SOCIAL BUSINESSES - THE MAIN ACTORS IN THE PROCESS OF SUSTAINABLE COMMUNITY DEVELOPMENT

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Abstract:
Social enterprise means an organization which aims principally to ensure/providing the welfare of the community, created at the initiative of a group of citizens and where the interests of those who invested capital are limited. It is an independent organization which assumes economic risks, arising from economic activity conducted and involves various actors interested in the community in management. A social enterprise works as a company, it produces the goods and services they offer on the market, but it conducts operations and redirects the surplus in order to achieve goals social, cultural or environmental protection goals. The purpose of this work is to demonstrate that social enterprises can be components of sustainable community development. Support this premise is to identify the coordinates of the theoretical concept of social enterprise, the criteria to be satisfied by a society that can be classified in this category, identify the legal framework underlying the establishment and development of social enterprises as well as the identification of all the legal forms can be a social enterprise.

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1. The new social economy. Social enterprises

Social enterprises are considered as a group of organizations that are at or close to the border for profit private sector, touching and so their social purpose, at least by carrying out commercial activities on the market [1]. The term social enterprise is of American origin and means the nonprofit organizations that have moved away from traditional forms of income (financial aid, donations), heading towards the closest approach of business to earn income.

Social enterprises are new types of social economy organisations that emerged over the past 20 years, and constitute what some call the new social economy [8].

The definition of social enterprise has been made by the European research network EMES (1999), on the basis of the following principles [11]:

- ✓ activity continues to produce goods and/or services for sale;
- ✓ high degree of autonomy; significant level of economic risk;
- ✓ a minimum of paid work;
- ✓ initiative launched by a group of people;
- ✓ decision-making power is not based on capital property;
- ✓ the nature of participatory, involving the people affected by activity;
- ✓ limiting profit distribution;
- ✓ the explicit purpose of community benefit.

According to this definition, social enterprises are collective initiatives whose purpose is to explicitly bring community benefits through continuous production activities, goods/services, are based on a minimum of employees (not solely on volunteers), democratic control, a high level of financial risk derived from the fact that the company's revenues are achieved mainly through market mechanisms (direct sales or through contracts with

public authorities). A major area of intervention of the european social enterprises represent the professional and social integration of vulnerable groups.

The Mission of the State-owned enterprises has a collective character, as opposed to individual, private interests: the needs/interests of disadvantaged groups to the needs/interests of the community as a whole. Social enterprises do not have as yet a legal recognition, being presented in Romania in the form of protected units, independent organizations or departments with their own management within it that have at least 30% of the total number of employed persons with disabilities placed with individual labour contract; the units can be set up by individuals or legal entities, public or private, regardless of their form of ownership or organization.

In order to be authorized as a unit, the applicant must fall within one of the following situations[5]:

- ✓ economic operators with legal personality irrespective of their form of ownership and organization, that have at least 30% of the total number of employed persons with disabilities placed with individual labour contract;
- ✓ sections, workshops or other structures of the economic operators, public institutions or non-governmental organizations, which have their own management and at least 30% of the total number of employed people with disabilities falling and payroll;
- ✓ disabled person authorized by law to carry out independent economic activities, including family Association which has constructed a disabled person. There are included individuals with disabilities approved on the basis of special laws, working both individually and in one of the forms of organization of the profession.

Only protected units which are governed by private law may be regarded as State-owned enterprises, according to the principles of the social economy.

On March 30, 2012 there were 567 protected units within which the working 1577 people with disabilities. Currently, according to the national authority for Persons with Disabilities, in Romania there are 602 units protected activities in services (cleaning, business consulting, sales), manufacturing industries (furniture, stationery) or in both fields[9].

Regardless of the results of his mission, any undertaking must account for entrances and exits, the benefits, the way of distributing them to report and to submit the accounts of its stakeholders. Accounting performance social enterprises is more complicated, because you have taken into account both the economic dimension and the social dimension, the social enterprise being responsible in front of the whole community, not just of her direct shareholders [6].

