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Overcoming institutional barriers for social entrepreneurship in Roma communities

Spain

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Introduction:

The Private Foundation Pere Closa, with the project SERCo (Social Economy for ROMA communities), tries to promote formative measures to help the creation of new social enterprises within ROMA community. The main objective is to promote their momentum and their impulse from a ROMA perspective.

SERCo allows us to produce products, and offer quality mentoring to promote the creation of social enterprises, and to understand the benefits and all the challenges of the social economy. In this sense, this report presents the steps to be taken, to create business initiatives within the framework of the social economy.

The report also highlights a series of recommendations aimed at the community and public administrations, to help to create a synergy between the administrations and young ROMA entrepreneurs, in order to reduce the gap and the barriers, between the creation of a company and the labor activities of our daily life.

1. Social Enterprise in Spain:

1.1 Definition

Spain has suffered a several economic crisis during the last decade. After the last crisis of 2008, new forms of social entrepreneurship have begun to emerge and to develop to offer employment opportunities and social improvements.

The creation of social enterprises, allows new social challenges to be addressed, and their attention is fundamental in favor of community development at the local level. Clearly, their goal is to improve the quality of people and obtain a benefit that cannot always be read in economic terms.

“The social enterprise refers to all private activity, of general interest, organized from a business management that does not have as main objective the maximization of profits, but the satisfaction of certain economic and social objectives, as well as the ability to establish, through the production of goods or services, new solutions to the problems of exclusion and unemployment.”
(OCDE a Danièle Demoustier, 2005: 224)

Like charitable associations or groups of volunteers, social enterprises seek to promote improvements in the community, however, unlike these, social enterprise has a socio-economic activity organized based on the binomial work / need. While charitable associations respond to needs through financial aid, social enterprises create activities for and by their beneficiaries. (Danièle Demoustier, 2005)



In this sense, the members of the social enterprise are consolidated through legal forms such as cooperatives, associations, community companies and partnerships involving participatory, democratic and solidarity-based decision-making processes.

1.2 Main Features

From a European tradition perspective, in order to explain the main characteristics of social enterprises, we first need to specify that social enterprise follows the principles and values of Social Economy. Its activities are collective entrepreneurial issues, which consist of collective organizations of citizens seeking solutions and responses to the needs of their community. (Díaz y Marcuello, 2012)

Social enterprises are characterized by having:

- A) a continuous activity of production of goods and / or sale of services
- B) a high degree of autonomy
- C) like any company, a significant level of economic risk
- D) a minimum amount of paid work
- E) the explicit objective of benefiting the community
- F) an initiative launched by a group of citizens
- G) a power of decision that is not based on the ownership of the capital
- H) a participatory nature, involving different parties affected by the activity
- (I) a limited distribution of benefits

As we can see through its characteristics, social enterprise allows establishing requirements that make up an economic organization designed to make possible a reciprocity economy among the people of the community.



1.3 Main fields of activity

By respecting the fields of activity, social enterprises respond to citizen initiatives that somehow develop projects to increase the level of employment, correct social economic imbalances and promote third sector entities, which try to produce social goods to promote the Social inclusion in social services and community.

Generally, the activities carried out are generally implemented in all economic areas, but agriculture, financial intermediation, commercial distribution and housing, and work associated with the industrial, construction and service sectors stand out.

(Monzón y Chávez, 2012: 17)

These companies have a benefit and a real impact in improving the living conditions of society. In recent years, they have begun to be central to the political agenda, as new mechanisms to solve social problems, increase economic growth and promote a more equitable distribution of income and wealth.

1.4 Examples of Social Enterprises in Spain

In Spain, several social enterprises are having a high social and environmental impact in addition to being successful and crossing borders.

Examples of social enterprises in Spain, which are known by the vast majority, are La Fageda, a company that promotes the socio-labor integration of people with functional diversity in Catalonia, or the Teixidors cooperative, dedicated to the inclusion of people living in situations High vulnerability and high levels of exclusion. Also within the environmental sector, we can mention Aquaphytex, a leading company in the biotechnological production, installation and maintenance of plant material.

In the Catalan ambit, we can also highlight the ETICOM telecommunications cooperative, which gives us access to communications by reducing the environmental and social impacts generated by the telecommunications sector. In the same way, COOP57 is a cooperative of financial and ethical services that aims to contribute to the positive social transformation of our economy and our society through financing projects of social and solidarity economy to promote the occupation, the cooperativism, associationism and solidarity in general.

