

**Enhancing Young People Skills and Competencies in Social Entrepreneurship by Virtual Reality**

**ERASMUS+2021-1-RO01-KA220-YOU-000029869**

**Course T3.2**

**Legal aspects of social entreprenership**

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**Legal aspects of social entreprenership**

# Introcuctive aspects

**Social entrepreneurship** can be considered as a one of the adequate solutions to nowadays problems in line with the democratic principles valuing the social inclusion, creativity and strategic thinking. **Social economy activities** play a key role as they combine innovation with the execution of solidarity relations between the community and the involved environment, thus highlighting their mission and contribution to sustainable development.

**The concept of social entrepreneurship appeared around 1983**, with the publication of an article on “non-profit innovative entrepreneurs” along the lines of Schumpeter's conception. Only on the 1990s emerged in the US academic world (Bornstein, 1998; Dees, 1998) and in the United Kingdom (Leadbeater, 1997).

Social entrepreneurship remains an area of interest that cuts across academic disciplines and challenges traditional assumptions of economic and business development (Leadbeater, 1997; Dart, 2004). It has a major contribution to social, economic and environmental wealth (Fayolle & Matlay, 2010). The theme is sensitive because it expresses the integration of the present day in the combination of the passion of a social mission with the image of discipline linked to management, innovation and determination (Dees, 1998). Social entrepreneurship may require different assessment standards from of entrepreneurship formats in the broad sense and the requirement for higher support for social legislation and policies (Peredo & Mclean, 2006).

**The contemporary society is characterized** by change, uncertainty and unknown challenges. **Innovation and sustainability emerge** as key factors for society and the business world (Weidinger, Fischler & Schmidpeter, 2014). **The concepts of sustainable entrepreneurship and social innovation** are worldwide becoming increasingly relevant to businesses, governments and NGOs (Weidinger, Fischler & Schmidpeter, 2014). Extant literature provides enough evidence that researchers have attempted to understand social entrepreneurship phenomena from the point of view of social entrepreneurs, social enterprises and social ventures (e.g. Hota et al. 2019; Bacq and Alt 2018; André and Pache 2016; Bacq et al. 2016). Being a controversial concept (Dieguez, 2018), sustainability envisions a balanced integration of economic performance, social inclusiveness and environmental resilience, to the benefit of current and future generations (Geissdoerfer et al., 2017). However, the social problems that social enterprises seek to address, identify, and define have not been thoroughly studied (Hervieux and Voltan 2018; Pathak and Muralidharan 2018). It is also noted that social entrepreneurships operating in developing countries transform social problems into manageable problems by adopting innovative and creative strategies (Seelos and Mair 2005). However, one of the major problems here is to win the trust of the communities (Kummitha 2016).

**According to the European Commission social enterprise is defined** as being an operator in the social economy whose main objective is to have a social impact rather than make a profit for their owners or shareholders. It operates by providing goods and services for the market in an entrepreneurial and innovative fashion and uses its profits primarily to achieve social objectives. It is managed in an open and responsible manner and, in particular, involves employees, consumers and stakeholders affected by its commercial activities.

**The Commission uses the term 'social enterprise' to cover the following types of business**

* Those for who the social or societal objective of the common good is the reason for the commercial activity, often in the form of a high level of social innovation
* Those whose profits are mainly reinvested to achieve this social objective
* Those where the method of organisation or the ownership system reflects the enterprise's mission, using democratic or participatory principles or focusing on social justice.[[1]](#footnote-1)

In Europe, social enterprises are closely linked the tradition of the social economy, which is characterized by principles and values such as solidarity, the primacy of people over capital, and democratic and participa­tive governance.

In Europe, social enterprises are active in a wide spectrum of activi­ties and in many different fields, including social services, educa­tion, housing, the environment, culture and the arts, and tourism, through new activities such as renewable energies, fair trade, transport ecc.

“Social economy” take various legal forms in different countries across Europe like cooperatives, mutual benefit societies, nonprofit associations (including charity), foundations, social enterprise .

# Legislation

According to the Comparative synthesis report *Social Enterprises and their ecosystem in Europe of the European Commission* were identified two groups of countries: those that have introduced legislation designed specifically for social enterprises with a view to furthering their development and those in which social enterprises are not fully regulated.

