

Legal Regulation of Social Enterprises in Other European Countries



Carlos Vargas Vasserot

Contents

1	Introduction	941
2	Finland	942
3	Slovenia	942
4	Denmark	943
5	Romania	944
6	Greece	945
7	Latvia	946
8	Slovakia	947
9	Bulgaria	948
10	Lithuania	949
	References	949

1 Introduction

Apart from the countries analyzed in the previous chapters of this book, there are other countries that have legal regulations for social enterprises. These have either issued special rules for such enterprises or included their legal framework in a general law of social and/or solidarity economy. Without being exhaustive, we focused only on Europe, where this phenomenon has been very significant since the publication in 2011 of the Social Business Initiative by the European

This publication is one of the R&D&I projects PID2020-119473GB-I00 funded by the Ministry of Science and Innovation of the Government of Spain entitled “Social enterprises. Identity, recognition of their legal status in Europe and proposals for their regulation.”

Finland, Slovenia, Denmark, Romania, Greece, Latvia, Slovakia, Bulgaria, Lithuania

C. V. Vasserot (✉)
University of Almería, Almería, Spain
e-mail: cvargas@ual.es

Commission.¹ As a culmination to this part of the book, we briefly outline the features and fundamental characteristics of the legal framework of social enterprises in nine European countries. The countries analyzed are arranged chronologically, beginning with the one with the oldest legislation on social enterprises.

2 Finland

In Finland, social enterprises were regulated early by Law 1351/2003 on social enterprises (*Laki sosiaalisista yrityksistä*), which underwent a major reform in 2012. As is clear from Article 1, Finnish law limits the object of social enterprises to providing employment opportunities to people with disabilities and to the long-term unemployed. To be registered in the Register of Social Enterprises and thus legally use the name social enterprise (*sosiaalinen yritys*) (Article 2), the entity, which may have any legal corporate form, must meet a number of requirements. Among others, at least 30% of the workers should be persons in the vulnerable situation described above and should be paid the usual industry wage in which they carry out their activities. Since social enterprises registered and recognized as such in Finland are only those whose purpose is to provide employment to vulnerable groups, the designation applies only to work integration social enterprise (WISE) policymaking, leaving out of its scope other entities that develop activities with a different social impact. Thus, its scope is very limited.

3 Slovenia

Slovenia, a European Union member, was one of the first countries in the world to have a social entrepreneurship law (*Zakon o socialnem podjetništvu*) enacted in 2011 (amended in 2014 and 2018). Slovenian law defines social entrepreneurship as:

The permanent exercise of a business activity through the production and sale of products or the provision of services in the market where obtaining profits is not the main objective of the business activity, but rather to achieve social impact (Article 2.9).

Further, a social enterprise according to it is:

A non-profit legal entity that acquires this status to clarify that they have not been established solely for the purpose of making profit (Article 2.8).

However, after defining a social enterprise broadly, the law establishes a series of requirements to be met by legal entities that intend to acquire the status or statute of a social enterprise (Article 8, which must be integrated with the principles of social

¹Vargas Vasserot (2021), pp. 315–321.

entrepreneurship contained in Article 3.2 and must be followed by all social enterprises). The most relevant being the following:

- The assets and profits must be invested in the activity of the social enterprise, and their distribution among the partners is not admissible, as they are non-profit entities.
- Decisions should be made by all members of the company according to the principle of one member, one vote, regardless of the share of the capital invested.
- Stakeholders, such as workers, volunteers, and users of products or services must participate in decision-making (Article 2.3).
- The company must work permanently to benefit its members, users, and the community in general.

Thus, although in principle, any private non-profit legal entity can be classified as a “social enterprise,” for example, associations, institutions, foundations, institutes, cooperatives, disability companies, employment centers—which are expressly cited by the law (Articles 2.6 and 8.2)—and even business corporations, the high level of demand for an entity to be classified as a social enterprise and the lack of tax incentives for its constitution² have meant that so far, the number of these is quite scarce, and very few of them are business corporations. In 2017, only 251 obtained legal recognition as social enterprises, of which 31.9% were non-profit institutions, 29.1% were cooperatives, 26.3% were associations, and 10.8% were limited liability companies (i.e., 25).³

4 Denmark

Law 711/2014 on the registration of socioeconomic companies (*Lov om registrerede socialøkonomiske virksomheder*) was issued with the aim of establishing a company registration system that, by complying with certain standards in their commercial and transparency operations, would obtain the exclusive right to use in its company name the mention of a registered socioeconomic company (*registreret socialøkonomisk virksomhed*) or its acronym RSV (§ 1). Any legal person (except for sole proprietorships and jointly owned companies, Article 4) can register as an RSV if they:

- Have “a social purpose” as its objective, that is, to be beneficial to society with a social, cultural, labor, health, or environmental objective;
- Develop a “significant commercial activity,” which must be the company’s main source of income;

²Tomažević and Aristovnik (2018), p. 45.

