

SBSM Legal, Regulatory, and Fiscal Framework

Turkey

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1-Which is the legal framework for social enterprises in your country?

The role of social enterprises and similar organizations in sustaining social inclusion and developing employment is crucial and a fact to the common knowledge since they work pursue the general interest and to benefit communities (OECD, 1999). The benefits of social enterprises are increased when they are supported by public policies.

According to a research by Sosyal Girişim, in Turkey, people mistake social entrepreneurship for social enterprise or commercial enterprise, non-profit organization or else civil society organization. Legally, there needs to be a demarcation line between the entities abovementioned. The current legal structure enforces social enterprises to start in the form of associations, foundations, cooperatives or companies (Kırılmaz, 2012). As a result social enterprises have to struggle to fit in a position of a legal entity in which they cannot function soundly.

Also, Turkish fiscal regulations which were designed for profit based legal entities are another major problem which requires structural transformation for social enterprises. Therefore, social enterprises will be able to survive and become financially sustainable.

2. How social enterprises are defined according to the country's legal framework?

There is a conceptual confusion between the concepts of social entrepreneurship, social enterprise, commercial enterprise, non-profit organization and civil society organization. This conceptual confusion poses an obstacle to social enterprises in expressing themselves clearly and increasing their numbers. Hence, it is imperative that a common definition and understanding be formed among these entities that operate closely with the social enterprises.

3. Which are the main types of social enterprises that exist in your country?

-Foundations and Civil Society Organisations:

Foundations and NGOs can establish economic enterprises and companies to manage commercial activities, or they can be partners in companies. Income which is obtained from commercial activities can be used in the direction of the purposes of foundations and NGOs.

-Cooperatives:

A co-operative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.

Companies:

In Turkey, non-profit companies are not defined as separate legal entities and there is not any specific legal regulation about it. But there are some companies which are managed as social business.

4. What is the process of registering a social enterprise in your country?

Foundations and Civil Society Organisations:

- ✓ Economic enterprises can only be established to support the activities of the association or foundation and to generate income.
- ✓ There are no tax exemptions from foundations / association economic enterprises or companies.
- ✓ At least seven people are required to establish an NGO and at least 16 people to manage it.

- ✓ A minimum of 50.000 TL is required for the establishment of a foundation for 2010 (this amount is changed every year by being audited by the Vakıflar Assembly)

Cooperatives:

- ✓ There is no separation between cooperatives in the legislation and there is no specific definition as social co-operative. Therefore, all cooperatives are subject to the same principles and do not have an exception.
- ✓ A high share of capital is required during the establishment phase.
- ✓ Tax exemptions are not available

Companies:

- ✓ In our legislation, there is no clear definition of a company; It is generally defined as a company in which two or more persons come together and combine their labor or goods with a contract to reach a common place.

[Türk Ticaret Kanunu](http://www.mevzuat.adalet.gov.tr/html/997.html)

<http://www.mevzuat.adalet.gov.tr/html/997.html>

[Borçlar Kanunu](http://www.mevzuat.adalet.gov.tr/html/407.html)

<http://www.mevzuat.adalet.gov.tr/html/407.html>

5. How social enterprises are treated under tax law in your country? Are there any tax incentives for social enterprises? If yes, which?

Although it is known that not for profit entities function their roles for social purposes to serve the public, they are taxed the same way for-profit companies are. Tax exemption and public benefit statuses are highly bureaucratic processes and the privileges which are granted to a very limited number of Civil Society Organizations (CSOs) by the Council of Ministers in Turkey (TACSO, 2012). Hence, it could be strongly advised that tax exemptions be provided to all social enterprises to enable

them to have a coverage for the public benefit status. In present day, Turkish CSOs are more active thanks to the Foundations Law that was adopted in 2008 to improve the legal environment and also they are more aware of the deficiencies in the laws that still restrict their activities. It is evident that future reforms are both necessary and inevitable in the legal framework

6. Procurement: Please describe.

No special procurement.

7. Links and References

Dernekler Kanunu

http://www.dernekler.gov.tr/index.php?option=com_content&view=article&id=180%3A5253-dernekler-kanunu&catid=30%3Akanunlar&Itemid=43&lang=tr

Dernekler Yönetmeliği

http://www.dernekler.gov.tr/index.php?option=com_content&view=article&id=180%3A5253-dernekler-kanunu&catid=30%3Akanunlar&Itemid=43&lang=tr

Vakıflar Kanunu

http://www.vgm.gov.tr/001_Menu/02_Mevzuat/01_Kanun/5737.cfm

Vakıflar Yönetmeliği

http://www.vgm.gov.tr/001_Menu/02_Mevzuat/VakiflarYonetmeliği.cfm

Türkiye’de Sivil Toplum Kuruluşları’nın Vergi Düzenlemelerine İlişkin Bilgi Notu

<http://www.tusev.org.tr/content/detail.aspx?cn=597&c=68>