

# Peer-learning Partnerships: Legal Ecosystems for Social Economy Partnership (PL4SE)



Promoting  
Social & Solidarity  
Economy Ecosystems



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## What did this partnership address?

There is a broad consensus on defining social economy as a set of legal entities such as associations, cooperatives, mutual organisations, foundations, and social enterprises - among others - whose activity is driven by common values of solidarity, the primacy of people over capital, and democratic and participatory governance. These principles have been enshrined in several national and sub-national laws that lay down the common features governing the operation of social economy enterprises and organisations.

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

There is an increasing tendency to adopt laws, norms, regulations, or other legally binding/relevant provisions targeting the social economy as a whole. Even though not all countries or territories have those overall legal frameworks, it does not prevent them from adopting regulations governing the legal entities of the social economy. In terms of the regulatory frameworks for social economy, approaches are very diverse across the countries and regions in the world. Therefore, it is important to understand the different legal trends and how they have been designed in their specific contexts and leveraged to scale the social economy.

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

This partnership was focused on identifying the different legal trends around legal frameworks and how they have been designed in their contexts at national and sub-national level. Specifically, it analysed 3 “axes” regarding the legal frameworks:

### About Peer-learning Partnerships

Peer learning is an innovative and powerful approach to gather practitioners’ insights, create communities of practice, and stimulate collective thinking.

As part of the OECD Global Action “Promoting Social and Solidarity Economy Ecosystems”, funded by the European Union, six Peer-learning Partnerships have been set up to promote knowledge exchange and experience sharing on policies and practices for social and solidarity economy development.

- Axis 1: “*Legal frameworks for the social economy*” (i.e., laws and regulations ruling the social economy as a whole).
- Axis 2: “*Specific legal frameworks of entities in the social economy* (i.e., laws and regulations governing the different forms).
- Axis 3: “Specific regulations dealing with general policies that facilitate the functioning of the social economy”. Under this axis, some selected strategic areas such as public procurement, fiscal matters, access to finance and to support programmes were discussed.

## What did we learn?

Based on work conducted by the consortium partners, the following findings have been identified:

- **The social economy can adopt a variety of legal forms recognised by the regulatory frameworks.** These legal entities are managed in accordance with values and principles proper to the social economy, which are not merely declarative. These principles have operational consequences in the functioning of the legal entities belonging to the social economy, such as an obligation not to distribute reserves among the members, even if the cooperative is in distress; to reinvest all or a significant share of the profits in its social purpose activity (for instance, to create decent jobs for the members, i.e. [worker cooperatives](#) - or for a group of people at risk of exclusion, i.e. [work integration social enterprises](#)); to look for the common good of members (in the case of cooperatives, mutuals or associations) or for the general interest of society (for social enterprises or foundations, for instance). Examples of how these principles and values have been integrated into the national, regional and local regulatory framework are the *third sector* in [Italy](#), the *social and solidarity economy* in [France](#), or the *social economy* in [Quebec, Canada](#) and [Seoul City](#).
- **A legal definition based on the common principles and values that govern the social economy is a key driver for building a legal ecosystem.** The legal explicit enunciation of the principles and features governing the operations of the social economy allows to identify at global, national, and sub-national levels the organisational models that respond to the social economy principles. This is a main element for legal recognition of social economy as a subject of law and for developing public policies. This is the case in [Spain](#), where the legal concept of the social economy is based on principles and values and is part of the Spanish Law 5/2011 on social economy. Similar laws have been adopted by African (Cabo Verde, Cameroon, Djibouti, Senegal, Tunisia) and American countries (Colombia, Ecuador, Honduras, Mexico, Uruguay), together with several EU Member States (France, Greece, Italy, Luxembourg, Portugal and Romania, besides Spain). A supranational definition - including a set of criteria and guidelines - of the social economy, endorsed with legal significance, would help a common understanding of the social economy.

## Legal entities and qualifications identified by PL4SE-PLP partners as social economy organisations according to their contexts.

