Mutual learning workshop on 'Legal frameworks for the social economy'

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Flash report

The mutual learning workshop on 'Legal frameworks for the social economy' was the last in a series of three mutual learning events organised by the European Commission's Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL) to support national and regional authorities in designing, implementing, or updating their social economy strategy. The event welcomed 45 public officials from national, regional and local administrations across 20 Member States, as well as independent experts, a representative of the Organisation for Economic Co-operation and Development (OECD), and several representatives from the European Commission.

The event aimed to enhance participants' understanding of legal frameworks for the social economy, focusing on how these can support the development of a well-functioning social economy and how these can be linked to social impact measurement practices. Participants were invited to share their approaches to legal frameworks and to exchange views on how they integrate social impact measurement practices into their legal frameworks.

Opening the event, Ruth Paserman, Director for Funds Programming and Implementation at DG EMPL, highlighted key initiatives of the European Commission to support social economy stakeholders and policy makers in developing better social impact measurement practices, including:

- The publication 'Measure, Manage and Maximise Your Impact – A Guide for the Social Economy', jointly developed with the OECD. The publication identifies and unpacks existing approaches to social impact measurement and includes a section with guidance on methodologies commonly used by social economy organisations;
- The 'Social innovation call for proposals: actions to develop impact performance intelligence services for the social impact investing market actors', published in March 2024 under the European Social Fund Plus (ESF+). The call for proposals, which is open until 4 July 2024, aims to promote investment in social purpose entities through enhancing data capability services and impact management tools and practices. The goal is to turn the spotlight to real social impact creation and avoid social washing;
- The fi-compass platform, developed by the European Commission and the European Investment Bank. The platform supports Managing Authorities of EU funds under shared management by collecting practical know-how and learning tools on existing financial instruments. The site includes various resources, such as manuals, factsheets and case studies, as well as information on relevant events and training.

As recalled by the thematic expert Eva Varga, the Council Recommendation on developing social economy framework conditions encourages Member States to build **enabling policy and legal frameworks** to facilitate and promote the development of the social economy. Some benefits of creating legal frameworks for the social economy include improved access to finance and markets, as well as increased recognition and visibility of the sector within state administrations.

As explained by the OECD representative, **legal frameworks** for the social economy include a broad set of legislation concerning the ecosystem, supporting policy implementation at the different governmental levels through obligation and enforcement. These frameworks include:

1) **Framework laws** recognising, promoting and/or regulating the social economy ecosystem, defining it as a unified field, while also providing recognition and visibility for the ecosystem as a whole; and
2) **Specific laws that apply to social economy entities**, providing a clear definition of these actors, along with legal recognition and visibility. On the downside, these laws may contribute to legal fragmentation and potential inconsistencies across the social economy as they do not recognise the ecosystem as a unified phenomenon.

Few Member States currently have framework laws. Those that do tend to adopt a hybrid approach, recognising the existing legal entities that are part of the social economy and defining the ecosystem through a set of principles. There is a consensus that co-constructing legal and policy frameworks that take into account both the ecosystem and stakeholders' needs is key.

Legal frameworks are often included in the administrative and institutional set-ups of social economy strategies, such as in the social economy registries in Belgium. However, legal frameworks can be too prescriptive and, as a consequence, risk excluding certain types of social economy entities. In addition, legal frameworks should generally not drive the development of a strategy, but rather serve the vision and objectives through clearly defined motivations and definitions. Regulating a nascent social economy ecosystem without a clear strategy might impede the development of the sector. In the case of **Greece,** the framework law on Social and Solidarity Economy (Law 4430/2016) aimed to clarify and simplify the Greek legal framework for the SSE. However, the law included a number of restrictive clauses (such as the required level of profit redistribution), which some entities struggled to comply with and even challenged the viability of their business model.[1] While legal frameworks have clear benefits, they are not the only option to stimulate the development of the social economy. Since designing and implementing legal frameworks is time-consuming and requires thorough consultation processes, Member States can also draw on various more flexible policy instruments, either as a complement to or instead of legal frameworks, as was the case in **Ireland**.

