



INT/1056
**Public procurement/
Social economy enterprises**

DRAFT OPINION

Section for the Single Market, Production and Consumption

Potential of public procurement for social economy enterprises (own-initiative opinion)

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For the attention of the section members

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1. **Conclusions and recommendations**

- 1.1 The European Economic and Social Committee (EESC) welcomes the Letta report, which calls for the measures in the European Commission's Social Economy Action Plan to be accelerated, focusing on the strategic use of public procurement to support the social economy.
- 1.2 The EESC points out that access to public procurement is crucial for social economy entities, and stresses the importance of establishing innovative criteria with real, non-market value such as the commons, social (quality employment, inclusion and integration of vulnerable people) and ecological added value (environmental impact) and territorial proximity.
- 1.3 The EESC encourages initiatives such as 'Buying for social impact' and 'We Buy Social EU', which, over and above knowledge-sharing, improve mutual understanding between public authorities and social economy and local economy players, and calls for the Liège Roadmap to be implemented.
- 1.4 The EESC calls on the Member States and the different levels of government to implement all of the measures and actions in the Recommendation on developing social economy framework conditions in order to help social economy entities access the public procurement market, using proportionate selection criteria, for example, or dividing contracts into lots.
- 1.5 The EESC urges the Commission to launch as soon as possible the EU-wide strategic action plan on public procurement requested by the Council, and calls on the Commission to develop a system for monitoring the roll-out of the action plan's measures so as to make the plan more effective.
- 1.6 In view of the 'permacrisis situation' and following the EU's adoption of a number of strategies on social and environmental issues since 2014, the EESC calls for an extensive evaluation and revision of the European public procurement framework in the next legislative term.
- 1.7 The EESC calls for the contracting authorities within the EU to make better use of preliminary market consultations, reserved contracts and division into lots.
- 1.8 The EESC calls on the Commission to create a dedicated section on 'socially responsible public procurement' on the Social Economy Gateway to promote the exchange of knowledge and best practices.

2. **Findings**

- 2.1 By drawing up this own-initiative opinion, the EESC wishes to highlight the potential of public procurement for social economy entities. As highlighted in Enrico Letta's recent report on the single market, *Much more than a market*¹, 'social economy businesses are pivotal in fostering proximity and the sustainable development of territories', embodying the essence of a human-centric economy deeply rooted in local communities. The close links with the regions they serve

¹ Letta, E., [*Much more than a market – Speed, security, solidarity – Empowering the single market to deliver a sustainable future and prosperity for all citizens*](#), April 2024.

allow them to have a unique understanding of local needs, fostering innovation in social and environmental practices linked to regional and local development objectives. These local roots improve the social fabric of communities and promote resilient, sustainable local and regional ecosystems, ensuring that the growth and progress stimulated by the social economy are inclusive and benefit everyone.

- 2.2 In order to realise the full potential of the social economy, the Letta report lists various measures to facilitate access to financial resources for social economy players. Among these measures, public procurement is identified as being a powerful tool for supporting social economy entities. The EESC welcomes the Letta report, which calls for the measures in the Commission’s Social Economy Action Plan to be accelerated, focusing on the strategic use of public procurement to support the social economy.
- 2.3 Some 250 000 public authorities spend the equivalent of more than 14% of the EU’s annual GDP, amounting to EUR 15 trillion, in the form of public procurement².
- 2.4 The recent report *The social impact of public procurement – Can the EU do more?*³ shows that most Member States’ contracting authorities still award tenders above the EU thresholds solely on the basis of the lowest price or cost. This implies that quality criteria and social, environmental and innovation considerations are not included in tender documents.
- 2.5 ISO Standard 20400⁴ on sustainable procurement specifies that ‘[p]rocurement is a powerful instrument for organizations wishing to behave in a responsible way and contribute to sustainable development and to the achievement of the United Nations Sustainable Development Goals. By integrating sustainability in procurement policies and practices, including supply chains, organizations can manage risks (including opportunities) for sustainable environmental, social and economic development’.

