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GENERAL OVERVIEW OVER THE THIRD SECTOR IN ROMANIA TODAY

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Abstract: *The present paper aims to present the picture of the Third Sector in Romania, today and the way it relates to Law 219/2015 on the Social Economy. It was analyzed the current legislative text and the specific laws on establishing and functioning of the key organizations concerned. It has been made a documentary on statistical data provided by institutions such as The National Office of the Trade, The National Bank of Romania, the Institute of Social Economy. To analyze the degree of knowledge of the law by the potential beneficiaries and their opinion on the current legislative approach, there were conducted semi-structured interviews and questionnaires were administered by phone and e-mail. Responders were chosen from the representatives of NGOs and cooperative federal bodies. It was found that the Third Sector has experienced a steady development in recent years but not all the organizations listed by law can become or are interested in becoming Social Enterprises. Due to legislative inconsistencies, bureaucracy and the lack of fiscal or financial incentives, the degree of interest in obtaining the status of a social enterprise is currently low. It remains to be seen whether future developments draw attention to Law 219/2015 and to related legislative approaches. But, regardless of this, the return to the basic principles of the social economy in the XIX-th century of which the connection between the economic activity and the social and moral values to be respected and the way to make efficient the own economic activity even without governmental or European financial assistance may have a decisive role for the development of the Social Economy sector in Romania and in Europe in general.*

Key Words: *Social Economy, Social Enterprise, Community Economy, Cooperative, The Third Sector*

JEL Classification: L31, A13, D71

INTRODUCTION

According to The Country Report Romania 2015, 40.4% of the Romanian population was exposed to the risk of poverty and social exclusion in 2013. The same document explains that "paid employment does not safeguard against this threat for a large part of the population...In-work poverty is the highest in the EU...this stems mostly from the high number of low-wage earners, poor self-employed subsistence farmers and unpaid family workers."(European Commission, 2015, pg 59) Children are the most affected at national level, 51% of them being in risk of poverty. (European Parliament, 2015) Children living in rural areas (49.77% of the total infant population) face a poverty risk three times bigger then in urban areas. (Bădescu G., Niculina P & Angi D, 2012, pg 84) During the last decades, Social Economy was intensively promoted by the European Union as a solution to social and financial exclusion of the vulnerable groups. The aim of the present article is to study the Social Enterprises presently active in Romania and to analyze the Law 219/2015 (on the Social Economy). According to the Institute of Social Economy, in 2010 in Romania there were 26.000 associations and foundations with possible Social Economy features, over 2000 cooperatives, 2983 mutual companies (C.A.R.). (Constantantinescu Ș, 2012, pg 9) An updated study (2012) also identified and included 682 organizations hold by Social Economy entities. During the latest years, the number of omanian RSocial Economy entreprises have been increasing. (Barna C., 2014)

MATERIAL AND METHODS

In order to determine the number of these organizations and study their evolution over the past years, we have used databases provided by institutions such as the National Office of Trade Registry, the National Bank of Romania, the National Institute of Statistics and the Institute of Social Economy. From the legal point of view, Romania enacted the Law on Social Economy in August 2015. This establishes two categories of organizations: Social Enterprises and Work

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Integration Social Enterprises. To be a part of these categories, the organizations concerned must prove they comply with certain principles and criteria. On the other hand, they need to want this, the registration as such being optional. The related detailed rules (Norme metodologice) were enacted one year later(august 2016), after the present research was carried. In April, 2016 we tried to find out to what extent the associations and foundations, cooperatives and mutual companies (the most numerous categories among those specified by Law 219/2015) identify themselves with the Social Economy field, the degree of knowledge of Law 219/2015 among these organizations, and their desire to apply for authorization. For this purpose, we used telephone interviews and questionnaires. When the respondent showed willingness for a more detailed questionnaire, it was sent by email. For cooperative companies and mutual companies, we addressed primarily to some federations in the field. In the case of associations and foundations, the sample consisted of NGOs accredited with the Chamber of Deputies to participate to legal public debates. The choice of sample was motivated by the assumption that these organizations are interested in pursuing the legislative steps and are informed on the Law adopted last year. At present, only 699 NGOs of almost 100,000 organizations recorded with the Ministry of Justice are registered in the NGO Directory provided by the Chamber (the registration is voluntary). Only 194 were accredited with the committees (April 2016). We excluded from the list organizations which didn't observe the criteria of Law 219(such as the trade unions, animal protection associations, etc.), in total 23 organizations. Of the remaining 171 organizations, the NGOs considered inactive following the checking of the contact information provided online were excluded (83 organizatins). Consequently, the number of subjects who participated in the survey was 88 organizations.

