

Time for a proper recognition of social economy enterprises in the EU

This paper lays out AIM members' position on the key concepts of 'social economy' and why mutuals fit in this category and why it is important to have a clear definition. The paper also outlines the specific policy needs of social economy enterprises with a focus on mutuals.

1. *The landscape of social economy enterprises*

Social Economy is an important and growing contributor to the overall economy of Europe.¹ The social economy unites a diversity of organisations such as mutuals, cooperatives, foundations, associations, paritarian institutions and social enterprises. All social economy enterprises, ranging from SMEs to large companies, share common values and characteristics that define a virtuous economic and enterprise model: primacy of the individual and the social objective over capital; voluntary and open membership; democratic governance; combination of interests of members/users and/or the general objective; defence and application of solidarity and responsibility; autonomous management and independence from public authorities and reinvestment of most of the profits/surpluses to carry out sustainable development objectives or to provide services of interest to members or of general interest.²

There are more than 2 million social economy enterprises and organisations in the European Union that employ over 14.5 million people; according to the latest estimates the social econo-

my currently accounts for 10% of jobs and 8% of the EU's GDP.³ As recently acknowledged by the European Parliament's report on a European Pillar of Social Rights⁴, social economy enterprises provide a good example in terms of creating quality employment, supporting social inclusion and promoting a participatory economy, furthermore they have proven to be very resilient during the recent economic and financial crisis. For instance, despite the growing number of unemployed people in the EU, the social economy has created 3.5 million jobs rising from 11 million jobs in 2002-2003 to 14.5 million in 2009-2010.⁵ Therefore, it can be said that social economy enterprises make a significant contribution to stimulate employment in the EU⁶ and should be an integral part of any European entrepreneurship or job creation agenda.⁷

According to article 3 of the Treaty of the European Union (TEU), the EU "shall establish an internal market, meaning the creation of the sustainable development of Europe based of balanced economic growth and price stability, a highly com-

1. Evans and Syrett (2007, p. 60).

2. CEP-CMAF Social Economy Charter, 10 April 2002 (Conférence Européenne Permanente des cooperatives, des mutuelles, des associations et des fondations); European Parliament Own-Initiative Report (2008/2250(INI)).

3. GECES Report, Social enterprises and the social economy going forward, October 2016, p. 10.

4. A8-0391/2016

5. Brochure Social Economy Europe, The voice of social economy enterprises and organisations.

6. OECD - Job creation through social economy and social entrepreneurship, p. 20.

7. GECES Report, Social enterprises and the social economy going forward, October 2016, p. 10.

petitive social market economy, aiming at full employment and social progress, and a high level of protection... It shall as well respect its rich cultural and linguistic diversity and safeguard Europe's cultural heritage". During the past years, the European institutions have undertaken several measures to fulfil this duty by supporting and emphasising the importance of social economy enterprises, including mutuals.⁸

In a just recently published report, the GECES⁹ expert group of the European Commission "calls for a better recognition of the social economy and social enterprises in Europe, including in the various national legal systems, building on the traditions of each individual country." At the same time, the expert group invites the European Commission to study the legal and pragmatic implications of a possible use of the "shared"/"mutual" recognition principle. Furthermore, the promotion of social economy enterprises should not only be supported by the European institutions. The expert group asks Member States to commit themselves to recognising the social economy/social enterprise forms which already exist in the legal systems of other Member States.¹⁰

2. *What are the main obstacles to the further development of social economy enterprises and organisations in Europe?*

Terminological confusion: social enterprises as a social economy actor

The European Commission "aims to create a favourable financial, administrative and legal environment for social enterprises so that they can operate on an equal footing with other types of enterprises in the same sector". In 2011, the Commission launched the Social Business Initiative (SBI)¹¹ in which a definition¹² on "social enterprises" was proposed and actions were identified to make a real difference and improve their situation. According to this SBI definition, social enterprises are an operator in the social economy. However, the term "social enterprises" does not cover the rich diversity of the European social economy, active in all the economic sectors and referring to a universe of enterprise and organisation models.

