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Theoretical foundations of
social enterprise, cooperative
and voluntary action principles
and values: Complimentarities,
contradictions and their
implications

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Thematic Line 1. Theoretical foundations of social enterprise, cooperative and voluntary action principles and values: Complimentarities, contradictions and their implications

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Translating definition criteria into legal provisions: Social Cooperative Enterprises of Law 4430/2016 in Greece

1. Introduction

This article falls within the relevant literature on the definition and classification of social enterprises (SEs). It addresses the interrelation between definition criteria for social enterprises and legal forms adopted for their institutionalization. In particular, we analyze the existing legal person of Social Cooperative Enterprises in Greece in all its envisaged variants according to the three subsets of indicators developed by the EMES research network. The selection of social cooperatives lies in the centrality they often possess in the institutionalization process of social enterprises in many European countries.

First, we revisit the debate on the definition of social enterprises by endorsing their distinctive character as elaborated within the EMES research network. We transform the three subsets of indicators proposed by the EMES network (economic/entrepreneurial, social and participatory governance) into expected legal provisions for social enterprise legislation following the similar work of other scholars. In other words, we translate the three subsets of indicators into analytical axes and construct a typology of expected legal provisions included in each indicator. Second, we provide an overview of the context within which the new Law on Social and Solidarity Economy in Greece was adopted and offer a snapshot on the current status of registered actors. The main focus lies on the legal form of the Social Cooperative Enterprise. Therefore, in the third section we examine the provisions for this type of enterprise with the help provided by the analytical matrix matching the EMES sets of indicators with legal provisions. In the concluding section, we discuss the issues inherent in the difficult process of transforming definitions, principles and values into legal forms and provisions. More importantly, we highlight critical areas of dispute concerning the legal operationalization of definitions, principles and values.

2. Institutional variability in the institutionalization of Social Enterprises

This paper does not intend to contribute to the extensive literature on the definition of social enterprises and/or social entrepreneurship (Alter, 2007; Bartlett, 2005; Boschee & McClurg, 2003; Dees, 2001; Defourny & Nyssens, 2016; Emerson, 2003; Jones & Keogh, 2006; Kerlin, 2010; Martin & Osberg, 2007; Nicholls, 2006; Spear, 2006; Seanor & Meaton, 2007). This extensive literature has already identified parameters, analytical axes and/or dimensions according to which the endeavor of SE definition could be undertaken. Indicatively, these parameters include reliance on market income (earned-income strategy or mission driven business), blended value, social innovation, social mission, motives, values, and/or participatory governance.

The ideal type of Social Enterprises constructed in the framework of the EMES approach allows for multiple dimensions to guide our understanding of social enterprises in a framework of three sets of

indicators (Defourny & Nyssens, 2012). It is helpful to remind these indicators as they will form the building block of our analysis in the following.

Table 1: The EMES approach to social enterprises

Economic – entrepreneurial	Social	Participatory Governance
Continuous economic activity	Explicit aim to benefit the community	A high degree of autonomy
A significant level of economic risk	Collective initiative (launched by a group of citizens or civil society organisations)	A decision-making power not based on capital ownership
Minimum amount of paid work	A limited profit distribution	A participatory structure involving various parties affected by the activity

Source: Defourny & Nyssens (2012, p. 9).

In terms of the economic-entrepreneurial dimension, we are trying to capture a certain level of reliance on the market. This is effected through: a) a continuous activity differentiating SEs from other charity organizations with sporadic productive activities (i.e. sheltered workshops for disabled persons in Greece), b) the undertaking of economic risk (part of the income is based on market transactions not necessarily of the mainstream impersonal type but also including market-like transactions with the wider public sector through socially responsible public procurement), c) the involvement of paid workers (employees) and as such not an exclusive reliance on volunteers.