According to the country, there are different types of laws:

* Greece – Limited liability social cooperatives under Law on Mental Health Services(2716/1999), Law on Social Economy and Social Entrepreneurship(4019/2011), Law on Social and Solidarity Economy (4430/2016)
* Italy – Law on Social Cooperatives(381/1991), Legislative Decree on SEs(155/2006), Reform of the Third Sector and SE(106/2016)
* Romania – Law on Protection of PWDs(448/2006), Law on Social Economy(219/2015)
* Slovakia – Act on Employment Services(5/2004 revised in 2008), Act on Social Economy and SEs(112/2018)

Overall, national reports confirm that the potential of social enterprise is still far from being fully harnessed in most countries analysed. One of the factors explaining this is the still-limited recognition of social enterprise. This incomplete acknowledgment is not only due to the poor political and legal recognition of social enterprise. It can also be ascribed to the reluctance of many *de facto* social enterprises to self-recognise as such and the inability of the various forms of social enterprise (e.g., associations, cooperatives, legally recognised social enterprises) to speak with one voice or articulate their different voices. The lack of understanding regarding what constitutes a social enterprise among many of the concerned organisations also explains the weak self-recognition. [[2]](#footnote-2)

# Legal aspects in Romania

**Romania recently institutionalized social enterprises.** The Social Economy Law 2019/2015 was passed after a five-year period of policy consultation, giving social companies legal legitimacy.

**Social enterprises have been recognized as** a component of the social economy on the basis of this statute. The law outlines the requirements that various organizational kinds (associations and foundations, mutual assistance associations, cooperatives, and limited liability firms) must meet in order to be considered social enterprises. A brand-new category of social enterprise is also made official by the law: the social insertion enterprise. Romania's definition of social business is still general and consistent with the SBI's definition from 2011, albeit it omits the concept of multi-stakeholder governance.

**A clear distinction between social enterprises and social insertion enterprises is made** by Law 219/2015. (article 11). Cooperative societies (Law 1/2005); credit cooperatives (Order 99/2006); associations and foundations (GO 26/2000); mutual aid associations (Laws 122/1996 and 540/2002); agricultural companies (Law 36/1991) and their associations and federations; and other types of legal entities (limited liability companies or shareholder companies) that are g (Rusandu 2016, EESC 2017). Law 219/2015, which regulates a new type of WISE[[3]](#footnote-3) known as "social insertion enterprises," places a high focus on the use of social enterprise as a tool for social inclusion.

The organizations named in the statute must apply for a social enterprise certificate from the National Agency for Employment in order to be recognized as social enterprises. According to the law, a certain certification known as the "social mark" is required for the new WISEs (social insertion enterprises). This distinguishing accreditation has a three-year expiration date.

**The nomenclature of the "social economy" and "social entrepreneurship"** has caused conceptual ambiguities and lack of clarity that have characterized public discussions during the past ten years. De facto social enterprises were operational and organized in Romania at the time the Ministry of Labour and Social Protection launched the first move to regulate the social economy sector (early 2011), but they were doing so illegally. The specific legislation governing the establishment and operation of each category of social economy organization (cooperatives, entrepreneurial associations and foundations, mutual aid associations), as well as the legislation governing enterprise activity in general (Fiscal Code, public procurement law, etc.), or specific fields of activity like social and employment services, had established the regulatory and public policy framework for these de facto social enterprises.

**The social economy law was drafted in 2011** by the Romanian Ministry of Labor, Family, and Social Protection. In order to guarantee the social economy's funding for the preceding year, public authorities endorsed the draft. The first proposed draft of the law to regulate the functions of social enterprises took precedence over organizing public consultations because the first round of public grants utilizing European structural funds had already begun in 2009.

The Law on Social Assistance (Law 292/2012) also refers to the social economy as a new strategy for social inclusion that focuses on integrating vulnerable individuals into the workforce (article 53).

The proposed legislation underwent a number of changes and sparked lively debates in the Parliament and during public consultation meetings organized by the Ministry of Labor, Family, and Social Protection. The social economy sector was governed by Law 219/2015 on the Social Economy, which was passed and established “by establishing measures to promote and foster it and establishing the competences of central and local governments in this matter” (article 1). The social economy is defined by law as all privately organized activities that seek to serve the public interest, the interests of the community, and/or private non-financial interests. These activities may involve hiring members of vulnerable groups or producing and supplying goods, services, and/or employment.

**The objectives of the social economy’s are:**

a) to strengthen social and economic cohesion;

b) to support employment, especially of different categories of vulnerable groups

c) to develop social services

**These objectives are fulfilled through activities of public interest such as:**

a) providing goods, services and/or work to the community, thus contributing to the welfare of the community or of its members;

b) promoting activities that can generate work for persons from vulnerable groups;

c) providing vocational training programmes that improve the employability of persons in these groups;

d) developing social services to improve the social insertion of the vulnerable groups.

