

If not for profit,
for what and how?

S O C I A L
E N T E R P R I S E

Institutionalising social enterprises in Romania

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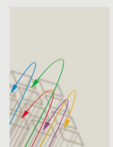
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Abstract

Research conducted in various countries with different economic, political and cultural characteristics indicates that the development of social enterprises is a structural trend regarded as a successful organisational alternative that reconciles economic and social objectives and provides real means for involving social economy actors in the co-production of social services – an innovative solution to poverty reduction and social exclusion. (Borzaga and Becchetti, 2011; Pestoff and Brandsen, 2008; Pestoff, Brandsen and Verschuere, 2012). Over the last years, the interest in social economy organisations as potential supporters and creators of economic and social development has increased substantially in the CEE region as well (Borzaga, Galera and Nogales, 2008; Les and Jeliaskova, 2007). Following the global trend (Gilbert, 2002; Esping-Andersen, 2002; Evers, Laville, 2004; Borzaga, Santuari, 2003), in the past 20 years Romania has moved towards a welfare mix system as a result of economic and social pressures and the State's inability to face these pressures on its own and maintain the public service offer for its citizens. In the two decades of democracy and market economy, public organisations (at central and local levels) and NGOs have matured, allowing for the introduction of public-private partnership elements and the development of mix service provision systems. While the logic of social contracts is no longer a novelty for Romania but a part of the State's action logic, the logic of investment in social entrepreneurship and the non-discriminatory opening of public markets to social economy actors is a challenge. Starting from recent research, the main purpose of this paper is to describe the development of a policy framework that enables social enterprises to develop in Romania. The paper will bring structured information about the landscape in which social economy actors operate and key elements in the evolution of social enterprises in Romania. It is difficult to understand social enterprise development without a clear assessment of the institutional context shaping the role and profile of social enterprises.

Keywords: social enterprises, third sector, co-production of social services, policy context analysis, welfare mix

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INTRODUCTION

Starting with 2005, against the backdrop of greater national public policy framework and agenda inclusion on European Union agendas, the social economy concept – first developed in Europe – has aroused growing interest across Romania, incorporating into the analysis cooperative and mutual aid organisations alongside non-profit organisations. In the social economy approach, the main characteristics defining the sector revolve around the principle of mutuality and the primacy of social objectives in entrepreneurial activities. Another concept that has attracted interest from Romanian decision makers, practitioners and researchers in recent years is that of social enterprise. In the past few years, within socio-economic and political contexts dominated by the economic crisis and the pressure to find ways to reform and upgrade public services – particularly social services – and to develop sustainable work integration solutions for disadvantaged groups, under the influence of community-based public policy trends decision makers have shifted their focus toward social economy and social enterprise solutions.

Social enterprise is “the latest development in the evolution of the social economy” (Laville and Nyssens, 2001). It is a type of entrepreneurial initiative first developed in Europe in the ‘80s that pursues both economic and social objectives. (Borzaga and Defourny, 2001; Defourny and Monzon Campos, 1992; Defourny and Nissens, 2006; Borzaga and Galera 2012). Social enterprise is a much narrower concept than social economy and in theory it refers to a type of enterprise developed to bring long-term benefits or advantages to communities or disadvantaged groups of people. Social enterprises mix business (entrepreneurial) activities with well-defined social objectives, and their design promises opportunities to generate a positive impact on the society/community by providing sustainable solutions to the complex problem of integrating disadvantaged groups into economic activities, while also promising social innovation and inclusion. Social enterprises are different from conventional businesses in that they target an explicit social goal involving the production of goods and services to meet the identified needs of the community or different disadvantaged groups. Another difference from conventional businesses comes from the motivation for setting up such an enterprise, which is more linked to intrinsic social factors than to extrinsic financial factors (Bacchiega, Borzaga, 2001). Compared to traditional social economy organisations, social enterprise is not a totally new concept, but it is based on established social economy concepts that have evolved and shifted, focusing mainly on providing an alternative ownership structure, incorporating community interests into entrepreneurial strategies (collective benefits), empowering stakeholders, and promoting social and civic entrepreneurship.

The social economy landscape in Romania, as in other former communist countries, is extremely puzzled and scarcely visible despite growing development trends that characterise some of the social economy actors. Over the last years, concurrently with the increasing interest of public authorities to promote and support social enterprise development initiatives, the interest in related research has also grown and debates with respect to the specificity of this economic sector, its social utility, its characteristics and the profile of relevant organisational actors have intensified. What social economy organisations in general and social enterprises in particular can deliver is very much determined by the economic, political and social context in which those organisations operate. What happened in Romania is that social enterprise was introduced as a concept at a time when the social economy notion was gaining renewed interest. This created confusion among decision makers, the leaders of “old and new social economy” organisations as well as of social enterprises in search of visibility and legitimacy. Both the concept of social economy and that of social enterprise are poorly understood and, as a result, any attempts to design a specific legal framework meant to foster social enterprise development have failed. In Romania, it is not social enterprise initiatives that are missing, but an appropriate framework for their recognition and promotion. Romanian social enterprises take different legal forms and are established by various organisations, from cooperatives to associations and private businesses. What sets them apart from traditional social economy organisations is that they focus primarily on generating income through the production and sale of