In terms of the social mission, the analysis involves the demarcation between mutual and general interest as well as the very definition of the social in this framework. These features may be captured through the nature of the productive activity undertaken, the organization of productive relations (horizontality, inclusiveness, etc.) and/or with the goal of wider socio-economic transformation in the direction of economic democracy, social equity and environmental sustainability. The collective character follows the distinctive conceptualization of Social Enterprises in Europe emerging as internal dynamics within the third sector and not simply as endeavors of benevolent individuals as is often the case in the US. The limited profit distribution safeguards the commitment to the general interest and social mission against isomorphism with for-profit business ventures. The safeguards, such as asset lock and/or profit-distribution constraints, ensure the operation of SEs according to a different logic than the mainstream capitalist enterprise.

In terms of the participatory governance, the relevant indicators stress the autonomy of social enterprises from public sector entities and/or profit-maximizing enterprises. Therefore, there must be safeguards in the ownership and/or decision-making processes even when funding is secured from these sources (public subsidies, donations, etc.). The quest for economic democracy is captured through decision-making power not matching capital shares but ensuring the equal representation of members. The last indicator illustrates the tendency of many social enterprises in Europe to actively involve all types of stakeholders into their ownership and/or governance structure.

The literature on the emergence of social enterprises (indicatively Defourny & Nyssens, 2006; Kerlin, 2006) has also made clear the inherent variability of SE traditions and models not only at the international level but also within each national context. It seems rather accommodative in this regard to allow for this variability to flourish while constructing analytically useful typologies of SE models (Defourny & Nyssens, 2016). According to this approach, social enterprises may emerge as public spin-offs, as mutual associations moving towards the general interest and market income, as

traditional cooperatives pursuing the general interest while safeguarding the distinctive character of their cooperative identity, as entrepreneurs and SMEs explicitly endorsing a social mission in their core function.

This variability of SE models matches their institutionalization process in various countries (Fici, 2015). In particular, there are countries without a distinct legal form for social enterprises or endorsing the open form model according to which any legal person is entitled to be registered as a social enterprise given the fulfillment of specific criteria (Cafaggi & Iamiceli, 2008). In the case of Finland, this criterion has to do with the employment of a certain percentage of disabled and disadvantaged persons. In other cases (i.e. Belgium, Coates & Van Opstal, 2009), Social Enterprises are regulated via legal forms based on company law. It is also important to note that we can detect more than one legislative model in one country. For example, Italy apart from the law on Social Cooperatives (Law 381/1991), has also instituted an open model with the introduction of the legal status of social enterprise by Law 118/2005 and Legislative Decree 155/2006 and its subsequent amendment by Law 106/2016 'reforming the "third sector"' and in particular the Legislative Decree 112/2017 (European Commission, 2020).

The inherent variability of SE models might actually imply the preference of the open model to the introduction of a specific legal form of incorporation. After all, it allows each initiative to opt for the legal form most suited to its purpose and *modus operandi* while it significantly facilitates the entry and/or removal of the SE legal status without the conversion or dissolution of the incorporation (Fici, 2017). However, the introduction of a distinct legal form offers certain advantages which cannot be easily disregarded. First, and self-evident, it highlights the distinct identity of social enterprises in relation to any other type of legal entity. Second, the legal forms either of the non-profit or the for-profit organizational law do not normally accommodate the hybrid nature of social enterprises (Fici, 2015). On the one hand, associations in many legal traditions do not allow for the regular conduct of business activities. On the other hand, mainstream company law does not capture the centrality of the social mission and does not offer safeguards for its continuous enforcement. In fact, an open question is posed on the potential conflict between, on the one hand, the provisions acknowledging inalienable, fundamental rights of the shareholders (such as the right of profit distribution) and other core characteristics prescribed for capitalist companies under company law and, on the other hand, the provisions on the social enterprise legal status, along with the criteria that have to be fulfilled.

Accepting the need for a distinct legal form, the next question is whether the cooperative or the company legal form better captures the distinctive nature of social enterprises. The cooperative legal form may be more accommodative to the hybrid and distinct nature of social enterprises given certain adaptations (Fici, 2015; 2017). Cooperatives were indeed the legal form chosen in the first institutionalization process of social enterprises in Italy. Apart from this legacy, cooperatives may better serve the criteria of social enterprises given their democratic governance, openness to new members, joint ownership and control by members and social orientation through cooperation with other cooperatives and a commitment to benefit the community as manifested in the International Cooperative Principles.