Any of the aforementioned organizations (cooperative societies, credit cooperatives, associations and foundations, mutual aid associations, agricultural companies and their associations and federations; other types of legal entities - limited liability companies or shareholder companies) may be recognized as a social enterprise, regardless of its legal status, if it satisfies the following specific requirements:

* - is a private legal body (unaffected by governmental authority):
* > it prioritizes social and personal goals over financial maximization;
* > it exhibits comradery and shared accountability;
* > the community's interest, the public interest, and/or the members' interests coincide;it has a democratic governance;
* - it is a voluntary and free association;
* > The majority of its revenues are devoted to maintaining the social objective and the statutory reserve (90 percent of the income should be directed to maintaining the social aim and asset lock; only 10 percent may be paid to the members);
* if the company stops operating, its assets must be given to other, comparable social companies;
* it treats employees fairly by upholding the idea of social justice. The lowest salary to highest compensation ratio cannot be greater than 1 to 8.

**In conclusion,** an organization must be a private legal company, engage in social economy-related activities, obtain certain certifications, and uphold social economy principles in order to be recognized in Romania as a social enterprise (as stated by the law).

**A social label certifies the social insertion business.** The social insertion enterprise must adhere to the extra requirements/criteria listed below, as stated by Law 219/2015:

* at least 30% of the employees belong to vulnerable groups;
* The social insertion enterprise seeks to combat exclusion, discrimination, and unemployment through the socio-professional integration of disadvantaged individuals.
* > The above 30% employees' cumulative work time equals at least 30% of the total employees' work time.

To ensure the professional and social inclusion of their more disadvantaged employees, WISEs should offer supplemental measures and social services.

The social economy law is a "recognition" law because it has introduced a new category of businesses in part but does not contain any supportive or incentivizing policies. The social enterprise achieves accreditation via a certification procedure in compliance with the law.

# Legal aspects in Italy

**The Constitutional Court's decision 396 of 1988 was the first significant step** in setting the stage for the gradual emergence and widespread development of social companies in Italy. This decision demonstrated the unconstitutionality of the Crispi Law (Law 6972/1890), which mandated that welfare activities be exclusively organized by public organizations and insisted that all citizens bear responsibility for providing support to those in need. The Parliament was urged by the Constitutional Court to devise appropriate legal frameworks for the administration of welfare programs.

**It is noteworthy that the objectives followed by the new "social solidarity cooperatives" that formed from the bottom up were different from those of the conventional ones.** They were created to help those in need who had been overlooked by official policies, not to further the interests of their members. In addition to members who were not directly interested in profiting from the services provided or the new jobs created, unlike classic cooperative forms, the new cooperatives also included volunteers. Since they were not recognized by the law, it was inevitable that there would be challenges in the way of these new cooperatives' spread. The cooperative movement, a portion of the Christian Democratic Party, and some local officials who felt the burden of an increasing demand for social services that they were unable to supply helped to break down some of these barriers in the end. The new cooperatives, which numbered about 600 by the middle of the 1980s, coexisted with voluntary organizations, many of which converted to cooperatives as soon as their activity gained prominence and stabilization became necessary.

**This new type of cooperative was recognized in 1991 through Law 381/1991** on "social cooperatives" after more than ten years of unregulated development. This law introduced a new type of enterprise with a clear social goal in addition to recognizing a new cooperative model that had been evolving since the 1970s. The innovation consisted of redefining the enterprise's economic goal. As stated in Law 381, social cooperatives are established to advance the community's overall interest in the human advancement and social integration of citizens. They are not intended to further the interests of their owners or members.

According to whether they manage social-welfare or educational services (A-type social cooperatives), engage in any other activity—agricultural, manufacturing, or commercial—or provide services (other than social) for the work integration of disadvantaged people, Law 381 regulates two types of social cooperative (B-type social cooperatives). Both are entrepreneurial in character and get all or most of their money from selling goods and services. The latter have a specific focus on the employment of disadvantaged workers, who must make up at least 30% of their workforce and for whom the cooperatives are free from paying national insurance contributions. The former can only operate in the provision of social and educational services.

