



Training and awareness-raising

Buying for Social Impact (BSI) was a project commissioned by the Executive Agency for Small and Medium-sized Enterprises (EASME) and the European Commission Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) to promote the use of social considerations in public procurement procedures in 15 EU Member States (Croatia, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Italy, Ireland, Latvia, the Netherlands, Poland, Romania, Slovakia and Sweden).

The project was carried out by a consortium of European organisations active in the promotion of local development and social economy enterprises. This was led by the European Association for Information on Local Development (AEIDL), working in partnership with the European Network of Cities and Regions for the Social Economy (REVES), DIESIS COOP, Social Economy Europe (SEE), and the European Network of Social Integration Enterprises (ENSIE).

The project had 2 objectives:

- to encourage contracting authorities to use public procurement to pursue social goals; and
- to increase the capacity of social economy enterprises to take part in public procurement procedures and to access new markets.

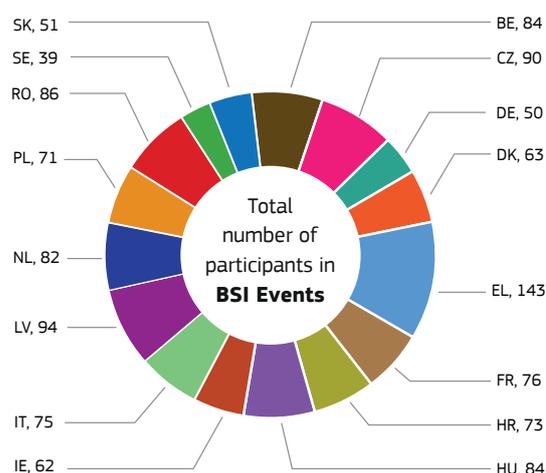
One of the key actions of the project was a set of training and awareness-raising events on socially responsible public procurement (SRPP) in the 15 countries targeted, followed by a final conference in Brussels in November 2019. In total, more than 1 000 people attended the 16 events (see Figure1).

The aim of the national events was threefold:

- to focus on the practical experiences of contracting authorities and social economy enterprises relating to the implementation of the provisions of the Directive 2014/24/EU;
- to provide occasions to discuss those experiences, challenges and solutions; and
- to create conditions for support, networks and mutual awareness between public buyers and the social economy.

The final conference presented the outcomes and initial findings from the BSI project in the form of a comparative analysis of the legal frameworks and social economy ecosystems in the 15 Member States covered. It engaged institutional and social economy stakeholders in discussions to try to find a common direction for the future development of SRPP.

Figure 1: Participation in BSI events



Key findings and learning from the project



KEY FINDINGS OF THE MAPPING EXERCISE:

- implementation of SRPP is easier in countries where legal frameworks or legal forms for social economy enterprises exist;
- it is also easier for social economy enterprises to access public procurement procedures in countries where those legal frameworks or legal forms exist;
- social considerations which facilitate access of social economy enterprises to procurement markets, are more widespread in certain sectors of the economy than others, in particular maintenance of public green spaces; cleaning services; and social services. They are also found to a lesser extent in the construction; food / catering / restaurants; transport services; and textiles sectors. However, in most of the countries analysed, social economy enterprises are economically active in other sectors (including healthcare; education; environmental services and energy; sport and recreational services; culture; art; and IT) in which contracting authorities should encourage bids from SMEs and social economy enterprises.

KEY FINDINGS OF THE 15 NATIONAL MATRICES:

The transposition of social provisions contained in Directive 2014/24/EU into national legislation has been diverse.

- **reserved contracts** - the main element of diversity in the transposition of art. 20 lies in the minimum share of employees with disabilities or other forms of disadvantage required to compete in reserved procedures. There is some confusion between art. 20 and art. 77. Art. 77 has not been transposed into national law in some countries.
- **social considerations** - the encouragement to shift from a price only approach towards the most-economically advantageous tender (MEAT) in the Directive has widened the space for social considerations in the awarding of contracts (art. 67). Social considerations can also be found as condition for the performance of contracts (art. 70), most commonly, considerations linked to employment, but also the promotion of gender equality or combatting discrimination.
- **awarding contracts in lots/subcontracting/preliminary market consultations** - the option to divide contracts into lots (art. 46) has been transposed as an obligation (for central purchasing bodies) in Germany and Greece and as the default option in France and the Netherlands. Croatia, France and Poland oblige contracting authorities to protect subcontractors through direct payment (art. 71). In most of the 15 countries legislation explicitly allows to conduct preliminary market consultations in line with art. 40. National legislation has emphasized the importance of ensuring the transparency of such consultations and the equal treatment of all bidders.
- **the use of quality criteria in the light regime** - Best value for money has been established as a compulsory award criterion in IT, PL, and RO. Quality criteria remain largely underdeveloped; they are often limited to general ones such as training or qualification of staff that are commonly used in all kinds of procurement procedures. Instead, quality criteria linked to continuity, accessibility, empowerment of users, etc. (the so-called specific characteristics of social services) are less common.



GOOD PRACTICE PUBLICATION:

The final publication gathers 22 examples of good practice from 12 EU Member States. These include good practice from 8 of the countries targeted by the BSI project, as well as examples from another 4 Member States (Belgium, Spain, Slovenia, and the UK). Of the good practices analysed, 13 concern public procurement procedures, while 9 are examples of policy initiatives and support structures (i.e. strategies, networks of facilitators, capacity-building projects or programmes, databases etc.).

This reflects **one of the key findings from the BSI project**: namely, that while transposition of the EU Directive into national legislation is necessary to promote and implement SRPP, it is not sufficient. Legal frameworks must be coupled with initiatives to increase knowledge and build capacity among public authorities and economic operators (including social economy enterprises).