3. Inspiring initiatives

- 3.1 In 2020, the European ‘Buying for social impact’ project⁵ identified five obstacles hindering the adoption of social clauses in public procurement:
 - variations in the transposition of the 2014 Directive⁶ into national law;
 - a lack of knowledge of the new provisions of the Directive among public authorities responsible for awarding contracts;
 - difficulty implementing the social aspects of the Directive;

² Varga, E., *How Public Procurement Can Spur the Social Economy*, Stanford Social Innovation Review, 5.5.2021.

³ European Parliament, Directorate-General for Internal Policies of the Union, Caimi, V., Sansonetti, S., [The social impact of public procurement – Can the EU do more?](#), 2023.

⁴ [ISO 20400:2017, Sustainable procurement – Guidance](#).

⁵ European Commission, Executive Agency for Small and Medium-sized Enterprises, [Buying for social impact](#), Publications Office, 2020.

⁶ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

- an underdeveloped social economy ecosystem (lack of specific framework laws on the social economy, and social economy entities’ lack of capacity when it comes to responding to tenders); and
 - a lack of public sector awareness of social economy entities, which is partly due to a lack of knowledge of the specific characteristics of social economy entities among the contracting authorities responsible for drawing up tender specifications.
- 3.2 In its action plan for the social economy⁷, the Commission pointed out that the ‘2014 overhaul of the EU public procurement rules⁸ created many opportunities for public authorities at all levels to use public procurement to achieve various policy objectives, including fostering environmental protection and pursuing social objectives’. The Commission undertakes to ‘step up its efforts to highlight the concrete benefits and ways of using public procurements and concessions procedures to achieve labour and social policy objectives, better working conditions, and deliver high quality social services’.
- 3.3 The Commission has launched various initiatives for building up capacity in socially responsible public procurement. For example, #WeBuySocialEU⁹ demonstrates how the use of public procurement contributes to achieving social objectives in the EU, and encourages contracting authorities to integrate social considerations into their purchasing policies and practices. This project also supports social economy players in understanding and participating effectively in public procurement procedures. The EESC welcomes such initiatives, which, over and above knowledge-sharing, improve mutual understanding between public authorities and social economy and local economy entities.
- 3.4 In its 2023 Recommendation on developing social economy framework conditions, the Council recommends that ‘Member States encourage their contracting authorities to purchase goods and services strategically, pursue social objectives, also taking into consideration social innovation and environmental goals’. It also states that ‘[t]o that end, they are encouraged to make full use of the tools available under Union public procurement rules, including those for the organisation of certain services, known as services to the person and as general interest services, through a specific regime, inspired by the principle of solidarity’.
- 3.5 The EESC calls on the Member States and the different levels of government to carry out all the measures proposed in this recommendation so as to help social economy entities access public procurement. They can do this by, for example, establishing proportionate and inclusive selection criteria to allow small and innovative social entities to participate in tendering procedures, or by dividing contracts into lots, in order to facilitate cooperation between other businesses and social economy entities.

⁷ [COM\(2021\) 778 final](#).

⁸ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

⁹ [WeBuySocialEU – AEIDL](#).

