



ENSIE's contribution to the call for evidence of the European Commission on framework conditions for the social economy

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ENSIE is the European Network of Work Integration Social Enterprises (WISEs), which gathers 31 local, regional and national networks from 21 countries within the EU (Austria, Belgium, Croatia, Czech Republic, Denmark, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain) as well as Azerbaijan, Moldova, Serbia and Ukraine.

Work Integration Social Enterprises (WISEs), are a crucial part of the social economy (SE) – namely as actors and contributors to a sustainable, inclusive and fair society and as instruments for the integration into the labour market of disadvantaged groups. Although Member States will be in charge of the implementation of the Council Recommendation, it should be noted that part of the framework conditions for the social economy are covered by legislation that is determined at EU level i.e., state aid and public procurement. To create a quality framework, better and harmonized conditions should be ensured at all policy levels.

Work is a human right. Article 6 of the International Covenant on Economic, Social and Cultural Rights (1966)¹ states that “the States Parties to the present Covenant recognize the right to work”, which has been signed by 24 EU Member States. Article 15 of the EU Charter of Fundamental Rights², as primary source of law, is titled the freedom to choose and right to engage in work. Principle 4 of Chapter 1 of the European Pillar of Social Rights (EPSR)³ prescribes active support to

¹ International Covenant on Economic, Social and Cultural Rights:

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

² EU Charter of fundamental rights: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

³ EPSR: https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights_en

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employment, refers to the right to timely and tailor-made assistance to improve employment or self-employment prospects and makes a direct link to the social economy action plan (SEAP)⁴. Moreover, the Social Economy Action Plan (SEAP) mentions that the social economy can help implement the principles of the European Pillar for Social Rights and deliver on its 2021 Action Plan and the 2030 headline targets. Furthermore, the social economy also contributes to the implementation of the sustainable development goals on EU and international level.

ENSIE recommends the following elements to be included in the Council Recommendation for the Member States:

- A. **To formulate common guidelines for WISEs** – as they are a specific type of social enterprises and a subset of the social economy (SE). ENSIE asks to define common guidelines for WISEs, based on ENSIE’s proposal, for “Work Integration Social Enterprises”⁵. In Europe, WISEs can be cooperatives, associations, foundations as well as SMEs but they need to respect common specific criteria to be sustainable WISEs. ENSIE and its members would like to underline the need to be careful when defining WISEs as the definitions vary a lot from one country to another and risk to endanger the model if the framework is too restrictive. The elements put forward by ENSIE are the following:

- 1) WISEs are a specific typology social enterprises and a subset of the social economy.
- 2) WISEs are enterprises have as their main objective is the professional integration of groups with support needs (disabled or disadvantaged persons) and this is made explicit. This is either done by creating permanent jobs (stable model) and/or transitional work experiences aimed at facilitating the integration of persons with supports need in the open labour market through training and job coaching opportunities (springboard model).

⁴ Social Economy Action Plan: <https://www.socialeconomy.eu.org/wp-content/uploads/2021/12/Building-an-economy-that-works-for-people-an-action-plan-for-the-social-economy.pdf>

⁵ https://www.ensie.org/Portals/ensie/OpenContent/Files/11728/ENSIE_Position_on_the_EU_Action_Plan_for_the_Social_Economy_EN.pdf

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- 3) WISEs are specifically independent businesses combining a market orientation and a social mission.
- 4) WISEs are economic operators of whom at least 30 % of the employees are disabled or disadvantaged workers.
- 5) WISEs promote educational and training programmes designed on the basis of existing individual ability and potential within the enterprise.
- 6) WISEs provide the worker needing support with regular employment contracts.
- 7) WISEs profits are mainly reinvesting their profits with a view to achieving their social objective

- B. To uphold and expand state aid exemptions for WISEs.** WISEs are key actors for social and professional integration, and thus for the realisation of European Pillar of Social Rights – Chapter 1 and the 4th Principle in particular. Member States therefore have an obligation to support WISEs with compensation policies that are designed to promote the employment of disadvantaged workers, by compensating firms for the lower productivity of the disadvantaged workers employed and for the training and adaptation costs involved. As such policies are a matter of obligation, they should be exempted from state aid restrictions.
- a. The General Block Exemption Regulation⁶ introduced an important exception to Member State governments which declares specific categories of State aid to be compatible with the Treaty on the European Union if they fulfil certain conditions. These categories are exempted from the requirement of prior notification to the Commission. This way, Member States are allowed to implement public support measures directly, without prior Commission approval. Moreover, Member States can give higher amounts of public money to companies, including WISEs. Thanks to this regulation, all Member States can subsidise the recruitment of disadvantaged employees and workers with disabilities, or use subsidies to reduce the social insurance costs for the disadvantaged workers employed. The Member States can also introduce aid for the training cost incurred.
 - b. [The Commission Decision of 20 December 2011 “on the application of Article 106\(2\) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the](#)

⁶ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty Text with EEA relevance

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[operation of services of general economic interest](#)” allows Member States to compensate the services of general economic interest meeting social needs (art. 2, 1, c) for the access to and reintegration into the labour market. Member States are requested to use this opportunity to fulfil their obligations resulting from the EPSR.

- C. **To encourage taxation policies for WISEs.** Taxation is a competence mostly in the hands of the Member States, with the EU solely having limited competencies to regulate the matter. For this reason, Member States should adopt or broaden more favourable VAT taxation rates for Social Economy Enterprises, including for Work Integration Social Enterprises, also following their legal obligations to active support for employment. Their function of general interest should be recognised and preferential treatment should be introduced considering their social wellbeing ramifications, professional integration and for the circular activities of some. This should, amongst others, happen via the recently updated EU VAT Directive.

