

socialplatform

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innovation in services and creating
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Index

- Who we are and why public procurement and social enterprises matter for us
- Overall assessment of the directive
- Award criteria
- Special regime for social and health services
- Reserved contracts for economic operators whose main aim is the integration of people in need
- Reserved contracts for social and health services
- Opportunities to promote social innovation through procurement



Who we are

The largest platform of European rights and value-based NGOs working in the social sector.

We aim to promote social justice, equality and participatory democracy by voicing the concerns of our 47 member organisations.



Our members (European networks)



Why do social enterprises and public procurement matter for us?

- At EU level, a big part of our members represent social and health service providers: they are non profit making or almost fully reinvest their profits in their activities.
- At EU level, many of our members work for the social inclusion and integration into the labour market of people who face discrimination or are at risk of social exclusion.
- At national level, many members of our members are social enterprises.
- We consider that public services, social / health services and social enterprises play an essential role to achieve a “social market economy”.



Overall assessment of the directive

Overall assessment is positive

- Directive contains opportunities for the social sector, but also some risks depending on the transposition and interpretation
- Some key provisions give room for different interpretations
- It is essential to provide guidelines to governments in view of a positive transposition and to involve NGOs and social enterprises at national level



On award criteria

Social Platform advocated for the abolition of the lowest price / lowest cost criterion, in particular with reference to contracts for social and health services. Especially for these services, contracts should be awarded on the basis of quality criteria.

Almost achieved!

Success factor: The Most Economically Advantageous Tender (MEAT) is the main award criterion for ALL procedures (art. 67.1).



On award criteria

BUT

art. 67.2: in the transposition member states can provide that contracting authorities can restrict the use of price or cost only to certain categories of contracting authorities or types of contracts



On award criteria for social and health services

For social, health and other services provided directly to the person:

Art. 76.2... *Member States **may** also provide that the choice of the service provider **shall** be made on the basis of the tender presenting the best price- quality ratio, taking into account quality and sustainability criteria for social services.*

Missed opportunity: MEAT is not the only award criterion, lowest cost is still possible.

Positive: In the transposition phase member states can decide that MEAT is the only award criterion to be used.



Reserved contracts (art. 20)

*“Member States **may** reserve the right to participate in public procurement procedures to sheltered workshops and economic operators whose main aim is the **social and professional integration of disabled and disadvantaged persons** or provide for such contracts to be performed in the context of sheltered employment programmes, provided that at least **30%** of the employees of those workshops, economic operators or programmes are disabled or disadvantaged workers”.*



Reserved contracts for social, health and cultural services (art. 77)

*“1. Member States **may** provide that contracting authorities **may** reserve the right for organisations to participate in procedures for the award of public contracts exclusively for those health, social and cultural services referred to in Article 74...”.*

- ❑ The possibility to have reserved contracts is positive. This provision is not compulsory on member states: in the transposition phase they may decide not to transpose it.
- ❑ If the member state decides to transpose it, then the choice is for contracting authorities to reserve contracts or not.



Reserved contracts for social, health and cultural services (art. 77)

*“par 2 ... The organisation shall not have been awarded a contract for the services concerned by the contracting authority concerned pursuant to this article within the past **three years**.”*

3. *The maximum duration of the contract shall not be longer than **three years**.*

Problematic: This goes **against the principle of continuity** of service provision for social and other services provided directly to the person.

For which type of provider and what services could this provision be advantageous?



Reserved contracts for social, health and cultural services (art. 77)

“2. The organisation referred to in paragraph 1 must fulfil the following cumulative conditions:

a) Its objective is the pursuit of a public service mission linked to the delivery of the services referred to in Paragraph 1; **profits are reinvested** with a view to achieving the **organisation’s objective**.

“Organisation’s objective” is used instead of “social objective” or “societal objective”.

Social Business Initiative:

The term “social enterprise” covers:

- businesses 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.



Reserved contracts for social, health and cultural services

“... Where profits are **distributed or redistributed**, this should be based on **participatory considerations**;

The structures of management or ownership of the organisation performing the contract shall be based on employee ownership or participatory principles, or shall require the active participation of employees, users or stakeholders”.

Letter b) first sentence provides for reinvestment of profits; the second sentence is about distribution and redistribution of profits. It is not clear to what kind of organisations it is applicable.

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How to boost social innovation

Art. 76.2. Member States *shall* ensure that contracting authorities *may* take into account the need to ensure **quality, continuity, accessibility, affordability, availability and comprehensiveness of the services, the specific needs of different categories of users, including disadvantaged and vulnerable groups, the involvement and empowerment of users and innovation.**

Social Platform [9 principles](#) for meaningful social innovation:

- novelty
- focus on unmet/ inadequately met/ new social needs by reinforcing the implementation of human rights
- assessment sharing
- informing policy development
- potential for up-scaling
- participation and involvement of users
- participation and involvement of all relevant stakeholders
- goes beyond technological innovation for the benefit of users
- has a bottom-up approach to innovation.



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