



## Social Cooperatives Law in Italy: Adjustment of an existing cooperative law to support social enterprise development

### What

In 1991, Italy established the Law 381/1991 on Social Cooperatives to legally recognise cooperatives that work with an explicit “aim to pursue the general interest of the community in the human promotion and social integration of citizens.”

The law regulates two types of social cooperative forms:

- A-type, i.e. social cooperatives providing social welfare or educational services; and
- B-type, i.e. social cooperatives integrating vulnerable or disadvantaged individuals into work through agricultural, manufacturing or other commercial activities. B-type social cooperatives should include at least 30% ‘disadvantaged workers’ among their workforce for whom they are exempted from social security contributions.

The Law 381/1991 on Social Cooperatives is a pioneering legal framework, as it was the first law to specifically recognise and regulate social enterprises in Italy. It has inspired similar laws in Europe and globally such as in France, Portugal, Spain, South Korea and the United States. Ever since, the Law on Social Cooperatives has seen several revisions and facilitated the development for legal frameworks for other areas of the social economy.

### Why

Social cooperatives are prominent drivers of welfare provision, and have seen an annual growth rate of 10% to 20% since their inception in the late 1960s and early 1970s in Italy when welfare gaps emerged as certain social needs were not adequately met by either the public or private sectors. The difficulty of the Italian welfare state to meet new needs arising primarily from demographic transformations, economic recession, and increasing unemployment, prompted the citizen-led development of cooperatives and other types of social economy organisations, allowing them to complement the social services provided by the public authorities or address gaps in the Italian social welfare systems. The steady development of the social cooperatives catalysed the adoption of a new legal framework to recognise and support their action. The development of social enterprises, largely in the form of social cooperatives, began comparatively earlier in Italy than in most European member states such as Portugal, which adopted a Law-Decree on social solidarity only in 1998. In 1991, after almost ten years of unregulated development, the Italian Law recognised both new and existing social cooperatives and

supported their expansion throughout Italy.

An important accelerator for social cooperative development in Italy was the removal of the Crispi Law in 1988. The Crispi Law (6972/1890) stated that the responsibility of providing welfare services is limited to public entities or to the citizens themselves. However, the Constitutional Court ruling 396 of 1988 declared the Crispi Law unconstitutional, expanding the provision of welfare services to private entities. This ruling enabled cooperatives to legally promote the general interest while engaging in economic activity. It enabled them to act as social enterprises in addition to pursue the mutual interest of their members.

## Key activities

The Italian social cooperatives movement is a demonstration of how 'bottom-up' development of social and solidarity economy ecosystems can lead to the implementation of specific legal frameworks for social enterprises. Post World War II, the cooperative movement gained momentum and relevance in Italy, leading to the recognition of its "social function" in article 45 of the Constitution of the Italian Republic. A group of volunteers began the Italian social cooperatives' movement with an aim to create stable and financially sustainable enterprises under the 'social solidarity cooperatives' banner that would be independent from volatile public and private funding mechanisms. The efforts of the voluntary groups led to an increasing demand for the social services provided by social cooperatives and progressively attracted public resources. This contributed to the development of legal frameworks for the social cooperatives.

The development of Law on Social Cooperatives predated additional legal frameworks to regulate social enterprises. Law 118/2005 and Legislative Decree 155/2006 recognise social enterprises through a legal status<sup>1</sup>, allowing for a wide range of entities (associations, foundations, religious institutions, cooperatives, limited liability and shareholder companies) to conduct economic activities with a social purpose, thereby increasing their share contributed to the GDP of the Italian economy. Despite Law 118/2005, the number of registered social enterprises did not increase significantly, due to the lack of fiscal incentives for registered social enterprises<sup>2</sup> and the additional costs in qualifying as social enterprises.

The Law 106/2016 on the Third Sector Reform and its subsequent implementing decrees adopted in 2017 aimed to provide guidelines for a comprehensive reform of legislation concerning the entire third sector, including social enterprises. The law indicates that social enterprises belong to the third sector, whatever the legal form they adopt, and stipulates that all social cooperatives are considered as social enterprises by law.

*1 The Law 118/2005 legally recognises as "social enterprise" any organisations that qualify the following criteria: it is a private legal entity; it engages in the regular production and exchange of goods and services having "social utility" (i.e., it engages in one or more of the entitled sectors specified by the same law) and seeking to achieve a public benefit purpose rather than to generate a profit. An organisation is considered a social enterprise if it generates at least 70% of its income from entrepreneurial activities (i.e., production and exchange of goods and services having social utility); it is allowed to make a profit, but it cannot distribute it to its members or owners (non-distribution constraint). All profits have to be reinvested to further its main statutory (public benefit) goal or to increase its assets, which are fully locked; it is registered in the Social Enterprise Section of the Register of Enterprises managed by the Chamber of Commerce; and it publishes both its financial and social balance sheets.*

*2 At the time, social enterprises regulated by the Legislative Decree 155/2006 were bound to the payment of corporate tax, VAT, IRAP and social security costs if they engaged in work integration activities. Conversely, social cooperatives benefited from an exemption from corporate tax on restrained profits and tax exemption on donations, as well as from a 4% VAT rate for A-type social cooperatives and an exemption from social security contributions for the disadvantaged workers for B-type social cooperatives.*

## Impact

According to Italian National Institute of Statistics (ISTAT), before the inception of the social cooperatives law, there were around 2 000 social cooperatives which grew to 3 500 in the mid-nineties, to over 6 000 in 2003 and to over 11 000 social cooperatives as of 2011. In 2015, the number of social cooperatives reached 59 027, accounting for 1.3% to the total share of the companies operating in Italy and employing over 1.1 million people, representing 7.1% of the total employment within the private sector. Cooperatives<sup>3</sup> also generated 4% of the value added (VA) of the private sector estimated at EUR 28.6 billion in 2015.

The 1991 Law also resulted in the recognition of social cooperatives as providers of social services and increased their visibility, creating new markets for social services. The Law allowed for public-private partnerships in the provision of welfare services by clarifying the modalities of work with social cooperatives for public authorities. It has enabled a steady development of the third sector and the inception of legal frameworks for multiple legal forms of social enterprises in Italy, such as associations, foundations, and shareholder companies, among others.

The Italian Law 381/1991 on Social Cooperatives is the first generation of laws developed to specifically regulate social enterprises, acting as a cornerstone legislation in the promotion of social and solidarity economy ecosystems across Europe in Portugal, Spain, Greece, France, Hungary, Czech Republic and beyond in the United States. This Law provided a model of legislation for social enterprises at the European Union level and at a global level, leading to the replication and use of A-Type and B-Type form of social enterprises as defined by the Law such as in South Korea.

*3 Excluding credit and insurance companies.*

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