

Investește în
OAMENI



GUVERNUL ROMÂNIEI
MINISTERUL MUNCII, FAMILIEI
ȘI PROTECȚIEI SOCIALE
ADMINISTRAȚIE

fe

Fondul Social European
POSDRU 2007-2013



Ministerul Muncii
2007-2013

ADV Fundația
Alături de Voi
România

POLICIES, PRACTICES AND TENDENCIES WITHIN SOCIAL ECONOMY IN ROMANIA AND EUROPEAN UNION AS A WHOLE

**Research report on which the position paper regarding the inclusion
of disabled persons through social economy structures was based**



România
Ministerul Muncii, Familiei și Protecției Sociale
Direcția Generală Protecția Persoanelor cu Handicap



ROMANIA
CONSILIUL JUDEȚEAN (IASI)
DIRECȚIA GENERALĂ DE ASISTENȚĂ SOCIALĂ
ȘI PROTECȚIA COPILULUI (IASI)

MOTIVATION
Romania



Il polledro
societate cooperativă sociale
20⁺

This research was conducted within the project “Alliance for Social Economy Development” implemented by “Alături de Voi” Foundation Romania.

To assess the needs of social economy actors the results of questionnaires applied to a number of 88 institutions in Romania, opinions expressed during August – November 2010 were summed up.

The verification of representativeness of the survey results and inventory of proposals and solutions for the problems faced by those involved in a social economy field were performed through the organization of eight debates across the country where 225 persons attended (public authorities, representatives of the private sector, NGOs, disabled persons).

The documentation on the operational framework of social economy was performed by the international consultant Eduard Petrescu, being in fact a comparative legislative analysis of 16 European countries including Romania.

After six study visits in EU countries with different levels of social economy development the practical verification of the information documented by the consultant were rendered and the models that can be taken over by Romania in this field were identified.

Partners in the project “Alliance for Social Economy Development”: General Directorate for the Protection of Disabled Persons – MLFSP, Motivation Foundation Romania, General Directorate for Social Assistance and Child Protection Iasi – GDSACP and Social Cooperative “Il Poliedro” Italy.





| | |
|--|----|
| 1. Introduction | 04 |
| 2. Scope and methodology of the research | 04 |
| 3. Terminology and concepts used at European and national level concerning the social economy | 05 |
| 4. Social Economy, perspectives at national level | 07 |
| 5. Policies, practices and trends concerning the social economy globally, at EU level | 09 |
| 6. Analysis of the legal framework for social economy and of its impact at national level as compared with EU countries | |
| 6.1. Existence of a special law | 11 |
| 6.2. Coverage of the field by general laws | 14 |
| 6.3. Types of entities assimilated with social economy | 15 |
| 6.4. Types of activities assigned to social economy | 18 |
| 6.5. Coordination, recording, monitoring and evaluation of the social economy | 20 |
| 6.6. Promoting of social economy by fiscal facilities | 22 |
| 6.7. Promoting of social economy by non-fiscal measures | 25 |
| 6.8. Support mechanisms for the integration of people with disabilities | 26 |
| 7. Recommendations for the review, amendment and improvement of the legal framework and of the practices concerning the social economy at national level | 30 |
| 8. Bibliography and annexes | 33 |

| | |
|--------|--|
| ANDFM | National Agency for Employment |
| AJOFM | County Agency for Employment |
| CAR | Mutual aid association |
| CARS | Mutual aid association for employees |
| CARP | Mutual aid association for retired persons |
| CIRIEC | International Centre of Research and Information on the Public, Social and Cooperative Economy |
| DGASPC | General Directorate for Social Assistance and Child Protection |
| DGPPH | General Directorate for the Protection of Disabled Persons |
| SE | Social economy |
| EMES | European Research Network |
| ESF | European Social Fund |
| IS | Social enterprise |
| MMFPS | Ministry of Labour, Family and Social Protection |
| NGO | Non-governmental organisation |
| GDP | Gross domestic product |
| POSDRU | Sectoral Operational Program for Human Resources Development |
| EU | European Union |
| EU15 | European Union Members before the 2004 enlargement |
| EU25 | European Union Members after the 2007 enlargement |
| UPA | Authorized protected unit |
| VAT | Value added tax |

Introduction

1

Social economy, although it seems to be a concept well anchored to reality, is a relatively new phenomenon started just a few decades ago. The origin thereof lies in the social communities and groups and was not imposed by political models. Initially, it was a mutual aid mechanism between groups with similar occupations (cooperatives), with similar needs (mutual societies) or with similar social aspirations (associations and foundations). During the '80s and '90s, "at European" level and especially at EU15 level, which includes countries with a strong social tradition, social economy was considered a relatively marginal phenomenon because the state had the capacity and the resources to provide adequate and diversified social services. The social system supported by the state is currently confronted with a series of important challenges. The successive economic crises, the demographic phenomenon of population ageing, the diversification of the social needs and expectations, all exercised a peculiar pressure on the state social protection systems and indicated the diversification and creativity need.

In this context, SE becomes more and more relevant as an innovative and creative solution, which may contribute to approaching social problems and even environmental issues. Although there is no short and widely accepted definition of social economy, both at academic and political level, the minimum criteria, which must be fulfilled by this border field, are outlined. Progress in this field is not as spectacular as one would have expected, but at European level there are more countries, which made significant progress in defining and operating the social economy.

Without having any precise data, because social economy is not recorded separately, either within private sector statistics or within those of the associative sector, the estimations so far indicate that the SE exceeds in many countries 5% of the gross domestic product and employs more than 8% of all labour forces. Also, it is generally acknowledged that the potential of this field is much higher and that it could offer new solutions for the long unemployment crisis crossed by EU, but also for the new social challenges to which the same EU countries must respond.

In Romania, at the time when this research was prepared, a draft of a law, which should regulate the social economy, was under public debate. This approach is an important one as it shows a political concern and indicates the existence of a non-governmental sector, which supports the promoting of this field. There are no perfect models at the European countries level, but there is sufficient good experience out of which Romania can learn, provided that the social economy is included as distinct field both in the policies concerning the economic activity and in those concerning the social activity.

At the end of this research, respectively on the 16th of May 2011, the Senate of Romania adopted the Social Entrepreneurship Law. The process, the content and provisions of the law immediately generated protests from the social economy actors. In what the content and the correlation with other national laws and with the EU laws are concerned, this law is disastrous, assertion fully assumed by the author hoping it will be rejected at promulgation.

Goal and methodology of the research

2

The main goal of this research is to analyse the national situation of the social economy, especially from the perspective of legislation and practices and to outline a set of recommendations which should lead to the promoting of SE based on a series of models and practices of the European Union, relevant for Romania. The research is conducted in a national transition context in which the entire social assistance system is subject to a severe reform. At the same time, at national level, numerous documents related to the social economy situation were published, as part of the SE promoting projects financed from European Social Fund programs. As part of such projects, a draft for a special law on Social Economy was also developed, project under public debate at the moment when the research was conducted and in relation to which the research makes proposals and recommendations.

This research is based exclusively on the study of existing documents and of European and national analyses. Moreover, the research is based on some direct reactions from national partners, who benefited from

experience exchanges in several European countries, within the project to which this research belongs¹. The goal of the research is not necessarily to bring new elements and data on the Social Economy, but it is focused especially on a practical analysis of the context and perspectives of the social economy, in developed European countries and on a comparison with what exists or is foreseen in Romania. That is exactly why the present research adopts concepts already formulated in previous researches and works and uses them to compare various systems and to outline suggestions and recommendations which should lead to the creation in Romania of a system for the recognition, promoting, use, development and diversification of forms and actors of the social economy.

The research is also conducted from the perspective of project partners as social economy actors - respectively from the perspective of non-governmental foundations and organisations.

Terminology and concepts used at European and national level concerning the social economy

3

Despite the fact that the term seems to be well anchored to reality, SE is a recent concept outlined at European and North American level, especially during the last two decades. There is no definition or unanimously acknowledged and accepted criteria for the definition of this concept, which reflects, on the one hand, its relatively short existence and, on the other hand, the fact that it appeared relatively simultaneously in several countries, following similar processes, but not necessarily congruent ones.

In order to develop this concept, there are a few interconnected elements and ingredients, starting with:

- **social entrepreneurship** defined as the type of private initiative leading to the occurrence of new activities, with social impact and/ or social mission, but whose organisation and development is made in an entrepreneurial manner in what the innovative practices, leadership, dynamism and efficiency are concerned.
- **social enterprises**, which might be considered the result of implementing the social entrepreneurship. They started operating ever 'since the '80s, especially in fields such as work integration of socially excluded

persons and in social services related to the rapid change of a demographic context or of the needs of a certain community.

- **social economy** which must be regarded as a sum of the social enterprises and which is considered increasingly during the recent period, as a third economic sector with own dynamic, relatively different from that in the public and private sectors, but combining elements from this two sectors to finally generate the fulfilment of the social needs using economic market instruments.

Although the definitions are different among countries and structures, the goals of SE are also seen differently, there are a few elements which exceed the limits and in relation to which a general agreement seems to exist:

- social economy is the result of a series of private initiatives, whose goal is to meet the social needs by economic methods, and where the maximization of investors' profit does not prevail;
- the social economy forms activate on the real market, but at the same time seek for the support of public policies, because they fulfil a social mandate, which the state either can't fulfil or, if it can, not with the same efficiency and impact as the social economy.

One of the most successful attempts to conceptualize SE belongs to the European Research Network - EMES, which proposes a set of 4 economic criteria and 5 social criteria to define social enterprises².

Economic criteria:

1. A continuous activity for the production of goods and the provision of services. Social enterprises, as opposed, maybe, to the traditional non-profit organizations, are involved in producing something, be it products or services, and this is their reason to exist, as well as their sustainability mean.
2. A high degree of autonomy. Social enterprises are created and regulated as private initiatives. They are not subject to public authorities, although they can benefit from facilities granted by the latter.

¹ Alliance for the development of social economy - POSDRU/84/6.1/S/51204

² European Research Network - EMES, Social Enterprise in Europe: Recent trends and developments, 2008

3. A significant degree of economic risk. The founders of such enterprises undertake the ancillary risks, and the existence thereof depends on the ability of the members/ initiators to assure the resources necessary for the operation thereof.

4. A level of paid labour. These require a certain level of paid labour, to which, as in the case of the other traditional non-profit organizations, voluntary or non-paid labour may be added.

Social criteria:

1. A legitimate purpose for the social benefit of the community. Social enterprises must serve a group or a community, from a social perspective and must promote the social approach.

2. An initiative launched by a group of individuals. Social enterprises are the result of collective processes, which involve people belonging to a community or a group with well-defined needs and purposes.

3. The decision power within SE is not related to or based on the amount of invested capital. That means the votes or the decision method regarding the activity does not depend on the number of shares or parts owned by each member from the capital of the relevant enterprise.

4. A participatory management, which involves both the services and products suppliers and their beneficiaries.

5. Limited distribution or non-distribution of profit. The generated profit is generally reinvested for development or for other social actions and is rarely distributed, and in such cases it happens in a very small degree, so that the classical approach of maximizing the profit, characteristic to the market economic sector, could be avoided.

The above-mentioned criteria must not be regarded as conditionality, but rather as an ideal list of criteria which, once achieved, would illustrate the social enterprises example. In reality, the social economy actors meet these criteria only in part and differently.

