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Social enterprises in Ukraine

3. Part I: Key Features of the Social Enterprise Sector

- Reporting template -

Please, give a description/ overview (approx. 12-15 pages) of the social enterprise sector in your country, addressing a number of aspects as indicated in the reporting template.

1. General information (2 pages):

- The official definition of social enterprises (if there is any) or the definition of terms related to the concept of social enterprises.

The notion of “social enterprise” is quite new for Ukraine. However, there have been numerous discussions on the need to reform social services; one of the possible approaches is to ensure the involvement of NGOs, as representatives of an emerging social economy, to the provision of social services. The Government’s intentions to reform social services and develop a social economy can be traced in an array of declarative documents. They indicate that the Government is looking for opportunities of attracting NGOs to the social policy initiatives.

Generally, social entrepreneurship can be defined as NGO self-funding activities, social enterprises as businesses, as social entrepreneurs as leaders and innovators.

According to the Regional Social Programs Fund’s definition, **social enterprise** relates to business activities aimed at alleviating or addressing social problems; its characteristic features are:

- Social impact - focusing on addressing/alleviating social problems; sustainable, positive, measurable social outcomes;
- Innovation - applying new approaches that magnify the social impact;
- Self-repayment and financial stability – social enterprise’s capability to address social problems for as long as it is needed, at the expense of the enterprise’s own income;
- Scalability – expanding the scope of social enterprise’s activities (on the national and international level) and disseminating the experience (model) in order to reinforce social impact;
- Enterprising approach - ability to see market niches, find new opportunities, accumulate resource, develop new decisions that ensure a long-term positive impact on the society as a whole.

Besides, it has to be clarified that in our country a social enterprise is a non-profit company that receives most of its income from selling goods and services that it creates. We can define someone as a social entrepreneur only when they take into account the social and economic interests of their staff and community.

Ukrainian legislation still does not have a definition of social enterprise and does not create the environment where all the benefits of this phenomenon could be advantageously used. Some acts mention only individual issues associated with social enterprise. Thus, art. 86 of the Civil Code of Ukraine says that “non-business associations can undertake supplementary business activities in cases when the legislation does not rule otherwise and if these activities conform to the primary goal of the association and facilitate the attainment of this goal”. It can be deduced from art. 85 of the same Code, along with articles 44-45 of the Economic Code of Ukraine, those non-profit legal entities can be considered as social enterprises.

According to the Law of Ukraine “On social services” of 01.01.2004, social entrepreneurship is defined as “comprehensive measures targeted at social groups or individuals that find themselves in complicated situations and need external assistance”. Social entrepreneurship is a new way of economic activities that combines a social mission with economic efficiency and innovation, characteristic for businesses. Social entrepreneurship is a concept that essentially changes the main focus and mission of businesses activities, where all the profits from commercial activities are channeled for addressing social problems.

There are four main indicators of NGO commercial activities in social entrepreneurship:

- the social mission dominates over the commercial one; which means that the fixed goal of the organization is to address a certain social issue;
- there is stable commercial effect, which comes not only from purely commercial activities, but also from disseminating books, organizing seminars and conferences. Stable commercial effect is the precondition for self-repayment and competitiveness;
- innovation, which joins social and economic resources, thus allowing the social enterprise to address social problems and fill

in the niches where other organizations are not presented;

- a comprehensive network, since NGOs are backed up by certain groups, whereas social entrepreneurship finds support in the social environment.

Objectives of social enterprise:

- Support of the organization in attaining the mission and achieving a “social effect” for improving the quality of life of the target group;
- Ensuring stable and independent funding for a non-profit organization;
- Generating new approaches to addressing the problems.

Distinguishing features of social enterprise:

- Legal status (non-profit associations (public and charity organizations) or commercial companies founded by non-profit organizations);
- Non-distribution of profit: social enterprise aims at implementing the organization’s mission and thus does not distribute profit among its members;
- Attracting the target group: target group members are actively involved in social enterprise; its activities are aimed at improving the conditions and the social status of the target group members.