2. Types of Social Enterprises:

This section proves to collect different types of social enterprises, specifying their characteristics and those steps that must be followed for their constitution. Only those business forms that are considered appropriate to promote new forms of collective entrepreneurship and that may be interesting to fit the needs of the gypsy population in Catalonia and Spain will be specified.

2.1 Cooperatives

Are business organizations based on certain democratic principles and guidelines, which must be governed by them regardless of their structure and functioning, regardless of the scope of their activity, whether autonomous, state or international.

The principles are as follows:

- Membership must be voluntary and open by all members and partners.
- The management must be democratic (one vote per person), so that the partners are assured the direct and equal participation, when setting the objectives of the cooperative, regardless of the capital contributed.
- The economic participation of the partners and the distribution of corporate profits, must be based on the work contributed and never of the Social Capital, it avoids the personal enrichment of some in front of others.
- Main objective and idea should be to promote education, training and information.
- Interest in the community and the sustainable development of the local environment.

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A. Features about its correct performance:

- The benefits that generated by its economic activity cannot be distributed among the members of the Cooperative.
- Social contributions can only accrue the legal interest of money, never to benefit personally.
- Members who are members of the Governing Board will not receive remuneration for their position.
- The remunerations for work provided to the cooperative of social initiative, whether for being a member of the worker, for an employee or for work on an alienated account, may not exceed 150% of the remuneration established in the collective agreement applicable to salaried personnel from the sector.



B. Procedure and Constitutional process:

Step 1. Registration: In the Ministry of Employment and Social Security (or the Autonomous Community): Negative Certification of the Name, certification before the draft statutes

Step 2. Tax Agency: Tax identification number

Step 3. Notary: Public deed that will be granted by all promoters and in it will be expressed:

- The identity of the grantors.
- Demonstration of the requirements to be partners.
- The desire to establish a Cooperative Society.

Accreditation of the grantors of having subscribed the minimum obligatory contribution to the share capital to be a member and having disbursed it, at least in the proportion required by the bylaws.

- Value assigned to non-monetary contributions.
- Accreditation of the grantors that the total amount of contributions disbursed is not lower than that of the minimum social capital established by the bylaws.
- Identification of the persons who are to occupy the different positions of the first Governing Council, the one of intervener or the interveners.
- Pacts and conditions that the promoters deem appropriate to establish.
- The statutes must include:

- ✓ The name of the company,
- ✓ Corporate purpose,
- ✓ Adress,
- ✓ territorial scope of action,
- ✓ the duration of the company,
- ✓ the minimum social capital,
- ✓ the minimum obligatory contribution to be a partner,
- ✓ form and disbursement terms,
- ✓ the criteria for setting the mandatory contribution to be made by the new partners,

- ✓ how to credit the contributions,
- ✓ types and classes of partners,
- ✓ the requirements for admission,
- ✓ the rights and duties of the partners,
- ✓ social discipline norms,
- ✓ classification of faults and sanctions,
- ✓ sanctioning procedure,
- ✓ loss of membership,
- ✓ composition of the Governing Council,
- ✓ the requirements imposed by law depending on the type of cooperative.

Step 4. Treasury Departments of the Autonomous Communities: Tax on capital transfers and documented legal acts.

Step 5. Register of Cooperative Societies of the Ministry of Employment and Social Security (or autonomous community): Registration of the public deed of incorporation in the Register of Cooperative Societies

C. Start Up:

General procedures to be carried out:

1. Tax Agency: High in the Census of businessmen, professionals and retainers and the Tax on Economic Activities.
2. General Treasury of Social Security: Registration of members and administrators in the Social Security schemes.
3. Provincial Mercantile Registry: Legalization of the Book of Minutes, the Book of Members, Book-register of registered shares and Book of contract registration between the sole shareholder and the company. Besides the legalization of the Daily Book and the Book of Inventories and Annual Accounts.
4. Certification authorities: Obtaining an electronic certificate
5. Town halls: Activity license.
6. Other official bodies and / or registers: Registration with other official bodies
7. Spanish Agency for Data Protection: Registration of personal files Procedures in case of hiring workers.



8. General Treasury of Social Security: Registration of the company, affiliation of workers and discharge of workers in the Social Security Regime.
9. Public State Employment Service: Registration of employment contracts.
10. Ministry of Labor: Opening communication of the work center.
11. Provincial Labor Inspection: Obtaining the labor calendar Complementary procedures.
12. Spanish Patent and Trademark Office: Registration of distinctive signs



2.2 Associations

The Associations are constituted as private organizations that pursue social ends, of interest for the society or particular ends.

