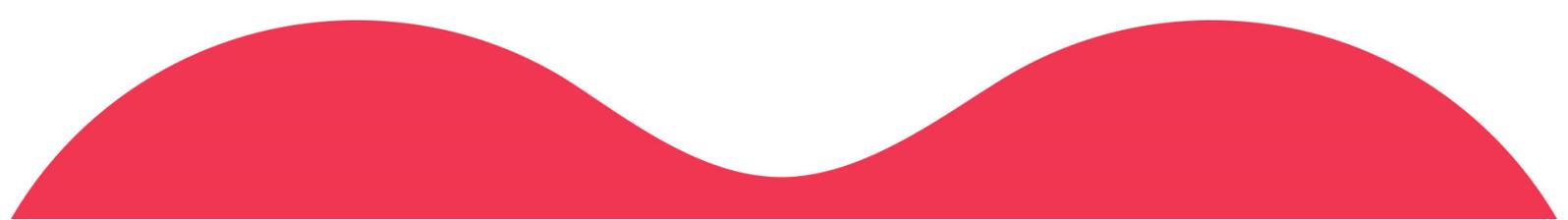


30/09/2022

Philea comments on Council Recommendation: Developing framework conditions for social economy



Philea submission to online consultation, 30 September 2022

Introduction

The philanthropy and foundation sector are very pleased with the European Commission Social Economy Action Plan (SEAP). We also welcome the opportunity to provide input into the European Commission consultation on a proposed Council recommendation to develop social economy framework conditions by 2023, by adapting legal frameworks to the needs of social economy entities. The social economy family includes different types of legal entities such as associations, mutual societies, and cooperatives as well as foundations and philanthropic organisations, which is the sector represented by Philea.

As Philea, we are also actively engaging as a board member of Social Economy Europe (SEE) around the wider social economy agenda and with the civil society community on issues of common concern. We are also a member of the European Expert Group on Social Economy (GECES) and have also been contributing to the SEAP in this context. This paper will focus on the specific philanthropy perspective, while also supporting a separate contribution from SEE.

Concrete suggestions for the Council Recommendation

The Council Recommendation on developing social economy framework conditions should set out a vision for how Member States should support the social economy family including foundations/philanthropic organisations until 2030.

The foundation/philanthropy sector plays a critical role in the implementation of the SDGs and in supporting Europe's social and economic resilience. Moreover, we do crucial work alongside other civil society actors to make sure that across Europe the Rule of Law and the protection of Fundamental Rights are respected by Member States. European philanthropy is a key contributor to a more equitable and sustainable world, and now has a critical role to play in "building back better", fostering greater resilience and well-being and promoting diversity and inclusion



Despite societal challenges going beyond borders, philanthropic organisations and other members of the social economy family are still not benefiting from the Single Market when it comes to their cross-border activities. Hence, we are calling for a Single Market for public good in our [Manifesto](#) and our [contribution to the Social Economy Action Plan](#). Better recognition of and dialogue with the foundation sector, facilitation of cross-border action, enabling and protecting the space and co-granting and co-investing for the public good in Europe are our 4 key recommendations.

In the context of the SEAP announced Council recommendation to develop social economy framework conditions by 2023, we consider that the Council Recommendations should encourage Member States to:

On enabling frameworks

- **Better recognise and engage with social economy actors including foundations** – Member States should engage in more structured dialogue with philanthropy/social economy (e.g. around the NRRF and beyond – beyond consultation towards participation and co-designing) and better recognition of the important role the sector plays in creating an inclusive and equitable labour market for disfavoured groups, including people with disabilities
- **Develop a more enabling environment for social economy organisations**, in particular associations and foundations, when it comes to cross-border activities (recognition of legal personality when acting abroad, move of seat across borders, merger across borders, removal of foreign funding restrictions etc.) **Support the creation of** supranational legal forms for associations and foundations and/or minimum standards for associations and other NPOs including foundations
- **Ensure that national money laundering and terrorism financing policy is risk-based, proportionate and does not unduly restrict legitimate philanthropic transactions** (we have seen cases of over-regulation with unintended consequences in several Member States) and ensure that public benefit organisations have access to banking services, which has become an issue due to extensive compliance regulations that banks have to maintain.



