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TOWARD A GLOBAL LEGAL CULTURE OF THE SSE ENTERPRISE? AN INTERNATIONAL COMPARISON OF SSE LEGISLATION

By Gilles Caire* and Willy Tadjudje**
Translated by Cadenza Academic Translations***¹

Over the past decade, many countries have developed a legal framework for the social and solidarity economy (SSE). Interest in the sector has also been growing among international organizations, including the United Nations. The authors compare SSE legislation around the world and show that the terms used for describing the sector, the main principles, the organizational forms, and the institutionalization processes vary according to the economic, social, cultural, and political contexts of the countries concerned. Nevertheless, there are many points in common and a global legal culture of the SSE and the SSE enterprise appears to be emerging.

Vers une culture juridique mondiale de l'entreprise d'ESS ? Une approche comparative internationale des législations ESS

En l'espace d'une dizaine d'années, de nombreux pays ont adopté un cadre juridique régissant l'économie sociale et solidaire (ESS). L'intérêt pour le secteur est également grandissant dans les organisations internationales, y compris les Nations unies. En comparant les législations relatives à l'ESS à travers le monde, les auteurs montrent que les intitulés choisis pour qualifier le secteur, la définition des principes essentiels, le périmètre des formes statutaires incluses, ainsi que les modes d'institutionnalisation sont variables en fonction des contextes économiques, sociaux, culturels et politiques des pays concernés. Néanmoins, les points de convergence sont nombreux et une culture juridique mondiale commune de l'ESS et de son entreprise semble s'esquisser.

¿Hacia una cultura jurídica mundial de la empresa de ESS? Un enfoque comparativo internacional de las legislaciones de la ESS

En el espacio de una década, muchos países han adoptado un marco jurídico que regule la economía social y solidaria (ESS). El interés en el sector se pone también creciente en las organizaciones internacionales, incluidas las Naciones Unidas. Comparando las legislaciones relativas a la ESS en todo el mundo, los autores muestran que los términos seleccionados para calificar el sector, la definición de los principios fundamentales, el perímetro de las formas legales incluidas, así como los modos de institucionalización cambian en función de los contextos económicos, sociales, culturales y políticos de los países afectados. Sin embargo, son muchos los puntos de convergencia y parece que se está dibujando una cultura jurídica mundial común a la ESS y a su modelo de

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empresa. Sin embargo, los puntos de convergencia son muchos y parece dibujarse una cultura jurídica mundial común a la ESS y su modelo de empresa.

Over the last decade or so, more and more countries have decided to develop a legal framework for the social and solidarity economy (SSE). This flurry has been most apparent in Latin America and in Europe. Beyond the state level, this topic has also been taken up by a growing number of international organizations, including the United Nations. The United Nations Inter-Agency Task Force on Social and Solidarity Economy (TFSSE) was created for this purpose in 2013. It brings together seventeen specialized institutions from within the UN (including the ILO, FAO, UNESCO, UNDP, WHO, and UN Women), as well as the OECD and ten observer members (including the ICA, RIPESS, EMES, CIRIEC, and ESSFI [formerly MBM]).² The TFSSE website (unsse.org) offers the following definition from Peter Utting, the former Deputy Director of the United Nations Research Institute for Social Development (UNRISD):

Social and Solidarity Economy encompasses organizations and enterprises that: 1) have explicit economic and social (and often environmental) objectives; 2) involve varying degrees and forms of cooperative, associative and solidarity relations between workers, producers and consumers; 3) practice workplace democracy and self-management. SSE includes traditional forms of cooperatives and mutual associations, as well as women's self-help groups, community forestry groups, social provisioning organizations or "proximity services," fair trade organizations, associations of informal sector workers, social enterprises, and community currency and alternative finance schemes.

We believe that this approach to the SSE, which is laid out in *Social and Solidarity Economy: Building a Common Understanding* (ILO 2010), available from the TFSSE website, has three primary defining characteristics.