To identify organizations which may be referred to as social enterprises to identify the following common criteria[19]:

Economic criteria:

- ✓ social enterprises are directly and continuously involved in the production of goods and/or services and this is one of the main reasons of their existence;
- ✓ high degree of autonomy;
- ✓ significant level of economic risk;
- ✓ minimum volume of paid work (mostly volunteers).

Social criteria:

- ✓ the explicit purpose to benefit community;
- ✓ initiative launched by a group of citizens;
- ✓ participatory nature involving the various parties affected by activity;
- ✓ limited distribution of profits.

2. The legislative framework, the human and financial resources and the necessary documents provision of State-owned enterprises

In Romania, social enterprises can identify in more legal forms of organization, depending on the desire of those who establish and distinct rules of registration and operation. For the choice of one or other of the existing legal forms necessary to take account of the following aspects: [6]

- ✓ nature of the activity to be carried out within the enterprise and its development possibilities;
- ✓ the number of future business partners, the degree of involvement and responsibility assumed;
- ✓ social capital available in comparison with the necessary;
- ✓ the characteristics of each legal forms in accordance with the legislation in force;
- ✓ the quality of the members: producers, consumers, workers, etc.

Considering all aspects of the above-mentioned entrepreneurs may choose one of the following forms of organization which are distinguished by the structure of the property, the method of administration, and the competency of profits:

- ✓ associates;

- ✓ foundations;
- ✓ cooperative societies;
- ✓ non-banking financial institutions (credit unions, mutual aid);
- ✓ companies;
- ✓ other specific legal forms of social economy (farming societies and mutual insurance societies).

Knowledge of the legislation in force allows you to choose that type of social enterprise that best fits your business idea and available resources[6]. The following are the main regulatory acts, human and financial resources and the necessary documents of social enterprise, differentiated by forms of organization.

Association/ Foundation

Associations are important players in the development of the European Union and no progress can be achieved without building a social and political project for Europe, without the participation of citizens and social actors[20]. They assume a social role and are involved in the development of collective actions, local development, sustainable development for the people, thereby ensuring a genuine social productivity[19].

Foundations, according to the definition of EFC-European Foundation Center [13]:

- they are non-profit organizations formed separately, which have their own reliable source of income, usually but not exclusively from the endowment or capital;
- they have their own leadership Committee;
- they use their financial resources for educational purposes, health, social, cultural, and research-oriented or otherwise, to the benefit of the public, either through the provision of financial support to third parties, either through their own programs and projects.

✓ *Legal framework:* O.G. no. 26/2000 regarding associations and foundations, with additions and amendments;

✓ *Human and financial resources necessary for the establishment of a:*
- *associations:* minimum 3 members and registered capital equivalent to the value of a minimum gross salary per economy;
- *foundations:* at least one Member and registered capital or assets should include goods in kind or in cash, whose total value should be at least 100 times the minimum wage per economy;

✓ *Documents needed for the establishment:*
- check availability and reservation company name and/or emblem;
- memorandum of Association;
- certificate for Office/Head Office;
- supporting acts for the establishment of;
- certificates of good conduct for associates and tax administrators or legal representatives;
- proof of payment of legal fees and charges;
- application for entry in order to gain the legal personality of an Association/Foundation.

Cooperative societies

The cooperative can be identified as an enterprise founded freely, owned and controlled by a group of legal entities, in order to obtain mutual benefits in an equitable manner, that arise from the activities of the enterprise, and not primarily from investment in it [3]. Cooperative enterprises are set up with a double purpose: to achieve economic success and to meet social objectives [20]. They are based on the following principles:

- voluntary and open membership;
- democratic control of the members;
- economic participation by members;
- autonomy and independence;
- cooperation among cooperatives;
- care for the community.