At European level, a definition based on the traditional French concept was also imposed. According to this definition, adopted in 2002, "The social economy organizations are economic and social actors active in all sectors. They are characterised principally by their aims and by their distinctive form of Entrepreneurship. Social economy includes organizations such as mutual cooperatives, societies, associations and foundations. These are especially active in fields like social protection, social services, health, bank services, insurance, agricultural production, partnership work, handicrafts, construction of homes, supply, proximity, education and training services in the field of culture and sport and spare time activities."³

The definition, although it seems to be comprehensive, is in fact limitative, and the records of various European countries indicate that there are more fields of activity in which social economy activates. It is probably important, within this chapter of definitions, to also mention the fact that another classification form of the social economy, which should correspond to reality, might be formulated as follows: social enterprises could be those which:

a. employ vulnerable persons in view of social reintegration. To this end, their field of activity can be basically any field and the perspective from which are seen is the perspective of reintegration on the labour market;

b. fully reinvest the profit in social activities. Moreover, their field of activity can be any, but they are intrinsically connected by the generation of resources in order to support a social goal;

c. enterprises, which provide social activities, identified as needs within a certain community and which, otherwise, could not be satisfied. To this end, the field of activity is and must be limited by correctly identified and prioritized needs of the community and, from this perspective, the activity of such social enterprises must be coordinated and supported by the authorities of such communities;

d. any combination of the 3 above mentioned items. This last proposed category widens, in its turn, the framework within which social economy can impose itself and contributes to the identification process of synergies and impact maximization.

All these 4 categories of social enterprises above mentioned could be identified in most European countries, including in Romania.

³ European Standing Conference of Co-operatives, Mutual Societies, Associations and Foundation

In 2007, the European Commission released a Communication called: **“Services of general interest, including social services of general interest: a new European commitment”**. Expected to bring clarifications regarding the definition of these services of general interest, the communication in question reads as follows: “Social services can be of an economic or non-economic nature depending on the activity under consideration.” Although they are not defined, the 2006 Communication identified two broad types of social services: firstly, “statutory and complementary social security schemes, organised in various ways (mutual or occupational organisations), covering the main risks of life, such as those linked to health, ageing, occupational accidents, unemployment, retirement and disability; secondly, other services provided directly to the persons such as social assistance services, employment and training services, social housing or long-term care. These services are typically organised at a local level and they are heavily dependent on public funding”. The communication does not refer to the role of the social economy or of the social enterprises in covering the need for services of general interest and does not clarify the possibility that such might benefit from a special treatment in what taxation or access to contracts awarded by public entities are concerned. Again, the lack of explicitly provisions in the founding treaties of the EU is invoked.

At national level, there is no official definition of the Social Economy. The framework draft of a law for SE, under public debate at the date when this research was conducted, proposes the following definition:

“Social economy represents the assembly of activities performed by those enterprises, legal persons, who perform social and economic activities and who observe, in a cumulative manner, according to the incorporation and operation deeds, the following principles:

- a) priority granted to the general interest, to the interests of a collectivity and/ or to certain personal non-patrimony interests, as related to profit maximization;
- b) free and open association, except for the foundations which perform economic activities;
- c) equal right to vote for the members, irrespective of the contribution to capital or of the value of participations, except for the foundations which perform economic activities;
- d) decision-making autonomy, by full capacity of electing and revoking the management bodies, of implementing and controlling own activities;
- e) autonomous organisation, by the statute of legal person;

f) independence in relation to the public domain, by the statute of legal persons governed by private law;

g) in case of profit distribution to the members, the achievement thereof proportionate to their activity within the organisation, and not with the capital contribution or the value of the levies, except for the 1st degree cooperative societies and the credit cooperatives.

(2) Social economy is based on the values of democracy and active participation of different categories of persons to activities with social nature, as well as on the principle of solidarity and responsibility.

Social Economy, perspectives at national level

4

From a conceptual point of view, at national level, the debate on social economy is recent, stimulated, first of all, by the promoting measures included in the projects financed by the European Social Fund, especially by the Operational Program for Human Resources Development 2007 - 2013. The debate concerning the generation of revenues by the organisations with social goals is older and started immediately after year 2000. At that time, the perspective of European integration determined the traditional international donors, either public or private, and the beneficiaries thereof, especially those who developed social services, to approach the issue of sustainability on a long-term base.

If, traditionally, across developed Europe, the debate started especially at the level of cooperatives and mutual societies, in Romania, although such entities existed and still exist, they were not the ones that generated the debates on social economy. It was the non-governmental, non-profit sector that started such debates, especially from the perspective of social services provider confronted with the public sector incapacity, on one hand, to cover the need for social services

and, on the other hand, to finance or facilitate the private, non-profit initiatives in this field.

SE promoting is mentioned as main strategic element within the National Strategic Report on Social Protection and Social Inclusion – 2008 - 2010 of Ministry of Labour, Family and Social Protection. It is the main measure, which could lead to the achievement of 1st Priority objective - Increase of the employment degree of disadvantaged persons.

Although SE is for the first time conceptualised in a national document, it is not present as a cross-cutting element within all major objectives related to the social situation, as one would expected. The presence thereof only in the area of increasing the employment degree of disadvantaged persons also influences the profile of aid measures and support of SE in the future. No direct connection is made however between the social economy and the need to continue the development of integrated and high quality social services programs, as main way to avoid social exclusion. Neither the 3rd priority objective - Continuation of efforts to improve the living conditions of Roma citizens - makes reference to measures of using the social economy to achieve this. Another major objective of the report is related to health care. Nevertheless, there is no indication to the possible use of social economy mechanisms to assure the achievement of the main targets within this objective. A field with high potential where SE could play a decisive role is that of community services and residential or home long-term care.

Another important strategy, respectively “2011 - 2013 Reform in the field of social services”, recently adopted by the Ministry of Labour, Family and Social Protection, encompasses a rationalisation of the social assistance system, assuming that it is the “*last safety net of the social protection system and has as goal the protection of persons who, for economic, physical or social reasons, do not have the possibility to support their social needs, to develop own capacities and competencies for social integration*”. Among the problems of the system, which⁴ must be approached, the following are mentioned:

- High fiscal cost: expenses with social services of MMFPS and of the local public administration authorities increased from 1.4% of GDP in 2005 to 2.86% in 2010, including social pensions and other benefits, without leading to a visible improvement of indicators measuring life quality;
- Deterioration of equitable distribution and of the percentage of amounts received by families with low incomes, from around 48% in 2005 to 43% in 2009;
- The high degree of fragmentation and complexity, which artificially increases access costs for beneficiaries, high system administration expenses, the level of errors and frauds; thus, the level of irregularities within the social assistance programs and allowances for people with disabilities, in year 2010 amounted to 12% and respectively to 14%;
- A high dependency level reducing the aggregate labour offer; out of the approximately 11 millions adults capable of working belonging to the families which benefit from social services, 20%, i.e. 2.2 million persons, do not work and , are not included in the educational or professional system.

The results expected from the implementation of this strategy are almost exclusively focused on reduction of costs, reduction of the number of beneficiaries and strengthening of control, and less on increasing access, quality and efficiency. None of the 6 major objectives refers, directly or indirectly, to instruments related to social economy, although in the case of some of them (improvement of quality, increase of the activation and participation degree of beneficiaries, efficiency of use of social assistance system funds) the promoting of social economy could be one of the innovative and efficient solutions.

The term of social economy is not even once mentioned in the strategy and, moreover, is not mentioned in the project of the “Social Assistance Law”, a framework law, under public debate at the date when this research was conducted. It seems that there is no coordination between the parallel processes of developing the laws in the field of social assistance and those in the field of social economy, both processes being in a final stage, respectively under public debate of drafts of laws, at the date when this research was conducted. The framework social assistance law makes however a significant progress in defining the planning and budgeting method of the social assistance system, at central and local level. It is difficult to foresee if an expected system with clear funding

⁴ Strategy on the Reform in the field of Social Assistance in Romania, 2011-2013, March 2011

thresholds and with a multiannual perspective will lead to a clarification of resources within the system, but one may say that it could constitute the foundation of a significant progress in services subcontracting. It is exactly in such a moment when a legislation, which would promote the social enterprises on the social services component, could lead to an explosive development thereof.

Romania records a severe deficit as compared to EU25 in the field of the capacity to provide social, education and health services. Also, Romania has a severe deficit in the field of environment protection, especially in what the collection, recycling and storage of waste and management of protected areas is concerned. This entire deficit should be regarded as a normal and necessary area where the development of SE should be supported. For now, SE and non-social economy, if we may attribute this term to classical economy, are stimulated to cover the above-mentioned deficit only to a small extent. In the social field, the state, at central and local level, seriously restrains itself from subcontracting non-governmental partners for the provision of social and environment services. Also, there is no clear strategy to approach activities in the field of environment protection as potential generators of resources and economic growth.

SE is often active and present in economic fields where capacity and competition are already present (production and general services), where certain constraints related to the social character may influence the SE competitiveness as compared to classical economy.

SE can also be defined and considered as the initiation of an activity, which answers to a social need identified at local or national level, trying to address such need based on several social principles:

- access,
- non-discrimination,
- identified need,
- non-profit,

but also based on several economic principles:

- cost efficiency,
- sustainability,
- flexibility,
- quality.

Regarded from this perspective, SE can be implemented by any type of legal entity, which can perform economic activities. The role of an active strategy would be yet to identify which of the legal entities that can perform economic activities are the most appropriate in order to be supported by SE: is it those which know how to operate in the economic competitive environ-

ment or those which know how to operate social interventions? It is not easy to answer this question. To simplify, we may say both entities, as long as they adhere to the set of above-mentioned principles.

The state proved to be a weak administrator of classical economic units under its subordination. That's precisely why a large part of the structural reforms was focused on the privatization of the economic structures. However, up to now, no one seriously asked the question: how good of an administrator is the state for the social, health and education services? Considering the satisfaction level of citizens, the answer is probably the same: the state is a poor administrator of those too. In this field, the state or rather its administrators, assumes the constitutional role of services organizer and bidder, without mentioning where does the so-called "client satisfaction" appear and how are the impact and efficiency measured.

SE promoting must be regarded as cross and main method to address in parallel two issues: the social inclusion and the provision of social services (including health and education services), to which a less mentioned field of action of social economy, respectively environment protection, can be added.

Policies, practices and trends concerning social economy globally, at EU level

5

SE, as operational concept, active both in the social and economic field, was developed in Europe, during the last 20 years. It is, in the first place, the effect of a down-up action, where forms of social economy grew at different community levels, responding to certain needs, and then they were acknowledged at national level and afterwards the acknowledgement movement extended to the level of the European Union. An important element for the acknowledgement was the economic role of SE. In 2005, in EU25,

the estimations indicated that SE generates 4% of GDP involving more than 11 million people, representing 6.7% of the total labour force employed at that moment. The social contribution, not less important, is more difficult to estimate, except for the field of inclusion into the labour market of the disadvantaged and disabled persons, where the impact is considered significant.

In 1989, the European Commission took a first major step by adopting the Communication (equivalent of a strategy) "The Enterprises in the Sector of Social Economy and Implementation of an Internal Market without Borders" This document had as effect the attraction of some direct funding to discuss at European level the situation, researches, conferences and subsequently the generation of recommendations of the European Council in the field. Also, it led to the creation of the SE Unit within DG XIII.

In 2000, following the reform of the European Commission, DGXIII becomes part of DG Enterprises and Social Economy within unit E3 which handles handcrafts, small-sized enterprises, cooperatives and mutual societies. The unit focuses more on the entrepreneurship aspect of cooperatives, mutual societies, associations and foundations. The role of the Commission, in absence of other provisions in the Union's treaties, is limited to encouraging the creation of a favourable environment for SMEs and social enterprises within the other agreed community policies. In this framework, the Unit promotes the recognition and visibility of the sector and the development of the relations between social economy actors and the authorities responsible for the regulation and development of the social economy in the Member States. Due to the important role played in employment and social inclusion, the field of social enterprises also falls under the incidence of DG Employment and Social Affairs.

In 1997, at the High Level Conference concerning the Employment in EU from Luxembourg, the new guides on employment were voted, which acknowledge the importance of the social economy for the local development. In 2001, guide 11 clearly stipulates the need to promote the devel-

opment of social economy. Between 1997 and 2000, the pilot action "The third system and employment" funded several projects whose goal was to increase the role of the third sector in creating jobs. Several cross-national studies and experience exchanges between countries were also funded, but subsequently the relevant unit was closed and the funding was stopped.