goods and services and are sustainable integrated business approach with main accent on social objectives. While (public or private) grants or donations are another source of income for most of them, production and trading activities are essential and the generated income is later reinvested into the social objectives of the enterprise. In Romania, the majority of social enterprise initiatives belong to associations. Although the Romanian legal framework for associations and foundations (GO 26/2000) allows them to run economic activities, tax relief is granted only to business-generated income of EUR 15,000 per year, accounting for maximum 10% of the income exempt from tax-on-profit. In order to avoid this limitation and to develop more consistent entrepreneurial initiatives, associations frequently set up business entities under their own control allowing them to run economic activities. Applicable legislation prescribes that NGOs may set up business entities where they are the majority shareholder provided that any dividends thus obtained are not reinvested in the business entity but used towards achieving the goal of the association or foundation. Statistical data are missing, but quantitative analysis and case studies indicate that most social enterprises are small-sized. The types of business preferred by Romanian social enterprises are social and health services, education and training, small-scale craft production, call centre services, organic farming, artisan food processing, tourism.

Our paper starts with a first type of analysis – from a legal and institutional perspective – determining the typology of social economy organisations based on their legal form. Hence, in Romania, we can distinguish three large categories of organisations: cooperatives, associations and mutual aid associations. This typology has been used to achieve the statistical detection of these organisations based on fiscal information recorded by the National Institute of Statistics – NIS. Hence, a database was created comprising what we call “social economy entities”. Starting from an analysis of the secondary data thus organised, we made a sector profile description and performed an analysis in terms of dynamics and size of the social economy sector.

These organisations have been identified in the (REGIS) database on private enterprises of the National Institute of Statistics, based primarily on their legal status – namely associations or cooperatives. Of course, the legal status of a private enterprise can sometimes be misleading (Defourny, Develtere, Fonteneau, 1999), but additional information was obtained from the analysis of the data provided by the federations set up for each type of social economy entity. Cooperatives and mutual aid federations were able to provide us with data about their membership and types of activities carried out by their members.

While data is available with respect to traditional social economy entities, it is completely lacking when it comes to new social enterprises developed after the launch of various funding opportunities such as the ESF which is the most important one. In Romania, data regarding these new social enterprises is collected using qualitative methods, especially interviews and case studies based on the secondary analysis of the data furnished by the Ministry of Labour and Social Protection.

In the second part, we shall identify and analyse several key areas of policy reform that enabled the development of public-private partnership models and the access of non-governmental actors to the public services market in Romania. We shall discuss how these policy areas can develop and support social entrepreneurship. Finally, we shall explore the development of the public policy framework specific to this sector.

OLD AND NEW SOCIAL ECONOMY ACTORS AS SOURCES OF SOCIAL ENTERPRISE DEVELOPMENT: COOPERATIVES, MUTUAL AID ASSOCIATIONS, NGOS WITH ECONOMIC ACTIVITIES

In Romania, the social economy sector comprises mainly NGOs that engage in business activities, mutual aid associations, cooperatives, sheltered workshops. All of them have in common the focus on or the primacy of social objectives and entrepreneurial actions meant to support social objectives, the democratic governance structure, services delivered to benefit their members, management

autonomy. We will further present the profile, dynamics and specific features of each of these social economy organisations, indicating how each one of them may act as a source for social enterprises.

Non-governmental Organisations (NGOs)

The first category consists of NGOs, non-membership associations or membership-based associations serving non-members. Here we have the bulk of the active associations registered under GO26/2000. The second subcategory comprises mutual organisations and associations serving a well-defined membership. This category includes Employees' Mutual-Aid Associations (EMAA), Pensioners' Mutual-Aid Associations (PMAA) and some other organisations qualifying as mutual aid societies since they serve a well-defined membership. However, EMAA and PMAA are the largest by far. The third subcategory is represented by agricultural associations and commons, organisations with members owning forests or irrigation systems or land, associations of agricultural experts and commons that have regained their collective property rights after 1992 (Table 1). As we can see in Table 1 **Erreur ! Source du renvoi introuvable.**, during the last decade we have witnessed a dramatic increase in the number of agricultural associations and commons. This may be explained by the legal changes that occurred after 2000 – Law 1/2000 reinstating property rights over agricultural and forest lands and different public incentives for farmers to develop associative structures.