First, the SSE includes both profit-seeking and nonprofit entities. In more concrete terms, it is made up of both organizations and enterprises. Although there is no explicit legal distinction given in the documents we have studied, the term "organization" (exclusively non-state actors, i.e., non-public) seems to refer to nonprofit forms, while the term "enterprise" refers to profit-seeking entities, in which profit-seeking may be limited or secondary to another purpose.

Next, these organizations and enterprises follow non-capitalist operational rules, which can be summarized in three basic principles: multidimensional end goals, such as sustainable development, which implies a primary goal other than profit maximization; the creation of relationships between various stakeholders that are not exclusively based on profit; and participative governance that does not follow the shareholder model.

(2) The complete list of the twenty-eight members can be found at unsse.org. To understand the context of how this Task Force was constituted, see Utting (2014).

Finally, this definition gives a large array of different statuses. On the one hand, it mentions so-called traditional forms, such as cooperatives, associations, and mutual associations. On the other, it also refers to community-based groups, as well as social enterprises. This means that the SSE is an “umbrella concept” (ILO 2017), which includes “a dynamic and evolving group of organizations [and enterprises]” with a large number of “different forms” that share “common features that distinguish them from public and private enterprises and organizations” (ILO 2010).

The purpose of this article is to demonstrate that this “umbrella” approach to the SSE is part of a wider movement over the last ten years to implement national laws on this field. Of course, the terms used to describe the sector, the main principles, the organizational forms, and the institutionalization processes vary according to the economic, social, cultural, and political contexts of the countries concerned. Nevertheless, we will show that there are many areas of overlap. It appears that a kind of shared global legal culture of the SSE may be emerging, considering that, beyond the diversity of terms and forms, it is possible and useful to try to bring the various legal forms and structures that make up the SSE closer together.

A widespread legislative movement

Based on information primarily taken from six documents (Lafaye 2013; Niang 2014; Chorum 2014; Galera and Salvatori 2015; European Parliament 2016; Chaves and Monzón 2017), as well as discussions with our international contacts, we estimate that roughly twenty countries have already passed SSE-type laws, and that around twenty more are considering similar bills or proposals.³

What can be qualified as an SSE-type law?

By “SSE-type law,” we do not necessarily mean laws that refer to the “SSE” in their official title. Rather, we are referring to laws that align with the “umbrella” approach described above, including in particular: 1) laws that cover both profit-seeking or limited-profitability enterprises (cooperatives or social enterprises) and nonprofit organizations (mutual associations, associations, and foundations); 2) explicitly inter-statutory laws that mention at least two of the five forms that are generally held on the international level—the four so-called “historical” forms (cooperatives, mutual associations, associations, and foundations), as well as the more recent social enterprise form⁴; 3) cross-sector laws, i.e., those that are not limited to one category of economic activity (for example, agriculture, craft, fishing, digital technology, the environment, and so on).

Because of the “umbrella” approach that underlies the ways these SSE laws are written, they are often passed as framework laws (*loi-cadre* or *loi d'orientation* in French⁵). While defining important overarching principles, they explicitly refer to other laws specific to

(3) This study does not claim to be exhaustive. One of the limits of our survey was the language used in the complete original texts (or their integral translations), which needed to be one we could access, i.e., a language of European origin (French, English, Spanish, Italian, Portuguese, and Romanian). The absence of Asian countries in our survey is due to this.

(4) Laws exclusively devoted to social enterprises or social entrepreneurship (as is the case in the United Kingdom [2005], Slovenia [2011], the Netherlands [2012], Denmark [2014], Lithuania [2015], etc.) are therefore excluded from this comparative analysis.

(5) In French law, according to *Vocabulaire juridique* (Legal Vocabulary) by Gérard Cornu, a framework law (*loi-cadre*) is one that, under the Fourth Republic, aimed to set clear general rules for a broad issue, and to invite the regulatory authority (by giving it the power to do so) to set or change any necessary provisions within the very wide framework defined by the law. The same author defines another kind of framework law (*loi d'orientation*) as one that sets a comprehensive policy for a broad issue, to be implemented over a more or less extensive period of time, and enacting the necessary legislative provisions for this objective at a given moment. Based on a historico-legal line of reasoning, the term “*loi d'orientation*” seems more appropriate in this instance.

each of the forms or sectors listed and express the political will to promote and develop the SSE through objectives and commitments for public authorities.