After that, the only program, which included specific measures for the funding of the social economy, was EQUAL, financed by the European Social Fund to promote new methods for fighting discrimination and inequalities on labour market, by cross-national cooperation.

The Reform of the Structural Funds led, in its turn, to the end of community initiatives, as the one above mentioned. EQUAL principles however were kept within the structural programs for the period 2007 - 2013, whereby the Member States beneficiaries of the Structural Funds were to identify the most appropriate implementation mechanisms. Therefore, some countries chose to reassign resources for the social economy globally, while others did it targeting certain groups (disabled persons, chronically unemployed persons) and activities related to such groups.

The initiative at the level of EU government was followed by the establishment in 1990 of the Intergroup of Social Economy at European Parliament level. In 2007, it launched the Memorandum on Social Economy, which highlights the role and importance thereof in Europe and makes the following recommendations to the future presidents of EU:

- to approve the European Statute of Associations, Mutual Societies and Foundations;
- to introduce the theme of social services of general interest in the European debate and to lead to the recognition of the specificity of general interest of such services in the future European treaties;
- to acknowledge the contribution of the social economy to the European Social Model;
- to acknowledge the organisations representing the social economy as partners of the social dialogue;

The process at EU level is however very slow and bureaucratic and, certainly did not correspond to the regulation needs of the field at European level. The project "Statute of Mutual Societies in Europe", although adopted in 2003, was withdrawn a few years later because of the lack of a progress in the legislative field. But this did not stop various countries from adopting more sustained reform rhythms within the meaning of defining and supporting the social economy.

The project of United Europe, starting with the Treaty from Rome and continuing with the project of the European Constitution, makes reference to the social market economy and to forms of entrepreneurship like cooperatives and, also, to the potential contribution of the social economy to the creation of the welfare state. Materialization however at EU level of these concepts into clear measures and directives is difficult to achieve, especially because of the lack of progress in defining the legislation, the field conceptualisation and the lack of explicit references within the fundamental texts of EU (Treaties from Rome and Maastricht), the lack of a definition based on the legal incorporation form of SE and the multitude of terms used from the "third sector" to the "civil society" which make it more difficult to reach a consensus.

Even under these circumstances, at EU level, there are clear policies to which SE is related, respectively: active employment policies, social services and social cohesion. The lack of reaching a consensus and of legislation determine absence of a separate budget line for SE within the budget policy, but is included in the promoting budgets of small-sized and medium-sized enterprises, in the employment promoting budgets, as well as in those related to the European Social Fund. By means of the latter, SE promoting measures were introduced also in Romania, especially through the Human Resources Development Program, funded by ESF within the Structural Funds granted to Romania during the period 2007 - 2013.

The structural problem and the persistence at EU level of long-term unemployment entailed the fact that most of the initiatives to support the social economy are focused on fighting unemployment and on active and sustainable employment of persons under long-term or permanent exclusion situation. Thus, social economy was equalled with social work integration enterprises, situation which, in certain countries with developed social protection systems, was even enacted, leading to a limitation of possibilities for social enterprises. The trend, although not uniform, is relatively predominant in EU15. At the same time, the countries integrated in 2004 and those in 2007 come from a completely different background, where the social services systems do not have the tradition and economic stability necessary to be truly developed. These latter countries are much more inclined to open the social economy concept to more lines of actions. Besides the social goals, in some countries, social economy was encouraged to also include activities related to environment protection and management.

In order to structure trends, coherent statistic data must be available and this is one of the major problems at European level. The social economy businesses do not have a separate registering system and are difficult to identify among the multitude of economic agents. Nevertheless, the European consensus is that the social economy represents all the more a pole of social utility and may be considered a separate sector, which already brings a significant contribution to solving social problems and which occupies a high percentage among economic sectors. The recent economic crisis accelerated in many countries, including in the developed ones, the need for a reform in the social sector, which is ever more difficult to support. The promoting of Social Economy may be a solution, both for new and complex problems in the social field and for the problem concerning the sustainability, quality and flexibility of social services. SE promoting must be regarded certainly as an opportunity to address essential needs at the same time: creation of new places of employment, increase of social inclusion and increase of accessibility, quality and efficiency of social services. An integrated approach could lead to the formation of this third sector as a decisive one for the economic growth of the next years.

Analysis of the legal framework for social economy and of its impact at national level as compared with EU countries

6

Existence of a special law

6.1

From the perspective of this research, the existence of a special law at national level may be a good indication of the awareness, at political level, of the Social Economy issue. Generally, a special law means that the problem in question is considered a priority and cannot be addressed accordingly unless by means of the general legislation. This does not mean automatically that

countries, which do not have a special law, do not give attention and priority to the social economy. Also within the meaning of this research, a special law concerning social economy is a type a normative act which defines types of activities, actors, management mechanisms, recording, monitoring and assessment and support methods for the social economy and which makes a clear delimitation between this and other associative forms which might generate revenues and profit.

The necessity to draft and enforce special laws manifested itself ever since the beginning of the movement to promote the social economy. Special laws appeared relatively late, especially in countries where the cooperative tradition was strong and where the state admitted that it needed non-governmental partners for the generation of solutions to the social problems.

France is the first country, which, in 1980, adopted a law in the field, defined as "social economy based on solidarity". This first form was not specified in the definition of the social enterprise typology, but was more focused on the clarification of the role of associative economic structures existing in the social field. Thus, the law defines social economy as being made up of a variety of organisations defined either by their legal statute (association, foundation, cooperative, mutual society), or by their object of activity (work integration, ethical trade, etc) and which acknowledge several common principles: the voluntary nature, democratic operation method and purpose of general interest. These forms of organisation are active in various fields such as agriculture, food industry, fishing, constructions, transport, health insurance, education, culture, sports, social tourism, etc. In the field of work integration, in 2004 there were already more than 2300 structures reported as active, which employed more than 220,000 employees. Globally, the structures assimilated to social economy during the years 2002 - 2003, employed more⁵ than 2 million persons within more than 135,000 structures. In 2002, France introduced a new form of organisation of the social economy, called „societe cooperative d'interet collectif – cooperative society of collective interest" or SCIC. This type of private organisation, of collective interest, brings together em-

ployees, beneficiaries, volunteers, local and regional authorities and any other partners who want to work together for a local development project. Although regarded as a step forward, as a result of an internal debate process within the cooperative movement, this new form did not have the expected result, leading after 5 years since the adoption thereof only to 94 SCICs.

Italy introduced, ever since 1991, by law, a form called "social cooperative", which does not imply a reincorporation of the existing forms, but defines the eligibility conditions for a structure to be considered social enterprise. Eligible structures may also be companies and organisations and thus the legal trademark of social enterprise may be obtained by fulfilling certain conditions of non-distribution of benefits and participation of the relevant partners. This framework allowed the foundations and the associations to be registered directly as social enterprises. The law clearly defines the fields of activity considered of social utility, respectively: social welfare, health, education, professional training and education, environment and ecosystems protection, cultural development and inheritance, academic and post-academic education, research and cultural services, extra-curricular training and support for social enterprises. In the field of work integration, the law may be applied to any field of activity, provided that at least 30% of employees are disadvantaged or disabled persons.

According to this law, social cooperatives may be of 2 types:

- **Type A social cooperatives** - cooperatives providing direct services to disadvantaged persons (social assistance, medical care and education services);
- **Type B social cooperatives** - (production or services) cooperatives within which 30% of all employees are persons coming from disadvantaged groups.

The law had a significant effect on sector growth, leading to an annual growth of 10 - 20% of the number of newly established cooperatives. It is estimated that in 2006 in Italy there were more than 11,000⁶ social cooperatives. Due to the field expansion and the attention it benefits from, in 2006, a new law concerning social enterprises was adopted, law which does nothing but update the law in 1991 and bring the necessary clarifications after 15 years as of the implementation of the previous law. Social cooperatives are thus assimilated to social enterprises.

Belgium also introduced at federal level in 1996 and reviewed in 2007 by law the concept of company with social goal, which is, as in the case of Italy, a mark

⁵ Map of EU and national social economy institutions and organizations, DIESIS 2008, Equal project "PROMES – Promoting of Social Economy".

⁶ Map of EU and national social economy institutions and organizations, DIESIS 2008, Equal project "PROMES – Promoting of Social Economy".

and not a new form of incorporation. The bureaucratic requirements determined however that few organisations (round 400) required the granting of such statute. A significant number of organisations among non-profit organisations operate for a social goal equalled by EMES with that of the social enterprises. They have the possibility to engage in trade activities if such come under the social mission of the organisation. The autonomous Walloon region imposed to the work integration enterprises to register as companies with social goal within the laws, which the Walloon Council adopted ever since 1990.

The Finnish legislation also introduced the concept of social enterprise in 2003, but limited it exclusively to employment activities for disadvantaged or disabled persons. The law creates a new form of incorporation and a separate registry for it. Clear conditions concerning the existence among employees of at least 30% vulnerable or disabled persons and rules concerning the remuneration thereof at level of average salaries within the sectors they work in are imposed. Because there are no public benefits granted to such enterprises, they are not limited in redistributing profit. Public support is granted only for the establishment thereof and for the promoting of the concept, but the process is difficult and consequently the number of registered companies until 2008 amounted to only 69.

United Kingdom adopted in 2005 a regulation concerning the incorporation and operation of companies for community purposes (SFC) as a new type of limited liability company, specific to social enterprises. They are thought to operate in community interest and do not allow a redistribution of the profit, unless under special conditions. Moreover, upon closing, the assets and profit must be transferred to organisations with similar goals. A clear separation from the charity sector is made by the fact that a charity organisation cannot be SFC, but may be shareholder of a SFC. Up to that time, a widely accepted definition was in force, according to which social enterprises are "businesses with mainly social goals whose profit is generally invested in that relevant business or in the community". In the United Kingdom, the sector, which may be assimilated to social economy, is very powerful and has benefited from the attention of authorities for more than 3 decades. Ever since 2001, the Unit for Social Enterprises was created within the Trade and Industry Department, which, later on, in 2006, was integrated into the Office for the Third Sector, placed under the direct subordination of the prime minister. Data from 2005 indicate that in the United Kingdom there were more than 15,000 social enterprises, which employed more than three quarters million persons. The United Kingdom is also known for the size and power of its

charity sector. One of the purposes of the 2005 regulation was to clarify the way in which charity organisations may be involved in social economy, an obvious trend of the sector in search of sustainable resources to perform its activity. In 2005, 47% of the revenues of charity organisations were reported to come from lucrative activities.

Other countries where there is a special legislation concerning the framework of social economy are Ireland, Spain and Portugal, the two latter operating the concept of social cooperatives, which may provide both social services and work integration services.

An example among the former communist countries, which introduced a special legislation in 2006, is Poland. The institutions thus regulated are limited exclusively to employment of disadvantaged groups, which are permitted to establish social cooperatives. The cooperatives are eligible for providing public services and producing goods and offering services based on the reinvestment of profit for social goals.

In Romania, it is expected the adoption of a special law initiated by MLFSP, which, at the date when the present research was conducted, was under public debate. The law itself does not impose a new way of incorporation of social enterprises, but enables all associative forms generally acknowledged at European level to operate under such mark, if they met certain social criteria and if they are registered with a specially created registry.

Moreover, as compared to the legislation in other European countries, the operation of Foundations under such mark is also accepted. The law is progressive also at the level of foreseen operational measures, which will be analysed in the next chapters. From the perspective of this research, the following recommendations are made in case of regulating the field by a special law:

- As any other framework law, it should provide for responsibilities, terms and fields where the

secondary laws should be drafted so that such framework law becomes operational.

- A delimitation and a clear division between more possible types of social enterprises must be performed:

1. those which employ vulnerable or disabled persons with the purpose of social reintegration;

2. those which reinvest the profit in social activities;

3. those, which provide social activities, identified as needs within a certain community and which, otherwise, could not be satisfied.

