

Workshop-Pisa-Italy
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Dr. Bastiaan van der Velden

Open University of the Netherlands

Dutch Company Law

- The system of Dutch legal persons is a closed system, only the entities mentioned in the law can have legal personality.
- **Association** / Verenigingen
- **Foundation** / Stichtingen
- **Public Limited Liability Corporation** / Naamloze vennootschappen
- **Private Limited Liability Company** / Besloten vennootschappen
- **Cooperative** / Coöperaties

SER Paper on social enterprises, May 2015

- Social and Economic Council of the Netherlands (SER, advises the Dutch Government and Parliament on key points of social and economic policy).
- Conclusions / key problems:
 - No definition of social enterprises (SER excluded employ. codetermination)
 - Ways of measuring the impact of social entrepreneurship
 - How to recognize social entrepreneurship: creating a label / certification
 - Public procurement
 - getting financial support / investment for social enterprises

Dutch government reaction on the SER report on social enterprises

- The Government shares the conclusion of the SER that **it is not desirable to create a separate legal entity** for social enterprises.
- Should companies with a social mission take the initiative to create a label or certification for social enterprises, the government considers this initiative a good opportunity (like the Max Havelaar label for food)

A small case study

- In 2000 Dutch food company Unilever wanted to buy the ice-cream producer Ben & Jerries, (since 2012 a US b-corp and at that date an innovative company stressing on social values)
- consumers did not accept the takeover by Unilever, huge media coverage; even a website was built to communicate the worries of consumers: saveBenJerry.com
- In 2015 Unilever CEO Paul Polman told his company is considering to become the world's largest publicly listed B corp
- 2017: Heinz wants to buy Unilever, & reduce costs of social & green

B-corp in The Netherlands

- Today: **Accreditation only**
- Around 50 B-corp accreditations: Bank, administrative companies, food companies
- But: many legal/fiscal incentives for inclusive corp. (disabled employees, electric cars etc)
- pension funds (in general) prefer to invest in inclusive corp. (not investing in weapons, death penalty etc)

B-corp in The Netherlands

- How Dutch B-corps take their social responsibilities.
- The foodbox case
 - Many problems with companies selling boxes with food (aggressive selling methods, illegal long term contracts, fraudulent advertising)
 - ACM (government agency for consumer protection) proposed a voluntary instrument to regulate the market
 - The 2 B-corp foodbox sellers directly agreed with these rules
 - ACM will prosecute other firms not complying

Towards a B-corp as a legal entity?

- Dutch Government said in 2015 that it is not desirable to create a separate legal entity for social enterprises.
- Now we had elections, new government?
- But:
 - The Dutch legislator will be very reluctant to introduce a legal entity in the civil code that can only exist on a reference to an accreditation by body outside the direct influence of the government
 - The Dutch government aims to reduce administrative burdens for companies
 - To what legal issues leads the loss of a B-corp accreditation for a legal entity?

Thanks for your attention

Bastiaan van der Velden

Open University of the Netherlands

bastiaan.vandervelden@ou.nl