Depending on the case, such laws may be applied on a national level or on a “provincial” level for federal states (e.g., Belgium, Canada, Brazil, and Argentina).

Survey results: A Latin culture?

Our research led us to identify twenty countries that had passed SSE-type laws by December 31, 2018. We have listed them in the table below by continent and in chronological order based on when the law was passed:

Country	Year	Title of the legal framework	Statuses included
EUROPE			
Belgium (Wallonia)*	2008	Decree of November 20, 2008 on the social economy	CMAF** + social-mission companies
Spain	2011	Law 5/2011 of March 29 on the social economy	CMAF + specific institutions + social enterprises
Portugal	2013	Law 30/2013 of May 8 on the foundations of the social economy	CMAF + specific institutions + social enterprises
France	2014	Law 2014-856 of July 31, 2014 on the social and solidarity economy	CMAF + Social enterprises
Romania	2015	Law 219/2015 of July 23, 2015 on the social economy	CMAF + specific institutions + social enterprises
Italy	2016	Law 106/2016 of June 6, 2016 delegating to the government the power to reform the third sector and social enterprises, and the discipline of universal civil service (16G00118)	C(social) MAF + specific institutions + social enterprises
Greece	2016	Law 4430/2016 of October 31, 2016 on the social and solidarity economy and the development of its agencies and other provisions	CA + social enterprises
Luxembourg	2016	Law of December 12, 2016 creating social impact companies (including in its first chapter the principles of the social and solidarity economy)	Private-law legal persons that meet four conditions + social impact companies
AMERICAS			
Honduras	1985	Law 193/85 on the social sector of the economy (November 14, 1985)	Workers’ CMA
Colombia	1998	Law 454 of 1998 regulating the solidarity economy	CMA + specific institutions
Brazil (Minas Gerais)*	2004	Law 215.028 of January 19, 2004 instituting a national policy to promote the popular and solidarity economy in the state of Minas Gerais	CA + social enterprises

Bolivia (Constitution)	2008	Political Constitution of the State (February 7, 2009): Articles 306 to 315, recognizing the plural economy, including the social and community economy	C + community-based economic organizations
Venezuela	2008	Decree with the status, value, and force of law to promote the development of the popular economy (August 2008)	Community-based socioproductive organizations, alternative trading systems
Ecuador	2011	Organic law on the popular and solidarity economy and the popular and solidarity financial system (Official Gazette No. 444 of May 10, 2011)	CA + specific institutions + solidarity financing
Mexico	2012	Law on the social and solidarity economy, in satisfaction of paragraph seven of Article 25 of the Political Constitution of the United Mexican States, with regard to the social sector of the economy (Official Journal of the Federation, May 23, 2012).	CMA + specific institutions
Nicaragua	2012	Law 804 on the organization, competence, and procedures of executive power. Addition of a new article, "Ministry of the Family, Community, Cooperative, and Associative Economy" (Official Journal, July 17, 2012)	CA + community and family organizations
Argentina (Province of Mendoza)*	2012	Law 8-435 of June 27, 2012 promoting the social and solidarity economy in the Province of Mendoza	CMA + specific institutions + social enterprises
Canada (Quebec)	2013	Social Economy Act, October 10, 2013	CMA
Chile	2014	Decree 221 of October 15, 2014 creating a public-private advisory board for the development of cooperatives and the social economy	CA + social enterprises
AFRICA			
Cape Verde	2016	Law 122/VIII/2016 establishing the legal framework for the social economy	CMAF + community organizations

* For countries with a federal structure, we have chosen only one law. We nevertheless identified:

- for Belgium, two other laws for the Flemish Region (2012) and the Brussels-Capital Region (2012);
- for Brazil, other laws for the states of Pernambuco (2005), Mato Grosso do Sul (2005), Espírito Santo (2006), and Pará (2007), etc. (source: socioeco.org);
- for Argentina, other laws for the provinces of Entre Ríos (2012), Buenos Aires (2014), Catamarca (2017), etc. (source: socioeco.org).

