

Prof. Antonio Fici – Madrid, 7 Nov. 2006

**WORKING INTEGRATION AND SOCIAL
ENTERPRISE IN THE ITALIAN LEGAL SYSTEM**

- WORKING INTEGRATION ENTERPRISE IN ITALY: FROM SOCIAL CO-OPERATIVES (LAW 381/1991) TO SOCIAL ENTERPRISE (LAW 155/2006)
- WHAT IS A “SOCIAL ENTERPRISE”?
- WHY DO WE NEED A DEFINITION OF S.E.?

THE NEED FOR THE DEFINITION OF S.E.

- PROMOTE S.E. (USE OF THE NAME IN THE MARKETPLACE (“IMAGEN PUBLICA”))
- FAVOUR PUBLIC POLICIES (TAX LAW)
- HELP PUBLIC ADMINISTRATION (CONTRACTING-OUT)
- LAST BUT NOT LEAST: FACILITATE RESEARCHERS

WHAT IS A S. E.: REQUIREMENTS FOR ELIGIBILITY (1)

- PRIVATE ORGANISATION
 - NO INDIVIDUAL ENTERPRISE (AND THE ORGANISATION OWNED BY A SINGLE PERSON?)
 - ALL THE LEGAL FORMS PROVIDED BY THE CIVIL CODE OR OTHER PRIVATE LAWS (ASSOCIATIONS, FOUNDATIONS, CO-OPERATIVES, MUTUALS, COMPANIES, ETC.)
PRINCIPLE OF NEUTRALITY OF LEGAL FORMS
 - NO PUBLIC CONTROL (BUT PARTICIPATION IS ALLOWED) PRINCIPLE OF “VERTICAL SUBSIDIARITY” (ART. 118, PARA. 4, IT. CONST.)

WHAT IS A S.E.: REQUIREMENTS FOR ELIGIBILITY (2)

- ENTREPRENEURIAL ACTIVITY
 - ECONOMIC, STABLE, ORGANISED ACTIVITY OF PRODUCTION
 - V. NON-ECONOMIC SUPPLY OF GOODS AND SERVICES (GRANT-MAKING FOUNDATIONS; ADVOCACY ASSOCIATIONS, ETC.)
 - TWO TYPES OF THIRD SECTOR ORGANISATIONS:
 - SOCIAL ENTERPRISES (MARKET ORGANISATIONS)
 - OTHER THIRD SECTOR ORGANISATIONS (NON-MARKET ORGANISATIONS)
 - 1) PRODUCTION OF SOCIAL UTILITY GOODS AND SERVICES
 - 2) INTEGRATION IN THE WORKPLACE OF DISADVANTAGED OR DISAPLED PEOPLE

1) S.E. FOR THE PRODUCTION OF SOCIAL UTILITY GOODS AND SERVICES

- “SOCIAL UTILITY”, “COMMUNITY INTEREST” ACTIVITY:
GENERAL CLAUSE OR SPECIFICATION?
- THE ITALIAN CHOICE: SPECIFICATION
 - WELFARE
 - HEALTH
 - WELFARE-HEALTH
 - EDUCATION, INSTRUCTION AND PROFESSIONAL TRAINING
 - ENVIRONMENTAL AND ECO-SYSTEM PROTECTION
 - DEVELOPMENT OF CULTURAL HERITAGE
 - SOCIAL TOURISM
 - ACADEMIC AND POST-ACADEMIC EDUCATION
 - RESEARCH AND DELIVERY OF CULTURAL SERVICES
 - EXTRA-CURRICULA TRAINING
 - SUPPORT TO SOCIAL ENTERPRISE

2) WORKING INTEGRATION S.E.

- ENTERPRISE (WHATEVER OBJECT) CARRIED OUT BY WORKERS, OF WHOM AT LEAST 30% DISADVANTAGED OR DISABLED
 - REFERENCE TO SOME SITUATIONS DESCRIBED IN THE EUROPEAN COMMISSION REGULATION 2204/2002 OF 12 DEC. 2002
 - any person who is under 25 or is within two years after completing full-time education and who has not previously obtained his or her first regular paid employment;
 - any person recognised to be or to have been an addict in accordance with national law;
 - any person who has not obtained his or her first regular paid employment since beginning a period of imprisonment or other penal measure;
 - person having a recognised, serious, physical, mental or psychological impairment or recognised as disabled under national law.

WHAT IS A S. E.: REQUIREMENTS FOR ELIGIBILITY (3)

- **NON-PROFIT GOAL**
 - WHAT MEANS EXACTLY? NON DISTRIBUTION CONSTRAINT
 - THE S.E. MUST INVEST ITS INCOME IN THE ACTIVITY OR IN INCREASING ITS ASSETS (I.E. IN THE INTEREST OF BENEFICIARIES: USERS OR UNDERPRIVILEGED WORKERS)
 - NO INDIRECT DISTRIBUTION (FOR EXAMPLE EXTRA-REMUNERATION OF DIRECTORS OR WORKERS)
 - WHY? ASYMMETRIC INFORMATION AND QUALITY ISSUE IN WELFARE MARKET AND IN THE INTEGRATION OF UNDERPRIVILEGED WORKERS
 - NO FOR-PROFIT ORGANISATION CONTROL (BUT PARTICIPATION IS ALLOWED)

WHAT IS A S. E.: REQUIREMENTS FOR ELIGIBILITY (4)

- **GOVERNANCE PRINCIPLE**
 - CORRECT AND EFFICIENT MANAGEMENT
 - TRANSPARENCY (“SOCIAL REPORT”)
 - “OPEN DOOR” (?)
 - EXTERNAL STAKEHOLDERS INVOLVEMENT
 - WORKER PROTECTION
 - NO DEMOCRACY (“ONE HEAD, ONE VOTE”) REQUIRED

CONCLUSIONS

- WORKING INTEGRATION ENTERPRISE CAN BE RECOGNISED AS A SOCIAL ENTERPRISE IF IT MEETS ALL THE MENTIONED REQUIREMENTS
- POSITIVE EFFECTS OF THE IDENTIFICATION OF S.E.
- THE LAW 155/2006 AS A “WORK IN PROGRESS”:
THE NEED FOR A REFORM OF TAX LAW AND PUBLIC-PRIVATE (S.E.) PARTNERSHIPS
- THE NEED FOR AN INDEPENDENT AUTHORITY FOR A MORE DETAILED REGULATION AND FOR CONTROL
- THE ITALIAN LAW AS A TERM OF COMPARISON FOR THE DEBATE