A. Features about its correct performance:

- Its internal organization and functioning must be democratic, with full respect for pluralism.
- Agreements, statutory provisions and agreements that ignore any aspect of the fundamental right of association shall be null and void.
- Associations that pursue ends or use means that are criminalized are illegal.
- Secret associations and paramilitary associations are forbidden.
- Membership of a particular association cannot in any case be grounds for favor, advantage or discrimination on the part of the public authorities.
- Provide services where the lucrative sector fails in its provision, and which also tends to coincide with those sectors in which fundamental rights are essentially met, especially in their access to especially vulnerable groups.
- The ability to innovate to meet the problems that arise in society
- The defense of social, and the legal and administrative changes, always in defense of the rights and freedoms of people with more difficulties.
- Promote ideas with the basis of respect for diversity, plurality and tolerance.

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B. Procedure and Constitutional process:

The procedure is the same as any of the other existing societies.

C. Start Up:

The necessary procedures for the creation of an Association:

An association must have at least three persons at the time of its formation. The procedures to be performed are:

Step 1. Elaborate the Founding Act or Constitution: The Founding Act must contain the following information:

- ✓ Identification of promoters (name and surname in the case of natural persons, corporate name in the case of legal persons, nationality, domicile and NIF). The pacts and the denomination of the association.
- ✓ The approval of the Statutes.



- ✓ Place and date of granting of the Act, and signature of the promoters, or their representatives in the case of legal persons.
- ✓ The designation of the members of the provisional government body.

Step 2. Elaborate the Statutes of the Association: Signed by all the promoter partners, who must be the same that sign the Minutes. It must contain:

- ✓ An original copy of the authorization of the owner of the premises or floor on which the registered office is established; If the association is the lessee or owner of the premises, copy of the lease or deed of ownership.
- ✓ Proof of having paid the corresponding fee. The payment form is provided in the Register of Associations.
- ✓ Request made by one of the promoters, requesting the registration of the association, accompanying the documentation, directed according to the Province in which the association has its main address.

2.3 Foundations

Are non-profit organizations, created by a person or group of people, who make a contribution of money or initial heritage - foundational capital - in order to pursue some purpose or objective over a long period of time.

At least 3 of its members will be part of the patronage of the foundation.

The Patronage is the governing and representing body of the Foundation, and its purpose is to adopt agreements by majority, in the terms established in the Statutes. The Patronage supervises the fulfillment of the purposes, ideas and foundational values. The statutes of the foundation will also be regulated, with the periodicity in which these employers are renewed and depending on the way or most convenient way to update the values and goals of the Foundation.

For the correct fulfillment of the values of the foundations, the private foundations will be subject to the control of a Protectorate. **The Protectorate** shall ensure the correct exercise and legality of the constitution and operation of the activities carried out. Depending on the type of foundation, one or another protectorate of the relevant Ministry and Ministry will be responsible.

A. Features about its correct performance:

- They are born by the will of a natural or legal person.
- Can be performed in life, through a donation, or be expressed by will to be executed after his death.

- Can be constituted by both public and private instruments.
- In the statute of the Foundation must identify the founders
- It will have an altruistic purpose. Although the Foundation may carry out acts of conservation or increase of the heritage, in this case it will only be to improve the fulfillment of the objective of its values, and never by personal enrichment.
- Requires state authorization and control.

B. *Constitutional process:*

Step 1. Legal personality: Registration in the Registry of Foundations.

Step 2. Endowment: Adequate and sufficient for the fulfillment of the foundational purposes. Generally about 30,000 euros.

Step 3. Patrimony and public control: it requires the authorization of the Protectorate, a body of public control over foundations that exists in several Ministries.

Step 4. Accounting, Audit and Budgets: Inventory, Annual Accounts, Balance Sheet, Income Statement and Activity Report, Annual Action Plan, External Audit for Large Foundations.

Step 5. Financing: Funding endowment.

C. *Start Up:*

The start-up will depend on when the endowment is created..

2.4 Labor Companies

Are business organizations in which the Social Capital is contributed mainly by the workers, that is to say, that the majority of the social capital belongs to the working partners.

