

WEBINAR HIGHLIGHTS

10 December 2020 | Paris | Virtual

OECD Global Action on Promoting Social and Solidarity Economy Ecosystems
Experts Consultation Webinar on Legal Frameworks



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by the European Union

Leveraging Legal Frameworks to Scale the Social and Solidarity Economy

■The Webinar

The experts' consultation webinar, organised on 10 December 2020, aimed at clarifying different trends and approaches related to legal frameworks and ways they can be leveraged, along with other tools, to scale the social economy in countries targeted by the [OECD Global Action on Promoting the Social and Solidarity Economy Ecosystems](#): Brazil, Canada, EU27, India, Korea, Mexico and the United States. More specifically, the webinar aimed to:

- **Better understand** the diversity, relevance and implications of the legal frameworks that regulate the social and solidarity economy (e.g. access to finance, access to market, fiscal, public and private support, skills, etc.) within different contexts;
- **Take stock** of the processes that led to the design of these legal frameworks;
- **Identify** possible criteria for assessing their performance;
- **Highlight** the crosscutting issues and policy examples that could feed the international guide on legal frameworks to be produced by the OECD Global Action.

The webinar was organised around two sessions:

- **Session 1** – Adopt or not adopt legal frameworks for the social economy: *context and purpose*
- **Session 2** – From process to performance: *supporting the social economy*

More than 30 experts, with expertise covering all the countries targeted by the Global Action, attended the webinar and provided insights on factors that shape country-readiness to adopt or not specific legal frameworks for the social economy. They also highlighted best practices and examples of stakeholder engagement in the process of designing and implementing legal frameworks as well as possible criteria and strategies used to assess the performance of such frameworks in supporting social economy ecosystems develop and thrive.

■The Issue

Associations, cooperatives, mutual organisations and foundations exist in all target countries of the Global Action. For example, associations and cooperatives are the most used legal forms by social economy organisations (per respondents to a 2020 OECD mapping survey). All target countries have some form of legislation that regulates these organisations and entities, traditionally recognised as part of the social economy. More recently, regulation has been developed around social enterprises and community-based initiatives, also considered part of the social economy. Many countries have created legal frameworks specific to social enterprises by adapting or introducing new laws (e.g. Belgium, France, Italy, Spain), or through strategies and action plans (e.g. Croatia, Sweden). In some countries, there is also growing legal recognition of community-based initiatives (e.g. Brazil, India), to acknowledge the engagement of communities in local development. Finally, these entities and initiatives can also be identified within a broader approach to the social economy (e.g. Luxemburg) or independently from any reference to the social economy (e.g. the United States). It is critical to understand these different legal trends, as well as why and how they have been designed in the context of target countries, to inform the different types of measures that support the development of the social economy.

■ Key Messages

- **All target countries have some form of legislation** that regulates associations, cooperatives, mutual organisations and foundations, traditionally recognised as part of the social economy.
- Regulation is being increasingly developed around **social enterprises** and **community-based initiatives**, also considered part of the social economy.
- **Legal frameworks provide visibility, recognition, and legitimacy** for social economy organisations and entities. In the absence of any form of legislation, they could be disadvantaged compared to other types of organisations and business communities.
- **Legal frameworks play a significant role in strengthening the mandate** of social economy organisations and entities, along with other framework conditions (access to finance, access to markets, skills, etc.). It is important to consider legal frameworks within an ecosystem approach in order to develop coherent policies that could effectively promote the social economy and social entrepreneurship.
- In most cases, **legal frameworks bring clarity** for policy makers and stakeholders around the social economy and its organisations and **enhance citizens' awareness** about its potential and opportunities.
- **Before adopting legal frameworks for the social economy it is important to reflect on the following questions:** **i)** when is a law really needed; **ii)** at what level should the law be developed (*i.e. level of government in the case of decentralised and federal countries and framework conditions such as tax, registration, etc.*); **iii)** is a law the only tool to regulate; **iv)** should other tools such as specific strategies and action plans be used to promote the social economy; **v)** where does the need to regulate come from: is it a bottom-up request stemming from social economy networks and movements or rather the result of an assessment of the context?
- **The continuity of political support** is critical in ensuring a stable institutional landscape for the social economy that will survive government and political changes.
- It is important when designing legal frameworks for the social economy to **foresee mechanisms within the law itself in order to assess its impact**. The number of newly registered social economy organisations and/or the steady development of the field should not be the only criteria to assess the performance of legal frameworks.
- **The social economy is not a separate sector but rather a transversal approach that allows** doing business, production, consumption, or local development differently, engaging with different stakeholders (authorities, citizens, organisations, firms, consumers, etc.) and achieving strategic objectives: inclusive growth and sustainable development.