According to the Commission's Social Business Initiative, social enterprises are a social economy actor thus providing social services and/or goods and services to vulnerable persons; and/or enterprises with a method of production of goods and

services with a social objective, such as the work and social integration of vulnerable people. Public authorities should ensure that social enterprises operate in accordance with social economy's values and common characteristics to prevent a misuse of the "social enterprise" concept with a "social washing" purpose.

Access to funding

Because of the differences some social economy enterprises do not fall under the scope of "social enterprises" and do not benefit from better policies, which can lead to market distortions. Although social economy enterprises have access to European Programmes, one of the biggest challenges is to find the right funding opportunities, due to the lack of knowledge about social economy enterprises. A Belgian mutual, for example, which fulfils the requirements of the SBI of the European Commission, would have problems to have access to funds because mutuals in Belgium are not small-and-medium-sized enterprises.

8. Nevertheless, the austerity policy imposed on member states dismantle the welfare states in several countries and are also a threat to the functioning of social economy enterprises (e.g. in Greece, Bulgaria, Romania, Portugal and Spain). Instead of solidarity and cooperation they create poverty and the right of the strongest which makes it difficult to function, for social economy, when the basic human life conditions are not fulfilled.

9. GECES: Commission Expert Group on Social Entrepreneurship

10. Report of the GECES: Social enterprises and the social economy going forward, October 2016, p. 11.

11. Social Business Initiative (COM(2011)682) .

12. Social enterprises are (1) « those for who the social or societal objective of the common good is the reason for the commercial activity, often in the form of a high level of social innovation (2) where profits are mainly reinvested with a view to achieving this social objective (3) where the method of organisation or ownership reflects the enterprises' mission, using democratic or participatory principles or focusing on social injustice."

Social innovation

Social economy enterprises are the engine for social innovation. Social innovation ensures the well-being of people and brings added social value. Because there is no clear definition, most people, when speaking of social innovation, think of new technologies and industry. This leads to the risk to limit public financing to specific innovative practices, although these practices do not necessarily bring more added social value. Social innovation goes beyond technological innovation and includes as well criteria that serve the public interest. Those criteria could be the promotion of social interest, the well-being of people, social cohesion, improvement of quality of life, good health, promotion of equality etc.). Mutuals as part of the Social Economy, are social innovative and contribute to the well-being of people.

Mutuals reliant on a strong base of members engaged in their health and in the democratic process of their mutual are the ideal organisation for social innovations to be taken up. These practices will include new processes, new products and generally new ways of doing things.

An example of innovative product is the offer provided by French mutual MAIF that gives elderly members the possibility to have a device that will put them in relation with emergency services if they fall.¹³ Examples of innovative process are as well the online claim tools that more and more mutuals use and the reliance on online platforms to involve millions of members in the democratic process of the mutual. Furthermore, the Belgian Liberal Mutualities offers partial reimbursement of psychological assistance for youngsters and adults. The French mutual, Mutualité Française, developed a new project for patients suffering from respiratory diseases. A medical advisor in indoor environment trained to identify pollutants and allergens, visits patients in their homes to clarify the diagnosis and implement the appropriate measures. At the same time, this led also to the creation of a new business.¹⁴

Cross-border activities

Furthermore, the lack of recognition of actors in the social economy, including mutuals in many Member States, and the lack of understanding of their status makes it difficult for them to develop

