



Social Services Europe

Statute for European Cross-Border Associations and Non-Profit Organisations – SSE Position and Briefing Note (Annex)

On 9 December 2021, the **EP Committee on Legal Affairs (JURI) with an overwhelming majority voted on a Motion for a European Parliament (EP) Resolution aiming at the adoption of a European Statute for cross-border associations and non-profit organisations** [Rapporteur: Sergey Lagodinsky, Greens/EFA, Germany].

Annexed to the Draft Report 2020/2026(INL) are two recommendations to the European Commission (EC), 1) a **proposal for a Regulation on a statute for European cross-border associations and non-profit organisations**, and 2) a **proposal for a Directive on common minimum standards for non-profit organisations in the EU**. Attached to this EP initiative is the EP Opinion “On the shrinking space of civil society in Europe”.

In the last months, [Social Services Europe \(SSE\)](#), jointly with other EU-level civil society stakeholders, has **closely and intensively accompanied the process** towards the drafting of the Report and the elaboration and negotiation of (compromise) amendments up to the vote in the EP JURI Committee.

SSE welcomes and supports the EP initiative, i.e., key features of the Report and the proposals for a Regulation and Directive voted by the EP JURI Committee on 9 December 2021. On page 2 we highlight two points, one which for SSE would benefit from a re-wording and one addition.

It can be the **springboard for better EU-level recognition of the important role associations¹ play for the lives and well-being of millions of European residents, for the welfare states and social protection systems in the EU, and for an effective civil dialogue and participatory democracy:**

- as one of the four constituent families of the social economy (alongside cooperatives, foundations and mutuals) – and the entity type of the social economy sector providing of the highest number of jobs.
- as the predominant legal form across the EU for (not-for-profit) social service providers,
- as catalysts for the social inclusion of vulnerable or disadvantaged persons and/or groups,
- as facilitators and promoters of volunteering and civic engagement,
- as schools of democracy and participation,
- as well as in the civic space of our European societies and in civil dialogue within the EU Member States and on EU level. Associations traditionally have also been actors and promoters of a human and social rights-based and solidarity- and social justice-oriented European integration project.

¹ Associations are “membership-based organisations of individuals for a specific purpose, created for an indefinite period of time and having its own legal personality and thereby existing independently from changes in membership” (Tim Wöffen: European Associations – The Political Debate and Basic Legal Questions. We are Europe. August 2018).

A Regulation on a statute for European cross-border associations and non-profit organisations and a Directive on common minimum standards for non-profit organisations in the EU would fill the legislative gap for an EU-wide supportive framework for transnational activities of associations (and other non-profit organisations). Since 2003, cooperatives have the possibility to make use of the European Cooperative Society as an EU-level legal framework. A similar instrument, however, is lacking for the other three pillars of the social economy, i.e., associations, foundations and mutuals. The Statute for a European Company has already existed since 2001. For SSE, having a statute for European cross-border associations and non-profit organisations would thus also be an important tool to enable a level playing field, to raise the visibility and recognition of associations at EU level. The Social Economy Action Plan identifies the last point as challenge (p. 19) and also explicitly recognises difficulties encountered by foundations and associations “in enjoying the full benefits of the Single Market” (p. 7)².

For SSE, the text voted by the EP JURI Committee on 9 December 2021 is already good considering the inclusion of nearly all key points for our members and as far as the wording goes. We have listed these issues in the bullet point list on p. 3, starting in paragraph 3. Nevertheless, SSE thus believes that **in view of the EP Plenary Vote on 15 February 2022 all in all neither a re-wording nor additions are needed, with the exception of the two following points which would benefit from some rewording and/or fine-tuning, in particular in the expected future legislative process:**

- **Explicit reference to “social services”:** SSE would welcome if Art. 20 of the proposals for a Regulation could also explicitly mention “social services” in the list of purposes which shall be considered as oriented towards a public benefit objective. This could be done at the end of letter 1. a) (vii) by adding at the end “(...) including by social services”.
- **European Association Board** (Draft Regulation, Art. 5): SSE agrees that certain EU-level supervision and coordinating functions are useful, not least to support a common and coordinated approach. Such an EU-level body, however, should neither duplicate – not even increase – the administrative tasks and reporting requirements and burdens for EU-level associations nor should it lead to debates and political blockades which would risk derailing or stalling the legislative process. The same holds true for the thematic complex of tax advantages.

