



Pathways for development of Social Economy Ecosystem in Lithuania: Building on European experiences

Feasibility Study

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List of Abbreviations

B2B – Business to Business

CEPES - Spanish Social Economy Employers' Confederation

CIC – Community Interest Company

CIO – Charitable Incorporated Organisation

EaSI – European Programme for Employment and Social Innovation

EU – European Union

GDP – Gross Domestic Product

GE – General Enterprise

ILO – International Labour Organisation

NEET – Neither in Education, Employment nor in Training

NGO – Non-Governmental Organisation

OECD – Organisation for Economic Cooperation and Development

PA – Public Administration

RSV - Registered Social Enterprise

SE – Social economy

SEs – social enterprises

TSE – Third Sector Entity

UNRISD - United Nations Research Institute for Social Development

UNTFSSSE – United Nations Task Force on Social and Solidarity Economy

WISE – Worker Integration Social Enterprise

Introduction

Social Economy is experiencing a momentum of acknowledgement and expansion due to the recognition of its inherent capacity to create a more inclusive, sustainable, and innovative economic system. This capacity was highlighted during the Covid-19 pandemic, as social enterprises played an essential role in the healthcare, welfare services, distribution, and logistics sectors, demonstrating resilience and regeneration capacity. By coupling social objectives with economic value creation, social economy addresses social challenges in innovative ways, contributing to boosting local development through job creation and by integrating disadvantaged individuals into the labour market, and supporting the digital and energetic transitions¹.

The international interest is signalled by a growth in policy initiatives recognising the importance of social enterprises and civil society organisations, confirming the paramount importance to create a consensus on the legal forms, their defining characteristics, the organisational and financing mechanisms that are included within the social economy, to ensure its development and unleash its potential.

The United Nations Inter-Agency Task Force on Social and Solidarity Economy (UNTFSSSE), gathering 18 UN agencies and 14 organisations – among which Diesis Network - remarks the need to consider Social Economy as an important pathway to transforming the system that led to the recent financial and food crisis, climate change, persistent poverty, and rising inequality. In this framework, Social Economy is a key actor in achieving the 2030 Agenda for Sustainable Development². Recently, the International Labour Organisation (ILO) and the Organisation for Economic Cooperation and Development (OECD) came forward with publications recognising the role of social economy in facing upcoming challenges, and their intrinsic capacity to prioritise human dignity, environmental sustainability, and decent work over the legitimate quest for profit³. However, it also highlighted the need to concur on shared conceptual and legal definitions.

The lack of conceptual clarity is mirrored by the lack in policy alignment, as policy makers, practitioners and researchers use different terms to refer to social enterprises⁴. This essentially prevents social enterprises from finding and claiming their place within the economy and social landscape. It also hinders comprehensive representation within the national institutions, halting the proactive dialogue with the policy makers that can lead to the design of coherent and enabling policy and legal frameworks.

¹ OECD, Legal frameworks for the social and solidarity economy, OECD Global Action – Promoting Social and Solidarity Economy Ecosystems, 2022.

² UNTFSSSE, Position Paper: Advancing the 2030 Agenda through the Social and Solidarity Economy, 26th September 2022.

³ Ibid.

⁴ OECD, Boosting Social Entrepreneurship and social enterprise development in Lithuania – In depth policy review, OECD LEED Working Papers, 2019.

The intent of this paper is to provide background information on the development of social economy ecosystems in Europe, with particular focus on the process of consolidation of conceptual and legal frameworks for social enterprises and gather policy recommendations for the development of the Lithuanian ecosystem including the perspective of international experts. It highlights the most recent milestones at the European level and it presents valuable examples from European countries and their process of development of an enabled and efficient ecosystem.

The Lithuanian ecosystem

In Lithuania, the regulation of social enterprise is still in its infancy: there is no statutory definition of what social enterprise is, so it is difficult to regulate it and promote its sustainable development, while more than 2 million social enterprises are operating in Europe, which accounts for as much as 10 % of all EU enterprises: more than 6% of EU employees work in social economy enterprises. Unfortunately, we are only at 0.6%, Estonia – at 6.2%, and Poland – at 2.3%.

In the spring of 2015, the Ministry of Economy approved the Social enterprise Concept, and at the end of 2015, the Action Plan for the Promotion of Social enterprise 2015-2017 was approved. The plan included specific measures to create a favourable legal, financial and tax environment for social enterprise, promote a social enterprise culture and raise awareness.

In 2016, the Ministry of Economy highlighted the recommendations of the Lithuanian Social enterprise Criteria, and the National Progress Programme 2014-2020 set a target of transferring 15% of public services to non-governmental organisations, social enterprises or other non-state sectors. In 2017, the Government adopted a Resolution, “On the Approval of the Implementation Plan of the Government Programme of the Republic of Lithuania”, which provided for the initiation and adoption of the Social Enterprise Law, but no further decisions were taken in the legal framework.

In 2018, a draft Law on the Transfer of Public Services to Social enterprise Entities was prepared using individual partnership instruments: public procurement, concession, and public-private partnership. The main objective of this measure was to promote the development of social enterprise by streamlining the process of public service delivery, i.e. not only for public services to be provided by budgetary and public institutions but also for the state or municipality to purchase them on the market from social enterprise entities. However, in the absence of a legal framework for social enterprise, this measure has not been popular.

Seven years have passed since the adoption of the “Social enterprise Concept”, which set out a clear roadmap for the development of the ecosystem, but things are moving very slowly: there is still no formal legal definition and no appropriate conditions for the sustainable and coherent development of the social enterprise ecosystem. For this reason, there is a need to explore the experiences of more established and consolidated practices, understand their points of strengths and weaknesses

to prompt further definition and support for the Lithuanian ecosystem. The next chapter provides an overview of the rationale for the development of coherent conceptual frameworks for social economy and social enterprises, and then the paper will proceed with an analysis of the most relevant legal frameworks development within the European context.

Conceptual framework: Social Economy and Social Enterprise

Through the 2021 Action Plan for Social Economy, the European Commission confirmed its commitment to implement the necessary conditions for unleashing the potential of social economy, recognising its ability to deliver quality social services in a cost-effective manner, integrating youth and disadvantaged people in the labour market and ensuring fairness and participation in the digital and green transitions⁵.

Social Economy is conceived as the ecosystem covering entities that share four main principles and features:

- the primacy of people as well as social and/or environmental purpose over profit,
- the reinvestment of most of the profits and surpluses
- to carry out activities in the interest of members/users (“collective interest”) or society at large (“general interest”)
- and democratic and/or participatory governance⁶.

These entities can generally refer to cooperatives, mutual benefits, societies, associations (including charities) and foundations. They are private entities independent of public authorities and with specific legal forms, which can vary from country to country.

Social enterprises are recognised as part of the social economy and described to operate by providing goods and services for the market in an entrepreneurial and often innovative fashion, having social and/or environmental objectives as the reason for their commercial activity. Other terms such as “social economy enterprises”, “social and solidarity enterprises” and “third sector” are also used in some countries to denominate the organisations that are part of the social economy⁷.

Signalling its commitment, the Commission presented on the 14th of November 2022 the Transition Pathway for the Proximity and Social Economy ecosystem, the result of a co-construction work launched in December 2021 in parallel to the Social Economy Action Plan, that creates the conditions for the green and digital transition and strengthen its resilience to future shocks.

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Building an economy that works for people: an action plan for the social economy, Brussels, 9.12.2021, COM (2021) 778 final.

⁶ Ibid.

⁷ Ibid.

Nowadays, Social Economy represents 10% of the GDP in the European Union, gathering 2.8 million entities and almost 13.6 million people – about 6.3% of the EU’s employees - work for social enterprises⁸. They account for annual economic turnover of EUR 2.3 billion in Hungary, EUR 37.3 billion in Italy, EUR 3.5 billion in the Netherlands and EUR 3.3 billion in Portugal⁹.

Legal and Institutional Frameworks

The OECD guidelines¹⁰ for policy makers on designing the legal frameworks for social economy suggest three sequential phases: starting from the scoping phase, through the development phase into the evaluation phase. The scoping phase focuses on the assessment of the needs in the context, to look at the benefits that legal frameworks bring and understand the implications of its regulation. Developmental phase puts emphasis on the bottom-up approach, to ensure that the legal framework reflects the vision of all stakeholders of the ecosystem. The aim of this phase is to achieve consensus and meet the real needs of those that the law will affect. The last phase of the evaluation includes the assessment of its function overtime and feedback from the stakeholders. This phase is considered as the last one and performed in the space of time.

Why legal frameworks?

Legal frameworks can boost Social Enterprises development, when done appropriately and in the timely manner. The decision to regulate SEs may be driven by the development and adopted policies on the EU/ Global level, which may stimulate the policy- makers on national level to work towards the cohesion with those policies and priorities. This process largely depends on the priorities on the national or regional level. OECD guidelines therefore suggest four actions that should determine the decision of setting up legal frameworks:

- Assessment of the need for legal frameworks based on local contexts, especially when substantive rules are coupled with policy measures of a fiscal nature (Fici, 2017[22]);
- Identification of the benefits of regulation for the development of social enterprises;
- Anticipation of the potential implications of regulation;
- Evaluation of the right moment to regulate social enterprises 3
- Please refer to the guidelines for the detailed description of each of the actions.