Table 1. Economic indicators for agricultural associations and commons

Agricultural associations	2000	2005	2007	2009	2010
Agricultural Associations	148	576	874	1293	1620
% Rural Agricultural Associations	29.1%	51.4%	58.7%	64.2%	65.7%
Agricultural Associations with economic activity	28	115	249	223	206
Total income (EURO), from which:	9465227	11024203	39830649	80663424	84540808
Incomes from economic activity (EURO)	112279	3428916	17727734	21597480	15470383
Total surplus (EURO)	486713	784072	2187688	8314749	13615658
Total deficit (EURO)	767008	923117	1644284	4391710	4634053
% Agricultural associations with surplus	53%	35%	40%	48%	46%
Total Employees	481	1557	4032	3740	3614
Commons	2000	2005	2007	2009	2010
Commons	40	597	726	969	1106
% Rural Commons	80.0%	85.9%	81.7%	83.1%	83.2%
Commons with economic activity	12	452	521	583	494
Total income (EURO), from which:	127762	25335572	32416949	47782411	50844327
Incomes from economic activity (EURO)	34754	21224111	25396481	31511510	30791307
Total surplus (EURO)	44391	3433552	5942721	11802665	9182078
Total deficit (EURO)	2666	473936	753805	1481229	1981116
% Commons with surplus	45%	59%	61%	65%	56%
Total Employees	27	2255	2603	3354	2752

Source: NIS, data processed by The Research Institute for Quality of Life (RIQL), 2012

The non-governmental sector is the most developed third sector area in Romania in terms of the number of entities and employees. Over the past five years, we have witnessed an increase in the number of NGOs in Romania, with NIS data indicating 26,322 active NGOs in 2010 and an estimated number of 60,947 employees (Table 2).

Table 2. Economic indicators for NGOs

NGOs (associations and foundations)	2000	2005	2007	2009	2010
Active NGOs (NSI)	10,494	16,532	19,354	22,589	26,322
% Rural Active NGOs	17%	17%	17%	19%	20%
NGOs with economic activity	1,219	2,466	3,116	2,404	2,730
Total income (EURO), from which:	94738149	456399082	681173616	840905825	1261105288
Incomes from economic activity (EURO)	5726023	82299137	129985474	142661448	168978360
Total surplus (EURO)	13095159	76248015	118342129	129624771	186877976
Total deficit (EURO)	5139285	34153567	46995475	60449601	81643442
% NGOs with surplus	41%	38%	42%	43%	46%
Total Employees	19173	48238	51912	48633	60947

Source: NIS, data processed by The Research Institute for Quality of Life (RIQL), 2012

NGOs are active in a wide range of fields – environment, social area, human rights, etc. From a statistical point of view, based on the number of incorporated legal entities, the fields that truly stand out are sports and recreational activities (18.8%), education (7.5%), and social services (7.3%).

Within the context of ongoing educational system reforms and of budgetary resources posing constant problems, the contribution of non-governmental organisations as educational service providers is considerable (Lambriu, Vamesu, 2010).

- In 2009, Romanian non-governmental organisations were reported as the initiators and main funders of more than 750 private pre-university teaching units.
- The share of training courses delivered by accredited non-governmental organisations in the overall accredited training programs (the total number of initial training, qualification, professional development or specialisation courses) was 25% during 2005-2009.

We notice the same trend in the field of social services, another area where non-governmental organisations have brought innovation, provided alternative services, developed new services, and offered complementary services (Lambriu, Vamesu, 2010):

- Non-governmental organisations account for 49% of accredited social service providers and almost 50% of accredited services in Romania.
- The capacity of private providers to offer social services is evinced by the diversity and number of accredited services, non-profit private providers (associations and foundations) accrediting 7,776 different services, approx. 50% of all accredited services in Romania.
- The non-governmental sector delivers 25% of alternative child protection services in Romania, yet the share of NGOs in the total number of such service providers is smaller.
- NGOs serve 41% of homecare beneficiaries and more than 58% of the elderly each month, using their own funding sources. (Lambriu, Vamesu, 2010)

Non-governmental organisations play the most active role in the social economy sector and have accessed the greatest part of ESF funding, which has stimulated the creation of new social enterprises. Various projects implemented by NGOs have geared financial support towards the development of new social enterprises. As far as their legal form is concerned, they may be cooperatives, business entities, sheltered workshops, NGOs. All social enterprises set up with the support of various NGOs pursue predominantly social goals, namely reaching out to the community or to specific disadvantaged groups of people. To achieve their social goals, they engage in different economic activities depending on their members' skills and knowledge. Hence, producer cooperatives, agricultural cooperatives, marketing cooperatives, sheltered workshops, socio-medical units, service provision businesses (body care, repair shops, tourism, etc.), and farmers' associations have been created. These forms of organisation have been chosen based on member characteristics and activities. Sheltered workshops/units stirred a lot of interest and support from NGOs with

persons with disabilities as beneficiaries all the more so since fiscal incentives may be obtained under applicable laws.

Non-governmental organisations have also developed a series of national or regional support structures for social economy entities in Romania. These structures make various types of resources (information, good practice models, legislation, research) available to those interested while advocating to public authorities for policies designed to set up and support social enterprises.

According to Romanian legislation for Associations and Foundations (Government Ordinance 26/2000) non-governmental organizations are allowed to carry out economic activity directly or indirectly. Direct economic activity must have an auxiliary character, but a separate accounting should be provided. Applicable legislation does not set forth fiscal incentives for NGOs unless their business-generated income is less than EUR 15,000/year. Upon exceeding this threshold, the NGO has to pay the same taxes as any SME without however getting the advantages of an SME – access to loans, to various specific funding opportunities, etc. That is why the easiest solution is preferred, namely setting up a business where the NGO is the majority shareholder.