■ Session 1: Adopt or not adopt legal frameworks for the social economy: context and purpose

Guiding questions

- What context-specific (national/subnational, urban/rural) or country-specific factors are crucial to assess the need to regulate and develop, or not, legal frameworks for the social and solidarity economy?
- Why are legal frameworks implemented? What objectives do they pursue and serve?
- What specific issues make some legal options more appropriate in certain contexts and/or under which specific conditions?

■ Icebreakers

France

- **Gaëlle Russo** (Lawyer, Alcyaconseil, France): **COVID-19 has created new social and environmental challenges, thus highlighting more than ever, the need to consider the relevance and effectiveness of the social economy as a model.** Legal frameworks should serve two very important objectives: **visibility** and **recognition**, as actors in the field are using the imperfect means at their disposal to reach them. Usual pre-requisites of legal tools are the existence and the dynamism of a solidarity oriented culture and a strong network of social economy organisations. *Laws should clearly be the result of the interaction with and among the social economy entities.* This is the case in France, where the social and solidarity economy is a very powerful engine for creation of best practices, concepts, and frameworks that are taken up by the government and the parliament.

Brazil

- **Leandro Morais** (Professor, State University of Sao Paulo, and UNESP): when designing legislation and regulations for the social economy, **it is important to take into account the background/context of countries and regions, their political and cultural characteristics, and the interests of different stakeholders.** It is also important to develop a clear vision for the social economy, independently from political considerations. In Brazil, regulations for the social economy were introduced in 2003, through a national commission. However, the government repealed the decree, thus undermining the social economy ecosystem. It is also important to include local governments, especially in countries characterised by a strong delegation of responsibilities to the local level.

■ Discussion

Spain

- **Carlos Lozano** (CEPES): Spain adopted **in 2011 a national law regulating the social economy.** The law had three main objectives: **i)** provide *legal security* to social economy organisations and entities; **ii)** give a *clear mandate* to public authorities to promote social enterprises, because of their added value, and principles of solidarity and social impact; **iii)** enlarge legal *recognition* to all social economy organisations. In Spain, the social economy is mainstreamed in policies at national and regional levels.

International Cooperative Alliance (ICA)

- **Hyungsik Eum**, (Korea): given the changes introduced in their models compared to when they emerged centuries ago, it is **important to look at legislation for cooperatives**, to answer the new social and economic challenges. The relevance of a legal framework needs to be evaluated through its quantitative results (i.e. number of social enterprises created) and also the quality of those results (i.e. if social enterprises have created quality and decent jobs, the type of sectors and public policies they have helped develop and implement, the groups they have targeted, etc.). For example, fast development of various legislation on social enterprises and the social economy **in Korea** might be an example of a quantitatively successful process but it has not proved to be qualitatively conclusive so far.

International Labour Organisation (ILO)

- **Roberto di Meglio**: **recognition is the main objective of designing legal frameworks**. For example, in Tunisia, the **law is the outcome of a broad consultation process**. By contrast, in Costa Rica the law on the social economy has not led to a broad consensus. When working with local authorities, capacity needs to be considered and legal frameworks for the social economy have to be **coherent with other policies**.

European Network of Cities and Regions for the Social Economy (REVES)

- **Luigi Martignetti**: in many cases, **the social economy ecosystem is at a disadvantage compared to other types of business for not having the appropriate legal framework**. For example, in Sweden, there is no legal framework for the social economy, except for cooperatives and other traditional entities and organisations. Most barriers are not social or political but rather legal. It is a “*chicken and egg*” issue: is it possible to promote the social economy through other tools than legal frameworks? In Italy, the law on social enterprises was adopted, but few social enterprises were created because there were already many social cooperatives, which did not feel the need to transform into social enterprises. **Timeliness is needed when designing legal frameworks: there is a need to seize societal momentum**.