³Data obtained from Hojnik (2019).

- Have an “inclusive and responsible governance,” involving workers, clients, partners, and interested parties in their management, which must be carried out in a responsible manner in accordance with social objectives;
- Carry out “a social management of its profits,” applying these to reinvestment in the company, investments, or donations to other registered social companies, charities, non-profit organizations, or payment of a limited payment of dividends to investors and owners (Article 5).⁴

There is freedom of form to be an RSV (although prior registration in the Trade Registry and having the CVR number that certify it is required). The three main legal forms used are those of foundations, associations, and limited liability companies.⁵

5 Romania

Romania regulates social enterprises under Law 219/2015 on the social economy (*Legea economia socială*). As established in Article 1, the purpose of the law, apart from regulating the social economy and establishing measures to promote and support it, is to regulate the requirements for certification of social enterprises and social insertion enterprises. The law defines social enterprise (*intreprinderilor sociale*) as:

any legal person under private law that carries out activities in the field of social economy, that has a certificate of social enterprise and that respects the foreseen principles of the social economy (Article 6.1.d).

The law itself provides a list of social enterprises (cooperatives, associations, foundations, mutual benefit societies for employees and pensioners, and certain agricultural enterprises), which it leaves open by including:

the other categories of legal persons that cumulatively meet the definition and principles of social economy provided for in this law (Article 3.1).

The law dedicates the chapter “The Social Enterprise Movement and the Birth of Hybrid Organizational Forms as Policy Response to the Growing Demand for Firm Altruism” to social enterprises, made up of two precepts (Articles 8 and 9), which must be integrated with regulatory development through Decision 585/2016 to establish a procedure for obtaining ministerial certification as a social enterprise.

Based on its legal and regulatory framework, the status of social enterprises is recognized through the granting of a certificate by the Ministry of Labor for a five-year renewable period, which accredits the entity’s contribution to the field of social economy. This certificate is granted to the legal entities that make a request, provided

⁴The text in quotation marks is the text of the law, and the text in brackets is the interpretation of the legal text provided by Hulgård and Chodorkoff (2019), p. 25.

⁵Hulgård and Chodorkoff (2019), p. 28.

for in Article 3, which we have already mentioned, and documents the corporate purpose of the social enterprise and compliance with the principles of the social economy established by law in addition to meeting the following requirements:

- Conduct acts for social purposes and/or for the general interest of the community.
- Allocate at least 90% of the profits obtained to the development of the corporate purpose or reserves.
- Transfer the remaining assets after liquidation to one or more social enterprises.
- Apply the principle of social equity to employees, guaranteeing fair salary levels.

6 Greece

In 2011, Greece enacted Law No. 4019 on social economy and social entrepreneurship, which was one of the first laws on this subject in the world. Despite the mention in its title of social entrepreneurship and that it was based on a broad concept of “social economy” as the set of economic, business, productive, and social activities carried out by legal persons or associations of people whose statutory purpose is the achievement of the collective benefit and the service of the general social interests (Article 1.1), later in its articles, reference was made only to the “social cooperative enterprise” (*Koin.Sa.Ep.*). This left out other types of cooperatives and typical entities in the social economy. This law was repealed in 2016 by Law No. 4430 on the social and solidarity economy. However, this change of name and the reference to the *solidarity economy*, as it has become clear,⁶ has not meant a change in general orientation of the previous law. It entails a mere updating of concepts and a change of perspective of the social economy in an ambitious attempt to introduce new subjects in it. For example, the legal definition of “social and solidarity economy” in the new law is still very much attached to a traditional concept of social economy: “set of economic activities based on an alternative form of organization of production, distribution, consumption and reinvestment relations, based on the principles of democracy, equality, solidarity, cooperation and respect for mankind and the environment” (Article 2.1).

On the latter, in the list of entities of the social and solidarity economy contained in the law (Article 3.1) includes, together with the former social cooperative company, other types of cooperatives [“limited liability social cooperative” (*Koi.S.PE.*) and the “workers cooperative”] and “any other non-sole proprietorship, which has acquired legal personality” (and particularly cites agricultural cooperatives, civil cooperatives, and civil societies). Additionally, they must cumulatively satisfy the following conditions:

- Develop collective and social benefits, as defined in the law. “Collective benefit” is defined:

⁶Fajardo García and Frantzeskaki (2017), p. 50.

as the joint service of the needs of the members of the Social and Solidarity Economy field, through the formation of egalitarian production relations, the creation of stable and dignified employment, the reconciliation of personal, family and professional life (Article 2.2).

