



LEGAL ECOSYSTEMS FOR SOCIAL ECONOMY

PLP outcome report

RESULTS OF THE “LEGAL ECOSYSTEMS FOR SOCIAL
ECONOMY- PEER LEARNING PARTNERSHIP” PL4SE – PLP]

The “Legal Ecosystems for Social Economy - Peer Learning Partnership” operated between April and October 2021. It involved a mix of representatives of national and sub-national authorities as well as national and continental social economy organisations from three continents.

The lessons learnt can be assessed in terms of both methods and contents.

Regarding methods, focusing specific issues raised by participants themselves made it possible to maximise both the high level of expertise and the limited time available. This provides an example of how the peer-learning method, well organised and conducted, is an advanced vehicle of knowledge.

With respect to contents, the partnership developed fact-based knowledge in three axes: overall social economy legal frameworks, specific regulations for entities of social economy and general policies on the functioning of the social economy.

The acquired knowledge is users-ready and constitutes basis for the creation of a “golden-book” for constructing legal frameworks for the social economy.

Authors:
Coordinator Team of the PLP4SE-PLP consortium

CARLOS LOZANO, Coordinator of International Affairs, Spanish Confederation of Social Economy Enterprises (CEPES)

LUIGI MARTIGNETTI, General Secretary of the European Network of Cities and Regions for the Social Economy



This project is funded by
the European Union

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.



This document was prepared by the Spanish Confederation of Social Economy Enterprises (CEPES) and the European Network of Cities and Regions for the Social Economy (REVES) in the framework of OECD Global Action "Promoting Social & Solidarity Economy Ecosystems". The opinions and arguments expressed herein are those of the authors and do not necessarily reflect the official views of the OECD or its member countries.

This document was produced with the financial assistance of the European Union. The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

TABLE OF CONTENTS

Foreword	7
“Joining forces to create enabling frameworks for the social economy”.	
Nicolas Schmit, EU Commissioner for Jobs and Social Rights	8
“Legal frameworks: a key pillar of social economy-friendly ecosystems”.	
Juan Antonio Pedreño Frutos, president of CEPES and Social Economy Europe	10
The OECD Global Action: Promoting Social and Solidarity Economy legal Ecosystems.	
Antonella Noya, Head Social Economy and Innovation Unit, Centre for Entrepreneurship, SMEs, Regions and Cities, OECD.	12
Executive Summary	15
1. Introduction	17
2. Peer learning approach to address social economy legal frameworks	21
3. Learning about the framework laws and regulations on social economy	26
4. Learning about the specific regulations for legal entities of the social economy	39
5. Learning about regulations on general policies facilitating the social economy	58
6. Conclusions	72



FOREWORD

The configuration of legal frameworks for social economy is a challenging and at the same time stimulating task for organisations such as CEPES and REVES, involved in the representation and promotion of social economy.

The Peer-Learning Partnerships (hereinafter PLPs) supported by the OECD Global Action for “Promoting Social and Solidarity Economy Ecosystems”, funded by the European Union’s Foreign Partnership Instrument, offered a unique and innovative approach to address this key issue of social economy ecosystems from a global perspective.

This outcome report compiles the lessons learned and the main findings of the “Legal Ecosystems for Social Economy- Peer Learning Partnership” (hereinafter PL4SE – PLP), one of the PLPs supported and selected by the OECD Global Action.

The PL4SE – PLP brought together 25 organisations and social economy practitioners from Canada, EU Member States, South Korea, Mexico, and the USA together with international stakeholders involved in the development of social economy.

CEPES and REVES, as “Coordination team” of the PL4SE – PLP, are grateful to the OECD and the Social Economy and Innovation Unit of the Centre for Entrepreneurship, SMEs, Regions and Cities for this opportunity. They would also like to thank for the strong commitment of all PL4SE – PLP consortium partners and acknowledge the permanent support of Antonella Noya, Head of Social Economy and Innovation unit, Amal Chevreau, James Hermanson, Julie Rijpens and Max Bulakovskiy, part of the OECD Centre for Entrepreneurship, SMEs, Regions and Cities.

JEL reference codes:

K. Law and Economics

K00 General

K2 Regulation and Business Law

Keywords:

- Social Economy
- Enterprises
- Legal frameworks

JOINING FORCES TO CREATE ENABLING FRAMEWORKS FOR THE SOCIAL ECONOMY

Nicolas Schmit, EU Commissioner for Jobs and Social Rights

Political momentum for the social economy has been growing significantly in recent years, especially since the European Commission presented an action plan for the social economy in December 2021. Our common challenge is to turn this political momentum into tangible results and improvements for the social economy.

Policy and legal frameworks developed at national and sub-national level are an essential part of the enabling environment for the social economy. More than half of the countries in the EU have put in place targeted legal frameworks and policies in relation to social enterprises and/or the social economy. While I greatly welcome these developments, I see a big potential to further develop the enabling frameworks for the social economy.

This is why in 2023, the Commission will present a proposal for a Council

Recommendation on developing the framework conditions for the social economy. It will provide guidance to help Member States adapt policy and legal frameworks to the needs of social economy entities.

Creating conducive legal and policy frameworks for the social economy is not an easy task and it requires coherent action across different policy areas. Each Member State will have specific challenges to address. Because of the complexity of the topic, success will not be achieved alone but will require input from a broad range of actors, in each Member State and across borders.

That is one of the reasons peer learning is so valuable: we can learn from the experiences from those who paved the way. We can get inspired. We can create new solutions.

What works in one country can be an example for other countries or it can inspire them to find their own tailor-made solution. With different starting points, learning from examples does not necessarily mean to replicate them, but rather to find an adapted solution that fits the needs of the social economy in the country.

Yet, we also want to ensure a certain level of alignment so we can create a joint ecosystem for the social economy in Europe and beyond. And in 2023 the

Commission will launch a new social economy gateway to act as a central online meeting point to find out about the latest events, developments, funding opportunities at EU level and at national and regional level.

This report by CEPES will certainly be a very welcome and thought-provoking inspiration for Member States to draw upon when implementing the future Council Recommendation. We should take every opportunity we can to share best practice and learn from each other.



Nicolas Schmit, EU Commissioner for Jobs and Social Rights

LEGAL FRAMEWORKS: A KEY PILLAR OF SOCIAL ECONOMY- FRIENDLY ECOSYSTEMS

Juan Antonio Pedreño Frutos, President of CEPES and Social Economy Europe

The growth of social economy enterprises and entities has become a priority for many governments and for the main international organisations around the world. Social economy is now placed at the heart of the national and international strategies to build sustainable industrialisation, create and maintain quality jobs, move towards fair green and digital transitions, revitalise rural and depopulated areas and ensure a high level of social cohesion. In short, social economy generates more inclusive societies that leave no one behind.

Public authorities at all levels (local, regional, national, European, and global ones) are committed to create social economy ecosystems.

The OECD Recommendation on social economy and social innovation, adopted in June 2022, states that “countries

need to develop institutional and legal frameworks, policies and measures to support the social economy in reaching its full potential”. This is very much in line with the priorities set by the Social Economy Action Plan adopted by the European Commission in December 2021 and the ILO Resolution concerning decent work and social economy approved in June 2022.

Indeed, the legal recognition and adoption of specific laws are essential to raise awareness on this enterprise model. Legal frameworks are key to mainstream the social economy in social, economic, and environmental policies as well as to enshrine the principles shared by all social economy enterprises into the legal frameworks and the regulations that govern the markets. On the other hand, those common principles serve to adopt a legal concept of social economy on which

to build favourable policies equivalent to those for other enterprise models. All this also implies the recognition of social economy as a social partner to be involved in the law-making processes, especially of those regulations that affect its development.

While advanced legal frameworks for social economy have been already adopted by some countries, an increasing number of governments want to go forward in the same way. The OECD has been at the forefront of global promotion of social economy for decades. The Global Action “Promoting Social and Solidarity Economy Ecosystems” led by the OECD with the support of the European Union’s Foreign Partnership Instrument fosters co-operation on the social economy legal frameworks among OECD Member States from four continents (Americas, Asia, Europe and Oceania).

Thanks to the support of the OECD Global Action, CEPES has led together with REVES (European Network of Cities and Regions for the Social Economy) an international consortium made up by heads of ministerial departments and regional authorities from three continents (America, Asia, and Europe) together with representative organisation of the social economy and university experts. The learning process carried out by this consortium has resulted in the identification of the key factors - adapted to any legal context - to establish favourable legal ecosystems for the social economy.

The conclusions and results of this partnership, which covered 2021 and part of 2022, are very valuable at a time when the EU, the OECD, the ILO and, very soon, the United Nations with its future Resolution on Social Economy, are working to lay the foundations for a global ecosystem to foster an economy that works for people and the planet.



Juan Antonio Pedreño Frutos, President of CEPES and Social Economy Europe

THE OECD GLOBAL ACTION: PROMOTING SOCIAL AND SOLIDARITY ECONOMY ECOSYSTEMS.

Antonella Noya, Head Social Economy and Innovation Unit, Centre for Entrepreneurship, SMEs, Regions and Cities, OECD.

The report “Legal Ecosystems for Social Economy-Peer Learning Partnership (PL4SE-PLP)” prepared by the Spanish Confederation of Social Economy (CEPES) and the European Network of Cities and Regions for the Social Economy (REVES) brings important knowledge to the social economy global community on one of the most critical policy areas to support the development of the social and solidarity economy (SSE): legal frameworks.

Six Peer Learning Partnerships (PLP) were selected by the OECD following a very competitive and rigorous process, in the framework of the OECD Global Action “Promoting Social and Solidarity Ecosystems”¹, a three-year ambitious

project launched in 2020 and funded by the European Union, covering countries in the European Union as well as Brazil, Canada, India, Korea, Mexico, the United States, and beyond.

The Global Action supports the social and solidarity economy (SSE) by identifying important areas for its development and internationalisation. It works to raise awareness and build capacities to establish conducive national and local ecosystems for SSE development and to promote knowledge and international experience sharing.

The creation of the PLPs Consortia achieved an important long-lasting result

1 <https://www.oecd.org/cfe/leed/social-economy/oecd-global-action/>

as it expanded the global SSE community and in parallel activated a powerful collective brain. The six Consortia brought together some 130 partners coming from different sectors and parts of the world. These partners praised PLPs methodology for having created a trusting environment and a supportive one for peer learning and knowledge sharing. They also reported that they felt empowered to contribute with their ideas and knowledge to shape avenues to develop the social and solidarity economy. Their close collaboration generated a rich body of common knowledge and a useful benchmark on how SSE ecosystems operate, distilled in the form of reports, case studies, white papers, and literature repositories.

The consortium led by CEPES provided excellent results and was the only one to focus on legal frameworks. It was undoubtedly a complex challenge, as developing legal frameworks depends on the context, tradition and social economy culture of a particular place. The 25 partners² of the consortium led by CEPES produced very interesting results, which subsequently supported OECD work on a 2022 scoping paper³, used to inform an international guide (to be published in March 2023)⁴.

Promoting legal frameworks for the SSE is of outmost importance as it can help policy makers to better understand the

governance and operational practices of social economy entities and this additional clarity will facilitate how to effectively support them. Social economy entities, in turn, can benefit from a more formalised legal status to help them better access markets and finance.

The OECD welcomes the excellent outcomes of the work done by CEPES, REVES and the other partners of the Consortium!



Antonella Noya, Head Social Economy and Innovation Unit, Centre for Entrepreneurship, SMEs, Regions and Cities, OECD.

2 The partners included very important transnational social economy networks, research institutions, international organisations such as ILO, Ministries and public institutions from different countries at different levels, such as Belgium, Brazil, Canada, Italy, Mexico, Spanish and South Korea.

3 OECD (2022), "Legal frameworks for the social and solidarity economy: OECD Global Action "Promoting Social and Solidarity Economy Ecosystems"", *OECD Local Economic and Employment Development (LEED) Papers*, No. 2022/04, OECD Publishing, Paris, <https://doi.org/10.1787/480a47fd-en>.

4 OECD (2023, forthcoming) « Legal frameworks for the Social and Solidarity Ecosystems"- provisional title. OECD Publishing



EXECUTIVE SUMMARY

Legal frameworks are key for social economy ecosystems. They have a significant impact on the visibility, recognition and legitimacy of social economy enterprises and organisations and facilitate their operation in the market and society.

Even though approaches to the social economy regulatory frameworks vary from country to country, a broad consensus exists on defining social economy as a set of legal entities such as associations, cooperatives, mutual organisations, foundations, and social enterprises – among others – whose activity is driven by common values of solidarity, the primacy of people over capital, and democratic and participatory governance. These principles have been enshrined in several national and sub-national laws that lay down the common features governing the operation of social economy enterprises and organisations. Not all countries or territories have an overall legal framework for the whole social economy, but it does not prevent them from adopting regulations governing the legal entities of the social economy.

To understand the different legal trends and how they have been designed in their contexts is important at a time when national and sub-national public authorities as well as international organisations are committed to social economy as an important player for a sustainable growth and strong recovery. For this purpose, a Peer-Learning Partnership on how to promote legal ecosystems for social economy involving key stakeholders from three continents (America, Asia, and Europe) was launched under the OECD Global Action for “Promoting Social and Solidarity Economy”.

The learning process carried out under the PLP resulted – in the opinion of its coordinators – in the following key insights for shaping legal frameworks to the whole social economy:

- Social economy can adopt a variety of legal forms that share common principles and values recognised by the regulatory frameworks.
- A legal definition based on the common principles and values that govern the social economy is a key driver for building a legal ecosystem.
- Public registration and certification delivered by Public Authorities are key tools for legal certainty and compliance.
- Legal recognition brings consequences for embeddedness of social economy (as a whole) in market regulations and key socioeconomic and environmental policies.

- The structure and division of competences among the different Administration levels have a direct impact on building regulatory frameworks of the social economy.
- Consultative bodies and independent representative organisations of social economy play a key role in the law-making process of a legal ecosystem for social economy.
- Adapted and specific support programmes are part of the legal ecosystem for social economy.

1. INTRODUCTION

1.1. Regulatory frameworks cover the whole range of enterprise types, including social economy ones

An enterprise is a legal entity possessing the right to conduct business on its own, for example to enter into contracts, own property, incur liabilities and establish bank accounts. An enterprise can adopt different models (European Economic and Social Committee, 2009¹); it may be a corporation, a quasi-corporation, a non-profit institution, or an unincorporated enterprise (OECD²).

Among the different types of enterprises, social economy encompasses a widely diverse range of legal entities whose activity is driven by values of solidarity, the primacy of people over capital, and democratic and participative governance. Social economy refers to a set of legal entities such as associations, co-operatives, mutual organisations, foundations, and social enterprises (OECD, 2020)³. Besides these legal entities, particular operators have emerged from the evolution of social economy in different regions and countries around the world (see annex C for specific social economy entities in Brazil, Canada, European countries, India, or Mexico).

The pluralism of the entities complying with the principles managing social economy enterprises and organisations is one of the common features shared by the framework laws governing social economy – as a whole – at national (France, Mexico or Spain), and sub-national levels (Quebec in Canada, Tuscany in Italy, Galicia in Spain or the city of Seoul in Korea).

It is also worth noting that in some cases the social economy can adopt different denominations recognised by law as “social and solidarity economy” in France or Mexico, or “third sector” in Italy. These two terms are often used interchangeably with “social economy” in their respective contexts and at international level. For instance, OECD and the International Labour Organisation use the term “social and solidarity economy”. Furthermore, the European Commission states that the terms such as “social economy enterprises”, “social and solidarity enterprises” and “third sector” are also used by some stakeholders, countries and international organisations to refer to social economy entities (European Commission, 2021⁴).

1 Opinion of the European Economic and Social Committee on the Diverse forms of enterprise (Own-initiative opinion).

2 https://www.oecd-ilibrary.org/industry-and-services/enterprises-by-business-size/indicator/english_31d5eeaf-en

3 “Social economy and the COVID-19 crisis: current and future roles”. OECD Policy Responses to Coronavirus (COVID-19). July 2020.

4 Communication from the Commission “Building an economy that works for people: an action plan for the social economy” (COM 2021/778 final)

1.2. Legal frameworks are one of the cornerstones of social economy ecosystems

Legal frameworks facilitate the recognition, legitimacy, and operation of social economy in the market and society. They regulate the action of social economy enterprises and organisations in mainstreaming public policies (i.e., labour market, social cohesion, public procurement, entrepreneurship, green transition, social innovation, digitalisation, etc.) while unleashing their potential as important players for a sustainable growth and strong recovery (OECD, 2020)⁵.

In terms of the regulatory frameworks for social economy, approaches are very diverse across the countries and regions in the world. Therefore, **it is important to understand the different legal trends and how they have been designed in their specific contexts and leveraged to scale the social economy** (OECD Global Action “Promoting Social & Solidarity Economy” 2020)⁶. All this at a time when national and sub-national public authorities as well as international organisations are committed to unlock the potential of the social economy, especially now that the COVID-19 pandemic has exposed fragilities in societies and economies and deepened existing inequalities (Inter-Agency Task Force on Social and Solidarity Economy, 2021⁷).

1.3. Moving towards shaping and supporting favourable regulatory frameworks for social economy at global level

Generally, legislation is closely linked to national and sub-national authorities (i.e., regional and local public powers) competent to adopt and apply measures for social economy. However, **legal frameworks can be addressed in an integrated manner from a global perspective**.

Social economy enterprises and organisations can be considered as a global phenomenon⁸ that demand advancements in the legal sphere to improve their action at international level. **Global progress might complement and guide the national and subnational regulatory frameworks to unleash the potential of social economy.**

5 Precedent footnote.

6 OECD Virtual event “Leveraging Legal Frameworks to Scale the Social and Solidarity Economy” December 2021

7 The United Nations Inter-Agency Taskforce on Social and Solidarity (UNTFSSSE)’s contribution to the EU request for recommendations for the future EU Action plan on Social Economy

8 Cooperatives alone provide jobs or work opportunities to 280 million people across the globe, in other words, 10% of the world’s employed population. International Cooperative Alliance. <https://www.ica.coop/en/cooperatives/facts-and-figures>

Accordingly, a Peer-Learning Partnership⁹ (hereinafter PLP) on how to promote legal ecosystems for social economy was launched under the framework of the OECD Global Action for promoting social and solidarity economy. This PLP was based on the experience of a consortium bringing together crucial and diverse public and private stakeholders from three continents (America, Asia and Europe).

As discussed in the following pages, the findings resulting from the learning process carried out identify key elements to be taken into account when designing regulatory frameworks as part of conducive ecosystem for social economy.

⁹ PLPs aim to stimulate knowledge sharing on the importance of building or reinforcing conducive ecosystems for social and solidarity economy development. By doing so, the peer learning activities will contribute to internationalise models and ideas while fostering concrete partnerships between EU Member States and non-EU countries targeted by this Action (Canada, Mexico, USA, Republic of Korea, India, and Brazil). (PEER-LEARNING PARTNERSHIPS TOOLKIT © OECD 2020).



2. PEER LEARNING APPROACH TO ADDRESS SOCIAL ECONOMY LEGAL FRAMEWORKS

2.1. A Peer-Learning Partnership involving crucial and diverse stakeholders

In coherence with the Peer-Learning Partnership (hereinafter PLP) Toolkit of the OECD Global Action “Promoting Social and Solidarity Economy Ecosystems”, **the focus of the project “Legal Ecosystems for Social Economy – Peer-Learning Partnership” (hereinafter PL4SE – PLP) was to draw up global guidance on how those legal frameworks are developed and can be better leveraged by national and sub-national authorities.**

Based on an exchange of experiences and views among public and private actors coming from different legal traditions and regulatory contexts, the PL4SE-PLP provided useful, applicable, and understandable conclusions on this issue by public and private actors coming from different regulatory contexts. The major elements which contributed to the achievement of these objectives are the following:

- Alignment of the Peer-Learning Partnership objectives with the main priorities of the OECD Global Action. The PLP results might support the elaboration of the OECD international Guide on Legal Frameworks for the SSE expected in 2022.
- Involvement of key stakeholder groups in the PLP activities:

- Ministries and national public departments¹⁰ in charge of the social economy together with local and regional authorities¹¹ that are involved in the design and implementation of regulations both directly linked to the operation of social economy enterprises and other general policies that affect them.
- Social economy representative organisations and practitioners¹² that are consulted and involved in the law-making process. These organisations actively take the initiative to propose (to the competent authority) legal measures in favour of social economy and take part in qualified consultative bodies of public administrations in charge of specific policies dealing with social economy and general legal matters that facilitate/affect its activities.
- Academic experts who provide knowledge on social economy regulations and complementary legal fields, such as commercial law or tax law, among others¹³.
- International organisations¹⁴ directly involved in the promotion of the social economy that provided a global perspective to the PLP results.
- Participation of key stakeholders from different regions of the world with diverse legal traditions.

This PL4SE-PLP included public authorities and private social economy stakeholders from Asian and American countries and regions (South Korea, Mexico, and Quebec in Canada, respectively) as well as the EU Member States with legal systems based on civil law endowed with social economy ecosystems. Additionally, it involved key players from other American countries with a legal system based on the common law (United States or Canada, except Quebec) where the concept of social economy is unusual or not widespread at national level.

In order to facilitate the sharing of knowledge among the consortium partners, the uneven understanding of the social economy concept implied the use of the terms “entities in the social economy” in an early state of the peer learning process.

10 Director General for Third Sector and CSR- Ministry of Labour and Social Policies; Director General for Self-Employment, Social Economy and CSR. Ministry of Labour and Social Economy; Government of Canada - Employment and Social Development Canada; Government of Brazil- Ministry of Economy. Subsecretaria de Inovação e Transformação Digital; Korea Social Enterprise Promotion Agency; Instituto Nacional de la Economía Social (INAES) - Mexico.

11 European Newtork of Cities and Regions for the Social Economy (REVES), Réseau des collectivités Territoriales pour une Économie Solidaire (France); DG Social and Solidarity Economy, Third Sector and Cooperatives of the Catalan Government; Regional Government of Brussels Capital; Puebla State Mexico. DG de Emprendimiento, Competitividad y Fomento Empresarial. Sub-Secretaría de Economía, Gobierno del Estado de Puebla.