CIRIEC (Brazil)

- **Daniel Francisco Nagao Menezes**: prior to discussing the adoption or not of legal frameworks, there is a need to harmonise the definition of the social economy, which differs from one country to another. For example, in Brazil there are two types of cooperatives: **i)** cooperatives in the farming industry and health services, which tend to be big financial corporations, not acting upon the principle of solidarity and cooperation; **ii)** initiatives from marginalised communities. The latter aim to generate employment and revenues for members with few resources. They have no specific legal forms and are therefore forced to adopt legal forms of other firms. **A law on cooperatives is needed** in Brazil to enable access to finance, create employment opportunities, facilitate access to the fiscal and tax registry, etc.

Social Economy Europe

- **Victor Meseguer**: **political consensus is important**, regardless of context. The reflection in the law of social realities and evolutions and its alignment with the needs of social economy local movements guarantee its stability.

India

- **Prof. Neelesh Kumar** (NMIMS University, Mumbai): India has more than **2 million social enterprises**. **Since 2013, India has adopted a legal framework which facilitates the formalisation of cooperatives**. Social enterprises in India are governed by Section 8 of the Companies Act, 2013. The state of Maharashtra and other states in southern India have the highest density of social enterprises. However, states in eastern and northern India have witnessed a proliferation of social enterprises. Since social enterprises are not fully legitimised, scaling them up is a challenge. There is no lack of (social) innovation, however social enterprises require more support in various ways.

Portugal

- **Deolinda Meira: a law is important for the recognition, definition and promotion of the social economy**. In Portugal, a basic law on the social economy was approved in 2013. “Positive discrimination” for social economy organisations is also included in the constitution.

EURICSE (Italy)

- **Giulia Galera: the social economy is country specific**. Legislation should **contribute** to clarifying and distinguishing social economy organisations from other entities. **Policy should contribute to supporting cohesion** and recognise all organisational forms. **Legislation should not introduce overly restrictive criteria** on incorporation rules, for example: a number of policies could be introduced to define fiscal benefits and facilitate access to public procurement, etc.

CIRIEC (Canada)

- **Marie J. Bouchard: a paradox needs to be addressed**: we hear on the one hand that legislation needs to be inclusive and recognise all enterprises that pursue social objectives. At the same time, legislation has to recognise the specificity of enterprises that protect social actors and for which they receive, for example fiscal incentives. How can these two visions be reconciled?

The Netherlands

- **Aikaterini Argyrou** (Nyenrode Business University and Utrecht University): the legal **recognition and visibility of social economy organisations** needs to be clearly determined: *recognition of whom and what? And by whom?* In light of a forthcoming post COVID-19 economic crisis, **legislation for the social economy is important to help build back better**. In Greece for example, legislation for the social economy introduced social economy organisations which provided a response to the previous economic crisis and helped maintain delivery of several social services that the public sector failed to provide. In the **Netherlands, there is no legislation** for the social economy, albeit a large community of social enterprises.

France

- **Gaëlle Russo** (Lawyer, Alcyaconseil): **analysis of the readiness of social economy organisations to use legal instruments is crucial to assess when, and what type of legislation to introduce**. In 2005, a regulation in France was introduced to allow foundations to own shares of commercial companies in specific cases so as to benefit from other sources of revenue and fund their operations. Very few foundations used this opportunity: in 15 years, only 4 foundations did so. **The diversity of social economy organisations globally makes it difficult, if not impossible, to establish a single definition**. However, a few common points and a list of basic criteria could help build up consensus.

■ Session 2: From process to performance: supporting the social economy

Guiding questions

- What are the critical steps of the policy-making process that support building social and solidarity economy legal frameworks? What contextual changes could affect the design, adoption and implementation of legal frameworks for the social and solidarity economy?
- What are the positive as well as unexpected implications of developing legal frameworks for the social and solidarity economy?
- Which criteria and strategies can/might be used to assess the process of designing and implementing legal frameworks and their outcomes?

■ Icebreakers

Canada

- **Melanie Dumont and Valerie Horth** (Conseillères émérites en entrepreneuriat collectif, Direction de l'entrepreneuriat collectif): **the social economy law** implemented since 2013 in the Province of Quebec recognises the collective entrepreneurship model. Its main objective is to establish a permanent commitment and support of the local government towards the social economy, notwithstanding government/political changes, through five-year action plans. **The law was developed as a collaborative project with stakeholders, who are recognised as partners.** The law recognises stakeholder roundtables and establishes an obligation of dialogue between local authorities and stakeholders for developing policies and programmes. The Province of Quebec has announced the implementation of a third action plan for 2020-2025 that includes 25 specific measures. **To assess outcomes, the law has introduced an accountability mechanism.** For each action plan, the local government must present an evaluation report to the provincial assembly and an implementation plan is shared with all stakeholders. **In addition, the law envisages a 10-year implementation report to assess its long-term effectiveness,** with the objective of taking stock of achievements and adapting the law to changing realities. A report was submitted in November 2020 to the provincial assembly covering the 2015-2020 action plan.