Below we gathered diverse examples from various countries in Europe where the legal frameworks for SEs are regulated to different degrees. From these examples, one can clearly point out the benefits and also the shortcomings derived from the inconsistency of adhering to the process described above. The examples not only serve as lessons learnt but also, they put emphasis on the

⁸ European Commission, Social Economy in the EU, retrieved on 20th november 2022, available at: https://single-market-economy.ec.europa.eu/sectors/proximity-and-social-economy/social-economy-eu_en.

⁹ OECD (2022), *Designing legal framework for social enterprises, Practical guidance for policy makers*, Local Economic and Employment Development (LEED), OECD Publishing, Paris, <https://doi.org/10.1787/172b60b2-en>, p. 14.

¹⁰ *ibid.*

lengthy character of the process itself, and one that needs perseverance from all the actors within the ecosystem.

Denmark

The National Strategy for Social Enterprise was launched in 2010 to create the structure that will help to sustain the organisations that work on societal challenges¹¹ but the concept gained momentum after 2012 when Act no. 711/2014 on Registered Social Enterprises was introduced to create the Registered Social Enterprise (RSV) status¹². Applicants must meet specific criteria regarding their social objectives, profit distribution, and governance model, among other criteria:

- Social purpose - the enterprise must have a primary purpose that is beneficial to society with a social, cultural, employment-related, health-related or environmental aim.
- Significant commercial activity - The enterprise must sell either goods or services. This activity must constitute a significant element of the revenue generated by the enterprise.
- Independence of public authorities - The public authorities must not have any significant influence on the management or operation of the enterprise.
- Inclusive and responsible governance
- The enterprise must involve employees, customers, partners and stakeholders. In addition, the company must be managed responsibly in accordance with the social objectives.
- Social management of profits - The enterprise must spend its profits on social objectives or reinvest the funds. However, a limited share of profits may be distributed as dividends to investors or owners. Profits should be reinvested in the enterprise, invested in other registered social enterprises, donated to charitable organisations or distributed as dividends to owners and investors to a limited extent¹³.

The definition adopted in Denmark strongly reflects the EU operational definition, hence the example of the cohesive approach to setting up the framework. It was adopted reasonably fast - after 9 months followed by recommendations of the Committee for Social Enterprises - however, it did not lead to the development of the national ecosystem. This was due to the fact that the rules were not implemented for its complexity¹⁴.

The EU report correlates this with the fact that none of the ministries took ownership of responsibility for SEs, which caused uncertainty among the stakeholders, blocking the ecosystem development as a whole. Further, the Committee of Social Enterprise published a report which presents recommendations related to three legal forms (foundations, associations and limited liability companies). This led to the distribution of responsibility to different ministries, depending

¹¹ Lars Hulgård and Lisa Chodorkof, Social Enterprises and their ecosystem in Europe - Country report Denmark, European Union, 2019.

¹² OECD, supra note 9.

¹³ Supra note 11.

¹⁴ *ibid.*

on the legal form. This was put forward to the stakeholders and further approved by the committee in September 2018.

An interesting development was the Law 584 that gives municipalities' the power to regulate funding on the regional level. In the long term, this is perceived as one of the factors to slow down the development of the SE ecosystem, due to incoherent knowledge distributions, technology and resources, creating a lot of discrepancies.

Based on the Danish example, one can conclude that there were a lot of expectations that the legalisation of the SEs will boost the sector. It did raise the awareness of this particular business model, but it lacked the proper and consistent follow up by the policy-makers at the national level, leaving the funding to the regional authorities, which contributed to an unequal development across the country. Here, one can see once more that without a proper long-term strategy and consistency, the momentum can be easily lost and without the access to finance, specific legal forms, there is a danger that it will continuously stay in the "limbo" state.

Cyprus

Social Entrepreneurship and Social Enterprises are relatively new terms in Cyprus. In 2018, the *Action Plan for the Development of the Social Enterprise Ecosystem (National Action Plan – NAP)* was developed, which included measures and incentives for activating or expanding social enterprises. Its main purpose was to give access to grants, loans, public procurement and mainly creation of SE culture and mindset¹⁵. Further, just recently in December 2020, the '*Law for the development and maintenance of a Registry for Social Enterprises*' was passed by the House of Representatives.

It aims to regulate the registration of businesses in a *Social Enterprises Registry*. The law specifies the criteria that a natural or legal person must meet in order to register as a social enterprise and defines the obligations of these social enterprises. A business can be defined as a Social Enterprises, if it falls under one of the following two categories:

- (a) social enterprise of general scope:** the primary purpose of such an enterprise should be to carry out a social mission through the promotion of positive social and/or environmental actions in the interest of society, and it should invest at least 80% of its profits to promote this social mission;
- (b) social integration enterprise:** the primary purpose of such an enterprise should be to carry out a social mission through the employment of persons coming from vulnerable groups of the population, and these persons should constitute at least 40% of the enterprise's workforce¹⁶.

¹⁵ Directorate General, Ministry of Growth and Finance, 2019, available at: http://www.dgepcd.gov.cy/dgepcd/dgepcd.nsf/page60_en/page60_en?OpenDocument.

¹⁶ *ibid.*

Additionally, a social enterprise can be registered in *Register of Social Enterprises*, if:

- it provides goods or services on the basis of a business model, more than 70% of its revenues emanate from a business activity,
- it applies predefined procedures and regulations in relation to the distribution of dividends, with a view to safeguard its economic viability;
- it is managed in an entrepreneurial, responsible and transparent manner, especially with the participation of its members, employees and/or customers, accordingly, as well as with other interested parties who are affected by the business activities of the social enterprise;
- it applies remuneration policies and practices, so that the highest remuneration paid to any employee in the company, is no more than four (4) times the remuneration received by the lowest-paid employee of the company¹⁷.

The law is aimed to enable social enterprises a greater access to EU grants available only to the social enterprise sector and receive various tax benefits.

This is the first-time social enterprises are becoming a recognised entity under Cypriot law; therefore, it is in the early stage of its implementation.

The law provided the legal definition of SEs, it allows its functionality under the specific legal entity and not, as previously, operating under either limited liability company or charity.

Since the legal framework has been passed recently, there is not yet evidence gathered to see the tangible effects of its implementation.

Albania

The law for Social Enterprises was approved in 2016 and it was preceded by a long debate on whether the sector should be regulated or not. When the law was finally signed, there was scepticism around the specifics of the law among the sector actors, and still today, there are significant discussions among stakeholders on the issues in the legislation that potentially represent barriers in the activity of social enterprises¹⁸.

The approach to the legal framework was well analysed by Partners Albania, who identified not only significant shortcomings of the framework itself, but also of the approach leading to its development. There is a lacking definition of social enterprise, which brings a lot of vagueness and misunderstanding on whether there is a new legal form or just an amended one. Further, the approach is entirely focused on work integration social enterprise model (WISE), which entails limitations in terms of activities in the given sectors (such as education services, culture and cultural heritage, promotion of tourism, environmental protection, employment mediation, and youth

¹⁷ Antonis Karitzis, Cyprus: Social Enterprises, A. Karitzis & Associates L.L.C, 18th March 2021, available at: <https://www.mondaq.com/cyprus/contracts-and-commercial-law/1048810/social-enterprises>.

¹⁸ Partners Albania, Analyses of legal framework on social enterprises in Albania, 2019. Available at: <https://partnersalbania.org/wp-content/uploads/2019/07/Analyses-of-legal-framework-on-social-enterprises-in-Albania.pdf>.

employment etc)¹⁹. It was experienced in other parts of Europe that when SEs are adopting exclusively one model, it is not successful for the development of the ecosystem⁴. Further its limitation in terms of the organisation form, only non-profits, to obtain the status of social enterprise excludes other legal entities who could bring the added value to the sector²⁰.

The law also sets strict limitations in terms of economic and social criteria, such as:

- Determining the percentage of employed marginalised groups,
- Determining a minimum of number of employees and
- Compulsory percentage of income generation from economic activity.

There are also shortcomings on the financial aspects such as:

- managing their revenues
- access to public funds and
- no access to public procurement

Legal frameworks should stimulate the growth of the ecosystem, rather than hinder it because of the constraining nature of how it is formed. Short overview of the issues is the result of the lack of proper cooperation with sectoral experts and lack of considering their recommendations²¹. This led to the above-mentioned issues that should be addressed in order to make this law work properly and in favour of its receivers. The example of Albania puts emphasis on how important are the respective steps in developing the legal frameworks from scoping to development and evaluation, with the consultation process of all stakeholders and continued dialogue among them.

Croatia

In Croatia, Social Entrepreneurship is not regulated separately by a specific law, but it is integrated into general legislation, which allows for a certain degree of flexibility in conducting social enterprise activities²².

Social enterprises are bound largely to their social missions and are mainly developed as a “trading arm” of associations or evolution of social cooperatives²³.

