial aid, or the withdrawal property or resources from registered social enterprises.

Social enterprises receiving public aid cannot incorporate legal entities or persons that are not registered social enterprises. Also, they cannot withdraw or provide goods or services to entities that are not registered as social enterprises (with the exception of cases where the majority owner of the social enterprise is a regional or local government and some other exceptions that Act 112/2018 specifically lists).

Limitations also apply to registered social enterprises' wage policies. The law determines the maximum difference between the lowest and the highest wage in a registered social enterprise, with the amount of the highest wage being at most five times the lowest wage. In specific cases, the Ministry may, on the basis of a written application allow an increase in the amount of the highest wage.

Assets, which have been obtained using public resources, can be only transferred from one registered social enterprise to another. Otherwise the financial amount of the residual price of assets has to be returned to the provider of the subsidy.

These rules, however, apply only to registered social enterprises that have received financial or non-financial support from public resources. Other registered social enterprises have to abide only by generally applicable regulations. In the case of enterprises with a social impact, these restrictions are not relevant since enterprises with social impact only have access to repayable financial aid.

3 Results

3.1 Number of registered social enterprises

As of 1 May 2019, 10 social enterprises are included in the register of social enterprises under Act 112/2018, with the first registration happening five months after the adoption of the Act. All of the registered social enterprises are focused on work integration.

The current number of registered social enterprises makes it difficult to assess the real impact brought about by the adoption of the new Act 112/2018 to date. Some experts argue that a year after the adoption of Act 112/2018, the number of registered social enterprises should be higher, whilst others consider this number as optimal, since it is only natural that prior to the decision to register, organizations need time to consider and assess their situation. The implementation of the new Act has faced few unforeseen challenges, which have slowed down the achievement of results. Therefore, it is important to be realistic, or even rather conservative when setting targets.

3.2 The establishment of the Institute of Social Economy

An important role in the introduction of Act 112/2018 is played by the Institute of Social Economy (hereinafter referred to as ISE). ISE is a large-scale project managed by the Implementing Agency of the Ministry Labour, Social Affairs and Family. Its purpose, as stated in the new Act, is to improve the functioning of the social economy and to promote its activities and benefits. The ISE's activities include the gradual opening of a total of seven regional social economy centres which are tasked with providing information on social entrepreneurship and on Act 112/2018 to potential subjects of the social economy; as well as assistance and support in establishing newly emerging social enterprises. The advice to be provided by the social economy centres will be mainly legal, financial and project-related. Advice on how to take into account the social dimension in public procurement will also be provided.

As of 1 May 2019, out of the total of seven planned regional centres, four have already been created, and the other three are in the process of preparation. Regional centres can be considered as an intermediary between social enterprises and organizations/individuals considering establishing social enterprises and the Ministry as the guarantor of the area of social entrepreneurship. The project is funded under ESF which might limit the flexibility to respond to potential changing needs.

A challenge for the management of ISE is filling vacancies by qualified individuals, particularly in the regional offices. The topic of social entrepreneurship and systematic support to social entrepreneurship in Slovakia is still relatively new. It is not easy to find and engage individuals with expert knowledge on the topic to work in the public sector.

3.3 Assessing the impact of the new legislation

As part of the implementation of the new Act, there has not been any assessment of its supporting structure or the individual measures being delivered. The mechanism for the implementation of Act 112/2018 and implementation of the measures under Act 112/2018 are still in the process of creation, and some of the sections of Act 112/2018 have delayed its effect since the passing of the law (e.g. measures on the mandatory implementation of the social dimension in public procurement shall take effect on 1 January 2020). Given the above, it is too early to assess the impact of Act 112/2018. However, it is clear that the adoption of the Act itself has revived an interest in the subject of social economy and social enterprises among both experts and the general public. The adoption of the law has significantly contributed to the process of rehabilitation and acceptance of the term and principles of social entrepreneurship in Slovakia.

4 Key findings and conclusions

The main challenge for the next period is the need to increase the number of registered social enterprises, which would be able to contribute to solutions on individual social issues.