and to engage in cross-border operations.¹⁵ For example, the Belgian Mutual Solidaris and the French mutual MGEN started a partnership in 2012 which included the possibility of providing a common offer to their members. The partnership also foresees exchange of both mutuals on common issues as well as common representation of interests at EU level. However in the case of Solidaris, no services can be provided to French members according to the Belgian law (only allowing Solidaris to have members who live or work in Belgium). The French mutual MGEN is in touch with non-for-profit insurance organisations based in other Member states. By nature, the legal form of these organisations is different from the French legal forms, even though they are fully comparable in terms of missions and funding values. The affiliation process to a mutualist group is therefore made difficult. Mutuals face challenges such as high capital requirements for the launch and functioning of mutual insurance, no access to the market for short-term insurances for a period less than three year and the impossibility to create horizontal groups in the mutual insurance sector. In six European countries (Lithuania, Czech Republic, Estonia, Slovakia, Iceland and Liechtenstein) there are no regulations at all enabling to create mutual. In these countries, as a consequence of the absence of legal tool, the legal barrier to create a mutual is the highest. That's why mutuals and foundations as actors of the Social Economy were lobbying for a European Statute to facilitate cross border activities. Both failed because of the unanimity voting principle in the Council of the European Union.

Soft law

Social economy enterprises received support at European level through various reports such as the Panteia report, resolution of the European Parliament, the GECES report and council conclusions of the Council of the European Union (see above), and through the so-called soft law. On the other hand, there is no hard law or obligatory initiatives.

13. <https://www.maif.fr/particuliers/services-au-quotidien/serelia-teleassistance/serelia-teleassistance.html>

14. FNMF: Les mutuelles, des entreprises sociales au cœur de l'innovation sociale.

15. Report of the GECES: Social enterprises and the social economy going forward, October 2016, p. 33.

3. AIM position and requests

Clear definition for social economy enterprises

The concept of social economy enterprises differs in the different Member States. That's why AIM pleads for a clear definition of Social Economy at European Level and to promote Social Economy. The lack of understanding of social economy enterprises hinders them to have access to funding and to develop in accordance with their core values and organisational forms.

It is important that a kind of minimum standards is accepted at EU level, so that all Members States and European institutions speak the same language.

Common values and characteristics of stakeholders acting in Social Economy

1. People-based entities which develop an activity with to the principal aim of satisfying the needs of people instead of rewarding shareholders as well as ensuring the primacy of the individual and the social objective over capital;
2. Voluntary and open membership
3. Democratic governance
4. The combination of the interests of members/users and/or the general interest strengthened by a sound territorial attachment;
5. The defence and application of the principle of solidarity and responsibility;
6. Autonomous management and independence from public authorities;
7. Most of the surplus is used to carry out sustainable development objectives, services of interest to members or of general interest.

Promotion and integration of Mutual Benefit Societies as a social economy actor in the European Semester and the European Pillar of Social Rights

AIM calls for the social aspect of the market economy and particularly solidarity-based access to healthcare to all through organisations such as mutuals to be promoted and integrated in the European Semester and the Pillar of Social Rights. The European Semester enables the Member States to coordinate their economic policies throughout the year and address the economic challenges facing the EU. Mutual societies play a key role in the European Union to ensure social cohesion, especially in the field of social welfare in which they provide a large variety of services: social and health services as well as health insurance. They stand at the basis of European social protection systems and play a key role within them.

Mutuals are at the forefront of social innovation to meet the need of their members. They play an important role for society providing high quality services and a network of health services for all persons independently from their social status. They

also have their own governance model and their members engaged into the democratic process. Issues of social innovation among mutual societies will be addressed in a paper highlighting examples of good practice to illustrate mutual societies' involvement in the area of innovation.

Mutuals are enterprises in economic terms, they create employment and social values; they provide services to almost 230 million European citizens: hence, they are a powerful factor of economic regulation and social cohesion while the economic and financial crisis deprives states from the necessary resources to pursue solidarity policies. They have little exposure to hazards of financial markets and to speculation and hence proved to be very resilient in times of crises. This is why the promotion of the mutual model is considered as a European issue and should be promoted and integrated in the European Semester and in the Pillar of Social Rights.

Creating a legal framework to help mutuals recognition across Europe

The lack of recognition of actors in the social economy, including mutuals in many Member States, and the lack of understanding of their status makes it difficult for them to develop and to engage in cross-border operations (See above). The existence of a statute for cooperatives and non-existence of a statute for mutuals leads to market distortion. Therefore, the European Commission should give all actors in the Social Economy a tool to operate cross border. AIM asks the European Commission to develop alternatives in the coming years to enable mutuals to operate cross border as it was proposed by the GECES expert group of the European Commission.

