

Case Finland

Development of legal framework for social enterprises in Finland

Discussion on Social enterprises

Finland is one of the Nordic Countries with universal welfare state. The responsibility to take care of those in need is on the public sector. Since the Second World War municipalities and other public sector entities have established over 300 work centres and sheltered workshops to employ disadvantaged persons. There was no real need for social enterprises before the 1990's.

The mass employment and deep economic crises in beginning of 1990's changed the situation idea of self help work integration enterprises rose among the unemployed and their associations. The economic crises affected heavily also to the work centres for disabled they have to cut their rehabilitation activities to survive, search for new markets for their products and new ways of organising them selves.

In mid 1990s four possible sources of social enterprise development, in side with traditional sheltered workshops and work centres, were discovered (Pättiniemi 1998):

1. Associations for disabled (work centres and sheltered workshops),
2. Village associations (local development and social services),
3. Associations for Unemployed and labour co-operatives,
4. Professionals organising delivery of social and health care services.

One of the key promoters of social enterprises was the VATES foundation a joint foundation of numerous associations for disabled, aiming to improve employment of disabled persons. VATES foundation represented mainly the already existing work centres and their interest to develop into more market oriented entities. A social enterprise as self-help and co-operative solution to long-term unemployment was promoted by the Helsinki University Institute for Co-operative Studies and also by some associations for disabled and The National Association for Mental Illness Recoveries:

Associations for disabled persons as well as associations for unemployed conducted several development projects financed by the European Social aiming for social enterprise development. After good experiences in some of the ESF funded projects a couple of parliamentary draft propositions for law on social enterprises were made. Ministerial committees were established in late 1990's to assess the need for social enterprises in Finland, but all of them came in to conclusion that there was not need for legislation on social enterprises in Finland.

Although the working groups and committees did not see any need for specialised legislation on social enterprises, the discussion on the need and possible role of social enterprises continued. The idea of work integration social enterprises as means for employing both people with disabilities and those inside the hard core of unemployment was generally accepted on contrary to the suggestions of the working groups.

The Ministry of Labour that struggled with the persistent hard core of structural unemployment consisting of 180 000 people and almost 90 000 disabled job seekers saw an opportunity to solve at least a part of the problem. Also the foreseeable and significant change in labour availability in the coming years, when the after war baby boom generation will retire from work, pointed out the necessity to raise the employment rate in order to ensure the functioning and financing of the welfare state structures. (Pukki 2003)

Finnish Act on Social Enterprises (1351/2003)

Main characteristics of The Finnish Social Enterprises

In a very rapid procedure in summer and autumn 2003 the Finnish Act on Social Enterprises (1351/2003) was prepared; it passed the Parliament in good understanding, was adopted 30.12.2003 and came into force 1.1.2004. According to the Act a social enterprise is:

- 1) An enterprise created for the employment of people with disabilities and of the long-term unemployed (1§)
- 2) A market-oriented enterprise with its own products and/or services and
- 3) Should be a registered trader who is entered in the register of social enterprises kept by the Ministry of Labour (§3)

- 4) At least 30% of its employees should be disabled and long-term unemployed or solely disabled (§3)
- 5) Wages should be paid to all employees whether disadvantaged or not according to general agreements in the branch of industry.

All enterprises regardless of their legal form and ownership structure may apply for this register if they are already registered as an enterprise to the Trade Register of Ministry of Trade and Commerce. Even associations that have a steady place of business and at least one employee and are already in the above mentioned register might apply.

The enterprise accepted to the Register must explicitly mention in its bylaws the aim to employ disabled and long-term unemployed persons. Every social enterprise in the register must employ at least one disabled person¹. No other enterprise than a registered one may use the words social enterprise in its marketing or in its name.

Public supports for registered social enterprises

Public employment services may grant support to the establishment of a social enterprise. Support may also be granted to associations and foundations aiming for promotion of social enterprises mentioned in this Act. These supports may not be granted for commercial development. The use of the supports has been minimal due the restrictions in the use. Registered social enterprises are eligible to all supports, loans etc. as any other registered enterprise in the country.

The Registered Social Enterprises are eligible to easier procedure for employment supports, (employment subsidies or combined subsidies) to long-term unemployed and/or disabled members of the staff than “normal” enterprises that are paid towards their wage costs. The registered social enterprises may have the supports for three year in one application whilst the normal enterprises have to apply every six-month or yearly. The amounts granted to social enterprises are in maximum level whilst other enterprises may not always have their employments supports on that level. The three-year support period for a disabled person can be renewed as many times as necessary for the person in question to reach the capability to be employed in the open labour market. The supports for employing long-term unemployed cannot be renewed.

¹ To give an extreme example in an social enterprise employing 1000 employees there could be 299 long-term unemployed and one disabled to fill the minimum requirements of the law.

The Finnish social enterprises do not have any specific public benefit status. The marginality of the supports entail that there are no restrictions for social enterprises on how to use the possible profits or surpluses created.