The law transcends organizational and legal borders to grant the legal status of social business to a variety of organizations, including associations, foundations, religious institutions, cooperatives, limited liability corporations, and shareholder firms. The law also stipulates that associations and foundations seeking to register as social enterprises must demonstrate their entrepreneurial nature; in contrast, joint-stock and limited liability companies seeking to obtain the status of social enterprises must adhere to certain requirements regarding the distribution of benefits (specifically, adhering to a total non-distribution constraint) and involvement of relevant stakeholders.

The rule has nevertheless encountered some opposition from qualifying organizations because of ingrained cultural preconceptions that prevent associations from being considered enterprises.

Restrictions on the presence of volunteers and the involvement of commercial, for-profit, and public institutions in the governance of social businesses have sparked more opposition. Another two points worth mentioning are the higher expenses foundations and groups must pay to register as social companies and the absence of tax benefits, including those previously given to social cooperatives.

**Furthermore, social cooperatives are not automatically given the status of social enterprises by the law**. They are permitted to register as long as they amend their bylaws to meet the new requirements, which include publishing a social balance sheet and increasing the involvement of the pertinent stakeholders. Because of this, the majority of social cooperatives, associations, and foundations have opted to carry on with business as usual and avoid registering as social businesses.

The new chance provided by the law to obtain the legal status of a social enterprise has been disregarded by recently founded organizations that de facto operate as social enterprises.

These patterns help to explain why, while the number of organizations legally recognized as social enterprises has remained relatively low, both in absolute terms and when compared to the number of organizations that could potentially qualify as social enterprises, over the intervening years de facto social enterprises have continued to grow in terms of numbers, turnover, and people employed.

**Mutual aid societies were included to the Register of Social Enterprises in 2012 as well**. Prior to the 1978 reform that brought about a universal public health system, these organizations served as one of the cornerstones of the healthcare industry. After this reform, the majority of the medical services provided, the buildings possessed, and the staff members employed by mutual assistance societies were taken over by the government as part of the development of the Italian public health system. Only a few mutuals survived, continuing to be governed by Law 3818/1886 and offering comprehensive insurance services to their members. Following a steady rise in the demand for healthcare services and a decline in the public system's ability to cover those services, interest in these organizations has returned in recent decades, and new mutual health societies have been founded. Due to the government's renewed attention, mutual assistance societies were forced to register as social businesses under Legislative Decree 179/2012 and the Ministry of Economic Development's Decree of March 6, 2013, as a result of which they were given consideration.

Legislative Decrees 117/2017 (Code of the Third Sector) and 112/2017, which together restructure the "third sector," have lately been passed and brought about significant changes (Revision of the Social Enterprise Law).

According to the government, Law 106/2016 had **main goal** to give the sector a common framework in order to overcome its fragmentation from various angles, in terms of organizational types (caused by the different legal forms that had been introduced in the previous decades on voluntary associations, social promotion associations, social cooperatives, and social enterprises, etc.), in terms of restrictions and support measures.

Legislative Decree 117/2017 gave the entire third sector a common framework. It outlines the requirements that third-sector organizations must meet in order to be recognized as a member of the sector, defines the terms "non-lucrative" and "general interest," lists the tasks that third-sector organizations are permitted to carry out (third-sector entity). The law defines and governs the following types of organizations: mutual aid societies, social promotion associations, charitable organizations, social businesses (including social cooperatives), and networks of third-sector organizations. Each of these forms is governed separately by the same decree, with the exception of social businesses, which are covered alone by decree 112/2017.

**A social enterprise is now described as** a "private organization that runs entrepreneurial activities for civic, solidarity, and social utility purposes and allocates profits primarily to achieve its corporate purpose by adopting responsible and transparent management modalities and favoring the greatest possible participation of employees, users, and other interested stakeholders," in accordance with Laws 118/2005 and 106/2016 as well as the operational definition of the EU.

**The new regulation protects social enterprise's non-profit goal** (and its belonging to the third sector). It also introduces some significant novelties at the same time:

