

The Social Economy now has its own Act in Spain

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Upon 16 March the Spanish Congress of Deputies passed the Social Economy Act, with the backing of all political groups. Spain is the first country to legislate on this key sector of the economy, with Act 5/2011 breaking new legal ground. The Spanish social economy has become the focus of international attention and is arousing the interest of numerous organisations worldwide which all share the hallmark of combining a commitment to people with economic viability. This Act gives an increased profile and legal standing to an important sector of Spain's business fabric, currently accounting for 10% of Gross Domestic Product, and which, even over the

recent years on which the financial and economic crisis has weighed so heavily, has continued to generate sustainable, quality employment.

The text passed by the Spanish parliament is the result of a process which lasted more than 3 years, since September 2007 when Marcos de Castro, the then President of CEPES (the Spanish Confederation of Social Economy Enterprises) declared before the Parliamentary Sub-Committee set up "to examine the situation of the social economy in Spain" the need for a legal framework to govern the sector. A group of experts from CIRIEC (International Centre of Research and Information on the Public, Social and Cooperative Economy) subsequently drew up a proposal which they submitted to the Ministry of Employment in December 2009. In July 2010, the Council of Ministers gave its approval to the White Paper, which was then put before Parliament, receiving final approval with the consent of all Parliamentary groups.

The Act represents a considerable step forward for the sector by defining the social economy as "the set of economic and business activities which within the private sphere are undertaken by those organisations pursuing either the collective inter-

est of their members or general economic or social interests, or both".

The guiding principles established for social economy organisations are the primacy of people and social purpose over capital. This takes the specific form of independent, transparent, democratic and participatory management, giving priority in decision-making to the role of people and their working contributions with regard to stakes in the capital stock. Provision is also made for the application of the profits earned, essentially in accordance with the work contributed by the partners or by their members; the promotion of internal and social solidarity in order to underpin a commitment to local development, equality, social cohesion, the inclusion of those at risk of exclusion, the generation of stable, quality employment, a balance between personal and professional life and sustainability, along with independence of public authorities.

Article 5 of the Act sets out a list of those organisations which belong to the social economy, making specific mention of cooperatives, mutuals, foundations and associations engaged in economic activities, worker-owned companies, job creation enterprises, special employment centres, fishermen's guilds, agricul-



Spanish members of parliament and social economy representatives after the session of the approval of the act 5/2011 at the Congress of Deputies

tural development companies and organisations created under specific regulations governed by the principles of the social economy. Nonetheless, each social economy structure will be governed by its own specific practical regulations.

The Act in its own words “recognises as a task of general interest the promotion, stimulus and development of social economy associations and their representative organisations”. It also sets targets for public authorities in their policies to promote the social economy by simplifying the administrative procedures involved in setting up this type of organisation. This includes facilitating initiatives, promoting the principles

established in the Act, encouraging professional training within organisations, involving them in active employment policies and introducing references to the social economy into curricula, among others.

The Spanish Confederation of Social Economy Enterprises, to which the Espriu Foundation belongs, has registered its satisfaction at the passing of this Act which “will give the sector the place and status it demands given its importance within the Spanish economy, while also representing a historical landmark, as the first such legislation to be established anywhere in the world”. According to representatives of social economy employers, “this

Act forms part of the commitment of Spanish President, José Luis Rodríguez Zapatero, to CEPES and to the aim of strengthening the sector and facilitating its involvement in the creation of public policy”.

The Government has itself stressed the importance which it gives to the sector in drawing up the legislation. The Minister of Employment, Valeriano Gómez, described the Act as “pioneering”, pointing out that the regulations “are not simply legal window-dressing”, but are “born out of a widespread conviction regarding the existing need and this was reflected in a broad consensus, thanks to which the Act was ultimately passed”.

Modifications to the asset structure of cooperatives

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The current accounting regulations in force in Spain were adapted from the international accounting standards, better known as the IAS, adopted by the European Union and established in Spain by means of the General Accounting Standards which have been in place since January 2008.

The sectoral adaptation of the standards to cooperative accounting were recently approved. However, this adaptation was not without controversy, given the treatment applied to the assets structure of cooperatives. The main aspect for consideration refers to the capital stock of cooperatives, which may be classified as equity, liabilities or a compound financial instrument. The ninth registration and valuation standard states that “financial instruments issued, incurred or assumed shall be classified as financial liabilities, in whole or in part, wherever in accordance with their economic reality they represent a direct or indirect contractual obligation for the company to hand over cash or another financial instrument, or to exchange financial assets or liabilities with third parties on potentially unfavourable terms, such as a financial

instrument which provides for a mandatory repurchase by the issuer, or which grants the holder the right to demand its redemption by the issuer on a date and for a specific or specifiable sum, or to receive predetermined remuneration provided that there are profits which may be distributed”. For cooperative societies this means that the members’ contributions, until such time as the society grants an unconditional right to reject reimbursement, become partially classified as liabilities, with a corresponding reduction, for accounting purposes, in their equity.

This provision has been in force since the start of the year, meaning that cooperatives have until December to take the relevant decisions and modify their articles of association in accordance with it. If the assembly rules that members’ contributions are to lose their capacity to be automatically reimbursed if the member leaves the cooperative, then those contributions could be entered in the accounts as equity, but will otherwise be classified as a liability, in other words as a debt owed by the cooperative to the member, irrespective of their legal consideration.