Two Member States, Luxembourg and France, shared specific examples of how they have set up legal frameworks for the social economy and how social impact measurement is carried out. Driven by social economy actors' lack of recognition and legal security, **Luxembourg** established a rationale for a legal framework allowing social economy entities to be accredited in 2016. The accreditation obliges any enterprise that wants to register as a social enterprise to measure social impact. Entities are asked to identify at least two performance indicators for the achievement of their social or environmental purpose, which have to be written down in the articles of the association. These indicators must be validated by the National Steering Committee and the Minister of Labour. Other requirements include the reinvestment of most of the entity's resources and the prohibition on direct or indirect borrowing from shareholders. The biggest advantage of receiving an official social enterprise accreditation is the improved credibility among social economy entities, in addition to fiscal advantages and the possibility to receive hybrid financing. However, to increase these entities' visibility and recognition in the eyes of consumers, in 2022 the social economy umbrella organisation Société d'Impact Social (SIS) launched the Impact Luxembourg, a label for social enterprises.

France adopted the Law on the social and solidarity economy in 2014, which defined the social economy based on the entities' status and purpose. The Law established the principles and specificities of social economy entities and recognised their shared values such as democratic and participatory governance, limited profitability and social utility. The Law also promoted the dialogue between the State and the stakeholders through the High Council on Social and Solidarity Economy. The High Council institutionalised long-term public policies such as territorial support aimed at local agents contributing to the growth of local social economy structures. The High Council also provides an ESUS (Entreprise Solidaire d'Utilité Sociale) accreditation for social

[1] For more information see https://www.oecd-ilibrary.org/sites/9c228f62-en/index.html?itemId=/content/publication/9c228f62-en last accessed on 20 June 2024

economy entities, fulfilling a set of conditions. These include: pursuing social utility as a main objective; being able to prove the pursuit of social utility directly impacts the business model; and respecting maximum salary differential conditions (the salaries of the five highest-paid employees or managers must not exceed an annual ceiling set at seven times the minimum wage). The status is awarded by local governments and controlled by the national government. The benefits of the ESUS agreement foresee special access to funds from employee savings plans; fiscal advantage for investors in ESUS enterprise including tax reduction on their revenue (25%); as well as free recruitment of civic volunteers. Although France did not include social impact measurement obligations into the law because of the risk of administrative and financial burden, it does stimulate the use of social impact measurement. For instance, territorial support staff provide social enterprises with impact measurement tools and some local authorities require grant applicants to produce and publish their impact-score.

Key learnings and insights from the mutual learning workshop

As per the OECD 'Policy Guide on Legal Frameworks for the Social and Solidarity Economy', 7 out of the participating 20 Member States have framework laws in place – namely France, Greece, Luxembourg, Poland, Portugal, Romania and Spain –, whereas all Member States have at least one or several specific laws on social economy entities. Participants recognised the importance of having a framework law due to its role in providing visibility, recognition and better coordination for the social economy. Framework laws can also facilitate the self-identification of actors and strengthen their sense of identity while promoting the creation of a wider network of entities that can bring scale to the social economy community. The key insights of the event are further detailed below, complemented by national examples and practices (where applicable).

Co-constructing legal and policy frameworks with clearly defined objectives enhances the development of the social economy

- Legal frameworks for the social economy are important policy levers to promote and develop the sector, defining the ecosystem as well as the entities included in it. These frameworks should be designed considering the national social economy ecosystem, including clear objectives and as part of an inclusive participatory process, involving key social economy organisations as well as academia. They can build on or be complemented by other 'softer' policy instruments focusing on the creation of social impact and evidence for better policymaking in the given country context, such as the establishment of reporting standards, data gathering exercises, and the preparation of satellite accounts. In countries where both the national and regional level have legislative power, these levels must coordinate stakeholder consultation at the various administrative levels to ensure that the objectives of legal frameworks are aligned across levels and fit for the local context.
- Besides its 2014 overarching Framework Law on the Social and Solidarity Economy (SSE), **France** also launched a dedicated strategy in 2018 called the Growth Pact for SSE, as well as numerous specific laws related to the diverse entities of the sector. As a result, it managed to create a coherent framework to harvest the job creation potential of its SSE ecosystem.

While framework laws can help strengthen the social economy sector, adopting such laws requires considerable time and coordination among stakeholders

- Framework laws have a significant added value in helping to define, reorganise, and support the social economy by creating not only a set of obligations but also an enabling environment for its entities. These laws can facilitate a smoother coordination between relevant stakeholders, which can prove particularly useful in complex administrative systems, where it can be a challenge to ensure the systematic joint work of key actors at different levels. At the same time, the diversity and number of social economy stakeholders makes the creation of framework laws a time-consuming and intricate process, including lengthy consultations to ensure that stakeholder needs are met. Certain countries decided not (yet) to adopt a framework law as they either wish to allow for the organic evolution of the social economy or may lack sufficient momentum to establish such law.