** In the table, the abbreviation CMAF refers to "cooperatives," "mutual associations," "associations," and "foundations."

These laws come primarily from Europe (eight countries) and Latin America (eleven countries), with only marginal representation (for now?) from Africa (only one country—Cape Verde). The legislative approach to the SSE is more widespread in countries that are part

of the Romano-Germanic legal tradition (civil law systems). This may be due to the importance of legislation within the hierarchy of sources of law in these systems. Although no SSE-type laws have been passed in countries that use the common law system (United Kingdom, United States, Commonwealth countries), this does not mean that there is no legal engagement with the SSE. Law may arise from sources other than legislation. Still, there is a gap between different cultures in terms of how certain concepts are understood, such as non-profitability, which curbs the potential homogeneity of the SSE.

As for Asia, some indirect research⁶ has been done, revealing an apparent lack of “comprehensive” SSE laws, in the sense of the criteria given above, though some countries have extensive bodies of cooperative law (for example, the 2012 General Law on Cooperatives in South Korea), diverse forms of rural economic organizations (as in Japan), and social mission organizations with their own bodies of law (China, Cambodia, Philippines).

In Africa, there are several (mostly Francophone) countries that are working on passing comprehensive SSE legislation. Five countries have been engaged in such efforts for several years (Cameroon since 2010, Mali since 2012, Morocco since 2014, Tunisia since 2015, and South Africa since 2017), but political realities have prevented any laws from reaching the stage of promulgation. Furthermore, in the seventeen OHADA (*Organisation pour l’harmonisation en Afrique du droit des affaires*, or Organization for the Harmonization of Corporate Law in Africa) countries, the adoption in 2010 of the Uniform Act relating to the Law of Cooperative Societies (Auscoop) contributed to a break (in our opinion a damaging one) with other SSE organizations (Caire and Tadjudje 2019).

Regarding the denomination of the field, five countries (France, Greece, Luxembourg, Mexico, and Argentina) use the term “social and solidarity economy.” Six (Belgium, Spain, Portugal, Romania, Canada [Quebec], and Cape Verde) have chosen the term “social economy.” Latin American countries (other than Mexico) use a variety of terms, with a predominance of “popular and/or solidarity economy,” a choice that is often linked to specific political contexts at the end of the 2000–2010 decade. There are two outliers that should be noted: Italy has retained the term “third sector” and Bolivia has chosen a constitutional approach to the plural economy, which includes the “social and community economy” as well as “private and state” forms.

Besides the first three countries to adopt such laws (Honduras in 1985, Colombia in 1998, and the first federal legislations in Brazil in 2004), all of the other texts are recent, having been enacted between 2008 and 2016. Against the backdrop of a multidimensional crisis, they are first and foremost a sign of public authorities’ recognition of the importance of the SSE as a novel path for development that promotes employment, decent work, and inclusion; social cohesion,

(6) See RECMA’s “Asia” special reports, issue 341, July 2016 (South Korea, Japan, China) and issue 342, October 2016 (Vietnam, Cambodia, Philippines).

the collective, and the community; gender equality; solutions for social needs; productivity, efficiency, and growth; social justice and the equitable distribution of wealth, property, and national income; democracy and citizenship; and the environment and sustainable development. The SSE is thus considered to be an economic model that offsets the failures of the market and the limitations of the state.⁷

(7) Here, we have summarized the various objectives assigned to the SSE by the different laws.

(8) French law is particular in that these two approaches are both included in one article (Article 1), while other laws separate them into different specific articles.

(9) At the beginning of 2004, President Chávez launched the “Misión Vuelvan Caras,” whose goal was to promote the inclusion of poor and marginalized populations and to incorporate citizens into the country’s socioproductive fabric, with a view to growing the solidarity economy. See CIRIEC, “L’économie sociale en Amérique latine,” *Brèves* 70 (2013): 5 et seq.