12 Spanish Confederation of Social Economy Enterprises (CEPES); Social Economy Europe (SEE); SSE International Forum (ESS-FI); US Federation of Worker Cooperatives; the Canadian CED Network; International Cooperative Alliance (ICA); COOPERATIVES EUROPE; International Association of Mutual Benefit Societies (AIM), European Network of Social Integration Enterprises (ENSIE); Democracy at Work Institute (USA); DIESIS

13 CIRIEC International

14 Enterprise Department of the International Labour Organisation (ILO); Global Social Economy Forum (GSEF)

2.2. The methodology applied by the PL4SE-PLP covered different legal approaches and backgrounds

The design and application of a structured methodology was the basis for the implementation of the PLP. This approach aimed to establish a structured mutual learning process that takes into consideration the roles of the key stakeholders and the legal traditions and contexts with different development stages of the social economy (regions/countries with consolidated legal ecosystems and others where the concept of social economy is still to be developed) following some guiding principles:

- Comparability among diverse contexts by identifying common interests and issues.
- Promotion of replicability, despite the different legal, societal, political, or cultural contexts.
- Emulation or imitation of practices, where replicability is not feasible.
- Inspiration from the effectiveness of the partners' experiences.

The PL4SE-PLP was based on the organisation of exchange sessions among the consortium partners, the elaboration of tools to kick off the learning process and to facilitate the discussion according to the mentioned principles and, finally, the instruments to consolidate the conclusions resulting from the sessions. The preliminary step of the peer learning process was to establish a "common ground of action" where all partners could interact and identify shared interests. **Three general areas or "axes" regarding the legal frameworks were identified and analysed:**

- Axis 1: "Legal frameworks for the social economy" (i.e., laws and regulations ruling the social economy as a whole).
- Axis 2: "Specific legal frameworks of entities in the social economy (i.e., laws and regulations governing the different forms).
- Axis 3: "Specific regulations dealing with general policies that facilitate the functioning of the social economy". Under this axis, some selected strategic areas were selected for discussion and exchange:
 - Regulations and practices related to public procurement
 - Fiscal treatment of social economy enterprises
 - Social economy entities in the financial market and access to finance
 - Support programmes

Each one of those “axes” was discussed by all partners following the same systematic approach covering the following steps:

- Elaboration of “guiding questions” by the “Coordination Team”¹⁵ of the action to identify general issues of interest under each axis. The draft of the guiding questions was validated by a “Content Team” composed by designated representatives of the consortium¹⁶ that support the “Coordination Team” to prepare the peer learning sessions and their conclusions.
- Dissemination of the “guiding questions” to the consortium partners asking for their answers to collect experiences and cases on the identified issues.
- Preparation of “background documents” compiling answers to the guiding questions elaborated by the partners on each one of the three axes.
- Distribution of the “background documents” among the consortium partners. Once they had consulted the answers collected, the partners elaborated questions to the cases provided by other consortium colleagues and identified topics of interest by means of a specific questionnaire. All questions were organised in a document and put forward to the concerned partners.
- Organisation of the online seminars to address each of the axes.
- The agenda of these seminars was drawn up by the “Coordination Team” who took into consideration the collected questions on the cases and the main interests expressed by the partners.
- This procedure focused on the selection of topics and practices to be discussed among the partners according to their common interests. During the seminar, a member of the “Content Team” addressed some selected questions (identified on a quantitative basis) to the different partners/practices. The responding partner – who had received the questions beforehand – responded with details. The response from the partners provided the trigger for debate among all the participants. All the geographical areas covered by the consortium were always represented at the seminars.
- A de-briefing report on the conclusions of each seminar was drawn up and sent to the partners one week after the online seminar of each axis.
- After the online seminars, a de-briefing session was organised with the partners to discuss the drafted report. The consolidated final report elaborated after the sessions, collected the main lessons and findings of each axis.

¹⁵ CEPES and REVES staff members

¹⁶ Luigi Martignetti and William Cerritelli (REVES); Michael Toye and Raissa Marks (The Canadian CED Network), Isabel-Gemma Fajardo García (CIRIEC International), Esteban Kelly and Jeremy Pine (USFWC), Samuel Barco (DIESIS), Roberto di Meglio (Enterprise Department - ILO), Victor Meseguer (Social Economy Europe), Eva Cantele (SSE International Forum) and Carlos Lozano (CEPES).



3. LEARNING ABOUT THE FRAMEWORK LAWS AND REGULATIONS ON SOCIAL ECONOMY

3.1. Introduction

The first peer learning activity of the PL4SE-PLP focused on the issues related to the definition of overall legal frameworks for the social economy at national and sub-national levels. **There is an increasing tendency to adopt laws, norms, regulations, or other legally binding/relevant provisions targeting the social economy as a whole. Those overall legal frameworks cover different legal entities ascribable to the “social economy” according to a “shared core identity”** (José Luis Monzón and Rafael Chaves. 2008¹⁷).

These legal frameworks usually include a definition of social economy into the legal system.

They identify the whole social economy as subject of Law and the legal concept to be applied by regulations and rules beyond the ones regarding the social economy itself. These laws - or other regulations - lay down the common features and values governing the operation of social economy enterprises and organisations (see annex D for social economy principles enshrined in national Laws). The definition based on guiding principles configures a concept of social economy that enhances its diversity and plurality. This legal recognition of the social economy is complementary of each one of the specific statutes regulating the legal entities of the social economy.

¹⁷ The European social economy: concept and dimensions of the third sector. 2008

3.2. An advanced generation of legal frameworks: the laws and norms regulating the social economy as a whole

The overall legal frameworks can embed social economy in market regulations and in general policies (employment, entrepreneurship, enterprises, taxation, social inclusion, social services, sectoral regulations, local development, etc.). In this way, **general legal frameworks consider and promote the specific management methods of the social economy along with all diverse business forms.**

Visibility – including statistics – and support mechanisms/programmes in favour of social economy entrepreneurs and local communities involved in these enterprises and organisations are a relevant part of the legal frameworks for social economy. On the other hand, the consultation and dialogue of the public authorities with social economy representative organisations in the law-making process might also be regulated or promoted in the framework laws. This consultation processes aims at assessing the appropriateness of legal measures to be adopted by the competent authority.

The overall legal framework may also imply a coordination among the sub-national and national authorities directly involved in the regulation and promotion of the social economy.

A national coordination system – according to the principle of subsidiarity – across sub-national and central levels of governments – both with legislative competencies on social economy – or between the national governments with regulatory powers and the sub-national authorities responsible for implementing legal measures can facilitate the complementarity of the different policies and regulations and the coherence of the legal ecosystems to take the social economy into account. Furthermore, international organisations (OECD, ILO) support and guide national and sub-national public authorities in developing legal frameworks for the social economy.

Not all countries or territories have an overall legal framework for the whole social economy, but it does not prevent them from adopting regulations governing the different entities in the social economy from the perspective to advance towards a general regulation for the whole social economy. For instance, social economy concept is widely spread in South Korea and applied by local and national public authorities even much before the draft Social Economy Framework Act – agreed by the political parties – is formally adopted and enters into force.

In Italy, the National Institute of Statistics has produced a first report on the social economy in the country¹⁸ even though the legal definition applied is the one of “third sector”, slightly different from “social economy”. As mentioned, a national bill on the social economy is about to be passed by the South Korean national Parliament. This is a similar situation to that observed in Spain before the national Parliament passed Law 5/2011 on social economy.

¹⁸ Istat in collaboration with the European Research on cooperatives and social enterprises. “L’economia sociale in Italia. rapporto di ricerca, dimensioni, caratteristiche e settori chiave” 2021.

The central Government and the sub-national public authorities applied unofficial social economy concepts which were not sanctioned by the law. This situation led to legal incertitude because it was not possible to find a common legal reference to the social economy in the regulatory framework.

Addressing the overall legal frameworks among the consortium partners made it possible to identify and analyse some of the **key steps that mark the development of legal frameworks for social economy** in terms of:

- A definition of the social economy that provides general regulatory frameworks with a legal concept and sets out which legal entities are part of the social economy.
- Coordination and autonomy of legal frameworks at sub-national level to assure the coherent and effective action among different local, regional, and national authorities involved in the social economy development.
- Consequences of the public registration and certification to guarantee that social economy enterprises effectively apply and are managed in accordance with its principles.
- The role of representative and advisory bodies in the drafting of appropriate regulations for social economy.
- Statistics and data collection on social economy to better evaluate its evolution and impact in socio-economic terms.
- Promotion & support programmes for social economy as key driver for social and economic development.

3.3. Learnings of the PL4SE-PLP on the legal frameworks of social economy (Axis 1)

The **conclusions drawn from the debate among the consortium partners on the overall legal frameworks** (see box 2.1. about the questions formulated during the first seminar) **resulted in the following findings collected as statements agreed by the consortium partners** (sentence by sentence) after the exchanges among them:

3.3.1. Introduction to the PL4SE-PLP learning process on legal frameworks of social economy

This PL4SE-PLP focuses on legal environments conducive to the development of the social economy. This issue is particularly sensitive to the different legal cultures and traditions of countries or geographical areas. Nevertheless, it is possible to initiate an exchange and learning process focused on the essential points of the different global legal frameworks. In particular, in this case, through the knowledge and learning pathway, it was possible to converge on some essential elements of an overall legal framework, i.e., embracing different forms of social economy actors/entities/organisations.

These elements are reported in the form of statements shared among the PLP partners, and in some cases in the form of possible development paths or ways ahead:

3.3.2. Definition of social economy

Providing a definition of social economy is, according to all PLP partners, very complex. Nevertheless, the overall legal frameworks considered reference to a defined universe of actors. The shared statements presented below derive from the encounter between different stakeholders (public and private) and different legal and administrative contexts and traditions.

3.3.2.1 Statements on the definition of social economy

A definition of the social economy that encompasses the different legal forms under this concept should first be based on common values and principles and on the pursuit of general or collective interest, together with other specific aims. To avoid high levels of discretion, the legal norm has to define the rules applying to those enterprises; focus on the use of profits in the pursuit of the objectives not seeking short-term maximisation of benefits; the distribution and organisation of ownership; and independence from public authorities. This issue requires, in turn, a strong need for control over the application and implementation of the values, and a system of periodic review of them.

Social economy entities can take a variety of legal forms. These must be consistent with the values and principles identified in the previous point and facilitate their operation and implementation. The legal norm has to define the rules for the use of (possible) profits in the pursuit of the objectives of the social economy entity. These rules are taken into account in all situations considered, together with rules concerning the distribution and organisation of ownership of entities.

An opening clause with respect to forms of social economy entities is present in all legal frameworks considered. This includes the possibility for social economy entities to take new corporate forms, sometimes even of public nature. However, independence from public authorities is highlighted as one of the characteristics of the social economy. The possibility of creating these entities under a public statute, or including public administrations, requires a clear definition of governance, so as to maintain the characteristic of independence.

The level at which a legal framework is designed (supranational, national, or sub-national) is deeply linked to the level of decentralisation of a state, the capacities of public actors, and legal traditions. However, even in the case of highly centralised systems, a strong regional legal framework can act as a trigger for the definition of a national one. An appropriate balance between levels acts as a guarantee for the maintenance of a bottom-up approach. Moreover, the interaction between different levels of government may be challenging, while (political) points of view differ from one to the other. In such a case, a conflict of norms may create uncertainty instead of helping the system: this fact must be kept in mind.

3.3.2.2 Ways ahead on the definition of social economy

A supranational definition - including a set of criteria and guidelines - of the social economy, endorsed with legal significance, would help a common understanding of the social economy. Nonetheless, this should be done while respecting the traditions and contexts of the different countries, taking into account also the sub-national relevance of legal frameworks, consistent with the grass-root dimension of the social economy.

The scope of a definition (to whom it applies) **and the degree to which it is compulsory** (is it compulsory under a treaty according to a convention? Is it a recommendation?) **need to be clarified.** The binding or non-binding aspect should be linked to the context and profile of the social economy actors.

Box 3.1. Definition of the social economy in national laws or in sub-national acts

In **Spain** the legal concept of the social economy is based on principles and values (article 4 of the Spanish **Law 5/2011 on social economy**):

- a) Primacy of the individual and of the social purpose over capital. This materializes in an autonomous and transparent, democratic and participative management, which prioritises a decision-making process based more on individuals and the contribution they make to the organization with their work and services or on the social purpose, than on their contributions to the capital.
- b) Distribution of the profits obtained from the economic activity mainly according to the work contributed or the service or activity performed by members and, if applicable, according to the entity's social purpose.
- c) Promotion of solidarity internally and with society that favours commitment to local development, equal opportunities between men and women, social cohesion, the insertion of persons at risk of social exclusion, the generation of stable and quality jobs, the conciliation of private, family and work life, and sustainability.
- d) Independence with regard to the public authorities⁷.

In **Quebec (Canada)** art. 3 of the **Social Economy Act (2013)** states that "social economy" means all the economic activities with a social purpose carried out by enterprises whose activities consist, in particular, in the sale or exchange of goods or services, and which are operated in accordance with the following principles:

- (1) the purpose of the enterprise is to meet the needs of its members or the community;
- (2) the enterprise is not under the decision-making authority of one or more public bodies within the meaning of the Act respecting access to documents held by public bodies and the protection of personal information;
- (3) the rules applicable to the enterprise provide for democratic governance by its members;
- (4) the enterprise aspires to economic viability;
- (5) the rules applicable to the enterprise prohibit the distribution of surplus earnings generated by its activities or provide that surplus earnings be distributed among its members in proportion to the transactions each of the members has carried out with the enterprise; and
- (6) the rules applicable to a legal person operating the enterprise provide that in the event of its dissolution, the enterprise's remaining assets must devolve to another legal person sharing similar objectives.

For the purposes of the first paragraph, a social purpose is a purpose that is not centred on monetary profit, but on service to members or to the community and is characterized, in particular, by an enterprise's contribution to the well-being of its members or the community and to the creation of sustainable high-quality jobs.

A social economy enterprise is an enterprise whose activities consist, in particular, in the sale or exchange of goods or services, and which is operated, in accordance with the principles set out in the first paragraph, by a cooperative, a mutual society or an association endowed with legal personality.

The **Seoul Metropolitan City Framework Ordinance on Social Economy** (2014, South Korea) states that the social economic enterprises shall act according to the following basic principles:

- 1. The principal objective of the organization shall be to realize social values;
- 2. The ability of individuals and communities shall be strengthened through a democratic and consensus-oriented structure and management model;
- 3. Outcomes obtained from economic activities based on affairs, services, or activities mainly performed by constituent members shall be used for constituent members or in the realization of social values, or earnings therefrom shall be distributed to people and labour in preference to capital;
- 4. The transparent and ethical management shall be observed.

3.3.3. Registration and certification systems for whole social economy entities

Registration of the specific entities in the social economy as a necessary act to initiate an activity is a fairly widespread (though not universal) fact. However, apart from general registers, **specific registers including different actors in the social economy are only available in a limited number of countries.**

3.3.3.1 Statements on the registration and certification processes

Public registration is considered important from different points of view: it gives **publicity** (also in terms of transparency and accountability towards the general public) to social economy entities. It allows **access to advantageous situations** (such as subsidies, specific tax treatment, access to innovation funding, public service agreements, public procurement...) and also partnerships with public authorities. It facilitates **recognition** of the system also from a statistical point of view.

Registration criteria and tools need to be well calibrated, as registration may be “excluding” in the sense that some organisations may not fit completely into the different profiles or may simply not be interested in registering. This entails a risk of undervaluing the system.

The registration must be reviewed periodically to ensure that the characteristics that enabled the registration itself are maintained.

Registrars should act at the appropriate administrative level (local, sub-national or national), and these levels should contribute to the definition of registration criteria, so as not to lose important types of organisations (taking into account already existing registers for specific legal forms).

Registration should not be confused with labelling, which is a different process aimed at certifying certain characteristics linked to the field of activity (goods and services provided) or internal characteristics of organisations.

Box 3.2. The Italian single national register for third sector organisations

The Third Sector Code has provided for the establishment of a single national register for all bodies. The aims of the Single National Register of the Third Sector are:

- To identify and make known the entities that qualify as third sector entities. Bodies entered in the Register may include in their company name acronyms or phrases that enable them to be immediately identified as social economy entities (social promotion associations, voluntary organisations, third sector bodies, social enterprises, philanthropic bodies, social cooperatives). Organisations not entered in the Register may not use such acronyms or phrases, even if they are constituted in the same way and with the same characteristics, as registration in the Register means that they become third sector organisations.
- To make statutes, balance sheets, social offices, social reporting documents, fundraising, dissolution, and loss of status public.
- To a large extent, overcome the current fragmentation of registers (managed by a multiplicity of administrations, often not public or with costs for consultation, regulated by different provisions from region to region).

The advantages derive from the acquisition of an ad hoc legal status, which gives access to tax benefits and the possibility of entering into agreements with public administrations. In addition, the register accessible to third parties gives the organisation visibility (e.g., to be identified as a beneficiary of donations or donations from third parties).

Source: AXIS 1 Background Paper "Overall legal framework for social economy". Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 10th June 2021

3.3.4. Advisory and representative bodies

All the experiences refer to advisory and representative bodies. However, the two profiles (representative and consultative) must be carefully considered.

3.3.4.1. Statements on the advisory and representative bodies

Advisory bodies and representative bodies are two different types. Advisory bodies must include representatives of the social economy. Advisory bodies may be organised as collective bodies bringing together representatives of the public administrations and of the social economy organisations.

All national and sub-national legal frameworks analysed include provisions for advisory bodies. These advisory bodies are usually involved in defining national and sub-national priorities for the sector.

Representative bodies differ from consultative bodies. They may or may not be specified in the law; may or may not be independent of it as they are usually created by the initiative of the public authorities; may or may not participate in social dialogue and in the definition of major socio-economic policies. The level of recognition of these bodies therefore depends very much on national/sub-national situations. They may be created or recognized by a legal act or by a policy.

National or sub-national frameworks seem to be more effective when representative bodies that are truly active (bottom-up effect). In addition to actual representativeness, **the capacities of representative bodies may depend on the importance of national, regional, or local policies, programmes or projects that support these bodies.**

There is a risk of control over the sector with advisory or representative bodies defined by law. Thus, **a national or sub-national legal framework must leave enough room for organisations to self-organise** and avoid creating closed circles.

Box 3.3 Peer learning questions structuring the definition of the legal frameworks for the whole social economy

The first online seminar on the overall legal frameworks was structured around the following questions:

Definition of the social economy

Questions: Portugal, Spain, Italy and other countries in Europe and the world have a similar concept of social economy, or close, mostly in principles and goals. How would you embrace a broader definition of social economy in the overall discussion (United Nations one?) including the extension to for profit organizations, for example in Italy? Or for fields of operation totally new for these countries? What is the place for public (or participated by public) social economy initiatives?

Overall frameworks at sub-national level

Questions: is a robust national legal framework a pre-condition for backing a strong sub-national social economy ecosystem? What is the margin for manoeuvre for a subnational government?

Registration and certification of social economy enterprises and organisations

Questions: is registration or certification obligatory for social economy organisations? Are registries or certification bodies public or private? Is certification or registration periodical, or is it one-shot? Is certification or registration unique for any kind of social economy actor? Which are the benefits of registering?

Representative and consultative bodies of the social economy

Questions: What is the legal nature of the French Regional Chambers of the SSE? Are they public? How are they financed? Is the National Council of the Third Sector in Italy a representative body of the social economy organisations in Italy or does it group together representative organisations and governmental departments? If it includes governmental representation, is there an umbrella organisation that represents only the social economy in Italy? If yes, does this umbrella organisation group all entities or the majority? If only the majority, how many entities would be outside and what proportion does the umbrella represent? How is the representation of social economy organised in Spain? Does CEPES act as interlocutor of the sector to the public authority?

Statistics and data on social economy

Questions: How can statistics and data be collected, if there is not a clear framework for this? What kind of information is collected? How is social economy surveyed? Who collects data?

Promotion & support for social economy

Questions: How is the participation of the different ministries in the promotion of the social economy legally and organically structured? How is the participation of the central government, the regions and the municipalities in the promotion of the social economy organically articulated? How are support programmes for social economy designed? What are the objectives?

Source: Coordination team of the PL4SE-PLP

3.3.4.2. Ways ahead on the advisory and representative bodies

It is essential to multiply the opportunities for social economy organisations to meet and coordinate to assure that the social economy is properly taken into account in the law-making process.

A general advisory body could be linked to all relevant international organisations, starting with the United Nations. However, this raises the question of the definition of social economy, while at the same time it would be an example of implementing a United Nations definition of social economy (ref. previous point on this issue).

Box 3.4. Representative and consultative bodies of the social economy

CEPES: Spanish social economy representative organisation

CEPES is the national umbrella organization representing the Spanish social economy. CEPES exists since 1992, that's to say, years before the adoption of the national Law on social economy in 2011. The Law 5/2011 states (art 7) that "social economy entities may set up associations for the representation and defense of their interests". Article 7 lays down the conditions to be recognized as a national inter-sectoral confederation representing the whole social economy that will be represented in the national general administration "institutional participatory bodies that deal with the matters that affect their economic and social interests". CEPES plays this role (as a representative organization that defends the common interests of the social economy) and the Spanish Government recognizes CEPES as the national inter-sectoral confederation and the social partner representing the social economy.

The "interlocuteurs privilégiés" of the Quebec Government

The Quebec Social Economy Act states that "the Chantier de l'économie sociale and the Conseil québécois de la coopération et de la mutualité are the Government's primary interlocutors where the social economy is concerned". The Act mandates the Minister of Economy and Innovation "to develop and propose to the Government, jointly with the Minister of Finance and after consultation with the Chantier de l'économie sociale and the Conseil québécois de la coopération et de la mutualité, policies to foster the development of the social economy in Québec" (art. 6)

Source: AXIS 1 Background Paper "Overall legal framework for social economy". Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 10th June 2021

3.3.5. Statistics and data about social economy

In order to elaborate useful norms, the partnership deemed important **to provide the regulatory framework with instruments to get a clear picture of the social economy “landscape”**, also to be able comparing and ex-ante and ex-post situation. For this reason, statistics and data digging closely relates to the support initiatives in favour of the whole social economy (see below). However, those statistics are at a largely experimental stage at international level. In any case, the cases considered refer, directly or indirectly, to knowledge of the social economy system.

