

LAW 5/2011 OF SOCIAL ECONOMY

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1. ORIGIN AND EVOLUTION



1. ORIGIN AND EVOLUTION

- This is a pioneering law in Spain, because until the year 2011 there was no specific legislation on Social Economy.
- The Spanish Constitution includes a series of articles on which social economy entities are based on (Articles 1.1, 9.2, 40, 41, 47 and 129.2). Specifically, art. 47 covers the housing cooperatives included in the Social Economy law.

1. ORIGIN AND EVOLUTION

- The Social Economy had its first explicit recognition in Law 31/1990 of December and the National Institute for the Promotion of Economics (INFES) was created. Its objective was to promote Social Economy entities, but it was dissolved and the Directorate General for the Promotion of the Social Economy and the European Social Fund assumed its functions.
- Law 27/1999, of Cooperatives, incorporates the Council for the Promotion of the Social Economy as an advisory and consultative body.

1. ORIGIN AND EVOLUTION

- The need to approve a Law of Social Economy derives from the direct connection with the principles and objectives pursued by the Law of Sustainable Economy, because the Social Economy is connected with the economic model of sustainable development in its triple economic, social and environmental dimension.
- In addition, the Business Confederation of the Social Economy (CEPES) prepared a proposal for an articulated text.

2. CONCEPT AND DEVELOPMENT



2. CONCEPT AND DEVELOPMENT

- On March 29, 2011 it was approved with the unanimous support of all parliamentary groups Law 5/2011 of Social Economy, thus fulfilling the imperative mandate of art. 129.2 EC.
- Art. 2 of this law establishes the concept of Social Economy: A set of economic and business activities carried out by entities in their private sphere and whose purpose is to pursue either the collective interest of its members or the general interest, or both.

2. CONCEPT AND DEVELOPMENT

- Art. 3 states that the scope of this law extends to all social economy entities operating in Spanish territory.
- Art. 5 indicates which are the entities to which this law applies. These entities are:
 - Cooperatives.
 - Mutualities.
 - Foundations and associations that carry out economic activity.
 - Labor societies.
 - Insertion companies.

2. CONCEPT AND DEVELOPMENT

- Special employment centers.
- Fishermen's guilds.
- Agrarian transformation societies.
- Individual entities created by specific norms that are governed by the principles established in article four (guiding principles).

2. CONCEPT AND DEVELOPMENT

- Art. 13 creates a specific body that is responsible for supervising the activity of social entities. It is advisory and consultative.
- In short, this regulation aims to establish a common legal framework that respects the internal regulation of each one (Article 1). Law 31/2015 partially amended Law 5/2011 to expand bonus quota to stimulate and encourage the recruitment of children under 30 years.

3. INFLUENCE IN SPAIN AND CASTILLA LA MANCHA (CLM)



3. INFLUENCE IN SPAIN AND CLM

- Law 5/2011 establishes that the Central Administration will act jointly with the Autonomous Communities.
- The Seventh Additional Provision, among other articles, establishes that the Government will elaborate a simulative program of the Entities of Social Economy consulting prior to the Autonomous Communities.

3. INFLUENCE IN SPAIN AND CLM

- After the entry in force of the law, some Autonomous Communities have been expressly included in the Statute of Autonomy the term “Social Economy”: Andalusia, Aragon, Castile and Leon, Catalonia and Valencia.
- Galicia has approved Law 6/2016 of the Social Economy of Galicia, where a new model of cooperative is created to alleviate the high level of youth unemployment in Galicia. For this reason, the constitution requirements are simplified.

3. INFLUENCE IN SPAIN AND CLM

- Castilla La Mancha does not expressly include the Social Economy in its Statute of Autonomy although it was modified in 2014 and cooperatives are a very important factor in the Castilian-La Mancha economy.
- In Art. 31.1.22 it recognizes exclusive competence in cooperatives and Law 20/2002 is approved, repealed by Law 11/2010, where importance is attached to the will of the members and they will no longer respond personally to social debts.

3. INFLUENCE IN SPAIN AND CLM

- To achieve greater development in the area of Cooperatives, a preliminary draft on Cooperative Microenterprise and Rural Cooperative was approved on the 28th of February of this year.
- The goal is to cover more than 2,000 companies that employ almost 16,500 workers. The main addition is the creation of agri-food cooperatives (land development, cultural activities, welfare assistance, social integration, etc.).

4. IMPORTANCE IN EUROPE



4. IMPORTANCE IN EUROPE

- In the environment of the European Union (EU) there is no specific regulation on Social Economy. The first initiative in this area was produced by the "Toia Report" (2009), where the European Commission was urged to foster social enterprise, since the fundamental motive is not financial profitability, but corporate profitability.
- The Europe 2020 strategy was launched in 2010 by the European Commission to alleviate the economic crisis. It has been urged to integrate into the strategy of Social Economy, because it generates macroeconomic and social benefits.

4. IMPORTANCE IN EUROPE

- The so-called "Social Economy Intergroup" defends the Social Economy in Europe and it is an informal forum composed of members of the European Parliament, who meet to discuss these issues.
- In short, Spanish law is a benchmark and example of good practice that can allow similar frameworks in the EU. It would contribute to the recognition of the Social Economy as an economic agent that contributes to the construction of a strong Europe in a globalized world.

5. CONCLUSIONS



5. CONCLUSIONS

- Despite the fact that law 5/2011 has filled a legislative vacuum in this regard, it is worth mentioning some problems:
 - According to the consideration of Social Entity, third sector entities (non-profit making) can never be considered in this way.



5. CONCLUSIONS

- Although art. 5 makes an enumeration of entities that should not ever be considered social entities, they would have to be consulted on a case-by-case basis if they comply with the guiding principles.
- Who and how the principles must be fulfilled by the entities is imprecise.



5. CONCLUSIONS

- The self-regulation of entities can be a problem if there are dysfunctionalities with the general rule, because the public measures of the Social Economy may not be applied.

However, it should not be forgotten that this law shows Spain's intention to implement a sustainable, innovative and respectful economy with work. It is still too early to know if this law is effective because of its short application time.

5. CONCLUSIONS

- In short, the Social Economy is presented as an employment creation alternative, from a more humane and supportive perspective, different from the more economic interest. In addition, the principle of "free association for common benefit" is prioritised over solely competitive spirit, as the fundamental pillars of democracy, social interest and distributive justice.



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