In the following section, we propose a 'translation' of the indicators proposed by the EMES approach for the definition of social enterprises into broad areas of legal provisions for social cooperatives (Cafaggi & Iamiceli, 2008; Fici 2015 & 2017; Galera & Borzaga, 2009). That is, we intend to locate the broad thematic lines where these indicators might be detected when assessing distinct legal entities of social enterprises adopting the cooperative form.

3. Translating definition criteria into legal provisions

The indicator of continuous economic activity is to be detected in the very definition of the Social Enterprise and/or be implicitly deducted by the scope of enlisted productive activities under the law. In addition, the continuity of the economic activity may also be of concern for the legislator through provisions that tackle the issue of the SE's inactiveness, defined as the lack of any economic activity undertaken by the SE for a period of time. Such provisions may also be accompanied with sanctions, in case the SE's inactiveness exceeds the specified in the law timeframe. With regard to the economic risk inherent in any business endeavor, provisions referring to eligible sources of income including market transactions as well as liability in the case of debt are of relevance. For the requirement of paid work, the focus lies on provisions specifying the employment relations and volunteer activity within SEs as well as special accommodations for employees from eligible target groups in the particular case of Work Integration Social Enterprises.

The legal provisions associated with the subset of social indicators are tricky because the social dimension transcends many aspects of the social enterprise while its exact meaning is difficult to capture. Social enterprises are expected to have a clear cut social purpose. This is the centrality of the social mission at least in the European approach of the subject (Defourny & Nyssens, 2016). This social purpose is usually defined by the pursuit of general interest in comparison with the mutual interest pursued for the sake of its members in traditional cooperatives (Fici, 2015).

The most straightforward way to detect the social purpose is the nature of the productive activity undertaken. Most commonly, the social purpose implies activities of social utility. It is important, however, to remind that the provision of social services does not suffice per se for the definition of a social enterprise. After all, many for-profit providers have entered this market in the context of the austerity measures and the dismantling of many welfare states especially in Southern Europe (Adam & Papatheodorou, 2016), raising, thus, the question of the privatization of social protection systems. Therefore, the social dimension cannot be entirely captured by a sole focus on the type of productive activity. As clearly illustrated by Fici (2015), a cooperative providing care services to the elderly with the intention to secure the maximum salaries for its members-workers may well be a worker cooperative but not a social cooperative. The latter presupposes that the provision of elderly care intends to cover the maximum possible number of aged persons without exclusion. It may also relate to social innovation processes including the articulation and fulfillment of new social needs and/or the development of new productive relations and organizational models (Defourny & Nyssens, 2016). In other words, the social dimension may imply improving access to rights and services for certain social groups and/or the involvement of service users in the design and provision of social services. Last but not least, the social may be derived by the inclusion in the productive activity of social groups facing exclusion from the labour market as in the case of Work Integration Social Enterprises (Galera & Borzaga, 2009). In such enterprises, the productive activity serves the need to accommodate these social groups and is not in itself social in the strict sense of the term.

The collective indicator of the social subset is part and parcel of the European approach to social enterprises as developed by the EMES network. In contrast with the social entrepreneurship approach dominant in the US context, the European approach stresses the collective dynamics behind the emergence of social enterprises. These collective dynamics include the transformation of existing social economy actors such as traditional cooperatives towards more

general interest purposes and multi-stakeholder governance models in the form of social cooperatives (Defourny & Nyssens, 2014). They may also involve new dynamics within the non-profit sector towards the enactment of economic activities able to sustain their operations as has been stressed by the earned-income approach of social enterprises (Boschee & McClurg, 2003). In any case, the distinction from the focus on the individual social entrepreneur presupposes a minimum number of founding members reflecting the collective character of these organizations which in case of falling below the legally binding threshold provides grounds for SE's dissolution. Collective dynamics may also be found in the ability to include legal persons of the public and/or private character. The inclusion of public sector bodies may reflect dynamics in the public sector as in the case of public spin-offs while the inclusion of third sector organizations may reflect the setting up of SEs by third sector organizations (moving from advocacy to productive activity). When legal provisions do reflect the institutionalization of these dynamics, restrictions should be foreseen in order to allow for the relative autonomy of social enterprises as we will explain in the following.