3.3.5.1. Statements on statistics and data about social economy

With the exception of Portugal, which has developed a satellite accounts approach according to the mandate of national Law of social economy (2013)¹⁹, and the ongoing work of Mexico and Korea, **the statistics available in other countries paint a rough picture of the social economy system rather than a clear situation.**

Some attempts at socio-metric analyses have been made, but they are still extra-statistical, insofar as they are not reported in official statistical reports.

Although most national statistical offices are interested in tools to provide a clear and comprehensive picture of the social economy, some main issues remain open: 1. The sources of the data; 2. the way the data are collected; 3. the variables to be taken into account; 4. the comparability of the data.

3.3.5.2. Ways ahead on statistics and data about social economy

International rules for satellite accounts would be an important step towards improving the system’s ability to take proper account of the social economy.

3.3.6. Promoting the social economy

All cases considered involve, in different ways, promotional activities for the social economy.

3.3.6.1. Statements on support and promotion of social economy

The cases analysed present a range of promotional activities in favour of the social economy. They mainly take the form of: a) subsidies; b) financial instruments; c) support for participation in public procurement; d) tax incentives.

19 Art. 6. Database and satellite account of social economy

These specific measures are complementary to the general strategies adopted by national and sub-national authorities to unlock the contribution of the social economy to the overall development of countries and territories.

Instruments to promote the social economy only work properly if all actors in the system work in good coordination, which will also facilitate the establishment of specific bodies and the design of strategies that will increase the impact of promotional activities. This concerns the different ministries and levels of government (or offices within the administration), but also private bodies acting as intermediaries between public sources and beneficiaries (such as financial bodies).

3.3.6.2. Ways ahead to promote social economy

In order to better involve private donors and to better take into account the specificities of social economy entities, **it would be important to develop a comparative study on the possible tax returns for conventional enterprises providing support to social economy actors and on the specific tax treatment of social economy entities.**

Box 3.5 Portuguese Social Economy Satellite Account

The Portuguese Social Economy Satellite Account (SESA) constitutes the statistical portrait of the Social Economy in Portugal. It is compiled and released by the Portuguese National Institute of Statistics (Instituto Nacional de Estatística, INE) as part of the conceptual framework of the Portuguese National Accounts System. Three editions of the satellite account are currently available. The latest edition was published in 2019, with data encompassing year 2016. The two previous editions related to 2013 and 2010. The SESA is compiled in accordance with the European System of Accounts and takes into account international standards (it combines the so-called CIRIEC approach and the UN Handbook on non-profit and related institutions and volunteer work) regarding satellite accounts, thereby guaranteeing comparability of the data both nationally (comparison with the data of other Portuguese enterprises) and internationally.

The SESA includes statistics on the size of the social economy in Portugal (in terms of number of organisations, employment, employee compensation and Gross Value Added) and impact on the national economy (in terms of employment and Gross Value Added). In addition, it includes statistics on the geographical distribution of the organisations and the breakdown by type of organisation and economic sector, thus allowing to analyse the territorial and sectoral dimension of the social economy. Given the periodic updating of the data, a historical series of data allows monitoring of the evolution and changes that occur in social economy organisations (SEO). The availability of data time series made it possible to empirically verify the countercyclical behaviour of SEO during the global economic crisis emerged in 2008. In fact, unlike other companies, SEO –even in times of crisis–have recorded an increase in the sector's contribution to total employment and paid employment. The SESA contributes to the debate on the implementation of satellite accounts in other countries and on the need for coordination at the European level in drafting the criteria and standards for compiling satellite accounts on the social economy

Source: Haarich, S., Holstein, F., Spule, S., Galera, G., Franchini, B., Borzaga, C., Chiomento, S., Spiess-Knafl, W., Scheck, B., Salvatori, G. (2020). *Impact of the European Commission's Social Business Initiative (SBI) and its Follow-up Actions. Study for DG Employment, Social Affairs and Inclusion, European Commission.*



4. LEARNING ABOUT THE SPECIFIC REGULATIONS FOR LEGAL ENTITIES OF THE SOCIAL ECONOMY

4.1. Introduction

The second phase of the exchange process among the consortium members focused on the statutory legal rules or provisions governing specific legal entities falling under the concept of social economy. This exchange contributed to learning about their specific regulatory mechanisms and legal requirements in greater depth, as well as the support and coordination instruments among public authorities competent in policies that affect the operation of social economy enterprises and organisations.

In order to facilitate the exchange among the partners coming from regions or countries where the social economy concept is not applied, or it is not a part of their legal traditions, the adopted approach was to address the regulated legal forms currently being used to advance - according to any particular context - the “social economy”.

4.2. The legal pluralism of the social economy

Regardless of the country of origin, **the consortium partners strongly agreed to consider “cooperatives” and “mutuals” legal forms of social economy together, except for Mexico, with “associations” and “foundations”.** This results from the fact that the Mexican social economy emphasises the legal entities which are majority or exclusively owned by workers. (art. 25 of the Political Constitution of the United Mexican States).

The consortium also identified “social enterprises” as belonging to the set of social economy legal entities (ILO²⁰). Although only a few partners informed about legal frameworks for these enterprises (Italy, South Korea, and Brussels Capital Region), many others reported about specific legal entities in the social economy that fit de facto – but not de jure because of lack of legal recognition of “social enterprise” as such – in this profile. This is the case for the “Community Contribution Company” or “Benefit Corporation in British Columbia or the “Community Interests Companies” in Nova Scotia, both Canadian provinces, and “work integration social enterprises” (wises), general term used in Europe to define a subset of the social economy.

Given the lack of global legal concepts, annex B contains benchmark definitions of cooperatives, mutuals, associations, foundations and social enterprises that might facilitate a better understanding of these concepts.

4.3. Specific forms of social economy enterprises in countries and territories

As a result of the specific evolution of the social economy, particular forms emerge in countries and territories. The diverse composition of the social economy is recognised by the national laws (France, Italy, Mexico, Portugal or Spain and the South Korean draft Law under discussion) that cover specific national legal entities under the “umbrella” of the social economy: “community business”, “social venture” and the “self-sufficiency enterprises” in South Korea, the “ejidos” or the “social solidarity societies” in Mexico, the “Misericordias” or the “Private Institutions of Social Solidarity” in Portugal or the Spanish “worker-owned societies”, the “insertion enterprises”, the “special employment centres” for people with disabilities, the fishermen’s associations and the “agricultural processing companies”. This list could be enlarged in the future since the Spanish Law, for instance, states that other new organisations created by specific rules governed by the social economy principles can be included in the catalogue of the social economy.

“Employee ownership trusts (EOTs) and “employee stock ownership plans” (ESOP)” are considered by the US partner a legal expression of the social economy and the set of entities is completed with other ones listed in annex C, such as the “Self Help Groups” in India.

Under restricted conditions, some countries accept commercial undertakings to be qualified as social economy enterprises when they comply with specific requirements. In South Korea, a corporation complying with the stipulations laid down in the Social Enterprise Act can ask to be certified as a “social enterprise” by the competent public authority.

20 In line with OECD, the International Labour Organisation (ILO) refers to social economy as “enterprises and organizations, in particular cooperatives, mutual benefit societies, associations, foundations and social enterprises, which specifically produce goods, services and knowledge while pursuing economic and social aims and fostering solidarity”: <https://unsse.org/about/members/iilo/>

In Brazil, the impact businesses (“negócios de impacto”) are ventures with the objective of generating socio-environmental impact and positive financial results in a sustainable manner. Cooperatives and other undertakings (commercial companies) can get this qualification.

In Spain, a limited company or a limited liability company that meets the following requirements may be qualified as “Worker Owned Companies” (Labour society):

- At least the majority of the share capital is owned by workers with an open-ended contract.
- None of the shareholders holds shares or holdings representing more than one third of the share capital.

Box 4.1. Conditions to be complied by commercial companies to be considered social economy enterprises in France.

According to the French law on social and solidarity economy, commercial enterprises are considered part of the social and solidarity economy if and only if they comply with the general conditions set out in the Law (Art 1), they seek to be socially useful within the meaning of the Law (art 2) and they apply the following management principles:

- the deduction of a fraction defined by order of the minister in charge of the social and solidarity economy and at least equal to 20% of the profits for the financial year, allocated to the constitution of a mandatory statutory reserve, known as the “development fund”, as long as the total amount of the various reserves does not reach a fraction, defined by order of the minister in charge of the social and solidarity economy, of the amount of the share capital. This fraction may not exceed the amount of the share capital. Profits are reduced, if necessary, by previous losses.
- The deduction of a fraction defined by order of the Minister in charge of the social economy and solidarity and at least equal to 50% of the profits for the financial year, allocated to retained earnings and mandatory reserves. Profits are reduced, if necessary, by previous losses.

Source: AXIS 2 Background Paper “Specific legal frameworks of entities in the Social Economy.” Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 19th July 2021

4.4. Diverse legal tools to regulate social economy entities

A wide range of legal tools are used to regulate the entities in the social economy.

Some partners (Canada, France, Mexico, Portugal, South Korea, and Spain) informed about the national general laws adopted for the whole cooperative movement. Sometimes these general frameworks are complemented by specific laws that regulate the functioning of cooperatives in sectors, as is the case in France²¹, Portugal²² or South Korea²³.

On some occasions, the regulations for cooperatives are embedded in the laws that govern all kind of corporations (for instance in Belgium, cooperatives are regulated within the national code for all companies and associations) or the framework for cooperatives is complemented by legal rules applying to any undertaking that operate in an economic sector (i.e., the Mexican savings and loans cooperatives are regulated and must be aligned with the general law of the National Banking and Security Commission).

General frameworks for mutuals might be implemented by a law (Canada or Italy), a code (France) or a Royal decree (Spain). In Italy, the law on mutuals is complemented by the Code of the Third Sector and the specific legislative decree for cooperatives in terms of their control. The general rules governing all insurance companies could also apply to mutuals as happens in Canada and Spain. It means that the mutuals are mainstreamed in the general rules applied to the operators active of the insurance market.

Regarding associations, France has a law since 1901 which has contributed to shape the national legal concept of social economy. Canada has adopted a national law on associations which are regulated under the denomination of non-for-profit corporations. France and Spain have laws on foundations and the Canadian Law of non-for-profit organisations regulates the foundations.

Close to the “social enterprises”, the “work integration social enterprises” (wises) are legally recognised in Spain and France by national laws and “social cooperatives” active in the integration of disadvantaged people – model example of wises – are regulated and classified under the social cooperatives Law in Italy.

The sub-national authorities have legislative and promotional competences for social economy entities in countries with a strong federal structure. In the case of Spain, regional governments (“Comunidades Autónomas”) have adopted laws of cooperatives, which have also introduced

21 <https://www.entreprises.coop/lois-particulieres-des-cooperatives>

22 Agricultural, craft, marketing, consumer, credit, teaching, housing fisheries, worker cooperatives, services, social solidarity cooperatives.

23 Agricultural, Fisheries, Forestry, Credit, Community Credit, Consumer cooperatives, SME cooperatives, Tobacco Growers

- in some cases - specific cooperative forms²⁴. As for mutual societies, the regional governments of Catalonia, Valencia, the Basque Country, and Madrid have adopted their own laws and some regional Governments have also adopted laws on associations and insertion enterprises. It should also be noted that the public authorities adopt “ordinances” and local rules to regulate the functioning of social economy enterprises (Seoul metropolitan city framework ordinance on social Economy, for instance).

These legal tools govern how each one of the social economy entities are managed in terms of governance and member participation in cooperatives, mutuals or any other worker-owned social economy enterprise. They regulate how their profits are distributed or reinvested, if they are for profit or non-for-profit entities, their specific tax treatment and audit mechanisms to validate that they comply with the social economy principles. These laws and regulations also rule the support programmes or whether public authorities can be members of the social economy; the public registration; and qualification processes to acquire legal recognition.

As mentioned in the statements of axis 1, the peer learning exchange highlighted that qualification or registration is important to allow social economy enterprises and organisations the ability to gain access to tax benefits and to other public aid, as well as to reserved contracts launched by public authorities in their public procurement processes. In Canada, registered charities (including foundations) can issue tax receipts for donations received and may claim a rebate on federal sales tax.

²⁴ Law 6/2008, of 25 June, on the Small Cooperative Society of the Basque Country

Box 4.2 Legal entities and qualifications identified by PLP partners as social economy enterprises according to their contexts

	Coope- ratives	Mu- tuals	Asso- ciations	Founda- tions	Social en- terprises	Charities & Trust	Other speci- fic forms
Canada	X	X	X	X ²⁵	No ²⁶	X ²⁷	
Italy ⁸	X	X	X	X	X		X
Mexico	X	X					X
Portugal	X	X	X	X		X ²⁹	X
South Korea	X		X ³⁰	X ³¹	X ³²		X
Spain	X	X	X	X	No ³³		X
United States of América	X	X		X		X	X
Catalonia	X	X		X			X
Brussels Capital region	X				X ³⁴		

Fuente: Elaboración propia de los autores de este estudio

25 Charities must first incorporate as a non-profit organisation federally or provincially. Then apply for charitable statutes as a foundation from the federal Government.

26 "Community Contribution Company" or "Benefit Corporation" in British Columbia and the "Community Interests Companies" in Nova Scotia are considered linked to the concept of "social enterprise".

27 Foundations must first incorporate as a non-profit organisation federally or provincially. Then apply for charitable status as a foundation from the federal Government.

28 Under the concept of third sector.

29 Even though there is no legal recognition of charities and trusts in Portugal, some social economy organisations could be linked to this concept such as the Private Institutions of Social Solidarity (IPSS).

30 Associations are classified as social economy entities:

(1) whether they are certified as social enterprises; (2) whether they are created as cooperatives or social cooperatives. Unless one of these two criteria is met, associations in Korea are not generally considered as social economy entities. Source: Global Social Economy Forum (GSEF) - South Korea

31 Whether foundations are classified as social economy entities, as associations, mainly depend on two factors: (1) whether they are certified as social enterprises; (2) whether they are created as cooperatives or social cooperatives. Except for a limited number of foundations that meet these two criteria, foundations associations in Korea are not generally considered as social economy entities. In some cases, the foundations involved with social finance and impact investment (such as SVS Foundation) are conventionally considered as a part of social economy, even without being legally categorized as a social economy organization. Source: Global Social Economy Forum (GSEF) - South Korea

32 This includes integration enterprises.

33 Integration enterprises are considered social economy enterprises linked to the concept of social enterprises.

34 This includes integration enterprises.

Box 4.3. Legal forms considered to advance the social economy in US

United States of America is one of the countries where the social economy concept is not applied, or it is not a part of their legal traditions. The US partners of the consortium PL4SE-PLP (the US Federation of Worker Cooperatives and the Democracy at Work Institute) identified the following entities as part of the social economy, according to their exchanges with other consortium partners and own experience:

- **Cooperatives:**

- Worker Cooperatives: One of several broad-based employee shared ownership forms that include Employee Stock Ownership Plans (ESOPs) and Employee Ownership Trusts
- Consumer Cooperatives: membership based on use of services (including purchasing of goods).
- Purchasing or Shared Services Cooperatives: Purchasing cooperatives combine member demand to achieve better pricing, availability, and delivery of products or services. (Most shared-services cooperatives are legally organised as a cooperative or as a non-profit corporation that operates on a cooperative basis)
- Agricultural Cooperatives (aka producer cooperatives): membership based on the contribution of shared goods or services. The members use the coop to better negotiate prices and market their products.
- Housing Cooperatives: A housing cooperative is formed when people join on a democratic basis to own or control the housing and/or related community facilities in which they live. Usually, they form a not-for-profit cooperative corporation.

- **Mutuals.** The history of cooperatives in the US can be traced back to the foundation of mutual aid societies, notably in Black communities. There are fraternal benefit societies which often are not considered or aligned with the solidarity economy movement. <https://www.psupress.org/books/titles/978-0-271-06216-7.html>

- **Social enterprises.** Social enterprises are not defined by law in the USA. However, there has been significant discussion about the role of social enterprises in community development and the ways that this may be regulated in the future.

- Social enterprises span the spectrum of non-profit to for-profit entities. In general, three types of social enterprise models are recognised in the USA:

- Opportunity employment: organizations that employ people who have significant barriers to mainstream employment
- Transformative Products or Services: organizations that create social or environmental impact through innovative products and services.
- Donate Back: organizations that contribute a portion of their profits to nonprofits that address basic unmet needs.

Additional information:

- https://www.law.nyu.edu/sites/default/files/upload_documents/Tepper%20Report%20-%20State%20of%20Social%20Enterprise%20and%20the%20Law%20-%202017-2018.pdf,
- <https://www.trust.org/contentAsset/raw-data/1b34bbc3-de52-477a-adae-850a56c2aabe/file>

- **Associations.** Associations in the USA are, by definition, non-legal entities. The official legal definition of an association is: "Any group of people who have joined together for a particular purpose, ranging from social to business, and usually meant to be a continuing organization. It can be formal, with rules and/or by-laws, membership requirements and other trappings of an organization, or it can be a collection of people without structure. An association is not a legally-established corporation or a partnership. To make this distinction the term "unincorporated association" is often used, although technically redundant.
- **Foundations, charities, and trusts.** Foundations, charities, and trusts all fall into one legal category. Legally, there are two types of foundations in the US: private foundations (usually funded by an individual, family, or corporation) and public charities (community foundations and other non-profit groups that raise money from the general public).

A non-profit organization is a group organized for purposes other than generating profit and in which no part of the organization's income is distributed to its members, directors, or officers. Non-profit corporations are often termed "non-stock corporations." They can take the form of a corporation, an individual enterprise (for example, individual charitable contributions), unincorporated association, partnership, foundation (distinguished by its endowment by a founder, it takes the form of a trusteeship), or condominium (joint ownership of common areas by owners of adjacent individual units incorporated under state condominium acts). Non-profit organizations must be designated as non-profit when created and may only pursue purposes permitted by statutes for non-profit organizations. Non-profit organizations include churches, public schools, public charities, public clinics and hospitals, political organizations, legal aid societies, volunteer services organizations, labor unions, professional associations, research institutes, museums, and some governmental agencies.

Non-profit entities are organized under state law. For non-profit corporations, some states have adopted the Revised Model Non-Profit Corporation Act (1986). For non-profit associations, a few states have adopted the Uniform Unincorporated Non-Profit Association Act (See Colorado §§ 7-30-101 to 7-30-119).

Some states exempt non-profit organizations from state tax and state employment programs such as unemployment compensation contribution. Some states give non-profit organizations immunity from tort liability (see Massachusetts law giving immunity to a narrow group of non-profit organizations) and other states limit tort liability by enacting a damage cap. State law also governs solicitation privileges and accreditations requirements such as licenses and permits. Each state defines non-profit differently. Some states make distinctions between organizations not operated for profit without charitable goals (like a sports or professional association) and charitable associations in order to determine what legal privileges the respective organizations will be given.

For federal tax purposes, an organization is exempt from taxation if it is organized and operated exclusively for religious, charitable, scientific, public safety, literary, educational, prevention of cruelty to children or animals, and/or to develop national or international sports. Social security tax is also currently optional although 80 percent of the organizations elect to participate.
<https://nccs.urban.org/publication/nonprofit-sector-brief-2019#the-nonprofit-sector-in-brief-2019>

- **Others:** ESOPs and Employee Ownership Trusts (EOT) are forms of broad-based employee share ownership. ESOPs are regulated under federal retirement investment account regulations (ERISA). Definition: An employee stock ownership plan; as defined in section 4975(e)(7) of the Internal Revenue Code of 1986 which meets the requirements of section 409 of the Internal Revenue Code of 1986.

4.5. Learnings on the specific legal frameworks of entities in the social economy (Axis 2).

The **conclusions drawn from the debate among the consortium partners on the legal frameworks regulating specific social economy entities** (see Box 3.4. about the questions formulated during the second online seminar) **resulted into the following statements agreed by the consortium partners** (sentence by sentence) after the exchange among them:

4.5.1. Introduction to the PL4SE-PLP learning process on the specific legal frameworks of entities in the social economy

This PLP focuses on legal environments conducive to the development of the social economy. This issue is particularly sensitive to the different legal cultures and traditions of countries or geographical areas. Nevertheless, it is possible to initiate an exchange and learning process focused on the essential points of the different global legal frameworks.

In particular, in this case, through sharing of knowledge and processes of mutual reflection and learning it was possible to converge on some essential elements related to the legal environments of specific kinds of entities belonging to the social economy.

These elements are reported in the form of statements shared among PLP participants, and in some cases in the form of possible development paths or ways ahead.

Box 4.4. Peer learning questions around specific legal frameworks of entities in the social economy

The second online seminar on the specific legal frameworks of the entities in the social economy was structured around the following questions:

- Legal environments, definition, and statutes: criteria for the inclusion of entities among social economy “families”

- Question 1: In Mexico, associations and foundations seems not to be considered as being part of the social economy. Is this due to the fact that they are considered “not-for-profit” (i.e., they do not carry out business activities)? Could associations in Mexico develop an economic activity?
- Question 2: Do “Community businesses” in Korea have legal forms or can they be informal networks? Are they are made up only of individuals or businesses? Networks of shops or neighbours can participate. How do they finance their activities?

- Features of social economy entities.

- Question 3: In Korea, the framework law on cooperatives said: ‘The term “cooperative” means a commercial organisation that aims to enhance the rights and interests of its members, ...’ does not define the cooperative as a corporation: is the cooperative considered a corporation, according to law?
- Question 4: in France, what is the difference between “sociétés coopératives d’intérêt collectif” and other forms of cooperatives, from a statutory point of view? Do these companies have a standard cooperative form or can they take other forms?
- Question 5: Do “joint stock cooperative” companies exist in Italy? Do the rules of a limited liability company apply to small cooperatives with fewer than 20 members or with assets not exceeding €1 million?
- Question 6: in France, an audit of cooperatives is foreseen to verify compliance with the principles in the organisation and its functioning: who conducts it? who pays for it? how far can corrective measures be taken in case of non-compliance?

- Public bodies – role of national/subnational authorities

- Question 7: In Spain, are the requirements for registration in the regional registers the same for each region or do they differ from one region to another? What autonomy do regions have to grant the status of social economy body to entities not provided for by national legislation?
- Question 8: in Canada, does the lack of a specific department for the social economy complicate or, on the contrary, help coordination between different offices/levels of government?
- Question 9: By stating that the government stands as a solid base for the development of the social and solidarity economy, do you imply that this role played by the government is imposed by a general legal framework? In other words, is this role legally sanctioned or is it a matter of political will?

