



FRANCE

COUNTRY SCENARIO

1. Main definitions and concepts used

Social and solidarity economy

A French Social and Solidarity Economy act voted in July 2014 has officially defined the social and solidarity economy (SSE). According to Article 1 of the act:

“The social and solidarity economy is a mode of action and economic development adapted to all areas of human activity that adhere private legal entities that meet the following cumulative conditions:

1. A goal pursued other than the sole sharing of benefits.
2. Democratic governance, defined and organized by the statutes, providing the information and the participation of partners, employees and stakeholders in the company’s achievements.
3. Management in accordance with the following principles:
 - The profits are mainly devoted to the objective of maintaining or developing the business activity.
 - Compulsory reserves, which can’t be shared, can’t be distributed.”

Social entrepreneurship / Social enterprise

There is no official definition of social entrepreneurship or social enterprise in France. It is possible to refer to the definition promoted by the Mouves (Mouvement des entrepreneurs sociaux):

“Social entrepreneurship is a way of “doing business” that puts economic efficiency at the service of the public interest. Whatever the legal status of enterprises (association, cooperative, commercial, ...), their leaders make profit a means, not an end in itself. The social enterprise is organized around 4 simple principles:

- Entrepreneurial dynamism in constant search for new financing and diversification of resources
- A social and / or environmental finality that can be expressed in a plural way (access to healthcare, energy, housing, fight against waste, long-term unemployment, promotion of short supply chain, bio, green growth, etc.)
- A limited pursuit of profit putting profitability at the service of the social or environmental purpose.
- Participatory governance involving all stakeholders.”



The French approach, which defines a broad framework (SSE), can't easily distinguish, among the enterprises of SSE, the social enterprises according to the European operational definition. The report "Social enterprises and their eco-systems: a European cartographic report - France" proposes, taking into account the French context, to consider the following organizations:

- *"associations with a minimum of one employee and at least 25 % of their budget coming from market resources, including WISE s with an associated legal form;*
- *specific cooperatives that pursue an explicit collective interest in various ways: services provision, sustainable development, environmental protection, territorial economic development, job creation for vulnerable persons, consumer protection, etc.;*
- *mutual societies, since they provide social protection based on a solidarity principle;*
- *operating foundations that manage services of general interest;*
- *other entrepreneurial forms that pursue an explicit social conditions in terms of profit distribution and management and that are therefore included in the SSE. Some WISE¹s adopt a commercial legal form and would be included in this category."*

2. Short history of the sector and its developments

In some ways, we can consider that French social economy has its roots in the Middle Ages. At that time, numerous kinds of organizations were founded to promote economic solidarity: guilds, corporations, brotherhoods, *compagnonnage*, etc. During the XIIth century, the first cooperatives of cheese producers appears in the Jura: the *fruitières*.

The XIXth century was the period that favored the development of social economy, influenced by utopian socialism and labour and social catholicism movements. Injustice and difficulties triggered by industrial revolution were a fertile ground. The emerging working class, living in precarious situation in a deregulated system, organized itself to better access to basic needs (health,

education, food, housing, etc.). The French State and those organizations maintained at this time a confrontational relationship. Between the second half of the XIXth and the early XXth centuries, legal frameworks were created. Cooperatives (craftsmen, agricultural, workers, credit, consumers, etc.), mutual companies and associations were recognized and continued, separately, to flourish during the XXth century.

At the end of World War II, welfare state is set up in France. With the national social security, public service delegation is accorded to associations in the medico-social and education fields.

In the early 1970's, in an economic crisis context, new economical alternatives emerged: fair-trade, work integration social enterprises, etc.

In the same time, social economy actors, structured from their legal status (cooperative, mutual, association) clustered together. Conscious they share common values, they defined then a charter for social economy. In the 1980's, the third sector is institutionally recognized. In 1981, the Inter-Ministerial Delegation on Social Economy was established within the Prime minister office. A public policy is set up to develop this kind of economy.