* - It substitutes a set of compensation caps, akin to the regulations governing social cooperatives, for the total distribution constraint. In more detail, social enterprises that have been incorporated as cooperatives, limited liability companies, or shareholder companies are now permitted to distribute up to 50% of the profits made in a given year to investors (or donate them to other third-sector organizations), but at least 50% of the profits made must be reinvested in the social enterprise, and the assets must remain locked. Social businesses incorporated as associations and foundations are subject to the total distribution;
* In order to promote the adoption of more inclusive governance models, it permits the appointment of members from both private businesses and public authorities to the boards of social enterprises without allowing them to lead or preside over those boards;
* It also provides for the identification of benefits based on the level of disadvantage such workers suffer. - It broadens the fields of engagement and the categories of disadvantaged workers incorporated. Community broadcasting, development cooperation, fair trade, social housing, services for migrants and refugees, microcredit services, social agriculture, organization and management of non-professional sports, and re-use and re-qualification of premises seized from organized crime are additional sectors of activity compared to the 2005/2006 regulation.
* - It openly recognizes all social cooperatives as social businesses (without altering their bylaws), but it only broadens their activity to a few sectors (health and training), preventing them from operating in all the other sectors where other social enterprises are permitted to do so. To put it another way, social cooperatives continue to focus exclusively on the delivery of welfare services.
* It provides other targeted measures aimed at luring investments and recognizes tax exemption for non-distributed profits (in accordance with the social cooperative fiscal rule currently in effect).

The law stipulates that third-sector organizations that operate like enterprises (i.e., commercial revenue exceeds revenue derived from other sources, like donations and subsidies), although adoption of the qualification of social enterprise remains voluntary, must adhere to the rules applied by the Civil Code to all types of enterprises.

**A new legal structure was established by Law 208/2015** during the ratification of Law 106/2016. (referred to as the Stability Act 2016). **The designation of "benefit company" (società benefit) was introduced by this new law**. This law allows any business that jointly pursues a financial goal and one or more common benefits to qualify as a "benefit company." Benefit corporations cannot be categorized as social enterprises since they do not adhere to the non-profit distribution constraint and are not required to have inclusive governance. They can be seen as a type of mark intended to express adherence to specific corporate social responsibility criteria given that they are governed by law.

# Legal aspects in Greece

**Greek social businesses' legal development can be divided into three main phases.** The establishment of numerous legislation was what defined its **initial, early period**. The fragmentation of the relevant laws and the lack of any clear mention of the terms "social entrepreneurship," "social enterprise," "social economy," and "social and solidarity economy" are some of its fundamental characteristics.

**The official institutionalization of social economy and social entrepreneurship under Law 4019/2011 marked a significant turning point in the legal development of Greek social enterprises**. This new legislation, which was passed at the same time as the Greek crisis got worse, new social movements emerged, and people began experimenting with alternative economies and forms of solidarity (Varvarousis and Kallis, 2017), spawned an increase in social enterprises (Varvarousis et al., 2018), expanded activities across almost all economic sectors, and the discovery of legislative gaps and unmet needs. As a result, this stage could be referred to as "**transitional**" because of its brief existence and crucial part in developing an experimental method.

**With the introduction of Law 4430 in 2016, the third phase began.** Its primary characteristics are on the consolidation of social companies as alternatives to the business-as-usual paradigm and their spread into new economic sectors. Greek law was updated by Law 4430/2016, which also added a number of new concepts and mechanisms for measuring the effectiveness of social businesses. Additionally, it introduced the "worker cooperatives" legal form, separated the social enterprise legal form from SSE status, and improved a number of concepts that were initially presented under Law 4019/2011. Additionally, it paved the way for the possible fusion of the nation's disjointed social enterprise legislation. Despite the numerous advances brought about by Law 4430/2016, it should be highlighted that its immediate and long-term effects are still debatable as of this writing.The following is an analytical description of each stage:

**Early phase**

The 11th Article of the Greek Constitution, which granted citizens the "freedom to combine," a provision that is still in effect today, is where social enterprises and cooperatives are first mentioned in passing in Greek law.

The first cooperative-specific statute, which covers both agricultural and civil organizations, was passed in 1915. The 95 articles in Law 602/1915 are thought to be highly innovative for the period (Kontogeorgos and Sergaki 2015). It promoted the formation of cooperatives and allowed other kinds of legal entities to transition into cooperatives. Law 602/1915 also made an effort to shield producers and consumers from the prolonged exploitation that intermediaries inflicted and from the usury that was prevalent at the time.

Between 1975 and 1995, a sizable number of cooperative-related laws were passed, with questionable results. For instance, Law 921/1979 simultaneously repealed the clause that forbade professional politicians from joining cooperatives and introduced women's agrotourism cooperatives as well as a number of other features related to local development and culture. As a result, many cooperatives lost their autonomy, which encouraged political corruption and nepotism (Kontogeorgos and Sergaki 2015).

In addition, Law 1667/1986, which altered how civil cooperatives operate and is still in effect today, and Law 2716/99, which created KoiSPEs, are two more notable pieces of law from the decades that followed.