Starting from 1 January 2004, non-profit organizations have the right to:

- Participate in any public procurement procedures;
- Organize paid seminars (that can be held without a license on condition that their participants do not receive government-certified diplomas or certificates; educational services provision should be envisaged in the organization’s charter);
- Receive unlimited royalty for the usage of their logos, databases, video courses, business-planning manuals, etc.;
- Undertake mutual insurance and act as insurance agents;
- Offer interest-free repayable financial assistance (loans);
- Receive interest payments for the goods purchased on installment;
 - sell their books, journals, and newsletters (retail and on prepayment);
- Disseminate discount and debit cards that entitle to discounts with local (and not only local) companies;
- Offer legal consultancy without obtaining a license;
- Provide free of charge services on condition of reimbursement of associated costs.

Social entrepreneurship is regulated by the following Ukrainian legislation:

- The Constitution of Ukraine.
- The President’s Report “On the main principles of economic and social policy. National strategy for the decentralization of social services”, adopted by the Parliament’s Decree No 216/94-BP of 10 October 1994.
- The President’s Decree “On the main directions of social policy for 1997-2000”, developed by the Cabinet of Ministers of Ukraine and approved by the President’s Decree No 1166/97 of 18 October 1997;
- The President’s Decree “On the main directions of social policy for 1997-2000”.
- The President’s Decree “On the main directions of social policy until 2004”.
- The Cabinet of Ministers’ Program “Meeting the needs of the people” (2005).
- The Law of Ukraine “On social services”.
- The Law of Ukraine “On the basis of social protection for the disabled in Ukraine”
- The Law of Ukraine “On youth and children’s public organizations”
- The Law of Ukraine “On charity activities and charity organizations”;
- The Law of Ukraine “On the freedom of conscience and religious organizations”;
- The Law of Ukraine “On citizens’ associations”.

2. Quantitative characteristics the social enterprise sector in your country (5 pages):

- Quantitative (statistical) information on the economic size and development of the sector (number of enterprises, employment, turnover, production, percentage of GNP etc.; growth rates); or qualitative estimate. (Please indicate to what concept the data refer).

According to the **analytical report “Civil society in Ukraine”**, there are about 40,000 registered NGOs per 47 million population; only 10% of them are active. More than 50% of the NGOs do not have permanent staff.

- What kind of enterprises does it comprise? What are the most important types of social enterprises?

Most active NGOs focus their activities on protecting public interests and lobbying (advocacy) (45%) and training and consultancy services (41%). Other activities are represented as follows: disseminating information - 39%;

education - 37%; social services – 28%; research and analysis - 23%; charity – 19%; rehabilitation – 10%; social and political recommendations – 10%; implementing grant programs– 8%. (source – “Counterpart” creative centre).

Social entrepreneurship in Ukraine is undertaken by:

- Central and local government authorities, and other public organizations funded from the national or local budgets;
- Charity funds and charity organizations, including NGOs that focus on environmental, recreational, amateur sports, cultural, educational, and research activities; public associations of disabled people and their local offices, established in accordance with the Law of Ukraine “On citizens’ associations”;
- Religious organizations.

• In which sectors of activity do social enterprises operate in your country? With which (social) aims and which target groups?

There are two sectors in Ukraine where social enterprises can operate: government and non-government (NGOs).

These two sectors are further divided into five groups:

- Public entities that are accountable to the central executive authorities (the Government);
- Organizations accountable to local communities (local governments);
- Organizations, accountable to both central executive authorities and local governments (joint management);
- Non-government sector (NGOs): citizens, associations, charity organizations and funds, religious organizations, etc;
- Physical entities: individual citizens as volunteers.

Non-government social agencies and registration requirements

Art. 8 and 16 of the Law of Ukraine “On social services” rule that the NGOs wishing to offer professional social services (receiving the support from the national and local budgets) are obliged to meet the licensing requirements. The requirements are listed in the Cabinet of Ministers’ Decree “On the list of documents to be supplied with the application for a license for a specific type of economic activity”. At the same time, art. 6 of the Law of Ukraine “On citizens’ associations” guarantees the citizens’ right to freely choose the area of activities. Thus, the citizen’s associations can offer social services to their members according to their charters, submitted for registration to the Ministry of Justice. The Law of Ukraine “On social services” presupposes (although does not state explicitly), that citizens’ associations need to indicate the provision of social services as their goal in the charter. It is desirable that the licensing normative acts take into account the licensing requirements and identify the conditions under which such licenses can be issued. New normative acts need to be developed in accordance with the amended Law of Ukraine “On citizens’ associations” (2006), the draft Law “On non-business organizations”, and the Civil Code of Ukraine. The latter defines NGOs as non-business non-profit organizations.