One of the major breakthroughs for development of SEs came in 2015 with the developing the *Strategy for the Development of Social Entrepreneurship* for the period from 2015 to 2020. The aim

¹⁹ EMES Network & Euricse, “Social Enterprises and their Ecosystems: Recent Development in Europe” – Seminar Paper, 2019.

²⁰ Supra note 18.

²¹ ibid.

²² Boosting social entrepreneurship and social enterprise creation Unlocking the potential of social enterprises in Croatia: Local Economic and Employment Development (LEED) Programme of the Organisation for Economic Co-operation and Development in collaboration with the Ministry of Labour and Pension System, Croatia, September 2016.

²³ Strategic Study on Social Economy Development in the context of the SEE 2020 Strategy, 2015.

was not only to give a boost to SEs development but also to bring an official definition that would be embraced by the strategy²⁴.

There are six legal forms of social entrepreneurship in Croatia: association, cooperative, institution, foundation, company and craft. Since social entrepreneurship connects for-profit and non-profit sectors, it can be implemented through legal forms common to both sectors.

In the first draft there was a big emphasis given into the definition of SEs, and to make sure that it is in compliance with the European Commission and its Social Business Initiative. Also, there were limitations to the few fields of engagement, mainly services related to intellectual property (production, agriculture, tourism, culture, etc.), and employment of groups at risk of social exclusion and provision of services for socially vulnerable groups, preservation of natural resources, promotion of regional development and revival of local community resources. In the revised version however, there were already mentioned social services.

SEs in Croatia are determined the following criteria for recognizing social entrepreneurs such as:

1. The social entrepreneur invests at least 75% of the annual profit, i.e., the surplus income generated by performing his activity, in the realisation and development of business goals, i.e. activities.
2. It is characterised by voluntary and open membership and autonomy of business, i.e., activities.
3. The PA cannot be the sole founder of a social entrepreneur.
4. Democratic way of decision-making - involvement of stakeholders in transparent and responsible management.
5. Monitoring and evaluation of social, economic and environmental effects and impact, and uses the results of the evaluation in planning his further business and takes care of their improvement.
6. In case of cessation of activity, the social enterprise has a defined obligation to transfer its remaining assets to regional self-government that will use it for the development of social entrepreneurship.

However, one of the most important functions of the Strategy is the activity that focuses on *Establishing a "Unique Social Entrepreneurs Register, Developing Criteria and Rules for Recognizing Social Entrepreneurs"*. Each entrepreneur and/or enterprise that fulfilled Strategy's criteria was meant to be registered in the Social Entrepreneurs Register for the period of three years²⁵. After that, a social enterprise will have the possibility to apply for registration in the Register or will be

²⁴ M.Kolakovic, M. Turkic, I.Tukric, Social Entrepreneurship: Strategic Development in Croatia, Zagreb International Review of Economics & Business, Vol. 21, No. 2, 2018.

²⁵ S. Tišma : S. Malekovic, D.A. Jelinčić, M. Mileusnic Škrtic , I. Keser, From Science to Policy: How to Support Social Entrepreneurship in Croatia, Journal of Risk and Financial Management, 2022.

deleted. This will form the official list of social entrepreneurs and it is used as a basis for applying for financial support and grants for its members. The main issue for the ecosystem lies in the implementation of the activities, due to significant delay and also largely from weak support from the environment and long-term strategy of the government.

Croatia serves as an example, where to certain extent the efforts were made to support SE ecosystem's development through legal frameworks, but the lack of general support, long term vision and cooperation between diverse actors from the environment itself, made the framework weak. Once more, it is evident, that law and regulations will become a driver for the SE development only if there is a sufficient support and cooperation between policy makers and experts/intermediary organisations, through open consultation process, to best define the further steps that are beneficial for all the parties.

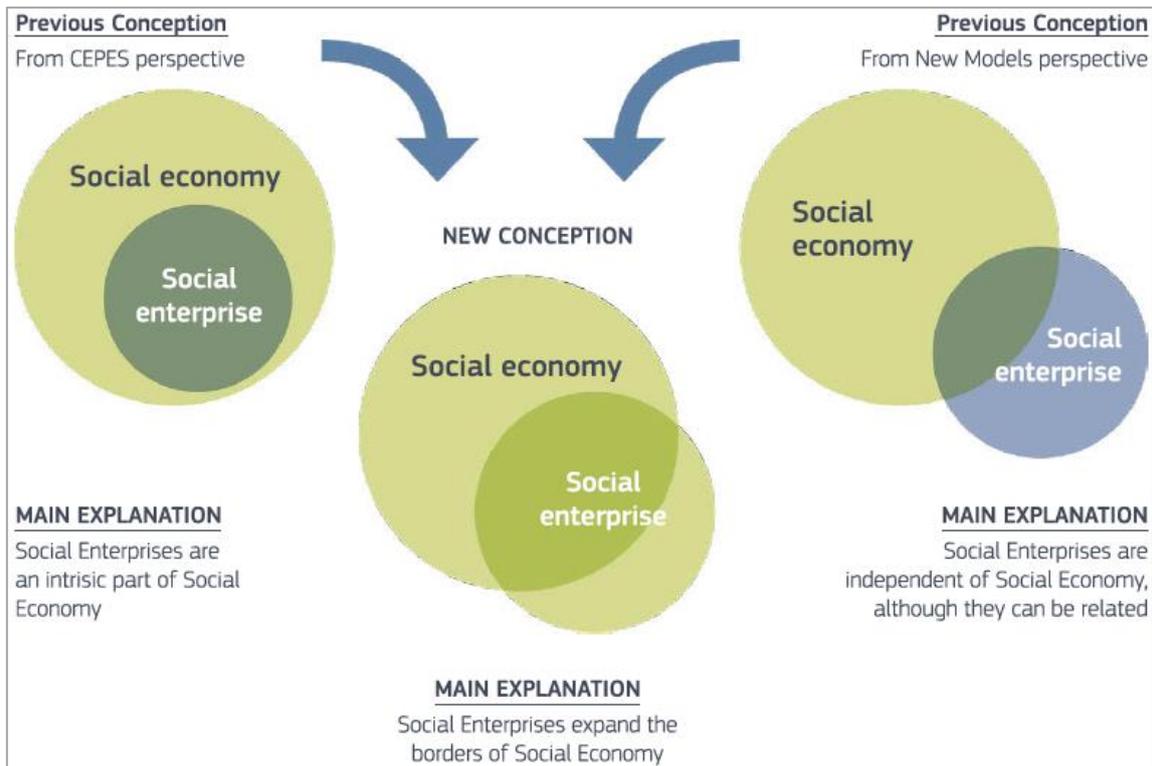
The process of development of legal and policy frameworks

The examples below highlight the process of developing legal frameworks in countries like Spain, Ireland the UK and Italy, where the ecosystem of social enterprises is nowadays consolidated, and it continuously engages with the policy makers to promote the development of social economy and the agency of social enterprises. These examples show the steps that were taken to achieve this development:

- The allocation of government's responsibility, through the establishment of a department, committee or ministry dedicated to social economy; this also creates a clear interlocutor for the organisations representing social enterprises.
- The definition of the legal forms included in social economy and the defining characteristics of social enterprises (social objective, governance, asset lock)– these are in line with the European framework.
- Passing of specific laws on public procurement, facilitating the access to market and access to finance.
- Definition of specific policy strategies for the consolidation and development of social entrepreneurship.

Spain

The development of the social entrepreneurship system in Spain is an **interesting example because it is interconnected with the country's political, social and economic transition from dictatorship to democracy**: the Franco dictatorship limited civil liberties and reduced social and political space, limiting the possibility for civil society initiatives to take place.



(EC country report, 2020)

During the 1970s and 1980s, Spain saw a surge in social-oriented initiatives to promote employment in workers' cooperatives and labour companies, supported by the funding and awareness raised by public programmes. The 1978 Constitution recognises the role of cooperatives in addressing social needs and thus requires the public authorities to implement an enabling ecosystem through legislation and encourage workers' access to ownership of the means of production²⁶.

The legal and institutionalisation process of social economy started in the 1990s, with the establishment of the National Institute for the Promotion of the Social Economy (INFES), now replaced by the **Directorate General for the Promotion of Social Economy and the European Social Fund** (Directorate), which operates as a separate division of the Ministry of Labour and Social Affairs 'Secretariat-General for Employment.

²⁶ European Center for Non-for Profit Law, Legal Framework for social economy and social enterprises: a comparative report, September 2012.

Spain is one of the most decentralised European countries, which creates asymmetry and diversity among its 17 autonomous regions. In fact, the same institutionalisation process is progressively present at the local level, with a number of regional governments developing advisory bodies on social entrepreneurship, which also lead to the establishment of regional federations, representing and maintaining a proactive dialogue with regional public institutions.

In 2011, the **Spanish parliament enacted the law 5/2011**, the first law of its kind in Europe, which provides a **definition of social economy, a general legal framework for social enterprises, defining clear and necessary conditions to support the development** of the field.