Instituto Nacional de la Economía Social – INAES (Mexico)

- **Juan Martinez Louvier:** **social economy policies need to be designed independently from market-related practices and political sensitivities.** The current Mexican government has suggested setting up an overarching framework for the social economy. **Today, there is a policy dialogue on the social economy** through a variety of measures: **i)** proposal to amend 8 laws; **ii)** convergence with the National Development Plan; **iii)** the law on the social economy has been presented to parliament and a vote is foreseen in 3 to 4 months. The law both reflects the current social economy environment and promotes a vision of a more people-centred and sustainable future. The ongoing pandemic is helping to shift the focus and put the people at the core of public policies.

■ Discussion

India

- **Prof. Neelesh Kumar** (NMIMS University, Mumbai): there are about **2 million social enterprises in India**, operating in different sectors. A legal framework is needed especially to help tackle one of their biggest challenges: scaling-up. **Digital transformation is also an opportunity for social enterprises**. Only 15% of the population in India has a laptop and 56% have a smartphone. Social enterprises have an opportunity to promote digital transformation, especially in rural areas. This digital transformation would lead to growth of social enterprises in “thrust sectors/areas” such as healthcare, education, climate change and gender equality. The Government of India is taking several initiatives to tackle social and economic problems, and one of the ways is to promote entrepreneurship and the up-skilling of youth in light of challenges such as unemployment and illiteracy. The growth and successful proliferation of social enterprises is the need of the hour. Through this process of change, many socio-economic issues could be effectively tackled on a “PAN India” level. Therefore, India is a very fertile ground for impact investing and more investors need to come forward to support social enterprises.

Social Economy Europe

- **Victor Meseguer: laws and policies need to recognise and preserve the social economy** and ensure the dynamism of its entrepreneurial approaches. Social economy organisations can tackle current challenges but need public support. For example, in many cities, property prices are on the rise, spurring speculation on housing. Initiatives from civil society which address this issue need public support. Countries wishing to develop legal frameworks need to link their reflection to challenges and strategic sectors.

Spain

- **Carlos Lozano (CEPES): social economy enterprises are legally recognised**. The involvement of social economy enterprises in the implementation of public policies, such as employment and job creation policies, is key. An action plan for the social economy at EU level could be leveraged at national and regional levels.

Ireland

- **Adriano Mancinelli** (Thomson Reuters Foundation): there are important questions to consider when measuring the impact of legal frameworks for social enterprises: **how easy is it for them to participate in the economy and access funding?** Thomson Reuters Foundation has started to develop a guide to support social entrepreneurs. The driver for these entrepreneurs is to understand how they can create their enterprises, access funding and be well-positioned to operate in the market.

International Cooperative Alliance (ICA)

- **Hyungsik Eum: In Korea, legislation about social enterprises is very market oriented**: social enterprises are associated with market initiatives. This makes it difficult to develop various social enterprise models, which might be more based on non-market resources and/or non-monetary resources. There is a risk of introducing legal frameworks quickly and wrongly shaping public perception of what social enterprises are.

European Network of Cities and Regions for the Social Economy (REVES)

- **Luigi Martignetti**: the existence of a social economy movement is important when designing legal frameworks: for example, the Italian law for social cooperatives was introduced 15 years after these cooperatives were first developed in the country. **Developing an effective social enterprise law requires time**.

Brazil

- **Leandro Morais** (Professor, State University of Sao Paulo, and UNESP): it is important to entrench in legislation the involvement of social enterprises in public procurement. **In Brazil, despite a law allowing social enterprises to participate in procurement, it is very difficult for them to participate in tenders.**

Canada

- **Valerie Horth** (Conseillère émérite en entrepreneuriat collectif, Direction de l'entrepreneuriat collectif): **social enterprises can bring solutions to new social and economic challenges, such as ageing.** In the Province of Quebec, local authorities work together with social enterprises that provide services for the elderly.