Mutual aid associations

Mutual aid associations share the associative registration form with NGOs, but another important feature is the mutual character of these organisations, similar to cooperatives. In Romania, the majority of mutual aid associations are Employees' Mutual-Aid Associations (EMAA) and Pensioners' Mutual-Aid Associations (PMAA), each type being covered by specific legislation. EMAA operate under Law 122/1996 and PMAA under Law 540/2002, providing the legal framework for the operation of these organisations with double registration and describing the types of activities that can be carried out by these mutual associations. EMAA and PMAA are also registered as non-banking financial institutions with the National Bank of Romania. The peculiar organisation of mutual aid associations based on their members' employment status (employees/pensioners) is inherited from communist era when mutual aid societies were instrumented and integrated into the design of the communist welfare system, being coordinated by trade unions at the time. This dichotomist pattern reflects the structure of the lifecycle in communist times – school/work/retirement. At the end of communism, mutual aid associations preserved the same membership structure even though union support collapsed along with the industrial-agricultural system. However, at community level, these organisations have survived and developed, responding to a clear need for support structures helping citizens to cope with financial exclusion risks. These mutual aid associations work as credit unions and provide loans to its members or cover certain funeral-related costs (particularly in the case of PMAA), but they are not involved in insurance/reinsurance activities like many Western European organisations of this type.

The records of the National Institute of Statistics, as seen in Table 3, reported 887 organisations in 2010 (many of them are unions that release a joint balance check) with 17,268 employees. Although we have witnessed a slight increase in the number of mutual aid associations in the last five years, their headcount has showed a slight decrease.

Mutual aid organisations enjoy great notoriety among Romanian citizens. A recent national survey has indicated that 12% of the respondents declared they were contributory members of EMAA or PMAA, topping affiliation to union organisations (11%) or political parties (6%) (Lamburu, Vamesu, 2010). According to the membership data recorded by federations, EMAA and PMAA count more than 5 million members. Similarly to other countries in the region (Les, 2004), while the cooperative sector flounders in the crisis, mutual aid organisations seem to experience some sort of rebirth and revitalisation.

Table 3. Economic indicators for Mutual Aid Associations

Employees' Mutual Aid Associations (EMAA)	2000	2005	2007	2009	2010
Employees' Mutual Aid Associations (EMAA)	247	572	657	703	684
% Rural EMAA	6.5%	6.8%	6.2%	7.4%	7.3%
Total income (EURO), from which:	1549196.2	12635990	16296940	25840871.6	15249338.44
Incomes from economic activity (EURO)	27620	51465	82445	61046	286826
% Incomes from economic activities	2%	0.4%	1.0%	0.2%	2.0%
Total surplus (EURO)	732108	4928906	5652167	8208515	3755874
Total deficit (EURO)	792	39607	63952	110053	649395
% EMAA with surplus	86.6%	86,5%	82,2%	81,9%	61,6%
Total Employees	11.014	17.040	19.409	16.275	15.962
Pensioners' Mutual Aid Associations (PMAA)	2000	2005	2007	2009	2010
Pensioners' Mutual Aid Associations (PMAA)	133	170	178	193	203
% Rural PMAA	6.8%	7.1%	7.0%	7.3%	6.9%
Total income (EURO), from which:	1961538	13938094	19105912	25475246	18127616
Incomes from economic activity (EURO)	175636	792476	965429	1493978	834836
% Incomes from economic activities	9%	6%	5%	6%	5%
Total surplus (EURO)	323526.22	3269411	3386367	6807551	3171173
Total deficit (EURO)	2006.2222	90142	102261	227172	529257
% PMAA with surplus	91%	87,1%	88,7%	88,6%	60,1%
Total Employees	1.306	2.055	2.219	1.959	1.306

Source: NIS, data processed by The Research Institute for Quality of Life (RIQL), 2012

Mutual aid associations take an interest in social enterprise development. This interest is greater among Pensioners' Mutual Aid Associations (PMAA) due to their homogenous membership whose specific needs for social services remain unmet. Therefore, in the past few years PMAA have set up, under their status as associations, social services for the elderly, delivering some of these services to non-members in exchange of payment or complementary services at a discounted price to members. According to the Law 540/2002, PMAA can develop any activity with charitable purpose. PMAA are actively advocating for being granted the status of social service providers in the hope that this will help them get access to public funding and develop social enterprises in the field of services for the elderly. PMAA are highly connected to NGO resource networks and centres while increasingly asserting an NGO-type corporate identity. PMAA also are interested in developing social enterprises. The UNCAR federation reports indicate that in the past years between 5% and 15% of the loans were granted to fund income-generating activities (nearly 45,000 loans with an average worth of EUR 3,000 Euro/loan).

Cooperatives

Beside NGOs and mutual aid associations, cooperatives represent another distinctive social economy entity. The cooperative sector counted 2,107 cooperatives of all types in 2010 (958 consumer cooperatives, 857 worker cooperatives, 75 cooperative banks, and 127 agricultural cooperatives).