- Special characteristics of the legislation of social economy entities

- Question 10: Some countries do not have a specific legal recognition for social enterprises, while others have a specific provision. Can non-recognition be an obstacle to the development of the social economy? Conversely, has the recognition of ‘social enterprise’ shown positive impacts where it exists?
- Question 11: has the Spanish legal reform process been a monolithic process aimed at the legal and structural definition of the system, or has it been articulated through specific and concrete measures?

Source: Coordination team of the PL4SE-PLP

4.5.2. Legal environments, definition, and statutes: criteria for the recognition of entities as social economy

The definition of the social economy and related concepts remains a major issue for the partnership, not yet fully resolved. Nevertheless, several countries and regions have developed legal environments that embrace specific forms of social economy entities. This was done through the elaboration of specific statutes and the identification of criteria that help to associate the different profiles of entities to the social economy environment.

4.5.2.1. Statements on the legal environments, definition and statutes.

The existence of a reference to specific statutes associated with the social economy at the level of a general norm (constitution, fundamental law) may help the formation of different social economy entities, although it is not a sufficient condition.

The adherence to a specific statute defined by national rules may help to determine whether an entity belongs to the realm of the social economy or not. The analysis of the objective pursued by the social economy entity may also serve the purpose or help to better clarify whether an entity belongs to the social economy or not. A declared not-for-profit character of an entity may also complete the picture. "Not-for-profit" means that the pursuit of maximising profit distribution is not the purpose of the entity. This does not preclude entities from generating surpluses and distributing them in accordance with specific rules set out in the entity's articles of association or by law.

Adherence to a statutory framework defined by law provides entities with legal recognition.

This is an essential condition to distinguish organised entities from non-formalised community experiences. Further aspects (such as collective character or rules on profit distribution) further specify the profile of social economy actors.

The participation of local authorities in the corporate structure does not preclude, in itself, the social economy character of an entity, unless this is explicitly stated by a general rule.

On another hand, the participation of public authorities in the social structure, if not adequately regulated, may undermine the principle of independence of a social economy entity.

4.5.2.2. Ways ahead for legal environments, definition and statutes

It appears useful to develop comprehensive and flexible views on the features of social economy entities (status).

It would be useful to clearly include a wide range of organisations in the social economy, not limiting the perimeter to business-oriented organisations, but including social and solidarity economy initiatives carried out by associations, not-for-profit organisations, NGOs, etc., as many important experiences can be identified in these categories of organisations. This is valid to the extent that they carry out an economic activity³⁵.

It would be useful to identify and standardise (as far as possible) a specific international reporting tool aimed at documenting the status and practice of social economy entities. The tool should be generated in partnership with stakeholders.

Box 4.5. Recognition of cooperatives by Constitutions and international treaties

Many constitutional provisions provide a solid basis for state support for enterprises in this sector. This starts with the numerous references to cooperatives. Indeed, some twenty constitutions worldwide, on all continents, express the direct support for cooperatives:

- Art. 54 of the Treaty on the functioning of the European Union states that 'Companies or firms' means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.
- Article 45 of the Constitution of the Republic of Italy, states that "The Republic recognises the social function of cooperation of a non-speculative and mutually supportive nature. The law promotes and encourages cooperation by appropriate means and guarantees its character and objectives by appropriate controls".
- The Constitution of the Republic of the Philippines, in its Article 12 section 15, goes further by underlining the contribution of cooperatives not only to the local economic development of a state, but also by contributing to the achievement of social justice. In this sense, it states that "Congress shall create an agency to promote the viability and growth of cooperatives as instruments of social justice and economic development".
- The Plurinational State of Bolivia, in article 55 of its Constitution, after mentioning the basic principles of the cooperative system which is "based on the principles of solidarity, equality, reciprocity, equity of distribution, social purpose and non-profit for its members", instructs the State to "promote and regulate the organisation of cooperatives through the law".
- In Taiwan, according to Article 145 of the Constitution, "cooperative enterprises shall receive encouragement and assistance from the State".
- Art. 129. 2 of the Spanish constitution states that "the public authorities shall efficiently promote the various forms of participation within companies and shall encourage cooperative societies by means of appropriate legislation. They shall also establish means to facilitate access by the workers to ownership of the means of production".

Source: AXIS 1 Background Paper "Overall legal framework for social economy" Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 10th June 2021 and AXIS 2 Background Paper "Specific legal frameworks of entities in the Social Economy" Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 19th July 2021

³⁵ Any type of activity that generates an economic flow, irrespective of whether the activity is entrepreneurial or not

4.5.3. Characteristic features of social economy entities

The scope of social economy entities appears diverse. However, according to the PLP, it should be possible to identify some key characteristics that help to qualify entities as belonging to the social economy.

4.5.3.1. Statements on the characteristic features of social economy entities

The profile of multi-stakeholder enterprises (e.g., cooperatives) includes those social economy entities that carry out a business activity involving different types of stakeholders, such as beneficiaries and donors, as well as workers.

Social economy enterprises can look for the common interest of its own members (for instance worker cooperatives) **or they can look for the common interest of its own members and for the general interest at the same time** (i.e., associations, foundations providing services of general interest or social cooperatives). The organisation of the mutuality system - for the benefit of members only or for the benefit of different internal and external stakeholders at the same time - can help to discriminate between a) cooperatives that belong to the specific field of social enterprise and b) those that do not, while remaining part of the social economy.

A system of checks against the principles enounced in national/supranational pieces of legislation is particularly necessary for social economy entities. Such a system may be public or private but should always be defined in the rules governing the particular type of entity.

In countries where the cooperative statute is not routinely used, and therefore not widely known, the application of cooperative principles to (business) actors of different types may give rise to confusion.

In cooperatives, the definition of specific weights for different types of internal stakeholders - which may de facto derogate from the one-head-one-vote principle - may give rise to misunderstandings among the general public, if not regulated and explained by national rules.

4.5.3.2. Ways ahead on the characteristic features of social economy entities

The issue of defining principles and procedures for specific auditing of different categories of social economy organisations needs to be further explored. This is an important component for a comprehensive legal definition of social economy organisations (commercial or not) and for the identification of the different components of the world of the social economy.

Box 4.6. Comparison of (general) cooperatives and social cooperatives in South Korea

	(General) cooperatives	Social Cooperatives
Type of corporation	• (For-profit) corporation	• Non-profit corporation
Means of establishment	• Registration with municipal and principal government	• Approval by relevant central administrative agency
Business activity	• Any area excluding finance and insurance	• More than 40% of activity must serve public good* • Finance and insurance businesses are not allowed, yet, microfinance and mutual aid may be offered for its members.
Legal reserve	• More than 10% of surplus	• More than 30% of surplus
Dividend	• Possible • *Mandatory dividend based on members' use: more than 50% of total dividend	• Dividend not permitted
Liquidation	• Remaining assets will be disposed following the bylaws	• Will belong to non-profit corporations or state coffers

*Type of public services provided by social enterprises: 1. Local community contribution, 2. Social service provision, 3. Job-creation, 4. Consignment businesses, 5. Others (relevant government body's discretion)

Source: AXIS 2 Background Paper "Specific legal frameworks of entities in the Social Economy." Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 19th July 2021

Box 4.7. Multi-stakeholder cooperatives

The French collective interest cooperative

These cooperatives (société coopérative d'intérêt collectif – SCIC), introduced in 2001 by the Law on Collective Interest Cooperative Societies, are one of the legal embodiments of the idea of a cooperative that is explicitly aimed at pursuing social objectives.

SCIC's legal form may be seen as a social enterprise, although it is rarely referred today as such in France. SCICs pursue an external collective interest (which has a public good dimension) in addition to meeting the internal stakeholders' interests. Their collective ownership is shared between a diversity of stakeholders (they have to integrate at least three different stakeholders: workers, users and a third category minimum, with the possibility to include public representatives in their ownership structure)

Source: European Commission (2020) Social enterprises and their ecosystems in Europe. Updated country report: France. Authors: Francesca Petrella and Nadine Richez-Battesti. Luxembourg: Publications Office of the European Union. Available at <https://europa.eu/1Qq64ny>

Multi-stakeholder cooperatives in Canada

A multi-stakeholder coop serves the needs of different stakeholder groups—such as employees, clients, and other interested individuals and organizations. This type of coop is usually found in health, home care and other social enterprises. Multi-stakeholder cooperatives (coopératives de solidarité) exist in some provinces (Alberta, Manitoba, Ontario, Québec) and these are a subset of cooperatives.

Source: AXIS 2 Background Paper "Specific legal frameworks of entities in the Social Economy." Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 19th July 2021 and "Information Guide on Co-operatives". Government of Canada. https://www.ic.gc.ca/eic/site/106.nsf/eng/h_00073.html

4.5.4. Public bodies – role of national/subnational authorities

National, regional, and local authorities have specific roles to play for the development of the social economy. This is very much related to the articulation of public functions within the States. Nevertheless, some points are transversal.

4.5.4.1. Statements on the role of national/subnational authorities

A (partial) autonomy of sub-national registers from national registers is typical for decentralised states. This autonomy makes it possible to identify peculiar and territory-related aspects/features. It allows for the inclusion of specific local- types of entity in the scope of the social economy.

The political will to implement policies in favour of the social economy is a necessary element, as the mere existence of a legal framework is not sufficient. A strong embeddedness of the social economy in national and sub-national contexts can make this need less relevant. On the other hand, the opposite political will could seriously damage the development of the sector.

The lack of specific social economy departments within public administrations complicates the realisation and implementation of social economy policies, which usually require multiple approaches. This can be partly compensated by persons/offices ensuring a strong coordination of policies.

4.5.4.2. Ways ahead on the role of national/subnational authorities

It remains important for public administrations to ensure a specific approach to registration in order to capture different ways of applying the principles and characteristics of the social economy by different entities. Once a homogeneous general classification is ensured, sub-national levels could provide specific sections of their registers, focusing on local/regional aspects relevant to specific local policy orientations related to social economy.

Local and regional authorities should assume specific roles for the development of the social economy and for the implementation of national policies. This objective should be incorporated into all local development policies as a horizontal objective.

Box 4.8. Coordination among public departments in charge of policies for the social economy in Italy

Competence is shared between various administrations at different levels of the Italian government. The administrations cooperate with each other to ensure a coordinated framework in public policies. Among the central administrations involved are the Ministry of Labour and Social Policy, the Ministry of Economic Development for cooperatives and for the promotion and support of enterprises (including social enterprises), the Ministry of Economy and the Revenue Agency for tax matters.

At sub-state level, the competences of regions (and sometimes municipalities) are identified on a territorial basis. The regions have specific competences on the management of the single register of the third sector and on the financial support to third sector bodies, as well as on the planning and design of public social interventions in their territories.

AXIS 2 Background Paper “Specific legal frameworks of entities in the Social Economy.” Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 19th July 2021.

4.5.5. Special characteristics of the legislation about specific social economy entities

Each social economy organisation has its own special characteristics, which have to be taken into account and dealt with in some way.

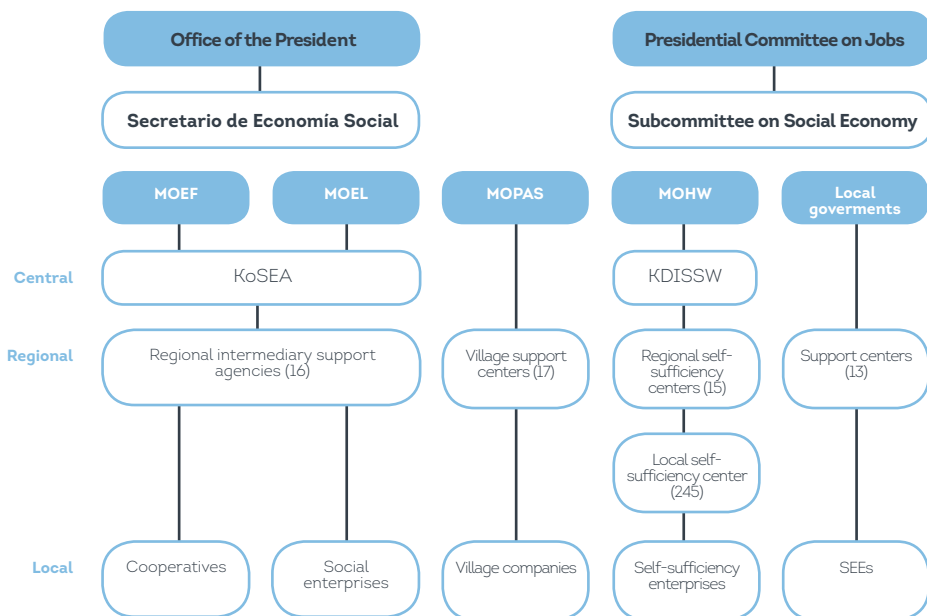
4.5.5.1. Statements on the role of national/subnational authorities

The existence of a norm defining the perimeter of social economy actors helps to recognise the phenomenon, but also to reduce both legal and social prejudices and lack of recognition (which also has an impact on widespread support for the sector).

The existence of a norm defining a perimeter helps the sector itself to clarify its role in society.

The existence of a standard definition helps to link the principles governing social economy actors with the specific rules they have to comply with and the (possible) support measures they can benefit from. The absence of such a standard makes it very difficult to access direct forms of public support, forcing the social economy to follow indirect and complicated paths. However, such a standard should be flexible and able to incorporate innovation.

Figure 4.1. National, regional, and local South Korean Public departments involved in social economy



Source: KoSEA and GSEF. Acronyms: MOEF: Ministry of Economy and Finance; MOEL: Ministry of Employment and Labor, MOPAS: Ministry of Public Administration and Security, MOHW: Ministry of Health and Welfare

(Statements on the role of national/subnational authorities - follows)

The existence of a general recognition of the social economy opens up the possibility of different statuses, depending on the social, cultural, economic (etc..) context.

Recognition also implies the introduction of constraints, which therefore need to be balanced by as many advantages and specific measures.

The existence of a defining norm helps to compare situations in different states, thus favouring the circulation of ideas and models.

Visibility vis-à-vis third parties, facilitated by a general standard allowing for a shared definition, helps public appreciation of the social value generated by social economy entities.

The existence of frameworks for enterprises with a certain social impact that are not part of the social economy (such as B-corps, for example) **does not help in the identification of the social economy, especially vis-à-vis the public, and necessitates clarification at regulatory level.**

4.5.5.2. Ways ahead

Once the characteristics related to the social impact produced by the social economy identified, **a specific regulatory framework is needed to produce a better identification and visibility (e.g. economic statistics) of the social economy. In this framework, specificities related to regional or local realities should be included in the registries at local level.**

Box 4.9 Working for a common legal framework for Mexican social economy

The Mexican Law on Social and Solidarity Economy - enacted in 2012 - expressly refers to cooperatives, ejidos and communities and others; however, the laws regulating each of these entities have specific contents. It will be necessary to harmonise these laws with each other, as well as to harmonise the laws of sub-national governments related to them.

A comprehensive legal framework for the social economy offers the following main advantages: 1. to make them visible as a matter of public interest; 2. to establish criteria that defines the characteristics of the entities that are part of the social economy; and 3. to designate a public authority in charge of the promotion and development of social economy from a transversal approach, involving both different departments at federal public level (with an intergovernmental approach) and the sub-national and local governments.

Mexico is in the process of constructing a policy for the promotion of the social economy. This focuses on promoting its enterprise or organisational models which has broader aims. This policy is supported on a medium-term horizontal programme (**Programme for the Promotion of the Social Economy 2021-2024 to be published**). Its objectives can be summarised as follows: 1. to extend the culture of the social economy; 2. to improve the social economy ecosystem in order to facilitate its development; 3. to contribute to strengthening the entrepreneurial capacities of social economy entities; 4. to contribute to the development of social economy financial entities (savings, credit, insurance); and 5. to contribute to the design and implementation of a specific financing policy for social economy entities.

Source: AXIS 2 Background Paper "Specific legal frameworks of entities in the Social Economy." Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 19th July 2021



5. LEARNING ABOUT REGULATIONS ON GENERAL POLICIES FACILITATING THE SOCIAL ECONOMY

5.1. Introduction

Once the legal frameworks governing the social economy as a whole and the norms that regulate “the entities in the social economy” were examined, **the third phase of the peer learning process was devoted to analysing the provisions dealing with general policies that facilitate the functioning of the social economy.**

The focus of this step was to activate the learning process on how legal frameworks promote social economy according to the importance granted to its role as a key driver of economic dynamism, social and environmental protection and socio-political empowerment (Secretary General of the United Nations, 2020³⁶). As already highlighted by the findings of the first exchange about legal frameworks of social economy (axis 1), **the range of support instruments can take a variety of forms (subsidies; financial instruments; support for participation in public procurement or tax incentives) regulated also by general provisions. This topic is closely linked to how the market rules allow (or not) for the functioning of social economy entities and the reasons behind any specific treatment applied to social economy vis-à-vis other economic operators. This issue is also related on how legal frameworks enhance equal competitive conditions for social economy to those provided to other forms of enterprise.**

³⁶ Report “Socially just transition towards sustainable development: the role of digital technologies on social development and well-being of all”.

5.2. Mainstreaming the social economy into general legal frameworks

Given the wide range of topics covered by axis 3 of the peer learning partnership, five main areas on which to focus the last exchange among partners were identified by the “Coordination Team” in the light of the findings of the previous exchanges:

1. Regulations and provisions on measures facilitating the access of social economy entities to public procurement. Responsible public procurement regulations provide indirectly support to operators that contribute to achieve social and environmental objectives³⁷ by purchasing products and services they produce, rather than directly giving them grants or subsidies (United Nations Research Institute for Social Development – UNRISD and GSEF)³⁸. The interest of the consortium on public procurement emerged from the discussions and exchanges of best practices among partners. Furthermore, this topic allowed the consortium to address a legal area involving administrations from transnational – the European Union – to national and sub-national powers (especially local ones) with different level of competencies that affect the social economy.

2. Measures regulating fiscal treatment of social economy enterprises and organisations. While some countries in the consortium incorporate legal provisions for specific tax treatments and incentives for social economy entities at sub-national (Catalonia, Brussels Capital Region) and national levels (Canada, France, Italy, Mexico, South Korea, or Spain), the Peer-Learning Partnership focused on how and why those measures are adopted and justified.

3. Provisions regulating public instruments to support access to finance or other public and private financial instruments. All consortium partners (public bodies and non-public bodies) have provided valuable experiences from their respective countries or regions that confirmed the wide range of financial public and private instruments for social economy enterprises and organisations (OECD, 2007³⁹).

4. Regulations and provisions on measures and incentives for job creation and entrepreneurship by social economy entrepreneurs. The Peer-Learning Partnership has confirmed that the social economy is embedded in regulations governing employment policies and initiatives aimed at promoting job creation and entrepreneurship at subnational (Belgium – Brussels capital-, Catalonia, Spanish regions, Mexican States – State of Puebla) and national levels (Belgium, Brazil, France, Mexico, South Korea, Spain) for all people, including vulnerable groups. (OECD, 2013⁴⁰).

37 “Making Socially Responsible Public Procurement Work: #WeBuySocialEU. 71 Good Practice Cases”. Authors: Philipp Tepper and others 2020

38 Policy Systems and Measures for the Social Economy in Seoul. Kil-Soon Yoon and Sang-Youn Lee.

39 Chapter “A Supportive Financing Framework for Social Economy Organisations”. The Social Economy. Building Inclusive Economies.

40 Job creation through the social economy and social entrepreneurship.

5. And **regulations and provisions on measures dealing (in general) with support programmes to strengthen the social economy** as mentioned in the introduction of this chapter.

5.3. Findings on regulations on general policies facilitating the social economy (Axis 3)

The **conclusions drawn from the debate among the consortium partners on the regulations on general policies facilitating the social economy** (see Box 4.1. about the questions formulated during the third online seminar) **resulted into the following statements and ways ahead agreed by the consortium partners** (sentence by sentence) after the exchange among them:

5.3.1. Introduction to the PL4SE-PLP learning process on general policies facilitating the social economy

The PL4SE-PLP focuses on legal environments conducive to the development of the social economy. This issue is particularly sensitive to the different legal cultures and traditions of countries or geographical areas. Nevertheless, **it is possible to initiate an exchange and learning process focused on the essential points of the different global legal frameworks.**

In particular, in this case, through sharing of knowledge and processes of mutual reflection and learning it was possible to converge on some essential elements related to regulations dealing with different legal areas, that could facilitate (on in some cases hinder) the functioning of the social economy. The choice of the legal areas was done in order to select those that usually have an impact on the social economy; other areas could be added, according to different context.

The key conclusions of the exchanges are reported in the form of statements shared among PLP participants, and in some cases in the form of possible development paths.

Box 5.1 Peer learning questions around the regulations dealing with general policies that facilitate the functioning of the social economy

Row of questions to some partners (Italian Government; Spanish Government; Region Brussels Capital; Region of Catalonia; RTES-France; Canada Government (points 2 and 3 below) and South Korea: GSEF & KoSEA (points 2 and 3 below)

1. Does the transposed European Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement only apply to favour the employment of disabled or socially excluded persons?
2. Irrespective of the above directive, does the current regulation guarantee a minimum percentage of public procurement to cooperatives or other kinds of social enterprises?
3. If the answer to question 2 is yes, is the cooperative or social enterprise required to prove in any way that it complies with the cooperative principles or other principles defined in a piece of legislation?

Specific questions

To the Italian Government: Does the fact that the coordination between the provisions on public procurement and the provisions of the Third Sector Code on the regime of conventions with third sector entities provides an alternative to that of procurement is attached to the public contracts code, which means that procurement are the norm and conventions the exception?

4. To the Spanish Government: How are the fiscal exemptions foreseen by the national regulations justified?
5. To the Catalan Government: Should a preferential fiscal treatment applicable to social economy enterprises and organizations be subject to review by the courts?

Row of Questions to several partners (South Korea: GSEF & KoSEA, Canada Government, Italian Government, Spanish Government and RTES France)

6. Under current legislation, do savings and loan cooperatives only collect savings from their members or do they also collect savings from non-members?
7. Under current legislation, do savings and loan cooperatives only extend credit to their members or also to non-members?
8. Do savings and loan cooperatives have the same standard of regulation for the protection of savings as banking financial intermediaries?
9. What is the relative weight of savings collected by savings and loan cooperatives in the total savings collected by the financial system?
10. Under current legislation, do savings and loan cooperatives only extend credit to their members or also to non-members?