A. *Features about its correct performance:*

- None of the partner workers can own or own more than 33.33% of the Disbursed Capital.
- It is constituted by the contributions of the partners and is divided into shares or shares.
- Has a commercial character.
- The employment contract of the partners with the company is of indefinite character.
- The minimum share capital is € 60,101.21 for public limited companies, or € 3,005.61 for limited companies.



- The name of the company must include the expression "Sociedad Anónima Laboral (S.A.L.) or Sociedad limitada laboral or (S. L. L.).
- The number of members cannot be less than 3.
- Partners may or may not be workers. When there are non-working partners there will be 2 classes of shares or shares: those reserved for workers, who will bear this indication in the title of the action, and the rest.
- Number of hours: No partner can work more than 15% of the total hours worked in the company. It should be noted that in the case of Labor Societies with less than 25 members / partners, the limit of hours worked per member is up to 25%. The number of hours-year worked by employees hired for an indefinite period who are not partners, may not exceed 49% of the total hours per year worked by all the working members.
- None of the partners may own shares or shares representing more than one third of the share capital.
- Responsibility towards third parties is limited to the contributions of each of the partners.

B. Procedure and Constitutional process:

Step 1. Central Mercantile Registry: Negative certification of the company name.

Step 2. Tax Agency: Tax identification number.

Step 3. Notary: Public deed. Same requirements as Cooperatives.

Step 4. Treasury Departments of the Autonomous Communities: Tax on capital transfers and documented legal acts.

Step 5. Ministry of Employment and Social Security (or autonomous community): Qualification of the Labor Society.

Step 6. Register of Labor Companies of the Ministry of Employment and Social Security: Registration of the company in the Registry of Labor Societies.

Step 7. Provincial Mercantile Registry: Registration of the company.

C. Start Up:

The procedures are the same as in the case of Cooperatives.



2.5 Inclusion Enterprises

Are business organizations created so that their members, who are often people in situations of vulnerability because they have some difficulty in finding employment, or groups that suffer some kind of marginality risk, can have access to the primary labor market and work under conditions that favor their level of social inclusion. Normally, these people follow an itinerary or insertion guide, which consists of the following steps:

- Reception and counseling service, which diagnoses the situation of each person.
- Individualized work plan.
- Pre-work training workshops, in which attempts are made to recover the necessary knowledge that these people had previously had.
- Training workshops on occupational specialization, aimed at perfecting the knowledge and skills of the members, adapting them to the new technologies and current tools.
- Training in the practice, which consists of the implementation / practice of what was learned previously.
- Entry into the labor market and ordinary labor, with conditions and competitive training.

A. Features about its correct performance:

- Incorporate in a standardized job to the people with difficulties in accessing employment, performing a job autonomously and economically viable, through industrial, commercial or service activities, depending on their market sector more suitable.
- Its mission is to train and employ people with difficult job placement, enabling them to jump to a job. Benefits should not be shared between their owners, as their purposes are of general interest, and include both volunteers and persons employed within the organization.
- To fulfill an educational function: its purpose is to serve as a bridge / channel for people who fall outside the usual system of access to employment, regardless of individual circumstances, while developing activities of comprehensive training of the people they employ .
- That the recipients of social and labor integration are people who are at risk of social exclusion, or who are unemployed, or who have significant difficulties in joining the ordinary labor market.
- That the company is formed by at least 51% of the capital stock, be contributed by a social organization or non-profit entity.
- Apply at least 80% of the available results or surplus obtained in each fiscal year to the improvement or extension of the productive and insertion structures.



B. Procedure and Constitutional process:

The procedure is the same as any of the other existing societies.

C. Start Up:

In addition to following all the processes that have been described previously in the cooperatives or societies of work must also be carried out:

- ✓ *Required documentation:*
 - Identification data of the Promoter Group
 - Business / Social Currents of the Promoters
 - Project identification data
 - Origin of the project, participation of each promoter in the company, and project objectives
 - Brief description of the Business Idea
- ✓ *Market Plan:* It is highly recommended to do an external analysis, from the most general environment to the nearest and local environment, and also an internal analysis of the capabilities of the company
- ✓ *Marketing Plan*
- ✓ *Infrastructure analysis*
- ✓ *Human Resources*
- ✓ *Economic Financial Plan*



3. Recommendations:

Once exposed the different legal forms that can have social enterprises and their main characteristics, it is interesting to assess what are the best options to promote social entrepreneurship within the Roma people, and above all, which are ways to cover more easily the needs of their communities.