**Transitional phase**

The passage of Law 4019/2011, which for the first time institutionalized social entrepreneurship and the social economy in Greece, marked a turning point in the history of social companies there. Law 4019/2011 introduced the following legal formations in more detail:

* - **Social Cooperative Enterprises for Inclusion** (KoinSEp Entaxis), which aims to include at-risk populations on a social and economic level (e.g., disabled persons, drug addicts or former drug addicts and young offenders). These businesses must employ at least 40% members of socially vulnerable groups.
* - **Social Cooperative Enterprises for Social Care** (KoinSEp Kinonikis Frontidas), which concentrate on providing social services to particular population categories as the elderly, newborns, kids, and those with chronic diseases.

- **Social Cooperative Enterprises for Collective/Productive Purposes** (KoinSEp Silogikou and Paragogikou Skopou), which actively support employment, promote local and collective interests, and promote social cohesion and local or regional development. They concentrate on the creation of products and services offered in a variety of fields, including culture, the environment, education, the marketing of regional goods, and the maintenance of traditional professions.

Law 4019/2011 also established the National Registry of Social Economy, which came into existence under the Greek Ministry of Labour in 2012.

During a period of significant social, economic, and political instability, Law 4019/2011 was introduced. It was institutionalized first during a time when the economic crisis had a significant impact on many long-established business models. Such economic instability increased unemployment and poverty at all levels of Greek society, endangering the country's social cohesion. Second, the rise of political social movements, particularly the "movement of the squares" in 2011, the dissolution of some of the fundamental pillars of Greek society, and the emergence of new values like "solidarity," "cooperation," and "the commons" (Varvarousis 2019) highlighted the need for new legal frameworks that could enable the implementation of such values in daily life. Due to all of these factors, Law 4019/2011 became the focus of discussion regarding potential solutions to the crisis that could lead to a new socioeconomic trajectory.

However, the law's introduction and design were not naturally linked to the aforementioned problems, and a number of inconsistencies between the law's objectives and content then affected how it might be used and administered. It was created with a specific sectoral focus on social economy in mind as opposed to a more comprehensive transectoral perspective (Adam et al. 2018). The law specifically favored social assistance, the inclusion of vulnerable groups, local development, and social cohesion as ways to foster social economy. Despite this emphasis, the great majority of social businesses established within this framework prioritized fighting unemployment through beneficial activities with a "common objective" over the aforementioned "social aims" (Adam 2016).

**From social economy and social entrepreneurship to social and solidarity economy**

In a social, political, and economic climate that is always changing, Law 4019/2011 has shown to be a transitional piece of law. A fresh round of public consultation on the legal reformation of social businesses was started following the 2015 Greek national elections and the victory of SYRIZA. As a result, Law 4430/2016 was created, and it is still the primary piece of legislation in this area.

The goal of the new administration was to alter course and adopt a more structural and cross-sectoral approach to social economy, as opposed to the earlier constrained one. The sector's concept was changed from "social economy and social entrepreneurship" to "social and solidarity economy" to signify this shift. The first articles of Law 4430/2016 demonstrate this development because they are significantly different from the corresponding sections of the previous Law 4019/2011. As stated in the first article of the new law, "the present law aims at [...] the diffusion of social and solidarity economy in all feasible sectors of economic activity." Law 4019/2011, in contrast, lacked a corresponding objective. Law 4430/2016 prioritizes sustainable development by explicitly analyzing it in 14 separate paragraphs that cover a broad range of economic activities, in contrast to Law 4019/2011, which concentrated on social care and integration without making any mention of sustainability or sustainable development. Law 4430/2016 expressly mentions community-supported agriculture, renewable energy, sustainable tourism, P2P production based on commons, participatory waste management, recycling, and other productive processes that represent the leading edge of modern global social innovation. In short, social enterprises are now viewed as a significant tool for larger societal reform under Law 4430/2016, as opposed to Law 4019/2011, which saw them as a complementing sector of the economy. "An alternative form for arranging social, productive, distribution, consumption, and reinvestment connections in a democratic manner based on the values of solidarity, equity, and cooperation with respect to the human and natural environment" is specifically included in the new law. Similar to Law 4430/2016, which effectively makes the entire Greek society the target group for social businesses instead of only disadvantaged and special groups (Adam et al. 2018).

