

Euclid Network (EN) - the European Social Enterprise Network - greets the proposed Directive of the European Commission on Establishing a new European status for Cross Border Associations (ECBAs) with great enthusiasm. The social economy contains a myriad of organisations, including social enterprises, of whom many are registered as associations and who may be operating across borders. EN is a network of networks, bringing together organisations who support social enterprises across Europe, driving forward positive change towards an economy that works for people and the planet. Many of the organisations in our network are registered associations and EN itself is a non-profit association operating and engaged in projects across multiple countries. EN is therefore strongly aware of the pertinence of this Directive for addressing the real challenges that associations operating cross-border face and therefore warmly welcomes the strong collaboration between the European Commission and Parliament which has led to this proposed Directive.

Several key elements that EN in particular notes as significant for organisations that adopt this new ECBA status are:

1. The unlocking of the benefits of the Single Market for the non-profit sector and introduction of a single point of registration
2. The ability and ease for the transfer of seat/head office of an association
3. The increased possibility and facilitation of cross-border donations
4. The protection and expansion of the freedom of association for all those living in the EU

This proposed Directive does not come alone and is accompanied by Staff Working Documents on taxation frameworks for the social economy¹ and the non-discrimination principle of charitable organisations and their donors.² These Staff Working Documents should evaluate further the merits of developing a unified tax code for ECBAs across all EU Member States which outlines clearly the rules they face relating to income tax, VAT and

¹ SWD(2023) 211, 'Relevant taxation frameworks for social economy entities'.

² SWD(2023) 212, 'Non-discriminatory taxation of charitable organisations and their donors: principles drawn from EU case law'.



other relevant taxes to their operations. This would build upon or expand double taxation agreements specifically for ECBAs to prevent them from being taxed in multiple jurisdictions for the same income. The Commission should also further investigate whether tax exemptions or reductions could be appropriate for ECBAs, especially those involved in non-profit, cultural, educational, or social activities. This could support and encourage cross-border collaboration and ease financial burdens.

The ECBA also comes in the context of the Social Economy Action Plan³ and recently adopted Council Recommendation on improving framework conditions for the social economy.⁴ This context highlights the wider framework in which social enterprises and social economy organisations are operating and the wider efforts being undertaken by the Commission to improve these conditions, together with Member States. The Commission has limited competence to act in this area and hence the ECBA as a Directive by the Commission is very much framed by the desire to remove the barriers associations face in benefiting from the freedoms of the Single European Market.

To support the exploitation of these freedoms, the EU could support the development of a standardised financial reporting framework for ECBAs across the EU. This framework should accommodate the diversity of financial systems across EU countries while ensuring transparency and consistency. Digital reporting tools available through an EU platform could also streamline ECBAs' financial reporting processes, making use of standardised templates and automatic compliance checks with EU financial regulations. Training and resources in the form of online workshops, peer learning or opportunities for collaboration with national tax authorities could also be facilitated through this platform.

The proposed ECBA Directive responds to a request from the European Parliament and calls from grassroots organisations on the need to address the barriers faced by associations operating across Europe when compared to for-profit and non-social economy firms. The ECBA Directive therefore recognises associations as a key part of the social economy, highlighting the values as 'the primacy of people as well as social and environmental purpose over profit, the reinvestment of most of the profits and surpluses to carry out activities in the interest of members/users ("collective interest") or society at large ("general interest") and democratic or participatory governance'.⁵

In the EU, 24 Member States currently have regulations on associations however no two national frameworks are the same. There are differences in whether associations can have economic activities, how their executive functions work, how they can register and how many signatories are needed. Associations are often not recognised across borders bringing more

³ [European Action Plan for the Social Economy.](#)

⁴ [Council Recommendation of 27 November 2023 on developing social economy framework conditions](#)

⁵ [Proposal for a Directive of the European Parliament and European Council on European Cross Border Associations](#)



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issues with registration and leading to the need to register multiple times. This also exacerbates the challenge of accessing finance by social economy organisations, limiting access to credit and loans from traditional financial institutions, consequently creating high costs for associations and uncertainty in cross-border operations. By addressing these challenges, the Directive has the potential to increase the economic and social impact associations (and the social economy) can deliver for citizens across Europe.⁶