Brussels, 10 February 2022

² The Social Economy Action Plan also announces (p. 7) a study launched by the European Commission to provide a comparative analysis of the legal regimes and landscapes of associations in the EU to better understand issues faced by associations on which SSE is ready and interested to cooperate.

Annex: Briefing Note for the members of SSE (and their national members)

On 9 December 2021, the **EP Committee on Legal Affairs (JURI) with an overwhelming majority voted on a Motion³ for a European Parliament (EP) Resolution aiming at the adoption of a European Statute for cross-border associations and non-profit organisations** [Rapporteur: Sergey Lagodinsky, Greens/EFA, Germany]⁴.

Annexed to the Draft Report 2020/2026(INL) are two recommendations to the European Commission (EC), 1) a **proposal for a Regulation on a statute for European cross-border associations and non-profit organisations** and 2) a **proposal for a Directive on common minimum standards for non-profit organisations in the EU**. Attached to this EP initiative is the EP Opinion “On the shrinking space of civil society in Europe”.

SSE welcomes that the following points are already included and/or appropriately reflected or worded in the text voted by the EP JURI Committee on 9 December 2021:

- A protection of the denomination “European Association”.
- Stipulations on the scope of the EU legislation in line with SSE’s mission⁵.
- Clear wording on “non-profit”⁶, a “public benefit status”^{7 8}, “public benefit”⁹, “member”¹⁰ and “non-profit organisation”¹¹ in line with the vision, mission and values of SSE. This also

³ The motion is based Rule 47 “Requests to the Commission for submission of proposals” of the Procedures of the EP. It allows the EP to request the European Commission, pursuant to Article 225 of the Treaty on the Functioning of the European Union (TFEU), to submit any appropriate proposal to it for the adoption of a new legislative act or the amendment of an existing act. To do so, the EP has to adopt a resolution on the basis of an own-initiative report endorsed by a majority of the Members of the EP in the final vote.

⁴ The Committee on Civil Liberties, Justice and Home Affairs (LIBE) had adopted an opinion [Rapporteur: Anna Júlia Donáth, Renew Europe Group, Hungary], the Employment and Social Affairs Committee (EMPL) did not.

⁵ Draft Directive, Art. 2 6.: Organisations with primarily a religious, philosophical and non-confessional aim shall be excluded from the scope of this Directive. However, this exclusion does not apply to other organisations without such a specific aim, but inspired by religious, philosophical or non-confessional beliefs.

⁶ Draft Regulation, Art. 2 (a): ‘non-profit’ means not having as a primary aim the generation of a profit, even though economic activities might be carried out. Where a profit is generated by a non-profit organisation, it is invested in the organisation for the pursuit of its objectives, and not distributed among members, founders or any other private parties.

⁷ Draft Regulation, Art. 2 (a): The granting of public benefit status pursuant to Article 21 is not a necessary condition to establish the non-profit nature of an association. However, where public benefit status is granted, the purpose of the association shall be regarded as non-profit.

⁸ Draft Directive, Art. 14: SSE is fine with the non-exhaustive list of purposes included in this article which shall be considered as oriented towards public benefit. This comprises, e.g., in 2. a) (iii) (...) the elimination of any discrimination based on gender, race, ethnicity, religion, disability, sexual orientation or any other grounds, (iv) social justice, social inclusion and poverty including prevention of or relief from poverty, (vii) protection of, assistance to and support for vulnerable sectors of the population, including children, the elderly, people with disabilities, persons seeking or benefitting from international protection and people in a situation of homelessness, (x) education and training and youth engagement and (xi) the promotion and protection of health and well-being, , including the provision of medical care (...)

⁹ Draft Regulation, Art. 2 (d): ‘public benefit’ means an improvement in the welfare of society or part of it, thus benefiting the general interest of society.

