

# Introduction

## What do we mean by the social and solidarity economy?

**The social and solidarity economy (SSE) has gained global prominence as a driver of job creation and economic activity with social impact.** Based on estimates, in the European Union, social and solidarity economy entities employ over 13.6 million people, which is 6.3% of the total workforce (CIRIEC, 2017<sup>[1]</sup>). In Colombia and Mexico, the SSE accounts for 4% and 3.2% of overall employment respectively (OECD, Forthcoming<sup>[2]</sup>). In addition to job creation, countries are increasingly recognising the contributions of the SSE to the green and digital transitions and to community building at both the national and subnational level.

**The SSE encompasses diverse notions and concepts<sup>1</sup>.** Depending on local context, history and tradition, the social economy, the solidarity economy and the third sector can be used alongside the SSE, though with important differences. These notions have emerged to capture specific types of activity and entities by various groups of stakeholders. While they may overlap on some aspects, they define the SSE and its entities from different perspectives. The SSE has emerged to include both the social economy and the solidarity economy. The term was adopted in the late 1990's to better recognise the common bonds of the social economy and the solidarity economy while recognising their important distinctions (Galera and Chiomento, 2022<sup>[3]</sup>). The SSE is increasingly used by practitioners and academics, as well as at the international level (e.g., the ILO and the UNTFSSSE). This term has also gained traction in recent research as well as national legislation in certain countries (e.g., Bulgaria, France) (OECD, Forthcoming<sup>[2]</sup>). In June 2022, the OECD adopted the Recommendation on the Social and Solidarity Economy and Social Innovation (2022<sup>[4]</sup>), which provides an international standard and policy framework for countries, regions and cities wishing to develop the SSE.

**The SSE is typically made up of entities such as associations, non-profit organisations, cooperatives, mutual societies, foundations, and, more recently, social enterprises. Community-based, grassroots and spontaneous initiatives can also be part of the SSE.** As mentioned in the OECD Recommendation on the Social and Solidarity Economy and Social Innovation, the activity of these entities is typically driven by social objectives, values of solidarity, the primacy of people over capital and, in most cases, by democratic and participative governance (OECD, 2022<sup>[5]</sup>). SSE entities distinguish themselves in two respects: their *raison d'être*, as they primarily address social needs and pursue a social purpose, and their way of operating because they implement specific business models based on collaboration, typically at the local level. More recently, the notion of social enterprise has been added in order to recognise entities that trade goods and services, that fulfil a social objective and whose main purpose is not the maximisation of profit for the owners but its reinvestment for the continued attainment of its social goals (OECD, 2022<sup>[5]</sup>).

## What do we mean by legal frameworks for the SSE?

**Legal frameworks refer to a broad set of legislation applying to the SSE or specific components within it.** In general, legal frameworks refer to statutory<sup>2</sup> laws, *framework* or *specific*, enacted by parliament. Their main objective is to support policy implementation across levels of government through the notions of *obligation* and *enforcement* (Terpan, 2015<sup>[6]</sup>).

**Framework laws for the SSE (or related notions) differ in terms of their main objectives.** They can recognise and promote the SSE; regulate the field, or both. They might outline the principles and values of the SSE, give a context-based definition of it and its entities (e.g. Mexico) and support its scaling up. Framework laws, have flourished in many countries: at national (e.g. France, Greece, Mexico, Romania, Spain, and Portugal) and subnational level (e.g. Province of Québec, Canada) (Poirier, 2016<sup>[7]</sup>). The approach used to clarify the SSE or related notions (e.g., the social economy, the solidarity economy or the third sector), can also vary by country and even region.

**Specific laws apply to SSE entities, namely associations, cooperatives, foundations, mutual societies and social enterprises.** They have significant impacts on the ability of SSE entities to engage in economic activities as they define their legal nature, governance structure and rules (Hiez, 2021<sup>[8]</sup>). In some cases, they might give a broad definition of the social economy (e.g. Luxembourg<sup>3</sup>). In some countries, specific laws have been updated and revised to ensure alignment with and/or implementation of the general principles set out in framework laws (e.g. France<sup>4</sup>).