Specific questions

11. To the attention of GSEF & KoSEA: The Special Act on private rental housing seems to be an interesting tool. Do social enterprises have to apply for this financial benefit or is it granted automatically to approved/recognised social enterprises? Is this tool used a lot by social enterprises? Does it really meet a need?
12. To the attention of the Italian Government: Is there any example of social bonds already issued by national credit institutions in compliance with the Code of the Third Sector? How are these bonds structured?
13. To the attention of the Catalan Government: Are the subsidies limited to financial support or do they provide access to support services, training etc.? What are the conditions to get them? Is there a collaboration with trade unions?
14. To the attention of: RTES-France. Which are the features of the projects admitted to the fund for the development of the associative life?
15. To the attention of the Brazilian representatives: The State of Rio Grande do Sul adopted a law to promote the Popular Solidarity Economy. What does the term "popular" refer to? Is there a specificity regarding the history of Rio Grande do Sul?
16. To the attention of the Italian Government: The fund for social economy appears to have a direct impact on vulnerable persons: does the Minister for Employment have a role in the management of it? Furthermore, it seems it is only directed to social economy entities qualified as ONLUS (Organizzazione non lucrativa di utilità sociale) Thus it excludes non-social cooperatives (or social enterprises not qualified as ONLUS)?

Source: Coordination Team

5.3.2. Regulations and practices related to public procurement

The purchase of goods and services by public authorities is recognised to have a strong impact on the economy, also through supporting the development of specific business models. Moreover, it is now recognised in many contexts that public authorities can pursue different and broader policy objectives through their purchasing choices. Although the situation varies from one country – or one continent – to another, and often also inside the same country, the following points can be considered as common to all.

5.3.2.1. Statements on regulations and practices related to public procurement

Reservation of quotas of public purchase for work-integration initiatives (or for enterprises carrying out work-integration activities) has become familiar for many countries. However, a clear definition of categories included under the definition of “disadvantage” has to be established in order to avoid confusion and misuse of the provision.

Reservation of quotas of public purchase for social economy enterprises, regardless of their field of intervention, was experienced in many countries, and still is in force in some. In many cases, the initiative is taken at sub-national level. Specific laws reserve quotas for some specific kinds of social economy enterprises, or for enterprises pursuing specific objectives (e.g., social, environmental or cultural). However, this practice is very often left to the political will of governments.

Reservation of quotas of public purchase for social economy enterprises in some specific fields (e.g., social services of general interest) exists in some countries, although it is limited to enterprises holding specific features (re-investment of profit, participatory and democratic governance, among other features applied by the providers or suppliers in their management). Where this is implemented, a definition or criteria to define social services of general interest, as well as a definition of the features of the enterprise are to be found in pieces of legislation.

The possibility to procure exclusively from social economy enterprises (or other community-based initiatives), where implemented, is a strong instrument to support development of marginal or peripheral communities.

Cross-references between public procurement regulations and social economy regulations have become more and more rare, but they can help clarifying the picture and reduce conflicts.

Box 5.2 Italy. Legal linkages between the public contracts and the third sector (social economy) regulations

Following the approval of the “Third Sector Code”, the Italian parliament introduced a modification in the Public Contracts Code aimed at clarifying the rules applicable to public-private partnership in some specific sectors considered of general interest. In details, the following articles were reviewed in order to comply with the provisions of the “Third Sector Code”:

Public Contracts Code (legislative decree 50/2016 as amended)

- Art. 30, par. 8 - art. 59, par. 1, art. 140, par. 1 concerns the coordination between the provisions on public procurement and the provisions of the Third Sector Code on the regime of conventions with third sector entities as an alternative to that of procurement.
- Art. 112: possibility of contracts reserved for social economy operators with the aim of integrating disadvantaged workers
- art. 143: reservation for contracts for health, social and cultural services in favour of economic operators characterised by non-profit or participatory management.

Third Sector Code (Legislative Decree 117/2017)

- Articles 55-57: Involvement of third sector entities in the planning, design and implementation of interventions in matters of general interest: special agreement-based regime, alternative to the contractual regime, for associations for social promotion and volunteering; specific contractual regime for emergency health transport services carried out by voluntary associations.

Source: AXIS 3 Background Paper “Specific regulations dealing with general legal matters that facilitate the functioning of the social economy” Online Seminar 7th September 2021.

5.3.2.2. Ways ahead

The reservation of quotas for social economy enterprises pursuing work-integration activities is still optional in most countries. Furthermore, such reservation, as well as the reservation for social economy enterprises other than work-integration enterprises, are often limited to specific fields of activity (i.e., welfare services). These limitations could be overcome by the evolution of public procurement regulations. **Clearer (international) definitions of beneficiaries of quotas or guidelines for direct public purchase from social economy enterprises would help in this process.**

The political will plays an important role in the decision of public authorities to reserve quotas of public purchase for social economy enterprises. Although preserving the importance of political initiatives, these approaches should be enshrined into the legislation. This could be achieved by creating clearer links between purchase activities of public authorities and the pursuit of (specific) policy objectives (also related to social economy development) should be established.

Box 5.3 South Korea: Enforcement Decree of the Act on facilitation of purchase of small and medium enterprise -manufactured products and support for development of their markets. Presidential Decree No. 29421, Dec. 24, 2018

Article 3 (Heads of Public Institutions Required to Notify Purchase Plans)

<For Reference> by Social Enterprise Promotion Act Article 12 (Preferential Purchases by Public Institutions)

The head of each public institution as defined in sub-paragraph 2 of Article 2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets (hereinafter referred to as "head of each public institution") shall encourage preferential purchases of goods or services produced or provided by social enterprises (hereinafter referred to as "social enterprise-produced products")

The head of each public institution shall notify the Minister of Employment and Labour of a purchase plan to increase purchases of social enterprise-produced products and a record of purchases in the preceding year.

Note: Although it is not currently stipulated by law, the score according to the purchase performance of social economy enterprises is reflected in the government business evaluation, government innovation evaluation, and public institution evaluation, and it is being promoted and encouraged to purchase more social enterprise products.

In relation to public procurement, a special law (draft) is currently being proposed by the National Assembly on the promotion of purchase of social economy enterprise products and support for sales channels.

Source: AXIS 3 Background Paper "Specific regulations dealing with general legal matters that facilitate the functioning of the social economy" Online Seminar 7th September 2021.

5.3.3. Fiscal treatment of social economy enterprises

Fiscal treatment of social economy enterprises varies to a large extent from country to country, being very much enshrined in the context. Although fiscality is a complex matter, a common ground can be identified in the following points:

5.3.3.1. Statements on fiscal treatment of social economy enterprises

Specific fiscal regimes for social economy enterprises are mainly linked to the field of activity (or specific activities carried out by the enterprise), to the profile of effective beneficiaries of the enterprise and to the use of profits from the activities. In most cases, this approach does not differentiate social economy enterprises from other kind of enterprises. Where a fiscal regime is specific – or names the beneficiary of it – social economy enterprises develop at a faster pace.

Social economy enterprises operating in the financial sector are usually subject to the same fiscal regulations as conventional enterprises. However, activities benefiting members are often exempted. The cases in which social financial enterprises benefit from specific treatment also for operations for the benefit of non-members are limited but, if extended, could represent an interesting tool to improve the access of the general population to financial services.

Box 5.4. Tax regimes and incentives applied to French social economy entities

Exemption from commercial taxes

- The mutuals considered as non-profit and with disinterested management are not subject to commercial taxes (corporate taxes and VAT). (IS – Régimes sectoriels – Régime fiscal des mutuelles et de leurs unions régies par les livres I et III du code de la mutualité)

- The association is not, in principle, subject to commercial taxes (corporate taxes and VAT). However, depending on the association's missions and activities, all or part of its income may be subject to these taxes. Structures not subject to VAT are subject to wage tax. Associations benefit from an abatement of this wage tax.

<https://www.associations.gouv.fr/la-fiscalite-applicable-aux-associations.html>

- Cooperatives: In return for the particularities linked to its mode of operation (non-divisible reserves, majority ownership of capital by employees), the status of cooperative society presents certain tax specificities.

Cooperative companies are subject to corporation tax (IS) but benefit from an exemption from IS for the fraction of profits distributed to employees in the form of employee profit-sharing, and for the fraction placed in reserve in the event that a derogatory profit-sharing agreement has been signed.

The derogatory agreement allows the constitution of provisions for investment deductible at 100% of the taxable result for an amount equivalent to the special participation reserve constituted during the same financial year.

Cooperative societies are exempt from the territorial economic contribution.

<https://www.impots.gouv.fr/portail/www2/precis/millesime/2017-2/precis-2017-chapter-8.1.3.html?version=20170701>

- The foundation is not, in principle, subject to commercial taxes (corporate taxes and VAT). However, depending on the foundation's activities, all or part of its income may be subject to these taxes. Structures not subject to VAT are subject to wage tax. Foundations don't benefit from an abatement of this wage tax

<https://www.centre-francais-fondations.org/ressources-pratiques/gerer-ou-faire-vivre-un-fonds-ou-une-fondation/fiscalite/impot-sur-les-societes>

Source: AXIS 3 Background Paper "Specific regulations dealing with general legal matters that facilitate the functioning of the social economy" Online Seminar 7th September 2021.

5.3.3.2. Ways ahead

Fiscal regimes often fail to appreciate the social value generated by all kinds of social economy enterprises. A global reform of the fiscality applicable to social economy enterprises should start from a shared evaluation of this value, based on common proxies.

Fiscal regulations rarely make express reference to social economy. When they do, as it is often the case for cooperative enterprises, it leaves a margin of appreciation in the identification of the beneficiary of the activity. This mostly resolves into a restricted definition, and limited benefits. Social economy should enter into the fiscal vocabulary as a self-standing subject, which should drive to the elaboration of a specific corpus of fiscal regulations.

A revised fiscal environment for social economy enterprises should come along with the definition of specific accounting principles, agreed at international level.

Box 5.5 Tax regimes and incentives applied to social economy entities

Spain: specific tax regime for cooperatives recognised by Law 20/1990.

A specific tax treatment applies to cooperatives in Spain. Please, find below some specific measures:

- Differentiated tax treatment for personal income tax (as far as coop members are concerned) and for corporation income tax both in their assessment and determination of the taxable event, taking into account the legal particularities of these societies.
- Exemptions from capital transfers and documented legal acts taxes.
- Tax base deductions and specific tax rates applied to the corporate income tax.
- Rebate on the Economic Activities Tax, property taxes and other special taxes.

South Korea: Restriction of special taxation act article 85-6 (reduction or exemption of corporate tax for social enterprises and standard workplaces for persons with disabilities)

A national entity certified as a social enterprise, as defined in subparagraph 1 of Article 2 of the Social Enterprise Promotion Act, as at December 31, 2019, is entitled to a full exemption from corporate tax or income tax on the income accruing from the relevant business for the taxable year in which the first income accrues from the relevant business (or the taxable year falling on the fifth anniversary from the date of certification, where no income accrues from the relevant business until the taxable year falling on such fifth anniversary), and also within the two subsequent taxable years from the date the following taxable year commences; and entitled to a tax reduction by the equivalent to 50% of the income tax or corporate tax for the two subsequent taxable years thereafter.

Source: AXIS 3 Background Paper “Specific regulations dealing with general legal matters that facilitate the functioning of the social economy” Online Seminar 7th September 2021.

5.3.4. Social economy entities in the financial market and access to finance

The financial market is often impermeable to the needs and specificities of the social economy. This consideration is shared in most countries. A series of action were nevertheless taken, or could be taken, in order to improve the situation.

5.3.4.1. Statements on fiscal treatment of social economy enterprises

Social economy financial institutions and actors (i.e., credit cooperatives, among others) **are often subject to multiple levels of regulation**. Indeed, they are a) under the control by national financial authorities as for their financial operations; b) incorporated under sub-national regulations as for the implementation of their activity etc. This creates overlaps and confusion. Where national regulations apply, this helps balance the local and the national level.

Local currencies are an interesting tool to support the development of communities. Very often they are supported by local authorities. Crypto currencies are an interesting approach for a future re-scoping of the mutualistic principle.

5.3.4.2. Ways ahead

A work of coordination should be carried out at national and sub-national level in order to eliminate conflicts among regulations.

Participatory finance (e.g., cooperative finance, but also other forms such as crowdfunding) and its potential are not taken into consideration enough by national laws. This is partially also due to a lack of political willingness and/or resistance by traditional (national) banking authorities. A permanent focus on this issue should be established in order to take advantage of its potential.

A specific chapter of financial/bank regulation should be drafted in order to ease the activity of credit providers within the social economy. A framework should be defined at the international level, while specific regulations should be left to the national level.

Box 5.6. Innovative legal measures for access to finance for social economy

Canada

Investment Readiness Program: The Investment Readiness Program (IRP) was launched in 2019 as a two-year \$50 million pilot program designed to help advance Social Innovation and Social Finance in Canada by building on existing supports to help catalyse community-led solutions to persistent social and environmental challenges. The IRP was renewed in 2021 with an additional \$50 million over two years, starting in 2021-22. This program supports charities, non-profits, and social purpose organizations in capacity-building activities such as business plan development, expanding products and services, skills development, and hiring.

Community Services Recovery Fund (COVID-19 recovery support) Budget 2021 proposed to provide \$400 million in 2021-22 to Employment and Social Development Canada to create a temporary Community Services Recovery Fund to help charities and non-profits adapt and modernize so they can better support the economic recovery in Canada.

Italy

Solidarity Bonds (Article 77 of Legislative Decree 117/2017): Possibility for credit institutions to issue bonds without placement fees to finance general interest activities by third sector entities. If issuers make donations in cash to third sector entities, they are granted tax credits.

Social Bonus (Art. 81 d.lgs. 117/2017): recognition of substantial tax credits to natural and legal persons for liberal disbursements in favour of third sector entities intended to finance projects for the recovery of unused public buildings and property confiscated from organised crime.

Mexico – State of Puebla

Crédito peso a peso UDP FOCIR: This is a “soft credit” facility with a 10% annual rate of up to \$180,000.00 Mexican pesos (+ ~9000 USD) that aims to support MSMEs to acquire fixed assets, pay liabilities, raw materials, tools or machinery. The final evaluation process is underway to benefit cooperatives that have already been set up so that they can access this credit. The search for access by cooperatives has been an internal effort to demonstrate that cooperatives are able to face the various problems that may arise when repaying the loan, like any other established enterprise. Resources from Federal y Central Governments’ contributions: <http://se.puebla.gob.mx/tucreditopesoapeso/>

Source: AXIS 3 Background Paper “Specific regulations dealing with general legal matters that facilitate the functioning of the social economy” Online Seminar 7th September 2021.

5.3.5. Support programmes

Many countries or sub-national authorities have support programmes in favour of the social economy. Although such programmes vary to a large extent, some common features can be identified.

5.3.5.1. Statements on support programmes

Support programmes are often field based. They refer to the final beneficiaries of the social economy entity and to the profile of social economy entrepreneurs. Gathering multiple approaches to the beneficiaries of support programmes in a single act represents an interesting way to support the social economy.

Effective support programmes are often multi-fold, and not limited to financial support.

Support programmes need to be adapted to local conditions. This, however, could lead to the widening of the scope of social economy (e.g., towards popular economy, which includes initiatives such as family businesses). This possibility could be applicable as far the support is in line with the values expressed by the social economy and included into the related legal framework.

Support programmes appears more effective when sub-national and local authorities enjoy a certain degree of autonomy in their implementation. This works fine when these authorities are provided with the specific competences.

5.3.5.2. Ways ahead for support programmes

International guidelines on different kinds of support instruments and programmes should be developed as a useful help to public authorities to adopt measures fostering social economy enterprises.

Different instruments support different kind of social economy entities: an overall instrument could better serve the scope to support social economy as a system.

Box 5.7. Catalonia: strategy for the territorial development of the Social and Solidarity Economy

Since 2016, the strategy for the territorial development of the Social and Solidarity Economy has its main line of action through the Ateneo Cooperativo and subsidies for unique social economy projects. Strategy for the development of the social economy in Catalonia: Ateneu Cooperatives and singular projects.

Regulations: - Order Ateneos Cooperativos TSF/315/2016 : established the creation of the territorial points of the programme to promote the development of economic activity in the territories within the framework of the social economy and cooperatives (Line 1) and singular social economy projects were promoted in the territory, to cover already existing needs or to identify and develop strategic, job-generating opportunities through the creation of employment in social economy enterprises as well as the creation of cooperatives and labour companies (Line 2).

In this first edition, 10 Ateneos Cooperativos were set up

- Amendment of Order TSF/315/2016 by Order TSF/234/2017 These lines of subsidies were consolidated with the aim of continuing to facilitate, within the framework of the Aracooop Programme (now the Social Economy Programme), the creation of cooperative companies and labour companies, to encourage the entrepreneurial spirit of a collective nature, as well as to generate stable and quality employment throughout Catalonia.

It also served to promote the visualisation and standardisation of cooperatives and labour companies as a labour and business option that is increasingly present and valued in all sectors of activity and thus to ensure coverage throughout the territory of services and resources aimed at entrepreneurs in social and cooperative economy projects, as well as the consolidation of these companies.

To extend the social economy as an instrument of economic transformation, and therefore, also social beyond the metropolitan areas, respecting the territory and its diversity.

In Line 1, Singular Projects, two axes were established:

- Axis A. Singular comprehensive projects to promote the social economy with a high territorial and sectoral impact throughout Catalonia.
- Axis B. Singular projects for territorial reactivation, generating employment in the social economy, in a more local sphere.

In Line 2, Network of Cooperative Athenaeums, the Cooperative Athenaeums, promoted by social economy entities in the territory as well as municipalities and other local administration entities and in the framework of the Aracooop Programme (now Social Economy Programme), become the spaces for meeting, coordination, learning, innovation and advice in the field of social and cooperative economy.

The line is established with the aim of supporting the continuity of the cooperative Athenaeums already set up by virtue of Order TSF/315/2016, of 22 November, as well as to extend the creation of new cooperative Athenaeums and cooperative circles (specific territorial and sectoral actions dependent on some Athenaeums) in order to increase the proximity and the scope of territorial coverage of the services offered.

In this edition, the 14 existing Ateneo Cooperativos were created.

The aim is to include in the SSE Law the establishment of a transversal strategy for public policies in favour of the Social and Solidarity Economy with coordinated actions with local and municipal bodies. It is also intended to promote the co-production of public policies of the SSE with society by recognising public-cooperative-social and community consultation.

In order to achieve these objectives, work will be carried out on the drafting of a multi-annual National Plan for the Promotion of the SSE, based on the collaboration of the Generalitat de Catalunya with AESCAT and representatives of the Local Administration.

Source: AXIS 1 Background Paper "Overall legal framework for social economy". Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 10th June 2021

Box 5.8. Support programmes for the social economy

Brussels- Capital Region - mandate to certain social enterprises to carry out an integration programme as service of general economic interest.

The Brussels Government may mandate certain approved social enterprises to carry out an integration programme consisting of a service mission of general economic interest which consists in the reintegration into the labour market of persons particularly far from employment known as workers of the target group, within the meaning of Article 2(c) of the Decision of the European Commission of 20 December 2011 on the application of Article 106, paragraph 2, of the Treaty on the Functioning of the European Union.

The Government may grant the social integration enterprise public service compensation to cover the wage cost for the support staff intended to promote the integration of the worker of the target group through the implementation of the integration programme. The compensation depends on the number of workers of the target group. The range is from 46,000 EUR for 4 FTE to 218,500 EUR for 32 FTE. It's an annual amount and the Administration controls if the beneficiary effectively employs the target group workers. This plan must go through various layers of approval. At the end of the process, they receive a compensation as explained.

Legal framework: Legislative act on the accreditation and support of social enterprises (23 July 2018)

Support programmes for the social economy: Mexican Ministry of environment and natural resources

- Support for Sustainable Forestry Development: subsidies to ejidos, communities and forestry social enterprises for forestry activities. (Reglas de Operación del Programa Apoyos para el Desarrollo Forestal Sustentable 2021).
- Programme for the Protection and Restoration of Priority Species and Ecosystems: Subsidises to ejidos and communities living in Natural Protected Areas and their zones of influence, for the conservation of priority species and their habitat, as well as for the preservation and restoration of natural ecosystems. (Lineamientos para la ejecución del Programa para la protección y restauración de Ecosistemas y especies prioritarias 2021).
- Conservation for Sustainable Development Programme Subsidies to ejidos and communities that are owners, possessors, usufructuaries or users of natural resources included in Protected Natural Areas and their zones of influence, for the sustainable use of biodiversity and natural resources through the development of sustainable productive activities. (Acuerdo por el que se establecen las Reglas de Operación del Programa de Conservación para el Desarrollo Sostenible (PROCOCES)).

The "Social Economy Week" in South Korea: initiative to enhance the visibility and understanding of social economy

The Social Enterprise Promotion Act (article 16-2) states that (1) to raise understanding of social enterprises and encourage their activities, the State shall designate July 1 of each year as the Social Enterprise Day and designate one week from the Social Enterprise Day onward as the Social Enterprise Week. Furthermore, (2) the State and local governments shall endeavour to implement projects, such as events in line with the purport of the Social Enterprise Day.

Source: AXIS 3 Background Paper "Specific regulations dealing with general legal matters that facilitate the functioning of the social economy" Online Seminar 7th September 2021.



6. CONCLUSIONS

The learning process of the structured exchange among the 25 partners of the PL4SE-PLP resulted - in the opinion of the "Coordination team" - in the following key insights for shaping legal frameworks to the whole social economy:

Social economy can adopt a variety of legal forms that share common principles and values recognised by the regulatory frameworks.

The social economy legal entities are based on an enterprise model managed in accordance with values and principles. By way of reference to the EU experience, those common values have been defined by the European representative organisations of social economy ("Charter of Principles of the Social Economy" - 2002, Social Economy Europe, former CEP-CMAF):

- Primacy of people and of the social objective over capital
- Democratic control by the membership
- Voluntary and open membership
- The combination of the interest of members/user and/ society (general interest)
- The defence and application of the principles of solidarity and responsibility
- Autonomous management and independence from public authorities
- Reinvestment of the essential surplus to carry out sustainable development objectives, services of interest to members or of general interest

Similar descriptions of these principles and the related concepts of the social economy (third sector in Italy or social and solidarity economy in France and Latin American countries, among the denominations applied by the PL4SE-PLP consortium members) are enshrined in laws adopted in countries (See Annex D).