¹⁰ Draft Regulation, Art. 2 (f): ‘member’ means a natural or legal person that voluntarily and intentionally applied to join an association to support its objectives and activities, and that was admitted into the association based on that association’s statutes.

¹¹ Draft Directive, Art. 2 2.: ‘non-profit organisation’ refers to voluntary and permanent grouping of natural or legal persons with a common interest, activity or purpose (...), which, irrespective of the form in which the associations or organisations are established ... (a) pursue a primary aim other than that of generating a profit, meaning that if any profits are earned from the organisation’s activities, they cannot be distributed as such among its members, founders or any other private parties, but must be invested for the pursuit of its

holds for the conditions for granting public benefit status to a European Association¹².

- Stipulations in national law which allow more favourable provisions¹³.
- Requirements regarding a precise statement of the European Association's objectives, its non-profit nature and, where applicable, a description of public benefit purposes¹⁴.
- Unequivocal stipulations on workers' rights, trade unions' rights, working conditions, employers' obligations and workers' information, representation and board level representation rights¹⁵.
- Stipulations which allow the distribution of the association's assets to "other private parties" if this is part of the "general interest" purpose of the association, e.g. helping a homeless person, a person with a disability, a frail elderly person, a person having dropped out from school or vocational training, among others.
- The list of the members of an association is generally not considered confidential. In specific circumstances it may be acceptable to have such a provision.
- Reporting and public disclosure obligations: SSE supports the formulation currently included in the DRAFT Regulation, Art. 22, 2a¹⁶. See on this aspect also the point below.

For the months after the EP Plenary Vote – when the EC has to elaborate its proposals both for a Regulation on a statute for European associations and a Directive on common minimum standards for non-profit organisations in the EU and when the initiatives should also be discussed with national parliaments and civil society organisations across the EU – SSE recommends to its members to actively support the follow-up process by highlighting the points listed above.

objectives ... (b) are independent, in the sense that it is not part of a government or administrative structure and is free from any undue interference by the state or by commercial interests. Governmental funding may not preclude an organisation being deemed independent, as long as the autonomy of the organisation's functioning and decision-making is not affected ... (c) are self-governed, in the sense that the organisation has an institutional structure which allows it to fully exercise its internal and external organisational functions and to make essential decisions in an autonomous manner and without undue interference from the state or other external actors.

¹² Draft Regulation, Art. 20: SSE supports the conditions currently listed under 1. a), including (iv) "social justice and social protection and poverty prevention or relief", (vii) "protection of, assistance to and support for vulnerable sections of the population, including children, the elderly, people with disabilities, persons seeking or benefitting from international protection and people in a situation of homelessness", (x) "education and training and youth involvement" and (xi) "the promotion and protection of health and well-being, including the provision of medical care"

¹³ Draft Directive, Art. 4 3.: This Directive shall be without prejudice to the right of Member States to introduce or maintain provisions that are more favourable to non-profit organisations, provided that such provisions do not interfere with the obligations deriving from this Directive.

¹⁴ Draft Regulation, Art. 8 2. b)

¹⁵ For SSE, there is no need to amend the text voted with the compromise amendments regarding the DRAFT Regulation, Art. 6, 5.: The formation of a European Association or any restructuring processes shall not be used to undermine workers' or trade union rights or working conditions. In line with applicable collective agreements and national and Union law, the obligations regarding employees and creditors shall continue to be fulfilled and employees, volunteers, trade unions and workers' representatives shall be duly informed and consulted. Collective agreements and workers' board-level representation rights shall be respected and maintained, where applicable.

¹⁶ Draft Regulation, Art. 23 3.: European Associations shall be subject to reporting and public disclosure obligations in accordance with national law, including with regard to the composition of the Board of directors, provisions of the statutes, financing and financial statements, insofar as it meets the general interest objective of ensuring that European Associations operate transparently and are accountable and are necessary and proportional. Compliance with the obligations referred to in the first subparagraph shall not result in European Associations being made subject to stricter rules than those applicable to equivalent national entities identified pursuant to Article 3(2) and to for-profit entities. Such reporting and public disclosure obligations shall not lead to any difference of treatment or limitation of the rights and obligations of the European Association regardless of desirability of its purpose or sources of financing.