“Social benefit” is defined as:

the service of social needs of a local or broader nature with the use of social innovation, through activities of “sustainable development” or the provision of social services of general interest or social inclusion (Article 2.3).

- Provide information and participation of their members and apply a democratic system in decision-making according to the principle of one member, one vote, regardless of the contribution of each member.
- Established by instituting a series of restrictions on the distribution of profits: 5% is destined for a reserve fund, 35% for workers, and the rest to create new jobs or reinvest them in the entity.
- With some exceptions, the maximum salary of workers cannot exceed three times the minimum salary.
- Its objective is to strengthen its economic activities and maximize the social benefits produced through horizontal and egalitarian networking with other entities in the social economy.
- It does not depend directly or indirectly on public entities.

This package of requirements is added to the general rule that the partners or members of the entities of the social and solidarity economy that are not workers do not have the right to distribute benefits, except for a specific type of cooperative (Article 3.2). These harsh conditions are difficult to meet by non-cooperative companies and especially by trading companies, given the requirement of the vote by head and the non-profit concept of these entities with the prohibition on profit distribution.⁷

7 Latvia

The Social Enterprise Law (*Sociālā uzņēmuma likums*) was enacted in Latvia in 2017. It aims to:

promote the improvement of people’s quality of life and employment of population groups at risk of social exclusion - which it calls the target group - by creating a favorable environment for the economic activities of social enterprises (Article. 1).

The law defines a *social enterprise* as: “a limited liability company that has been granted the status of a social enterprise in accordance with the procedure specified in this Law and that carries out economic activities that generate a favorable social impact” (Article. 2.1), such as the provision of social services, the formation of an

⁷Fajardo García and Frantzeskaki (2017), p. 75.

inclusive civil society, the promotion of education, conservation, the protection of animals, or the safeguarding of cultural diversity. Obtaining the statute of social enterprises and the consequent registration in the Register of Social Enterprises depends on whether the entity, which must necessarily be a limited liability company, meets the following requirements (Article 5):

- Corporate purposes correspond to the objectives of the law, which carry out economic activities with a positive social impact.
- A social resolution is taken in favor of acquiring the statute of a social enterprise approved by at least 2/3 of the votes present and represented at the meeting held for this purpose.
- There is no distribution of profits that are reinvested in the entity to achieve social objectives.
- A representative of the target group participates in the administrative or supervisory body and/or advisory board of the entity.

8 Slovakia

Slovakia adopted in 2018 the Law on the Social Economy and Social Enterprises (*zákon o sociálnej ekonomike a sociálnych podnikoch*), distinguishing two categories of social enterprises. The social enterprise (*sociálnym podnikom*) is defined (Article 5.1) as an entity of the social economy (Article 4.1: “An association, non-investment fund, non-profit organization, church special purpose facility, commercial enterprise, cooperative or natural person entrepreneur” that is not controlled by the public administration, carries out activities typical of the social economy, and if they perform other profit-making activities, they do not perform them with the objective of making a profit) that meets the following requirements:

- It must perform economic activity on a continuous basis, independently, on its own account, and under its own responsibility.
- Its main objective should be to achieve a measurable positive social impact. In general, it determines that a positive social impact is the fulfillment of a public interest (such as the provision of socially beneficial services for society as a whole or for disadvantaged or vulnerable people) or of a community interest (such as the provision of social services for a group of people that can be delimited and identified according to territorial criteria, membership, interests, or other objective criteria) (Article 2.1). However, it then differentiates according to the type of registered social entity that is understood by positive social impact. On the other hand, the law classifies registered social enterprises into three categories: “integration enterprises” (whose positive social impact is the promotion of employment through the employment of disadvantaged or vulnerable persons—Article 12), “social housing enterprises” (whose positive social impact is the provision of socially beneficial rental housing—Article 13) and “other registered social enterprises.”

- The goods or services that they manufacture, supply, provide, or distribute must be made using methods that contribute to achieving a positive social impact.
- If it makes a profit, it must use more than 50% of the after-tax profit to achieve the primary social objective, and the distribution of the remainder cannot interfere with the achievement of the primary social objective.
- It must involve stakeholders in the management of their economic activity (which means that the majority of the partners are company employees, and that the majority of the workers must be partners; all the partners have one vote and that workers with five years of seniority in the company, even if they are not partners, can vote in general meetings).