The GECES expert group of the European Commission recommends in its report to stimulate cross-border operations of mutuals and cooperatives to enable them to use the full potential of the Internal Market in order to expand their activities. At the same time, the report promises to “investigate alternative ways to remove barriers for mutuals. The European Economic and Social Committee refers to the importance of mutuals in its report from November

2016 and the European Parliament adopted a resolution in 2013, pleading for Statute for a European mutual society. The promotion of social economy enterprises is not only supported by European institutions but by Member States. In December 2015, the council of the European Union adopted conclusions on “The promotion of the social economy as a key driver of economic and social development in Europe”.

Health should not be traded at the free market

AIM and its members request protection of the European social economy and social ‘services of general interest’(e.g. social security, health services, education) against possible negative effects of free trade agreements like TTIP & CETA. The European social economy should not be collateral damage of the free trade agreements and should be excluded from the scope in a clear way.

Guidelines are necessary to support the creation of social economy enterprises”

A legal framework for social economy enterprises including mutuals would be one step to achieve recognition. As already proposed in the GECES report, the Commission should propose legal guidelines or recommendations which could help Member States design an adequate framework to support the flourishing and expansion of social economy enterprises. AIM welcomes the proposal of the GECES group to prepare legal recommendations that

lays down the minimum principles to encourage and support Member States in establishing a dedicated national framework to develop social economy enterprises, including mutuals. Furthermore, the rules of the internal market (free circulation of capital in particular) should apply to actors of the Social Economy. AIM also asks to exclude all social and health services as well as all social benefits from the scope of austerity policies. They dismantle the welfare states in several countries and are also a threat to the functioning of social economy enterprises (e.g. in Greece, Bulgaria, Romania, Portugal and Spain). Decent minimum wages and decent sickness and unemployment benefits should be guaranteed in all European member states.

Expectations towards the EU Presidency

AIM asks the European Union Presidencies for:

A European umbrella legal framework for all social enterprises

A general legal framework for all social enterprises in each EU country would foster the development of social enterprises. A comparison of ex-

isting legal frameworks in different countries in the European Union would help Member States to develop their own legal systems in favour of social enterprises. With regards to the mutuals, such a legal framework would have a positive impact in countries where the mutual form is already recognized. On the other hand, in Member States where the mutual form is not recognized, such a legal framework would not help to introduce the mutual form in this country or to cooperate with mutuals from other Member States.

To ensure the recognition of mutuals in the future, the working group 3 of the Expert group on Social Entrepreneurship of the European Commission (GECES) proposes to develop a European platform, which defines minimum requirements for recognition principles of mutual forms acceptable for all Member States, using the “Social Business Act 2011” as well as a comparison of the most relevant existing laws across the EU as a basis.

The European Commission could use the relevant

information to propose a legal tool to the European Parliament and the Council of the European Union. A framework directive, for example, would guarantee minimum requirements throughout Europe, while Member States are still allowed to maintain or establish more stringent measures. It is less compulsory for Member States than the classical directive and therefore, it might be easier to convince Member States.

Enhanced cooperation

According to article 20 of the Treaty of the European Union (TEU), Member States can establish enhanced cooperation between themselves. It shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. AIM pleads that the European Union may give the tools to those Member States who wish to use such enhanced cooperation to achieve legal recognition for mutuals at European level.

AIM is the umbrella organisation of health mutuals and health insurance funds in Europe and in the world. Through its 64 members from 31 countries, AIM provides health coverage to 240 million people in the world and 209 million in Europe through compulsory and/or complementary health insurance and managing health and social facilities. AIM strives to defend the access to healthcare for all through solidarity-based and non-for profit health insurance. Its mission is to provide a platform for members to exchange on common issues and to represent their interests and values in the European and international Institutions.



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