Differences in the delimitation of the scope of the SSE

When it comes to delimiting the scope of the SSE, the laws include general definitions of the SSE, its essential principles, and the legal statuses of the entities it includes. These definitions highlight the fact that SSE organizations share the desire to combine economic viability, social or societal missions, and participative governance. However, the delimitation of the scope of the SSE differs from one law to another.

The definition of the SSE and its essential principles

The SSE may be defined using two different approaches. The first is based on statuses (the legal-institutional approach). The second focuses on the compliance of operational rules with a set of values and principles (normative approach). Most of the existing legislations use both approaches in conjunction,⁸ except for those of Bolivia, Venezuela, Nicaragua, and Luxembourg.

Bolivia does not follow the double institutional and normative approach due to the particularity of its SSE law. It frames the issue from the perspective of the plural economy within its constitution. The Venezuelan approach does not rely on traditional legal statuses, but rather on community-based socioproductive organizations, collective labor enterprises, production or “prosumer” (entities that are both producers and consumers) brigades, community bartering activities, etc. As indicated by CIRIEC (*Centre international de recherches et d’information sur l’économie publique, sociale et coopérative*, or International Centre of Research and Information on the Public, Social and Cooperative Economy), this means that the government has committed to both substituting the capitalist system with an alternative, sustainable, collectivist, solidarity-based economic model that focuses on human and social development, and to undertaking a socioproductive territorial reorganization based on communities’ natural vocations, the values of the people, and the rational exploitation of resources.⁹

Nicaragua, through a law on executive power, introduced provisions related to the SSE, though this law does not provide a definition of the SSE itself. The ministry created by the law is responsible for

cooperatives, associations, communities, and family-based economic systems.

In Luxembourg, the entities that make up the SSE are not defined in terms of legal status, but as “private-law legal persons that fulfill certain conditions.” These conditions are similar to those set forth in the French law (activities focused on people in vulnerable situations, a social connection, independent management, apportionment of profit).

The four historical families

Of the sixteen countries covered by our study, different observations can be made depending on the family of SSE entity in question.

Cooperatives

Cooperatives are mentioned in the laws of all of the sixteen countries. Cooperatives remain the most representative and most present family of SSE entities, for two fundamental reasons. First, this structure allows members to engage in activities in all areas of human life, giving it a certain flexibility and distinct character that is not shared by other legal forms of organization. Second, it is based on an internationally recognized set of ethics (principles and values),¹⁰ underpinned by a dedicated international organization, the International Co-operative Alliance (ICA).

It should, however, be noted that the definition given in the Italian law referenced above only covers social cooperatives. Based on a 1991 law, these are held to have the same objective as traditional cooperatives, but they are also dedicated to the mission of pursuing the general interest of the community by promoting the human development and social integration of citizens (Zandonai 2002).

Associations

Like cooperatives, associations are also mentioned in all of the texts covered by our study, except for the Greek regulation.¹¹ Generally speaking, they may take on various forms, depending on their activities or their objectives. Distinctions can be made between associations that are political (parties), religious, sports-based, cultural, and so on. Unlike cooperatives, which are included without qualification in all of the above texts’ definitions (except for Italy, which, as we have seen, is limited to social cooperatives), associations are only included, in various respects, if they are engaged in economic activity. This distinction is sometimes made explicitly. In Spain, for example, the law refers to associations that “undertake economic activities,” while in Quebec the law targets associations that are involved in “sales or trading activities.” In other instances, it remains implicit. The distinction is understood from two contrasting provisions in the text, one referring to economic production and the other to the association status.

(10) See ILO Recommendation 193 of 2002 on the promotion of cooperatives and the 2001 UN directives on creating a favorable environment for the development of cooperatives.

(11) In Greek law, SSE legal forms are essentially bound to the cooperative and social enterprise forms.

Mutual associations

Mutual associations are mentioned in eleven of the sixteen countries. The five others (Greece, Cape Verde, Brazil, Ecuador, and Chile) do not provide for this legal form of organization. Mutual associations are usually formed to organize finance-related activities. This may include insurance and microinsurance services, or banking and microfinance. Their status is quite distinctive and is connected to the civil law tradition of countries such as France and Belgium.