The concept of solidarity economy emerged in the 1990's, aligned with the 70's economical alternatives movement. It does not refer to legal status but to a common goal: "set of economic activities subject to the will of a democratic depository where social relations of solidarity take precedence over individual interest or material profit. So, the solidarity economy contributes to the democratization of the economy from citizen commitments".

In 2014, a social and solidarity economy act is voted by the French parliament. It has recognized officially "different way of entrepreneurship". Inclusive, the law has defined the perimeter of "Economie sociale et solidaire" (SSE). It has favored the cooperation with public authorities and has paved the way to new fundings.

1. Work integration social enterprise



3. Data and figures

The social and solidarity economy (SSE), in France, is a field creating companies and providing jobs. It has demonstrated resilience, particularly during the economic and financial crisis of 2008 while traditional businesses were mainly affected.

As of 2015, Social et Solidarity Economy field was composed of² :

- 164,000 employer enterprises (93.9% are associations, 5.3% are cooperatives, 0.5% are mutuals, 0.3% are foundations)
- 221,000 employer establishments
- 2.3 M employees
- 62 B€ total remuneration of employees

This represents:

- 8.8% of the employer enterprises in France (public and private sector together)
- 9.1% of the employer companies in private sector
- 9.6% of the employer establishments in France (public and private sector together)
- 10.3% of the employer establishments in private sector
- 19.7% of the establishment with more than 50 employees (public and private sector together)
- 10.5% of employment in France (public and private sector together)
- 14% of employment in private sector

OTHER KEY FIGURES

- Associations are the largest SSE employers with more than 3/4 jobs, followed by cooperatives (13%), mutuals (6.6%) and foundations (3.5%³).
- There are 1.3 million associations in France. 165,000 associations employed 1.8 million persons.
- 22,500 cooperatives employ more than one million employees in all sectors of activity, representing 5.5% of salaried employment. In 2016, they represent 320 billion euros in turnover⁴. There are 2,300 Scop and 627 Scic⁵.
- As of 2015, there are 425 mutuals in France, employing 85,000 persons. Mutuals represents 53% of the complementary health activities in France⁶.
- There are 3650 WISEs in France, employing 130 000 persons in integration courses⁷.

NB : the Social et Solidarity Economy enterprises with a “classical” commercial legal form are not taken into account.

2 Source: Atlas commenté de l'économie sociale et solidaire. CN-CRESS (2017)

3 Source: Ces secteurs qui recrutent. CIDJ (2017)

4 Source: CoopFR website

5 Source: Les Scop website

6 Source: Fédération Nationale de la Mutualité Française website

7 Source: L'insertion par l'activité économique en 2014, DARES (2016)



4. Legal framework and legal forms of social enterprises

The Social and Solidarity Economy act voted in July 2014 has clarified the scope of the social and solidarity economy. In particular, it has made possible to integrate structures with a “classic” commercial legal form, under certain conditions. The law thus has brought the definition of the “enterprise of social and solidarity economy” (entreprise de l’ESS). It has also established an accreditation, accessible only to enterprises of SSE: Solidarity enterprises of social utility (Entreprise solidaire d’utilité sociale - Esus). This approval is issued by the public administration and may give access to special financing (such as solidarity-based employees savings) or tax benefits.

Enterprise of SSE - Entreprise de l’ESS

Enterprises of SSE can take different legal forms. They are characterized by a democratic operating mode and a use of the benefits for the consolidation or the development of the structure rather than the personal enrichment. Associations, mutuals, cooperatives and foundations are de facto recognized as enterprises of SSE. “classical” commercial enterprises can be part of it if they respect certain criteria:

- the aim pursued should be other than the only profits-sharing;
- governance must be democratic with the participation of partners, employees and any other stakeholders;
- the profits of the company must primarily be used for the consolidation or development of the business.