Of all the legal forms that Law 4430/2016 introduces as default entities of the new SSE sector, the following types are identified:

* + - * "An alternative form for arranging social, productive, distribution, consumption, and reinvestment connections in a democratic manner based on the values of solidarity, equity, and cooperation with respect to the human and natural environment" is specifically included in the new law. Similar to Law 4430/2016, which effectively makes the entire Greek society the target group for social businesses instead of only disadvantaged and special groups (Adam et al. 2018).KoiSPEs are a distinct legal form within Law 4430/2016.
      * Worker cooperatives were introduced for the first time as default SSE entities in 2016.
      * Law 4430/2016 established the Special Secretary of Social and Solidarity Economy, a unique administrative authority promoting the SSE, in addition to revising earlier SSE legal structures. The Ministry of Labor's new entity's primary responsibilities are developing and putting into action national SSE policy.

**Law 4430/2016 introduced and operationalized the principles of social innovation and sustainable development in addition to defining the concepts of collective and social benefit.** Additionally, it established the idea of "social effect" as well as a multidimensional instrument for measuring and evaluating it.

The partial departure from the logic that links the SSE and, consequently, the social enterprise sector with certain legal forms in favor of adopting a more operational, criteria-based logic is one of Law 4430/2016's most significant yet contentious features. In other words, Law 4430/2016 sought to incorporate both the concept of "legal status" and the existing default legal forms, which continue to be the foundation of the Greek SSE. This new reasoning holds that it is not necessary for an entity to change its legal status in order to participate in the official SSE spectrum and register on the NRSSE. Compliance with a number of operational standards is necessary. Greek government representatives claim that this was a step toward bringing all potential SSE actors under one set of laws (Adam et al. 2018), but they also acknowledge that more work and legislative initiatives are required to create a comprehensive set of laws that can regulate the entire industry (Annual Greek SSE Report 2018).

The following five operational criteria—which are arranged here according to their content—were more formally introduced by Law 4430/2016:

**Aim:**

- Create social and collectively beneficial activities.

- Foster horizontal and equitable networking with other SSE organizations to boost economic activity and produce social value.

**Governance:**

* By using a democratic system of decision-making, members are informed and their involvement is ensured.
* Apply the rule of "one member, one vote," regardless of the financial commitment made by each member.

**Economic equity:**

* The maximum salary cannot be greater than three times the minimum.
* The organization should start charging an annual salary charge that is at least 25% of its previous year's revenue after its second year of operation.

**Profit distribution:**

- 5% for the establishment of a reserve for SSE actors.

- Whether they are members or not, employees may receive an additional compensation of up to 35%.

-The remaining funds might be used to expand or generate new jobs.

-Since there is no mechanism for dividend distribution based on cooperative shares, non-employee members of the organization have no right to earnings.

-Upon their request, the members of Civil Cooperatives that have been recognized as SSE actors are entitled to receive any excess from the cooperative's dealings with its members. The extra money is maintained in a different account.

**Eligible membership:**

- An SSE actor cannot be founded and is not directly or indirectly regulated by legal entities that are formally linked to local governments or another legal body operating in the public sector.

- A KoinSEp or worker cooperative's members are not permitted to belong to another KoinSEp or worker cooperative that engages in the same activity.

Although the aforementioned standards were first institutionalized in order to broaden the SSE range, numerous ecosystem participants have expressed concern about the practical obstacles they pose. Following is a list of some of them:

* The requirement of "social benefit" is a requirement for any entity seeking SSE legal status, but it is not a requirement for all ex lege SSE entities (worker cooperatives), which causes ambiguity and prevents many production-oriented organizations (such as agricultural, consumers', and suppliers' cooperatives) from joining the SSE.
* Because foundations are made up of endowed monies rather than individuals, they are not included in the definition of democratic governance. For Anonymous Partnership Companies, the same holds true (SAs).
* The convergence of salaries only applies to SSE spectrum legal forms that are not ex lege and excludes KoinSEps and worker cooperatives, which causes ambiguity and incites feelings of injustice.
* In areas where the SSE sector is still relatively underdeveloped, networking is frequently impossible.
* The mandated yearly wage fee of 25% is unaffordable for organizations with a greater turnover rate. Furthermore, because of the nation's erratic and uncertain economic climate, its retrospective application causes numerous issues in practice.

# Legal aspects in Slovakia

**Social companies in Slovakia have access to a wide range of legal forms through the legal system.** The following are the most common legal entities covered by social enterprise: cooperative, public benefit organization, civic association, and limited liability company. These legal documents weren't created with social companies in mind.