4. any combination of the three above mentioned items.

- Following the above-mentioned classification, the law may also comprise clear notions concerning the subcontracting by the public institutions of social economy enterprises to provide certain social protection activities and services or activities and services with social character.

- The introduction within the law of a chapter concerning the registration and certification of social economy enterprises. For a greater explicitness of the field and in order for this to be monitored and supported, there must be a separate registration of social economy enterprises, which should have, subsequently, a distinct position in all laws concerning the economic and fiscal field.

Coverage of the field by general laws

6.2

In this chapter, is intended a presentation and analysis of the general legal framework, which is applicable for forms and activities of social economy and which may or may not create a favourable environment for social economy. Given the fact that the situation in countries with special laws was presented above, in this chapter some of the countries without special laws will be list-

ed. As in the previous chapter, it has to be mention that the lack of a special law must not be regarded as a lack of interest for the field. The reasons are much more complex and many times are related to the social philosophy by which the respective society was built on.

An edifying example is of Germany, where, although the subject itself is not very present on the political agenda, social economy has considerable sizes and importance, especially for cultural and historical reasons. Ever since the 19th century, and especially after the Second World War, Germany (West Germany) chose a certain type of social partnership, which subsequently was described as "social market economy". The approach reduced the possibility of outlining a social economy sector and the entities with activities assimilable to social economy were grouped different forms. They are present in fields such as generation of work places for disadvantaged persons or social services and environment protection, and registered a considerable development, even in absence of support mechanisms at regional or national level. It is estimated that in the beginning of 2000, social economy in Germany employed at least 1.9 million persons and involved round 2.5 - 3 million volunteers.⁷ The units of social economy were active in all economic sectors and were operated both by traditional cooperatives and charity organisations, associations and foundations. With the exception of associations, which have certain restrictions in engaging in economic activities, the rest of actors may perform this type of activities. The sector assimilated to social economy is fragmented, and the local and regional studies in which Germany was included recommend transition to a uniform legal framework, which should acknowledge, promote and regulate this field.

Denmark, major exponent of social market economy among the Northern countries, is one of the countries with no specific legislation for social enterprises. Here, most of the organisations assimilated to social economy operators are the so-called "self-owned organizations". Such are very tightly connected to the public domain, which contracts them for various services, like social services, work integration, rehabilitation, care, emergency social services, education and environment. They either get public contracts or are publicly subsidized to employ staff. It was estimated that in 2003 in Denmark more than 9000 such organizations were active.

Although it is considered the country with the most developed social economy, Sweden, in its turn, has

⁷ Development and perspectives of Third Sector or Social Economy in Germany, Dr. Karl Birkholzer, University of Berlin, 2005

no special regulation forms for social enterprises, which activate most of the times as economic associations. In Sweden, the associations for community utility have a long history and had significant economic and social implications at local level. They appeared as private initiatives and then were taken over, especially after the Second World War, by the local authorities, forming in 1980, by way taking over and unifying 370 protected workshops, a state company called Samhall. This led to an unsustainable growth of the public sector, which, after 1990, had to find methods to reduce its size, keeping at the same time access to traditional social services. This trend led to the formation of cooperatives and local groups again. The state kept a dominant role within the work integration activities, but also in other fields, such as children care activities, nurseries and day centers, and the private initiatives extended reaching considerable sizes. Another field was that of caring for mentally ill persons in relation to whom the state decided to shut down the large residential centers and thus, the community initiatives replaced the need for services, by support and public subsidies.

A conclusion of listing the countries with no special legislation is that they have a significant social solidarity model, integrated within the public structure, which functioned for a long time and led to the development of the so-called "social welfare states". The economic crisis and the significant social and demographic modifications force these countries to search for new solutions or to return to old solutions (Sweden) in order to reduce the pressure to which the public sector is subject to and to reinvigorate the private initiative, which should generate sustainable economic solutions.

Romania, even before the communist regime, did not have a long tradition in the field of community solidarity, which should lead to private social initiatives. During the communist period, the cooperative movement lost, in a high degree, its social solidarity character and, although it comprised numerous activity fields and employed significant percentages of the labour force, its social role was limited to professional training and employment. Not having the tradition of social welfare states and with a non-governmental movement reinstated only after 1990, Romania cannot hope, in the short run, at a movement of social solidarity formation, at the level of the civil society and communities. Such a trend must be actively supported by clear and efficient measures, among which we mention, of course, the preparation of special laws and the outlining of the social economy role within any reform strategies of the social protection system.

Types of entities assimilated to social economy

6.3

For historical and opportunity reasons, the organizations which are involved in social economy are not defined by their legal statute and thus, operate basically under any possible form, from the legal perspective of the relevant country. Even in particular situations when, at national level, a special form of incorporation was defined, it did not reunite all organizations involved in social economy. Sometimes, in this latter case, the special form of incorporation was considered a limitation or a barrier imposed to the organization freedom. According to the classical definition, an economic activity must produce goods and/ or services and must have a selling market. Social goods and services are explicitly the result of an economic activity, but the market for them cannot and must not be seen as a free market, as in the liberal concept of market economy. Thus, the agents of the social economy are:

traditional non-profit forms:

- foundations
- associations
- parishes (organization forms of religious cults with legal personality in some states)

traditional associative economic forms:

- cooperatives
- mutual societies

classical economic forms:

- limited liability companies
- joint-stock companies
- public-private partnerships.

Globally, at level of EU countries, all such forms are present, the weight and position thereof within the social economy phenomenon depending on the history and culture of the relevant country, as well as on the facilities granted to structures assimilated to social economy.

However, certain regional trends are outlined. Thus, the classical economic forms are more frequent in the Northern countries, United King-

dom and Ireland, the cooperative forms in France, Spain, Portugal and Italy and the non-profit forms especially in the former communist countries in Central and Eastern Europe.

In many countries, laws of the social enterprises predetermine the form. In Finland and Iceland they must have the form of a company. In Poland, they must be organized as cooperatives, and in Lithuania they can only be associations, foundations or religious associations. In the United Kingdom, a special form of incorporation, as limited liability company called "company of community interest" was also introduced, but the law does not impose the registration of social economy forms exclusively under such incorporation.

An important aspect of social enterprises, implied or expressed in all EU countries, is the type of staff involved. There is professional staff employed full time or part time, as in the classical economic sector. As compared to the latter, social economy can also involve: volunteers, beneficiaries and clients in the production activity. Thus, the lack of economic efficiency of such enterprises or even the high cost of certain supplied goods and services, which could not be covered under regular market conditions, could be compensated. Moreover, the offering of jobs to people with disabilities leads to reduced expectations concerning productivity, which must be compensated somehow so that the products and services are competitive on a free market. Usually, the staff remunerated for full time or part time work schedule, or a certain level of paid labour is found in any social enterprise. There are however exceptions, such as, for example, enterprises where the staff is fully made up of volunteers (for e.g. in Denmark, in case of organizations providing care for chronically ill people, for people with disabilities or drug addicts) or where the staff is fully remunerated (Sweden and Finland). There are also countries where the percentage of volunteer employees is limited by law - Italy - 50%. In most of the cases, the work integration enterprises, which employ vulnerable or people with disabilities have a minimum threshold: the percentage of persons in those categories, which must be employed in order for their statute to be acknowledged.

Another important aspect of social enterprises is related to management. The quality thereof is expected to be as high as in the classical economic sector, but the main target of management is not profit maximization, but the fulfilment of the social mandate of the organization. This leads to a management approach based rather on a partnership with the clients and beneficiaries and to a more participative way of leading the organization. In EU15 countries, no problems related to the identification and exercise of an adequate management of social enterprise is reported, while in the countries from the former communist block, the lack of an adequate experience in economic management is obvious. That especially because most of the social enterprise were initiated by non-profit organizations, without much experience in the economic field.

There is a debate concerning the size of certain social enterprises. Generally, such are small sized and act locally. There are also exceptions, for example, SAMHALL in Sweden, which is a national organization with more than 20,000 employees, whose existence is directly connected to public support. The national organizations of the Red Cross or of Caritas (Austria) operate in the same way. Among the reasons for which most of them have small sizes are their local profile and the difficulty to have long-term predictable resources.

In Romania, all forms of organization with potential of being involved in social economy are present, but the extent to which such forms are involved varies. The absence of registration systems makes any assessment difficult. From the perspective of the partners in the project that generated this study, the analysis will be more focused on involving the foundations and associations and the mechanisms used by them to implement social economy. According to the laws in force, the associations and foundations may perform income-generating activities in more ways:

- directly: "Associations, foundations and federations may perform any other direct economic activities, if such have ancillary nature and are closely connected to the main goal of the legal entity."⁸
- through a company: "Associations and foundations may establish trading companies. The dividends obtained by associations and foundations from the activities of such trading companies, if not reinvested in the same trading companies, are mandatory used to achieve the main goal of the association or foundation."⁹

⁸ Article 48 of Law 245/2005 for the approval of the Emergency Ordinance on the establishment and operation of associations and foundations, 2000

⁹ Article 47 of Law 245/2005 for the approval of the Emergency Ordinance on the establishment and operation of associations and foundations, 2000

Although the legislation is not explicit in what the type of economic activities which may be performed by foundations and associations is concerned, there is a direct requirement that either such are connected to the goal of the relevant organization, or such reinvest the obtained dividends to achieve the goal. From the perspective of practicing social economy, such provisions are positive and sufficient, but of course it should be clarified to what extent the goal of an association or foundation is truly a social goal. Globally, associations and foundations must not necessarily have a social goal. The mechanism for classifying them into such a social goal should probably be clarified by a law amendment. The 2000 Emergency Ordinance tried to define "public utility" but the way in which such it is granted - by Government decision, the granting period - undetermined, the questionable criteria and sometimes difficult to achieve by local organizations and the hard to get benefits determined the too few foundations and associations to apply for such statute. The influence of the political side on the grant of the public utility statute was often brought into question and this was also connected to the increased number of organizations, which received the statute in election years (2004, 2008).¹⁰ Public utility, on the other hand, would not automatically determine the acknowledgment of economic activities as belonging to social economy.

Although all types of organization present in Europe in the field of social economy exist in Romania, the extent to which such perform social economy activities is unknown and difficult to assess. Cooperatives and mutual societies perform economic activities, but certainly only a small part thereof may be considered as belonging to social economy. The organizations of the type "Cooperative of Invalid Persons" or "Mutual Aid Associations of Retired Persons" are emblematic for social economy, but are among the few evident examples.

Also among associations and foundations it is difficult to assess their involvement in social economy. A 2010 study indicated that 15% of them obtain revenues from SE activities, while 40% do not exclude the possibility of performing economic or financial activities in sectors such as: crediting, rural development, agriculture and forestry.¹¹

A different and relevant way of regarding social economy is from the perspective of the only type of enterprise automatically considered as belonging to social economy, respectively the Authorized Protected Unit,

which operates pursuant to Law 448/2006. According to this law, protected units are any type of economic agents or divisions within foundations and associations, which have at least 30% employed staff people living with disabilities. A problem of this law is that the economic agents established strictly on profit maximizing bases, which have protected units, do not fully correspond to the criteria concerning the classification of social economy, from the perspective of limited profit redistribution. Protected units must be registered accordingly with MLFSP, at the General Directorate for the Protection of Disabled People. According to the registry, on April 8, 2011, there were 330 established protected units, as follows:

- 245 as limited liability companies,
- 56 by foundations and associations,
- 15 by certified natural persons,
- 11 by production cooperatives,
- 1 as individual enterprise,
- 1 as family association,
- 1 as law firm.

One may notice the variety of the organization forms, which indicates the flexibility of the law and interest from all types of agents and, especially, from the private and non-profit sector. The units registered as Ltd (limited liability company) have behind, to a certain extent, foundations and associations, but there are no exact data because, upon registration, it is not required to indicate the shareholding structure.