RESULTS AND DISCUSSIONS

According to the Law on Social Economy, Art. 3, the following organizations may apply for authorization as a Social Enterprise: first degree cooperative enterprises, established under Law 1/2005; credit unions governed by GEO 99/2006; associations and foundations(G.O. 26/2000); mutual companies of employees and pensioners (Law 122/1996 & Law 540/2002), agricultural companies (Law 36/1991); federations and unions of legal entities referred to above and "any other categories of legal entities that comply, according to legal documents of incorporation and organization, cumulatively, with the definition and principles of social economy stipulated in this law." Certification criteria are specified in Art. 8, namely: "they act for social purpose and / or in the general interest of the community; they allocate at least 90% of the profit achieved for the social purpose and statutory reserve; they undertake to submit the assets remaining after winding-up to one or more social enterprises; they apply the social equity principle towards the employees", ensuring payroll ratios of maximum 1-8.

The studies of the Institute of Social Economy (2010-2012) showed that the number of associations and foundations has grown steadily, they accounted for over 90% of the total potential Social Economy organizations in Romania. The constant increase phenomenon of NGO's seems to be due to the easiness by which such an organization is established, the government or private funds available, the tax relief granted over time. On the other hand, these figures show the massive orientation of the current Social Economy towards charity and supporting vulnerable groups by outside persons and organizations, in opposition to the beginnings of the Social Economy when cooperative organizations relied on self-help of the members.

	Year 2010	Year 2011	Year 2012
Associations and foundations	26,322	29,656	33,670
Cooperatives	2,017	2,145	2,228
Crafts	857	836	846
Consumption	958	947	940
Credit	75	87	86
Agricultural	127	275	356
Mutual Companies	2,983	2,735	2,767
Retirees	203	193	198
Employees	2,780	2,542	2,569
Total	31,322	34,536	35,898

Table 1, source www.ies.org

Asked if they consider themselves part of the social economy, many of the NGOs surveyed gave a negative answer.

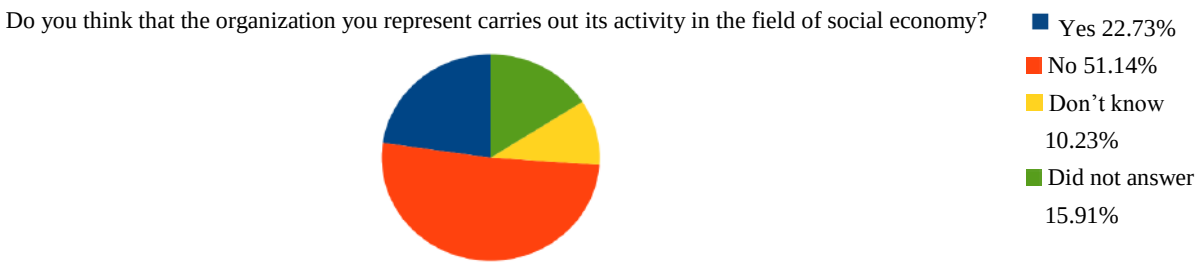

Figure 2, personal contribution

This is partially due to the fact that although all the associations and foundations have social purposes, without which they cannot be established, few of them identify themselves with the notion of "economy". We note that the term "economy" is not limited to asset activities. It originately meant the management of the house (of the Greek terms oikos (house) and nomos (management). The term economy can be reflected upon all organizations generating income and expenditure. In 1932 Lionel Robbins defined the economy as "the science which studies the way in which scarce means are allocated for alternative purposes." (*Robbins. 1923, pg. 15)* Volunatry or paid work can be considerea a scarce mean and alternative purposes may includethe exchange of goods and services on or outside the market. It should also be noted that the G.O. 26/2000 allows associations and foundations to establish commercial companies that produce goods and services with market orientation. According to ISE studies, about 12% of them carry out economic activities. Among these, village communities (obști) incorporated as associations, professional associations and educational institutions set up as foundations. Among organizations that have responded positively to this question range the associations that have formed or collaborated with protected units or social inclusion organization.

Of all the organizations surveyed, only 20.45% are aware of the legislative measure.

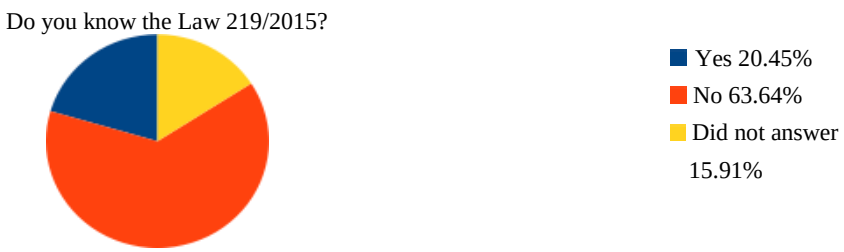

Figure 3, personal contribution

At this moment, only three organizations in the sample take into consideration the possibility of registering as Social Enterprise. From past experience, the respondents declare they are disappointed by bureaucracy, the lack of transparency of public authorities and their behaviour.