We cannot speak of a decrease in the number of Romanian cooperatives during the last ten years, with the exception of cooperative banks (from 191 units in 2000 to 75 in 2010); yet things are

completely different if we look at the number of employees in these entities which underwent fluctuations and dropped to almost 30% of initial figures.

After the fall of communism, consumer cooperatives reported a decline in the number of units (from 3,392 units in 1991 to 958 in 2010) and employees (from 208,826 in 1989 to 7,485 in 2010). As far as worker cooperatives are concerned, we notice an increasing trend in their total number after the communist period (from 562 in 1989 to 857 in 2010), while we witness a steep drop in the number of employees (Table 4). We can see an increase in their revenues in parallel with a decrease in their employees (Table 4).

Table 4. Economic indicators for cooperatives

Workers cooperatives	2000	2005	2007	2009	2010
Workers cooperatives	800	771	799	788	857
% Rural workers cooperatives	0.5%	0.6%	0.9%	0.6%	0.8%
Total incomes (EURO)	88472330	169369440	184310446	168993252	166660447
Total surplus (EURO)	4163734	6491997	11585743	6793306	6553880
Total deficit (EURO)	690891	3056652	2771429	6047701	5342305
% workers cooperatives with profit	85,0%	73,0%	69,8%	56,6%	56,8%
Total employees	78.117	47.457	34.087	25.553	25.109
Consumer cooperatives	2000	2005	2007	2009	2010
Consumers cooperatives	874	941	927	894	958
% Rural consumer cooperatives	76.2%	74.7%	74.3%	74.4%	74.2%
Total incomes (EURO)	38091763	113963658	127193788	131438658	125564271
Total surplus (EURO)	398051	1877800	2279640	1851783	1346501
Total deficit (EURO)	76221	352559	596579	1478467	1820608
% consumer cooperatives with profit	89,0%	83,2%	78,5%	61,3%	55,3%
Total employees	13.402	11.287	9.124	8.547	7.485
Credit cooperatives	2000	2005	2007	2009	2010
Credit cooperatives	191	132	93	65	75
% Rural credit cooperatives	41.3%	17.4%	12.4%	9.9%	8.3%
Total incomes (EURO)	139854024	31220991	25075223	29489275	41137487
Total surplus (EURO)	6834525.11	2836914	1747932	662204	1261032
% credit cooperatives with profit	81%	72,7%	65,6%	49,2%	58,7%
Total employees	1.713	1.456	1.315	1.419	2.003

Source: NIS, data processed by The Research Institute for Quality of Life (RIQL), 2012

The Romanian legislation regulating the cooperative sector has been amended on several occasions after 1989. In 1990, two governmental decrees – GD 66/1990 on worker cooperatives and GD 67/1990 on consumer cooperatives – were passed in order to democratise organisations by allowing free elections for governance structures and to eliminate the coordinating role of the state. Several years later, Law 109/1996 expanded the scope of business for consumer cooperatives and defined consumer cooperatives and worker cooperatives separately. We also have to mention the first post-communist law – Law 200/2002 – which defined credit cooperatives separately from consumer cooperatives.

The most important legislative benchmark in the evolution of the post-communist cooperative sector in Romania is Law 1/2005. This law defines all types of cooperatives, it prescribes legally recognised activities, it lays down winding-up rules, and it loosens the control exerted by central organisations and federations over cooperatives. According to this law, can be created cooperatives with an explicit social goal also.

Statistical and economic information, as well as the analysis of the legal framework developed for the cooperative sector point towards some obvious trends. First of all, there is a demutualization tendency due to the great decrease in the number of members. Worker cooperatives have seen their membership drop from 429,778 members in 1989 to 58,497 in 2004 (the network of worker cooperatives), whereas in consumer cooperatives the decrease was from 6,550,000 in 1989 to 27,823 in 2009 (the network of consumer cooperatives).

Moreover, we note a decline in the number of cooperative employees, with many cooperatives falling within the category of micro-enterprises due to their staff headcount. An important decrease is also noticeable with respect to the number of employed persons with disabilities – from 19,395 in 1989 to 973 in 2004.

The type of activities undertaken by cooperatives has also changed and an important role is now played by real estate transactions. This trend has been very strong in the last years. As far as worker cooperatives go, the share of cooperatives that report an increase in this field of activity has grown from 3.5% in 2000 to 7.9% in 2009.

Other current trend features are the pronounced local character of cooperative businesses and a reduction of export activities.

Looking at the profile of social economy organisations presented above – NGOs with economic activity, mutual aid associations and cooperatives – we can say that there is still a need for a certain “entrepreneurial revolution” marking the expansion of social enterprises.

In recent years, new types of cooperatives have been established in Romania such as marketing or producer cooperatives. Their number however remains quite small. These cooperatives have been set up by small-scale producers in order to gain easier access to different outlets. The most representative ones are artisan producer cooperatives, organic farmers’ cooperatives or those developed in the field of tourism. In the last three years, we have witnessed the boom of agricultural cooperatives, with 127 such entities being active in 2010. This is in great part due to agricultural funding that encourages farmers to partner.