One may conclude that Romania is among the most flexible countries in Europe in what the potential actors of social economy are concerned. If in the case of foundations and associations with social goal, they fully correspond to the minimum criteria concerning the classification as social economy agents, not the same applies to the other economic agents and, especially, those established as classical economic forms and where profit maximization is a priority. In this field, legislation provisions would probably be useful, especially of the foreseen law of social economy, concerning the criteria and the way in

¹⁰ „Romania 2010 – non-governmental sector – non-governmental sector: profile, trends, challenges”, Foundation for the Development of the Civil Society, 2010

¹¹ „Romania 2010 – non-governmental sector – non-governmental sector: profile, trends, challenges”, Foundation for the Development of the Civil Society, 2010

which the monitoring of fulfilment and maintaining the criteria by the economic agents, who request the statute and the facilities resulting from the operation of social economy are concerned.

Types of activities assigned to social economy

6.4

Ever since the beginning of this sub-chapter, one must indicate that its role is to try a systematization of the heterogeneous situation so far, both at European and national level. Such systematization could have a determinant role in drafting the legislation and in monitoring the sector in order to be able to assess its dynamics and impact onto the society.

The systematization of social economy, from activities and beneficiaries perspective, may be done as follows:

1. social economy which generates jobs for vulnerable persons and which activates in any economic field;
2. social economy which generates resources for social projects and which activates in any economic field;
3. social economy which satisfies the need for social services (and eventually products) and which activates exclusively in the social services (and eventually products) generation area;
4. any combination of the three above mentioned items.

The first model is the most known and met at European level and is also called work integration social enterprises. These may offer work places for determined or undetermined period and, at the same time, may offer professional training services, all for well defined groups of beneficiaries, which include disabled persons, vulnerable persons with problems in identifying and occupying

a job, persons who come back into the society after detention, long-term unemployed persons. There are no limitations concerning the activity fields where such can act, but there are certain preferred fields, met in certain countries, some related to traditions or to the possibility of receiving public contracts. Generally, this type of social enterprises operate on a free market and may supplement a potential productivity deficit, by subsidizing from public programs the salaries and investments and/ or by accessing public contracts, by applying a positive discrimination. In case of some countries, this type of social enterprises is the only one admitted by law (Finland) or is the only one, which encompasses an explicit state policy, for the financial support and subcontracting (Sweden). There are also cases, among which Romania, where such social enterprises have additional facilities, even in what the relation with other economic agents, public or private, is concerned.

The second type from the proposed systematization may be defined as income generating activity of charity organizations - associations, foundations or religious organizations - which use such income within their social and charity activity. In this case, the non-profit agent may perform the activity directly or by means of a trading company and, theoretically, operates in any economic field. Prospective productivity deficits as compared to other economic agents may be supplemented by volunteer work. This form of social economy is probably the less visible and acknowledged at European and national level. In many welfare states, where social protection is situated at a very high level, there are no such initiatives. In Central and Eastern Europe they are, however, important as preoccupation of the non-governmental sector, which developed necessary services in the social field, and which the state can not fund, due to lack of resources and capacity.

The third case is that which limits the activity exclusively to social services and products, defined as priority needs, which cannot be or are not covered by public services. In this category, the services called proximity, community services, which also include social and medical care services, services related to access to education and sometimes even services related to environment protection may be included. The operators of such services may be foundations and associations, private firms or firms resulted from public-private partnerships. Most of the times such services are performed at community level. Some countries developed special incorporation models for this type of social enterprises, for example, the United Kingdom, which enacted societies of com-

munity interest. Other examples may be the societies, which offer services of the day care centre type for children or for mentally, disabled persons, established in Sweden. An important issue, in this case, is that of the subcontracting and concession of services by the public authorities and of the existence on the market of several exclusively private agents, who invoke a potential unfair competition. Sweden interprets in the extreme the EU recommendations concerning public acquisitions, excluding the social criteria, when awarding public contracts. Other countries include such social criteria, but the extent to which they are really operational is different. At European level, this category is especially present in the Central and Eastern European countries, but also in countries with a longer democratic tradition, but which focus on decentralization and subcontracting social services.

The fourth category was introduced to visualize the synergies and the potential added value of combining the first 3 variants, which might lead to spectacular results, by simultaneously addressing more social problems.

Although, in what the visibility is concerned, the work integration social enterprises dominate in Europe, there are also other fields where SE has become more significant. In Italy, for example, type A social cooperatives have begun, ever since the 90s to 'occupy an important position in providing customized health care, psychology, mental health services as well as in the field of professional training and preparation, related thereto. The same types of services, also called proximity services, are developed in Belgium and France. Moreover, in Sweden and France, following the lack of capacity of the public sector, social enterprises become more and more significant in child care services. In Denmark, the areas of activity may also include crisis centers or centers for abused women, but also urban restoration and development projects. In Portugal, France and Italy, an expansion area of services supplied by social economy is that for elder people. Other important fields of action are in the United Kingdom, precisely those of social housings, home care and other community services. To this end, a support program for social enterprises in the field of health started. In Italy, the 2005 law on social enterprises explicitly opened the access of social economy to other fields, such as: environment protection, preservation of the cultural inheritance, social tourism, research and education. In Greece and Ireland, social enterprises are supported to act in the area of local community development. Ireland even encourages the awarding of contracts by the public sector to those enterprises working to reduce the regional economic disparities.

In most of the European countries, credit cooperatives assimilated as structures of social economy operate. They are established to provide alternative services to the bank credits. Also, mutual cooperatives and associations for the construction of housings are present. These traditional forms of mutual support between members do not fully correspond to the criteria that would classify them as forms of social economy, but, without any doubt, they have a social goal and impact, important at European level.

From Romania's perspective, all 4 categories are present and there are significant examples for each of them, but their percentage within the social economy is difficult to assess. In Romania, social economy which generates work places for vulnerable persons and which activates in any economic field, also existed before 1989, especially at the level of organizations of „Cooperative for Invalid Persons, Blind People and Persons with speaking and hearing impairments” type. A special production niche was created for them, exclusively reserved. After 1989, this model was not maintained. Although Emergency Ordinance 60/2001 on public acquisitions has no applicability for health, social or education services, and although for other types of goods and services the contracting authority may introduce social criteria or criteria of public utility in the tender document, there are no significant examples of good practice, which led to the stimulation, by public contracting, of the social economy.

On the other hand, associations and foundations compensated the severe public services deficit, especially in the social area, at first with external funding and thereafter by a continuous fight for survival, which included, besides fund raising efforts, also the approach of social economy. The challenge of a partnership between the public sector and associations and foundations, as social services providers, is far from being achieved. Besides several isolated examples of good and efficient cooperation between the public authorities and NGOs, the overview is a lack of vision and instruments of actions, which

should stimulate this cooperation.

A model which can be explored would be that based on the establishment of mixed public-private companies of social enterprise and to which one can assign directly, based on cost standards, certain services at community level.

Coordination, recording, monitoring and evaluation of the social economy

6.5

The absence of a uniform definition at European level concerning social enterprises, as well as the variety of legal forms under which such can operate, makes it very difficult to obtain statistic data to this end. The countries, which supply such data, admit that they reflect only a part of the entire picture, which may be assimilated to social economy. Most of the European countries have separate registries for the profit and non-profit sectors (associations and foundations). They don't reflect, on one hand, the observance of the profit sector enterprises of the social economy criteria, neither do they reflect the economic activities performed by the non-profit sector be them direct and especially indirect activities. Closer to reality data may be obtained in some countries from various networks and umbrella organizations, which promote social economy. The data is not necessarily the result of maintaining registries, but rather of some research on representative samples, which may provide an image when the present research was conducted. Not even in countries such as Finland and the United Kingdom, where there are special registries, concerning social economy enterprises, the supplied data is complete, because not all social economy agents are registered in such registries. In Finland, the law forbids those, which are not registered accordingly to use for promoting and marketing purposes the term of "social enterprise". Despite this situation, only very few are registered, and this is more related to the fact that such registration brings only limited benefits as compared to the conditions imposed. As they are able to operate under various legal forms, social enterprises are difficult to identify by

way of statistic data meant to register the economic activity at national level. This aspect was identified at an early stage, as a barrier, also at worldwide level. In 2003, the United Nations Organization drafted the Manual on Inclusion of Non-Profit Institutions within the System of National Registries and, in 2006, the European Commission adopted a manual concerning the Construction of Satellite Registries for Companies active in Social Economy, registered as cooperatives, mutual associations or similar forms. One expected that such manuals would enable a better identification and registration of social economy active companies, but the results are still expected to show. At some countries level, there are certain mechanisms, which may provide data:

- France, Germany, Greece, Sweden and Slovakia make estimations by consulting the structures of each legal form under which social economy may appear (cooperatives, mutual societies, associations and foundations);
- Poland established a registry of social cooperatives;
- In Romania, at the level of associations and foundations, the data were obtained by applying a questionnaire to a representative sample of such organizations;¹²
- Bulgaria has a registry of social services providers, where most of the listed organizations are associations or foundations;
- Ireland had a special program for social economy of the Agency for Occupation and Professional Preparation, which also generated statistical data. At political level, the recommendation made by the European Parliament in 2009 is worth mentioning by which it invites the European Commission and the Member States:
 - to support the creation of national statistical registries for social economy enterprises, to draft national satellite accounts for institutional sectors and activity sectors and to permit the taking over of such data by Eurostat, also using the competences available in universities;
 - to promote the use of the UN Guide concerning non-profit institutions and the system of national accounts and to prepare satellite accounts that should enable the improvement of the visibility of non-profit institutions and of social economy organizations.

¹² Resolution of the European Parliament of February 19, 2009 on social economy)

The SE coordination and promoting movement at national and European level also reflects the fragmentation caused by the different legal forms, which the social economy may take. Thus, federations at national level and confederations at European level were formed, separated at the level of cooperatives, mutual societies and associations and foundations. Speaking of social economy, each of these confederations speaks from the point of view of the type of organization it represents and are relatively few platforms, which reunite more sectors. They were identified in Belgium, France, Spain, Luxembourg and Poland, in 2007.¹³

Some EU countries established a centralized body, with responsibilities related to social economy, to which they also attached the responsibility of generating data and statistics, as well as to supervise the awarding of the mark "social economy". This approach must be regarded as an important indication of the presence on the political agenda of the problematic and inclusion thereof on the action list. Such centralized bodies have an important role also in increasing visibility but also in coagulating around them the coordination of authorities, when it comes to such field. Most of the times built as inter-ministerial body, this type of institution is present in:

- Italy, under the form of General Directorate for Cooperatives within the Ministry of Economy and the Agency for Non-Profit Organizations Socially Responsible;
- Belgium, under the form of a State Secretaryship for Sustainable Development and Social Economy, subsequently transformed in State Secretaryship for Economic Pluralism;
- Spain, under the form of a National Institute for the Social Economy Promoting and of some General Directorates for Social Economy, Self-Employment and the European Social Fund within the Ministries of Labour and Agriculture, but also at the level of most local and autonomous governments;
- France, under the form of the Inter-ministerial Delegation for Social Innovation and Social Economy, within Ministry of Labour and with territorial structures;
- Portugal, under the form of the António Sérgio Institute concerning the Cooperative Sector;
- United Kingdom, where the Unit for Social Enterprises was established within the Department for Trade

and Industry and then transferred within the Department for Health. Currently, it is a part of the Unit for the Third Sector under the subordination of the Prime Minister.