The *social impact company* (*podnikom so sociálnym dosahom*) is a social economy entity that fails to meet one of the last three requirements for social enterprises (Article 5.3). On the detailed process of accreditation by social enterprises that they meet all the requirements for registration, the obligation to document each (Article 6.1.c) stands out. This is something that does not always seem simple, as is the case with the need to describe how the entity produces or supplies its products and services in a way that contributes to achieving a positive social impact. On the other hand, although it is expressly admitted that a commercial company is a social enterprise, some of the conditions that are required are not well-suited to social types other than cooperatives.

9 Bulgaria

Since 2018, Bulgaria has had a Social and Solidarity Economy Companies Act, which, in addition to promoting the development of this economic sector, regulates its subjects, including social enterprises alongside cooperatives and non-profit legal entities engaged in public benefit activities (Article 5). Bulgarian law classifies social enterprises into two categories: Class A (Article 7) and Class A + (Article 8). The former must satisfy the following conditions.

- Develop a social activity that produces added social value.
- Be managed in a transparent manner with the participation of members, workers, or employees in decision making according to a procedure set out in the articles of incorporation, bylaws, or other documents.
- Fifty per cent of after-tax profits and no less than an amount (BGN 7500, approximately 3800 €) must be used to carry out an activity or social purpose.
- At least 30% and more than three employees of the company are people in certain situations of vulnerability listed in the law (disabled, long-term unemployed, or of a certain age or young people without work experience, ex-prisoners, refugees, etc.).

Class A + social enterprises, on the other hand, are of a socially superior category than the previous ones, since, in addition to the above conditions, they must comply

with any of the following: the aggregate social value of the enterprise should be developed entirely in municipalities that during the previous year had an unemployment level equal to or higher than the country's average. Further, and/or 50% of the after-tax profits and not less than an amount (BGN 75,000, approximately € 380,000) must be used for carrying out social activities.

Near the end of the law (additional provision: 1.^a 5), compiling the main characteristics that an entity must meet to be registered as a social enterprise, defines it as:

a company that, regardless of its legal organizational form, has as its object the activity of producing goods or providing services, combining economic results with social objectives, achieving a measurable positive social added value, managed in a transparent way with the participation in the managerial decision-making of the members and workers, that the average number of workers are vulnerable people in a certain proportion and/or the benefits are mainly used to carry out the activity and social purpose in accordance with the articles of incorporation or bylaws.

10 Lithuania

Lithuania has enacted in 2019 Law No. XIII-2427 on social enterprises. These:

aim to promote the return to the labor market, their social integration and the reduction of social exclusion by hiring people belonging to the target groups specified in this law, whose ability to work has been diminished or who cannot compete in the labor market under equal conditions due to disability, age, or long-term unemployment (Article 2).

Therefore, Lithuanian social enterprises limit their activities to recruiting people from vulnerable groups, as determined by law, as workers. Thus, the only social enterprises are WISE. On the other hand, Lithuanian law does not make any reference to what type of entities can be recognized as social enterprises, so any legal form of enterprise can be used, especially commercial companies. As for the obligations that are legally imposed on social enterprises (Article 7), they refer to the hiring, salaries, and training that must be given to people in vulnerable situations who work for the entity.

References

- Fajardo García G, Frantzeskaki M (2017) La economía social y solidaria en Grecia. Marco jurídico, entidades y principales características. *Revesco* 25:49–88. <https://doi.org/10.5209/REVE.58135>
- Hojnik BB (2019) Approach to social entrepreneurship in Slovenia, vol 7, CBU International Conference on Innovations in Science and Education. <https://ojs.journals.cz/index.php/CBUIC/article/view/903/pdf>
- Hulgård L, Chodorkoff L (2019) Social enterprises and their ecosystems in Europe. Country report Denmark. Luxembourg, Comisión Europea
- Tomažević N, Aristovnik A (2018) Social entrepreneurship: case of Slovenia. Ljubljana, Zavod14
- Vargas Vasserot C (2021) La empresa social. Concepto, regulación en Europa y propuestas de ley para el ordenamiento español. In: Vasserot V (ed) *Responsabilidad, economía e innovación social corporativa*. Marcial Pons, Madrid, pp 315–341

Open Access This chapter is licensed under the terms of the Creative Commons Attribution 4.0 International License (<http://creativecommons.org/licenses/by/4.0/>), which permits use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