On tax frameworks

- Work on an **enabling tax treatment for public-benefit foundations** (corporate tax exemption; exemption from gift and inheritance tax) as well as for social economy organisations more generally
- Work **on overcoming tax barriers to cross-border philanthropy**, i.e., a call for a better implementation of the non-discrimination principle with regard to cross-border philanthropy taxation (for donors when donating across borders to public-benefit organisations and foundations when they have asset allocations across borders)
- Consider **national compensation schemes for irrevocable VAT costs** that many public-benefit organisations/charities end up paying since they are treated as the final consumer; consider VAT treatment of reduced goods and waste; consider exemption for pro-bono services; consider block exemption for SE and public-benefit organisations

On financing, impact investing, co-granting and co-investing

- Facilitate impact investment for philanthropic actors, foundations and other actors, **considering enlarging the toolbox of philanthropy by also enabling new forms of impact investing and mission-related investments/sustainable investments**
- **Collaborate with foundations/philanthropy and wider social economy/civil society in the** design, implementation, and follow-up to NRRF and MFF schemes **if run at the national level**
- Adapt their administrative and institutional set-up to better support social economy entities **and engage with stakeholders**



On other support measures

- Enhance the social economy's key role in **creating an inclusive labour market for disfavoured groups**, including people with disabilities
- Provide **better education and skills training** for the social economy
- Provide **accompanying and training opportunities** for those SEEs wouldlike to work internationally and enable international collaborations and exchange platforms
- Adopt rules that respond to and encourage the **internationalisation of social economy entities**
- **Support the social economy in various policy fields**
- Develop **specific legal forms for social enterprises**
- Consider **the creation of a European label or passport for social enterprises**

Background information to support the Council's Recommendation on philanthropy-specific issues

To unleash their full potential, philanthropy, civil society and the social economy need an enabling environment at the national level. As Philea, we map and analyse the operating space for philanthropy and observe that old and new barriers prevent the sector from unleashing its full potential across borders, see our 2021 analysis, ["Comparative Highlights of Foundation Laws"](#).

The current administrative and fiscal treatment, in particular of cross-border philanthropic activities, result in high transaction costs. Despite numerous calls and attempts, an appropriate European policy framework is still lacking. The philanthropic sector would benefit from better implementation of the non-discrimination principle, which does not yet fully apply to public-benefit organisations and their donors. It is important to ease tax-effective cross-border donations from individual and corporate donors, as well as ease their tax-effective asset allocation/endowment investment. We hence welcome the mention of Guidance to Member States in the Social Economy Action Plan.

Member States could also develop measures and incentives to stimulate more collaboration (including co-granting and co-investing) between the philanthropy sector and public sector.

We also ask the Commission to consider its own measures to stimulate more impact investing/asset allocation and to call for national measures to ease/stimulate more foundation engagement in impact investing on the programme side, and more mission-related investments on the asset allocation side. More capacity-building schemes should also be considered.

Philanthropy also works with the wider social economy to facilitate access to finance for innovative and green social economy projects. Together, we are engaged in the co-design of a taxonomy, and presenting the added value of social economy models, including philanthropy. Additionally, we promote cross-sectoral partnerships, co-design projects, and co-programming with the competent public authorities.

Finally, we would like to stress that, in addition to the Council recommendation, we welcome the many additional initiatives that the SEAP lists. The relevant measures in particular include:

- **Publishing guidance clarification rules on the tax treatment of cross-border public-benefit donations** affecting foundations and associations and the improved implementation of the non-discrimination principle (page 7).
- Performing a **specific study on philanthropic** donations in the EU (page 22)
- **Launching a dedicated co-investment mechanism with foundations and philanthropic organisations** around target mission areas, with the aim of encouraging engagement around sustainability, inclusion, social innovation, housing and homelessness, media pluralism, and developing social impact ecosystems (page 16).
- Launching an **action on innovative financing in the New European Bauhaus Lab**, with a view to creating a pilot project for mobilising philanthropic contributions (page 18). We are already engaging with colleagues at the NEB and have joined a specific task force on this.
- Enhancing **collaboration between the public sector, philanthropic and social investment actors**, to better catalyse available resources and enable the uptake and replication of social innovation initiatives (page 20).
- **Proposing in 2022 a European Social Innovation Catalyst Fund under Horizon Europe**, engaging citizens, academics, entrepreneurs, philanthropists, impact investors and public administrators, with the aim of supporting the replication and scaling up of successful innovations to advance the objectives of the five EU Missions (page 21).



- Considering the **development of a new legal instrument to overcome barriers to associations and NPOs** as a response to the EP Lagodinsky report.



About Philea

Philanthropy Europe Association (Philea) nurtures a diverse and inclusive ecosystem of foundations, philanthropic organisations and networks in over 30 countries that work for the common good. We unite over 10,000 public-benefit foundations that seek to improve life for people and communities in Europe and around the world.

Philea is a convergence of Dafne and EFC – Donors and Foundations Networks in Europe and the European Foundation Centre – forming a strong, united voice for European philanthropy.

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