	Cooperatives	Mutuals	Associations	Foundations	Social Enterprises	Charities & Trusts	Other specific forms
Canada <sup>1</sup>	●	●	●	●	No	●	
France <sup>2</sup>	●	●	●	●	No		●
Italy <sup>3</sup>	●	●	●	●	●		●
Mexico	●	●					●
Portugal <sup>4</sup>	●	●	●	●		No	●
South Korea <sup>5</sup>	●		●	●	●		●
Spain <sup>6</sup>	●	●	●	●	No		●
United States	●	●	●	●		●	●
Catalonia	●	●	●	●			●
Brussels Capital Region <sup>7</sup>	●		●		●		

Source: CEPES (2022)

<sup>1</sup> In Canada, “Community Contribution Company” or “Benefit Corporation” in British Columbia and the “Community Interests Companies” in Nova Scotia are considered linked to the concept of “social enterprise”.

<sup>2</sup> In France, “*Entreprise solidaire d'utilité sociale*” could be linked to the concept of “social enterprise”.

<sup>3</sup> In Italy, under the concept of third sector.

<sup>4</sup> In Portugal, even though there is no legal recognition of charities and trusts, some social economy organisations could be linked to this concept such as the Private Institutions of Social Solidarity (IPSS).

<sup>5</sup> In South Korea, social enterprises include work integration social enterprises (WISEs).

<sup>6</sup> In Spain, work Integration social enterprises – so called integration enterprises by the Spanish Law - are considered social economy enterprises linked to the concept of social enterprises.

<sup>7</sup> In the Brussels Capital Region, this includes work integration social enterprises.

- **Public registration and certifications delivered by public authorities are useful tools for legal certainty and compliance.** Legal frameworks regulate the public registration and compliance certification mechanisms to verify and make visible that social economy organisations are managed in accordance with its principles. These mechanisms make it possible to identify the legal entities and hence to apply specific (fiscal) treatments or incentives (e.g. access to responsible public procurement processes). Yet, specific registers including different actors in the social economy are only available in a limited number of countries. A relevant example is the Italian single national registry for third sector organisations.
- **Legal recognition can help embed the social economy (as a whole) in market regulations and key socio-economic and environmental policies.** Legal recognition of social economy as a whole implies that the economic, social and entrepreneurial management of the legal entity in accordance with its principles is embedded in the norms regulating both the markets and the economic operators, as well as the main policy agendas (employment, entrepreneurship, enterprises, taxation, social inclusion, social services, sectoral regulations, local development, etc.) at sub-national, national, global levels. This consideration is closely linked to the effective recognition and implementation of the diverse forms of enterprises by the regulatory frameworks. For instance, the Portuguese Law on Social Economy states that the public authorities shall - among other objectives - promote the principles and values of the social economy and strengthen the economic and financial self-sustainability of social economy entities removing the obstacles that impede the establishment and development of the social economy entities.
- **The structure and division of competences among the different administration levels have a direct impact on building regulatory frameworks of the social economy.** Various administrations at supranational (EU), national or sub-national levels are competent and directly involved in the regulation and promotion of the social economy. There is a need to ensure constant coordination of the different policies and regulations, remaining respectful of the principle of subsidiarity. Sub-national authorities may have legislative and promotional competences for social economy entities in countries with different regional structures. In Spain, regional governments (*Comunidades Autónomas*) have adopted laws on cooperatives, which have also introduced - in some cases - specific cooperative forms, while the regional authorities in France play a significant role in the development of the social economy in connection with their competences in economic areas.
- **Local and regional authorities should assume specific roles for the development of the social economy and for the implementation of national policies.** This objective should be incorporated into all local development policies as a horizontal objective. The lack of specific social economy departments within public administrations complicates the adoption and implementation of social economy policies, which usually require multiple approaches. A good example is the way national, regional, and local authorities in South Korea are involved in the social economy.
- **Consultative bodies and independent representative organisations of the social economy play an important role in the law-making process.** Legal frameworks lay down the conditions to recognise and channel the dialogue between public authorities and social economy representatives in consultative bodies at sub-national, national or supranational levels. All national and sub-national legal frameworks analysed include provisions for advisory bodies. These advisory bodies are usually involved in defining

national and sub-national priorities for the sector. National or sub-national frameworks tend to be more effective with active representative bodies. The [Quebec Social Economy Act](#) states that the *Chantier de l'économie sociale* and the *Conseil québécois de la coopération et de la mutualité* are the Government's primary interlocutors where the social economy is concerned. The Act mandates the Minister of Economy and Innovation "to develop and propose to the Government, jointly with the Minister of Finance and after consultation with the *Chantier de l'économie sociale* and the *Conseil québécois de la coopération et de la mutualité*, policies to foster the development of the social economy in Quebec".