IMPACT OF NATIONAL EVENTS:

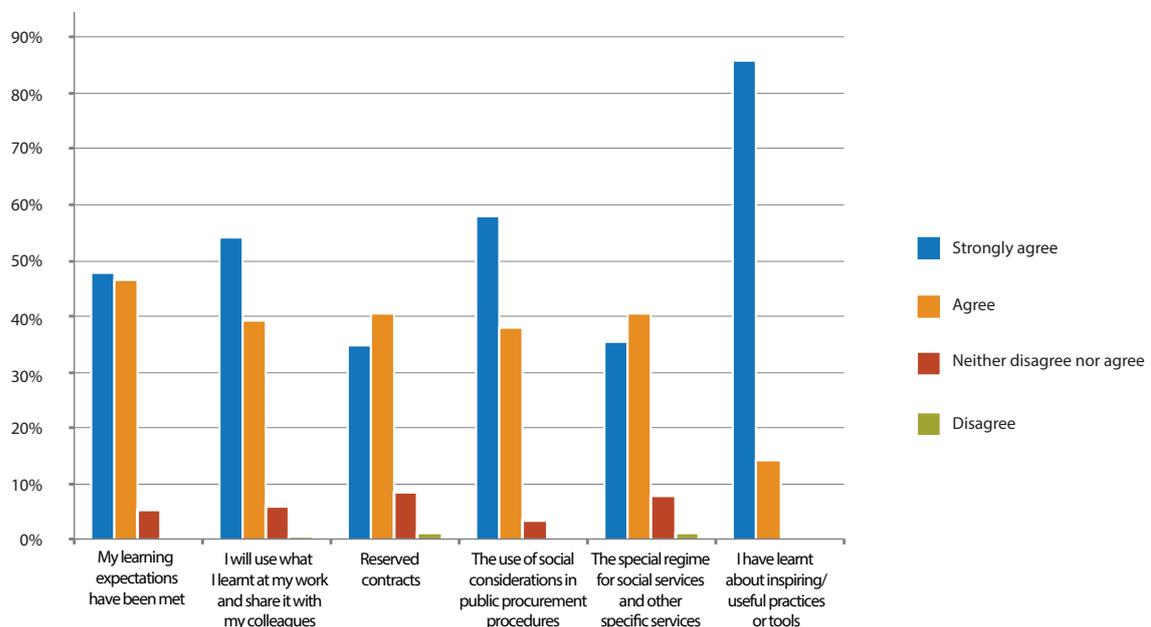
Pre-conference insight (258 stakeholders in 11 Member States responded):

- 85% of respondents agreed that contracting authorities need to be more aware of opportunities from social considerations in procurement processes;
- 81% of respondents agreed that more interaction should be promoted between end users, potential social economy suppliers and public buyers to signal market needs upstream.

Post-conference evaluation (132 responses from 13 Member States):

- 100% of respondents agreed or strongly agreed that they had learnt about inspiring / useful practices and tools, highlighting the need for exchange of practices;
- More than 85% of respondents rated the national events as good or very good.

Figure 2: Overall assessment of the learning generated by the national events



CONCLUSIONS AND RECOMMENDATIONS

The project identified five **challenges** that hinder the uptake of social clauses in public procurement:

- variations in the transposition of the EU Directive into national law;
- lack of knowledge of the new provisions of the Directive among public authorities responsible for awarding contracts;
- difficulty implementing the social aspects of the EU Directive;
- an underdeveloped social economy ecosystem; and
- lack of public sector awareness of social economy enterprises.

For each of these challenges, the consortium, on the basis of the findings from the project, identified a set of recommendations:

Variations in transposition into national law:

- European Commission to explain to Member States more thoroughly the different options they have in the transposition phase.

Lack of knowledge of Directive:

- national, regional and local authorities to organise training seminars, develop guidelines, disseminate good practice, set up help desks, support structures, capacity building projects to provide advice and information, including with EU funding support;
- Member States to create national networks; and
- European Commission to facilitate the dissemination of good practice among Member States.

Difficulty implementing social provisions:

- Member States to seek references to national regulations or EU definitions to disentangle the meaning of “disadvantaged workers”;
- contracting authorities to establish an interface between employment services and procuring bodies;
- Member States to develop framework legislation, registers and labels for social economy enterprises to facilitate the use of reserved contracts;
- national, regional and local authorities to develop guidelines, good practice examples and training;

- Member States to help public authorities establish partnerships with social economy operators and promote partnerships between social economy enterprises and business;
- European Commission to encourage national and regional governments and local authorities to develop strategies on SRPP; and
- European Commission and Member States to encourage contracting authorities to develop strategies and annual work plans on SRPP.

Underdeveloped social economy ecosystem:

- European Commission to encourage national authorities to develop framework laws on social economy / social enterprises; and
- Member States to build the capacity of social economy enterprises to create consortiums and to partner with businesses to be able to respond to tenders.

Insufficient public sector knowledge of social economy enterprises:

- national, regional and local authorities to organise training seminars, develop guidelines, disseminate good practice, set up help desks and support structures;
- European Commission and Member States to facilitate the creation of networks of facilitators and support structures to improve matching between contracting authorities and social economy enterprises.

PROJECT DELIVERABLES

- 1 EU-level matrix: legal explanation of the social provisions of the EU Public Procurement Directive (2014/24/EU);
- 15 matrices: legal analysis of the transposition of the Directive into national law;
- 15 mapping reports on the public procurement and social economy ecosystems; and
- a good practice publication.

Available at: <https://www.aeid.eu/docs/bsi/index.php/bsi-buying-for-social-impact/bsi-library/bsi-deliverable>

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