Specifically, before deciding, we must always assess the levels of involvement that voluntarily want to take on the people who want to pull forward the action, the means of legal support with which is available, the initial capital to carry out The start-up, and the specific economic sector that the activity implies.

3.1 For ROMA Communities

First of all, it is interesting to share the fact that social entrepreneurship can be a legal and inclusive opportunity to: retake second formative opportunities, facilitate the use and access of new technologies, help us to continue with the family jobs of our elders, improve Our learning processes, increase our level of participation and social visualization and enhance our collective action and power.

In short, promoting social enterprises and promoting social entrepreneurship is an alternative to be able to put into practice business ideas or to formalize economic activities that we already do in our day to day in a more business and standardized format. The result will be an increase of work for our communities, the promotion of businesses from a Roma perspective that will have a direct social impact in our neighborhoods, and most importantly, the promotion of well-being and inclusion of our communities at all levels, but Above all, in terms of work and education.

In relation to the types of social enterprises that may be of interest to the Roma community, cooperatives are a courageous formula for generating economic activities, however, they require a complexity that requires constant accompaniment of people who are interested in its execution. In the case of wanting to create cooperatives, there are many social supports that can be very useful and can facilitate their creation. Anyway, it will be necessary to go to the specialized centers of the neighborhood or the municipality that offers the public administration to be able to have an accompaniment and get a direct support during the initial phases.

On the other hand, the creation of partnerships, especially in the case of interested and active young people, seems to be a formula that we have already seen through associative tradition that it works. Creating an association, allows us to carry out new initiatives and favor the participation of communities in the neighborhoods and the transformation of their most everyday spaces. Its constitution process is very simple and economic and legal risks are low.



However, regardless of the legal formula under which our project is based, it will be necessary to request direct support measures from the administration to ensure that all policies linked to fostering social entrepreneurship reach our communities, And can be easily executed by the persons concerned.

3.2 For Public Administration:

Sometimes it's difficult that the policies aimed for fostering social entrepreneurship to reach all levels. Unfortunately, they are information that does not have equal access for all sectors of society and that, therefore, not all people have the same opportunities to develop personally and promote direct improvements in the local area where they live. Social entrepreneurship is often reserved for people with high levels of education, who have the possibility and sufficient autonomy to carry out a project and know where they can apply for the aid and where they provide services to improve the final packaging of their initiative. In this sense, many times, social enterprises are led by people who have high cultural levels or high levels of purchasing power.

Based on this observation, it is interesting that the public administration is responsible, and adopts measures that make it possible to universalize employment policies linked to promoting social entrepreneurship and the consolidation of social enterprises.

In order to involve the Roma community in these actions, it will be necessary to establish some type of support centers so that information and advice is accessible in the community spaces and allows attracting potential people for the creation of initiatives and for the promotion of real changes in the community.

These support centers, resource providers, may be entities linked to the Roma community, which, because of their previous work and work in the neighborhoods, are community referents and can somehow invite and promote community confidence in this area. Policies and initiatives.

In this case, the Private Foundation Pere Closa with the SERCo project seeks to promote the participation of the Roma people in these policies, which can somehow clearly help to promote their social inclusion, offer alternatives to reduce the number of Roma people living in Vulnerable sectors, favor their participation in social structures, combat the underground economy, achieve improvements in the educational levels of young people and adults, and last but most importantly, build their confidence and increase their visibility in the public domain.

Finally, policies aimed at promoting the creation of social enterprises, in some form, perhaps, will need positive discrimination strategies to encourage the participation of the Roma community in these structures.



3.3 SERCo Project, an alternative to recommendations

To address these recommendations, the SERCo project, led by the Private Foundation Pere Closa in Spain, will provide training to young entrepreneurs and facilitators to create new social enterprises.

The aim is for these young people, over time, to transfer their knowledge to others and other young people in order to promote at least a Roma company / association, autonomous and capable of hiring or liberalizing young participants.

Also, and aside from their particular economic activity, the potential new companies / associations that are created will have a direct relationship with the Private Foundation Pere Closa and with the administration, to establish positive measures that promote the impulse of new initiatives. From this perspective, it is possible to generate a good community leadership that makes of speaker of all the policies and social benefits that allow generating this type of initiatives in the territory.



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Confesal, Constitución y puesta en marcha de una Sociedad Laboral, hábil el 17/11/16,
http://www.confesal.com/PCEAE/index.php?option=com_content&view=article&id=90&catid=29:que-debemos-saber&Itemid=179

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