Of course, the existence of such coordination mechanisms at national and regional level is also the result of a political will and is subject to changes occurred at political level. The above-mentioned countries indicated that there is a significant, across-party level of support and preoccupation for Social Economy. The explanations to this end must be looked for also in the impact of social economy. EMES shows that social economy at level of EU25, in 2005, generated round 4% of GDP.¹⁴

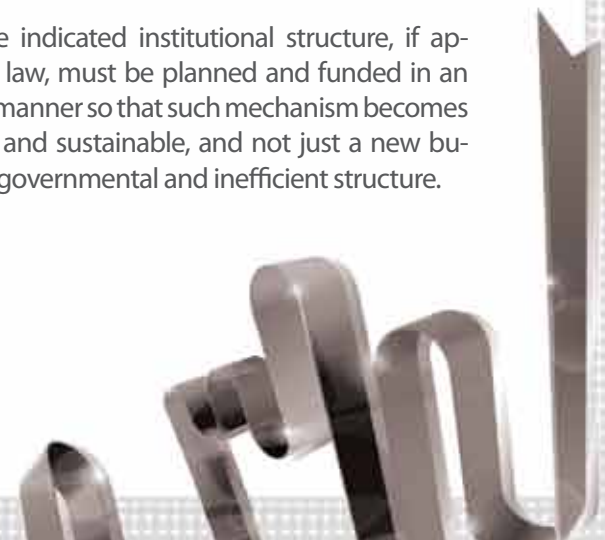
In Romania, the experience of introducing at central level such coordination and promoting mechanisms of new concepts is relatively young and did not generate spectacular results. Without denying the importance of a governmental body, which should monitor and promote the field, it must be ascertained to what extent it will interact with the actors of the social economy sector. The project of Social Economy law, under public debate when the present research was conducted, provides for a full mechanism for promotion, coordination and monitoring of SE. It includes:

- a National Center of Resources for Social Economy with regional territorial structures,
- a Registry of Social Economy Enterprises, proposed to be maintained by the above mentioned National Center and
- the Council for the Promotion of Social Economy, proposed as consultative body, organized within the Ministry of Labour, Family and Social Protection.

The above indicated institutional structure, if approved by law, must be planned and funded in an adequate manner so that such mechanism becomes functional and sustainable, and not just a new bureaucratic governmental and inefficient structure.

¹³ The social economy in the European Union in 2007 Centre international de recherches et d'information sur l'économie publique, sociale et coopérative – CIRIEC, pg. 41

¹⁴ The Social Economy in the European Union in 2007 - CIRIEC



Promoting of social economy by fiscal facilities

6.6

Financial and fiscal measures are the most frequent social economy promotion methods at Europe level.¹⁵ They are directly connected to the forms legally acknowledged as activating within the social economy or are promotion or support forms for the types of legal entities which may be assimilated to social economy (cooperative, mutual societies, associations and foundations).

The fiscal measures are frequently related to associations and foundations, for reasons concerning the non-profit character thereof and the predominantly social nature. Normally, in most European countries, the taxation system for non-profit organizations is to be found in special laws, either for associations or for foundations (Spain, Italy, Romania, France), either in codes for social utility that govern the non-profit sector (Germany). The non-profit nature, in many countries, does not forbid engaging in economic activities that might generate revenues and implicitly profits and thus, the fiscal facilities given by the non-profit nature may be extended also to social economy. In other countries, however, the non-profit nature does not permit economic activities or, in some cases (Finland, Sweden), the private sector intervened

in the public debate and opposed to the granting of fiscal facilities for social economy, invoking the occurrence of preferential conditions, which would have affected the competitiveness on the free market.

On the other hand, most of the social economy forms in EU are organized by cooperatives and mutual societies, which do not benefit from fiscal facilities related to the social economy activities. There are some facilities, for example, in Greece, for agricultural cooperatives, or in Ireland for crediting societies, but the general trend in EU is that fiscal facilities are gradually reduced, even though a certain social role of social economy exercised by the relevant cooperatives is acknowledged.

The types of fiscal and financial support measures may be grouped as follows:

- fiscal support, which refers to any type of taxes and duties exemption facility, in relation to criteria of social economy or to activities which may be assimilated to social economy;
- direct support, which refers to any type of funding program for the establishment, operation and development of social economy enterprises;
- indirect support, which refers to any type of support measures which do not entail direct funding of social enterprises, but the funding or subsidizing of employees' salaries;
- combined support, which may include any combination of the above-presented situations.

The following table presents a synthesis of the types of fiscal and financial measures encountered in the EU countries¹⁶:

| Country | Measures | Type of support |
|----------------|--|------------------|
| Austria | Exemption from taxes for non-profit organizations | Fiscal |
| | Protected workshops | Direct support |
| Belgium | Flemish Participation Fund for Social Economy | Direct support |
| | Grants for projects | Direct support |
| | Grants for consultancy costs related to the establishment of social enterprises | Direct support |
| Czech Republic | Support programs for granting of social services by non-profit organizations for the benefit of elder persons and people with disabilities | Direct support |
| Denmark | Grants for the volunteer social activity | Direct support |
| Finland | Law of Social Enterprises | Direct support |
| | Work integration | Direct support |
| France | Social accompanying contracts | Direct support |
| Germany | Act on public utility | Fiscal |
| | Berlin Agency for the Development of Social Enterprises and Proximity Economy | Direct support |
| Ireland | Community services program | Direct support |
| | Development program of employment opportunities | Indirect support |

| Country | Measures | Type of support |
|----------------|--|---------------------------|
| Italy | Support grants for social enterprises | Direct support |
| Latvia | Exemption from property taxes | Fiscal |
| Malta | Income tax law | Fiscal |
| | Value added tax law | Fiscal |
| United Kingdom | Companies of community interest | Fiscal and direct support |
| | Charity law | Fiscal |
| | Work integration programs | Indirect support |
| Poland | Law on social cooperatives | Fiscal |
| Portugal | Cooperation agreements | Direct support |
| | National network of facilities and services for social promotion | Direct support |
| | Support for the social community development | Direct support |
| | Program of social employment market | Indirect support |
| Slovakia | Transfer of 2% of the income tax of individuals and companies | Direct support |
| | Support for the employment of people with disabilities | Indirect support |
| Slovenia | Subsidies for people with disabilities' salaries | Indirect support |
| | Exemption from taxes of people with disabilities | Fiscal |
| Sweden | Subsidies for people with disabilities' salaries | Indirect support |
| Hungary | Transfer of 2% of the income tax of individuals | Direct support |

To better understand the size and impact of the set of measures applied in some countries, we chose three examples, considered as very relevant for the Romanian context:

Portugal - „Cooperation Agreements”

These agreements are concluded between the public system of social protection and private entities which provide social services and which are assimilated to social economy. The state chooses to subcontract services, admitting that by this mechanism better customized, more various and more efficient services may be provided. Such agreements are concluded for services such as: child care centers, special schools, residential or day centers for elder people, occupational and support centers for people with disabilities, day centers for drug addicts, social canteens, social and educational centers, etc. Subcontracting is made on an annual basis, according to cost standards expressed on type of unit, beneficiary or action. The institutions offering such services must be registered and accredited by the public system and must periodically

be subject to assessments of services and standards. The cooperation agreements cover a large part of the need for social services. In 2004, they served more than 500,000 beneficiaries, by contracts with a value of almost EUR 900 million.

France - Occupational Support Contracts

This type of intervention is a combination between direct and indirect support. It has as goal the integration of vulnerable persons on labour market, but not in any type of job, but in jobs meant to contribute to the reduction of the social services deficit and to the community development. Thus, employers must belong to the non-profit sector and the job must respond to a

Tabel preluat și adaptat din "Study on Practices and Policies in the Social Enterprise Sector in Europe 2007, Austrian Institute for SME Research and TSE Entre, Turku School of Economics, Finland"

¹⁵ Study on Practices and Policies in the Social Enterprise Sector in Europe 2007, Austrian Institute for SME Research and TSE Entre, Turku School of Economics, Finland

¹⁶ Table taken and adapted from "Study on Practices and Policies in the Social Enterprise Sector in Europe 2007, Austrian Institute for SME Research and TSE Entre, Turku School of Economics, Finland"

need of the community. Besides the double value of creating work places to satisfy community needs, the measure also has an important value in identifying and addressing certain needs for services and assistance. The Occupational Support Contract is contract on determined period, with a minimum duration of 3 months and a maximum duration of 24 months, with full time and part time work schedule. It entails a salary at least equal to the minimum economy salary. The authorities cover at least 95% of the gross salary and also cover the social insurance contribution for such contracts. In 2006, after only one year as of introduction, more than 170,000 such contracts were already concluded.

Poland - Law on social cooperatives

Social cooperatives have as goal the professional and social reintegration of vulnerable persons and are a special form of social enterprise. By law, these must be registered in order to benefit from income tax exemptions and to receive prospective subsidies for employees' salaries. Cooperatives must be established by the vulnerable persons themselves, who may also receive in advance the social insurance contributions for a period of 12 months. Such may be contracted by public authorities for social and community services, but do not have a preferential regime upon obtaining contracts.

In Romania, the fiscal and financial support framework does not target directly social economy enterprises, but includes measures from which they may also benefit. Among the most important measures we list:

- for non-profit organizations performing direct economic activities or by means of trading companies - exemption from profit tax payment related to the economic activities, up to EUR 15,000 / year, provided that the value of exemption is not more than 10% of the total revenues exempted from the payment of profit tax;
- exemptions from local property and building taxes for social purposes, granted based on the decisions of local councils;

- exemption from the payment of the tax related to reinvested profit, which applies to all economic agents;
- assembly of exemptions from taxes for Authorized Protected Units (UPA) which includes: exemptions from customs taxes, exemptions from authorization taxes, exemptions from the value added tax (VAT) for UPA operations and products;
- financial facilities and subsidies for people with disabilities' salaries employed by enterprises which do not exceed 50 employees;
- fiscal facilities granted to Mutual Aid Associations and facilities for the reduction of the value of rents paid by them for spaces rented from local authorities;
- grants for the establishment, development and operation of social enterprises. At this point, the grants are offered within the Sectoral Operational Program for Human Resources Development, mostly funded by the European Social Fund and co-funded by the Romanian Government. The funding line is called "Social Economy Development" and, in March 2011, it included 10 strategic projects and other 10 grants.

The project of Social Economy law, which was in an advanced stage when this research was conducted, proposes a set of ambitious and important measures to support social economy. In the articles of the law draft the following types of measures are proposed:

- extension of the subsidizing period of employees, people with disabilities, within a social economy unit, from 18 months to the entire validity period of the employment contract;
- public authorities may introduce, within the public acquisition contracts, execution criteria for the relevant contracts, by professional integration of persons coming from vulnerable groups;
- the profit invested in development at the level of social enterprises to be exempted from taxes;
- for contracts of at least 2 years, concluded for persons employed among vulnerable groups, social enterprises may benefit from exemptions from the payment of social contributions and income taxes for a period of one year;
- state aids for vulnerable persons may be transformed into exemptions from the payment of social contributions, if such persons are employed;

- decrease from 24% to 9% of the value added tax for the products and services supplied by social enterprises;
- legal entities which acquire products and services from social enterprises to be able to deduct such from the calculation basis of the profit tax;
- the granting of fiscal facilities and technical support for the establishment and/ or development of social enterprises;
- the exemption from the payment of VAT for equipment or technology acquisitions, necessary for the development;
- increased access to national and international funding programs by financial facilities (reduction of the contribution quota, enlargement of the eligible expenses area, etc.)

An unification of the provisions of other laws is attempted, but also new measures are introduced which in order to be applied require not only the adoption of this law but also the amendment of other laws concerning the fiscal system and the economic environment, by introducing in them separate sections, applicable to social enterprises. The above indicated assembly of measures would certainly support the social economy, but, as in the previous cases of legislation which offers facilities, the mechanism must be thought of and enforced in order to avoid an opportunistic behaviour of trading companies, which might benefit from these provisions without being really preoccupied with the social problems.

Promoting of social economy by non-fiscal measures 6.7

This chapter will present a description of the main types of non-financial measures applied to stimulate social enterprises.

Access on preferential bases to the awarding of public contracts for social enterprises After a long time debate, the European Union approved Regulation 18/2004 which enables the introduction of social and general interest criteria in awarding public contracts, by public procurement procedures. At this point, there are no very clear examples and good practices in the field, but the strong opposition of some states, such as Sweden and Finland, to distort the competition, intro-

ducing social criteria, is known.

