

Law 13th June 2005, n.118

“Enabling Act for the Government Concerning the Regulation of Social Enterprises”
published in the Official Gazette n. 153 of 4 July 2005

ART. 1

1. the Government has been designated to approve, within a year from the date in which this law becomes effective, one or more legislative decrees to integrate the laws of the Civil Code for a more global regulation relating to social enterprises, i.e. non profit private organisations that mainly perform a stable economic activity in production, exchange of goods and social benefit services, aimed at solving issues of general interest. The legislative decrees are to be submitted by the Ministry of Labour and Social Politics, the Ministry of Industry, the Ministry of Justice, the Ministry of Community Politics and by the Ministry of Internal Affairs, Said discipline must comply with the following principles and general instructions:
 - a) define the social character of the enterprise, in respect of the Law and of the qualities of social promotion systems, as well as the general regulation of associations, foundations, companies and cooperatives, and the norms regarding social cooperation and ecclesiastical bodies, based on:
 - 1) the specific social importance of the areas in which it operates supplying goods and services in favour of all potential users, not limited to members, partners or participants;
 - 2) the prohibition of distributing even indirectly, profits and surpluses as well as funds, capital and reserves to administrators, participating individuals or companies, collaborators or employees, in order to guarantee always the non speculative character of the participation in the activity of the enterprise.
 - 3) The obligation to reinvest profits or surpluses in the execution of the institutional activity and to increase the assets;
 - 4) The characteristics and the obligations of the structure of the ownership or controlling body, excluding the possibility of any control by public or private for profit enterprises, even through the possibility of appointing, by majority, the administrative bodies;
 - b) foresee, in coherence with the social character of the enterprise and compatibly with the structure of the organism, uniform regulations concerning the:
 - 1) eligibility of the company officers and relative cases of incompatibility;
 - 2) responsibilities of the administrators towards the members and third parties;
 - 3) admission and exclusion of the members;
 - 4) obligation to draw up and publicize the social and economic profit and loss account, as well as foreseeing forms of control on accounting and monitoring of the observance of social aims on behalf of the enterprise;
 - 5) obligation to devolve the surplus assets, should the enterprise cease to exist, to another social enterprise i.e. to non profit organisations of social utility, to associations, committees, foundations and ecclesiastical bodies, with the exception of social cooperatives, for what is established by Law n. 59, 31 January 1992, and following modifications;
 - 6) compulsory registration with the companies registrar;
 - 7) definition of applicable procedures in case of insolvency;
 - 8) representation in court by the administrators and liability limited to the enterprise capital for the obligations it has taken on;
 - 9) provision for controlling/auditing bodies;
 - 10) forms of participation in the enterprise also for the various collaborators and end users of the activities;

- 11) rules for the transformation, merging and termination of a company in reference to social enterprises, so as to preserve the qualification and aims and guarantee the destination of their assets and objectives to the general interest;
- 12) consequences on the qualification and discipline of the social enterprise which derive from the non observance of the laws related to the requirements of the social enterprise and to the violation of other laws, in particular relating to work and safety. As well as work contracts as these are compatible with the characteristics and legal nature of the social enterprise.

c) activate at the Ministry of Labour and Social Politics, permanent services and functions necessary to monitor, research and verify the quality of performance of the social enterprises;

d) define the rules for groups of social enterprises according to principles of transparency and safeguard of minorities, regulating conflicts of interests and forms of oppression by the dominating enterprise.

2. With the Laws in comma 1, the Government coordinates the dispositions of the same Laws with the Laws in force regulating the same matters and connected matters, after having heard the permanent Conference for relations between State, regions and the autonomous regions of Trento and Bolzano, as well as the representatives of the third sector. It being understood that all laws in force, regulating the legal and administrative fields of bodies organized by religious confessions with which the State has signed pacts, agreements or forms of intents, will remain fixed.

3. No new or further burdens for public finance should arise from the enforcement of the principles and directing criteria of the present law.

4. The frameworks of the laws adopted on the basis of comma 1 are sent to the Chambers for the opinion of the competent parliamentary commissions, to be issued within thirty days from the date in which the said frameworks of the law were transmitted.

5. In the thirty days following the issuance of the opinion according to comma 4, should the Government not wish to comply with the conditions contained therein, it will return the texts to the Chambers , along with the necessary elements of integrating information, for the final opinion of the competent parliamentary Commissions, which are expressed within thirty days from the date of transmission.

6. Should the terms specified in commas 4 and 5 expire without the Commissions having expressed their respective opinions, the law decrees can be promulgated.