



*Call from Thierry Beaudet, President of the VYV Group*

**“The limited profitability enterprise,  
a response to the expectations of  
Europeans”**

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*The shock caused by the Covid-19 pandemic calls into question many of our certainties and habits. This crisis, like other upheavals to come - ecological crisis, increased life expectancy, artificial intelligence revolution - is reshuffling the economic, social and political priorities of our societies as well as our European construction.*

While this crisis revealed our flaws, it also reminded us of our strengths.

First, **the importance we collectively attach to life and health**. In this crisis, we show that we are placing these shared concerns beyond special interests and economic and financial considerations.

Then **the solidarity** that we have been able to build, spontaneously, day after day, on a human level. Local solidarity between neighbours of different generations, between sick and healthy, between those who work and those who must stay at home. National solidarity as well between our social protection systems, which are essential for maintaining our societies and keeping them resilient.

Finally, everyone's **sense of responsibility and commitment**. Obviously first-line caregivers, and all those who sacrifice their safety to provide services that are essential to our daily life: food, distribution, cleanliness, security. And also, the responsibility and commitment of each confined citizen. Everyone's participation, even passive, is essential in the fight against the epidemic.

***Priority of shared interests over profitability, central role of solidarity, participation and responsibility of all; these strengths that we have been able to demonstrate constitute the principles at the heart of the social and united economy.***

Once the crisis is over, the European Union will have to reinvent itself, rethinking its political, historical and cultural concepts. It will have to question its "all liberal" logic, its single market giving the lucrative economy priority over other forms of activity.

***More than ever, the post-Covid-19 Europe must be a Social Europe.***

To make it happen, the Union and the Member States must be able to count on the spirit of initiative of collectives wishing to find answers to social and economic challenges by and for themselves. **Thus, the role of the limited profitability enterprise, offshoot of these collectives, is essential.**



This company form, under the status of association, cooperative, mutual insurance company or foundation, is defined in an **own-initiative opinion recently adopted by the European Economic and Social Council**<sup>1</sup>. It reconciles the idea of service of general interest, and the development of a private activity that's participative, united and effective from an economic standpoint.

These companies have no shareholders to compensate. Their corporate purpose favours the shared interests of their members or the general interest. They associate their audiences with their functioning and their governance and can, thus, conduct civic actions adapted to the needs of the population, and maximize their social, societal and environmental impact.

This specific raison d'être has been recognized and engraved in laws, sometimes even in the constitutions of several countries, in Europe and around the world.

Despite these obvious advantages, **the specific legal models of companies with limited profitability are not yet recognized by European legislation**. Faced with listed for-profit companies that dominate most markets, they suffer from a handicap of competitiveness, unequal access to the capital necessary for their investments and their development.

Through the "free" issue of securities on equity markets, for-profit companies gain access to capital on favourable terms.

Limited-profitability companies are not allowed to issue shares. To finance themselves, they rely on their ability to build up surpluses - often limited by their raison d'être - or must resort to borrowing at rates often above the market average.

National laws have long made it possible to compensate for this structural handicap by means of State aid (subsidies, reserved markets, free provision of premises, civil servants or advantageous tax systems). In the name of an unfair conception of competition, denying the positive externalities of these companies, European law has come to restore inequality by prohibiting them from receiving any State aid.

***In 2011 a judgment of the Court of Justice of the European Union brought an exception to this rule. The "Paint Graphos" decision<sup>2</sup> gave a specific regulatory framework to cooperatives.***

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<sup>1</sup> A. Coheur. (2019). "Towards a European legal framework adapted for social economy enterprises (own-initiative opinion)". INT/871-EESC-2019. p.1-10 - The opinion proposes to define these entities as "all of the companies which are likely to make a profit, but which do not aim to distribute it to their owners, since their primary reason for existence is of the solidarity or general interest type".

<sup>2</sup> C-78/08 - Paint Graphos and Others



In this major decision concerning sustainability of the limited profitability economy in Europe, **the Court of Justice recognizes that, in matters of State aid, in view of the constraints weighing on them for access to equity financing of their activities, cooperatives are not evolving in a factual and legal situation that is comparable to that of for-profit companies.** As a result, a tax measure that is advantageous for cooperatives cannot be described as establishing a selective advantage for them.

The Court justifies its reasoning by the specific characteristics of cooperatives from the point of view of control, the not purely commercial relationship maintained with their members and, above all, poor access to the capital markets and the imperative need to have to rely on their own funds to ensure their development.

**In its communication on the concept of State aid in 2016, the Commission acknowledged the position of the CJEU concerning cooperatives.** It confirms that a more favourable tax system for cooperatives may not qualify as State aid.

***Now, it is, therefore, permissible for a government to grant more advantageous taxation to cooperative companies than to lucrative ones.***

Even though they share, in all respects, the same constraints, values and modes of operation, **what is allowed for cooperatives is not allowed for other forms of limited-profitability enterprises such** as mutual insurance companies, associations and foundations.

Like cooperatives, other businesses with limited profitability obey specific operating principles and bring a participative democracy to life which clearly distinguishes them from for-profit companies.

Like cooperatives, they are not managed for the benefit of outside investors but for the benefit of their members and/or the community.

Like cooperatives, they maintain a relationship with their members that is not purely commercial.

As in the case of cooperatives, in the event of dissolution, the net assets and the reserves must be distributed to another entity of equivalent status pursuing similar objectives of general interest.



***This is why, regarding a principle of equality, it seems essential to us that European law grant the same right to mutual insurance companies, foundations and associations as to cooperatives.***

This act will constitute a first step towards full recognition of this other mode of entrepreneurship, essential for the sustainable development of our companies as well as for the achievement of a Social Europe that meets the expectations of its citizens.

***We are, therefore, launching an appeal to European limited-profitability companies to raise before the CJEU, the institutions of the European Union and their national governments, any distortion of competition vis-à-vis for-profit companies, affecting their ability to finance their development, in line with “Paint Graphos” case law.***



**Thierry Beaudet**, president of the VYV Group

### **The VYV Group, entrepreneur of better living**

***The VYV Group is one of the main actors of limited profitability in France.***

It is the 1<sup>st</sup> mutual benefit company in health and social protection in France. Around its 4 business areas (insurance, care offer, services and housing), the VYV Group develops complete and personalized offers to support and protect all individuals throughout life. All of the group's components protect 11 million people within its ecosystem, provide 170,000 social housing units and support people in fragile situations in more than 1,200 health, social and medico-social establishments.

The group's turnover is around 10 billion euros.

As a committed player, with 10,000 elected officials, including nearly 2,600 delegates, the VYV Group innovates and anticipates to build a more equitable and socially responsible society.

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