

FOR AN INCLUSIVE EU SME POLICY

A large part of Local public services enterprises (LPSEs) are SMEs regarding their number of employees and their turnover. However, they are not considered as such by the European definition, which has negative consequences for them regarding their ability to compete on financial and regulatory aspects.

What are Local public services enterprises?

Local public services enterprises (LPSEs) are corporate entities operating generally like a conventional business with the specificity that they are active at arms-length from the local authority which are their main owners. They provide services that in other circumstances would be provided directly by the local authority and which are therefore often services of general interest (SGIs).

The mission of general interest gives LPSEs a key role for a sustainable and efficient local action and thus for achieving the sustainability and competitiveness objectives of the EU.

They provide SGIs in a wide range of sectors, including for instance electricity and energy supply, gas, communication networks, heating, housing, ports, transport, water, sewerage, waste, telecommunications, health, social care, urban planning, economic development.

Overall, it is estimated that there are around 25.000 LPSEs in Europe, employing 1.6 million people and generating a turnover of € 282 billion.

Current challenges of LPSEs as small enterprises

Due to their size, LPSEs tend to face the challenges of any other SME in terms of coping with regulatory costs and accessing to financing. It should also be noted that they operate increasingly in a competitive environment, being subject to the same market rules as private enterprises.

Coping with undue regulatory burden

While local enterprises have increasingly to cope with limited resources, they often face disproportionate regulatory costs.

Yet, simplification measures adapted to SMEs have been implemented by the European Commission, in accordance with the “Think Small First” principal, which would significantly relieve LPSEs.

This is particularly true in the Energy efficiency Directive, concerning the absence of obligation for SMEs to carry out energy audit, or in the Data Protection Regulation, which foresees a number of derogation for SMEs.

The financing challenge

Traditional ways of financing of LPSEs have been banking loans and own resources. Despite their public shareholding, their activity does not rely on subsidies delivered by local authorities.

However, even though LPSEs still enjoy a good reputation in the banking system, they have encountered some difficulties in accessing bank loans, and have less and less visibility on the continuity of the guarantees provided by local authorities. Meanwhile, they are increasingly engaged into “risky investments”.

In this context, access to all financing opportunities which are currently dedicated to SMEs will enhance the activity of LPSEs, and consequently of all local economic stakeholders.

LPSEs are however not considered as SMEs

The current definition of Small and Medium-sized Enterprises (SMEs) is set out in the annex of a Recommendation of the Commission adopted on 6th May 2003. LPSEs meet all the criteria of this definition, e.g. regarding their number of employees and turnover, except the last one (for the major part of them) according to which SMEs with a public ownership of more than 25% are to be excluded.

It is important to underline that in theory, this SME definition only has an indicative value, although it is widely used both in European and national legislation, as well as in EU financing programmes. However, some of them, refrain from referring to it, as it is the case for EIB. Moreover, in corporate law such a differentiation doesn't exist neither.

In addition to that, the EU SME Definition is contrary to article 345 TFEU which states that “The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership”.

CEEP asks for an amendment to the European SME definition in order to guarantee equal treatment to all types of SMEs, irrespectively of their ownership.

As long as this is not possible or not desired, future references to the SME definition in EU legislation should be avoided and the purely optional Article 3, Paragraph 4 of the Annex to the aforementioned Commission Recommendation not be used anymore.