- 3.6 In a previous opinion¹⁰, the EESC points out that access to public procurement is crucial for social economy entities, and ‘stresses the importance of establishing innovative criteria with real, non-market value such as the commons, social (employment, inclusion and integration of vulnerable people) and ecological added value (environmental impact) and territorial proximity’.
- 3.7 In its opinion on *Creating an enabling environment for the social economy*¹¹, the European Committee of the Regions ‘calls for policies promoting socially responsible public procurement and the inclusion of social requirements in tenders as a means to help develop the social economy’, and ‘defends the idea that the European legal framework must allow recognised social enterprises to access European public markets without being placed in competition with conventional enterprises, in that they meet social needs or carry out public service missions while being mandated by government’.
- 3.8 To facilitate access to public procurement for social economy entities and encourage full use of the tools available, the 2024 *Liège Roadmap for Social Economy*¹² encourages ‘European, national, regional and local public authorities to incorporate more sustainability and inclusivity criteria in public procurement procedures’.
- 3.9 The EESC calls on the Member States to report on the implementation of measures to include the social economy in socially responsible public procurement, in order to assess progress and highlight best practices at national, regional and local levels. A good example is the joint effort, led by Paris City Council, to create the ESS2024.org platform¹³, which opened up the public procurement procedures for the 2024 Olympic Games to social economy entities and the circular economy. This enabled social economy entities to become involved in the Paris 2024 project, to provide work opportunities for disadvantaged people and to facilitate the emergence of innovative and sustainable solutions.
- 3.10 The EESC welcomes the report *The social impact of public procurement – Can the EU do more?*¹⁴, which provides an overview of the implementation of public procurement provisions in the Member States and makes numerous recommendations to the Member States and the EU institutions. The latter are being asked to review their internal public procurement policies by setting annual targets for implementing strategic procurement (including socially responsible purchasing), developing appropriate reporting and data tools. Member States and regional and local authorities are encouraged to raise awareness among all contracting authorities that public procurement can be used to promote social policy, employment and gender equality objectives at both political and operational level.
- 3.11 The EESC also agrees with the recommendation that contracting authorities make better use of preliminary market consultations, reserved contracts and division into lots, in particular to ensure

10 Opinion INT/1037 on the *Social economy package*, OJ C, C/2024/882, 6.2.2024, ELI: <http://data.europa.eu/eli/C/2024/882/oj>.

11 [Creating an enabling environment for the social economy – the local and regional perspective](#).

12 [Liège Roadmap for Social Economy in the European Union](#).

13 OECD, *Buying social with the social economy – OECD Local Economic and Employment Papers*, 2023.

14 *The social impact of public procurement – Can the EU do more?*, Think Tank, European Parliament.

greater participation of SMEs, social economy entities and civil society organisations in procurement procedures.

- 3.12 In the wake of a special report by the European Court of Auditors on public procurement in the EU¹⁵, on 24 May 2024 the Competitiveness Council approved conclusions entitled *Improving fair and effective competition for EU public procurement contracts awarded for works, goods and services*¹⁶ and proposed the launch of an EU-wide strategic action plan for public procurement as one of the priorities for the Commission's next mandate. The EESC urges the Commission to launch this action plan as soon as possible.
- 3.13 The EESC calls for qualitative criteria to be systematically included in tender procedures, not only to avoid a race to the bottom in terms of wages and working conditions or unfair competition, but above all to provide legal certainty for public contracting authorities that seek to work towards social, environmental and ethical objectives through their public procurement processes. Among these qualitative criteria, governance elements and other specific features of the social economy (democratic and collaborative practices, reinvestment of profits and surpluses to further pursue their social or environmental objectives, inclusion of stakeholders, transparency, etc.) could be taken into account. The EESC calls for an analysis of opportunities and obstacles be carried out at European level, as well as a stakeholder consultation, in relation to these potential benchmarks.
- 3.14 The current 'permacrisis', which is affecting the most vulnerable in particular, and the various social and environmental initiatives of the EU carried out since 2014, call for a review of the Directive. These initiatives include the European Green Deal (2020), the action plans for the circular economy (2020) and for the social economy (2021) and the Nature Restoration Law (2024), as part of which socially responsible and circular public procurement can give a significant boost to their implementation. Greater use of socially and environmentally responsible public procurement will also contribute to achieving the United Nations Sustainable Development Goals by 2030. After all of these new strategies, the EESC calls for a policy to be developed that truly turns the intentions into binding measures.

4. Specific comments and proposals

- 4.1 The EESC calls on the Commission to dedicate a section on the EU Social Economy Gateway to socially responsible public procurement bringing together all relevant publications and links (*Making socially responsible public procurement work*¹⁷, the URBACT Knowledge Hub¹⁸, etc.), and to include a list there of the best practices of national, regional and local authorities; this would serve as a source of inspiration and a meeting point for developing knowledge and successful experiences in the EU.