Limited profit distribution further safeguards commitment to the centrality of the social mission. Traditional cooperatives respect profit distribution constraints which manifest their distinction from other, for-profit, legal entities (Fici, 2015). The demarcation between surplus (positive economic result stemming from transactions with members) and profit (positive economic result stemming from transactions with non-members) guides different allocation processes. Whereby, surplus may be allocated to members according to their transactions with the cooperative and not in accordance with capital share, profit cannot be distributed to members. In the case of social enterprises, stricter constraints are in place often forbidding even the allocation of surplus to members in order to further instill commitment to a wider general purpose. The non-distribution constraint does not only cover periodic dividends to members, but safeguards asset lock in all potential circumstances including the distribution of reserves and the devolution of residual assets in case of liquidation/conversion/dissolution (Fici, 2017). Further legislative restrictions may also apply to remuneration levels in order to protect against indirect profit distribution through above-market salaries and compensations.

Turning to the issue of the autonomy of social enterprises, this relates to both public and private sector entities (Defourny & Nyssens, 2014). Fici (2017) rightly stresses that exclusive attention to autonomy from the public sector may undermine the relative autonomy of social enterprises from private profit-maximising entities especially when SEs are regulated under the company legal form. Therefore, we expect the relevant legislation to pose restrictions with regard to the shares and associated voting rights attributed to legal persons of both sectors as well as to the number of the seats they can hold in governing bodies.

The indicator related to democratic governance is also significant in the European approach and may also explain the emergence of social cooperatives as the intersection between cooperatives and social enterprises (Defourny & Nyssens, 2013). The distinctive identity of cooperatives is exactly that it is a democratic organization adhering to the principle one member-one vote regardless of the contribution to the capital of the enterprise (however with increasing exceptions to this strong rule given the companisation tendency of cooperative legislation, Henry, 2012). This democratic governance is preserved with caps on voting rights when additional shares are purchased.

The last indicator refers to the participatory governance of social enterprises through the inclusion of all stakeholders affected by its operation. The various stakeholders that could be involved in the governance of the social enterprise may include beneficiaries, employees,

volunteers, public authorities and donors and their involvement could be either formal in the various governing bodies or informal through their participation in special committees (Defourny & Nyssens, 2016). Of particular significance is the case of the legislative provisions regarding the inclusion of members and/or employees from the target groups in Work Integration Social Enterprises (Galera & Borzaga, 2009).

All in all, we can state that the cooperative legal form may more easily accommodate the distinctive identity of social enterprises as defined in the European approach. With this analysis in mind, we now turn to the special case of Social Cooperative Enterprises as regulated by Law 4430/2016 on Social and Solidarity Economy (SSE) and the development of its actors in Greece.

4. Law on Social Solidarity Economy and the Development of its Actors in Greece: framework conditions and existing reality

Despite significant variation within the relevant bibliography, most scholars seem to agree with the relative underdevelopment of the third sector in Greece prior to the crisis. This position holds in the literature for all the troubled concepts including civil society, third sector, social economy, non-profit sector, voluntary sector (Afouxenidis, 2004; Chrysakis, et. al., 2002; Kousis, 2003; Panagiotidou, 1999; Polyzoidis, 2006; Sklias & Houliaras, 2002; Sotiropoulos, 2004;). A number of explanations have been provided for this underdevelopment (Adam, 2009). According to the top-down hypothesis, there was not a gradual institutionalization process in Greece whereby autonomously created initiatives are officially registered and acknowledged as partners by the state but a reverse trend where traditional social economy actors are shaped from the beginning by policies promoted by the state and/or international institutions. In this framework, whereas pioneering Work Integration Social Enterprises developed in continental Europe in the 70s and 80s as a response to accentuated social problems (long-term structural unemployment and social exclusion) by “social workers, associative militants, representatives of more traditional third sector organisations, sometimes with the excluded workers themselves” (Laville, Lemaitre and Nyssens, 2006: p. 279), attempts towards the creation of similar initiatives in Greece can mainly be attributed to Structural Funds (and most notably the European Social Fund) and their respective effect on social and labour market policies.