These principles are not merely declarative. They have operational consequences in the functioning of the legal “entities in the social economy”, such as the introduction of an obligation to allocate reserves not to be distributed among the members of cooperatives, even if the society is wound up; to reinvest all or a relevant part of the profits in its own activity in order to achieve a social purpose (for instance, to create decent jobs for the members of the enterprise or for a group of people at risk of exclusion); to be a non-for-profit entity in some cases or to look for the common good of their members (members of cooperatives, mutuals or associations) or for the general interest of society (social enterprises or foundations, for instance).

A legal definition based on the common principles and values that govern the social economy is a key driver for building a legal ecosystem.

Social economy is considered a key player in generating an economy that works for people and the planet because of its added value in terms of inclusive and sustainable growth and critical role in achieving the 2030 Agenda (OECD⁴¹, EU⁴², ILO⁴³ or the United Nations Inter-Agency Task Force on Social and Solidarity Economy (UNTFSSSE)⁴⁴). This means that social economy is embedded in social, economic, and environmental initiatives to build back better as happens in the European Union⁴⁵. Legal frameworks can therefore contribute to unleash the added value of social economy entrepreneurs.

The PLP4SE-PLP highlighted that the legal explicit enunciation of the principles and features governing the operation of the social economy allows to identify at global, national, and sub-national levels the set of the enterprise models that respond to the social economy principles. This is a main element for legal recognition of social economy as a subject of law and for developing public policies. One legal operational concept defining its scope improves the convergence and coherence of the different social economy policies and the mutual recognition and visibility of the social economy’s enterprise models. The legal concept remains respectful of its diversity, and this is complementary of each one of the specific statutes regulating the “entities in the social economy”. This also prevents the use of contradictory concepts that might hinder the growth of social economy.

41 Regional Strategies for the Social Economy. Examples from France, Spain, Sweden and Poland. 2020

42 Europe moving towards a sustainable future. Contribution of the Multi-Stakeholder Platform on the implementation of the Sustainable Goals in the EU. Reflection Paper, October 2018

43 The contribution of the social and solidarity economy and social finance to the future of work. Bénédicte Fonteneau and Ignace Pollet. 2020

44 Second Technical Symposium 21 – 22 November 2019 Trento (Italy) “WHAT ROLE FOR THE SOCIAL AND SOLIDARITY ECONOMY IN THE POST COVID-19 CRISIS RECOVERY?”. UNTFSSSE STATEMENT, JUNE 2020

45 Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility.

Specific public registration and certification delivered by public authorities are key tools for legal certainty and compliance.

Legal frameworks regulate the public registration and compliance certification mechanisms to verify and make visible that social economy enterprises effectively apply and are managed in accordance with its principles. These mechanisms make it possible to identify the legal entities required to apply specific treatments (fiscal) or benefiting from incentives (taxes or access to responsible public procurement processes).

Legal recognition brings consequences for embeddedness of the social economy (as a whole) in market regulations and key socioeconomic and environmental policies.

Legal recognition of social economy as a whole implies that the economic, social and entrepreneurial management of the legal entity in accordance with its principles is embedded in the norms regulating both the markets and the economic operators, as well as the main agendas (employment, entrepreneurship, enterprises, taxation, social inclusion, social services, sectoral regulations, local development, etc.) at sub-national, national, European and global levels. This consideration is closely linked to the effective recognition and implementation of the diverse forms of enterprises by the regulatory frameworks.

The structure and division of competences among the different administration levels have a direct impact on building regulatory frameworks of the social economy.

Various administrations at supranational -EU-, national or sub-national levels are competent and directly involved in the regulation and promotion of social economy. Therefore, regulatory frameworks for social economy contribute to enhance the coherence, complementarity and coordination of the different policies and regulations, remaining respectful of the principle of subsidiarity.

Advisory bodies and independent representative organisations of the social economy play a key role in the law-making process of a legal ecosystem for the social economy.

Legal frameworks lay down the conditions to recognise and channel the dialogue of public authorities with social economy representative organisations in consultative bodies at sub-national, national or supranational levels. This is an important element for the elaboration of appropriate rules to regulate and promote the social economy.

Adapted and specific support programmes are part of the legal ecosystem for the social economy.

In addition to the elements that govern the operation, regulatory frameworks provide public authorities (at sub-national, national and supranational levels) with a range of legal instruments

to support both directly social economy entrepreneurs (for instance, access to financing or advisory services) and indirectly (tax incentives or access to public procurement).

Final consideration on a consistent methodology for a Peer-Learning Partnership on legal frameworks for social economy

Although there are clear differences from one country to another when it comes to address the legal frameworks of social economy, an internationally consistent methodology for establishing and applying Peer-Learning Partnerships between national and sub-national public administrations can bring added value and effective usability of the results to national governments and departments together with regional and local authorities involved in regulation and policies for social economy.

The PL4SE-PLP has opened work lines to broaden the scope of the learning process undertaken among the consortium partners. The general learning process can be deepened and completed with additional exchanges focusing on specific issues such as the tax regimes of entities qualified as social economy in the national legal context, or on the relations with public authorities when it comes to competition-related regulations. This would mean trying to fix basic definitions that are relevant for the field of activity of social economy enterprises, such as for instance “disadvantage”. Furthermore, this would drive to positively consider the elaboration of world-wide terms of reference, provided they are open and flexible enough to adapt to such a fluid ecosystem.

Given the complexity of this endeavour, continuing to involve public authorities from all levels, as well as representative social economy organisations, as was the case for this PLP, would represent a relevant added value, not only in terms of richness of contributions, but also in order to guarantee concrete and effective usability of the results of such a definitory process.



ANNEX A. LIST OF ORGANISATIONS INVOLVED IN THE PLP CONSORTIA AND IN PLP EVENTS.

1. Confederación Empresarial Española de la Economía Social (CEPES)
<https://www.cep.es>
2. European Network of Cities and Regions for the Social Economy (REVES)
<https://www.revesnetwork.eu/>
3. Social Economy Europe (SEE)
<https://www.socialeconomy.eu.org/>
4. SSE International Forum (ESS-FI)
<https://en.essforuminternational.com/>
5. US Federation of Worker Cooperatives
<https://www.usworker.coop/inicio/>
6. The Canadian CED Network
<https://ccednet-rcdec.ca/en>
7. International Cooperative Alliance (ICA)
<https://www.ica.coop/en/about-us/international-cooperative-alliance>
8. COOPERATIVES EUROPE
<https://coopseurope.coop/>
9. International Association of Mutual Benefit Societies (AIM)
<https://www.aim-mutual.org/>

10. European Network of Social Integration Enterprises (ENSIE)
<https://www.ensie.org/>
11. Democracy at Work Institute (USA)
<https://institute.coop/>
12. DIESIS s.c.
<https://www.diesis.coop/>
13. Italian Government – Director General for Third Sector and CSR– Ministry of Labour and Social Policies
<https://www.lavoro.gov.it/ministro-e-ministero/Il-ministero/Organizzazione/Pagine/DG-del-terzo-settore-e-della-responsabilita-sociale-delle-imprese.aspx>
14. Spanish Government – Director General for Self-Employment, Social Economy and CSR. Ministry of Labour and Social Economy
<https://www.mites.gob.es/>
15. Government of Canada - Employment and Social Development Canada
<https://www.canada.ca/en/employment-social-development.html>
16. Government of Brazil- Ministry of Economy. Subsecretaria de Inovação e Transformação Digital
<https://www.gov.br/economia/pt-br/acesso-a-informacao/institucional/quem-e-quem/secretaria-especial-de-productividade-emprego-e-competitividade/secretaria-de-desenvolvimento-da-industria-comercio-servicos-e-inovacao>
17. Korea Social Enterprise Promotion Agency
https://www.socialenterprise.or.kr/social/intr/vision.do?m_cd=F047
18. Global Social Economy Forum (GSEF)
<https://www.gsef-net.org/>
19. Réseau des collectivités Territoriales pour une Économie Solidaire (France)
<https://www.rtes.fr/>
20. Instituto Nacional de la Economía Social (INAES) – Mexico
<https://www.gob.mx/inaes>
21. Catalan Government.
https://treball.gencat.cat/ca/ambits/economia_social/index.html

22. Region of Brussels Capital.
<https://economy-employment.brussels/>

23. Puebla State Mexico. DG de Emprendimiento, Competitividad y Fomento Empresarial. Sub-Secretaría de Economía, Gobierno del Estado de Puebla
<http://se.puebla.gob.mx/>

24. International Labour Organisation – Enterprise Department (ILO):
<https://www.ilo.org/empent/lang--en/index.htm>

25. CIRIEC International:
<http://www.ciriec.uliege.be/>

Invited organisations to online seminars:

Toscana Region (Italy) (online seminar axis 1)

State of Maranhão, Brazil (online seminar axis 3)

State of Bahia, Brazil (online seminar axis 1)

Brazilian Network of Municipalities for the Social Economy (online seminar axis 1)

ANNEX B. BENCHMARK DEFINITIONS OF COOPERATIVES, MUTUALS, SOCIAL ENTERPRISES, ASSOCIATIONS AND FOUNDATIONS

Described below are some definitions of the main entities in the social economy as identified by the PL4SE-PLP consortium partners. These definitions are not intended to be exclusive, but to facilitate the understanding of the following concepts:

- **Cooperative:**

Source: ILO Recommendation “Promotion of Cooperatives Recommendation”, 2002 (No. 193).

The term cooperative means 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”.

“Annex extract from the statement on the cooperative identity, adopted by the General Assembly of the International Co-operative Alliance in 1995

The cooperative principles are guidelines by which cooperatives put their values into practice.

Voluntary and open membership

Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political or religious discrimination.

Democratic member control

Cooperatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions. Men and women serving as elected representatives are accountable to the membership. In primary cooperatives members have equal voting rights (one member, one vote) and cooperatives at other levels are also organized in a democratic manner.

Member economic participation

Members contribute equitably to, and democratically control, the capital of their cooperative. At least part of that capital is usually the common property of the cooperative.

Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their cooperative, possibly by setting up reserves, part of which at least would be indivisible; benefiting members in proportion to their transactions with the cooperative; and supporting other activities approved by the membership.

Autonomy and independence

Cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy.

Education, training and information

Cooperatives provide education and training for their members, elected representatives, managers, and employees so they can contribute effectively to the development of their cooperatives. They inform the general public - particularly young people and opinion leaders - about the nature and benefits of cooperation.

Cooperation among cooperatives

Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional and international structures.

Concern for community

Cooperatives work for the sustainable development of their communities through policies approved by their members.

- **Mutuals:**

Source: Manual for drawing up the satellite accounts of companies in the social economy: co-operatives and mutual societies (On behalf of the European Commission, Enterprise and Industry Directorate- General, carried out by CIRIEC, December 2006.

A mutual society is an autonomous association of persons (legal entities or natural persons), united voluntarily for the primary purpose of satisfying their common needs in the insurance (life and non-life), providence, health and banking sectors, which conducts activities that are subject to competition. It is managed according to the principle of solidarity between the members, who participate in the governance of the business, and adheres to the following principles:

- Absence of shares Mutual society funds do not consist of shares which would produce (even low) returns for the shareholders. Mutual societies operate on the basis of an initial capital - or own funds - financed by the members or by borrowing. These funds are the collective, indivisible property of the mutual society.
- Freedom of membership: Mutuals are open to anyone who fulfils any conditions that may be laid down in the articles of association and abides by mutualist principles.
- Lack of pure profit-making objectives: The main objective of mutual societies is not to make a profit but to serve the members' interests. The lack of a pure profit motive does not mean that mutuals are not economically active or that they do not endeavour to be economically viable or even to produce a surplus. To be viable and to ensure their continuity, mutuals must be competitive and must balance their accounts. Surpluses are not used to pay a return on capital. They are reinvested in order to improve the services offered to members, finance the development of the business or increase the own funds or, subject to certain limits, are distributed among members.
- Solidarity: The members of a mutual society aim to meet individual requirements through collective action, pooling resources and/or activities to meet everyone's needs.

- Democracy: Mutual societies are run democratically, with members actively participating in the governance of the business in accordance with representation systems that vary from country to country. Through the principle of 'one person one vote', each member has equal power in the decision-making bodies. Although in practice this principle is often adapted to allow a certain amount of weighted voting, the democratic principle is generally preserved by limits in the articles of association on the number of votes that any member may hold.
 - Independence: Mutual societies are independent businesses which do not depend on state subsidies to subsist.
- **Social enterprise:**

Source: South Korea - social enterprise promotion act Act No. 8217, Jan. 3, 2007

Article 2 (Definitions): "1. The term "social enterprise" refers to an enterprise certified in accordance with Article 7 as one that pursues a social objective, such as raising local residents' quality of life, etc., by providing vulnerable groups with social services or jobs while conducting business activities, such as the production and sale of goods and services, etc.;"

Article 7 (Certification of Social Enterprises): "(1) A person who intends to operate a social enterprise shall satisfy the requirements for certification under Article 8 and obtain certification from the Minister of Employment and Labor. (2) If the Minister of Employment and Labor intends to grant certification under paragraph (1), he/she shall submit the case to the Employment Policy Council for deliberation.

Article 8 (Requirements and Procedures for Certification of Social Enterprises): (1) A person who intends to be certified as a social enterprise shall satisfy the following requirements: 1. It should take the form of an organization prescribed by the Presidential Decree, such as a corporation or an association under the Civil Act, a company or a limited partnership under the Commercial Act, a corporation established under any Special Act or a non-profit private organization, etc".

Source: REGULATION (EU) 2021/1057 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013

An undertaking, regardless of its legal form, including social economy enterprises, or a natural person which:

a) in accordance with its articles of association, statutes or with any other legal document that may result in liability under the rules of the Member State where a social enterprise is located, has the achievement of measurable, positive social impacts, which may include environmental impacts, as its primary social objective rather than the generation of profit for other purposes, and which provides services or goods that generate a social return or employs methods of production of goods or services that embody social objectives;

(b) uses its profits first and foremost to achieve its primary social objective, and has predefined procedures and rules that ensure that the distribution of profits does not undermine the primary social objective;

(c) is managed in an entrepreneurial, participatory, accountable and transparent manner, in particular by involving workers, customers and stakeholders on whom its business activities have an impact;

Addition information on social enterprises: social enterprises and their ecosystems in Europe. 2020 Carlo Borzaga Giulia Galera Barbara Franchini Stefania Chiomento Rocio Nogales Chiara Carini, Adjustment of existing regulations on social enterprises in Europe:

- Cooperative regulations have been adjusted in France (collective interest cooperative society); Czech Republic, Hungary, Italy and Poland (social cooperative); Germany (social and cultural cooperative); Greece (limited liability social cooperative and social cooperative enterprise); Portugal (social solidarity cooperative); and Spain (social initiative cooperative).
- Company laws have been adjusted in the United Kingdom (community interest company) and Latvia (limited liability company).
- Belgium has introduced a social enterprise national accreditation scheme that is applicable only to cooperatives. It enables the identification of cooperatives that pursue explicit social aims. > Introduction of a social enterprise legal status/qualification/accreditation scheme that can be adopted by a variety of legal entities—for-profit and non-profit— provided that they comply with new criteria, in addition to the fulfilment of the criteria already in force for the legal forms entitled to qualify.
- Examples of countries that have introduced a social enterprise status include Italy, Denmark and Slovenia

- An accreditation scheme for work integration social enterprises applicable to a plurality of legal forms has been introduced for instance in: Austria, Bulgaria, Croatia, Germany, Poland, Romania, Slovenia, and Spain⁴⁶. Accreditation schemes for work integration social enterprises are regulated at the regional level in Belgium.
- A recent trend has been the introduction of a legal status qualifying the social enterprise within a broader recognition of the social and solidarity economy, social economy or the third sector in Bulgaria, France, Greece, Italy, Luxembourg, Romania and Slovakia.

- **Association:**

Source: Art 1 French Law of 1901 states that an association is the agreement by which two or more persons permanently pool their knowledge or their activity for a purpose other than sharing profits = Non-profit purpose.

- **Foundations:**

Source: Communication from the European Commission on promoting the role of voluntary organisations and foundations in Europe (1997)

Foundations are bodies with their own source of funds which they spend according to their own judgement on projects or activities of public benefit. They are entirely independent of government or other public authorities and are run by independent management boards or trustees.

46 Additional information provided by ENSIE: France could also be added to this list. WISEs can adopt the legal form of its choice: associative status (law 1901), or commercial status such as the public limited company (SA), the limited liability company (SARL), cooperative society (SCOP, SCIC), among others.

ANNEX C. DESCRIPTION OF SPECIFIC SOCIAL ECONOMY ENTITIES EMERGED IN SOME COUNTRIES AND TERRITORIES

(BRAZIL, CANADA, EUROPE, INDIA,
ITALY, MEXICO, PORTUGAL, SPAIN
AND UNITED STATES OF AMERICA)

Brazil

Information provided by the Brazilian partner of the PL4SE-PLP

Impact Businesses (*negócios solidários*)

Specific statute: Decree Nº 9,977/19 created Enimpact and Impact Businesses.

Impact Businesses can be organized in different legal formats, including companies, social businesses, cooperatives and civil society organizations

Canada

Information provided by the Canadian partners of the PL4SE-PLP

Community interest companies
- Nova Scotia

A "community interest company" searches for a purpose beneficial to (i) society at large, or (ii) a segment of society that is broader than the group of persons who are related to the community interest company, and includes, without limiting the generality of the foregoing, a purpose of providing health, social, environmental, cultural, educational or other services, but does not include a political purpose or a prescribed purpose;

Community Contribution
Company or Benefit
Corporation -
British Columbia

Information available here:

https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/02057_00

Europe

Information provided by the European Network of Social Integration Enterprises (ENSIE)

Work integration social
enterprises
(Integration enterprises)

Their fundamental and initial objective is the social and professional integration of individuals who through their exclusion and their relegation to a marginal role in society have fallen victim to increasing social and professional handicaps.

The work integration social enterprises continue to play an ongoing role in the social and professional requalification training that restores to individuals at risk, individuals that are vulnerable and have become marginal, the status of gainfully employed workers.

They offer such individuals the opportunity to prepare themselves for their integration into the labour force and to gain access to employment and the training to acquire needed skills.

India

Reference provided by the representative of ICA as partner of the PL4SE-PLP

Source: A Study on Self Help Groups (SHGs) sponsored by Co-Operative Societies with special reference to Holenarasipura Taluk, Hassan District. Shalini H S; Raveendra P V; V. P. Sriram. ADALYA JOURNAL. 2019

Self Help Groups	SHGs can be identified as a group of five or more members channelizing their savings as investments into a fund from where they can borrow as and when the need arises.
------------------	---

Italy

Description provided by the Italian partner of the PL4SE-PLP

Social cooperatives	Social cooperatives according to law 381/1991, which acquire the status of social enterprises ex lege, according to dlgs 117/2017, are bodies of the Third Sector. Social cooperatives aim to pursue the general interest of the community in the human promotion and social integration of citizens through the management of social, health and educational services (type A) or the performance of different activities - agricultural, industrial, commercial or services - aimed at the employment of disadvantaged people (type B). Mutual aid societies are third sector bodies: they are non-profit organisations pursuing general interest objectives, on the basis of the constitutional principle of subsidiarity, by carrying out exclusively in favour of their members and their cohabiting family members one or more of the activities referred to in Article 1 of Law 3818/1886.
Social Enterprises	They are entities of the Third Sector (Article 1 of Legislative Decree No 112/2017). All private entities (associations, foundations, companies of any kind) that comply with the rules requiring the stable and principal exercise of a business activity in the general interest, not for profit, for civic, solidarity and socially useful purposes, according to responsible and transparent management methods and ensuring the involvement of workers, users and other stakeholders in their activities, can acquire the status of social enterprise.
Associations (includes charities and trusts)	Associations may qualify as Third Sector organisations provided that they carry out activities identified by law as being of general interest, operate on a non-profit basis (prohibition on the distribution of profits, including indirect profits, devolution of assets in the event of dissolution or loss of status), have civic or solidarity or socially useful purposes, and have a democratic structure. The third sector code (dlgs 117/2017) provides for third sector associations or so called 'typical' forms (social promotion associations, voluntary associations: both, in addition to the characteristics already mentioned, must operate mainly through their own volunteers and must comply with stricter governance rules; other types are the Associative Networks - associations of third sector bodies, created to carry out activities of representation and coordination of member bodies). Generally speaking, "association" is a legal form; it is their aims, the activities they carry out, their operating methods, their independence from public administrations, politicians, etc. that allow them to be classified as third sector organisations. If they carry out business activities one should refer to 'social enterprises'.

Foundations (includes charities and trusts)	As in the case of associations, foundations are private bodies (in this case always with legal personality) that can acquire the status of third sector bodies if they comply with the general rules laid down for them (independence from public authorities, social, solidarity or civic purposes, non-profit, carrying out activities that the law qualifies as being of general interest). Foundations have fewer constraints on governance than associations (which are required to be democratic).
Philanthropic entities (similar to charities and trusts).	Philanthropic entities are Third Sector entities established in the form of a recognised association or foundation, with the specific characteristic of providing money, goods or services, including investment, to support categories of disadvantaged persons or activities of general interest. In addition to general obligations, they have even more specific obligations of transparency.