As far as public policies are concerned, we believe that legislation in the field of cooperatives is favourable to those who want to set up such organisations. Unfortunately, it remains little known to the general public and the authorities. Another obstacle is the lack of fiscal incentives for cooperatives.

THE DEVELOPMENT OF A POLICY FRAMEWORK FOR SOCIAL ENTERPRISES IN ROMANIA

Institutional theories provide us with a varied and useful theoretical and methodological toolkit for decrypting and understanding the process of social enterprise institutionalisation within different socio-cultural, political and economic contexts. The common denominator of all institutionalisation models is the analytical focus on institutions and the role of structure in determining individuals’ behaviour and policy outcomes. Institutions pose constraints on the options of individuals and collectives, albeit their constraints may change over time (Barley, Tolbert, 1997). The analysis of the social enterprise institutionalisation process concerns the study of a process that can be observed over time and can lead to the emergence of a new type of institution. In theory, several explanatory models are available with regard to the institutionalisation process. Tolbert and Zucker (1996) believe that the process of institutionalisation stems from and is nourished by the utility of a structure for a specific social group which may be found outside the organisation (an external stakeholder). Other authors (Meyer and Rowan, 1977) think that the chances to achieve institutionalisation and legitimacy are linked to the ability of the organisation to focus not only on internal processes, but also on ways to manage its relationship with external factors. To these authors, organisations that

operate in highly institutionalised environments and are successful in their isomorphism may reach legitimacy and increased access to resources much more easily. Hence, the importance of a successful institutionalisation process.

According to DiMaggio and Powell (1983), once organisations are structured, the isomorphism process kicks in and makes them grow similar features. They say that institutional isomorphism can occur through three different mechanisms: coercive, mimetic and normative. The coercive mechanism manifests itself through formal and informal pressures exerted by other organisations or through societal expectations. The mimetic mechanism occurs in organisations that don't master technologies or have unclear objectives and so they start mimicking other organisations that are successful. The normative mechanism occurs under the pressure exerted by the members of a professional group who set the cognitive basis that defines and legitimises their profession.

At international level, extensive literature on social enterprise interpretations is already available, inspired by various disciplines and covering different geographical areas and socio-political, cultural and economic contexts (Borzaga, Galera, Nogales, 2008; Defouny and Yu-Yuan Kuan, 2011; Borzaga, Galera, 2012). All these studies highlight a genuine and considerable interest in social enterprise development within different contexts while demonstrating the various forms of organisation and incorporation for social enterprises depending on context-driven constraints and opportunities, as well as the various institutionalisation models.

In a recent article, Borzaga and Galera (2012) have suggested a classification of social enterprises based on their level of institutionalisation. The first cluster includes countries where social enterprises are politically and legally recognised either as enterprises that can deliver a wide range of general-interest services (e.g. Italy, UK, Slovenia, France, etc.) or as enterprises that operate in specific fields of general interest. The authors point out the fact that such recognition could be achieved based on two legal institutionalisation formulae: either by adapting the cooperative formula or by introducing legal brands and categories that recognise the social commitment taken on by certain legal entities. The second cluster comprises countries where social enterprises are indirectly recognised, meaning that they are not yet covered by a specific legal framework but their potential to provide an alternative solution to the public service crisis – especially that of social services – is recognised. According to the authors, in the countries grouped under this cluster things are similar to how they were in Western European states in the '80s. Countries like Romania, Bulgaria, Slovakia, Serbia may fit in this cluster. In these countries, social enterprises are not yet legally recognised but they are mentioned in policy debates, the legal environment is still not social enterprise-friendly, and we find only limited public schemes supporting the development of social enterprises. The third cluster includes countries where few social enterprises have emerged within a context characterised by the reluctance of public authorities towards social enterprises and unfavourable legal and institutional frameworks. These countries do feature social enterprises but as one-off initiatives lacking nationwide visibility. Here, the authors include CIS countries.

The social enterprise does not exist yet in Romania as a legal entity and there is not a clearly articulated policy-based conceptual approach to social economy or social enterprises integrating different organisational types, from NGOs to cooperatives. In the last three or four years we have noticed in Romania a growing concern for developing a public policy framework aimed at social enterprises. Also, the social enterprise concept is increasingly present in various public debates, mainly in those related to the work integration of marginalised groups.

Taking the path of other countries in the region and at European level, in 2011 a draft law on social economy was launched in Romania by the Ministry of Labour, Family and Social Protection. The chief motivation for promoting the draft document was the need for the public authorities to secure the last years' investment in the social economy field through European structural funds, placing a key focus on the legal definition of social enterprises.

In Romania, with the launch of the Sectoral Operational Programme for Human Resources Development (SOP HRD) 2007-2013 financed by the European Social Fund and featuring the Key Area of Intervention 6.1 – Social Economy, this sector became more visible with the development of initiatives aimed at improving the public policy framework, achieving comprehensive sector analyses, as well as creating new jobs in the social economy field. Moreover, Axis 6.2 aims at increasing social inclusion by improved access to and participation of vulnerable groups in the labour market.