The institutional framework was further developed with the adoption of Law 31/2015 and **Law 9/2017 on Public Procurement**, which has opened up new possibilities for the development of social enterprises and social economy organisations. Further, the **Spanish Strategy for Social Economy 2017-2020** - enacted in 2018 - **represents a roadmap for the national government for the promotion of the sector**. Finally, the **creation of the Ministry of Labour and Social Economy** in 2020 is an important step towards the further institutionalisation of the sector²⁷.

The legal forms that are eligible to become social enterprises in Spain ascribe to three main categories:

- employment integration enterprises (empresas de inserción - EIs);
- social initiative cooperatives (cooperativa de iniciativa social - CIS);
- special employment centres of social initiative (centros especiales de empleo - CEE);
- some associations and foundations with economic activities.

In line with the European definitions and conceptual requirements, the Spanish law includes **requirements that entities need to fulfil in order to be considered** part of the social economy, such as:

- democratic and participatory governance structures;
- primacy of social purpose, which reflect the principle of primacy of the individuals over capital;
- promotion of solidarity, to support the commitment to local development, equality of opportunities, the promotion of integration of people at risk of social exclusion, social cohesion, employment generation, work-life balance and sustainability;
- independence from public authorities
- **limited profit distribution**²⁸

²⁷ *ibid.*

²⁸ article 4 of Law 5/2011.

The law is aimed to facilitate social enterprises a greater **access to public funding and EU grants** available only to the social enterprise sector and **receive various tax benefits**.

Nowadays, social enterprises in Spain are especially active in **employment integration, social services, and community care** because these are **contracted out by the public administration**. Emerging social enterprises are operating in **new fields such as fair trade, rural development or renewable energy**. In Spain, social enterprises contribute to the **10% of the GDP**, CEPES estimates include country-specific social enterprises with other legal forms such as fisherman's guilds, labour companies, disability sector associations or mutual benefit societies. The total number of all social economy entities are estimated at 43.192 creating 2.184.234 million direct and indirect jobs.

Ireland

In Ireland, social enterprises are defined as:

	A Social Enterprise is an enterprise whose objective is to achieve a social, societal or environmental impact, rather than maximising profit for its owners or shareholders.
	It pursues its objectives by trading on an ongoing basis through the provision of goods and/or services, and by reinvesting surpluses into achieving social objectives.
	It is governed in a fully accountable and transparent manner and is independent of the public sector. If dissolved, it should transfer its assets to another organisation with a similar mission.

(National Social Enterprise Policy for Ireland, 2019-2022)

Thus, the definition enshrines the main characteristics of social enterprises agreed on at the European level:

- It is an enterprise, a private entity that pursues its goals through the **production of goods and/or services**
- The **social, environmental impact is the primary goal**, not profit
- The **activities** that a social enterprise can be involved in can vary, as long as these are **done continuously**, and the **surpluses are reinvested towards a social purpose**
- The **governance is participative and democratic** and needs to **ensure accountability and transparency**.

In Ireland, social enterprises take a variety of different legal forms, including, amongst others:

Work Integration Social Enterprises (WISEs)

- **Enterprise Development** - support the creation of other enterprises (e.g., through the provision of office space and facilities),
- **'Deficient Demand'** - seek to meet a demand for goods and services within a community where there is insufficient demand for the operation of a regular market due to inherent economic and social disadvantage or low density of population,
- **Environmental social enterprises** which focus on environmental sustainability,
- Social enterprises **contracted with the public sector to deliver public services** in disadvantaged areas and communities²⁹.

This legal definition is the outcome of decades of policies and legal instruments that created the environment for social enterprises to be established and unleash their potential. However, in 2017/2018 the Social Finance Foundation and the Irish Department of Rural and Community Development published a joint study highlighting the **need to ensure recognition, support organisations, and achieve policy alignment**. The outcome of this consultative and collaborative process, which included sector stakeholders, is the 2019-2022 National Social Enterprise Policy for Ireland.

The **added value** that the government recognises is the **social innovation approach**, the ability to utilise **new technologies and creative approaches** to address social, societal and environmental challenges.

The [National Policy for Ireland](#) is an interesting example because it presents a clear implementation strategy, the main points being:

1. **Building awareness of social enterprises**, working closely with SE stakeholders to raise awareness, gather good practices and increase public understanding;
2. **Initiating social enterprises**, support incubation and start-up phases through programmes, support the inclusion of SE education in all levels;
3. **Leadership and governance**, support the consolidation and sharing of available information, improve access to advice and support to develop business proposals, provide tailored training for SE;
4. **Access to finance**, identify and catalogue the different funding schemes at national and EU level, explore the potential for new funding schemes eg. EaSI guarantee scheme for loan funding, foster private investment including Corporate Social Responsibility initiatives, improve alignment of funding schemes across government departments;

²⁹ Government of Ireland, National Social Enterprises Policy for Ireland, 2019-2022, Department of Rural and Community Development, July 2019.

5. **Enabling market opportunities**, support capacity building, work with stakeholder to understand how to improve B2B supply chain and public procurement;
6. **Legal form**, research and monitor the potential for specific legal structures for social Enterprises;
7. **Interaction with national and international bodies**, develop better understanding on interaction with different policy areas, understand how Ireland can advocate at the international level and increase its influence;
8. **Data and impact**, improve data collection to understand the extent of SE in Ireland and the areas in which they operate, develop mechanisms to measure social and economic impact;
9. **Policy implementation and oversight**, establish a dedicated body to monitor and implement the policy actions.

In the policy, it is further emphasised the role of local authorities in leading the development of local areas, and thus the engagement they need to have with social enterprises to design, coordinate and implement social inclusion and local development strategies. **The example is that of the Dublin City Council, through its Economic Development Office, supports sustainable and strategic social enterprises in the city, providing them with training, mentoring, awards, resources and promotion of social entrepreneurship.**

This process is also achieved by assigning responsibility to social enterprises to the Department of Rural and Community Development, a clear and defined interlocutor, which allocated €2 million per annum as Social Enterprise measure, and a €1.6 million Social Enterprise Development Fund, to support the scaling up of social enterprises³⁰.

The United Kingdom

Social entrepreneurship in the U.K. had its **policy and legal development from the mid-1990s**, as different legal forms, cooperatives, community benefit societies, charities and community enterprises, started using business models to foster social change and address social needs.

A first step was the Compact on Relations between the Government and the Voluntary and Community Sector, a legally non-binding document which sought to improve working relations between the government and the Third sector³¹, which paved the way for a series of **Code of Conducts** that clarified the **practices of public funding and procurement, and the engagement with local authorities.**

In **2001**, the current Department of Business, Innovation and Skills **established the Social Enterprise Unit**, with a mandate to coordinate stakeholders of the social enterprise sector and government

³⁰ *ibid.*

³¹ *supra* note 9.

officials, identifying the main challenges, and make recommendations to support the establishment and development of social enterprises, which was perceived as a ground-breaking step forward³².

The approach adopted in the UK is to agree on a conceptual definition of the term Social Enterprise, which is then referred to by policy makers, but there is currently no legal definition or specific legal form.

A social enterprise is defined as *“a business with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners”*³³ The focus is describing the purpose of the business, not its legal form. In fact, **social enterprises in the U.K can take a variety of legal forms** and the process of establishing one will depend on the legal form chosen.

The most common ones are: **Community Interest Company (CIC), Limited company and Industrial and Provident Society**, but legally it is also possible to choose an incorporated legal form, such an unincorporated association or a trust – or a combination of the two³⁴.

Legal structure	Can also be a charity?	Key points	Percentage of social enterprises adopting this structure
Unincorporated Association	Yes	An organisation with no separate legal identity other than its members.	1%
Company Limited by Guarantee (CLG)	Yes	A limited company with no share capital where members act as guarantors (usually for a nominal amount) if the company is wound up.	51%
Charitable Incorporated Organisation (CIO)	Yes	A new legal structure with limited liability which only needs to register with the Charity Commission, not Companies House.	New
Company Limited by Shares (CLS)	No	The standard structure for a for-profit company. The liability of the shareholders to creditors of the company is limited to the capital originally invested.	12%
Industrial and Provident Society (IPS)	No	A legal form of co-operative regulated by the Financial Conduct Authority and adopted by Credit Unions among others.	19%
Community Interest Company (CIC) Limited by Shares	No	A limited company whose social purpose is enshrined and where there is a limit on the amount of profit that can be distributed other than for its social purpose.	17%
Community Interest Company (CIC) Limited by Guarantee	No		
Public Limited Company (PLC)	No	A company limited by shares which can be traded publicly on a stock exchange.	1%

(British Council, 2015³⁵)

³² *ibid.*

³³ Department for Business Innovation and Skills, A Guide to Legal forms for Social Enterprises, November 2011.

³⁴ *ibid.*

³⁵ British Council, Social Enterprise in the UK: Developing a thriving social enterprise sector, British Council 2015 / F126.

