

## **Civic Alliance - Latvia Opinion about the Proposal for a Directive of the European Parliament and of the Council on European cross-border associations**

**The Association Civic Alliance – Latvia (CAL) supports the establishment of a common European framework for cross-border associations.** The European Union's Social Economy Action Plan<sup>1</sup> identifies non-profit organisations, including associations and foundations, as key players in the social economy. Non-profit organisations create social and economic value as service providers in the social, health, cultural, employment, education, sport, environmental, international cooperation, humanitarian and other sectors. These organisations provide a space where civil society can come together and work actively and democratically to respond to challenges, find innovative solutions and bring about positive change. Therefore, non-profit organisations play a key role in the single market, especially in the social economy. However, at the EU level, there is currently no regulation allowing non-profit organisations to operate in more than one country. This poses challenges for organisations, including: i) setting up an organisation to operate across borders; ii) providing goods and services to achieve objectives; iii) participating in the single market; iv) participating in the governing bodies of non-profit organisations that operate across borders. Therefore, CAL supports this Proposal as it aims to remove legal and administrative obstacles to non-profit organisations operating or wishing to expand their activities in more than one EU Member State, thereby facilitating their activities and operations and strengthening the EU's democratic space.

While in support of the Proposal, **CAL has some proposals for improvements:**

**CAL is asking for clarification of situations where an ECBA registered in one Member State operates in another Member State. Will it operate on the basis of the rules applicable in the home country or in the country where the organisation physically or factually operates, or in the closest legal form?** This question applies, for example, to the various regulations on the Public Benefit organization status as well as to Article 25(1) of the Directive on the compulsory termination of an organisation. One example: Article 4.2 and cross-border operations of ECBAs. Based on art. 4.2 and on art. 4.4, if an ECBA registered in Member State A operates in Member State B, will it operate based on the rules applicable to the closest legal form of the home country (MS A) or of the operating country (MS B)? To give an example: an ECBA registered in MS A is given the status of public benefit association, as that is the closest national form as identified per art. 4.4 of the Directive. However, in MS B, ECBAs are not automatically given the status of public benefit association, as that is not the national form identified in MS B to fulfil the art. 4.4

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<sup>1</sup> EU Social Economy Action Plan. Retrieved from: [Social Economy Action Plan - Employment, Social Affairs & Inclusion - European Commission \(europa.eu\)](https://ec.europa.eu/economy_finance/social_economy_action_plan_en)



of the Directive. If the ECBA established in MS A operates in MS B, will it be considered as holding the title of public benefit association (as would be applying MS A's rules) or not (as would be applying MS B's rules)?

**In addition, CAL believes that for the ECBA Directive to be effective, pro-equality and non-discriminatory, it should ensure that individuals and organisations (and other non-profit legal entities) that do not have EU citizenship or a registered address can be members, employees and hold management positions in the ECBA.** CAL is concerned that the current wording of the Directive, which states that ECBA founders can only be from EU Member States, may complicate the conversion process. For example, how will the conversion of an association into an ECBA with both EU and non-EU members take place so that non-EU members are not lose their membership after the conversion?

**CAL suggests that the Proposal is complemented by a call for a regulation also on cross-border foundations.** While foundations as legal entities can create an ECBA, the ECBA proposal does not effectively cover foundations and does not provide for the creation of a European Cross-border Foundation. Therefore, in the future, a specific legislative initiative, similar to the ECBA, should also be proposed for foundations.