

Galway, 10 May 2019

## **Public Consultation Response: National Social Enterprise Policy for Ireland 2019-2022**

Dear Minister Ring,

I would like to thank you for the opportunity to share inputs and recommendations on the draft National Social Enterprise Policy for Ireland 2019-2022. I am currently writing my PhD thesis on social enterprises and the right to inclusive employment for persons with disabilities from a comparative legal perspective, therefore I have an especial academic interest in this policy.

The objective to raise awareness of the importance of social enterprises, along with the goals to provide clarity for all the actors involved and providing a starting point for collecting comprehensive data on the sector, are important first steps.

I would however like to add an additional goal to Objective Two: **Establishing an enabling legal framework**. Under the current legal system, social enterprises are facing the challenge of picking a legal form that is either profit-oriented or tailored to promote social goals only, a challenge they face in most countries. Some countries, like Italy, have provided a legal sub-category (in the Italian case social co-operatives) that responds to the challenges of the legal framework, or established a 'legal label' social enterprises can obtain, providing for visibility and certain exemptions from general rules. By establishing one or both of these options by law, the future regulation and support of the sector would become more transparent and accessible. Whichever approach Ireland decides to take, it would be important to clarify certain legal aspects in the meantime. Tax exemptions for instance should be available to social enterprises, even if they do not have charitable status. Furthermore, while the Companies Act does provide several options to choose from, the impacts of a decision between a Public Company Limited by Guarantee (popular for charitable purposes), the Designated Activity Company and the Company Limited by Shares are not obvious to someone from a non-legal background and the information can be overwhelming and inaccessible. Certain guidelines would be necessary to make it easier for social enterprises to navigate the legal requirements. The topic could also be part of the business support offered under Objective Two and the education system as discussed under Objective One.

The Policy's commitment to promote the Sustainable Development Goals and human rights is very timely. Social Enterprises work with persons at risk of exclusion, promoting their inclusion in society. However, there might not always be clarity how to promote these goals exactly without falling risk of becoming another form of segregation.<sup>1</sup> Examples like this highlight the need to set standards and provide guidelines for social enterprises to clarify what it means in practice to promote human rights and the Sustainable Development Goals. This could potentially be added to Policy Objective Three alongside numbers 18 and 19.

Alongside with the other suggested actions regarding procurement (numbers 15 to 17) it might prove useful to promote the formation of consortia who act as general contractor in the procurement process and organise the joint fulfilment of their members. Not only can a consortium provide valuable guidance and training but also make public contracts available in the first place to small and medium sized social enterprises. An alternative to this approach would be to split contracts increasingly into smaller lots, which are then given out separately.

Regarding Access to Funding under Policy Objective Two, I wanted to add two suggestions: Firstly, it would foster the diversity of social enterprises, to have a non-thematic fund for start-up social enterprises. While the CSP covers the costs of employing staff in many cases, social enterprise start-ups would often need support in accessing funding for movables and rent. Alternatively, the State could act as a guarantor for traditional banks, thereby helping social enterprises securing loans, an approach which has proven successful in Italy.<sup>2</sup>

I hope my contributions can be of use,

Kind regards,

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<sup>1</sup> See Human Rights Council, 'Equality and Non-Discrimination under Article 5 of the Convention on the Rights of Persons with Disabilities' (9 December 2016) A/HRC/34/26.

<sup>2</sup> For an overview of the Italian system see European Commission, Directorate-General for Employment, Social Affairs and Inclusion, 'Mapping study on Social Enterprise Eco-systems – Updated Country report on Italy' (2016)