Mexico

Information provided by the Mexican partners of the PL4SE-PLP

Ejidos	<p>The collective exploitation of ejido lands may be adopted by an ejido when its assembly takes this decision. In this case, the provisions relating to the form of organising work and the exploitation of the ejido's resources, as well as the mechanisms for the equitable distribution of profits, the constitution of capital, social welfare or service reserves and those that make up the common funds, must be established beforehand.</p> <p>Source: http://www.diputados.gob.mx/LeyesBiblio/pdf/13_250618.pdf (Agrarian Law)</p>
Sociedades de solidaridad social	<p>The social solidarity society is constituted with a collective patrimony, whose members must be natural persons of Mexican nationality, especially <i>ejidatarios</i> (members of ejidos), communal farmers, landless peasants, <i>parvifundistas</i> (farmers of small pieces of land) and persons with the right to work, who allocate part of the product of their work to a social solidarity fund and who may carry out commercial activities.</p> <p>Source: Ley de Sociedades de Solidaridad Social: https://mexico.justia.com/federales/leyes/ley-de-sociedades-de-solidaridad-social/capitulo-i/</p>

Private Institutions of Social Solidarity

IPSS (Private Institutions of Social Solidarity), legal persons, with non-for-profit purposes, constituted exclusively on the initiative of individuals, with the purpose of giving organized expression to the moral duty of justice and solidarity, contributing to the realization of the social rights of citizens, provided that they are not administered by the State or another public body. The objectives of the IPSS are achieved through the provision of goods, provision of services and other initiatives to promote the well-being and quality of life of people, families and communities*. The Houses of Mercy arise from the will of a group of citizens and hence their nature of brotherhood. The objective that animates the creation of a Mercy is always the same: to provide support to the community by fulfilling the 14 works of Mercy. The Houses of Mercy have their identity closely linked to the Catholic Church and for this purpose these institutions are governed by civil law, but also by canon law. The support provided to the community by the sororities is essentially based on social responses for children, the elderly, and people with disabilities, etc., and health, through ERPIS, hospitals, clinics, continuing care, among others

Misericordias;

The Misericordia arise from the will of a group of citizens and hence their nature as a brotherhood. The goal that drives the creation of a Misericordia is always the same: to provide support to the community by fulfilling the 14 works of Mercy. Although many Misericordia are over 500 years old, there are numerous examples of sisterhoods created a decade ago recently.

The Misericórdias have their identity closely linked to the Catholic Church and therefore these institutions are governed by civil law, but also by canon law. The support given to the community by the brotherhoods is based essentially in social answers for children, elderly, and disabled people, etc., and health, through ERPIS, hospitals, clinics, continuous care, among others.

They also develop an important work in the Heritage area.

Source: CASES Cooperativa António Sérgio para a Economia Social

South Korea

Descriptions provided by the South Korean partner and GSEF

Community Businesses	<p>Community business are considered as one of the social economy organizations in South Korea. There is no national law that defines 'community businesses'; thus policies on community businesses are implemented on the basis of Implementation Guidelines for the Fostering of Community Businesses.</p> <p>National: "A community business is an enterprise operated at local level, where local people start and run business to effectively make a profit for community as well as to solve problems in the community by creating income and employment as a result of business that utilizes local resources."</p> <p>(Implementation Guidelines for the Fostering of Community Businesses, Ministry of the Interior and Safety, South Korea)</p>
Self-sufficiency enterprises (self-support enterprises):	<p>Self-sufficiency enterprises are considered as one of the social economy organizations in South Korea. They are based on National Basic Living Security Act, enacted in 2000.</p> <p>National: "Recipients and persons in the second-lowest income bracket may establish and operate a self-support enterprise through mutual cooperation. A self-support enterprise shall be either an association or a business entity under the Value-Added Tax Act."</p> <p>(National Basic Living Security Act, South Korea)</p>
Social Venture	<p>Recently, the range of Social Economy are included the Social venture in Korea. "Social venture" is an enterprise that creates the social value through an innovative business model.</p> <p>(Act On Special Measures for the Promotion of Venture Businesses)</p>

Integration enterprises	<p>These enterprises are cooperatives or commercial companies - in any business activity - that pursue the social and professional integration of people living in poverty or at risk of social exclusion by promoting their transition to the ordinary labor market. The disadvantaged people work temporarily (up to 3 years) in the enterprise which is the pathway to their integration in employment.</p> <p>These enterprises are promoted and participated by other entities (mainly associations or foundations) that must hold at least 51% of the share capital. A minimum of 30% and a maximum of 70% of their staff (on an annual basis) must be workers following integration processes. At least 80% of the surpluses must be reinvested into the improvement and expansion of the productive structures of the enterprises.</p>
Special employment centers for social initiative	<p>Special Employment Centers of social initiative are productive enterprises participating in market operations with the aim of ensuring employment to workers with disabilities. They are structured and organised as ordinary companies but 70% of their staff must be people with disabilities (for disability assessed at 33% or greater).</p> <p>The promotion entities of Special Employment Centers of social initiative must be both public or not for profit organisations and entities pursuing a social aim - expressly recognised in their statutes - whether they are associations, foundations, public law corporations, social initiative co-operatives or other social economy entities. These promotion entities must hold more than 50% of the share capital of the Special Employment Centers of social initiative.</p> <p>Special social initiative employment center are also considered to be those promoted by commercial companies:</p> <ul style="list-style-type: none"> - Whose share capital is owned by any of the entities mentioned above and - Provided that their articles of association or corporate agreements require them to reinvest all profits in job opportunities for people with disabilities and in improving its own competitiveness and their social economy activities, with the option of reinvesting them in the special employment center itself or in other special employment centers of social initiative.
Sociedades laborales (Labor societies)	Commercial companies whose capital is owned for the most part by their workers with an open-ended contract. Maximum share capital per shareholder (worker members) is limited as well as the number of non-member employees and non-employee shareholders.
Cofradías de Pescadores (fishermen's guilds)	They are non-profit public law corporations representing the fishing interests. They collaborate with the public authorities, and they can also carry out economic activities on a private basis in order to improve the fishing activities of their members and communities.
Sociedad Agraria de Transformación (Agrarian Transformation Societies)	Civil companies whose purpose is the production, transformation and marketing of agricultural, livestock or forestry products, the improvement of the rural environment, and the promotion and development of agriculture.

ESOPS

An employee stock ownership plan (ESOP) is an employee benefit plan that gives workers ownership interest in the company; this interest takes the form of shares of stock. ESOPs give the sponsoring company—the selling shareholder—and participants various tax benefits, making them qualified plans. Employers often use ESOPs as a corporate-finance strategy to align the interests of their employees with those of their shareholders.

Source: <https://www.investopedia.com/terms/e/esop.asp>

Employee Ownership Trusts (EOT)

An employee ownership trust (EOT) is a form of employee ownership that is relatively new in the United States.

To become an EOT company, the current owner creates a trust that will own some or all of the business. There is no legal definition of what separates an EOT from similar trusts, but to be an EOT, the purpose of the trust should include the well-being of the company's employees. The trust may include other purposes as well, such as preserving legacy, community benefit, or social and environmental goals.

The company makes a contribution of cash to the trust, which uses that cash to buy shares from the current owner. The trust can buy full or partial ownership of the business, and in some cases the owner chooses to offer seller financing.

Source: <https://www.nceo.org/article/introduction-employee-ownership-trusts>

ANNEX D. SOCIAL ECONOMY PRINCIPLES ENSHRINED IN NATIONAL LAWS

(CABO VERDE, CAMEROUN,
CANADA- QUEBEC, COLOMBIA,
DJIBOUTI, ECUADOR, FRANCE,
HELLENIC REPUBLIC, HONDURAS,
ITALY, LUXEMBOURG, PORTUGAL,
ROMANIA, SENEGAL, SPAIN,
TUNISIA, URUGUAY AND
VENEZUELA

**Lei n.º 122/VIII/2016 de
economia social do Cabo Verde,
24 de março 2016⁴⁷**

Artigo 6. Princípios orientadores

Princípios orientadores

As entidades da economia social são autónomas, emanam da sociedade civil e distinguem-se do sector público e do sector privado, actuando com base nos seguintes princípios orientadores:

- a) O primado das pessoas e dos objetivos sociais;
 - b) O livre acesso e a participação voluntária;
 - c) A autonomia política e de gestão face ao Estado e demais organizações públicas, salvo quando, no que respeita aos meios de produção comunitários geridos e possuídos pelas comunidades locais, os órgãos representativos deleguem a sua gestão numa autarquia local;
 - d) O controlo democrático dos respectivos órgãos pelos seus membros;
 - e) A conciliação entre o interesse dos membros, utilizadores ou beneficiários e o interesse geral;
 - f) O respeito pelos valores da solidariedade, da honestidade, da igualdade e da não discriminação em função do género, da pertença étnica, da orientação sexual, das particularidades culturais, sociais e psicológicas, do território e da idade, da coesão social, da justiça e da equidade, da transparência, da responsabilidade individual e social partilhada e da subsidiariedade;
 - g) A gestão autónoma e independente das autoridades públicas de quaisquer outras entidades exteriores à economia social;
 - h) A afetação dos excedentes à prossecução dos fins das entidades da economia social de acordo com o interesse geral, sem prejuízo da garantia da autosustentabilidade necessária à prestação de serviços de qualidade, cada vez mais eficazes e eficientes, numa lógica de desenvolvimento e crescimento sustentável;
 - i) A sindicabilidade pelos tribunais dos actos da vida interna das organizações;
 - j) A transparência e publicidade das respectivas contas;
 - k) A cooperação com o Estado e com os outros atores sociais e económicos, na construção de novos modelos de regulação e de governança; e
 - l) O princípio da subsidiariedade
-

⁴⁷ Available here: <https://base.socioeco.org/docs/lei-cabo-verde-es-1.pdf>

**Chapitre II. DE
L'IDENTIFICATION DES UNITES
DE L'ECONOMIE SOCIALE**
ARTICLE 3⁴⁸

- (1) Sont éligibles au statut d'Unité de l'Economie Sociale, les organisations et les entreprises, quelles que soient leurs formes juridiques, qui remplissent les critères ci-après :
 - La primauté de l'Homme et de la finalité sociale sur le capital ;
 - La liberté d'adhésion ;
 - La gouvernance transparente, démocratique et participative ;
 - L'utilité collective ou sociale du projet ;
 - La recherche de l'intérêt collectif et la juste répartition des excédents ;
 - La mise en commun des ressources de ses membres
 - La conformité au statut juridique d'origine.
 - (2) Le statut d'Unité de l'Economie Sociale est constaté par un acte réglementaire du Ministre chargé de l'économie sociale.
-

**Chapitre II. DE
L'IDENTIFICATION DES UNITES
DE L'ECONOMIE SOCIALE**
ARTICLE 4

Les Unités de l'Economie Sociale viennent en appui aux politiques publiques, notamment le développement socio-économique, la pluralité des marchés, la lutte contre la pauvreté, la gestion participative et le développement durable.

48 Available here: https://base.socioeco.org/docs/seframeworklaw_cmr-2.pdf

**Loi sur l'économie sociale,
Sanctionné le 10 octobre 2013⁴⁹**

**CHAPITRE 1
OBJET ET APPLICATION
ALINEA 1 et 3**

1. La présente loi a pour objet de reconnaître la contribution particulière de l'économie sociale au développement socioéconomique du Québec, dans de nombreux secteurs d'activité et sur tous les territoires du Québec. Elle a également pour objet d'établir le rôle du gouvernement en matière d'économie sociale.

[...]

3. On entend par « économie sociale », l'ensemble des activités économiques à finalité sociale réalisées dans le cadre des entreprises dont les activités consistent notamment en la vente ou l'échange de biens ou de services et qui sont exploitées conformément aux principes suivants:

1° l'entreprise a pour but de répondre aux besoins de ses membres ou de la collectivité;

2° l'entreprise n'est pas sous le contrôle décisionnel d'un ou de plusieurs organismes publics au sens de la Loi sur l'accès aux documents des organismes publics et sur la protection des renseignements personnels (chapitre A-2.1);

3° les règles applicables à l'entreprise prévoient une gouvernance démocratique par les membres;

4° l'entreprise aspire à une viabilité économique;

5° les règles applicables à l'entreprise interdisent la distribution des surplus générés par ses activités ou prévoient une distribution de ceux-ci aux membres au prorata des opérations effectuées entre chacun d'eux et l'entreprise;

6° les règles applicables à la personne morale qui exploite l'entreprise prévoient qu'en cas de dissolution, le reliquat de ses biens doit être dévolu à une autre personne morale partageant des objectifs semblables.

Pour l'application du premier alinéa, la finalité sociale est celle qui n'est pas centrée sur le profit pécuniaire mais sur le service aux membres ou à la collectivité et elle s'apprécie notamment en fonction de la contribution de l'entreprise à l'amélioration du bien-être de ses membres ou de la collectivité et à la création d'emplois durables et de qualité. Est une entreprise d'économie sociale, une entreprise dont les activités consistent notamment en la vente ou l'échange de biens ou de services et qui est exploitée, conformément aux principes énoncés au premier alinéa, par une coopérative, une mutuelle ou une association dotée de la personnalité juridique.

49 Available here: https://base.socioeco.org/docs/loi_cadre.pdf

Colombia 1998

LEY 454 DE 1998

por la cual se determina el marco conceptual que regula la economía solidaria⁴

CAPITULO SEGUNDO

Marco conceptual

Artículo 4°. Principios de la Economía Solidaria

Artículo 4° Principios de la Economía Solidaria.

Son principios de la Economía Solidaria:

1. El ser bueno, su trabajo y mecanismos de cooperación tienen primacía sobre los medios de producción.
2. Espíritu de solidaridad, cooperación, participación y ayuda mutua.
3. Administración democrática, participativa, autogestionaria y emprendedora.
4. Adhesión voluntaria, responsable y abierta.
5. Propiedad asociativa y solidaria sobre los medios de producción.
6. Participación económica de los asociados, en justicia y equidad.
7. Formación e información para sus miembros, de manera permanente, oportuna y progresiva.
8. Autonomía, autodeterminación y autogobierno.
9. Servicio a la comunidad.
10. Integración con otras organizaciones del mismo sector.
11. Promoción de la cultura ecológica.

Djibouti 2019

Loi n° 044/AN/19/8ème L du 23 juin 2019 relative à l'économie sociale et solidaire⁵¹

Titre I : Dispositions générales

Article 3

Article 3 : Principes directeurs

Les personnes morales, citées aux articles 4 et 5 de la présente loi, sont régies quant à leur constitution, les modalités de fonctionnement et leur dissolution aux règles fixées par leurs statuts spécifiques et sur la base des principes suivants:

- a) la primauté de la personne, du travail et de la finalité sociale sur le capital ;
- b) la promotion de la solidarité interne et d'une société qui favorise l'engagement pour le développement local, l'égalité des chances pour les hommes et les femmes et la cohésion sociale;
- c) une gouvernance démocratique et participative prévoyant l'information pour chaque membre sur la transparence du fonctionnement;
- d) un but poursuivi autre que le seul partage des bénéfices ;
- e) une gestion collective indivisible.

50 Available here: <https://www.suin-juriscol.gov.co/viewDocument.asp?id=1660557>

51 Available here: <https://www.presidence.dj/texte.php?ID=044&ID2=2019-06-23&ID3=Loi&ID4=12&ID5=2019-06-30&ID6=n>

Ley nº 444/2011 de 10 de mayo de 2011,
ley orgánica de la economía popular y solidaria
Economía Popular y Solidaria y la
y el sistema financiero solidario⁵²

Título I Del Ambito, Objeto y Principios

Artículo 4

Art. 4.- Principios.

Las personas y organizaciones amparadas por esta ley, en el ejercicio de sus actividades, se guiarán por los siguientes principios, según corresponda:

- a) La búsqueda del buen vivir y del bien común;
- b) La prelación del trabajo sobre el capital y de los intereses colectivos sobre los individuales;
- c) El comercio justo y consumo ético y responsable;
- d) La equidad de género;
- e) El respeto a la identidad cultural;
- f) La autogestión;
- g) La responsabilidad social y ambiental, la solidaridad y rendición de cuentas; y,
- h) La distribución equitativa y solidaria de excedentes.

Concordancias: CONSTITUCION DE LA REPUBLICA DEL ECUADOR 2008, Arts. 11, 21, 275.

52 Available here: http://www.oas.org/juridico/pdfs/mesicic4_ecu_econ.pdf

**LOI n° 2014-856 du 31 juillet
2014 relative à l'économie sociale
et solidaire⁵³**

Article 1: I. - L'économie sociale et solidaire est un mode d'entreprendre et de développement économique adapté à tous les domaines de l'activité humaine auquel adhèrent des personnes morales de droit privé qui remplissent les conditions cumulatives suivantes :

1° Un but poursuivi autre que le seul partage des bénéfices :

2° Une gouvernance démocratique, définie et organisée par les statuts, prévoyant l'information et la participation, dont l'expression n'est pas seulement liée à leur apport en capital ou au montant de leur contribution financière, des associés, des salariés et des parties prenantes aux réalisations de l'entreprise ;

3° Une gestion conforme aux principes suivants :

- a) Les bénéfices sont majoritairement consacrés à l'objectif de maintien ou de développement de l'activité de l'entreprise.
- b) Les réserves obligatoires constituées, impartageables, ne peuvent pas être distribuées. Les statuts peuvent autoriser l'assemblée générale à incorporer au capital des sommes prélevées sur les réserves constituées au titre de la présente loi et à relever en conséquence la valeur des parts sociales ou à procéder à des distributions de parts gratuites. La première incorporation ne peut porter que sur la moitié, au plus, des réserves disponibles existant à la clôture de l'exercice précédant la réunion de l'assemblée générale extraordinaire ayant à se prononcer sur l'incorporation. Les incorporations ultérieures ne peuvent porter que sur la moitié, au plus, de l'accroissement desdites réserves enregistré depuis la précédente incorporation. En cas de liquidation ou, le cas échéant, en cas de dissolution, l'ensemble du boni de liquidation est dévolu soit à une autre entreprise de l'économie sociale et solidaire au sens du présent article, soit dans les conditions prévues par les dispositions législatives et réglementaires spéciales qui régissent la catégorie de personne morale de droit privé faisant l'objet de la liquidation ou de la dissolution.

⁵³ Available here: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000029313296/>

Hellenic Republic

2016

**Law N° 4430 of 2016
constituting the Social and
Solidary Economy, regulating
the development of its
actors and introducing other
provisions⁵⁴**

PART ONE

SOCIAL AND SOLIDARITY ECONOMY

THE DEVELOPMENT OF ITS INSTITUTIONS

CHAPTER A

PREAMBLE

Article 2

Article 2

Definitions

For the purposes of this Law, the following definitions shall apply:

1. "Social and solidarity economy" is defined as the set of economic activities that

"Social economy" means all economic activities based on an alternative form of organization of the

Social and economic activities based on an alternative form of activity based on the principles of democracy, solidarity and social inclusion, which is based on an alternative form of production, distribution, consumption and reinvestment relations.

equality, solidarity, cooperation, as well as

respect for human beings and the environment.

Republica de Honduras

1985

**Ley n° 24.820/1985 de 14 de
noviembre de 1985,
ley y el reglamento del Sector
Social de
de la economía⁵⁵
Artículo 2**

Se define el Sector Social de la Economía como el conjunto de empresas y organizaciones formadas por trabajadores que sostienen la primacía del trabajo, optan por la propiedad social de los medios de producción y establecen que el excedente generado es un medio para elevar el nivel de vida de sus miembros. El Sector Social de la Economía se fundamenta en Los principios de libertad, democracia económica, justicia, solidaridad, autogestión, participación y pluralismo.

54 Available here: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104614/127689/F351872208/GRC104614%20Grk.pdf>

55 Available here: http://www.sice.oas.org/SME_CH/HND/Ley_Sector_Social_Economia_193-85_s.pdf

DLGS 117/2017 – Codice del Terzo Settore

Art. 4.1 – Third Sector Entities⁵⁶

Art. 4.1

1. Third sector bodies are voluntary organisations, social promotion associations, philanthropic organisations, social enterprises, including social cooperatives, associative networks, mutual aid societies, associations whether or not recognised, foundations and other private bodies other than corporations constituted for the non-profit pursuit of civic, solidarity and socially useful purposes through the carrying out of one or more activities of general interest in the form of voluntary action or the provision free of charge of money, goods or services, or of mutuality or of production or or exchange of goods or services, and registered in the single national register of the third sector.

Loi du 12 décembre 2016 portant création des sociétés d'impact sociétal⁵⁷

Chapitre 1^{er}

Principes de l'économie sociale et solidaire

Art. 1^{er}.

Art. 1^{er}.

L'économie sociale et solidaire est un mode d'entreprendre auquel adhèrent des personnes morales de droit privé qui remplissent cumulativement les conditions suivantes :

1. Poursuivre une activité continue de production, de distribution ou d'échange de biens ou de services.
2. Répondre à titre principal à l'une au moins des deux conditions suivantes :

a. Elles ont pour but d'apporter, à travers leur activité, un soutien à des personnes en situation de fragilité, soit du fait de leur situation économique ou sociale, soit du fait de leur situation personnelle et particulièrement de leur état de santé ou de leurs besoins d'accompagnement social ou médico-social. Ces personnes peuvent être des salariés, des clients, des membres, des adhérents ou des bénéficiaires de l'entreprise ;

b. Elles ont pour but de contribuer à la préservation et au développement du lien social, à la lutte contre les exclusions et les inégalités sanitaires, sociales, culturelles et économiques, à la parité hommes-femmes, au maintien et au renforcement de la cohésion territoriale, à la protection de l'environnement, au développement d'activités culturelles ou créatives et au développement d'activités de formation initiale ou continue.

3. Disposer d'une gestion autonome au sens où elles sont pleinement capables de choisir et de révoquer leurs organes directeurs ainsi que de contrôler et d'organiser l'ensemble de leurs activités.

⁵⁶ Available here: <https://www.lavoro.gov.it/temi-e-priorita/Terzo-settore-e-responsabilita-sociale-imprese/focus-on/Riforma-terzo-settore/Pagine/Codice-del-Terzo-Settore.aspx>

⁵⁷ Available here: <https://legilux.public.lu/eli/etat/leg/loi/2016/12/12/n1/jo>

**LEY DE LA ECONOMÍA SOCIAL Y SOLIDARIA⁵⁸,
REGLAMENTARIA DEL PÁRRAFO
SÉPTIMO DEL ARTÍCULO 25 DE LA
CONSTITUCIÓN POLÍTICA DE LOS
ESTADOS UNIDOS MEXICANOS, EN LO
REFERENTE AL SECTOR SOCIAL DE LA
ECONOMÍA**

**TÍTULO I DISPOSICIONES GENERALES
Artículo 9**

Artículo 9o. Los Organismos del Sector tomarán en cuenta en su organización interna, los siguientes **principios**:

- I. Autonomía e independencia del ámbito político y religioso;
- II. Régimen democrático participativo;
- III. Forma autogestionaria de trabajo;
- IV. Interés por la comunidad.