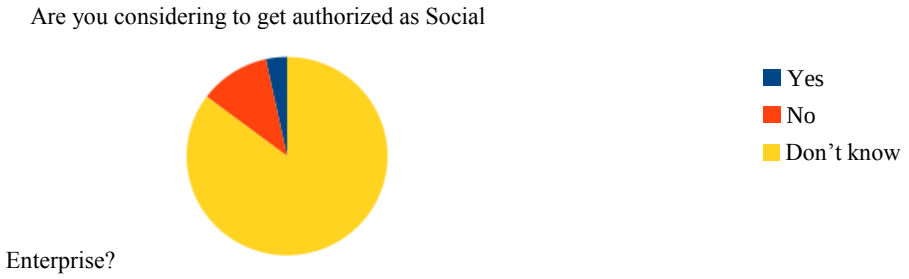

Figure 4, personal contribution

The overall conclusion of the study is that most of these associations and foundations either do not know the term Social Economy, or do not identify themselves with it. For the moment, Law 219/2015 is not known and those who know it do not find the necessary motivations required to pass through a new bureaucratic process to be authorized as Social Enterprises.

As for the co-operative companies, according to Atlases of Social Economy (I.E.S.), increases in the most underrepresented segments before 2010 were recorded, the most significant being the increase of agricultural cooperatives by 180%. But agricultural cooperatives are mainly established under Law 566/2004. Based on the balance sheets for the 2014 financial year(NOTC) there were 332 agricultural cooperatives established under this legal document and only 19 agricultural cooperatives registered under Law 1/2005.

Table 5, source ONRC

Companies that submitted a yearly financial situation in 2014				
	No cooperative	total turnover 2014	total bruto profit 2014	average no of employee
Cooperativa agricolă	332	401,699,452	10,694,442	291
Societate cooperativă agricolă	19	2,319,034	369,789	7

Pursuant to Law 219/2015, only cooperatives established under Law 1/2005 are mentioned as possible Social Enterprises, those established under the previous law may eventually be assigned the section g) of Art. 3 ("any other categories of legal entities complying...with the definition and principles of social economy stipulated in this law"). Agricultural cooperatives are traditional organizations of social economy in the European doctrine. Under Law 566/2004, they carry out commercial activities (Art. 7). Their goal is "the economic and social development of rural areas" (Art. 7, section 7) focusing on the economic advantages for members and obtaining profit. Sometimes cooperatives appropriate more than 10% of the profit to dividends. In case of winding-up, the remaining assets are distributed to its members, "pro rata to the value of paid up social shares". Thus, agricultural cooperatives usually lie outside the conditions specified by Law 219/2015. We got in touch with a representative of an agricultural cooperative of cattle breeders in Romania, reaching today a total of 70 members. The proceeds of the cooperative are intended for the capitalization of the farms. The mark-up of the cooperative is insignificant and is reinvested. The cooperative operates essentially as a center for collecting and valorizing the milk. It also negotiates the price of input for its the members, managing to obtain better prices by purchasing larger quantities. Cooperative members remain legally and accounting independent. The cooperative plans to open a factory for processing milk in the near future with European funds. As for the Law 219/2015, the cooperative representative things is of no concern for them (the registration as Social Enterprise likewise).

Although consumer type cooperatives are the most numerous, the biggest employer in the

field are the craft-type cooperatives. They also achieve the biggest turnover among all types of cooperatives. In case of many of such co-operatives, profit is one of their aims. They sell their goods and services on a competitive market. For this reason, they do not always identify themselves with the legal term of social economy.

Credit unions are supervised by the National Bank. The institution's website indicates a number of 41 active credit cooperatives plus a central body (CREDITCOOP)(25 March 2016). The latest issues the framework Incorporation Act for the entire network, under the supervision of B.N.R. This makes these cooperatives quite inflexible to legislative changes in the non-banking area if these changes are optional. GEO 99/2006 allows credit cooperatives to appropriate more than 10% in dividends and not to necessarily transfer the assets to other similar companies. The representatives of such organisations consider they can not comply with the authorising conditions imposed by Low 219/2015 for Social Entreprises.