Membership in citizens’ associations and the problem of staff in social services provision

Art.17 of the Law of Ukraine “On social services” sets the requirements for the staffing of social services providers. It is envisaged, among other things, that services in the community can be offered by social workers and other persons that have a relevant level of education, necessary for providing social services. The qualification requirements and the attestation procedures are established by the central executive authorities. On the other hand, the qualifications of volunteers are regulated by separate decrees adopted by the Cabinet of Ministers. These requirements cover the organizations of all forms of property, including NGOs. The Law of Ukraine “On citizens’ associations”, on the contrary, does not list specific requirements to the qualifications of staff and associations’ members. It can be assumed that with a large proportion of personnel with pedagogical background a lot of associations will not meet the qualifying requirements for contract-based social services provision.

Social enterprises focus their activities in the following areas:

- 1) Amateur sports;
- 2) Culture and art;
- 3) Assisting special needs groups and their protection;
- 4) Assistance to refugees;
- 5) charity;
- 6) Protection of personal and civil rights;
- 7) Consumer protection;
- 8) Protection of democracy;
- 9) Environmental protection;
- 10) Education and training;
- 11) Fighting all forms of discrimination;

- 12) Fighting poverty;
- 13) Healthcare and health services;
- 14) Protection of historical landmarks;
- 15) Children's and youth problems;
- 16) Protection of animals;
- 17) Assisting the government in implementing its certain functions;
- 18) Research and development;
- 19) Bridging the gaps in the society;
- 20) Socio-economic development;
- 21) Social welfare;
- 22) Other socially relevant activities.

The most widespread target groups for the NGOs are 'youth' (48%), "organization members" (32%) "children" and "school students" (24% each). Women are mentioned as a target group in 14% of the cases, the disabled – 13%, retired and elderly persons – 12%, (according to "Counterpart" creative centre).

- What is the role of social enterprises in the 3 activity areas mentioned above (training and reintegration, personal services, local development)?

A charity fund that works on rehabilitation and reintegration of people with mental disorders, had decided to earn money for funding its activities. The fund started to sell porcelain bijouterie, hand-made, or rather created, by the patients of the rehabilitation centre during the art-therapy sessions. The fund had to learn how to sell with profit, how to produce more and follow the market trends. Support came from a private entrepreneur – the fund member – who has a chain of bijouterie shops, where the porcelain decorations could be sold efficiently. The entrepreneur sells under the fund's logo, and the fund receives profit in the form of donations from the entrepreneur. Besides, the patients receive some remuneration, in addition to feeling occupied and needed.

Another example of a social enterprise is an organization that works with sight-challenged people. It was decided to create a new product with a niche available on the market – audio books. Children's audio books include the works from the school program, such as *Pippi Longstocking*, Andersen's *Fairy Tales*, *The Adventures of Tom Sawyer*, whereas adults can choose from Prosper Mérimée's *Bogdan Chmielnicki* and Françoise Sagan's *Bonjour Tristesse*. Professional actors and voice artists are invited to record the books. It is planned to donate the audio books to specialized schools, and to sell some of them in bookshops. The revenue is reinvested in increasing the number of copies and producing new books. Besides, the original recordings of the first five books were given to the Recording House of the Ukrainian Association of Blind People, which is protected by the state.

In the first case we deal with social rehabilitation, employment, and the improvement of the welfare of the beneficiaries. The fund takes this opportunity to attract additional funding for charity programs and the organization's needs, as well as introduce new work standards and meet new requirements. The project's partner is a private entrepreneur, who is also the fund member.

In the example with the audio books social enterprise is about creating a product that improves the quality of life for the sight-challenged people; at the same time, it fills in the market niche that the regular business viewed as unprofitable and unviable. In this case the project's partner is a private publishing house that takes care of most of the sales.

- What is the size structure? Are there a few very large or many small ones?
- 3. Organisational and management characteristics of social enterprises (5 pages):**
- What kind of legal structure do these enterprises have?

According to the Ukrainian legislation, non-government organizations (NGOs) can have one of the three legal forms: citizens' associations, charity, and religious organizations.

NGOs of the first type usually have their members as beneficiaries; they are self-profitable organizations (SPOs).

Charity organizations are so-called 'socially useful' organizations; according to their charters, they operate for the benefit of the society or some of its sectors.