In France, the social economy law introduces strong principles of co-construction: the High Council for the Social and Solidarity Economy, which is responsible for ensuring dialogue between the social economy actors and the national and European public authorities, is consulted on all draft legislative and regulatory provisions concerning the social economy. The French law also states that regional conferences of social economy, organised every two years by the State and the regional governments, should also involve relevant stakeholders (regional chambers of social economy, local networks of social economy and local authorities), and invites local authorities to co-create the social economy policies with them. In Spain, the national umbrella organisation representing the Spanish social economy (CEPES) is instrumental in representing the common interests of social economy entities at national level and making relevant propositions to the government, for example on support schemes needed during the COVID-19 crisis.

- **Adapted and specific support programmes are part of the legal ecosystem for social economy.** In addition to the general strategies adopted by national and sub-national authorities to support the development of the social economy on the basis of regulatory frameworks, these programmes provide public authorities with a range of legal instruments to support social economy entrepreneurs both directly (for instance, through training and advisory services) and indirectly (with tax incentives or access to public procurement).
  - Legal provisions on **specific tax treatments and incentives** for social economy entities can be adopted at both national (Canada, France, Italy, Mexico, South Korea, or Spain) and sub-national levels (Catalonia, Brussels Capital Region). For example, in South Korea, social enterprises are entitled to the reduction or exemption of the corporate tax.
  - In relation to **access to financing**, it is important to allow experimentation and testing of new innovative tools and approaches such as crypto currencies and participatory financing solutions, just to name few. Italy offers a good example where a legislative decree allowed credit institutions to issue Solidarity Bonds without placement fees to finance general interest activities by third sector entities. If issuers make donations in cash to third sector entities, they are granted tax credits.
  - Social economy is embedded in regulations governing employment policies and initiatives aimed at **promoting job creation and entrepreneurship** at subnational (Brussels Capital Region and Catalonia in Europe or the State of Puebla in Mexico) and national levels (Belgium, Brazil, France, Mexico, South Korea or Spain) for all people, including vulnerable groups.

### **Case study: The Single National Registry for third sector organisations, Italy**

The Third Sector Code has provided for the establishment of a single national registry for all bodies. The registry is held by the Ministry of Labour and Social Policies. The development of the Registry followed three specific objectives:

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

All third sector entities must register with the Registry of the Third Sector. The acquisition of an ad hoc legal status gives access to tax benefits and to the possibility of entering into agreements with public administrations. In addition, the register gives the organisation visibility (e.g., to be identified by third parties as a potential beneficiary of donations).

Source: PL4SE-PLP consortium members.

### **Case study: Towards a comprehensive legal framework for the social economy, Mexico**

Mexico is in the process of enhancing its social economy ecosystem. The Mexican Law on Social and Solidarity Economy - enacted in 2012 - explicitly refers to cooperatives, agrarian groups (*ejidos*), communities and other forms of organisation. However, the laws regulating each of these entities have specific contents. It was necessary to harmonise these laws with one another, as well as to harmonise the laws of sub-national governments related to them, thereby developing a comprehensive legal framework.

A comprehensive legal framework for the social economy offers the following advantages:

1. to establish criteria that define the characteristics of the entities that are part of the social economy;
2. to make them visible as a matter of public interest;
3. to designate a public authority in charge of the promotion and development of the social economy, involving different departments at federal public level (with an intergovernmental approach) and the sub-national and local governments.

To further support this framework, the government has developed a policy for the promotion of the social economy. Specifically, it has put in place a Programme for the Promotion of the Social Economy 2021-2024. This Programme is focused on creating awareness around the social economy. It aims to improve the social economy ecosystem and strengthen the entrepreneurial capacities of social economy entities. It includes a set of measures to improve access to finance through savings, credit, insurance and foresees the design and implementation of a specific financing policy for social economy entities.

Source: PL4SE-PLP consortium members.

