PRESS project
Training course

6 March 2017
European Network of Social Integration Enterprises

The network unites 28 national and/or regional networks of work integration social enterprises, in 21 countries in Europe: more than 3,150 enterprises and 270,000 workers.

At the moment, ENSIE is recognized as key European level network active in promoting social inclusion by the DG Employment, Social Affairs and Inclusion of the European Commission.

See all our members: here.
Activities

• Networking

• Advocacy

• Project
WISEs within the European Commission document from the Social Business Initiative, COM(2011) 682 final 25 10 2011

a) Social enterprises

b) Work Integration Social Enterprises
“an operator in the social economy whose main objective is to **have a social impact** rather than make a profit for their owners or shareholders. It operates by providing goods and services for the market in an entrepreneurial and innovative fashion and **uses its profits primarily to achieve social objectives**. It is managed in an open and responsible manner and, **in particular, involve employees, consumers and stakeholders affected by its commercial activities.**"
The Commission uses the term 'social enterprise' to cover the following types of business:

- those for which the social or societal objective of the common good is the reason for the commercial activity, often in the form of a high level of social innovation,
- those where profits are mainly reinvested with a view to achieving this social objective,
- and where the method of organisation or ownership system reflects their mission, using democratic or participatory principles or focusing on social justice...
Social Enterprise’s definition (3/3)

- businesses providing social services and/or goods and services to vulnerable persons;
- and/or businesses with a method of production of goods or services with a social objective but whose activity may be outside the real aim of the provision of social goods or services.
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• and/or businesses with a method of production of goods or services with a social objective but whose activity may be outside the real aim of the provision of social goods or services.
Together with its members, ENSIE has clearly specified what *work integration social enterprise* means **through three cumulative principles**:

**The social and professional integration of individuals** who due to their exclusion and their relegation to a marginal role in society have fallen victim to increasing social and professional handicaps.

**Enterprises at the core of the economic system**: social integration enterprises have decided to carry on their activities at the very core of what is most frequently a major factor in the phenomenon of exclusion: the economic system.

**Enterprises of a strong pedagogical dimension**: The social integration enterprises initiate training and educational programs designed on the basis of existing potential and develop this individual potential within the enterprise.
WISEs European framework (1/5)

In the European framework we can affirm that:

WISEs give **concrete employment opportunities to people far from the labour market** = active labour measures (relationship between PES* and WISEs)

Work integration social enterprises have already existed for **more than 35 years** (Belgium, France, Italy...)

There is **no special common legal status for WISEs**: the legal status changes depending on which European country they are in: it can vary from associations to company with limited liability; in some countries there are specific statutes.

*Public Employment Services
WISEs European framework (2/5)

• Several Member States recognize a specific legal framework for work integration social enterprises. They define their role with laws and decrees and allow their development:
  – Italy with the social cooperatives laws (381) of 1981,
  – the three Belgian regions in 1998,
  – Spain with the 44 law of 13 December 2007,
  – Austria with guidelines formulated by the employment agency. The Austrian network has a consultative power in the guidelines revision,
  – Romania, more recently adoption of the new law of June 2015 (recognition for întreprinderea socială de inserție with 30% of disadvantaged workers).
Some national authorities of the Member States still do not recognize work integration social enterprises and ignore their role of creating paid employment for disadvantaged people in the labour market.

For example, in the United Kingdom, Social Firms exist but are ignored by their National Authorities.

Several East European countries such as Serbia are still in a research phase.

Some countries are at the “embryonal phase”: such as Latvia or Hungary.
• **Variety of schemes** to create employment opportunities: WISEs can be oriented in training people and creating employment in other private enterprises (*springboard employment*) or in creating employment within the same enterprise (*permanent employment*). The different legal and cultural framework influences this orientation.
WISEs European framework (5/5)

- **Field of activities**: Restaurants, canteens, catering / Crafts, renovation, repair, design / Personal services (cleaning, ironing, dispatch services, visiting services ...) / Sales (food, second-hand-goods, design products,) / Care of green spaces, road cleaning / Non profit workforce leasing / Counselling

- **Individually adapted integration pathways** to the needs of girls and women, youth, elderly, migrants, drug addicts, ex-prisoners ....
The procurement of goods and services on behalf of a public authority, such as a government agency, a region, a municipality...