A frequently raised issue is whether mutual associations are companies (like cooperatives), or a variant on the associative form, since, in their various forms, they can combine traits characteristic of both cooperatives and associations (Tadjudje 2015).

Compared to the cooperative and associative statuses, few countries currently have legal frameworks on mutual associations. Practically speaking, in countries where the mutual association status does not exist, insurance and finance-related activities are generally handled by either cooperatives or associations. Considerable progress was made in promoting the status of mutual associations when the new WAEMU (West African Economic and Monetary Union) regulation on social mutual insurance came into force in eight West African countries (Tadjudje 2015).

Foundations

Foundations are mentioned in six European countries (Belgium, Spain, France, Portugal, Romania, and Italy), as well as in Cape Verde. Traditionally, foundations have been understood as a tool for one or more donors to assign goods, rights, or resources to accomplishing a general interest project without seeking profit (Konstantatos 2013). One of the weaknesses of this status, if the normative approach to the SSE is used, is the lack, in some regards, of democratic power. Foundations can be created by individuals, which is not the case for cooperatives,¹² mutual associations, or associations. As a result, foundations are not required, in principle, to hold general meetings. Furthermore, the founder or founders appoint the administrators of the foundation. However, despite this weakness, the end result remains significant: the completion of a general interest project without seeking profit (Réseau belge de fondations 2014).

Our observations show that the legal status of foundation is not part of the SSE laws in Latin America. It is, however, present in Africa, and it is likely that future African SSE laws will include this legal form of organization.

Traditional and customary organizations

The SSE field cannot be reduced to solely European legal statuses and denominations. Based on the local culture, it is important to take into account the terms and realities specific to each country.

(12) Except for some countries, such as Finland, which allows for the creation of single-person cooperatives.

This also makes it possible to use examples that are familiar to the local population in order to make communicating the notion of the SSE easier.

Eight countries refer to specific institutions that do not fall into one of the historical statuses. These are Colombia, Ecuador, Mexico, Argentina, Portugal, Romania, Italy, and Spain.¹³ The SSE laws currently being debated in Africa will probably also share this particularity (Caire and Tadjudje 2019).

(13) For example: *misericórdias* in Portugal, *ejidos* in Mexico, and ONCE (public law corporation) in Spain.

Social enterprises

Social enterprises are defined as companies that respect certain conditions. Eleven of the countries in our study include social enterprises as SSE entities—all eight European countries, plus three Latin American countries: Brazil, Argentina, and Chile.

According to the EMES network, the primary objective of a social enterprise is to have a social impact, rather than generating profits for its owners or partners. They operate in the market, providing goods and services in an innovative, entrepreneurial manner, using their surpluses primarily for social ends. They are managed in an accountable and transparent way, in particular by involving workers, customers, and stakeholders affected by their business activity (Defourny and Nyssens 2013).

In a strict legal sense, there is no specific legal status for social enterprises, rather they are more of an operational model. While there are laws that define the rules applicable to cooperatives, mutual associations, associations, and foundations, there is still no specific legal status for social enterprises as forms of enterprises. Rather, previously existing legal entities can take on the status of social enterprise, as is the case in Belgium (Brussels-Capital Region), in line with the July 23, 2018 decree on accreditation and support for social enterprises. International organizations, in particular the European Union and the OECD (2017), are calling for the development of appropriate legal frameworks for social enterprises.

Convergent organizational institutionalization

The diversity of legal forms mentioned, and the great number of sectors of activity that are potentially involved, mean that laws are also concerned with the creation of unifying bodies. This kind of organizational institutionalization helps to create a shared identity.