- Due to its complex administrative system and the challenge of coordinating local and regional administrations' work, **Spain** adopted its (framework) Law on the Social Economy at the national level in 2011. The Law is the result of an intensive consultation process between the different governmental levels, and it lists and provides guiding principles for the entities of the ecosystem.
- **Cyprus** has specific legal frameworks for the different entities in its social economy ecosystem, such as for cooperative societies, associations, foundations, and social enterprises. These laws are under the competency of various authorities and ministries. Although it does not yet have a framework law, the aim is to coordinate the work of the involved ministries and to eventually establish an umbrella law for the ecosystem.
- **Estonia** and **Lithuania** also do not have a framework law, as they currently prefer to enable the organic growth of their social economy ecosystem in light of the rapid developments of the sector.
- **Croatia** is still in the process of understanding the scope and the entities involved in its social economy. Therefore, at this stage, the government considered that it was too early to establish a framework law in the country.

<u>Evaluating the performance of legal frameworks should be done regularly and in a participatory manner</u>

- Legal frameworks are not one-size-fits-all and require periodic revisions to ensure they cater to the entities' needs. The social economy is a fast-evolving sector with the emergence of new challenges, continuous development and the influence of megatrends. Member States should carry out regular evaluations to ensure the legal provisions are fit for purpose and serve both the policy objectives and the social economy actors. There was a consensus among participants that this input was best collected through surveys or questionnaires. Moreover, a lack of formal mechanisms to evaluate legal frameworks could limit the development of the social economy sector.
- In **Portugal**, the António Sérgio Cooperative for the Social Economy (CASES) critically analyses Portugal's framework law through periodic legal reviews and participatory evaluations. CASES has carried out a comparative analysis with the Spanish framework law and is currently working on a report to be presented to the Ministry. Slovakia has adopted a certification process, in which applications must provide a detailed description of the entities' business activity, mission, government structure and financial plans, which are assessed by the Ministry of Labour, Social Affairs and Family based on a set of criteria. The Ministry also inspects the law's implementation by auditing entities' compliance.

<u>The systematic measurement of the social impact of social economy entities contributes to better policymaking for the ecosystem</u>

- Social impact measurement contributes to better policymaking by providing high-quality evidence and deepening the understanding of the impact of the social economy. However, it is a complex process that encompasses the collection of data on social economy entities. Few countries have social impact measurement mechanisms integrated into their legal and policy frameworks, but Member States are taking steps to raise awareness and provide training in this area.
- In its Social Impact Measurement Act, **Slovakia** requires social economy entities to report on their activities in detail as well as on the qualitative and quantitative outcomes they achieve. The country also incorporated social criteria into its public procurement procedures, where social economy organisations are given preferential treatment. Similar to Slovakia, entities of the ecosystem in **Cyprus** can also benefit from public procurement based on specific laws.
- **Portugal** is currently using social impact measurement tools to promote social innovation and is looking to expand this into the social economy as well. It considers training and the building of networks across entities working in similar fields/areas as essential, as these could help actors understand the kind of indicators that they could create for measuring social impact. Concerning official statistics, there must be a purpose at the aggregate level on why

the information is collected and how it is used. Portugal also has a database/portal launched by a university, where entities of the ecosystem can showcase their activities in correlation with the Sustainable Development Goals. This is a good way of increasing the visibility of the sector and creating a network, as the university also supports organisations in their social impact measurement.

Next steps

As shared by DG REFORM, the European Commission has launched a new call within the Technical Support Instrument (TSI) with the aim to provide technical support to Member States for designing or implementing their reform projects in a variety of areas, such as green and digital transition, diversity, public and private finance, migration, business environment, health, skills and education. **A specific multi-country project on the social economy is included in the 2025 cycle.** The TSI 2025 allows for multi-country (or multi-region) requests that can be submitted in two ways:

a) Via parallel submission, where several countries/regions submit in parallel similar requests tailor-made to their specific needs; or
b) One country can submit a request for a common set of needs on behalf of others.

Participants are encouraged to leverage this opportunity to develop their social economy strategies, legal frameworks and ecosystems. As the deadline for applications is **31 October 2024**, Member States are invited to share their draft requests with DG REFORM (email: Ciresica.FEYER@ec.europa.eu; Ana.FERREIRA-REIS@ec.europa.eu) **by early September** to allow for fine-tuning these based on feedback from the European Commission.

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