**Legal frameworks accommodate the diverse legal approaches that countries have adopted regarding the SSE.** They acknowledge the range of legislative options available to policy makers throughout the decision making process (see Annex B for definitions of the social and solidarity economy and similar terms/notions used in legal texts).

## Why are legal frameworks important for the SSE?

**Legal frameworks, when deemed appropriate, can help raise visibility of SSE entities, helping them to gain public recognition** (e.g., France). They can also play an important role in facilitating the development of the SSE, and in some cases, in bringing more consistence among its various components (e.g., Spain). Legal frameworks can also be used to design a comprehensive set of complementary policy measures and facilitate the application of targeted public support schemes (financial and non-financial, tax incentives, etc.) for SSE entities allowing them to develop and thrive.

**They can help mainstream the SSE in public policies.** They can also be used to facilitate cross-sectoral co-operation on SSE policies between government agencies and set mechanisms for representing such public bodies in charge of the SSE that facilitate structured dialogue between authorities and SSE entities. In some countries, specific policy needs, such as job creation, have driven the creation of legal frameworks for the SSE as a whole or for specific types of SSE entities (e.g. social enterprises in Korea).

**Legal frameworks can be developed at national and/or subnational level depending on the administrative organisation of the state, unitary, federal or quasi-federal** (OECD/UCLG, 2019<sup>[9]</sup>; OECD/UCLG, 2019<sup>[10]</sup>). This is usually determined by the constitution. At the subnational level, the development of legal frameworks for the SSE largely depends on the legislative capacity of subnational authorities as well as the strategic priority given to it (OECD, 2020<sup>[11]</sup>). In some countries, legal frameworks at the subnational level have intervened in the absence of national framework or specific laws. In Brazil, there is no federal-level law on the SSE, however, nine states out of 27 have their own SSE laws. In 2013, the Province of Québec in Canada adopted the Social Economy Act.

**However, countries might decide that they are not the most appropriate policy option to support the development of the SSE.** For example, the Netherlands and Poland have developed through different

approaches, strong areas of the SSE without developing comprehensive legal frameworks, thus accelerating momentum in those parts of the SSE that are targeted. In some countries, legal frameworks have constrained the development of the SSE to specific sectors (e.g. social services, work integration) or legal forms (e.g. cooperatives). If not introduced in a timely manner or poorly designed and implemented, they can also inhibit innovation and discourage the uptake of certain types of SSE entities and/or their engagement in certain activities. Legal frameworks can also be politically challenging and slow to develop compared to other policy options, depending on the national context.

## Why is involving stakeholders important in developing legal frameworks for the SSE?

**Stakeholders are important partners for policy makers throughout the development, adoption and implementation of legal frameworks for the SSE.** Each of the following sections in this guide highlight when and how policy makers could/should actively engage with stakeholders to determine whether legal frameworks for the SSE are warranted, identify which legal frameworks are best suited to their objectives and evaluate their performance. It may be simpler and faster for policy makers to develop legal frameworks through a top-down process. Certain countries and regions that developed legal frameworks for the SSE without stakeholder input ultimately failed to meet their full range of needs and often defined the SSE in overly narrow terms (OECD, 2022<sup>[12]</sup>). Consequently, such legal frameworks may have benefitted certain types of SSE entities while constraining the overall development of the SSE ecosystem or excluding certain legal forms, sectors or types of activity (OECD, 2022<sup>[13]</sup>).

**Engaging with a range of stakeholders at different stages of the development of legal frameworks might take different forms. This helps to ensure that policy makers benefit from a diverse set of viewpoints.** SSE entities are active across numerous sectors and use a wide range of legal forms, organisational structures and business models. Consequently, they have a diverse range of needs and challenges and may not be affected in the same manner by a given law. Legal frameworks need to reflect these varied needs. Therefore, it is important for policy makers to identify diverse stakeholders and incorporate them into the stakeholder consultation process. (Box 2.7) provides an overview of stakeholders that should typically be included in any stakeholder consultation related to developing, evaluating or amending legal frameworks for the SSE.

**More broadly, citizens, networks and businesses, among others, can provide valuable insight into the potential impact and performance of a law or regulation.** It is important to enable members of the public to help shape laws and regulations in order to enhance their design and implementation (OECD, 2021<sup>[14]</sup>). Additionally, stakeholders can help to evaluate the performance of laws and regulations once they have been adopted by, for example, providing insight into the cost of complying with legal frameworks or the ease of accessing public support measures (OECD, 2021<sup>[14]</sup>).