The creation of representative bodies

Guided by the principles of solidarity and mutualization, SSE organizations tend to come together around representative bodies or structures. In most countries, there is a wide array of unifying bodies that are active at different levels: in communities, nationally,

regionally, or locally. Besides representation, they also offer various services to their affiliated organizations (Chaves and Monzón 2018). Except for Romania, all of the other countries have planned for one or several cross-sector representative, consultative, and/or dialog-focused organizations to be recognized or created from scratch. They may differ from one country to another in terms of their legal form, composition, or the responsibilities of their members. We can distinguish four separate categories.

Advisory board

The advisory board model is the most common. It can be found in nine countries: Greece, Italy, Colombia, Brazil (state of Minas Gerais), Ecuador, Mexico, Argentina (province of Mendoza), Nicaragua, and Chile.

Advisory boards are mixed bodies that can include both public authorities and private entities, under the aegis of a government ministry. In Argentina (province of Mendoza), the body in question is the Provincial SSE Council. Article 6 and thereafter of the province's SSE law establish various rules for this advisory board.

Specific SSE representation within the Economic and Social Council

This model is only used in Portugal. According to Article 7(2) of the law, "social economy entities are represented within the Economic and Social Council and other competent bodies for defining strategies and setting public policy for the development of the social economy."

Independent association

Independent associations are meant to act as unifying bodies, operating democratically to represent SSE entities. They benefit from state recognition. This model is used in Luxembourg and Honduras.

In Honduras, Article 4 of the law on the social sector of the economy states: "the social sector of the economy will have its own organic structure, with a national-level representative and directory body that may create regional or departmental agencies to meet the needs of the sector."

Blending the three models

Five countries have chosen to use a blend of the three models.

In Belgium (Wallonia), there is an economic and social council, recognized associations, and an advisory board. In Spain, there is an advisory board (Council for the Development of the Social Economy) and recognized associations, including in particular cross-sector confederations. France has a similar approach, with an advisory board (High Council on the Social and Solidarity Economy)

and recognized associations (French Chamber of the Social and Solidarity Economy, and regional chambers of the social and solidarity economy, which come together under a national council). This is also the case for Canada (province of Quebec), which has both an advisory board and recognized associations. These are the Panel of Social Economy Partners, the Chantier de l'économie sociale (an association founded in 1999), and the Conseil québécois de la coopération et de la mutualité (an association founded in 1940).

In Cape Verde, there is SSE representation within the Economic and Social Council, a national council for the social economy, as well as the possibility of creating a representative association.

Creating a registry and an accreditation and/or verification process for compliance with SSE principles

While SSE enterprises and organizations follow specific operating rules defined by law, structures must be in place to verify that these rules are being properly enforced. Without some kind of monitoring mechanism, there is a risk that some entities will claim to be part of the sector in order to benefit from its advantages—in particular those granted by public authorities¹⁴—without following its ethics. With the exception of Canada (province of Quebec) and Belgium (Wallonia), all of the other countries have created registries for SSE entities. This makes it possible to confirm that an entity belongs to the SSE, and also to monitor the sector statistically.

Some countries go even further, demanding some kind of accreditation. This is required of entities of all legal forms in three countries: Greece, Argentina, and Brazil. Four other countries only require accreditation for commercial companies, namely: Belgium, Romania, Italy, and Brazil. Ultimately, accreditation helps to better regulate the sector by sanctioning entities that do not follow the principles set forth in the law. All of these approaches to registration and accreditation bring us back to the issue of the relationship between the state and SSE organizations. In return for the public policies the state develops that benefit these organizations, it may assert the right to monitor them. In reality, it is difficult to find an equilibrium between public policy support and the independent management and decision-making of SSE organizations. This equilibrium will vary depending on the context and the existing power relations. Sometimes, even when states and SSE organizations are working together, their collaboration may come with certain tensions, and governments continue to see their relationships with SSE entities as based on monitoring and control. This is because these entities are a useful tool for reaching large segments of the population and regaining confidence, space, and political support, all of which were lost when the state disengaged with the public in the pursuit of economic liberalization (Thomas 2015).

(14) With the goal of supporting the social projects of these organizations, and in particular compensating for any distortions they may experience, especially in terms of competition law.