¹⁵ European Court of Auditors, [Public procurement in the EU – Less competition for contracts awarded for works, goods and services in the 10 years up to 2021](#), Special report 28/2023, Publications Office of the EU.

¹⁶ [Council adopts conclusions on the Court of Auditors' report on public procurement](#).

¹⁷ European Commission, Executive Agency for Small and Medium-sized Enterprises, Tepper, P., McLennan, A., Hirt, R., et al., [Making socially responsible public procurement work: 71 good practice cases](#), Publications Office, 2020.

¹⁸ [Strategic Public Procurement](#).

- 4.2 As the provision of goods and services cannot be based on the erosion of social, societal, health and sustainability principles, nor lead to unequal competition or distortion of competition that could lead to social dumping, the EESC calls for a revision of the European public procurement framework in the next legislative term. A certain number of social clauses must be mandatory:
- compliance with International Labour Organization Conventions No 87 concerning Freedom of Association and Protection of the Right to Organise, and No 98 concerning the Right to Organise and to Bargain Collectively;
 - compliance of wages and employment conditions with legal standards and with the provisions of agreements: public authorities must take steps to ensure such compliance. This is not a discriminatory approach but responsibility based on respect.
- 4.3 The EESC welcomes the fact that a joint declaration on public procurement and collective bargaining has been agreed for three sectors active in the social economy between the European organisations representing employers and workers in these sectors (European Cleaning and Facility Services Industry (EFCI)¹⁹, Confederation of European Security Services (CoESS)²⁰, together with UNI Global Union Europa – UNI Europa and FoodServiceEurope, with the European Federation of Food, Agriculture, and Tourism Trade Unions (EFFAT)²¹), in which the Commission is asked to:
- replace the lowest price criterion with that of ‘the most economically advantageous tender’²²;
 - use the application of legal agreements and collective bargaining agreements, where they exist, as a criterion;
 - make recommendations for collective consultation; and
 - allow account to be taken of price variations resulting from wage agreements that are reached during the tender procedure.
- 4.4 The EESC welcomes the recommendations set out in the European Labour Authority’s *Report on evaluating policy responses to prevent undeclared work in public procurement contracts*²³, and highlights the potential of social economy entities in combating informal work, given their social goals and their efforts towards labour market integration.
- 4.5 Social economy entities must recognise the concept of the general interest in collective bargaining, especially given the priority accorded to workers’ dignity and fair remuneration.
- 4.6 While appreciating the spirit and approach of Articles 74-77 of Directive 2014/24/EU and in particular its approach with regard to reserved contracts for social and other specific services, the EESC calls for a more flexible approach to address the three-year maximum duration of the contracts (Article 77), which effectively amounts to an implicit ban on contract renewal. The

19 www.uni-europa.org/wp-content/uploads/sites/3/2022/12/2022_12_20_Joint_statement-CoESS-UNI_Public-Procurement-and-Collective-Bargaining_FINAL.pdf.

20 www.uni-europa.org/wp-content/uploads/sites/3/2023/03/20230221_Publicprocurement_collectivebargaining.pdf.

21 <https://effat.org/wp-content/uploads/2023/06/FoodServiceEurope-EFFAT-Declaration-on-Public-Procurement-and-Collective-Bargaining-2023-06-19.pdf>.

22 The most economically advantageous tender focuses on best value for money, taking into account environmental and social factors, quality, life-cycle cost and innovative nature.

23 <https://www.ela.europa.eu/en/news/new-study-highlights-strategies-tackle-undeclared-work-eu-public-procurement>.

application of these rules has proven to be too rigid and has reduced the concrete incentives to provide quality work during the last year of the contract, which often means that good service providers have to be replaced, even if they are appreciated by the contracting authority and end users.

- 4.7 With regard to Directive 2014/24/EU, the EESC greatly appreciates the provisions of Article 20 on reserved contracts, which is aimed at ensuring access to contracts for enterprises that are geared towards employing disadvantaged people. This article provides a tremendous tool for boosting the development of social economy entities; however, the EESC regrets that not all Member States have implemented this measure.
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