Based on the list of funded projects posted on the website¹ of the Ministry of Labour, Family and Social Protection, we have run a summary analysis of the objectives targeted by the projects that structural funds have funded in Romania until now. The analysis shows that in the 3 years in which ESF funding has been available, 113 projects were submitted under the 2 axes, out of which 57 under axis 6.1 regarding social economy and 56 under axis 6.2. Out of the 113 projects, 67 have NGOs as main beneficiaries, 40 public institutions, 2 religious organisations, 1 labour union and 5 business entities. A number of 83 projects are carried out in partnership. The main types of outputs/project categories were: setting up national/regional/local centres, setting up social enterprises, social enterprise incubators, social services mobile centres/teams, developing public-private partnerships aiming to support the development of local social economy actors, developing integrated social services. The most common target groups of these projects include: the Roma, women, detainees, and people with disabilities.

The funding efforts of the Ministry of Labour, Family and Social Protection should have materialised until now in two calls for proposals, each with specific application guidelines (Applicant's guide). Only the first call for proposals was carried out, funding several social enterprises and creating jobs for targeted disadvantaged groups. The second call for proposal, focusing on "social enterprises", was supposed to be launched and finalised in 2011. The process was launched and thousands of applications were submitted, proving the potential for and interest in social enterprise development, but the entire process failed because of weak management of the bureaucratic process supporting the successful implementation of the evaluation phase.

Table 5. Number of social economy entities and jobs set up with SOP HRD funding

No. Of SE entities	2007	2008	2009	2010	2011	2012
Achieved	0	0	11	73	144	261
Target	0	92	190	310	450	605
No. Of job in SE entities	2007	2008	2009	2010	2011	2012
Achieved	0	0	9	94	274	468
Target	0	550	1,140	1,860	2,700	3630

Source: MLFSP, MA SOP HRD (2012) *Annual Implementation Report*.

Presented as the most important initiative in the field of social economy, the *Framework Law on Social Economy*² is at the end of the public debate process. Initiated by the Ministry of Labour, Family and Social Protection, the public consultation process regarding the *Framework Law on Social Economy* has now been resumed after the main stakeholders failed to reach an agreement on the draft law during the first attempt. Looking back, we can draw some conclusions regarding the consultative process and the result of the negotiations that took place.

¹ www.fseromania.ro

² <http://www.economiesociala.net/m10-1-1-ro-Proiect-de-lege-ECONOMIE-SOCIALA>

- Up to now the consultation process regarding the development of the Framework Law on Social Economy had two distinctive stages. The first stage and process ended last year with a draft (version 1) which the Ministry of Labour, Family and Social Protection failed to fully endorse. Actually, at the end of the first consultative round the Ministry presented as final draft a document (version 2) different from the one agreed on with the main stakeholders during the consultation process. This document was strongly contested by many groups involved in the public consultation. As a result of failure to reach a reasonable compromise by the end of a long consultation process, the Ministry of Labour, Family and Social Protection launched a new draft law document- a merger of versions 1 and 2.
- The first policy consultation process lasted 10 months and various types of public organisations (representatives of local government, deconcentrated and decentralised administrative units, NGOs and mutual organisations) were involved. (more than 80 organisations listed) .
- The public consultation on the new social economy legislation was a learning process for those involved. While at the beginning of the process there was a sharp need for basic information, definitions and context presentation, towards the end all those involved showed a better knowledge of the field, international practices and legislation models available in Europe. The role of the non-governmental sector was very important here as well – established social NGOs or NGO resource centres organised external events during the public consultation process such as conferences, seminars, cross-sectoral debates on topics related to social economy.
- We should notice the absence of the cooperative sector from the process. Although invited, cooperative federations and representative structures have failed to attend. The reason why this invitation to participate in the consultative process was declined might be linked to the fact that the cooperative sector is confused about its place and role among other social economy entities as well as to the poor understanding of the social enterprise concept.
- A specific feature of this public consultation process and a novelty for this practice in Romania is the sporadic attendance of consultative rounds by the representatives of the Ministry of Labour, Family and Social Protection during the first consultation process, showing a somewhat contradictory attitude towards social enterprise matters. The entire process was outsourced to a consultancy company which mediated the discussion between the Ministry and the representatives of the organisations participating in the consultation process.
- Romania has specific legislation in place for public consultations which fosters participatory processes. Under Law 52/2003 on decisional transparency in public administration, advocated for by the entire NGO sector, holding public consultations is mandatory in Romania. Of course, beyond the formality of compulsoriness, the quality of the participatory process remains important. The entrepreneurial role of the non-governmental sector in policy making materialises in a series of elements that allow us to qualify it as such. Thus, non-governmental organisations have played an important role in identifying and defining the issue (Kingdon, 1984; Walker, 1981), introduced new ideas regarding social enterprises to different policy actors, and helped decision makers set the agenda.

