

ECEC/ECCE Preliminary opinion/Position Paper on “Small Business Act”

I. About the “Small Business Act” in general:

The **European Council of Engineers Chambers - ECEC** is an umbrella organisation for 13 national Chambers of Engineers which are based on national law. It was founded in 2003 and represents the professional interest of academic Chartered Engineers on European level and promotes the highest technical and ethical standards within the Engineering Profession in Europe.

The **European Council of Civil Engineers (ECCE)** represents the Civil Engineers in Europe by their professional organizations/associations from 22 States, it was established on 1985 with a remarkable over-twenty year’s international activity on professional, education & training, research & technology, environmental protection and upgrade and sustainable development matters).

ECEC and ECCE very much welcome the initiative of the European Commission to set up a framework of principles, recommendations and legal proposals to support SMEs in Europe. A lot of the measures which are foreseen in/based on the Small Business Act are really approaching crucial interests of SMEs.

Therefore and as the vast majority of service providers in the field of engineering are SMEs and Micro-Enterprises, ECEC and ECCE wants to stress the great importance of this initiative. The small engineering consulting enterprises dominate the market in Europe. 96% of the consulting firms in Europe have less than 20 employees.

At the same time ECEC and ECCE would like to stress that - in view to consumer protection and public interest/public welfare - it has to be part of SME policies to safeguard the quality of services provided by professionals. The financial crisis has yet again clearly shown that there is no need for “deregulation” but for “better regulation”. The academic engineers that are represented by ECEC and ECCE provide services that are very often of crucial interest for the public, for the functioning of daily life, for technical progress and sustainable development. Therefore the professional requirements for those services must guarantee as an essential part of SME policies – quality of engineering services.

As Engineering Services are in some countries provided by liberal professions ECEC and ECCE would like to stress that it is important that all engineering SMEs must be able to benefit from the Small Business Act, no matter in which legal form their professional services are provided.

II. About the SBA Principles for SME policy

Principle I: Create an environment in which entrepreneurs and family businesses can thrive and entrepreneurship is rewarded

ECEC and ECCE welcome this principle. Both organisations and their national member organisations see the support and the attraction of new engineering entrepreneurs as one of their important tasks. Therefore the measures and recommendations in the SBA concerning that principle are seen as very important and helpful. As for all other measures it must be

clear that also on national level all engineering SMEs must be able to benefit from the Small Business Act, no matter in which legal form their professional services are provided.

Additionally ECEC and ECCE are deeply interested to participate actively in

- a) the European SME Week- May 2009
- b) the EU Program ERASMUS for Young Entrepreneurs and
- c) the Network of female entrepreneur ambassadors.

We ask for analytical information and cooperation with the EU Commission's responsible DGs to ensure our effective participation in the above mentioned measures.

Principle II: Ensure that honest entrepreneurs who have faced bankruptcy quickly get a second chance

Although ECEC and ECCE absolutely agree that it is necessary that "honest" entrepreneurs do get a second chance without any discrimination it has to be stressed that this SBA principle is closely related to professional requirements. Due to consumer protection and public interest many member states have national regulations for the engineering profession foreseeing that authorization is only possible after a certain waiting period after a bankruptcy. For professions with high professional requirements such regulations seem necessary to guarantee the quality of services. The quality of services is lying with the personnel working, the entitlement of engineers has usually no direct connection to the legal form of the entrepreneur. The entrepreneur can continue his/her work under the surveillance of others after bankruptcy. Therefore SME regulations and politics should take care that this waiting period is long enough to assure that the necessary level of quality of engineering services can be expected from the entrepreneur, otherwise there is not only the danger of another bankruptcy but of damages for clients and the public. The mentioned period of one year does not seem long enough.

Additionally to our opinion it would be helpful to define the honest/non-fraudulent bankruptcy in some more detail.

Principle III: Design rules according to the "Think Small First" principle

Principle IV: Make public administration responsive for SME needs

ECEC and ECCE very much welcome both principle III and IV as especially unnecessary administrative burdens / fees can cause a lot of problems / extra work /extra costs for engineering SMEs in their daily business. To be able to define those burdens as purposefully as possible the recommended contact point where stakeholders can communicate such problems seems to be an appropriate measure.

Although it is self-evident we would like to stress that professional requirements/registration and ethical regulations, to ensure the quality of services in branches like engineering, in which the service has great impacts on public interest and/or public welfare, can not be seen as administrative burdens.

Principle V: Adapt public policy tools to SME needs; facilitate SMEs participation in public procurement and better use State Aid possibilities for SMEs

As public authorities are very important clients the recommendations on public procurement are extremely important for engineers. Therefore ECEC and ECCE are working on a more detailed statement on that topic.

As a preliminary comment we would like to suggest that in addition to the recommendation that *“the Members States are invited to encourage their contracting authorities to subdivide contracts into lots where it is appropriate an to make sub-contracting opportunities more visible”* there should also be a recommendation to divide the contracting of planning and building services as this gives providers of planning services better access to the market and also provides for a better quality of the outcome of a project because of the independence of the planners.