Solidarity enterprise of social utility - Entreprise solidaire d’utilité sociale

Solidarity enterprise of social utility can apply for the “Solidary enterprise of social utility” accreditation. There are 4 conditions:

- The enterprise should seek a social utility. This one should be described in the founding documents.
- The enterprise has operating expenses affected by

the seek for social utility.

- The enterprise should have an equitable compensation policy. This policy should be indicated in the founding documents.
- Capital securities should not be issued on the financial markets.

Association under the law of 1901 - Association loi 1901

“The association under the law of 1901 is, in accordance with article 1 of this law, an “agreement by which two or more persons share, permanently, their knowledge or their activity, for a purpose other than to share the profits.”

- The association under the law of 1901 is based on two general principles:
- Freedom of association: everyone is free to create an association and to withdraw from it.
- Freedom of contract: each association is free to organize its operation as it sees fit.

Three elements of the association:

- The contractual agreement: a contractual agreement is drawn up. It comes under civil law. He must have a lawful cause.
- Pooling: as in the case of company law, a contribution is pooled. In the case of an association, it is a contribution in knowledge and not in social capital.
- Selflessness: it is forbidden to share the benefits of an association. Non-sharing works the non-profit purpose of an association. If it is forbidden to redistribute profits, it is not forbidden to generate them.⁸

Mutual

The activity of Mutuals is legally governed by the “code of mutuality”. The article L111-1 specifies that the Mutual pursues a nonprofit aim, leading in the interest of its members, subject to the payment of a contribution, actions of social security, solidarity and mutual assistance. The status of the Mutual is based on the principle of self-management.

They operate according to the principle of one member = one voice. They are led by elected volunteer members.

Mutuals seek to “contribute to the cultural, moral, intellectual and physical development of their members and

⁸ Source: Fiche pratique - Association Loi 1901, Avise (2014)



to the improvement of their living conditions”.

Mutuals operate in the three major sectors of health:

- prevention and promotion of health;
- social protection, health and welfare;
- care and support.

Foundation

Article 18 of Law No. 87-571 of 23 July 1987 on the development of patronage activities defines the foundation as: “the act by which one or more natural or legal persons decide the irrevocable assignment of property, rights or resources to the realization of a work of general interest and non-profit.” According to the general tax code, the general interest is determined by one of these characteristics “philanthropic, educational, scientific, social, humanitarian, sporting, family, cultural, or contributing to the development of artistic heritage, the defense of the natural environment or the dissemination of French culture, language and scientific knowledge” character. The foundation, in principle, works thanks to the fruits and revenues that its capital generates. It is these financial flows that must allow the entity to finance its activity.

There are different forms of foundation statutes: generalist (public benefit foundation, sheltered foundation, corporate foundation, endowment fund) or sectoral (scientific cooperation foundation, university foundation, partnership foundation, hospital foundation). They are in particular distinguished by the type of founders, the governance, the fields of intervention, the constitution procedure, the duration, the initial endowment, the legal capacity or the tax advantages.

Cooperative

The cooperative differs from the so-called “classic” companies by its democratic governance based on the principle of “one person, one voice” and the dual quality of its members who are both members and customers, producers, employees. There are different families of cooperatives (business cooperatives, user cooperatives, banking cooperatives, European cooperative societies, etc.). Here are two models encountered in France:

Cooperative and participative society - Société coopérative et participative (Scop)

“A cooperative and participative society (Scop) is created by individuals who want to pool their professional capacity to develop their own working tool.

A Scop is a cooperative society, of SARL, SA or SAS form⁹, which faces the same constraints of management and profitability as any business. Its main feature compared to “classic” commercial companies is that employees are the majority shareholders of the company in which they hold at least 51% of the capital and 65% of the voting rights. Decisions are taken collectively on a one-to-one basis, regardless of the percentage of capital held.