The third type – religious organizations – operates both as socially useful and self-profitable organizations. They satisfy the religious needs of their members and also work for the interests of the public good.

Art. 8 and 16 of the Law of Ukraine "On social services" rule that the NGOs wishing to offer professional social services (receiving the support from the national and local budgets) are obliged to meet the licensing requirements. The requirements are listed in the Cabinet of Ministers' Decree "On the list of documents to be supplied with the application for a license for a specific type of economic activity".

At the same time, art. 6 of the Law of Ukraine "On citizens' associations" guarantees the citizens' right to freely choose

the area of activities. Thus, the citizen's associations can offer social services to their members according to their charters, submitted for registration to the Ministry of Justice. The Law of Ukraine "On social services" presupposes (although does not state explicitly), that citizens' associations need to indicate the provision of social services as their goal in the charter. It is desirable that the licensing normative acts take into account the licensing requirements and identify the conditions under which such licenses can be issued. New normative acts need to be developed in accordance with the amended Law of Ukraine "On citizens' associations" (2006), the draft Law "On non-business organizations", and the Civil Code of Ukraine. The latter defines NGOs as non-business non-profit organizations.

- What kind of organisational and management structure do they have?

According to the World Bank, about 85% operate on the local or regional level. Only one in ten organizations classifies itself as a national one. 5% reported that they belong to an international NGO network. According to 2004 Counterpart survey, the majority of Ukrainian NGOs are registered as citizens' associations, and only 10% - as charity organizations. The focus of their activities is social problem, with the emphasis on satisfying the needs of their members or those of the society in general.

According to Art. 3 of the Law of Ukraine "On citizens' associations", the goal of an association of citizens is to satisfy their social, economic, and other common interests. Thus, the number of people whose interests are protected by the association is limited to its members. Consequently, a citizens' association can offer services only to its members and as such stands closer to self-profitable organizations (SPOs). In practice, one of the strict requirements for the registration of a citizen's association is that it indicates the goal of its activities, including the scope for protecting the members' rights and interest, in its charter documents. However, the Law of Ukraine "On social services" envisages the provision of services not only to association members (or satisfying their needs), but also to other persons who are not members of non-government organizations. The fact that the Law of Ukraine "On social services" misrepresents the scope of activities that citizens' associations have the right for, needs to be clarified (this inconsistency is preserved in the draft law "On citizens' associations" of 2006, so the problem is still there). The current legislation treats citizens' associations as if they had the right to offer social services only to their members, except for cases when a separate legal entity (company or noncommercial organization) is created purposefully for providing social services.

- What sources of funding do they use (public subsidies, donations, market resources etc.)? How relevant are these sources of funding? Is there information on annual subsidies to the social enterprise sector?

According to the Law of Ukraine "On citizens' associations" No 2460-XII of 16.06.1992 they may undertake commercial activities only on condition that these aim at achieving the goals indicated in the charter. In art. 52-55 of the Civil of Ukraine, that came into force on 01.01.2004, the nongovernment organizations' activities are identified as independent and systematic non-profit economic activities. It can be deduced from the Ukrainian legislation that social entrepreneurship is an integral part of the NGOs commercial activities.

Art. 8 of the Law of Ukraine "On citizens' associations" lists the conditions under which associations can receive funding from the government for providing social services (the criteria for the inclusion into the list of national-level associations). Art. 8, among other things, provide for the right of NGOs and their enterprises for tax benefits; national-level NGOs can receive funding from the state budget. The Law "On social services" (Art. 7) provides for competitive tendering, which should facilitate cooperation among NGOs, government authorities, and local self-governments. Although there are no apparent discrepancies between art.8 of the Law "On citizens' associations" and art.7 of the Law "On social services" it still can be noticed that the draft of the new Law "On citizens' associations" does not clarify whether citizens' associations can take part in the bidding and make agreements for providing social services. Another issue that has to be reviewed relates to relaxing eligibility criteria for state funding, since the majority of associations that are able to and would like to offer services in the community do not classify as national-level associations.