Also the recommendation to *“remind contracting authorities of their obligation to avoid disproportionate qualification and financial requirements”* is very important for engineering SMEs as especially for young entrepreneurs with not so much experience disproportionate requirements can often be an insurmountable burden for participation in a public procurement procedure. We have to stress again, that especially in the field of engineering works the lowest price should not be the main, the basic and anyway the only criterion/factor in awarding a project.

We would like to suggest the Commission to find out the level of correspondence between the Principles of SBA and national legislations of the Member States (Public Procurement Acts), relating to the access of SMEs to public procurement. The preliminary ECEC statement (opinion) is that in the existing national Acts there are still provisions, significantly limiting the participation of SMEs in public procurement.

In the present market conditions within the Public Private Partnership (PPP) contracts are diffused and enlarged throughout the Europe we must ensure the participation to them of the SMEs in the engineering sector who face many difficulties and be pressed out of these processes.

Additionally we would like to suggest a recommendation that professional organisations should be consulted as experts in procurement projects/procedures more often. A lot of problems could be avoided and the outcome of a project for client and service provider could be optimized. The professional organizations are ready to submit a detailed list of professional requirements in public procurements.

ECEC and ECCE absolutely agree that the refocus of State Aid policy to better address SMEs needs is an important priority.

Therefore also the **General Exemption regulation on State Aids** including state aid for SMEs is an important step.

As for all other measures it must be clear that all engineering SMEs must be able to benefit from State Aid, no matter in which legal form their professional services are provided.

Principle VI: Facilitate SME' Access to finance and develop a legal and business environment supportive to timely payments in commercial transactions.

ECEC and ECCE would like to stress that access to finance for SMEs is one of the most important aspects of the SBA and that it must be clear that all engineering SMEs must be able to benefit from this principle, no matter in which legal form their professional services are provided.

A very important problem for SMEs actually is late payment, therefore the efforts to improve the **Directive on late payments** is very much welcomed by ECEC and ECCE. There is the bureaucracy of the governments and even the EU, this needs perhaps a better organization of realising payments.

A very big practical problem in the engineering and construction sector is late payment of subcontractors in a subcontracting chain. They very often – although it is against the contract - do not get the money after the deliverance of their services and in many cases can not afford to wait/to take legal steps. Support for SMEs in these situations would be urgently needed.

The European Investment Bank (EIB) must strengthen and enlarges its range of financial products offered to SME's in mezzanine finance, micro-credit and cross-border venture capital. ECEC and ECCE will establish a permanent communication with EIB in order to attract information and to disseminate/diffuse to its members.

Principle VII: Help SMEs to benefit more from the opportunities offered by the Single Market

ECEC and ECCE would like to raise the awareness of European Institutions to the fact that the access to standards is extremely expensive in many member states, which is a very serious problem for SMEs.

Therefore ECEC and ECCE would ask all European Institutions to put a strong emphasis on this principle and to find measures to convince the Member states and especially the National Standard Bodies to reduce the costs dramatically for the access to standards.

In many countries these standards, which are made legally binding and therefore are a necessary basis for the daily engineering work, are almost unaffordable for SMEs.

ECEC and ECCE are of course gladly prepared to provide the European Institution with further information on this problematic situation.

Principle VIII: Promote the upgrading of skills in SMEs and all forms of innovation

ECEC and ECCE want to stress the importance of this principle. For the sustainable implementation of the principle especially information and finance build the base.

Principle IX: Enable SMEs to turn environmental challenges into opportunities

As engineers are the leaders of development in this field, ECEC and ECCE want to stress the importance of this principle and welcome its implementation.

Principle X: Encourage and support SMEs to benefit from the growth of markets

ECEC and ECCE are very aware of the necessity to encourage and support engineering SMEs to benefit from the growth of markets.

There is very much to do as especially for micro-sized engineering enterprises work in markets outside (and sometimes even in other countries inside) the European Union is still not at all common. The far distance work can be practically and legally extremely difficult and financially risky for engineering SMEs.

On the other hand it might be recommendable to start efforts by encouraging and supporting engineering SMEs to work in neighbouring countries of the European Union, which are close to the date of their joining to the EU, in order to help them to keep up standards and quality of the EU. In any case it is important to encourage and support SMEs to cooperate on this basis, with regional partners (e.g. Joint ventures) as this can also help to avoid practical problems.

We welcome and we support all the EU initiatives for opening worldwide new markets (e.g. China, India) for European SME's activities. We must establish permanent and broad information channels, legal and financial measures/motivations enhancing the external activity of our SMEs in the new markets.

III. Project proposal

ECCE and ECEC will submit a proposal to the EU DGENTR asking for funding the execution of a comparative study/survey on the subject "European SMEs in Engineering Sector: Present Situation and Perspectives".