This process eventually led to the introduction of the first legal framework explicitly referring to social economy and social entrepreneurship in Greece (Law 4019/2011). This Law introduced for the first time a new legal form, a specific type of civil cooperative, the Social Cooperative Enterprise (SCE). The initiative for drafting and enforcing Law 4019/2011 was within the mandate of the Ministry of Labour, Social Security and Solidarity. Law 4019/2011 was later followed by a Strategic Plan for the Development of the Social Entrepreneurship Sector (February 2013). The underlying hypothesis was the inherent link between social economy, unemployment and social inclusion with a sole focus on social enterprises. In this way, social enterprises were mainly seen as a tool for the (re-integration) into the labour market of those facing the strongest barriers and as an alternative to state provision of social services (Adam, 2016).

The reality of the crisis acted as a trigger factor for the proliferation of both formal and informal Social Solidarity Economy (SSE) practices in Greece. In the relevant bibliography, these practices are associated with various facets of the economic, social, and political reality after 2008 in Greece (Adam & Teloni, 2015; Andritsos & Velegrakis, 2014; Arampatzi, 2017; Bekridaki & Broumas, 2016; Broumas et al, 2018; Daskalaki & Kokkinidis, 2017; Daskalaki et al, 2018; Kantzara, 2014; Kavoulakos, 2018; Kavoulakos & Gritzias 2015; Loukakis, 2018; Papadaki &

Kalogeraki, 2018; Petropoulou, 2013; Rakopoulos, 2015): the accentuation of structural unemployment, poverty and social exclusion, the neoliberal management through the imposition of austerity measures, the collective response along solidarity lines to unmet social needs, the role of new values as mechanisms for the formation of new subjectivities and practices, the spatial diffusion of such practices through networking, the legitimacy crisis of the state and the gradual withdrawal of large segments of the populace from their traditional affiliations with the main political parties, the accentuated de-legitimization of traditional trade-unionism, the transition from a more passive to a more active political behavior, the evolution of the Squares' Movement into a hub of decentralized neighborhood assemblies starting up solidarity initiatives.

It is interesting to note that this proliferation of SSE practices matches with changes at the level of political institutions with the formation of a coalition government in 2015 based on a political party of the radical left with a high priority agenda on SSE (Adam, 2018). In this context, the newly formed Ministry of Labour took the initiative to introduce a new legal framework for SSE in Greece (Adam et al, 2018) following rounds of informal and formal consultation with relevant stakeholders.

According to the explanatory memorandum of Law 4430/2016, SSE is regarded as the means towards the productive reconstruction of the Greek economy given the distinctive attributes of its practices which differentiate them from mainstream profit-maximizing enterprises. As an alternative economic model, SSE should be diffused to all sectors of economic activity in order to foster the democratization of economy and society while ensuring that this productive reconstruction proceeds without exclusions. Therefore, Law 4430/2016 intended to illustrate the distinctive attributes of SSE entities and to broaden its scope of operation (Adam et al, 2018).

Law 4430/2016 has a manifold objective in terms of the legal persons eligible to be registered as SSE actors: a) It modifies the Social Cooperative Enterprises (SCEs) of the previous Law (4019/2011). According to Law 4430/2016, SCEs are divided into SCES of collective and social benefit and SCEs for Inclusion (what is identified as Work Integration Social Enterprises in the relevant literature). b) It recognizes the Social Cooperatives of Limited Liability introduced by Law 2716/1999 within the framework of the psychiatric reform in Greece and addressing the socio-economic integration of persons with mental health problems as Social Enterprises for Inclusion. c) It introduces Worker Cooperatives as the only legal entity recognized as an SSE actor without having to prove the pursuit of general interest (social benefit) but only the mutual (collective) interest of its members, d) it enlists the criteria according to which any other legal person may be registered as an SSE actor in Greece.