The Directive will help to unlock the single market for non-profit cross-border associations in several tangible and meaningful ways. These include removing the need to register multiple times in different countries in order to carry out cross-border activities. This should remove administrative burdens as well as financial costs, allowing ECBAs to be recognised, understood and active without being impeded by national borders. This single registration and freedom to operate also allows for the transfer of the head office of an association to another Member State without the need to create a new legal entity as an association in another Member State. This is a significant step forward, safeguarding freedom of association across the EU. ECBAs will also be able to move assets more easily across Member States, working within one ECBA and not across multiple national associations. This also facilitates cross-border mergers of associations, providing many opportunities to the non-profit sector which have long been available to for-profit counterparts.

The establishment of ECBAs should also facilitate cross-border giving, enabling donations to associations between Member States to be recognised and treated appropriately by national taxation authorities. This element of the Directive should be bolstered by the accompanying Staff Working Documents mentioned above. The development of common or standardised forms and documents for cross-border giving and tax rebates would also greatly facilitate this kind of financial support associations receive as well as potentially opening up and supporting an increase in cross-border donations which could help to further European social, cultural and democratic integration as well as that of the economy.

Ensuring minimal challenges in access to funding for ECBAs is vital for ensuring their establishment and growth across the EU. To avoid or mitigate these challenges, several initiatives should be undertaken. These include: facilitate access to existing funds by simplify application processes; providing EU Funding Workshops to highlight how these European Associations can utilise EU funding opportunities, offering guidance on grant applications and effective EU project management; increasing access to microfinance and loan guarantees, particularly for those who might struggle to secure financing through traditional banking channels; and promote collaboration between ECBAs.

While helping to unlock many benefits of the Single Market for associations, this directive also strengthens and expands the right to freedom of association across the EU. ECBAs can be formed by two natural or legal persons residing in two different Member States. Founders

⁶ Ibid.



do not have to be resident in any particular country to form an association, hence there is no requirement to have a citizen of the Member State in which the ECBA is based among the founding members. This freedom to found an association is also granted to Non-European Citizens who are legally resident in a European Member State which grants new freedoms to participate in civil society and activities in a new and meaningful way. The ability to found, operate and move an ECBA across the EU also protects the freedom of association and associations against democratic backsliding, removing the ability of national authorities to close-down or silence critical voices in civil society or the social economy. The number, citizenship and residency of founding members for national associations differs in some Member States and it remains to be seen how this potential conflict between ECBA's and national associations will be resolved if both are to be treated as equally valid forms of association in any national context.

Associations currently in existence at the national level who have cross-border operations will have the opportunity to transform into an ECBA. Some clarity on what this process will look like and involve will need to be provided to give clarity on how this ECBA status can be gained and what implications it may have on organisations operations, finance and existing statuses. If cross-border mergers of associations who operate under a European umbrella will be required, some further information on how these mergers can be facilitated by the adoption of the ECBA status also needs to be provided. Exploring further what is meant by 'public benefit' may also be required in order to define further which organisations should be eligible for ECBA status. It should also be noted that some associations cannot become ECBA's including political and religious groups.

While the Directive has the potential to greatly facilitate cross-border giving and unlock the Single Market for associations, it has been highlighted that non-profit foundations are at this point not covered in the scope of the ECBA Directive. Foundations face many similar challenges as associations when operating across-borders. While there are now increasing calls to develop a European Cross Border Foundations status, there are concerns about whether foundations in general may have a less mutualistic underpinning or more often lack a membership base. This caution from the Commission and desire to focus at first on associations may also relate to the failure of the 2012 European Foundations Statute which did not amount to a new European Directive or Regulation.

The ECBA is a bold development for associations with the potential to bring many benefits but before embarking on a similar status for foundations or another type of organisation, it would seem prudent to first review the development and implementation of the ECBA to learn all lessons from this 'pilot' Directive. EN and our members stand ready to support the Commission and Member States with the further development and eventual implementation of this Directive across the EU.



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