Consultancy and technical assistance for the establishment, development and operation of social enterprises. Most of the countries, which adopted legislation for the classification, and support of social economy also provided for technical support mechanisms. Among them, we list:

- Finland – National Structures for the Support of Social Economy, which grant consultancy for the start and development of social enterprises
- Belgium – regional incubators for social enterprises,
- United Kingdom – Co-Entreprise Birmingham – technical support center, of business type, for social enterprises,
- Poland – Regional Support Center for Social Cooperatives,
- Germany – Berlin Agency for Social Enterprises and Proximity Economy,

Most of them are operated privately with public and private funding and provide services free of charge within finance programs financed by government, as well as paid services, in business consultancy system.

Promotion of the establishment of networks and horizontal cooperation. This category comprises measures, which support the association, formation of national and international federations, experience exchange and cooperation for the preparation of public policies. Most of the funding of such measures comes from European programs of the type EQUAL and European Social Fund and may be illustrated in:

- France, National Council for Work Integration by means of Economic Activities activates as umbrella organization of all actors in social economy and includes professional integration enterprises, ministries, unions and patronates;

- Spain, where the State Council for Social Action of Non-governmental Organizations activates as debate body for the preparation of legislation and social policies;
- Denmark, which imposes by law to the local authorities to cooperate with non-governmental organizations and stipulates that grants and funding may be offered for the operationalization of such cooperation;
- United Kingdom, where the Association of Development Trusts activates, which supports 9 regional networks of experts for activities related to the economic, social or environment field, by facilitating the information exchanges and promotion of good practices;
- Hungary, where the program Civil Employment Workshop operated within which 7 umbrella organizations in the field of social economy prepared an information and consultancy mechanism for the planning, establishment and operation of social enterprises.

Training of human resources in the field of social economy. This category comprises mainly private initiatives of universities or professional training institutions, which also benefit from public governmental funding or within European programs. Among them:

- Netherlands - Master in social entrepreneurship - offers training on the establishment of social enterprises,
- Austria - The University in Vienna - master studies in social management,
- Germany - master studies in social management.

In Romania, any of the above-indicated variants, except for the preferential access to public contracts, is possible by funding within the program POSDRU, financed by ESF. A problem of this funding opportunity is the fact that it lacks the coordination and harmonization of such projects, to avoid duplications and overlapping. At the same

time, as in the case of most programs financed by ESF, the correlation of such programs with a solid strategy in the relevant field is missing, respectively the efficiency and intervention quality mechanisms are absent.

The project of Law on Social Economy stipulates the establishment of two mechanisms important for the promotion of social economy:

- The National Resources Center for Social Economy, proposed as national structure, with the possibility of having regional offices and which has information role. There is no indication of who and how finances this Center. It is probably expected that the funding thereof is subject to European programs;
- The Council for the Promotion of Social Economy, as consultative multisectoral body, which comprises both governmental authorities and the other social partners. The goal thereof is to debate and propose policies and legislation, as well as the priority research and development areas in the field.

Support mechanisms for the integration of people living with disabilities 6.8

This chapter is introduced into the research in order to enable a comparison of the way in which the integration in work of people with disabilities is regarded at European level. It is an important aspect also from the perspective of the partners of the project that this research belongs to, whose beneficiaries are people with disabilities.¹⁷

The main problems with which people with disabilities are confronted in EU are low work occupation rates, a very high degree of dependency from social benefits, as well as a high risk of poverty. From this point of view, Romania is situated on the last position in EU25 in what the occupation degree of people with disabilities is concerned, respectively 29% and also as the only country in EU where the statute of employee does not reduce the risk of poverty for people with disabilities. This latter conclusion comes to confirm the fact that the person with disabilities' protection system in Romania does not create the conditions so that the statute of employee is more favourable than the statute of assisted person.

Another important conclusion, at European level, is that the low degree of education and professional preparation of people with disabilities transfers upon them a disadvantage when finding a work place.

¹⁷ Mobility and Integration of People with Disabilities into the Labour Market, I Z A Research Report No. 29, Based on a study conducted for the European Parliament, October 2010

All EU Member States have anti-discrimination legislation, which includes the people with disabilities and some of them adopted separate laws concerning the work integration of people with disabilities. Consequently, the systems of quota or reserved places appeared:

Lisbon Strategy, agreed in 2000 for sustainable economic development, in parallel with the increase of social cohesion, introduced active policy concerning the labour market, as one of the priorities. The goal was to gradually switch on from passive support measures to active measures for the integration of persons on labour market. From the perspective of disabled persons three important components of this strategy are more obvious:

- introduction of disabled persons with priority on the list of public services for occupation facilitation;
- assurance of individualized services of professional training, which should lead to acquisition of abilities and increase of "employability";
- subsidies for employment.

In more EU countries, among which also Romania, one starts on the assumption of a social solidarity in supporting the disabled persons. Besides the social and medical support measures, support measures for work integration were also introduced. They are based on the principle of disabled persons' weighting within the society, weighting which must be reflected also in the participation on the labour market. In what the efficiency of such measures is concerned, it is important to take into account more criteria, in relation to which the measures may be analyzed:

- the existence and efficiency of preparation measures for work integration of disabled persons;
- the occupation degree of disabled persons which are eligible in what the age and a minimum level of work ability are concerned;
- the sustainability of financial and market mechanisms, which support the employment of disabled persons;
- the balancing of protection and integration measures.

| Country ¹⁸ | Quota | Comments |
|-----------------------|-------|---|
| Austria | 4% | The law on people with disabilities requires that any employer with more than 25 employees hires a people with disabilities at every 25 employees. |
| France | 6% | Each employer with more than 20 employees must have this quota, whereby the alternative is the payment of a contribution to a central fund or the acquisition of services and products of protected workshops. |
| Germany | 5% | The lack of reaching the quota leads to progressive penalties. |
| Greece | 8% | This is a global quota including people with disabilities, members of their families, persons with more children. The private sector must employ 2% people with disabilities and the state sector, 3%. |
| Italy | 7% | The quota applies for companies with more than 50 employees. For 15 – 35 employees, the quota is of a person, and for 35 – 49 of two persons. |
| Poland | 6% | Quota for more than 25 employees. The lack of achieving this quota is sanctioned with the payment of the equivalent of 40% of the minimum wage for each unoccupied place. The money goes to a central fund used for programs. |
| Spain | 2% | Mandatory for more than 50 employees. The employed persons must have at least a 33% degree of disability. |

Mobility and Integration of People with Disabilities into the Labour Market, IZA Research Report No. 29, Based on a study conducted for the European Parliament, October 2010

¹⁸ Table taken and adapted from The Mobility and Integration of People with Disabilities into the Labour Market, IZA Research Report No. 29, Based on a study conducted for the European Parliament, October 2010

The United Kingdom

The Britain legislation, respectively "The Disability Discrimination Act" of 1995, requires any organization/ company with at least 15 employees to take all measures to make sure that it does not discriminate disabled person upon employment or during the provision of products and services. At the end of the '90, the Government of the United Kingdom introduced the program called "New Deal", meant to enable the work integration or reintegration of more categories of vulnerable persons, among which also disabled persons. The program introduced the so-called personal adviser or "job broker", whose role is to work with the eligible person and to offer him customized support for access on labour market. The program started from the assumption that the focus must be laid on encouraging the beneficiary addressees to become active on labour market, making the work more attractive financially and socially than the dependency on benefits. The program is based on the public-private partnership and on the active involvement of communities. At the level of disabled persons, the program determined an increase of the employed persons with more than 9% and a decrease of those who applied for benefits related to disabilities with a third. An example of successful application of this program is the company Remploi, state company with private management, whose employees are 90% people with disabilities. Remploi had in 2002 more than 80 workshops, with more than 6000 employees and reported more than 5000 persons it prepared and placed within another companies. Almost three quarters of revenues were generated by economic activities in fields such as typography, packing, furniture, equipments for persons with movement disabilities, assistance services for companies for work integration of people with disabilities. The rest of revenues came from non-governmental programs.

Poland

The legislation requires each company/ institution with more than 25 employees to hire at least 6%, disabled persons. Otherwise, the com-

pany will pay 40% of the minimum economy salary to the state. These contributions are raised into the state fund for the rehabilitation of disabled persons. In 2009, the fund propose the accrual of round one billion Euros, and the Ministry of Finance decided to supplement from other sources 12% of the relevant fund. The money in this fund may be used based on application for:

- Subsidies for protected units - 75% of salary costs of disabled persons;
- Subsidies for employers on the free labour market - 70% of the salary costs of disabled persons (except for the companies with more than 25 employees which must have 6% people with disabilities employed);
- Co-funding for vocational therapy workshops;
- Co-funding for professional formation units;
- Adjustment of spaces for people with disabilities;
- Loans for people with disabilities to start a business, including for agriculture;
- Partial funding for the participation of people with disabilities to recovery camps;
- Partial funding for orthopaedic equipments and support forms;
- Partial funding for the elimination of access barriers.

Such legislation led in 2008 to the following result: out of 2.4 million of the people with disabilities with age for employment, 163,000 worked in protected units, 39,000 on the free labour market and 14,000 benefited from day centers services.

In Romania, the field is regulated by law no. 448/2006 on the protection and promotion of the rights of people with disabilities. According to this law:

Art. 78. - (1) The people with disabilities may be employed according to their professional preparation and work capacity, attested by the Certification of disability level, issued by the county evaluation commissions or the districts of Bucharest Municipality.

(2) Public authorities and institutions, legal entities public or private, with at least 50 employees, have the obligation to hire people with disabilities in a percentage representing at least 4% of the total number of employees.

(3) Public authorities and institutions, legal entities, public or private, which do not hire people with disabilities under the conditions provided at par. (2) may choose to fulfil one of the following obligations:

- a) to pay on a monthly basis to the state budget an amount representing 50% of the gross minimum basic salary at country level multiplied by the number of work places on which no people with disabilities are employed;

- b) to acquire products or services from authorized protected units, based on partnership, in an amount equivalent with the amount owed to the state budget under the conditions provided at letter a).

The quota system does not stimulate unfortunately in an efficient manner the employment of disabled persons. Estimations of the organizations for disabled persons indicated that in Romania this quota is occupied only 20%, as compared to 33% in Poland, 57% in Germany or 67% in France.

The law introduced the concept of authorized protected unit, whose features were already analyzed in chapter 6.3. An important aspect is that the funds paid by companies or institutions on account of such measure are not recorded separately in the national budget and are not planned to be used for the benefit of disabled persons. This fact is, on the one hand, contrary to the principle that a special tax must be used for the purpose or which it was initially formed and also does not reflect the necessary transparency in using public funds. The lack of a centralization of data regarding the charging of this tax makes it difficult to assess the efficiency of the program.

Another aspect is that the law does not propose a differentiation system among various disabilities and depending on the work ability. Also, the law does not include provisions related to personal assistants of disabled persons. In many cases, such are family members, who lost contact with labour market and their work reintegration is sometimes as difficult as that of the persons they assist. The law creates a potential sustainable financial mechanism, by which institutions and companies may acquire products and services from protected units. This is advantageous, on the one hand, for companies, but it seems that the number of companies which know how to use it is relatively low. Also, the mechanism may be advantageous for protected units, but it requires a few amendments, among which:

- the introduction of the obligation that protected units are social economy units;

- the limitation of products and services to certain results of the work of disabled persons employed by protected units and the exclusion of intermediaries which led to the entry into the system of numerous opportunist companies;

- the identification of standard services, which can be provided by protected units and the development of reference terms models for such services, which should enable contractors, public institutions, to use social criteria for the acquisition of such services (services of document archiving type, cleaning, etc.)