In the following, we will focus on the legal provisions for SCEs. According to the data kept at the general registrar of SSE actors of the Ministry of Labour & Social Affairs (2020), 96.5 % (1,665) of all registered legal entities (1,737) adopted the form of the Social Cooperative Enterprise. Interesting to note that the vast majority (1,564 or 93.9%) fall within the category of SCEs for collective (mutual) and social (general) benefit with only a minority (43 or 2,6%) classified as SCEs for Inclusion. Therefore, the Social Cooperative Enterprise is the dominant legal form adopted by the registered SSE actors in Greece according to the existing legal framework.

5. Social Cooperative Enterprises in Greece and the EMES approach of social enterprises

All in all, we can state that the legal provisions for SCEs as defined by Law 4430/2016 in Greece do match in most aspects with the definition indicators of the ideal type social enterprises according to the EMES approach (Table 1).

Referring to the subset of economic indicators, SCEs are recognized as civil cooperatives with an economic purpose. They have an explicit commercial status and the president and members of the cooperative are liable with their personal property in case of liabilities to the public sector. They are also obliged by law to demonstrate that a certain percentage of their total turnover is directed towards salary costs.

The obligation for a minimum threshold of salary cost was intended to safeguard against the unpaid work by members, a widespread phenomenon during the first years of establishment for many SCEs emerging in the period since the introduction of the first Law (Law 4019/2011) up to the introduction of the new legal framework. However, this provision has raised many objections given that it disregards the type of activity developed. For example, fair trade enterprises with low profit margins cannot sustain a 25% of total turnover as salary cost (Adam et al, 2018). Therefore, this ad hoc imposition of an arbitrary threshold does not offer enough flexibility in practice. On top of that, Law 4430/2016 specifies under which circumstances SCE members are allowed to offer unpaid services to the enterprise (zero remuneration contracts up to 16 hours/week). The specific provision as well as the lack of directives for the enactment of this type of contracts has created insecurity vis a vis public authorities in charge of the supervision of labour relations (i.e. Labour Inspectorate). In terms of volunteer activity, this has been defined with exclusive reference to non-members and can only be realized when the foreseen activity does not entail income generation for the enterprise. Once again, this specific provision has created problems given the difficulty to disentangle in practice when voluntary activity contributes to income generation and when not.

In terms of the definition of social purpose, the Law is rather successful in keeping up with all potential meanings of the “social” in SEs. It offers explicit definitions for social benefit which allow for diversity in the development of productive activities by delineating three eligible fields (sustainable development, provision of social services of general interest and social inclusion). In addition, the Law adopts a rather progressive definition of social innovation as an activity serving unmet social needs and/or through new organizational models and social relations. It is also significant that the law reflects recent tendencies to synthesize theory and practice of SSE with the respective theories and practices of the commons and peer-to-peer production. On the negative side, the elaboration of the relevant definition in the first articles of the Law despite its normative approach does not suffice to guide supervision. For example, it is not clear how SCEs are expected to provide social services of general interest to all without replacing the welfare state in its responsibility and also remain financially sustainable.