Associate employees decide together on the main orientations of their company and appoint their directors (manager, board of directors, etc.). The distribution of results is primarily allocated to the sustainability of the jobs and the business project. Reserves are indivisible and definitive, which preserves the company from a majority takeover by outside investors and thus contributes to guaranteeing its independence and durability.¹⁰”

Public-interest cooperative - Société coopérative d'intérêt collectif (Scic)

“The public-interest cooperative (Scic) allows associating employees, beneficiaries, volunteers, local authorities, or any other partners, willing to act together in the same project combining economic efficiency, local development and social utility. It is a cooperative enterprise in the form of a commercial company SA, SARL or SAS¹¹ whose purpose is “the production or supply of goods and services of collective interest, which have a social utility”. It faces the same management and profitability constraints as any business. The main feature of Scic is to be a multi-stakeholder organisation. Indeed, a Scic allows to associate and take into account the multiple interests of natural and legal persons who have a relationship of various nature to the activity. All stakeholders in an activity or territory are invited to get involved and support the cooperative. As a cooperative, the Scic applies its principles including the power given to people and not capital according to the rule: a partner, a voice.¹²”

⁹ French commercial legal forms

¹⁰ Source: Fiche pratique – Scop, Avise (2014)

¹¹ French commercial legal forms

¹² Source: Fiche pratique – Scic, Avise (2014)



Organisations for integration through economic activity - Structures d'insertion par l'activité économique (SIAE)

"Integration through economic activity (IAE) brings together different types of structures, the SIAEs, which belong to the SSE. Agreed by the state, they seek to reconcile economic performance and social project by offering contracts to people away from employment. They put their development at the service of the fight against unemployment and exclusion, in all territories¹³."

"[...] Most of them are still operating under an associative legal form, but some adopt a commercial legal form. [...]"

Today, four main types of "SIAE" coexist: two productive organisations (entreprises d'insertion or work integration enterprises and ateliers et chantiers d'insertion or work integration workshops and work sites) and two structures that provide workers for other organisations (association intermédiaire or intermediate voluntary organisations and entreprise de travail temporaire d'insertion or temporary work integration enterprises).¹⁴"

5. Participative and/or democratic governance

Legal provisions to inform, consult and involve workers and stakeholder exists for cooperatives such as SCOP (Société cooperative et participative) and SCIC (Société cooperative d'intérêt collectif).

However, regarding SSE Enterprises, the Social and Solidarity Economy act is very flexible: *"Democratic governance, defined and organized by the founding documents, providing for information and participation, the expression of which is not only linked to their capital contribution or the amount of their financial contribution, partners, employees and other stakeholders to the achievements of the enterprise"*.

However, a best practices guide book, mentioned in the article 3 of the law of July 31, 2014, has been developed

by the "High-council of SSE". It aims to "support enterprises of SSE to develop their own diagnosis and progress plan" according to 6 themes:

- *"the effective modalities of democratic governance;*
- *consultation in the development of the enterprise's strategy;*
- *the territorialization of economic activities and jobs;*
- *wage policy and social exemplarity, vocational training, mandatory annual negotiations, health and safety at work and the quality of jobs;*
- *the link with the users and the response to the unmet needs of the populations;*
- *the enterprise's situation regarding diversity, the fight against discrimination and real equality between women and men in terms of professional equality and presence in elected bodies."*

The main key ideas for defining democratic governance are:

- *"have formal operating rules (statutes, regulations, code, principles, project, etc.)"*
- *base the system on the election of representatives by the members*
- *do not index participation in governance on economic weight*
- *organize the separation of powers (executive gestion vs policy-control, in particular)*
- *allow a balanced game of powers and counter-powers*
- *ensure representativeness and plurality of the composition of the governing bodies at all levels of the organization¹⁵."*

¹³ Source: Avise website

¹⁴ Source: Social enterprises and their eco-systems: a European cartographic report – France, European Commission (2016)

¹⁵ Guide des bonnes pratiques des entreprises de l'ESS. Conseil supérieur de l'ESS (2016)



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