Public procurement rules mobilise almost **20 % of the EU’s GDP.**

The 28/03/2014 the DIRECTIVE 2014/24/EU on public procurement was published in the Official Journal of the European Union. The legislation entered into force on 17 April 2014. Member States then have 24 months to implement the provisions into national law. This directive abolishes Directive 2004/18/EC.
PUBLIC PROCUREMENT: Functional and horizontal objectives

Public procurement as a tool to achieve sustainable development objectives

- Public procurement is the process whereby public authorities purchase the goods, works and services they need.
- Public procurement can also be used by contracting authorities to achieve sustainable development, social and environmental goals.

Examples:
- A public authority procures the construction of roads, bridges, and bus services in order to perform the governmental function of facilitating public transports (functional objective).
- It can also decide that the contractor employs a % of workers belonging to ethnic minorities or unemployed in the contracted work or that the bus transport services limit the gas emissions and noise level to a certain level (horizontal objectives).
1st possibility for WISEs: Social considerations

Social considerations are aspects that can be included in a procurement procedure to achieve social objectives.

Examples of social considerations:

• Employment opportunities
• Decent work
• Compliance with social and labour rights
• Social inclusion (including of people with disabilities)
• Equal opportunities
• Accessibility and design for all
• Taking account of sustainability criteria, including ethical trade issues
The main stages of a procurement procedure

1. Defining contract performance clauses
2. Defining the subject-matter of a contract
3. Drawing up technical specifications
4. Defining Award criteria

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Main stages

• **Defining the subject-matter of the contract:** the public authority decides what it wants to buy; it decides if it wants to include other horizontal objectives

• **Drafting technical specifications:** the public authority defines the required characteristics of the product/work/service it wants to buy; offers not complying with t.s. need to be rejected

• **Defining award criteria:** lowest price or “most economically advantageous tender”; the second requires different combinations of criteria which are weighted; each tender is scored on the basis of its satisfaction of each criterion

• **Defining eventually contract performance clauses:** they set out how a contract should be performed; they are additional conditions of the contract and can include social and environmental considerations
What is the difference?

Technical specifications must be linked with the subject-matter of the contract.
A bid cannot proceed to the award stage if it does not comply with all technical specifications.
If sustainability criteria are included in the t.s., the bidder has to show that it is able to provide goods / works / services in compliance with the criteria specified.

Award criteria:
The public authority does not require all award criteria to be met in absolute terms.

Contract performance clauses:
Usually ability to comply with such clauses is not assessed before the tender is awarded. In case of non compliance, in principle the contract should be terminated and a new procurement procedure should be initiated.
Social considerations

Award criteria (article 67)

The most economically advantageous tender (MEAT) now enables contracting authorities to integrate qualitative considerations (e.g. social and environmental). The lowest price is not anymore the unique award criteria.

It is important to encourage contracting authorities to use this new possibility in order to take into account the wider consequences of their public procurement policies rather than default to the cheapest option (socially responsible procurement, promotion of employment and decent work, social inclusion, accessibility, fair trade,...): the life cycle approach takes into account the social impact of the product purchased throughout the life cycle.
Social integration of disadvantaged persons

Recital 99:

“favouring of social integration of disadvantaged persons or members of vulnerable groups amongst the persons assigned to performing the contract or training in the skills needed for the contract in question can also be the subject of award criteria or contract performance conditions provided that they relate to the works, supplies or services to be provided under the contract. For instance, such criteria or conditions might refer, amongst other things, to the employment of long-term job-seekers, the implementation of training measures for the unemployed or young persons in the course of the performance of the contract to be awarded.”
Social integration of disadvantaged persons

BURGOS – SPAIN

The object of the contract is the management, control and proper functioning of the recycling centers of the city of Burgos.

A social clause foresees a technical project of social and work integration of persons at risk of social exclusion, which is weighted 22 points out of 100.

Bids are evaluated on the basis of MEAT.

The project has to foresee training on the job and social and professional integration of the persons employed at risk of social exclusion.

The situation of being at risk of social exclusion is certified by the social services of the Municipality of Burgos and needs to comply with a Spanish law that defines the categories of persons falling into the definition.

Contract has the duration of two years.