Table 1: Translating definition indicators into legal provisions		
EMES indicators	Associated fields of legal provisions	Social Cooperative Enterprises (Law 4430/2016)
Continuous economic activity	Scope of productive activities Sanctions in case of inactivity	Explicit economic purpose (production, consumption, supply, credit, transportation, tourism). Exclusion from the registrar following inactiveness for more than 2 consecutive years
A significant level of economic risk	Market transactions Liability in the case of corporate obligations	Explicit commercial status. Liability falls with the legal person of the SCE. Debt towards the public sector, the administrator or the president of the Management Board is jointly and severally liable with the SCE (right of recourse to the other members).
Minimum amount of paid work	Provisions related to paid staff, members and non-members, and volunteers	Members can offer unpaid work up to 16 hours per week. 25% of their turnover after the second financial year and above a certain threshold (around 30,000 Euros) salary costs. Volunteer work by non-members only when no income is generated for the enterprise.
Explicit aim to benefit the community	Purpose (social usefulness and social benefit). Eligible productive activities. Social innovation. Eligible target groups.	Explicit social benefit: serving the social needs of the local or wider community through social innovation by developing activities in three eligible fields: sustainable development, provision of social services of general interest or social inclusion.
Collective initiative (launched by a group of citizens and/or third sector organization initiative)	Number of founding members (more than one person in order to denote a minimum collective character). Inclusion of legal persons (i.e. third sector organizations) in membership.	SCEs may be formed by minimum 5 members. SCEs for social inclusion may be formed by minimum 7 members. Local authorities and legal persons governed by public law are not eligible to become members in SCEs with the exception of SCEs for social inclusion. Legal persons governed by private law may be members of SCEs.
A limited profit distribution	Constraints in the distribution of surplus to members Asset lock Ceilings in remuneration levels	Profits distributed only to employees. Certain thresholds for profit distribution. Unused assets transferred to the Social Economy Fund in case of dissolution. Only the value of cooperative shares in case of dissolution. No ceilings in remuneration levels.
A high degree of autonomy	Caps on the shares and/or voting rights of investor member and legal persons., Caps on the income generating streams from the public sector	Legal persons cannot exceed 1/3 of total members. Gross income from the wider public sector no more than 65% of total income (exception for social inclusion.)
A decision-making power not based on capital ownership	Adherence to the principle of one member one vote Caps on additional voting rights gained through the purchase of additional (provisional) shares	One obligatory share, up to 5 additional shares. Each member has one vote. Additional (provisional) shares do not grant additional voting rights.
A participatory structure involving various parties affected by the activity	Multi-stakeholder ownership Minimum thresholds for certain target groups in membership and staff Representation of members, workers and other affected parties in governing bodies	No formal participation of different stakeholders. SCEs for social inclusion: 30% or 50% of their members and workers come from vulnerable and special social groups respectively.

Source: Elaborated by Adam and Douvitsa based on the legal provisions of Law 4430/2016

The collective character of SCE is preserved with the envisaged minimum number of founding members. However, these numbers (5 for SCEs in general and 7 for Social Inclusion SCEs in particular) may be characterized as demanding given the tendency for minimizing the required number of founding members even in traditional cooperative legislation (CECOP-CICOPA, 2016). The exclusion of legal persons governed by public law from SCE membership reflects caution against the dependency on public sector and/or recent trends of soft privatization of many public social services especially at the level of local authorities. The exception afforded to SCEs for social inclusion acknowledges the development trajectory of the first WISE in Greece (the Social Cooperatives of limited liability for persons with mental health problems) which were mainly public spin-offs according to the typology of SE models (Defourny & Nyssens, 2016). In addition, it is implicitly assumed that this type of SCE necessitates stronger affiliations with the public sector in order to survive following the specific needs of the target groups they serve.

Limited profit distribution is more than preserved since it is only directed to employees and up to a maximum of 35% of total profits. Hence, members are not eligible for profit-sharing based only on their membership status unless they are also working for the enterprise. This provision reflects a rather narrow understanding of the universe of social enterprises since it implicitly assumes that all of them follow the model of worker cooperatives with an extra social touch. Even if this is the case with Work Integration Social Enterprises (CECOP-CICOPA, 2016) where the main intention for the formation of the SE is the creation of employment opportunities, it cannot be automatically assumed for any SE. In addition, no distinction is being made between surplus and profit as recommended in the guidelines for cooperative legislation (Henry, 2012). Asset lock is further ensured in case of dissolution with the obligatory transfer of any residual assets to the Social Economy Fund which, however, has not been created 5 years after the introduction of the Law. As long as the above fund is not established and remains a "lettre mort" there is no asset lock protection, due to the fact that the transitional provision of ar. 35.3 allows in that case the remainder to be distributed to the members. No ceilings in remuneration levels are foreseen for SCEs even though they were envisaged in the draft Law (Adam et al, 2018).