Artículo 10

Artículo 10. Los Organismos del Sector orientarán su actuación en los siguientes **valores**:

- I. Ayuda mutua;
- II. Democracia;
- III. Equidad;
- IV. Honestidad;
- V. Igualdad;
- VI. Justicia;
- VII. Pluralidad;
- VIII. Responsabilidad compartida;
- IX. Solidaridad;
- X. Subsidiariedad, y
- XI. Transparencia.

Artículo 11

Artículo 11. Los Organismos del Sector realizarán sus actividades conforme a las leyes que regulen su naturaleza jurídica específica, sus estatutos sociales y de acuerdo con las siguientes prácticas:

- I. Preeminencia del ser humano y su trabajo sobre el capital; II. Afiliación y retiro voluntario; III. Administración democrática, participativa, autogestionaria y emprendedora; IV. Trabajo en beneficio mutuo y de la comunidad; V. Propiedad social o paritaria de los medios de producción; VI. Participación económica de los Asociados en justicia y equidad; VII. Reconocimiento del derecho a afiliarse como Asociado a las personas que presten servicios personales en los Organismos del Sector, sobre la base de su capacitación en los principios y valores del Sector, y el cumplimiento de los requisitos que establezcan sus bases constitutivas; VIII. Destino de excedentes a la prestación de servicios de carácter social, al crecimiento de sus reservas y fondos, y a reintegrar a sus Asociados parte de los mismos en proporción al uso de los servicios o a la participación en el trabajo del Organismo del Sector; IX. Educación, formación y capacitación técnico administrativa permanente y continua para los Asociados; X. Promoción de la cultura solidaria y de la protección del medio ambiente entre sus Asociados y la comunidad; XI. Información periódica de sus estados financieros y de resultados a todos y cada uno de sus Asociados, a través de los informes a sus órganos de dirección, administración y vigilancia, así como libre acceso a la información respectiva para los mismos; XII. Integración y colaboración con otros Organismos del Sector, y XIII. Compromiso solidario con las comunidades donde desarrollan su actividad.

58 Available here: http://www.diputados.gob.mx/LeyesBiblio/ref/less/LESS_orig_23may12.pdf

Portugal 2013

Lei de Bases da Economia Social (Portugal)⁵⁹

Artigo 5.º Princípios orientadores: As entidades da economia social são autónomas e atuam no âmbito das suas atividades de acordo com os seguintes princípios orientadores:

O primado das pessoas e dos objetivos sociais;

A adesão e participação livre e voluntária;

O controlo democrático dos respetivos órgãos pelos seus membros;

A conciliação entre o interesse dos membros, utilizadores ou beneficiários e o interesse geral;

O respeito pelos valores da solidariedade, da igualdade e da não discriminação, da coesão social, da justiça e da equidade, da transparência, da responsabilidade individual e social partilhada e da subsidiariedade;

A gestão autónoma e independente das autoridades públicas e de quaisquer outras entidades exteriores à economia social;

A afetação dos excedentes à prossecução dos fins das entidades da economia social de acordo com o interesse geral, sem prejuízo do respeito pela especificidade da distribuição dos excedentes, própria da natureza e do substrato de cada entidade da economia social, constitucionalmente consagrada.

Romania 2015

Loi n° 219 du 23

Juillet 2015 sur

l'économie sociale⁶⁰

ART. 4

L'économie sociale repose sur les principes suivants :

- (a) priorité donnée à l'individu et aux objectifs sociaux sur la croissance des bénéficiaires ;
- b) la solidarité et la responsabilité collective ;
- c) convergence entre les intérêts des membres associés et l'intérêt général et/ou les intérêts des membres de l'Union européenne.
- d) le contrôle démocratique des membres sur les activités réalisées ;
- e) le caractère volontaire et libre de l'association dans les formes d'organisation propres au domaine l'économie sociale;
- (f) personnalité juridique distincte, autonomie de gestion et indépendance vis-à-vis des autorités publiques ;
- (g) l'affectation de la majeure partie du bénéfice/excédent financier à la réalisation des objectifs suivants
- (g) l'utilisation de la majorité de l'excédent financier pour atteindre des objectifs d'intérêt général, d'une communauté ou dans l'intérêt personnel non pécuniaire de la personne concernée.

59 Source: http://www.cases.pt/wp-content/uploads/Lei_de_Bases_ES.pdf

60 Available here: <https://base.socioeco.org/docs/I219-2015.pdf>

**Loi d'Orientation relative à
L'Économie Sociale et Solidaire⁶¹**

**CHAPITRE II. PRINCIPES
DE L'ECONOMIE SOCIALE ET
SOLIDAIRE**

Article 5

Tout acteur de l'Economie sociale et solidaire, bénéficiaire de l'agrément ESS prévu à l'article 19 de la présente loi, reconnaît et accepte les principes coopératifs universels repris par l'Acte uniforme de OHADA, relatif aux sociétés coopératives, ci-après rappelés :

- L'adhésion volontaire et ouverte à tous ;
- Le pouvoir économique exercé par les coopérateurs ;
- La participation économique des coopérateurs ;
- L'autonomie et l'indépendance ;
- L'éducation, la formation et l'information ;
- L'utilité collective ou sociale du projet ;
- La coopération entre organisations à caractère coopératif ;
- L'engagement volontaire envers la communauté.

Article 6

En plus des principes coopératifs évoqués à l'article 5 de la présente loi, les acteurs de l'Economie sociale et solidaire reconnaissent comme principes d'action :

- La répartition des fruits de la production en fonction de l'apport en valeur travail ;
 - L'engagement à promouvoir des activités économiques visant la transformation sociale et/ou environnementale dans le respect des lois et règlements en vigueur ;
 - La publication régulière des informations sur les activités et les résultats ;
 - Les ressources générées par les acteurs sont essentiellement un moyen à leur disposition et non la finalité de leur action ;
 - La présentation régulière et à bonne date du bilan des mandataires à la validation de leurs mandants ;
 - La valorisation du travail sur le capital ;
 - La recherche de l'équilibre social à travers les liens créés entre les membres de l'entité, par l'activité économique.
-

⁶¹ Available here: https://base.socioeco.org/docs/loi_ess_senegal.pdf

Ley 5/2011 de Economía Social⁶²

Artículo 4. Principios orientadores. Las entidades de la economía social actúan en base a los siguientes principios orientadores:

- a) Primacía de las personas y del fin social sobre el capital, que se concreta en gestión autónoma y transparente, democrática y participativa, que lleva a priorizar la toma de decisiones más en función de las personas y sus aportaciones de trabajo y servicios prestados a la entidad o en función del fin social, que en relación a sus aportaciones al capital social.
 - b) Aplicación de los resultados obtenidos de la actividad económica principalmente en función del trabajo aportado y servicio o actividad realizada por las socias y socios o por sus miembros y, en su caso, al fin social objeto de la entidad.
 - c) Promoción de la solidaridad interna y con la sociedad que favorezca el compromiso con el desarrollo local, la igualdad de oportunidades entre hombres y mujeres, la cohesión social, la inserción de personas en riesgo de exclusión social, la generación de empleo estable y de calidad, la conciliación de la vida personal, familiar y laboral y la sostenibilidad.
 - d) Independencia respecto a los poderes públicos.
-

62 Available here: <https://www.boe.es/buscar/act.php?id=BOE-A-2011-5708>

**Loi n° 2020-30 du 30 juin 2020,
relative à l'économie sociale et
solidaire⁶³**

Chapitre premier

Dispositions générales

Article 4

Art. 4 - Les entreprises de l'économie sociale et solidaire sont tenues, dans leurs statuts et dans l'exercice de leurs activités, de respecter cumulativement les principes suivants :

- 1- La priorité de l'Homme et de la finalité sociale sur le capital et le respect des règles de développement durable.
- 2- Adhésion conformément à la législation en vigueur régissant les personnes morales prévues à l'alinéa 3 de l'article 2 de la présente loi, et retrait libre et volontaire sans discrimination.
- 3- Gestion démocratique, transparente conformément aux règles de bonne gouvernance et sur la base de la règle selon laquelle chaque membre dispose d'une seule voix.
- 4- Coopération volontaire et entraide entre les entreprises de l'économie sociale et solidaire.
- 5- Lucrativité limitée conformément aux règles suivantes : - Affectation de 15% des excédents aux réserves obligatoires jusqu'à ce qu'elles atteignent 50% du capital de l'entreprise en cause ; - Affectation d'un maximum de 5 % des excédents à des activités sociales, culturelles et environnementales ; - répartition du surplus des excédents à hauteur d'un pourcentage ne dépassant pas les 25 % par décision de l'Assemblée générale ; - Le surplus est utilisé pour accroître et développer ses activités ou pour contribuer à la création de nouvelles entreprises dans le cadre de l'économie sociale et solidaire. Sont exceptées de l'application de ce principe, les associations régies par le décret-loi n° 2011-88 du 24 septembre 2011. En outre, pour les associations classées comme entreprise de l'économie sociale et solidaire, la moyenne des rémunérations et primes annuelles des trois salariés ayant les grades les plus élevés, ne peut dépasser huit fois le salaire minimum sectoriel.
- 6- Propriété collective indivisible.
- 7- Indépendance de gestion vis-à-vis des autorités publiques et des partis politiques, à l'exception des associations mutuelles.

63 Available here: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---coop/documents/legaldocument/wcms_750308.pdf

Ley N° 19848

DECLARACION DE INTERES NACIONAL LA PROMOCION, DIFUSION, ESTIMULO Y DESARROLLO DE LA ECONOMIA SOCIAL Y SOLIDARIA, EN CUALQUIERA DE SUS EXPRESIONES⁶⁴

CAPÍTULO II - DE LOS PRINCIPIOS DE LA ECONOMÍA SOCIAL Y SOLIDARIA

Artículo 4

Artículo 4 (Principios)- Las entidades de la Economía Social y Solidaria deberán observar los siguientes principios:

A) La persona debe ser el centro de la actividad económica y social, teniendo absoluta primacía frente al capital.

B) Las relaciones entre los integrantes de la iniciativa se sustentarán en la solidaridad, la cooperación, la reciprocidad y el control democrático, primando el interés común por sobre el individual.

C) La gestión debe ser autónoma, democrática y participativa.

D) Debe existir un compromiso con la comunidad, la organización y desarrollo local y territorial, y con el cuidado del medio ambiente.

E) En los casos en que la forma jurídica lo habilite, la distribución de excedentes se efectuará principalmente en función del trabajo aportado y servicio o actividad realizada por los asociados y asociadas.

F) Promover la equidad de género y favorecer la inclusión social de personas con dificultades de inserción.

El Poder Ejecutivo reglamentará todos los requisitos necesarios para la determinación del efectivo cumplimiento de los principios incluidos en el presente artículo.

Asimismo, serán de aplicación los principios universales del cooperativismo referidos en el artículo 7° de la Ley N° 18.407, de 24 de octubre de 2008, en lo no previsto en la presente ley y en cuanto sean compatibles con los principios relacionados en el presente artículo.

Ley para el fomento y desarrollo de la Economía Popular⁶⁵

CAPÍTULO I DISPOSICIONES GENERALES

Principios y valores

Artículo 4.

Artículo 4.

Son principios y valores del modelo socio-productivo comunitario y sus formas de organización comunal: la corresponsabilidad, cooperación, sustentabilidad, libertad, justicia social, solidaridad, equidad, transparencia, honestidad, igualdad, eficiencia y eficacia, contraloría social, rendición de cuentas, asociación abierta y voluntaria, gestión y participación democrática, formación y educación, respeto y fomento de las tradiciones, la diversidad cultural, articulación del trabajo en redes socio-productivas, cultura ecológica y la preponderancia de los intereses comunes sobre los individuales, que garantice la satisfacción de las necesidades de la comunidad, aportando la mayor suma de felicidad posible.

64 Available here: <https://www.impo.com.uy/bases/leyes/19848-2019>

65 Available here: <https://base.socioeco.org/docs/b68cbadbc748037bb476f53f878ebc17.pdf>

GOOD PRACTICES OF SUPPORT PROGRAMMES AT NATIONAL AND SUBNATIONAL LEVELS

(INVOLVING ALSO EUROPEAN
SUPPORT INSTRUMENTS)

Comprehensive initiatives promoting social economy in the Brussels–Capital Region

In the Brussels–Capital region policy initiatives promoting the social economy are embedded in larger local development strategies, such as the overarching Go4Brussels 2030 strategy (adopted in January 2020), which aims to ‘engage Brussels for economic, social and environmental transition’ and which updates the precedent Go4Brussels 2025 strategy and related acts.

The strategy follows two axes:

- Develop a Transition Strategy for the Brussels economy up to 2030, which organises the decarbonisation of all sectors and reinforces its support for the sectors of the circular and regenerative economy, social and democratic entrepreneurship and the digitalisation of the economy;
- Orienting cross-employment-training policies on the specific issue of qualifications and supporting employment-environment alliances: sustainable construction & renovation, sustainable food.

Under “Objective 1.2: Supporting VSEs and SMEs, including industry, crafts, local shops and social and democratic entrepreneurship”, the Region announces a particular focus on cooperatives, including platform cooperatives: “At the heart of social and democratic entrepreneurship are cooperatives, which are instruments that allow everyone to take ownership of the economy. They allow workers to have a say in the management of their enterprise, users to guide the development of a project and citizen-investors to make the choice to support a project because it meets their needs and those of the community. At a time of digital revolution, the Brussels Government will support a cooperative 2.0 model as well as cooperative platforms (“platform cooperativism”).”

Moreover, a revision of employment aids is announced under the same objective.

Measures to be taken are further detailed in Work package 1.2.4 “To make social entrepreneurship emerge as a promising economic model”:

- Reorient the financial tools to support social and democratic entrepreneurship initiatives (linked to Axis 1 Objective 1) and evaluate the CoopUs scheme to ensure maximum use.
- Raise awareness and ensure the promotion of social entrepreneurship.
- Support the development of cooperative platforms (Coop 2.0) to make them the heart of the collaborative economy.
- Sustain CoopCity. The Go4Brussels 2030 Strategy continues the engagement taken with the Small Business Act 2016-2025, which, in its objective 3.1 foresees specific support to social entrepreneurs and social enterprises.

In the Small Business Act, the Brussels-Capital region announced to extend its support – which, due to high unemployment rates, focused for a long time on work integration social enterprises (Entreprises d’Insertion and so-called Initiatives Locales de Développement de l’Emploi) – also to other type of social economy enterprises. In the context of the Small Business Act, the following initiatives were agreed:

Measure 31. Financing of new business models: circular economy and social entrepreneurship/ social enterprises

A: Increased resources for social entrepreneurship and social enterprises: An additional €700,000 has been earmarked in the 2016 budget for boosting social Innovative social enterprises via the Brupart and Brusoc tools of the regional investment company finance. brussels/Group Srib. The ERDF 2014-2021 programming in terms of financial instruments could make it possible to structure over the long term this increase in resources (loans and equity investments). The additional envelope will be linked to a broader definition of social enterprises (social economy), which goes beyond work integration social enterprises.”

Measure 38. Establishing a new legal framework for the social economy in Brussels “to recognise the broad scope of the social economy, beyond work integration social enterprises”.

Measure 39. Stimulate and support social entrepreneurship and innovative social economy

Call for innovative projects. The Region will stimulate the emergence of innovative projects by organising an annual call for projects. In 2016, this call for projects is endowed with €500,000 and targets in particular the following thematic objectives: 1° Supporting companies from the social economy in their deployment, particularly within the logic of socio-professional integration and beyond, by encouraging the development of activities that are economic opportunities that create jobs and meet a range of socio-economic needs of the people of Brussels, including in a logic of social and economic cohesion and living and doing together; 2° Supporting innovative projects that place social enterprises on innovative markets and/or testing innovative business models; 3° Weaving of bridges between the social economy, collaborative economy and circular economy ; 4° Strengthening existing social enterprises, in particular through the exploitation of synergies or the mutualisation of strengths, and the development of new activities to exploit economies of scale.

B. Support for social entrepreneurship and innovative social economy.

The future regional support centre will inform candidate entrepreneurs about the different business models, including those of the social economy (cooperatives; social purpose enterprises, etc.) and their advantages and disadvantages.

The advisers in direct contact with the project leaders will be gradually and systematically trained in these dimensions, in addition to the person in charge of the mission ‘social entrepreneurship’. Support for collective entrepreneurship dynamics (cooperatives) will be fully provided for in the activities of the support centre.

C. Brussels Centre for Social, Cooperative and Collaborative Entrepreneurship.

The Region co-finances the COOPCITY project for the 2014-2021 period via ERDF funds. It brings together 7 public and private partners.” In 2020 the partners are SAW-B, Febecoop, Job Yourself, Hub. Brussels, Innoviris, ICHEC-PME and Solvay-Entrepreneurs. “The objectives of the project are to complete the offer of support for creation and development of social and cooperative enterprises, and to promote cooperation and social entrepreneurship. The project will operate on the basis of calls for proposals for social enterprises defined very broadly, regardless of their legal form. COOPCITY monitors also to the networking of a community of social entrepreneurs and collaborative economy.

D. Foster the emergence of economic projects resulting from local initiatives and the informal economy.

The creation of new social enterprise projects goes beyond projects by new entrepreneurs who opt for these models. The dynamism of citizens and associations is intense at the local

level, and some initiatives have a strong real economic potential. The Region will support local associations and citizen initiatives to structure their social economy projects. The expertise of existing confirmed and innovative social enterprises will be promoted. This orientation will include the development of measures to exploit the potential of the informal economy, which may find in social enterprise models a way of deployment. COOPCITY project partners will be invited to formulate proposals for structuring support for this dynamic.

E. Support networking and promote information on regional mechanisms.

The Region will support the networking of social entrepreneurs. The need for peer networks (social entrepreneurs) is as important as integration into generalist networks.

The Region will also consider encouraging 'matching' between entrepreneurs in order to foster encounters between those who are ready to launch an initiative (but not alone). The Region will also improve the flow of information on existing tools targeting social enterprises and social entrepreneurs (support for economic expansion, provision of financing, guarantees, support for localization and the development of business and financial plans, etc.). The organisation of meetings with social entrepreneurship and social economy actors is envisaged.

In addition, three measures are foreseen in the chapter on SME financing for financing social entrepreneurship and the social economy. (...)

- Increase in resources and adaptation of the product offer. (... measure 31).
- Granting of guarantees adapted to social enterprises. (... measure 35).
- Mobilisation of citizen savings and promotion of direct financial instruments. (...measure 32)."

Under the specific Objective 3.4: Supporting jobseekers that self-create jobs, the Region envisaged a number of measures supporting so-called cooperatives d'activités, including a better access to credits for persons testing activities in the framework of activity cooperatives.

Under "Objective 3.6: Supporting entrepreneurs active in 'shared' enterprises", Measure 52. 'Support for entrepreneurial cooperatives and shared enterprises' the Brussels-Capital Region declares it will "encourage the development of shared enterprises (cooperatives of entrepreneurs, e.g. employment cooperatives) as an integral part of its economic policy. In particular, it will identify recognition and useful support for relevant actors to develop alternatives to the often 'on-demand' mini-job models in the Brussels Region that are incompatible with the Brussels objective of creating quality jobs."

Finally, under measure 9 "Regional efforts to promote takeover and transmission", the Brussels-Capital Region engages in analysing, together with Coopcity partners and the Union des SCOP (worker cooperatives), the potential, in the Brussels-Capital Region, of the take-over of enterprises by cooperatives.

As can be seen in the aforementioned measures, the programming of the European Regional Development Fund (ERDF) related financing is explicitly foreseen with regard to the improvement of access to finance for the social economy (financial instruments) as well as in relation to the establishment and development of Coopcity (Brussels Centre for Social, Cooperative and Collaborative Entrepreneurship).

Source: AXIS 1 Background Paper "Overall legal framework for social economy". Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 10th June 2021

Spanish Operational Programme for social inclusion and social economy European Social Fund.

On the basis of the Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund, the Spanish Government identified "social economy" as one of the investment priorities of the European Social Fund to be implemented in Spain. The ESF (part of the European structural funds) is Europe's main instrument for supporting jobs, helping people get better jobs and ensuring fairer job opportunities for all EU citizens.

In this context, the Spanish Government designed an Operational Programme for Social Inclusion and Social Economy (hereinafter POISES) co-financed by the European Social Fund (ESF) for the period 2014-2020 (+3). The main goals of POISES regarding the social economy are:

- To promote social inclusion by fostering inclusive labour markets and developing comprehensive intervention strategies.
- To foster the contribution of the social economy to create quality jobs also at local level.
- To increase the number of SE entities in Spain.

In 2016, CEPES signed an Assignment Agreement of Functions with the Spanish Sub-Directorate General of the ESF administration. By this agreement, the administration delegates to CEPES functions that have to do with the selection of projects, monitoring of those approved and control of their implementation, ensuring that the criteria applicable to the POISES are met (evaluation criteria for project selection)

Since then, CEPES runs the Operational Programme for Social Inclusion and Social Economy (POISES) as ESF Intermediate Body for the period 2014-2020 (+3) for a total amount of 51 million Euro (14 million Euro are co-financed by the beneficiary entities or by public administrations or private entities that support the beneficiary entities).

The actions financed by POISES must aim at promoting self-employment, entrepreneurship and the business creation and the competitiveness of existing enterprises, and, on the other hand, at promoting social inclusion and the fight against poverty and any form of discrimination, through the promotion of social entrepreneurship and professional integration of disadvantaged groups in enterprises.

In accordance with these objectives, CEPES has launched several calls under the POISES.

- Calls for proposals 2016-2017. The projects approved by CEPES under this calls amount to 5.875.638 € (FSE financing: 4.061.384 EUR)

- Calls for proposals 2018-2020. The projects approved by CEPES under this call amount to: 12.909.008 EUR (of which 9.244.809 EUR are co-financed by ESF).

- Calls for proposal 2021-2023. The projects approved by CEPES under this call amount to: 29.103.175 EUR (of which 21.554.187 EUR are expected to be co-financed by ESF).

- The main results obtained by the projects supported by CEPES as ESF intermediary body until now are:

- 19,435 people participating in the projects financed under the calls launched by CEPES (as of 12/31/2020) (50.3% women).

- The forecast of participants for the 2020-2023 calls are: 18,586 people (48.2% women).

- 1,361 social economy enterprises created from 1,630 enterprise projects (data as of 31/12/2020).

Source: AXIS 1 Background Paper "Overall legal framework for social economy". Legal Ecosystems for Social Economy Peer Learning Partnership. Online Seminar 10th June 2021

