

Social clauses: Why so important and how to implement them

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What are social clauses?

Social clauses can be used in public procurement tendering procedures to prioritise social enterprises¹ employing disadvantaged workers for contracts for certain activities such as waste collection and re-use services.

Why social clauses for re-use activities?

Re-using and repairing things is not only beneficial for the environment, but can also be a great way to employ people locally. Thousands of social enterprises across Europe have been active in the sector for many years, providing job and training opportunities for disadvantaged workers and giving them a fresh start on the labour market.

RREUSE believes that the role of social enterprises in the re-use sector should be safeguarded and developed through the use of social clauses in tendering procedures.

Social clauses and EU legislation

The EU's [revised directive on public procurement](#) allows member states to reserve contracts for social reasons, but the impact of this will depend on whether member states choose to implement this aspect of the rules. RREUSE would also like to see the principle of social clauses integrated in the European

¹ According to [Art. 3 of EaSI Regulation 1296/3013](#) 'Social enterprise' means an undertaking, regardless of its legal form, which:

(a) in accordance with its Articles of Association, Statutes or with any other legal document by which it is established, has as its primary objective the achievement of measurable, positive social impacts rather than generating profit for its owners, members and shareholders, and which:

(i) provides services or goods which generate a social return and/or

(ii) employs a method of production of goods or services that embodies its social objective;

(b) uses its profits first and foremost to achieve its primary objective and has predefined procedures and rules covering any distribution of profits to shareholders and owners that ensure that such distribution does not undermine the primary objective; and

(c) is managed in an entrepreneurial, accountable and transparent way, in particular by involving workers, customers and stakeholders affected by its business activities;

Commission's revised Circular Economy Package to ensure that re-use social enterprises are prioritised for public tenders for re-use schemes and given authorised access to collection points.

Examples of effective social clauses in use around Europe

In order to help policy makers understand what social clauses mean in practice, this document provides some examples of how social clauses are being used around Europe. These examples from France, Spain, Italy and Belgium may also be helpful for EU member states transposing the new EU Public Procurement Directive.

Country	SOCIAL CLAUSE
FR	<p>France has a national Social Economy Law published on August 1st, 2014 which establishes that local authorities and public institutions will be required to develop and publish "schemes to promote socially responsible public procurement." It is one of the most developed legislation of its kind in Europe in support of social enterprises.</p> <p>Concerning waste management, Producer Responsibility Organisations (PROs) will be required by law to take into account the role of social economy actors, which must be stipulated in the terms of reference for each EPR scheme. More information about how the role of social enterprises are integrated within EPR schemes can be found using the following links (in French):</p> <ul style="list-style-type: none"> - EPR for WEEE (e.g. chapter 5) - EPR for furniture (e.g. Chapter 5) - EPR for textiles (e.g. chapter 4.2)
ES	<p>Barcelona: The city has exclusively reserved the scope of the tender to favour work integration social enterprises (or WISE)² for the management of waste collection activities. In particular, the city council launched a plan to promote the use of reserved contracts,</p>

² The identifying principles of the Work Integration Social Enterprises ([ENSIE definition](#))

- The social and professional integration of individuals who due to their exclusion and their relegation to a marginal role in society have fallen victim to increasing social and professional handicaps.

implementation conditions, award criteria, technical specifications and contracts for organisations working with people distanced from the labour market. The aim of this measure is to promote the integration of persons at risk of socio-economic exclusion.

Azuqueca de Henares: The municipality introduced social clauses that authorise the collection of used clothes in public spaces exclusively to social enterprises. The objective of the city council is to facilitate the management of textile waste generated in private homes for re-use, recycling, recovery and use of resources contained therein, and to promote the social integration process that separate collection of clothing and textiles can encourage (solidarity, job creation, alternative consumption and environmentally friendly practices).

The organisations responding to the tender must guarantee that the textiles are subject to a sorting process that will maximise reuse and/or recycling and local job creation. The successful bidder will also have to guarantee awareness-raising in schools on sustainability, recycling, environmental care and social justice and an annual exhibition in the town in which the final actions of the charity project are displayed. Lastly, the applicant must be accredited to the national association representing social enterprises in the re-use sector (AERESS³).

Navarra: the law on public contracts obliges public administrations to establish a market reserve of 6% of contracts relating to environmental and social services to social enterprises, such as non-profit employment centres, centres for social and work integration and enterprises with work integration programmes for disadvantaged or people at risk of social exclusion. See [here](#) for more information (in Spanish).

IT

Bologna: The city will award a public contract for the maintenance services of green areas in a hospital and territorial premises of a large company in Bologna, to a social enterprise focussing on the integration of disadvantaged people. Therefore, in addition to the services specified in the tender, the successful bidder will be required to employ disadvantaged workers (for example: physically disabled, current or former patients of psychiatric hospitals, drug addicts, alcoholics, minors of working age in difficult family situations, people detained or interned in prisons, convicts or admitted to alternative measures to detention and work outside), together with specific reintegration programmes and job placements. The minimum number of disadvantaged people to be employed, for the whole valid period, is of 40%

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- Enterprises at the core of the economic system: social integration enterprises have decided to carry on their activities at the very core of what is most frequently a major factor in the phenomenon of exclusion: the economic system.
 - Enterprises of a strong pedagogical dimension: the social integration enterprises initiate training and educational programs designed on the basis of existing potential and develop this individual potential within the enterprise.

³ AERESS is a non-for-profit association of entities working in waste management activities (waste reduction, re-use and recycle) with the objective of promoting social transformation and the work integration of socially at risk people.

of the total employed labour units. There is the possibility for the winner of the tender to hire people under a training programme but this workforce cannot be higher than the 20% of the 40% of the labour units.

Ferrara: There is a public contract for the maintenance of green public areas, transport and disposal of waste material of municipal land and properties of Ferrara. The specific conditions of the public contract expressly foresee that part of the service, set to a minimum percentage of 10%, will be performed with the employment of disadvantaged people and with the adoption of specific programmes of work integration. Moreover, out of the 80 points (maximum) that a bidder can score, 20 points (maximum) are assigned on the basis of the integration programme brought forward by the applicant (i.e. 4 points for the number of people with disadvantages that will carry out the service, 4 points for the experience of the competitor in social integration activities, 4 points for the number of trainees involved in the service, 4 points for assistance/tutoring of people in insertion and so on).

BE

The national legislation defines three contract reservation possibilities in Article 22 of the public procurement Law:

1. Reservation of participation (access) to the awarding procedure to sheltered workshops (art. 22, § 1)
2. Reservation of the implementation of the contract within the framework of sheltered employment programs (art 22, § 1.)
Reservation of participation (access) to the awarding procedure to WISEs undertakings, section 59 of the Act of 26 March 1999 (art. 22, §2)⁴

Wallonia (La Louvière): social clause to reserve two lots in favour of work integration social enterprises (WISEs) for the demolition of a building and the construction of 4 social houses

Flanders (Ville de Lokeren): Social clause in favour of work adaptation enterprises of reserving and work integration enterprises for the contracts to work integration social enterprises for services of management of public green areas, nature and restauration of landscape.

⁴ Social Economy Federation for Brussels and Wallonia. Gives advice to local authorities on how to promote the inclusion of social clauses in public procurement. See the legal guide for social clauses in Belgium (in [French](#) and [Flemish](#)).