Moving to the governance of SCEs, autonomy is granted because thresholds exist for the participation of legal persons (when eligible, 1/3 of total members). There is also a ceiling for public funding that can be accrued on a three-year period in SCEs pursuing collective and social benefit. This provision has also raised objections because public funding may be erratic with irregular reimbursements. More importantly, no differentiation is made between funding stemming from public procurement (i.e. socially responsible public procurement) and grants/subsidies.

In terms of democratic decision-making, SCEs should follow rigidly the rule one person-one vote without any additional voting rights based on the purchase of additional shares. This rather strict adherence to the principle of one person-one vote has raised objections from international organizations (CECOP-CICOPA, 2016) as it hinders capital-raising. According to this reasoning, additional shares could gain additional voting rights with explicit ceilings on the eligible cumulative shares obtained by one member.

The multi-stakeholder character of SEs is not reflected in the Greek Law. SCEs do not accord different categories of members with their respective representation in governing bodies. This again has been highlighted during the consultation process by CICOPA (CECOP-CICOPA, 2016) as it is considered the distinctive feature of legislation on social cooperatives in many European countries. In the particular case of SCEs for social inclusion, the Law stipulates certain thresholds for the inclusion of vulnerable and special groups as members and workers. However, no provisions are in place for their representation in governing bodies.

6. Revisiting the cooperative legal form for Social Enterprises: what lessons learned from the case of Social Cooperative Enterprises in Greece?

This paper intended to translate the EMES approach on social enterprises into legal provisions and thus add to the relevant literature on the need for a distinct legal form for social enterprises. The case study selected for this endeavour was the Social Cooperative Enterprise according to Law 4430/2016 on Social and Solidarity Economy and the Development of its Actors in Greece.

Initially, we revisited the debate on the definition of SE by endorsing the distinct identity of these enterprises through the ideal-type definition elaborated by the EMES network in the framework of the European approach. Based on that, we concluded on the necessity of a distinct legal form for social enterprises able to capture their distinctive values, hybrid character and signal these to all external parties. Following the reasoning of other scholars, we agreed with the grounding of this legal identity on the cooperative tradition because the latter offers significant safeguards able to ensure and monitor commitment to these distinct features.

The case of Law 4430/2016 offered an opportunity to revisit the merits of the cooperative legislation in the formulation of a distinct legal person for SE, the Social Cooperative Enterprise.

We have outlined the merits of this legal person in terms of meeting most of the indicators included in the EMES definition. Indicatively, SCEs are indeed enterprises with economic purpose and commercial status, they are liable for any corporate obligation stemming from their operation and they are expected to include a minimum amount of paid employment. The most significant contribution lies with the definition of social purpose in conjunction with the delineation of eligible fields of intervention and the broader debate on social innovation, the commons and new forms of economic organization.

On the negative side, SCEs seem to be rigid worker cooperatives with a rather high degree of required collectivity, stricter than necessary profit-distribution constraints, and very detailed requirements with regard to employment relations difficult to follow and supervise in practice. More importantly, SCEs do not explicitly endorse the multi-stakeholder structure in membership and governance usually observed in many European countries.

Even though the EMES approach on Social Enterprises offers an ideal-type and not a check-list for the identification of social enterprises, it is useful to broaden and deepen the discussion on the issue of the legal form. We stick to the suitability of the cooperative legal form but with the following caveats in mind.

First of all, the national legislator should have a systematized view on guidelines for a cooperative legislation and a clear view on the national cooperative legislation. Unfortunately, the case of Greece is exemplary in the fragmentation of cooperative legislation not serving different organizational needs but rather reflecting institutional fragmentations and overlapping ministerial mandates (Adam, 2019; Douvitsa, 2020).

Second, a clear view of the distinctive feature of SE is needed based on a careful examination of different trajectories and models. In this framework, the social component of social enterprises could be systematically elaborated in order to allow for the development of socially useful activities in multiple fields and also foresee the formulation of new organizational models and new social relations in production and service delivery.

Third, a normative approach should not act as a straight-jacket leaving no space for manoeuvre in the everyday operation of these initiatives. Apart from the potential that detailed provisions hinder the

setting-up of similar ventures, they are difficult to supervise in practice. Therefore, much attention is needed in order to avoid turning safeguarding into suffocating.

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