The Community Interest Company³⁶ is a distinct institutional form for social enterprises, provided for in the Companies Act of 2004, which closely matches the EU operational definition of SE. The main CIC features are mandatory and irreversible protective mechanisms:

- It establishes the **CIC Regulator**, in charge of evaluating the mandatory requirements;
- **the objects clause**: it requires a community interest statement, providing evidence that the CIC meets the community interest test defined by law, and the proposed activities to be carried out for public benefit, both at the point of registration and if a firm later elects to alter its objectives; no restrictions in terms of activities are described, as long as the public benefit clause is met;
- the new **directorial duty of loyalty**: the CIC's board of directors must formulate and execute a strategy in which the firm engages in productive processes and generates profit, instrumentally, in the pursuit of the selected public benefit, its duty of loyalty is not owed to the corporation for shareholders' private benefit, but rather to the firm itself as a separate socio-institutional entity;
- **Restrictions and cap on the payment of dividends and the use of assets**: 35% of a CIC's yearly profit can be paid in dividends to company shareholders. Meanwhile **the asset lock decrees that assets must be dedicated to benefiting the community**.
- CIC must **comply with the requirements of company law** in general, and accordingly must file **annual accounts** and returns at Companies House in addition to its responsibilities to the Regulator.
- extra transparency obligations through the CIC Report.
- The **shareholders' central role is to monitor firm performance** and the board of directors.

Further, the UK has introduced another hybrid legal form that was suitable for social enterprises: **Charitable Companies**. They can only apply its assets to carry out its charitable purposes and must operate in a way which is in the best interests of the charity. It gives more options to apply for donations and grants. It is suitable for smaller charities ³⁷.

It is imperative to underline that since 1997 the government has played an enormous role in supporting the thriving social enterprise sector. The British Council Report³⁸ summarises the most important elements that contributed to its growth, among them:

- supported infrastructure bodies such as SE UK, Social Enterprise Scotland and the Wales Co-operative Centre to make the sector more cohesive and robust
- encouraged financial sustainability and independence through a series of grant and loan funds

³⁶ Companies (Audit, Investigations and Community Enterprise) Act, 2004.

³⁷ "Social Enterprise in the UK, Developing and thriving Social Enterprise Sector". British Council, 2015.

³⁸ *ibid.*

- supported the development of the social investment market by setting up Big Society Capital and introducing tax incentives for social investors
- introduced new legal forms such as the CIC and the CIO to make it easier to set up and run a social enterprise
- encouraged the public sector to buy from social enterprises, both through guidance and through legislation like the Social Value Act
- facilitated public sector services to spin out as new, independent social enterprises.³⁹

Italy

Social economy organisations, such as mutuals benefits, workers cooperatives and voluntary associations have a long-standing history in Italy, as they have supported the Italian welfare system from the late 1800s. The role of the cooperative movement is enshrined in the Italian Constitution which acknowledges a “social function” to it; Cooperatives and other social economy organisations (gathered within an umbrella organisation for Third Sector) are Social Partners, along with the Business federations and Trade Unions, at national level playing the same role in the Industrial Relations system and the collective bargaining.

The Italian SE ecosystem experienced a boost in development from the 1970s, due to different factors: rise of new disadvantaged groups, closure of state-owned institutions, shift in sensitivity towards humane and fair treatment of vulnerable categories, and social changes lead to the increasing externalisation of care services.

The role of SE actors is recognised by the government in 1990 with the law 142/1990, which establishes that the management of social public services can also be run by private third parties – this will lead to the definition of the principle of subsidiarity in 2000, which establishes fiscal advantages for the organisations that complement the social welfare of the state.

In these years, Third Sector Entities (TSE) and their federations start advocating for the creation of a specific legal form that can generate economic activities while providing services and producing products for the general benefit, answering to the needs of the already existing organisations.

In fact, the term social enterprise was firstly employed in the late 1980s to indicate private initiatives that provided services and produced products supporting the work integration of disadvantaged groups. The first important milestone in the legal development of the Italian ecosystem is the promulgation of the law 381/1991, which establishes the social cooperative legal form. Social cooperatives in Italy are of two types (+1):

³⁹ *ibid.*

- Type A: social cooperatives active in providing services of social utility, such as culture, welfare and educational services
- Type B: social cooperatives engaged in economic activities for the integration of disadvantaged people into employment. – at least 30% of disadvantaged people among their employees – allowed to operate in agricultural, industrial and commercial sectors
- It's becoming more common to have mixed legal forms, with social cooperatives engaging in type A+B activities.

Social cooperatives are fundamental to understand the development of the legal establishment of social enterprises, as they are the only legal form which is de jure a social enterprise.

Another aspect to consider is that, through this law, social cooperatives' added value in providing services and producing products that favour the integration of disadvantaged groups in the labour market is recognised, as a specific provision allows the PA to prioritise Type B Cooperatives in awarding public tenders – within the framework of EU Competition Law.

Social cooperatives experience an exponential growth from the 1990s to the early 2000s, in 2001 ISTAT counts 5.500 social cooperatives, with the latest figure in 2018 counting 15.189 social cooperatives, employing over 430.000 people, generating profits for 14,3 billion euros⁴⁰. The same growth is also experienced in terms of sectors of involvement, as their capacity of identifying emerging needs and innovative social solutions allows them to build resilience and adapt to different requirements; the most prominent examples are social agriculture, community cooperatives, social housing, migrants and NEETs services. This development is supported and led by the progressive consolidation of national, regional and local federations and consortia, which became essential intermediaries and sectors' representatives in the social dialogue, advocating for the further establishment of an enabling legal framework⁴¹.

This led to the promulgation of the first law on social enterprises in Europe in 2005, the law 118/2005. This law allowed organisations and traditional enterprises to acquire the legal category of social enterprises, an addition to their legal form, while formally accepting legal, revenues and operative constraints⁴². This first attempt to regulate social enterprises is particularly interesting because it is considered a failure: it was unappealing to third sector organisations as the benefits for the qualifications were considered limited compared to the legal and operational obligations, and it was perceived as detrimental for traditional enterprises because the fiscal benefits were left

⁴⁰ Borzaga, C., et al. "Structure and performance of Italian cooperatives: a quantitative analysis based on combined use of official data." *Journal of Entrepreneurial and Organizational Diversity* 8.1 (2019).

⁴¹ *ibid.*

⁴² A. Fici, The new Italian law on social enterprise, paper presented at the seminar "Emerging models of social entrepreneurship: possible paths for social enterprise development in central east and south east europe", organised by the OECD LEED Trento Centre for Local Development and the Institute for the Development of Non-Profit Organisations (ISSAN) in co-operation with the United States Agency for International Development (USAID) – Zagreb (Croatia), 28- 29 September 2006.

undefined⁴³. However, this experience is important because it shows how the government took the opportunity to enhance the dialogue with third sector federations, representatives and practitioners to co-design the Third Sector Reform and the subsequent legislative decree that in 2017 redefined social enterprises, which are considered the outcome of a shared legislative process.

In the Code of the Third Sector 117/2017, social enterprises are included among the entities part of the Third Sector – thus all the requirements, benefits and obligations apply.

Art. 55 is particularly of interest because it clearly states that private administrations and third sector entities are moved from the same objective: realising society's general interest – this requires them to sit at the same side of the table to identify shared solutions to the emerging needs. It defines the co-planning and co-design of the activities. Co-planning means that the PA and third sector entities routinely identify the needs of the society, the emerging trends and define long-term strategies to address them. Through co-design the cooperation between PA and TSE turns the strategic decision into concrete activities to be implemented by the different actors on the territory, which will then be up for call for tenders or call for proposals. This ensures the PA that the public funds are invested in activities that have a proven value and validity, while ensuring the TSE that their bottom-up perspective in identifying needs and addressing them is considered.

The main characteristics of social enterprises in Italy (d.lgs. 112/2017): **Any private entity** can acquire the legal category of social enterprises, meaning third sector organisations such as associations, volunteer organisations, foundations, including traditional enterprises, as long as:

- Their primary and continuative activity pursues social, public utility, and general interest objectives – at least 70% of the total revenues
- They adopt participative and democratic governance structures, that ensure transparency and social responsibility ensuring a human centred approach and stakeholder engagement
- The sectors of activity are numerous spanning from social and healthcare services to cultural, environmental, educational activities, from social tourism to microfinance, from fairtrade to urban regeneration activities.

⁴³ OECD (2022), "Case study – Law on Social Cooperatives in Italy: Adjustment of an existing cooperative law to support social enterprise development", in *Designing Legal Frameworks for Social Enterprises: Practical Guidance for Policy Makers*, OECD Publishing, Paris.

- Independence from public entities
- Asset lock; the revenues need to be reinvested in pursuing the social objective and cannot be redistributed among shareholders.
- They are formally included in the enterprise register, under social enterprise section
- Specific fiscal benefits
- Annual social report + traditional balance sheet

One of the main takeaways from the process of development in Italy is the fundamental role played by Third sector representatives, national and local federations and consortia, in identifying the requirements to have a meaningful and enabling legal framework, advocating for their views to be included and moving forward with coherence together with the public administration, which managed to recognise this role through the co-planning and co-design mechanisms.

The next chapters will introduce the relevance for ecosystem development of public procurement and impact measurement, presenting examples of their implementation from the European Commission and the related reflections from the OECD analysis. Both public procurement and impact measurement are central aspects to investigate due to their potential for direct support and building rationale for the transformative and leading role of social economy in social and economic development⁴⁴.