Among the most significant aspects reflected in the draft law, we find the following:

- The draft law is confusing, mixing elements of typical Social Economy laws with elements specific for legislation regulating social enterprises. The draft law shows a lack of understanding of the difference between the concepts of social economy and social enterprises.

- Focusing the draft document primarily on social inclusion by means of social economy enterprises (“social enterprises” versus “social insertion enterprises”- weak understanding of the difference between the two concepts), hence the disagreement on the types of state benefits and support for social enterprises.
- Preference for an “open law format” (SE connotations applied to different legal entities)
- Introducing the “social brand” concept and the Register of Social Economy Enterprises. Qualification as a social economy enterprise is subject to specific requirements related to the field of work, asset allocation, and property and control structure. Still, the draft law is very unclear on many aspects as the mandatory aspect of the “asset lock” principle, the ways in which the surplus is to be allocated both on long term and short term, the decision to have the control procedures by public authorities ex ante instead of ex post, the confusions regarding closeness or openness of the list of sectors (or field of work).
- Inconsistent definition of the framework for the targeted sectoral public policy, namely the integration of disadvantaged people and, to a smaller extent, the integration of social service providers in the labour market.
- Proposing to set up a National Resource Centre for Social Economy and Regional Resource Centres for Social Economy.
- The major role of the Ministry of Labour, Family and Social Protection in “promoting and supporting social economy enterprises” (as a sort of national resource centre).

The present draft law on Social Economy reflects the conceptual confusion present among main stakeholders of the consultative process regarding social economy and social enterprise concepts. If the title is “the Framework Law of Social Economy”, the body of the legal text is focusing mainly on social enterprises. The enactment of a law of Social Economy with the present characteristics will represent a fragile compromise, and probably will be challenged in few years. In the absence of a good legal definition of social enterprises it is difficult to design secondary legislation aiming to support the development of specific public policies for social enterprises as supporting taxation measures or public procurement measures.

The existence of a favourable legal framework for social enterprises is essential to sector growth provided that it is harmonised with the legislation specific to each and every type of social economy entity. NGOs, mutual aid associations, cooperatives, all of them operate under specific legislation often requiring in-depth changes. Public consultations on the new legal framework for social enterprises have also played a revealing role as to the serious legislative lacks that social economy entities are up against. The social economy sector has to deal with legal issues that are deeper than the lack of a framework law on social enterprises. Each type of entities that falls under the concept of social economy (associations, cooperatives, commons, etc.) is faced with legal issues to be solved under its own specific legislation (obsolete legislation, unclear concepts and requirements, constraints on their entrepreneurial activities).

CONCLUDING REMARKS

Romanian public authorities understand the social enterprise concept exclusively as an option for reintegrating the unemployed into mainstream economy, whereas non-governmental organisations find it important to provide all types of social enterprise initiatives with access to different resources (not only grants). As seen during public consultations concerning the draft legislation on social enterprises, public authorities lack a clear vision and strategic approach to social economy development.

The development of an environment that fosters social economy growth is very much influenced by two strategic policy areas: social policy reform and public administration reform. Over the last decades, social policy reform has followed the international trend toward the development of a welfare mix system. Social service marketisation occurred in Romania also, but with limited coverage and a much reduced policy toolkit. Social service contracting was first introduced by law in 1998, but almost 15 years later the toolkit used and the management capacity of public authorities remain limited. NPM elements have been introduced across the Romanian public administration but without a clear understanding of how the new theoretical background may affect the way in which public organisations operate. Without significant reforms to modernise public services, it is difficult to create the right setting for social enterprise development.

The non-governmental sector played a very important role as a policy entrepreneur in the inclusion of the social economy axis on the agenda of the government and in the public consultation process. This policy entrepreneurship role is not new to the non-governmental sector, fitting in with the democratisation of public policy decision making in Romania. But the Romanian non-governmental sector, despite notable achievements in its effort to open the public market to non-governmental players, stays weak and features reduced policy advocacy capacities. To boost policy advocacy performance, strong resource centres are needed as well as partnerships with researchers that can generate structured information about the sector, including social enterprises, and build the capacities and professionalism of policy advocacy networks. For each type of social economy organisation, it is important that the specific role of federations be strengthened. Currently, these federations are self-oriented and centred on management issues while rarely focusing on the outside and opening towards policy advocacy.

The qualitative analysis contains some elements that social economy actors find very important in the effort to institutionalise social enterprises. These refer to the lack of access to start-up and development funding and the diversification of instruments available to those who want to set up social enterprises: specific loans, social enterprise investment funds, ethical banks or non-profit funding schemes. In particular for social enterprises aimed at work integration, specific problems have been identified related to insufficient support services (consulting and training for social enterprise managers) and difficult access to markets for their goods and services.

We can say that Romanian social enterprises are at the beginning of the institutionalisation process. In Romania social enterprises are in the emergence phase, which is characterised by quantitative sector growth and growing number of employees at sector level, increased diversity of entrepreneurial projects, improved visibility through research and advocacy actions, but still limited public support (subsidies) and near development of a specific legal framework.

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