The study on social economy structures in Romania, conducted by the Alliance for Social Economy Development, as part of the project in which this research is also included, provides important conclusions and proposals concerning the amendment of legislation from the perspective of beneficiaries. 88 institutions, of which 66 operate protected workshops for disabled persons, were included in the study. The most important recommendations related to the operation of legislation are:

- the introduction of a clear system of sanctions or employers who do not pay the contribution for the lack of fulfilment of the employee quota for people with disabilities;

- the use of the collected amounts for programs in the field;

- the clarification of the mechanism for the acquisition of products and services from protected units by companies and institutions;

- the introduction of facilities for the activity of protected units and the subsidizing of salaries for persons employed within protected units;

- the promotion of bank financing mechanisms for protected units;

Without restating the recommendations of that study, it is imperiously necessary to mention that a sustainable system must include the following elements in order to operate:

- a simple, clear, transparent and self-managed mechanism for the registration and certification of protected units, which should enable the exclusion of opportunist companies, which are in no way connected to social economy. This system should impose social economy criteria to all protected workshops and create an annual certification system, financed from the tax provided by law 448;
- a clear mechanism for the centralization of resources attracted by this tax, which should subsequently be transferred based on competitive and transparent principles for the support of disabled persons, from education, professional preparation, employment assistance, customized counselling, up to subsidies for salaries, establishment of protected workshops and work places adapted to disabled persons. This mechanism should be placed centrally and must function as a program-implementing unit, within a private institution, which should be selected on competitive bases. The resources collected by law 448 should be supplemented with other budget resources and European funding and the funding programs should be multiannual;
- the correlation of law 448 with other laws in the field of education, which must guarantee that the target of the education process for disabled persons is to prepare them for the labour market.

Recommendations for the review, amendment and improvement of the legislative framework and of the practices concerning the social economy at national level

7

A part of recommendations were already provided within each analysis chapter. In this chapter, is proposed to outline a comprehensive set of recommendations, which should finally lead to the development of complete and functional system which should assure the recognition, regulation, support, promotion, monitoring and evaluation of the assembly of activities and social economy agents.

Before formulating any recommendations, it is important to indicate the principles, which should represent the foundation of any national policy in the field of social economy:

- social economy is a distinct field of the economic activity and must be acknowledged accordingly in the legislation which regulates economic operators;
- social economy must be operated by any type of assimilable legal entity provided that such entities adhere to and observe a set of criteria;
- social economy creates new work places and offers solutions to cover the deficit of social and community services;
- social economy is based on the existence and functioning of a authentic partnership between the public and the private sector;
- social economy generates social profit, but it cannot operate without also generating economic profit.

In order to achieve its social and economic potential, a favourable environment must be created for social economy, and such must include at least the following priority areas:

Multisectoral national strategy for the promotion and use of social economy

Currently, social economy enterprises in Romania are at the beginning and they appeared especially following the need of the non-profit organizations to support their social activities or following the provisions on Protected Units of law 448 and, not at last, follow-

ing the existence of a distinct funding line at POSDRU level. Up to present, the size and impact of SE, as well as the potential thereof are highly unknown. In order to maximize ES potential it is necessary to approach a multisectoral national strategy in the field. The strategy must propose, based on analyses and records in the field, priority areas where the activation of SE is necessary, as well as the social and financial targets, which SE must achieve. The strategy must take into account the deficit of social and environment services of Romania and must propose actions and measures by which SE addresses and compensates such deficit. Also, the strategy must harmonize the assembly of proposed measures with the rest of the social protection system in Romania. The strategy will be able to represent the foundation of a support program for SE, which should be included both in governmental public programs and in the future programs to be funded within the European Structural Funds.

Unique coordination, registration and certification mechanism

Any action must start from defining, in a clear, simple and relevant for Romania's context of the concept of Social Economy.

Social Economy reaches many sectors and involves actors from various fields. The coordination thereof can be done from the perspective of existing institutions, but requires the establishment of a new, separate coordination mechanism. In many European countries (France, Italy, United Kingdom), this was achieved by establishing a separate department within the central government. On the one hand, it will ensure the coordination between various ministries with responsibilities and, on the other hand, it may assure the involvement of SE relevant actors. This mechanism may also propose the registration and certification method of social enterprises, at various levels, which should confer upon them different types of support. Not at last, this mechanism will assure visibility and opportunities of including SE in all significant processes at social and economic level.

In order to guarantee that facilities granted to SE are not used by the private sector in an opportunist way, one may introduce the requirement that the shareholders of such social enterprises are associations, foundations or public authorities or may introduce clear clauses concerning the limited distribution of profit and immovable and movable assets accrued by these enterprises.

Fiscal facilities and transparent access to financial facilities

Currently, the fiscal and financial facilities, which the forms assimilable to social economy may benefit from, are not granted to them based on the statute as social enterprise, but based on other criteria, which such enterprises of organizations meet. It is necessary to directly correlate these facilities with the statute of social enterprise, by corresponding amendment of the fiscal code and of other laws, which include fiscal and financial facilities and the explicit introduction in them of the terminology of social enterprise and, of the type of facilities they may benefit from.

Access to public contracts

In the light of EU recommendations and of the existing provisions even in the current legislation on public procurement, one may develop enforcement norms for the introduction of social criteria into the awarding of public contracts. Moreover, in the area of social services contracting, foreseen by the current reform of the social assistance system, there is an important opportunity for beneficial use of the social economy concept. The Portuguese or French model, by which social services may be subcontracted to social enterprises, approaches and solves three problems by one intervention: it covers the need for services, it creates work places for disadvantaged persons and develops new, innovative and necessary services.

The initiation of a special law concerning SE is an important and correct step for the promotion of SE. Romanian experience indicates us that a law, without being followed by any coherent plan and without being financially supported by an institutional construction, remains only an inapplicable document. This construction implies the identification of existing capacities and the planning of outlining new capacities, which should complete a full and coherent system in this field. A major recommendation of this research would be exactly to use the structural funds to finance the institutional construction, necessary for the implementation of the legislation on social econ-

omy. At European level, it is acknowledged that the British model is one of the most complete, because it has a concise and clear definition of SE, has a national strategy in the field and established a special unit at governmental level, led by a deputy minister in the field. Such infrastructure is considered complete and the efficiency thereof is indicated by the annual significant growth of the social economy field and by the significant contribution brought by it both in the economic field and in the social one.

Bibliography

Romanian laws

Government Decision 430/2001 on approval of the Romanian Government's Strategy for the improvement of Roma situation (Official Gazette 252/16.05.2001) with subsequent amendments and supplementations

Government Decision 829/2002 on the approval of the National Anti-poverty Plan and promotion of social inclusion (Official Gazette 662/06.09.2002), with subsequent amendments and supplementations

Government Decision 1827/2005 on the approval of the Implementation Program of the National Anti-poverty Plan and Promotion of Social Inclusion 2006-2008 (Official Gazette 64/24.01.2006)

Government Decision 11/16.01.2009 on the organization and operation of the Ministry of Labour, Family and Social Protection

Government Decision 1175/2005 on the approval of the National strategy for the protection, social integration and inclusion of people with disabilities 2006 - 2013

Law no. 57/9.06.1992 on the employment of people with disabilities (Official Gazette, Part I 131/12.06.1992)

Law 17/2000 on the social assistance offered to elder persons (republished in the Official Gazette 157/03.03.2007)

Law 416/2001 on the minimum guaranteed income (Official Gazette 401/20.07.2001) with subsequent amendments and supplementations)

Law 540/2002 on mutual aid associations for retired persons (Official Gazette 723/03.10.2002)

Law 571/2003 on the Fiscal Code (published in Official Gazette 927/23.12.2003), with subsequent amendments and supplementations

Law 448/2006 on the protection and promotion of the rights of people with disabilities (Official Gazette 1006/18.12.2006) with subsequent amendments and supplementations

Law 207/2009 on the approval of the Government Emergency Ordinance 86/2008 for the amendment of Law 448/2006

Order 60/2007 on the authorization procedure for protected units 291/03.05.2007

Government Emergency Ordinance 26/2000 on associations and foundations, (Official Gazette 39/31.01.2000), with subsequent amendments and supplementations

Government Emergency Ordinance 68/2003 on social services (Official Gazette 619/30.08.2003) with subsequent amendments and supplementations

Government Emergency Ordinance 34/2006 on the awarding of public acquisition contracts, of concession contracts and of services concession contracts with subsequent amendments and modifications on the protection and promotion of the rights of people with disabilities

International laws

Communication from the Commission to the European Parliament, Council, European Economic and Social Committee and the Committee of Regions, to accompany the Communication on "A single market for the Europe of the 21st century" Services of general interest, including social services of general interest: A new European commitment, 2007

Industrial and Provident Societies Act 2002, United Kingdom of Great Britain

Manual for drawing up the Satellite Accounts of Companies in the Social Economy (cooperatives and mutual societies), 2006

Rapport d'enquete sur la finance socialement responsable et la finance solidaire, General Finance Inspection, France, 2002

Regulations on the society for community benefit, United Kingdom of Great Britain, 2005

Résolution du Parlement européen du 19.02.2009 sur l'économie sociale, 2009

Social Enterprise Legislation in Finland, Pekka Pättiniemi, Gdansk, June, 2008

The New Italian Law On Social Enterprise, Antonio Fici, Professor of Private Law at the University of Molise (Italy). Paper presented at the seminar "Emerging models of social entrepreneurship: possible paths for social enterprise development in Central East and South East Europe"

European Union Treaty and Treaty establishing the European Committee, Official Gazette of the European Union, C 321 E / 113, 29.12.2006

Reports, studies and researches

Social economy - innovative model for the promoting of social inclusion of disadvantaged groups, Analysis and research of social economy, Component I Preliminary research report, Bucharest, 2010

Entrepreneurship and Local Economic Development, Paris: OECD, 2003

Map of EU and national social economy institutions and organizations, DIESIS, 2008

Mobility and Integration of People with Disabilities into the Labour Market, I Z A Research Report No. 29, Based on a study conducted for the European Parliament, October, 2010

Research report on social economy in Romania from an European comparative perspective, Ministry of Labour, Family and Social Protection, 2010

Final report, Presidential Commission for the analysis of the communist dictatorship in Romania, Bucharest, 2006

National Strategic Report on Social Protection and Social Inclusion, 2008 - 2010, MMFPS, 2008

Report on social economy, European Parliament, Bruxelles, 2009

Rapport d'initiative sur l'économie sociale, Karine Pfluger, 2009

Romania 2010 - non-governmental sector - non-governmental sector: profile, trends, challenges Foundation for the , Development of the Civil Society, Mihaela Lambru, Ancuța Vameșu și Mircea Kivu, 2010

Social enterprise: a new model for poverty reduction and employment strategy – an examination of the Concept and Practice in Europe and the Commonwealth of Independent States, EMES, UNDP Regional Bureau for Europe and the Commonwealth of Independent States, 2008

Social enterprise in Europe: Recent trends and developments, EMES WP no. 08/01

Study on practices and policies in the social enterprise sector in Europe, Austrian Institute for SME Research, Vienna, 2007

The public services industry in the UK Oxford Economics, July, 2008

The Social Economy in The European Union, José Luis Monzón Campos, Rafael Chaves Ávila, CIRIEC, 2006

The Social Economy in the European Union, summary of the report drawn up for the European Economic and Social Committee, International Centre of Research and Information on the Public, Social and Co-operative Economy, CIRIEC, 2007

The Social Economy in the European Union, Rafael Chaves & José Luis Monzón Campos, CIRIEC No. 2008/02

The Social Economy – A Lever for Local Economic Development in Sweden, Ann-Mari Sätre Åhlander Senior Researcher and Director National Institute for Working Life Östersund, Sweden





Titlul programului:
Programul Operațional Sectorial Dezvoltarea Resurselor Umane 2007-2013
Titlul proiectului :
Alianța pentru dezvoltarea economiei sociale

Editorul materialului:
Fundația „Alături de Voi” România
Data publicării: iulie 2011
Editat în 1500 de exemplare română – engleză
ISBN

The content of this article does not necessarily reflect the official standing of the European Union or of the Romanian Government”