Public procurement

Public procurement is considered a fundamental enabler for the development of social enterprises, as it recognises the commitment from public authorities to value the social benefits in public procurement contracts other than competitive neutrality and price, and it enhances access to markets for social enterprises. Increasingly, policy makers are recognising its importance and use it to drive positive social, environmental and economic impacts, such as generating employment opportunities for vulnerable groups, supporting social cohesion, and favouring the development of SE⁴⁵.

In most countries, public procurement represents the main source of revenue for social enterprises, ensuring their sustainability⁴⁶. Their added value lies in the ability to directly engage with the local stakeholders and beneficiaries and collect their needs; due to their structure and familiarity with social innovation processes they have the capacity to flexibly and responsively answer these needs supported by an expertise that cannot be found in the public sector. These scoping abilities allows them to be important intermediaries for the co-planning of national and local social strategies, especially when national and local federations and consortia are supported, while matching the

⁴⁴ OECD, supra note 1.

⁴⁵ Supra note 9.

⁴⁶ Supra note 4.

opportunity to find additional resources, from private entities and foundations, to implement them⁴⁷.

Further, for public authorities it is an opportunity to widen the range and increase the number of available social services, improve their quality through competition, add value in the form of additional benefits and lower costs, and promote public agency, participation and ownership of public services⁴⁸.

Buy Social: B2B market

The Single Market Programme is the EU funding programme to help the single market reach its full potential and ensure Europe's recovery from the COVID19 pandemic. In this framework, the European Commission published a call for proposals in the autumn 2022 to enable local, regional or national "**Buy Social: B2B market**". The purpose of the call is to build partnership and facilitate trade relationships between social economy entities and mainstream businesses (B2B). This will lead to support the systemic integration of social enterprises in mainstream businesses' value chain and to the development of structured partnerships and partnering with them to bid jointly for public procurement. It moves from the awareness that in developing B2B markets, both parties face numerous challenges such as lack of mutual understanding, cultural barriers, different working methods and processes.

This call for proposal should be seen as an important step taken by public institutions in achieving social, environmental and economic objectives, generating greater impact, having more solid economic performance and securing future orientations of business activity, business scaling perspectives and consolidation that could boost a greater impact finance flow towards social B2B activities in the future.

Impact Measurement

Measuring Social Impact and developing the tools and methodology on the national level, adequate to the context, proves to be extremely challenging. One of the major challenges is the difficulty to harmonise the process due to lack of understanding of social impact among the stakeholders.

In the last years, many efforts have been undertaken on the EU level to harmonise and provide a single framework for social impact measurement: in 2014, the Group d'Experts de la Commission sur l'Entrepreneuriat Social (GECES), the sub-group on Social Impact Measurement, released a methodology for measuring the impact of social enterprises' activities and to support harmonising

⁴⁷ Supra note 1, p. 35.

⁴⁸ Supra note 1, p. 34.

social impact efforts across the EU⁴⁹. Many EU countries started promoting policy measures that aim at raising awareness and promoting a social impact measurement mind-set.

A process of five steps was introduced by the European Venture Philanthropy Association's practical guide to measuring and managing impact⁵⁰:

- identifying objectives
- identifying stakeholders;
- setting relevant measurements
- measure, validate and value; and
- report, learn and improve⁵¹.

However, in practice, for the “young” ecosystems, there is a considerable lack of skills to report and measure the impact that hinders its development from the early (start-up) phase.

One of the major recommendations by the OECD circulates strongly around the co-creation process between stakeholders. They should develop together not only the shared theory of change, language, but also the reporting processes and tools that can be shared among each other⁵². Further, there is a strong emphasis on the training on reporting and measurement.

Lastly, awareness raising campaigns are strongly recommended to continue the dialogue between stakeholders and therefore to promote co-creation of social impact measurement and reporting approaches that are the most relevant to the context of the country. The campaign will also demonstrate in general the benefits from measuring social impact (modalities for reinvesting the profit and clarifying the social aim⁵³).

Impact measurement is crucial for social enterprises in order to:

- allocate resources to create social value creation and identify the interventions and to prove and order to prove and improve progress on the societal problem
- engage with difficult-to-reach target groups
- change public perception of a product/service
- promote inclusive governance practices
- increase stakeholder participation and collaboration: work with diverse stakeholders from
- across sectors and industries

⁴⁹ GECES, Proposed Approaches to Social Impact Measurement in European Commission legislation and in practice relating to: EuSEFs and the EaSI, GECES Sub-group on Impact Measurement, (2013).

⁵⁰ HEHENBERGER L., HARLING A.M., SCHOLTEN P., A Practical Guide to Measuring and Managing Impact, EVPA Report, 30 November 2015, available at <https://www.evpa.ngo/insights/practical-guide-measuring-and-managing-impact>.

⁵¹ *ibid.*

⁵² OECD, *supra* note 1.

⁵³ *ibid.*

- influence stakeholders through political and public advocacy (e.g., presenting to parliament).
- inform their scaling strategies and secure funding opportunities⁵⁴.

The OECD's Review on the Lithuanian ecosystem highlights the lacking awareness, absence of a common measurement framework, and multitude of approaches and tools utilised by social enterprises creating confusion and competing practices. This calls for awareness raising and training of professionals in the field, together with strategic allocation of resources, in terms of public funding, to support the development of impact measuring schemes once these skills are developed⁵⁵.

⁵⁴ *ibid.*

⁵⁵ *supra* note 4, p. 38.

A SET OF ACTIONABLE RECOMMENDATIONS

In this section a set of actionable recommendations is presented on the basis of the experience matured by Diesis Network in 25 years supporting the regional and national ecosystems from more than 25 countries in EU and beyond.

These recommendations are conceived as being actionable, concrete and with an operational side suggesting some possible implementations.

EMPOWERING ECOSYSTEMS CAPABILITIES

Rationale the capability of the ecosystem represents one of the major issues / assets to tackle and support. Building the ecosystems is the first recommendation which can be drawn from several examples and from the history of the sector worldwide. Empower intermediaries and empower the sector for an “economy of scale” focused on the development of the demand side and helpful in overcoming regulatory barriers is also sought by OECD’s experts. Ecosystems must be capable of absorbing the support in terms of financial and non-financial resources. Developing a thriving ecosystem that supports the SE entities is a crucial pathway. Holistic approaches are generally preferred to address such ecosystem issues as they not only tend to put in place all necessary mechanisms for market development but also to boost coordination among them.

Implementation: This recommendation can be operationalized through activities aiming to address regulatory and other environmental features covering: a set-up of a (series of) Peer Learning Partnership (PLP) that include public officials, SE and GE representatives. This intervention can be implemented following 3 specific goals:

- Address policy and pre-regulatory issues: the overall goal is to support social and national dialogue to implement Social Economy regulations and definitions (see also dedicated recommendation)
- Promote governance and awareness raising in order to help to balance initiatives including both SE entrepreneurs and their networks, public authorities and public or private investors and their networks. This could be achieved by collaborative actions with a solid track record in building friendlier ecosystems such as International Peer Learning Partnerships (PLP) that include public officials, SE and GE representatives, SII representatives (as well as incubators and other intermediaries). As mentioned above these could address at least two main issues (under the form of Peer Learning Clusters within the Peer Learning Partnership).
- Improve measurement: with the intent to further support the intake of internationally recognized metrics such as those proposed by UNRISD or having in mind the results of the “OECD Global Action on Promoting Social and Solidarity Economy Ecosystems” in relation to Social Impact Measurement.

SETTING DEFINITIONS FOR THE SECTOR

Rationale: Different institutions use different or even competing definitions of the SE sector, actors and concepts particularly related to impact. This leads to confusing identification of social economy various forms and similar or adjacent organisations and their needs. In more general terms, such confusion fuels different perceptions and knowledge about the social impact of SE businesses and the way public and private investors can support the SE sector. It is not uncommon that businesses which visibly don't pursue any social means are categorised as "social businesses" only by presenting general figures or claims on impact.

Implementation: national policy makers should favour the clarification of key concepts such as Social Economy, Social Enterprise, etc and Social Impact Investment at national levels. In order to address this, we propose two initiatives:

- The first is to operationalize under the form of a clear definition of Target/Beneficiaries in the proposed interventions.
- The second is to include an operational definition of SE companies in all the programmes, interventions and policy dialogues.

UNLEASHING THE POTENTIAL OF THE PROXIMITY FACTOR

Rationale: SE businesses are above all community-rooted economic activities. This feature needs to be emphasised and promoted by all stakeholders as a means to contribute to the local development in countries where centralised political and economic systems are paramount and leave little room to locally- born economically viable solutions.

Implementation: national authorities should engage with and support current local public and private actors and NGOs who actively promote community-based SE activities. This is operationalized under the form of development support intervention, as described below. This could be achieved by country-level interventions to support the development of social and green economy initiatives in disadvantaged geographic areas and/or communities as for example the interventions implemented by the Italian Cooperation in various neighbouring countries through bilateral and multilateral channels (mostly grants) to support decentralised, integrated local development, juvenile employment in sustainable agro-industrial activities, cross-sectoral development of territories and upgrading local authorities' capabilities with innovative SE-oriented economic analysis and planification tools/methods.