**Regarding the phrase "social enterprise," the Slovak legislative framework included its first definition in 2008.** As a response to the sharp rise in unemployment linked to the global economic crisis, the Act 5/2004 Coll. on Employment Services was amended in April 2008 to include social enterprises. Within the active labor market policy framework, a contribution subsidizing an employee's labor costs at a social enterprise was developed as a new measure.

The 2008 amendment played a part in obscuring those de facto social enterprises that are not focused on work-integration by recognizing social enterprises that are deliberately intended to assist it.

**The phrase "topic of social economy" was added to the** **Act on Employment Services in 2015.** Due to the loosening of the rigid link between social enterprises and labor integration, this adjustment enabled a partial expansion of the perception of social entrepreneurship. However, from the standpoint of the current support structures, it hasn't yet resulted in any significant change.

**Act 112/2018 on the Social Economy and Social Enterprises** went into effect in May 2018. *The new legislation changed the way a supporting ecosystem was developed, providing a range of publicly sponsored financial and non-financial help specifically tailored for social entrepreneurs.* Given how recently the new law has been in effect, it is still too early to discuss any concrete effects.

According the Act 5/2004 on Employment Services, effected between 2008-2015, **social enterprise is defined as** a physical or legal entity, with the following characteristics:

* It employs workers who were formerly unemployed and in need of employment. A minimum of 30% of the workforce must be disadvantaged job seekers (namely: school graduates below the age of 26 without stable job experience; Slovak nationals above 50 years of age; Slovak nationals listed for more than 12 months in the unemployment registry; those with educational attainment below upper secondary education; foreign nationals who have been granted asylum; adults who live alone with one or more dependent persons or who take care of at least one child in obligatory education; citizens with health disabilities).
* It aids employed, underprivileged jobseekers in locating employment on the free market.
* At least 30% of the funds generated by its own operations that are left over after paying all fees related to those operations are reinvested in the creation of new jobs or the enhancement of working conditions.
* It is recorded in the social enterprise registration.

According the Act 112/2018 on Social Economy and Social enterprises, effected since May 2018, can be considered social enterprise if:

1. performs economic activity systematically, independently, in its own name and on its own liability,
2. its main objective is to achieve a measurable positive social impact,
3. its achievement of positive social impact is done through goods or services, which it produces, supplies, provides or distributes, or contributes to the method of manufacture or provision,
4. creates a profit from its activities, uses more than 50% of the profits after tax for achievement of the main objective as referred to in point b),
5. distributes part of the profits under the Commercial Code, divides it according to the procedures and rules that do not disrupt the main objective as defined in point b),
6. it involves stakeholders in the management of its economic activities.

**The Act on SEaSE conceives social enterprises as a dynamic within the social economy, which is defined as:**

*"the sum of production, distribution or consumer activities carried out by means of economic activity or non-economic activity independently from the state authorities, whose main objective is to achieve a positive social impact".[[4]](#footnote-4)*

**The term "social economy" refers to** a group of activities that can be carried out by any organization in the private or nonprofit sectors. A specific entity that engages in social economy activities is not always a "subject of the social economy."

**Civic associations, foundations, non-investment funds, public benefit organizations, religious institutions, trade companies, cooperatives, or sole proprietors (as well as employers) that:**

a) are not mostly or fully financed and managed by the state;

b) perform activities pertaining to an area of the social economy (i.e., their main objective is to achieve positive social impact);

c) that are not-for-profit.

**The establishment and administration of social economy entities are governed by various laws** that are specific to each of their legal forms (e.g., NGOs are managed under the corresponding Act on non-profit organisations ).

The Act on SEaSE was created with the goal of preserving the diversity of legal structures that are a part of the social economy. It broadened the definition of entrepreneurship under the Commercial Code (Act 513/1991) to include conducting commercial operations with the goal of achieving quantifiable good social impacts. According to the new Act, commercial entities are not required to operate only for the purpose of making money. Due to this transition, organizations that are often thought of as enterprises now have more chances to become social economy subjects.

**Social enterprises may apply to become a "registered social enterprise" if they meet all the requirements outlined by the law.** Access to a variety of support measures is contingent on having the status of a registered social enterprise. However, only a small portion of the total eligible organizations have chosen to wait to apply. As a result, they are ineligible for the support programs that the SEaSE Act provides.

One could argue that the current Slovak legal framework has a broader focus when compared to the requirements of the EU operational definition of social enterprise because it permits the awarding of the social enterprise status to entities controlled by local municipalities and sole proprietors as well.

# Bibliography

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