Concerns about unfair competition, taken up by some organisations representing small and medium sized enterprises and industries and by some public sector service providers, has led to a situation where more beneficial advantages for social enterprises (for example tax reductions) have been impossible to introduce. (Pättiniemi 2006)

The marginality in benefits has created a situation where enterprises, already active in employing people with disadvantages and long-term unemployed, are not interested in joining the register (Huotari 2005 p. 109). Up to 30th of April 2006 49 enterprises have been included into the register. Out of these 26 enterprises had adopted the legal form of a company (many owned by associations or public sector authorities), 4 were associations, one foundation and 3 co-operatives and the rest 15 other types of registered enterprises (firms with sole entrepreneur, partnerships etc).

Finnish Act on Social Enterprises compared to the laws in some other European country

Using the EMES social enterprise characterisation as a point of reference clarifies the differences in European social enterprise laws. The EMES criteria consist of four criteria on entrepreneurial dimension and five of social dimension.

Table 1. Social enterprise legislation in some European countries compared to EMES criteria

<i>EMES criteria</i> (www.emes.net)	Community interest Company CIC UK	Italian law on Social Co-ops.	Belgium Social purpose companies	Portugal Integration. Companies	Finnish Law on social enterprises.
<i>Continuous production of goods and/or services</i>		x	x	x	X
<i>A high degree of autonomy</i>		x	x		
<i>A significant level of economic risk</i>	x	x	x	x	X
<i>A minimum amount of paid work</i>		x	x	x	X
<i>A initiative launched by a group of citizens</i>	x	x		x	
<i>A decision-making power not based on capital ownership</i>		x	x	x	
<i>A participatory nature, which involves the persons affected by the activity</i>	x	x	X		
<i>Limited distribution of profits</i>	x	x	x	x	
<i>An explicit aim to benefit the community</i>	x	x	x	x	X

Sources:

www.cicregultor.gov.uk

Borzaga C & Loss M “002 . Work integration social enterprises in Italy. EMES working papers 02/02. Liege.

Defourny Jacques et al 2001. The Co-operative Movement in Belgium. Perspectives and prospect. Luc Pire..Bruxelles

Perista,H and Nogueira S. Work integration social enterprises in Portugal. Emes working papers 04/06. Liege

Laki sosiaalisista yrityksistä (Law on Social Enterprises) (1351/2003).

Finnish Law on Social Enterprises defines only the minimum conditions to social enterprises (to employ disabled and long-term unemployed persons). It fulfils on four of the nine characteristics. Three of them are entrepreneurial and only one social characterisation. Finland is the only country, out of the five, that do not restrict the use of the surplus in anyway.

Finnish law together with CIC law in UK does not offer any specific advantages to social enterprises. Usually legislation on social enterprise tend to offer specific tax reductions or supports

due restrictions in goals and aims, labour force or/and in allocating profits. Finnish law together with the Portuguese one does not require any participatory structures in social enterprises neither does it mention or require anything about the initiative makers. The independency of social enterprise from the public sector entities is not a criterion.

The law cannot be described as an example of supported labour it is aiming for providing transitional and/or permanent jobs for disabled and unemployed persons.

A recent evaluation on the Finnish Act on social enterprises concludes. “The Act on Social Enterprises has been in force for only two years; hence, its effects have not yet been fully consolidated. Among the existing social enterprises and their interest groups, the act is considered to be quite appropriate. The poor availability of proper financing and the absence of good business ideas and know-how are the main impeding or limiting factors affecting the creation of social enterprises. The main problem affecting social enterprises is considered to be of a financial nature, so the existing incentive trap in the financial aid system that promotes the starting of social enterprises and the consolidating of their activity should be dismantled, and the development of a new tailored financing instrument for Finnish social enterprises should be considered.” (Karjalainen et al 2006. p. 5)

References

Borzaga Carlo and Santuari Alceste (eds.) 1998. Social enterprises and new employment in Europe. Autonome Region Trentino-Südtirol. Trento

Huotari Tiina. 2005. Sosiaalisen yrityksen uudet kehykset. (New frames for the social enterprises). University of Jyväskylä. Master's graduate theses September 2005. p. 109. Jyväskylä.

Karjalainen Jari, Andersen Atso, Kuosa Iikka, Pättiniemi Pekka 2006. Sosiaalisten yritysten lain toimivuus ja toimeenpano (The implementation and effectiveness of the Act on Social Enterprises, Employment political research 307. Ministry of Labour, Helsinki

Pukkio, Matti 2003. Finnish social enterprises – Act to Parliament in the autumn. A presentation at International Conference on Structures of Social Enterprises and firms in Tuusula June 12 2003.

Pättiniemi Pekka 1998. Finland in Borzaga Carlo and Santuari Alceste (eds.) 1998. Social enterprises and new employment in Europe. Autonome Region Trentino-Südtirol. Trento

Pättiniemi Pekka 2006. Social Enterprises as Labour Market Measure. Kuopio University Publications E. Social Sciences 130, Kuopio

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