## Why might policy makers want to develop legal frameworks for the SSE?

**The steady expansion of the SSE has led many countries to initiate policies, strategies, action plans and legal frameworks to support it** (OECD, 2018<sup>[15]</sup>). The increasing contribution and potential of the field to address the social and economic challenges arising from global trends and the digital and green transitions, have spurred interest in the SSE in many countries and regions. This increased interest is also observed in draft laws (regulations), systems of accreditation such as labels, national strategies and/or plans. Building conducive policy ecosystems, including through the adoption of legal frameworks when relevant, can help to realise the full potential of the SSE and support its active participation to local development at large.

*The OECD Recommendation on the Social and Solidarity Economy and Social Innovation encourages countries to develop and adopt a social economy framework that is supported at all levels of government with a view to scale the impact of their social economy for the benefit of all. One of the building blocks is to set up suitable legal frameworks for SSE entities by:*

- Engaging with social economy organisations to better design legal frameworks for them, including their members.
- Identifying areas where existing legal frameworks disadvantage social economy organisations, compared to other types of economic actors.
- Recognising and promoting different legal forms for social economy organisations, when appropriate, especially for newer types of social economy organisations such as social enterprises.
- Advancing efforts to harmonise definitions for social enterprises in particular, and exploring opportunities for mutual recognition through the use of appropriate labels and certifications or criteria with which social enterprises should comply.
- Encouraging internationalisation strategies of social economy organisations through information sharing, international co-operation, and regulations that facilitate trans-border activities and partnerships with international firms.
- Developing regular evaluation requirements to improve and update laws and policies to evolve with the needs of social economy organisations and including stakeholder feedback as well as qualitative and quantitative evidence.

**The growing importance of the SSE coupled with actions by countries and regions to develop legal frameworks has reinforced the need for international guidance.** The design and implementation of legal frameworks for the SSE can be challenging due to the complex policy making and the diverse understanding around the SSE. Countries have signalled the need for analysis, guidance and international peer exchange to leverage on best practices and experiences to design, scope, define, implement and monitor legal frameworks to further develop the SSE. Understanding the different steps of the legal life cycle and building on learnings from international peer learning can offer lessons especially concerning possible bottlenecks or success factors.

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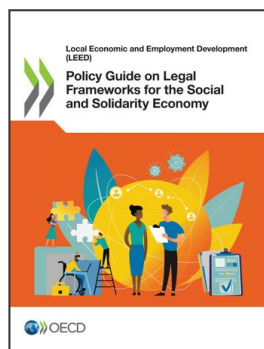
## Notes

<sup>1</sup> Different notions, terms concepts coexist with the social and solidarity economy and are used in different regions and countries (OECD, Forthcoming<sup>[2]</sup>). The term social economy is prevalent in Europe and includes a broad and diverse set of organisational forms (Noya and Clarence, 2007<sup>[16]</sup>; OECD, 2014<sup>[17]</sup>). The notion of third sector is positioned between the state and the market and encompasses organisations that do not qualify as private or public sector entities (OECD, n.d.<sup>[20]</sup>; Mertens, 1999<sup>[18]</sup>; Salamon and Sokolowski, 2018<sup>[21]</sup>). Some countries used this concept when developing their legal frameworks, including the United Kingdom and Italy (Galera and Chiomento, 2022<sup>[3]</sup>). Countries such as Canada (with the exception of the province of Québec) and the United States typically refer to the non-profit sector, which mainly relates to the non-distribution constraint according to which organisations cannot legally redistribute their surpluses to their owners (Defourny, Develtere and Fonteneau, 1999<sup>[19]</sup>).

<sup>2</sup> Statutory law is written law, adopted by parliament. Customary law or regulatory law is adopted by the executive or the judiciary power. Statutory law may originate from national and subnational level.

<sup>3</sup> 2016 Act on Societal Impact Companies.

<sup>4</sup> The 2014 Framework Law on the Social and Solidarity Economy revised or updated other specific laws such as the law on associations: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000029313296>.



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