✓ *Legal framework:* Law no. 1/2005, on organisation and functioning of the cooperative, with additions and amendments;

✓ *Human and financial resources necessary for the establishment:* a minimum of 5 members and social capital: 500 ron;

✓ *Documents needed for the establishment:*
- application for registration;
- check availability and reservation company name and/or emblem;
- memorandum of Association;
- certificate for Office/Head Office;
- evidence for making payments are underwritten and/or contributions paid;
- identity documents for founding members, Trustees, empowered audit;
- declaration on honour of founding members, administrators, reportedly, appointed persons, proof that they fulfil the conditions laid down by law for the holding of the social enterprise;
- declaration on honour of founding members, administrators, reportedly, appointed persons, proof of express acceptance of the mandate in the social enterprise;

- certificates of good conduct for associates and tax administrators or legal representatives;
- obtaining specimens of signature;
- certificate issued by the censors for furnished;
- proof of payment of legal fees and charges;
- additional documentation (if necessary, at the request of O.R.C.).

Non-banking financial institutions

The homes of workers mutual aid associations without patrimonial purpose are held on the basis of free consent of employees, in order to support and helpfulness of their members. Members of a House employee mutual aid can only be employed individuals. The homes of workers mutual aid operates exclusively with its members [23].

Mutual aid houses of pensioners are the civic organisations, legal persons governed by private law of a non-governmental, apolitical, with purpose of charity, mutual aid and social assistance [14].

Credit cooperative is a credit institution founded as an autonomous association of persons United voluntarily to meet their common needs and aspirations for economic, social and cultural, whose business is conducted, in particular, on the principle of mutual aid cooperative members[24].

✓ *Legal framework:*
- *house of mutual aid to employees:* Law no. 122/1996 concerning the legal regime of mutual aid houses of employees and their unions, with additions and amendments;
- *House of mutual aid to pensioners:* Law no. 540/2002 regarding mutual aid houses of pensioners, with additions and amendments;
- *credit cooperative OUG no. 99/2006 concerning credit institutions and capital adequacy, with additions and amendments*;

✓ *Human and financial resources necessary for the establishment:* at least 1,000 members and registered capital established by the National Bank of Romania, but no less than 5 million euros.

✓ *Documents needed for the establishment:*
- application for registration;
- check availability and reservation company name and/or emblem;
- memorandum of Association;
- certificate for Office/Head Office;
- authorization for the formation of cooperative credit;
- evidence for making payments are underwritten and/or contributions paid;
- identity documents for founding members, Trustees, empowered audit;
- declaration on honour of founding members, administrators, reportedly, appointed persons, proof that they fulfil the conditions laid down by law for the holding of the social enterprise;
- declaration on honour of founding members, administrators, reportedly, appointed persons, proof of express acceptance of the mandate in the social enterprise;
- certificates of good conduct for associates and tax administrators or legal representatives;
- obtaining specimens of signature;
- prior approval for leaders emerging from the Central House or, where appropriate, of B.N.R.;
- proof of payment of legal fees and charges;
- the Act of registration of the legal persons founders;
- proof of Association decision.

Company

The company can be defined as *a group of persons formed on the basis of a contract for society and having legal personality which associates common to understand certain goods to practise acts of trade, for the purposes and benefits of sharing results* [4].

✓ *Legal framework:* Law no. 31/1990 regarding companies, republished, with subsequent amendments and additions.

✓ *Human and financial resources necessary for the establishment:* the number of members is at least 2 at public limited companies and an associate at limited liability company, and social capital may not be less than 25.000 euro to the first category of companies and less than 200 lei at the second.

✓ *Documents needed for the establishment:*
- application for registration;
- check availability and reservation company name and/or emblem;
- memorandum of Association;
- certificate for Office/Head Office;
- the Association of owners or tenants, in the event that it is necessary to;
- the neighbors (or more precisely the trackside dwellers of vertical and horizontal space) in the event that it is necessary to;
- evidence for making payments are underwritten and/or contributions paid;

- identity documents for founding members, Trustees, empowered audit;
- declaration on honour of founding members, administrators, reportedly, appointed persons, proof that they fulfil the conditions laid down by law for the holding of the social enterprise;
- certificates of good conduct for associates and tax administrators or legal representatives;
- obtaining specimens of signature;
- statement (form O.R.C.) signed by one of his associates (model statement associated with/without work at Head Office);
- proof of payment of legal fees and charges;
- power of Attorney given by the partners or by the majority of the persons responsible for associate to submit the dossier to the O.R.C.-certified;
- tax vector.