EURICSE (Italy)

- **Giulia Galera: one indicator often used to assess the success or failure of legal frameworks is the share of organisations that decide to register.** However, numbers are not sufficient. It is important to consider the sustainability of social enterprises and how they can contribute to tackling challenges that are not addressed by public providers. Given country specificity, it is critical that the introduction of legislation is supported by preparatory steps and stakeholder consultation to have a thorough understating of strengths and weaknesses of existing legal frameworks and map where social enterprises operate. It is also important to understand if there is a real need for regulation, which legal recognition is needed and whether revising existing legislation is sufficient.

International Labour Organisation (ILO)

- **Roberto Di Meglio:** the widespread knowledge of how the social economy is perceived by citizens is a good indicator of the success of legal frameworks. For example, while in the Province of Quebec there is a broad awareness of what the social economy is, it is not yet the case in Europe. For example, in Italy, there is no mention of social enterprises within plans prepared for the Next Generation EU fund to tackle the impact of the current crisis.

The Netherlands

- **Aikaterini Argyrou** (Nyenrode Business University): work on the development of legislation for social economy organisations should also capitalise on lessons learned from unsuccessful examples and negative experiences: e.g. Belgium.

Agenda

Moderator: Antonella Noya - Head, Social Economy and Innovation Unit, CFE-OECD

2.00-2.10

Welcome and Presentation of the OECD Global Action on Promoting Social and Solidarity Economy Ecosystems

Karen Maguire - Head, Local Employment, Skills and Social Innovation Division- OECD

2.10-3.15

Session 1: Adopt or not adopt legal frameworks for the social economy: context and purpose

- DESCRIPTION
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 - What specific issues make some legal options more appropriate in certain contexts and/or under which specific conditions?

OECD **Julie Rijpens**, Policy Analyst - CFE/OECD

ICEBREAKERS **Gaëlle Russo** - Lawyer, Alcyaconseil (France)

Leandro Morais, Professor, State University of Sao Paulo, and UNESP (Brazil)

3.15-3.20

Break

3.20-4.15

Session 2 : From process to performance: supporting the social economy

- What are the critical steps of the policy-making process that support building social and solidarity economy legal frameworks? What contextual changes could affect the design, adoption and implementation of legal frameworks for the social and solidarity economy?
- What are the positive as well as unexpected implications of developing legal frameworks for the social and solidarity economy?
- Which criteria and strategies can/might be used to assess the process of designing and implementing legal frameworks and their outcomes?

OECD **Amal Chevreau**, Policy Analyst - CFE/OECD

ICEBREAKERS **Mélanie Dumont**, Conseillère émérite en entrepreneuriat collectif Direction de l'entrepreneuriat collectif (Canada)

Juan Manuel Martinez Louvier, Director General- Instituto Nacional de la Economía Social - INAES (Mexico)

4.15-4.30

Main Takeaways and Next Step

Closing remarks and next steps

Antonella Noya - Head, Social Economy and Innovation Unit, CFE-OECD

Additional References Suggested by Participants

- https://www.economie.gouv.qc.ca/fileadmin/contenu/lois_reglements/economie-sociale/rapport-loi-economie-sociale-2013-2020.pdf
- <https://poll2019.trust.org/>: <http://www.trust.org/publications/?show=LegalAndProBono>
- <https://coops4dev.coop/en/world>
- Social economy laws and policy frameworks adopted in Europe since 2011: <https://www.socialeconomy.eu.org/our-work/important-milestones-achieved/>
- The KPMG report “Skilling India” 2019-2020 analyses the sector in India <http://www.ficci.in/study-page.asp?spid=20405§orid=74>
- Report on social enterprises in India: <https://www.intellecap.com/wp-content/uploads/2019/02/The-Indian-Social-Enterprise-Landscape-Study.pdf>
- A joint initiative of the UNTFSSSE and SOCIOECO: online archive on social and solidarity economy (SSE) laws:
https://www.ilo.org/global/topics/cooperatives/news/WCMS_759252/lang--en/index.htm
- <https://www.cepes.es/files/publicaciones/64.pdf>

About the OECD Social Economy and Innovation Unit

OECD began work on social entrepreneurship over 25 years ago. The OECD assists national, regional and local governments in designing and implementing strategies to support the SSE and social enterprises by providing them with tailored and evidence-based policy recommendations. The work supports the OECD's Local Economic and Employment Development (LEED) Programme.

For more information, visit our website: www.oecd.org/cfe/leed/social-economy/

CONTACT

If you are interested to learn more about the project or to get involved, please contact Antonella Noya, Head of the Social Economy and Innovation Unit | Antonella.Noya@oecd.org