The structure of public authorities supporting the SSE

The SSE appears to be a readily available tool for rethinking how public policy is developed and for increasing access to public services on the ground. To this end, it builds and maintains a particular partnership with the state, with the aim of galvanizing and reorienting public action (Vidal 2017).

Connecting the SSE field to a government entity or an associated entity is a first sign of the state's interest in this sector. It should also make enacting public policies to develop the SSE more harmonious and logical. The aim is to promote policies that provide technical, fiscal, and financial support, indiscriminate of legal status, and to facilitate the coordination of statutory and sector-specific administrative supervisory authorities at the national, regional, and local levels.

Ten countries assign the SSE to a particular government ministry: Spain, France, Romania, Italy, Greece, Luxembourg, Venezuela, Argentina, Canada (Quebec), and Chile. Five European countries assign responsibility for the SSE to their Ministry of Labor (Spain, Romania,¹⁵ Italy, Greece, and Luxembourg). France was the first country to create a ministry responsible for the SSE, marking a considerable step forward in terms of the political recognition of this part of the economy.¹⁶

In the Americas, the SSE is assigned to various different bodies: the Ministry of Economy, Development, and Tourism, SME Secretariat (Chile); the Ministry of the Family, Community, Cooperative, and Associative Economy (Nicaragua); the Ministry of Economy, Science, and Innovation (Canada [Quebec]); the Ministry of Social Development and Human Rights (Argentina); and the Ministry of the Popular Power for the Communal Economy (Venezuela).

Besides the ten countries that have assigned the SSE to a government ministry, three other Latin American countries have established a dedicated public agency or administration: the National Institute of Social Economy, within the Ministry of the Economy (Mexico); the National Institute for the Popular and Solidarity Economy (Ecuador); and the National Administrative Department of the Solidarity Economy (Colombia).

Finally, SSE organizations are a more natural part of their local territories than capitalist companies (Parodi 2005), due to their ability to reach local populations, mobilize resources (human, natural, political, and so on), and form relations between different actors. This territorial anchoring therefore justifies taking into account a spatial dimension in the implementation of public policies promoting the SSE, as well as the representations of different actors (Demoustier and Richez-Battesti 2010; Huens and Mortier 2012). The extent to which this consideration is taken into account varies greatly from country to country. Eleven countries have integrated it in law, in its devolved and/or decentralized form and in its content.

(15) In the particular case of Romania, the law requires the double creation of a specific department within the Ministry of Labor, Family, Social Protection, and the Elderly, as well as a dedicated section within the National Employment Agency.

(16) However, since the first Philippe government came to power, the SSE no longer has a direct connection with the French government.

These countries are Spain, France, Romania, Italy, Colombia, Brazil, Ecuador, Mexico, Nicaragua, Argentina, and Canada (Quebec).

More convergence than divergence

Framework laws to govern the SSE (whether they have already been passed or are still being debated) are becoming more common, appearing on almost every continent, although, for now, Europe and Latin America are leading the way. Putting such laws into place has undeniable advantages (which may be stated as objectives), two of which deserve our particular attention. Firstly, delimiting the scope of the SSE helps to highlight the added value of such laws in relation to existing legislation, which is often fragmentary and based on different statuses and sectors of activity. Secondly, the SSE is given more institutional structure with the implementation of representative and advisory bodies, as well as systems to ensure that SSE organizations are following the fundamental principles of the sector.

These two objectives are pursued in different ways in different countries. The divergences mostly concern the terms used, the legal forms of organization offered, the institutional framework, and the commitments made by the state. It should be noted that these divergences arise from the different legal culture and socio-economic context in each country.

There are also many points of convergence, especially the significant participation of public authorities. This is due to the major role the sector plays in resolving specific problems that are the responsibility of the state, but that the traditional private sector has no interest in, due to a lack of potential profitability. Even though the existence of a specific law does not necessarily mean that its provisions will actually be applied, or that the SSE will be active in practice, these laws are nevertheless signs that governments “recognize the need to rethink development. Business-as-usual has not prevented the recent financial and food crises, climate change, persistent poverty and rising inequality” (TFSSE home page).

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