This intervention could deliver grants to SE-oriented local businesses and technical assistance to other actors, public and private aiming at:

- Building a viable local SE business sector with the potential to network into formalised entities as a factor of sustainable growth.
- Supporting public policy implementation in these areas in relation to the SE but not only in order to ignite and sustain local economic dynamics and market. Supporting local NGOs

providing business development services to the SE businesses in these areas. Funding, mostly grants but also “prêts d’honneur”, and technical assistance preferably to export driven entities can also be a valuable tool in strengthening local cohesion in fragile/declining communities.

Bibliography

A. Fici, The new Italian law on social enterprise, paper presented at the seminar “Emerging models of social entrepreneurship: possible paths for social enterprise development in central east and south east europe”, organised by the OECD LEED Trento Centre for Local Development and the Institute for the Development of Non-Profit Organisations (ISSAN) in co-operation with the United States Agency for International Development (USAID) – Zagreb (Croatia), 28- 29 September 2006.

Antonis Karitzis, Cyprus: Social Enterprises, A. Karitzis & Associates L.L.C, 18th March 2021, available at: <https://www.mondaq.com/cyprus/contracts-and-commercial-law/1048810/social-enterprises>.

Boosting social entrepreneurship and social enterprise creation Unlocking the potential of social enterprises in Croatia: Local Economic and Employment Development (LEED) Programme of the Organisation for Economic Co-operation and Development in collaboration with the Ministry of Labour and Pension System, Croatia, September 2016.

Borzaga, C., et al. "Structure and performance of Italian cooperatives: a quantitative analysis based on combined use of official data." *Journal of Entrepreneurial and Organizational Diversity* 8.1 (2019).

British Council, Social Enterprise in the UK: Developing a thriving social enterprise sector, British Council 2015 / F126.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Building an economy that works for people: an action plan for the social economy, Brussels, 9.12.2021, COM (2021) 778 final.

Companies (Audit, Investigations and Community Enterprise) Act, 2004.

Department for Business Innovation and Skills, A Guide to Legal forms for Social Enterprises, November 2011.

Directorate General, Ministry of Growth and Finance, 2019, available at: http://www.dgepcd.gov.cy/dgepcd/dgepcd.nsf/page60_en/page60_en?OpenDocument.

EMES Network & Euricse, “Social Enterprises and their Ecosystems: Recent Development in Europe” – Seminar Paper, 2019.

European Center for Non-for Profit Law, Legal Framework for social economy and social enterprises: a comparative report, September 2012.

European Commission, Social Economy in the EU, retrieved on 20th november 2022, available at: https://single-market-economy.ec.europa.eu/sectors/proximity-and-social-economy/social-economy-eu_en.

Government of Ireland, National Social Enterprises Policy for Ireland, 2019-2022, Department of Rural and Community Development, July 2019.

GECES, Proposed Approaches to Social Impact Measurement in European Commission legislation and in practice relating to: EuSEFs and the EaSI, GECES Sub-group on Impact Measurement, (2013).

HEHENBERGER L., HARLING A.M., SCHOLTEN P., A Practical Guide to Measuring and Managing Impact, EVPA Report, 30 November 2015, available at <https://www.evpa.ngo/insights/practical-guide-measuring-and-managing-impact>.

Kolakovic, M. Turkic, I. Tukric, Social Entrepreneurship: Strategic Development in Croatia, Zagreb International Review of Economics & Business, Vol. 21, No. 2, 2018.

Lars Hulgård and Lisa Chodorkof, Social Enterprises and their ecosystem in Europe - Country report Denmark, European Union, 2019.

OECD (2022), "Case study – Law on Social Cooperatives in Italy: Adjustment of an existing cooperative law to support social enterprise development", in Designing Legal Frameworks for Social Enterprises: Practical Guidance for Policy Makers, OECD Publishing, Paris.

OECD (2022), *Designing legal framework for social enterprises, Practical guidance for policy makers*, Local Economic and Employment Development (LEED), OECD Publishing, Paris, <https://doi.org/10.1787/172b60b2-en>, p. 14.

OECD, Boosting Social Entrepreneurship and social enterprise development in Lithuania – In depth policy review, OECD LEED Working Papers, 2019.

OECD, Legal frameworks for the social and solidarity economy, OECD Global Action – Promoting Social and Solidarity Economy Ecosystems, 2022.

Partners Albania, Analyses of legal framework on social enterprises in Albania, 2019. Available at: <https://partnersalbania.org/wp-content/uploads/2019/07/Analyses-of-legal-framework-on-social-enterprises-in-Albania.pdf>.

Social Enterprise in the UK, Developing and thriving Social Enterprise Sector". British Council, 2015.

Strategic Study on Social Economy Development in the context of the SEE 2020 Strategy, 2015.

Tišma : S. Malekovic, D.A. Jelinčić, M. Mileusnic Škrtic , I. Keser, From Science to Policy: How to Support Social Entrepreneurship in Croatia, Journal of Risk and Financial Management, 2022.

UNTFSSSE, Position Paper: Advancing the 2030 Agenda through the Social and Solidarity Economy, 26th September 2022.

Annexes

Investment and Contract Readiness Fund

UK policy support in action: Investment and Contract Readiness Fund



Grants distributed	£13.2m (15.13m EUR)
Social enterprises & charities supported	155
Average grant given	£85k (97,440 EUR)
Investments secured	£79m (90.5m EUR)
Contracts secured	£154m (176.5m EUR)

- Set up in 2012 to help social enterprises win government contracts and access finance.
- Grants available between £50k - £150k.
- Return on investment of £26 per £1 spent.
- Funding would be given to work with an external consultant to help social enterprise get access to skills and expertise they need.

Source – Presentation by Mr Andrew O'BRIEN, Director Of External Affairs at Social Enterprise UK at the event "Social Business Ambassadors: The United Kingdom" organized by the Lithuanian Social Business Association in cooperation with the British Embassy, Parliamentary Forum for Democracy, Social Enterprise UK, and Lithuanian Rural Network.

Social Investment Tax Relief

UK policy support in action: Social Investment Tax Relief



- Created in 2014 by the UK Government.
- Provides income and capital gains tax relief to individuals that invest with social enterprises.
- Social enterprises under 7 years old can raise up to £1.5m through this relief.
- Older social enterprises can raise up to £290k.
- A £10,000 investment would give the individual £3,000 in tax relief – making the true cost of the investment £7,000.

Source – Presentation by Mr Andrew O'BRIEN, Director Of External Affairs at Social Enterprise UK at the event *"Social Business Ambassadors: The United Kingdom"* organized by the Lithuanian Social Business Association in cooperation with the British Embassy, Parliamentary Forum for Democracy, Social Enterprise UK, and Lithuanian Rural Network.

Overview of fiscal benefits granted to social enterprises in the targeted EU countries

Table 2.2. Overview of fiscal benefits granted to social enterprises in the targeted EU countries

The table provides an overview of fiscal benefits for the social enterprises, at the national and subnational level, as well as other support mechanisms available. The table is not exhaustive due to the diversity of fiscal benefits and other support mechanisms that exist and that context-based.

	Fiscal benefits for social enterprises	Other support mechanisms
EU Member States		
Belgium	<ul style="list-style-type: none"> Under certain conditions, WISEs benefit from a reduced VAT rate. Social security tax breaks are provided in the healthcare and social service sectors. WISEs' profits put into an asset lock schemes are subject to tax reductions at the regional level. Under certain conditions tax reductions for private and/or institutional donors can be provided. 	<ul style="list-style-type: none"> The Social Innovation Factory, created in 2013, "promotes, guides and supports social entrepreneurship and social innovation in tackling societal challenges" and combines the roles of advisory structure and incubator. In Flanders, various measures were undertaken to support WISEs such a large structure for collective support programs, subsidies for management consultancy, support for innovation and CSR and scientific management courses. Several social economy consulting agencies (Agences-conseil), which are recognised support and advice structures for social enterprises, currently operate in Wallonia.
Denmark	<ul style="list-style-type: none"> Public benefit organisations do not pay any corporate income tax on their "ideal" activities nor on the economic activities necessary to support their social mission. Organisations and social enterprises with the public-benefit status can use a reduced VAT rate of 7%, instead of the normal rate of 19%. Social enterprises do not benefit from any exemption on indirect labour costs. If they have employees, they must follow all regulations. 	<ul style="list-style-type: none"> The Danish Centre for Voluntary Effort is a government-run centre that promotes the non-profit sector. Many support mechanisms for the social enterprises were discontinued in 2015 due to shifting policy priorities at the national level.
France	<ul style="list-style-type: none"> SCICs' revenue that is allocated to the asset lock is tax-exempt. Sports and cultural associations can be exempt from corporation tax on services provided to their members. Foundations are not subject to corporation tax for activities directly related to their purpose. SCICs' VAT rate depends on the activity carried out. Sporting and cultural associations can be exempt from VAT on services provided to their members. Foundations are not subject to VAT for activities directly related to their purpose. Associations and WISEs can benefit from reduced social security taxes for the employment of workers under certain conditions. Legal entities can donate tax-free up to 10% of their previous year's profit or up to 3% of their personnel costs during the current year to eligible NPOs and foundations. The total amount that individuals are allowed to deduct from their personal income is 1,200 EUR per year. 	<ul style="list-style-type: none"> Social economy enterprises have access to regional support schemes dedicated to innovation. Associations are eligible for employment subsidies if they hire unemployed or low qualified workers. All enterprises are eligible for public grants according to their activity field (social services, home care services, childcare, cultural activities, and sport, among others) There are numerous although diversified support initiatives at regional level. Key initiatives include the Rhône-Alpes Forum of Solidarity Employment (until 2015) to promote employment in the sector, the PROGRESS program of the Provence-Côte d'Azur Region to develop the social economy, and the Languedoc-Roussillon Region initiative to provide support services to social innovation projects.
Italy	<ul style="list-style-type: none"> Social cooperatives entities with SE status are exempted from payment of corporate tax (IRES). A-Type social cooperatives enjoy a favourable (5%) VAT rate. B-Type social cooperatives are exempt from the payment of social insurance contributions for the disadvantaged workers they have integrated. Donating to public benefit organisations including social cooperatives qualifies donors for corporate tax advantages: a 20% reduction of the corporate tax 	<ul style="list-style-type: none"> The Marcora Fund facilitates access to finance for cooperatives. The Ministry of Economic Development has actively supported social enterprises and social cooperatives since 2015.