4.1 Strong focus on work integration of long-term unemployed

Tackling long-term unemployment is particularly important in Slovakia as it has one of the highest long-term unemployment rate amongst EU28 and OECD countries despite historically low levels of registered unemployment in Slovakia (5.04% as of 31 December 2018). Among the most vulnerable groups to long term unemployment are people from marginalized Roma communities and people with disabilities, a large proportion of whom are not even registered as job seekers. Social enterprises are seen as a potential solution to address long term unemployment. Act 112/2018 brings a profound change in the provision of employment support. Whilst active labour market policies traditionally target people registered as job seekers (with particular attention to those who remain registered long-term), the new Act defines as disadvantaged people who have not been in employment for prolonged periods of time, regardless of whether they are registered as such or not. A basic characteristic of a disadvantaged person is a person who has not been employed over the past six months. Then other characteristics are added such as age, level of education, duration of registration in the labour office register, social situation and/or other. The shift extends possibilities for registered social enterprises to work also with people who are struck from the job seekers register despite still being unemployed, such as homeless people and people from marginalized Roma communities.

Another challenge relates to the regional distribution of registered social enterprises. The need for social enterprises is most pronounced in the eastern and south-eastern regions of Slovakia, which are lagging behind, often struggling with the lack of human capital necessary for the establishment and functioning of a social enterprise. Therefore, it will be also necessary to focus on social entrepreneurship in these regions of Slovakia. The Ministry of Labour, Social Affairs and Family has, so far, created regional centers of social economy in four regions and three others are in the process of being established through the national project called the Institute of Social Economy. In addition, action plans are under way to support the least developed districts – Košický, Prešovský, Banskobystrický – to create social enterprises at local level.

4.2 Future challenges

Service vouchers and social aspect in public procurement – how to design an effective model

An important issue is also to ensure a functional system for service vouchers that can help stimulate a market for social enterprises and ensure availability of home-care services. The system of service vouchers is new in Slovakia and it must be developed in a way as to be sustainable, accessible and functional.

Starting in the year 2020, measures for the compulsory application of social aspects in public procurement for contracting authorities that carry out more than 10 procurements per year will become effective. Given the fact that this is a new subject, there is a need for strong technical support for not only contracting authorities, but also social enterprises themselves. This must consist of not only ad-hoc consulting but also in the development of a number of methodological documents and compendiums of good practice examples.

In the near future, it will be necessary to pay attention to how other types of social enterprises are defined in the legal framework (e.g. a social enterprise providing social services) and to provide the right support measures to encourage new types of social enterprises.

Building entrepreneurial skills among social economy organisations

Another relevant issue relates to the support of entrepreneurial skills among organizations in the non-profit sector. Number of these organisations could be potentially converted into social enterprises. The non-profit sector in Slovakia offers quite a number of great examples of good practice with a strong entrepreneurial potential realized across various areas of the social economy. However, only a few of these examples have been considered whereby the organisations involved could become social enterprises. The main obstacle is usually a lack of entrepreneurial skills and a culture of strong dependency on external donations and financing, which is characteristic of the non-profit sector in Slovakia.

Lack of entrepreneurial skills has been identified by investors as a barrier for the development of the social entrepreneurship sector. Donors often find that the business plans to lack viability. While Act 112/2018 does not prioritise the development of entrepreneurial skills, it includes as an obligation for the Ministry of Labour, Social Affairs and Family to provide free advice for the preparation of "projects of registered social enterprises" as well as for other areas of social entrepreneurship. As indicated above, this advice is provided by ISE. Despite ISE's promotion activities, it is necessary to find more ways by which traditional NGOs will understand that their public service objectives can be fulfilled through business activities and through which they will have the possibility to systematically build their entrepreneurial skills.

Provision of sustainable financing for social enterprises

Act 112/2018 offers financial aid for social enterprises but the current arrangements are largely reliant on European structural and investment funds, but this funding is limited to the duration of the programming period. It is therefore necessary to consider more sustainable financing to support social enterprises.

4.3 Potential refinements of the current Act

Act 112/2018 was at the time of its adoption often criticized as hard-to-read, unnecessarily complicated and administratively oriented. It is indeed an extensive document, but it provides a comprehensive legal treatment of the social economy and social enterprises.

After more than a year of discussions, Act 112/2018 has become widely accepted. The Act has not been amended yet and there have not been any clear requests for an amendment. There is however an amendment in preparation, to deal with certain implementation issues such as better formulation of certain terms and procedures, clearer clarification of certain processes or requirements etc.

Despite the positive response to the Act, the presence of any well-prepared law is not a guarantee of a fully functional ecosystem for the social economy and social enterprises. However, a good law may strengthen the viability of the sector. Notwithstanding the identified challenges above, the expert community in Slovakia believes that Act 112/2018 will deliver a stronger social enterprise sector in the next few years.

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