Thus, given the strict procedure for setting up the necessary documents and we can say that associations and foundations are social enterprises have the simplest procedure of bureaucratic point of view, at the opposite pole is non-banking financial institutions to establish which further documents are required from the House or from the Central National Bank of Romania.

Setting up a social enterprise is not dependent on the existence of its members persons who belong to certain vulnerable groups, but, considering however, that of all employees at least 30% are persons belonging to these groups.

3. Conclusions

Social enterprise is not a novelty for the academic world or the international practice of using specific mechanisms, private environment in meeting social needs. Social enterprise has its usefulness and necessity for retrieves (by adapting the Organization's private mission to satisfy current social needs) and the nonprofit sector (through the adoption of sustainable business methods of the Organization).

Such, social enterprises are considered to be key actors in sustainable community development process due to their effects on the welfare of their members. The positive impact on community development is due to the following *aspects**:***

- ✓ *it stimulates local economic development* - they are employers locally and they mainly use community resources;
- ✓ *it decreases poverty* - social enterprises creates jobs locally thereby reducing unemployment; in their framework can be employed disabled persons, ex-convicts, single mothers, young post-institutionalized, long-term unemployed, people with a lower education level etc; provides training for people who have a low level of qualification;
- ✓ *it provides socio-medical services - in rural and poor communities, socio-medical services are offered with difficulty by the public system because of a lack of staff and infrastructure and in very small degree by the private sectors due to the lack of the possibility to get the profit*;
- ✓ *it achieves social inclusion of vulnerable groups*;
- ✓ *it developes social and cultural community capital*;
- ✓ *it is protecting the environment - recycling, ecotourism, environmental education*, etc.

The approach of social market economy of the European Union the work of social enterprise characterizes its action context, based on the principles of freedom and social security. The European Union creates conditions favourable to the development of social undertaking at Member State level, by regulating the european regulatory framework, institutional framework, the financing and development of specific programs.

In Romania, social enterprises are faced with[7]: the lack of programmes to support the protected units authorised, including the non-refundable funds intended for them; unfair competition made by the protected units authorised by the society with limited liability which practise dumping prices (sale of products below the price of production); difficulties in adapting to clients' requirements and protected units authorised yield; the bureaucracy; the lack of interest of traders in the conclusion of contracts of law 448/2006;uncertain legal framework; poor sales of the products protected units authorised it produces; the lack of specialists in certain segments: workshops, promotion, market research.

Social enterprises identified in The Eropeană are three types of funding sources and grants from the State budget, sponsorships (in which were included and the donations and gifts) and income (from the sale of products\/services, contributions from members, dividends, inheritance, etc.). Their own sources of funding may demonstrate the economic nature of the activity of the undertaking, given the fact that they engaged in producing and marketing goods and services. In all national laws examined are provided their own sources of funding of economic activities. They support social enterprise to provide independence toward other actors such as private companies or public institutions. It continues producing own resources allows a continuous activity, stable and prosperous.

Social enterprises combine the mechanisms required to obtain profits and achieve new revenue for its

members with the promotion of social solidarity and the creation of stable jobs for members of vulnerable groups. They have an important role in economic development in general and sustainable community development, the efficient use of local resources and last but not least the protection of the environment.

In conclusion, social enterprises represent a useful tool in the implementation of the strategy Europe 2020 objectives with regard to the economic growth that it has taken Romania as a Member State of the European Union.