### **Case study: Recognition of cooperatives by Constitutions and international treaties**

Many constitutional provisions provide a basis for state support for cooperatives, one of the main components of the social economy:

- Art. 54 of the Treaty on the functioning of the European Union refers to 'companies or firms' constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.
- Article 45 of the Constitution of the Republic of Italy, states that "The Republic recognises the social function of cooperation of a non-speculative and mutually supportive nature. The law promotes and encourages cooperation by appropriate means and guarantees its character and objectives through appropriate controls".
- Article 129. 2 of the Spanish constitution states that "public authorities shall efficiently promote the various forms of participation within companies and shall encourage cooperative societies by means of appropriate legislation. They shall also establish means to facilitate access by the workers to ownership of the means of production".
- Article 19.1.C of the Constitution of India states that all citizens have a Fundamental (and inalienable) Right to form cooperative societies. Further Article 43 B provides Directive Principles of State Policy, urging the State to endeavor to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies.
- In Taiwan, according to Article 145 of the Constitution, "cooperative enterprises shall receive encouragement and assistance from the State".

According to research carried out by the ICA Cooperative Law Committee, Constitutions of the following countries mention cooperatives:

- Africa: Angola, Central Africa, Congo, Egypt, Equatorial Guinea, Ethiopia, Guinea-Bissau, Kenya, Morocco, Mozambique, Namibia, Nigeria, Sao Tome and Principe and Swaziland;
- Latin America: Bolivia, Brazil, Colombia, Costa-Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela;
- Asia: Bangladesh, China, Cyprus, India, Iran, Korea (DPR), Kuwait, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Taiwan, Tajikistan, Timor-Leste, Thailand, Turkey, Uzbekistan, Yemen;
- Europe: Bulgaria, Greece, Italy, Malta, Portugal, Serbia, Spain.

Source: PL4SE-PLP consortium members.

### Case Study: Legal forms considered to advance the social economy, United States

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

- Cooperatives (worker, consumer, agricultural and housing cooperatives)
- Mutuals.
- Social enterprises. Even though social enterprises are not defined by law in the USA, there has been significant discussion about the role of social enterprises in community development and the ways that this may be regulated in the future. In general, three types of social enterprise models are recognised: organisations that employ people who have significant barriers to mainstream employment; organisations that create social or environmental impact through innovative products and services and organisations that contribute a portion of their profits to non-profits that address basic unmet needs.
- Foundations, charities, and trusts (non-profit entities)
- Others: Employee Stock Ownership Plan (ESOP) and Employee Ownership Trusts (EOT) are forms of broad-based employee share ownership.

Source: PL4SE-PLP consortium members.

## Peer-learning approach

Peer-learning was ensured through a rigorous process of partner engagement, based on the following principles:

- **Involvement of main stakeholder groups in the activities.** These included participants from the policy makers, social economy representatives, practitioners, academia as well as international organisations.
- **Geographic representation in analysis ensuring diverse legal traditions.** The partnership included participants from South Korea, Mexico, and Quebec in Canada, as well as from the EU Member States with legal systems based on civil law and endowed with social economy ecosystems. Additionally, it involved stakeholders from countries with a legal system based on the common law such as United States, where the concept of social economy is unusual or not widespread at national level.

Peer-learning was ensured through the development of "**guiding questions**" to identify general issues of interest under each axis. These questions allowed consortium to gather and disseminate experiences and cases on the identified issues. Moreover, **background documents** were drafted covering each of the three axes. All consortium members were able to comment to these documents.

### Outputs:

- Peer-learning outcome report: [Learning outcomes for promoting social economy legal frameworks](#)
- Background paper: "[Overall legal framework for social economy](#)"
- Background paper: "[Specific legal frameworks of entities in the Social Economy](#)"
- Background paper: "[Specific regulations dealing with general legal matters that facilitate the functioning of the social economy](#)"

Project webpage:

<https://www.cepes.es/oecd-project>

These preparatory documents served as a basis for the **online seminars to address each of the 'axes'**, where relevant cases were presented and discussed. The consortium members were asked to provide presentations which triggered discussion. All the geographical areas covered by the consortium were always represented. The ensuing **seminar notes** served as the basis for the development of the final report and for the final debriefing seminars.

## Peer-learning consortium

The Spanish Confederation of Social Economy Enterprises (CEPES) and the European Network of Cities and Regions for the Social Economy (REVES) lead this consortium of 25 partners, including:



Korea Social Enterprise Promotion Agency



Secretaría de Economía  
Gobierno de Puebla



Canadian  
CED Network  
Réseau canadien  
de DÉC



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