Mutual Companies are also registered with the National Bank of Romania in the Register for Non-Bank Financial Institutions. Mutual Companies of the pensioners are represented by the "OMENIA" National Federation. The governing body of the Mutual Companies for employees is UNCASR. According to the latest, during the last financial year closed and submitted, "a number of 1,659 affiliated mutual companies have submitted balance sheets." According to the latest update on BNR website (21 April 2016), currently there are 2,778 such institutions of which 190 have the term "pensioners" in their designation. UNCARS was kind enough to forward its opinion on the Social Economy and Law 219/2015. Asked whether they would meet the criteria for accreditation as a Social Enterprise, the answer was affirmative. Asked if they want this, the answer was negative.

CONCLUSIONS

The study showed that the number of organizations which are deemed, according to the European doctrine, of Social Economy, is growing in Romania. The concept is however not well known in our country, and they do not identify themselves with it. The Law on Social Economy is new and not well enough known by the organizations targeted. In addition, there are conflicts between the specific laws on the establishment and functioning of organizations such as agricultural cooperatives and the credit unions and the criteria set forth by Law 219/2015 which can block their authorization as Social Enterprises in Romania. Thus, two distinct sets shall be created at national level within the same term defined at European level: the Social Enterprises authorized under Law 219, and the social economy organizations that will not get a national authorization either because they do not desire it, or because they do not meet the criteria of the domestic law.

At the same time, the Law on Social Economy in Romania and many of the definitions and European policies in the field seems to have omitted two key principles that defined this sector since its inception (the XIXth century): on the one hand, the criterion of self-help and, on the other hand, the close relationship between the practice of economy and the moral values that should accompany it. Economists such as C. Dunoyer and J.S. Mill, thinkers and professionals such as R. Owen and the Rochdale Pioneers were promoting principles such as the respect for work as a value and for the welfare of others, the practicing of fair trade, the avoidance of waist, the importance of education both as learning practical skills and appropriate a positive social behavior.

Introducing Associations and Foundations in the social economy field, along with cooperatives, has brought a change of the general guidelines on which the field was guiding in the XIXth century, pushing it towards charity and government aids rejected by the initial principles of Social Economy. C.I.R.I.E.C identifies some significant differences between the sector of Non-Profit Organizations and the Social Economy: NGOs cannot obtain and appropriate any dividends at all, foundations and associations do not always have a democratic management, the main purpose of the NGOs is not always the community (they may also serve individuals, companies or unions of capital).(Campos & Ávi, 2012) In the Romanian legislation, this applies only for associations that may also serve personal interests (Art. 4, Law 26/2000). Thus, not all NGOs are part of the Social

Economy. In terms of research, however, it is very difficult to make the difference within the nearly 100,000 organizations registered with the Ministry of Justice. Because these organizations are part of different legal and fiscal categories, obey different registration and reporting rules their number and impact is hard to calculate. (Campos & Ávi, 2012)

The study showed that organizations mentioned by the Law 219 desire a simplification of procedures concerning them and have unpleasant experiences in the relationship with authorities. In the absence of real advantages which they demand or expect, they do not show interest in a new bureaucratic procedure of certification. On the other hand, if granting European funds dedicated to the Social Economy (and any specific government funding) will depend in the future on the authorization as Social Enterprise, it is likely that the motivation of registration will emerge with these measures.

However, turning to the above, the Social Economy was and must remain, in my view, an economy of self helped people. The allocation of funds may create parallel motivations that divert the organization from its original purpose, it endangers its independence and long-term viability. Henri Feugueray, member of the French revolutionary government of 1848 which supported cooperatives, presented in his monograph dedicated to the co-workers organizations of the nineteenth century in France, the example of a piano manufacturer. Believing they needed a considerable capital, several hundred people, who claimed they wanted to set up a cooperative, demanded the Constituent Assembly a substantial subsidy that had not been however allocated. Most of them abandoned the project, except 14 people who pooled their tools and materials, contributed with a subscription of 10 francs each and mostly were willing to work within the organization. For 2 months, the cooperative could not pay any salary. But in time it began to pay weekly dividends to the partners, reaching up to 20 francs. In 1850, orders could no longer be satisfied, the cooperative becoming one of the most prosperous in Paris. The author believes that the success was actually due to the government's refusal to allocate the required amount, which forced the workers to overcome deprivation and sacrifice together, to rely only on themselves and on each other. (Feugueray H, 1851. pg 114)

With or without Law 219/2016, state aids or grants, the Social Economy should be a solution assumed by the people concerned. It is a way of capitalizing its own workforce within enterprises where the same people are solidarity investors, employees, volunteers, entrepreneurs and managers of their own business. It is the only way these organizations can find the path to development, survive in time, educate their members and the community, fighting against poverty, social and financial exclusion, reconstructing small local communities that are capable of self-government and accumulate social capital of trust and values.

Social Economy is not about charity, subsidies or grants from impersonal government institutions. It is primarily about what anyone can do for itself, joining forces with those alike it.

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