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COVER NOTE

Subject: Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on European cross-border associations
[COM(2023) 516 final – 2023/0315 (COD)] and on the Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1024/2012 and (EU) 2018/1724 as regards the use of the Internal Market Information System and the Single Digital Gateway for the purposes of certain requirements laid down by Directive (EU).../... of the European Parliament and of the Council on European cross-border associations [COM(2023) 515 final – 2023/0314 (COD)]
- Powerpoint presentation at the Company Law Working Party meeting of 25 April 2024

Delegations will find attached a presentation given by representatives of the European Economic and Social Committee at the Company Law Working Party of 25 April 2024.

Delegations are advised that this is a presentation by an external stakeholder and the views expressed therein are solely those of the third party it originates from. This document cannot be regarded as stating an official position of the Council. It does not reflect the views of the Council or of its members.

EESC opinion INT/1046

European cross-border associations

Giuseppe Guerini

Background

The European Economic and Social Committee (EESC) welcomes the European Commission's proposal to facilitate the cross-border activities of non-profit associations in the EU by creating a new legal form of "European cross-border association".

- **3.8 million non-profit associations exist in EU Member States**, contributing 2.9% of EU GDP. It is estimated that the new rules will enable around 310 000 non-profit associations currently encountering such obstacles when operating in another country to reduce administrative costs by up to EUR 770 million per year and potentially up to EUR 8.5 billion over 15 years.
- The proposal seeks to improve the functioning of the internal market by **removing legal and administrative obstacles** for non-profit associations that operate, or would like to operate, in more than one Member State
- The proposal contributes to the objectives of the **Social Economy Action Plan** and is connected with some of its measures, such as the proposal for a recommendation on developing social economy framework conditions in the Member States and two Commission working documents on taxation.

Critical issues

- One of the aims is to make cross-border activities easier for non-profit associations in the EU by creating a new legal form of "European cross-border association".
- The impact assessment identified **four obstacles** that non-profit associations and entities face in participating in the internal market, which make the following difficult and, in certain cases, impossible for them:
 - i. non-profit associations' right of establishment when operating across borders;*
 - ii. providing goods and services;*
 - iii. participating in and contributing to a single market for capital;*
 - iv. participating in governance bodies of non-profit associations when they operate across borders*
- There are **24 different regulatory regimes** in the EU that apply to non-profit associations, as well as, in many cases, regional regimes. Currently, when non-profit associations carry out activities in a Member State that is different to the one they are established in, they do not receive uniform recognition of their legal personality and capacity and often need to register for a second time or even form a new legal entity in that Member State.

Social Economy

- The proposal contributes to the objectives of the **Social Economy Action Plan**.
- Non-profit associations create social and economic value as service providers in the social, health, care, culture, employment, education, sport, environmental, international cooperation and humanitarian assistance sectors. They also create places for civil society to be involved and take the lead, fostering an active role for citizens and thus creating a **social infrastructure for democracy**.
- This proposal aims to foster the creation of a European ecosystem for these types of entities, and contributes significantly to making the Single Market more "social".
- Alongside the SEAP, this proposal needs to be a real turnaround, enabling EU civil society and non-profit entities and European philanthropy to contribute to a **society that works for the people and the planet**.

Role of ECBAs

- The **ECBA will reduce the legal and administrative burdens** involved in the recognition and establishment of non-profit associations carrying out activities in another Member State;
- The EESC believes that creating a new legal form of non-profit association that can be recognised by all Member States could further **unlock the potential of civil society organisations** of all sizes and support their key contribution to our society;
- We welcome in particular the fact that the proposal for a directive states that legal personality and capacity are acquired by an ECBA from the moment the ECBA is registered in a Member State. Once established in a Member State, a European Cross Border Association will be automatically recognised and can carry out activities in all Member States, including economic activities;
- An ECBA will enjoy all the **benefits of the Single Market**, regardless of which Member State it is registered in, benefiting from free and non-discriminatory access to public funding in each Member State in which it operates.

Crucial points

- The EESC proposes that all organisations that meet ECBA criteria, and have their registered office in the European Union, should be able to acquire ECBA status. In order for these organisations to acquire ECBA certification, the limit laid down in Article 7 of the proposal for a directive, which provides that **only natural persons that are Union citizens may be members of the executive body of an ECBA, should be revised.**
- The EESC recommends that, in accordance with the principles of democracy and freedom of association, the statutes of the organisations themselves and of their partners should be able to **freely determine the different types of membership of associations and how voting rights work.**
- The EESC supports and welcomes the creation of an ECBA certificate, which will allow this new legal form to be recognised throughout the EU, once the ECBA has been registered in a Member State.
- **It is also important that acquiring ECBA status remains voluntary and that no association is obliged to change its legal nature.**
- The EESC considers that **data** on entities that are eligible to become ECBAs, should be more available in order to improve information on and awareness of the multiple forms of non-profit associations, and encourage the **establishment of appropriate, comparable registers and statistics systems.**



Thank you for your attention!

Any questions?