Furthermore, WISEs reinvest their profits with an objective of creating new employment opportunities. Therefore, Member States should use the Corporate tax exemption on profits for this type of enterprises. Following the [Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises](#), Member States need to fully recognize WISEs, including their non-profit feature, as integral part of the SMEs.

While being aware of the need for fair competition, respecting the level playing field, ENSIE believes that for most WISEs the use of the same fiscal schemes as the one applicable to mainstream businesses is a discouraging approach. This does not take into consideration the limited profitability of WISEs and the distribution of the created surplus towards actors other than shareholders, which is characterising the scope of economic activity of work integration social enterprises. In addition, the fiscal scheme used today does not consider the local/national dimension of WISEs’ economic activities, which does not cause the same risks of distorting the functioning of the internal market. In other words, knowing that their economic activities remain at national or local level, the potential competitive advantage caused by the suggested proposals above would not have a significant impact at the EU level and on other businesses operating a similar economic activity: the EU must not penalise the small, medium and large work integration social enterprises having inclusive and fair objectives. Such different schemes proposed by ENSIE are, thus, better adapted to the enterprises’ reality.

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- D. **To expand, promote and enhance the practice of socially responsible public procurement.** in particular a greater push to use reserved contracts and a systematic implementation of work integration social clauses in public procurement next to green clauses. Both at MS and EU institutions level. Social and green criteria should be increasingly made mandatory. ENSIE demands a better implementation by Member States of Directive 2014/24/EU and more support measures for local and regional authorities.
- E. **To support the partnerships between for profit enterprises and WISEs,** via sub-contracting in social public procurement as well as inclusive employment policies offered by traditional companies with WISEs as disadvantaged workers support service providers.
- F. **National social economy strategies** are advisable for the smooth operation and development of SE and WISEs. Although not an obligation in the Social Economy Action Plan (SEAP), the Recommendation should stress their importance.
- G. **Structural funds** are not mentioned in the SEAP. In relation to ESF+, it should be clarified to Member States (MS) that the funding can also support SE (and WISEs) networks. These are important as they support the sector itself. The Commission should provide guidance to Member States in the Recommendation related to structural funds and the SE. Moreover, the real involvement of WISEs national/regional representatives in the monitoring committees of the ESIF is necessary but they are now often excluded.
- H. WISEs networks should be considered as **civil society & employer organisations** and be included in civil and social dialogue. Their operations should be supported with core funding/grants for projects.
- I. ENSIE asks MS to **support the upskilling/reskilling of social economy workers** and recognise the already existing role of WISEs in re- and upskilling. WISEs are providing non-formal and informal education through their strong pedagogical dimension and on-the-job training. They contribute to providing technical as well as transferable skills and help ensure that everyone has basic digital skills. Moreover, WISEs should be taken into account in the definition of the European approach to micro-credentials for lifelong learning and employability and be recognised as providers of micro-

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credentials. Furthermore, WISEs role in Continuing Vocational Education and Training (CVET) should be recognised.

ENSIE asks the Commission the following elements:

- A. **Current exceptions concerning state aid should also be increased and new exceptions regarding social economy enterprises and WISEs are welcomed.** The revision of the GBER is foreseen after December 2023 and modifications aimed to improve conditions for the social economy and WISEs were envisaged in the SEAP. This revision is key for the sector and should be realised. This has been a long-time demand from ENSIE and its members as it is crucial to encourage the development of WISEs. Indeed the art. 32 “Aid for the recruitment of disadvantaged workers in the form of wage subsidies” does not provide, in reality the full opportunity to integrate a number of disadvantaged groups because the financial support is insufficient to cover their lower productivity and because they are not always ready to be integrated in the conventional labour market after 12 or 24 months. Moreover, it is important to monitor the Member States’ implementation of this article because it seems that in some cases, there is no funding left for the most disadvantaged as the employment subsidies are spent for the workers that are not disadvantaged, neither far from the labour market. ENSIE and its members are ready to help the Commission to better understand this issue and to evaluate the needs for the social enterprises’ sector in terms of access to finance and aid for hiring disadvantaged or severely disadvantaged workers. Furthermore, ENSIE and its members want to underline the still existing need to change “aids for training”, in the form of a state aid intensity of 100% (as already applied for the maritime transport sector).
- B. Still in relation to state aid, but more specifically to **the minimis**, ENSIE and its members agree on the need of a revised threshold, which takes into account inflation for 2014-2030 and reflects economic developments. Added to this it is crucial that if the de minimis threshold is raised under Regulation 1407/2013, the threshold for services of general interest (SGEI) set in Regulation 360/2012 must be raised as well. Moreover, it’s important to include another exception in Article 1 of the de minimis Regulation: “aid granted to work integration social enterprises” because they cannot be treated as the mainstreamed companies because of the nature of limited profitability of the non-profit entities and the distribution of the created surplus towards actors other than shareholders. The total amount of de minimis aid granted by a Member State must be proportional to the size of the enterprise.

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- C. ENSIE asks the Commission to **improve access to funding for WISEs**. WISEs should not be left behind when trying to access EU funding because of their different legal status. ENSIE calls for earmarking 10% of relevant ESF+ to WISEs and other SE actors in upcoming programming periods.
- D. **ENSIE asks the introduction of monitoring indicators** in the European Commission Monitor on Member States' use of:
- social and green clauses in public procurements;
 - contracting/ sub-contracting with social economy entities;
 - reserved contracts to WISEs and social shelter workshops.

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