Value of the contract close to the EU threshold of the directive in force.
2nd possibility for WISEs: 
Reserved contracts for the work integration of disadvantaged persons and persons with disabilities

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<td></td>
<td>Sheltered workshops</td>
<td>Sheltered workshops and economic operators <strong>whose main aim</strong> is the integration of</td>
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<tr>
<td>Target group?</td>
<td>Disabled persons</td>
<td>Disabled and disadvantaged persons</td>
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<td>Threshold?</td>
<td>most of the employees (min 50%)</td>
<td>30%</td>
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Reserved contracts

This new proposition will guarantee a more efficient and more sustainable integration of disadvantaged and disabled people, while increasing the economic performance of work integration social enterprises and sheltered workshops by contributing to the long term dimension of social and professional integration.

To do so, it is thus important that contracting authorities verify that the integration of disadvantaged or disabled persons is stated as a primary mission in the statutes or other statutory documents of the applicant organization. This would prevent enterprises that opportunistically employed disadvantaged or disabled persons only during the contracting period from winning the contract.

The definition of disadvantaged persons should be interpreted with wide discretion, to include all categories of people facing social exclusion and adapt it to the national context of each country.
Reserved contracts

This new proposition will guarantee a more efficient and more sustainable integration of disadvantaged and disabled people, while increasing the economic performance of work integration social enterprises and sheltered workshops by contributing to the long term dimension of social and professional integration.
Reserved contracts

To do so, it is thus important that contracting authorities verify that the integration of disadvantaged or disabled persons is stated as a primary mission in the statutes or other statutory documents of the applicant organization. Social economy enterprises fall into this category.

While drafting the terms of reference, contracting authorities should include the quality of the social integration project as an essential criterion to be met by tenderer.

This would prevent enterprises that opportunistically employed disadvantaged or disabled persons only during the contracting period from winning the contract.
Reserved contracts

Recital 36 exemplifies how ‘disadvantaged person’ should be interpreted: for example, the unemployed, members of disadvantaged minorities or otherwise socially marginalized groups.

The **definition of disadvantaged persons** should be interpreted with wide discretion, to include all categories of people facing social exclusion and adapt it to the national context of each country.
Transposition (I)

Within our European network the Member States that have transposed the Directive so far:

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<td>Netherlands</td>
<td>Belgium</td>
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<td>Romania</td>
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<td>Spain*</td>
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<td>Ireland</td>
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Reserved contracts remain possibilities and not obligations!
The European Commission doesn’t consider the directive transposed in Spain and Sweden. This could mean different things: these Member States have transposed just the part of the directive concerning reserved contracts or the Members States transferred only part of the information.

<table>
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<th>YES</th>
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<td>Czech Republic</td>
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<td>Slovakia</td>
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<td>Sweden*</td>
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<td>Croatia</td>
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<td>The United Kingdom</td>
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Czech Republic, Slovakia
Reserved contracts only for organisations employing more than 50% of disabled people – same as previously
Follow-up

4 current interesting initiatives

1. Spain

- Handbook with the new possibilities offered for WISEs, including the reserved contracts created by ENSIE’s member FAEDEI
- Organization of meetings at regional level to support and convince public authorities to use reserved contracts
- Template document to be used as a model for call for tender including reserved contracts and to adapt considering the specificities of each cities and services
Follow-up

4 current interesting initiatives

2. Croatia

- Working plan in partnership with the national public administration in order to organize trainings on responsible public procurement in 2017

- Creation of a manual of good practices providing examples of good practices from other EU countries

- Using a template document similar to the Spanish one to illustrate the reserved contracts possibility
Follow-up

4 current interesting initiatives

3. Romania

- Civil society organisations working in partnership with national public administration building recommendations in order to explain to public authorities on tendering social services

- Similar exercise could be done concerning the reserved contracts possibilities at the same time
4. Luxembourg

- ENSIE’s future Luxembourg member ULESS has produced a proposal to accompany one or more municipality in Luxembourg in the establishment of specifications based on social criteria.

- This proposal is addressed to public institutions and municipalities that would be interested in the inclusion of social considerations in their public contracts in the context of procedures selecting the most economically advantageous offer.
Still available

Public procurement for social progress
A guide to the EU Public Procurement Directive

Available languages:
- English
- Spanish
- French
- German
- Italian
- Croatian
- Portughese

See on our website: here!
Any question or comment?

Thank you very much for your attention!
Contact

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