



Collective call to grant limited profitability enterprises a legal meaning and ensure a fair competition with private undertakings

The COVID-crisis highlighted the crucial role of social and solidarity economy organisations to provide the needed care for the population. We are major players of the European pillar of social rights and we strongly contribute to the European economy while fostering social ties among the people.

Yet, the specific legal models of companies with limited profitability are not yet recognized by European legislation. This concept is defined in an own-initiative opinion adopted by EESC in 2019¹ and recognized at international level by the United Nations².

Therefore, our structures are facing an unfair competition with for-profit enterprises caused by the legal oversights on our inner differences: we have a different approach to the distribution of surplus earnings and we have higher constraints on access to capital, which is necessary to grow. The *Paint Graphos case law* by the CJEU³ granted a specific regulatory framework to cooperatives regarding those inequalities in EU law and specifically State Aid. It recognized that in view of the constraints to finance their activities, cooperatives are not evolving in a factual and legal situation that is comparable to that for-profit companies.

EU and national regulations must more effectively foster the development of limited profitability enterprises by setting a legal and political framework guaranteeing a fair while safeguarding our fundamental values of solidarity, economic resilience, and the absence of the pursuit of profit.

Various ways of including limited profitability enterprises in European law can be considered: the inclusion of the concept when the future revision of the rules on Services of General Economic Interest takes place, publication of an interpretative communication on the extension of the Paint Graphos ruling to cover non-profit enterprises, a protocol appended to the treaty or amendment of article 54 of the TFUE.

We, therefore, urge European leaders to get out of their legal logic to innovate and allow a fair competition among all economic players.

¹ A. Coheur. (2019). "Towards a European legal framework adapted for social economy enterprises (own-initiative opinion)".

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² "They have a different objective function than standard corporations. Reflecting this, they **are prohibited or significantly limited in their distribution of profits** and income to units that control or finance them. Although **they may earn surpluses**, the principal purpose of TSE institutions is not to earn financial returns to investors, but **to produce goods and services that have some public or social benefit**. They therefore are not typically suitable for profit maximizing investment purposes. Entrepreneurs in these institutions are often **driven by social or ideological impulses** rather than solely pecuniary ones." Satellite Account on Non-profit and Related Institutions and Volunteer Work, United Nations – October 2018

³ C-78/08 - Paint Graphos and Others



We call for daring and courage, in a transformed world, after a period that once again, has shown the resilience of our models.

We, the signatories of this call, are committed to act for the legal recognition for all forms of enterprises, including those whose primary aim is to have a social impact rather than make a profit for their members. It is about time to change!

Signatures



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