	<p>base for a single donation and an additional 20% reduction for a permanent donation contract. In addition, donations made by individuals are deductible from the personal income.</p> <ul style="list-style-type: none"> • Donations of goods and services for public benefit purposes also receive VAT exemption. • Public benefit provisions govern non-profit companies if they have public benefit status. In this case, non-profit companies do not need to pay taxes after their public benefit activities and remain exempt from local business tax. 	
Luxembourg	<ul style="list-style-type: none"> • SISs can benefit from exemptions from corporate income tax, communal business tax and net wealth tax. • Tax reductions granted to private and/or institutional donors exist but are not specified. • No legal provisions regarding exemption or reduced VAT rate for SISs. 	<ul style="list-style-type: none"> • Department of Social and Solidarity Economy • 6zero1 is a government-run incubator supporting SISs. • SSE Cluster of the Greater Region is an initiative supporting SSE development in Luxembourg and the French region of Meurthe and Moselle.
Netherlands	<ul style="list-style-type: none"> • Corporate tax reduction for organisations meeting the requirements for public benefit status (ANBI status), such as having the aim and the actual activities of an organisation with 90% public interest. • Donations to organisations that have ANBI status can be deducted from income tax over and above a threshold of 1% of the total income reported to the tax authorities (and at least 60 EUR). The maximum deduction is 10% of this income. 	<ul style="list-style-type: none"> • The municipality of Amsterdam has initiated a support program for WISEs which includes a variety of measures (e.g. investment fund, guidance, etc.). Another measure undertaken by the municipality is the "Project preparation Subsidy Sustainable Initiatives." • The municipality of Utrecht launched the "Working together for work" program as well as several platforms, such as the Social Impact Factory, in order to inform and connect social entrepreneurs.
Poland	<ul style="list-style-type: none"> • Some exemptions from income tax under certain conditions. • ZAZs and ENPOs are VAT exempt under certain conditions. • The employment costs of social cooperatives can be covered by a local government. If an ENPO acts as a CIS, it is allowed to benefit from a partial reimbursement of its employees' salaries. ZAZs' employment costs can be partially covered by PFRON. 	<ul style="list-style-type: none"> • About 60 EU-funded social economy support centres provide business support services to SSE organisations and social enterprises.
Slovakia	<ul style="list-style-type: none"> • Civic associations and NPOs providing socially beneficial services and foundations are exempt from taxes for the non-profit activities. • VAT applies only in cases of SEs whose yearly taxable income is 50,000 EUR. • SEs with higher income registered according to the Act on Social Economy and Social Enterprises and those that are socialising 100% of their possible profit may apply for the lowered VAT rate. • In the case of employing a long-term unemployed person, the employer may apply for a reduced rate of social insurance payment. In case of employees with health disabilities, the health insurance payment is half that of other employees. • Tax percentage assignment model under which legal entities and natural persons may participate. 	<ul style="list-style-type: none"> • All enterprises that create jobs for disadvantaged jobseekers can apply for a public subsidy supporting the newly created or sustained job. • A spectrum of financial aid schemes (investment and compensatory aid) has been introduced under Act on Social Economy and Social Enterprise.
Slovenia	<ul style="list-style-type: none"> • Associations, institutes, and foundations are exempt from paying taxes for non-profit activities. • Exemption from VAT for activities in the public interest and if taxable income does not exceed 50,000 EUR per year. • Companies and employment centres for people with disabilities are exempt from paying taxes and social security contributions for all employed persons in the company 	<ul style="list-style-type: none"> • Most programmes, actions and tenders of the Ministry of Labour, Family, Social Affairs and Equal Opportunities are traditionally open to social enterprise organisation types in relation to active labour market policies, social affairs, family and people with disabilities. For instance, from 2009 to 2015 the Ministry allocated 8.3 million EUR to SE development, which included pilot project tenders and public works for SEs.

Spain	<ul style="list-style-type: none"> • Profits of social initiative cooperatives with a recognition of their non-profit mission can be exempt or applied to just 10% of revenues. Reduction of 95% in the Economic Activities Tax. • Special employment centres for social initiative can benefit from direct subsidy and reduction in the annual business tax for each people with disabilities hired. • Employment integration enterprises benefit from reductions in the social security contributions of workers at risk of exclusion. Subsidies for economic compensation of the labour costs supported due to the integration process. • Special employment centres not only those for social initiatives: benefit from reductions in the social security contributions of people with disabilities employed. Subsidies for economic compensation of the labour costs supported. • Donors (legal entities or physical persons) have no tax relief or other types of benefits. 	<ul style="list-style-type: none"> • At the national level, three main measures have been developed to promote and support the social economy, in addition to the fiscal benefits: budget support (e.g. grants and subsidies for incorporating certain types of workers into the enterprises, direct investments in materials that contribute to the competitiveness of enterprises, subsidised technical support and training, etc.), technical assistance (e.g. providing support to SSE organisations in areas such as internationalisation or innovation), and employment policies (e.g. giving workers the possibility to capitalise unemployment benefits when the beneficiary decides to establish a cooperative).
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Source: (European Commission, 2020[2]), 2020-2021 OECD focus groups

Lessons learnt

- **Fiscal policy can be used separately or in conjunction with legal frameworks to support social enterprises.**
- **Legal frameworks that do not leverage fiscal policy often lead to underused legal forms.** Creating tax incentives and developing fiscal instruments can promote uptake of new legal forms and drive engagement with social enterprises.
- **There is a diverse set of fiscal tools that can be utilised to support social enterprises or target certain outcomes.** Various combinations of available fiscal approaches and tax regimes can be used to meet local specificities and help address specific social, economic and environmental challenges.

OECD, Legal frameworks for the social and solidarity economy, OECD Global Action – Promoting Social and Solidarity Economy Ecosystems, 2022.

Examples of inclusive and open processes to legal frameworks for social enterprises

Box 2.15. Examples of inclusive and open processes to legal frameworks for social enterprises

- **France:** Biennial consultations mobilising national and subnational authorities as well as representatives of the field have been introduced in the 2014 Law on the Social and Solidarity Economy, confirming a more bottom-up approach to building the ecosystem.
- **Denmark:** A specific National Committee was created in order to prepare the Act of 2014.
- **Slovakia:** A two year long consultation process was held during which inputs were collected from academics, social entrepreneurs and local governments, before adopting the Act on Social Economy and Social Enterprises in 2018.
- **Spain:** A partnership model was developed to promote strong involvement of different stakeholders in processes pertaining to laws such the Law on the Social Economy in 2011 (Law 5/2011) which recognises the concept of social enterprise. The stakeholders include regional authorities, universities, associations, and the private sector (e.g. the Mondragon Cooperative Corporation) in addition to the Spanish Business Confederation of Social Economy (CEPES): an umbrella organisation created in 1992 to represent the companies of the social economy.

Source: focus group discussions from target countries and beyond

OECD, Legal frameworks for the social and solidarity economy, OECD Global Action – Promoting Social and Solidarity Economy Ecosystems, 2022.

Examples of inclusive and open processes to legal frameworks for social enterprises **Examples of supportive measures in Italy**

Table 9. Estimated number of social enterprises in 2017

Legal type	SEs	Paid workers	Annual turnover (million EUR)
Social cooperatives	15,770	441,000	11,900
<i>Ex lege</i> SEs*	600	50,000	200
Associations & foundations	86,091	403,800	30,000
Total	102,461	894,800	42,700

Source: Lori 2019.

* Estimates based on the Register of Chambers of Commerce, excluding associations, foundations and social cooperatives already counted in the related data.

Borzaga, C., et al. "Structure and performance of Italian cooperatives: a quantitative analysis based on combined use of official data." Journal of Entrepreneurial and Organizational Diversity 8.1 (2019).