4. Bibliography

[1] Smith, G., http://www.crida-fr.org/03_actualites/stream%203/1%20-%20ISTR-EMES_paper_SmithG.rtf.;

[2] Borzaga, C. & J. Defourny, eds., *The Emergence of Social Enterprise*, London and New York, Routledge, 2001;

[3] Parnell, E., *A New Look at Cooperatives and Their Role in Developing Countries*, în Small Enterprise Development, Volume 13, No. 1, March, 1992;

[4] Cărpenaru, St.D., *Tratat de drept comercial român*, Editura Universul Juridic, Bucuresti, 2012;

[5]***http://www.undp.ro/libraries/projects/Ghid_UNDP_RO.pdf - Ghid de bune practici în dezvoltarea întreprinderilor sociale pentru comunităţile de romi, Proiect cofinanţat din Fondul Social European prin Programul Operaţional Sectorial Dezvoltarea Resurselor Umane 2007-2013. Investeşte în oameni!, Bucureşti, 2012;

[6]***http://www.ies.org.ro/resurse/resurse-ies/ghidul-managerului-de-intreprindere-sociala–Ghidul managerului de întreprindere socială, Proiect cofinanţat din Fondul Social European prin Programul Operaţional Sectorial Dezvoltarea Resurselor Umane 2007-2013. Investeşte în oameni!, Bucureşti, 2012;

[7]***http://www.iccv.ro/ - Stănescu S. M., De la idee la profit: cum să înfiinţezi o întreprindere socială în România? – manual de intervenţie, Editura Expert, 2012;

[8]***http://www.ies.org.ro/resurse/resurse-ies/atlasul-economiei-sociale-editia-2012 - Constantinescu Ş., Atlasul economiei sociale, România 2012, Proiect cofinanţat din Fondul Social European prin Programul Operaţional Sectorial Dezvoltarea Resurselor Umane 2007-2013. Investeşte în oameni!, Bucureşti, 2012;

[9]***http://www.altreileasector.ro/unitatile-protejate-in-romania-adevar-sau-provocare/;

[10] ***http://alaturidevoi.ro/ - Fundaţia Alături de Voi, Romania;

[11] ***http://www.emes.net/index.php?id=203 – European Research Network;

[12]***Legea nr. 1/2005 privind organizarea şi funcţionarea cooperaţiei, cu completările şi modificările ulterioare;

[13]***Ordonanţa de Guvern 26/2000 privind asociaţiile şi fundaţiile, cu completările şi modificările ulterioare;

[14]***Legea nr. 540/2002 privind casele de ajutor reciproc ale pensionarilor, cu completările şi modificările ulterioare;

[15]***Legea nr. 346/2004 privind stimularea înfiinţării şi dezvoltării întreprinderilor mici şi mijlocii;

[16]***Hotarare nr. 829 din 31 iulie 2002 privind aprobarea Planului national antisaracie şi promovare a incluziunii sociale;

[17]***Ordinul nr. 1372/2007 al Ministerului Muncii, Familiei şi Protecţiei Sociale privind aprobarea Procedurii de autorizare a unităţilor protejate;

[18]***Legea nr. 448/2006, republicată, privind protecţia şi promovarea drepturilor persoanelor cu handicap.

[19]***http://www.economiesociala.anr.gov.ro/, *Economia socială şi grupurile vulnerabile*, Proiect cofinanţat din Fondul Social European prin Programul Operaţional Sectorial Dezvoltarea Resurselor Umane 2007-2013, Axa prioritară 6 – Promovarea incluziunii sociale, Titlul proiectului: *Participarea grupurilor vulnerabile în economia socială*, Bucureşti, 2010;

[20]***http://www.co-opseurope.co-op/spip.php?rubrique;

[21]*** http://www.socialeconomy.eu.org/spip.php?rubrique201&lang=en, *Social Economy Europe;*

[22]*** http://www.efc.be/Legal/Documents/Facts_Figs_publication.pdf., *EFC - European Foundation Center;*

[23]*** Legea nr. 122/1996 privind regimul juridic al caselor de ajutor reciproc a salariaţilor şi al uniunilor acestora, cu completările şi modificările ulterioare;

[24]***OUG nr. 99/2006 privind instituţiile de credit şi adecvarea capitalului, cu completările şi modificările ulterioare.