Some NGOs (especially those that were established during the Soviet Union times as public mass organizations) enjoy considerable benefits both in the legislation and in the funding that they receive from the state budget, in contrast to the NGOs that were established after Ukraine gained independence and operated in the conditions of transition to democracy and market economy. Unequal approach to the state funding of NGOs has the following consequences:

- 1) direct state funding of some NGOs, provided for by the Law "On state budget" (e.g. Ukrainian Association of the Blind (UAB), Ukrainian Association of the Deaf (UAD));
- 2) indirect subsidies and special tax benefits for NGO employees that work with special needs groups (the funding for national organizations and companies founded by associations of the disabled comes from the Ministry of Labour and Social Policy (MLSP) through the Social Protection for the Disabled Fund; children's, youth, and women's organizations are funded by the Ministry for family, youth, and sports);

3) NGO funding on the bidding competition basis according to art.8 of the Law "On social services".

Financial and technical assistance.

According to USAID data (2005), financial security scored lowest among the Ukrainian NGOs characteristics. Although the same report indicates some improvement in the financial situation of Ukrainian NGOs, most of them, according to the World Bank survey, still consider poor financial and technical provision as one of their main problems.

According to "Counterpart" survey, 95% of the NGOs rent offices or use them for free, while 13% have their own premises; 75% have computers, 65% have emails and/or access to the internet. According to the World Bank information, 75% of Ukrainian NGOs have offices, but only 50% have modern office equipment. At the same time, a lot of socially-oriented organizations located outside large cities have neither offices, nor equipment. According to USAID, a lot of small NGOs, especially in the regions, do not have or do not need substantial funding. A lot of them perform activities that do not require considerable resources (disseminating humanitarian aid among the special needs groups, offering other social services) and can do with small charitable donations. Such humble financial needs can be explained by the desire to avoid complicated financial audit procedures and associated labour costs. Some NGOs, in order to avoid financial reporting and tax payments are not registered at all; this affects their performance and cooperation with the mass media. One can say that most Ukrainian NGOs do not have enough money for audit and bookkeeping.

Analyzing the aforementioned NGO surveys, it is also necessary to review the sources of funding. On the average, about 38% of the NGO budget comes from private companies, 34% - from central and local authorities. The main source is the funding from international donor organizations, which averages at 67%. According to the World Bank survey, the stereotypical claim that Ukrainian NGOs exist only thanks to grant money is groundless. At the same time, only about 93% of NGOs receive funding from international donors (53% of NGOs on the regional and local level, 63% - on the national level and as part of an international network). Due to heavy competition, international funding goes mainly to the NGOs that cover the whole country or to those located in large cities, especially in Kyiv. On the other hand, less than 45% of national NGOs cooperate with private companies. Regional and local NGOs, on the other hand, have the most active contacts with business, since local entrepreneurs are well aware about the local NGOs activities.

- What kind of workers do they use (volunteers, paid workers etc.)?

Art. 17 of the Law "On social services" lists the requirements for the staffing of social agencies. There is a provision that social workers and other persons with relevant education can offer social services in the community. At the same time, qualification and attestation requirements to social workers and other authorized specialists are to be established by central executive authorities. On the other hand, the qualification of volunteers is regulated by separate acts adopted by the Cabinet of Ministers. These qualification requirements are applicable to organizations of all legal forms, including NGOs. The Law "On citizens' associations" does not specify requirements to the educational background of association employees and members. It can be assumed that with a large proportion of personnel with pedagogical background a lot of associations will not meet the qualifying requirements for contract-based social services provision.

80% of Ukrainian NGOs are membership organizations; 24% have from 11 to 30 members, 26% have more than 100 members. According to the World Bank, only 28% of the surveyed NGOs required formal registration of members. The majority of NGOs does not bind their members with any requirements or do not require formal membership at all. Non-formal membership is characteristic for various citizens' associations and charity organizations.

As for the staffing issue, 57% reported the average of five permanent staff. There is an equal amount of organizations that have either more or fewer than three permanent staff. 39% of the surveyed NGOs have written terms of reference, 43% have inner-office regulations; 58% of the NGOs had reviewed the regulations over the 12 months prior to the survey. 66% encouraged professional development of their staff by funding their participation in conferences, round tables, training courses, etc.

The volunteers' involvement in the NGOs is gradually decreasing. In 2004, 73% of the NGOs attracted volunteers, whereas in 2002 this indicator was at 78%. On the average, there are about 15 volunteers working with an NGO. According to the World Bank, about 10% of the organizations rely only on volunteers' involvement. Volunteers usually perform tasks that do not require qualifications; they do not plan to develop their career in these organizations in the future. Partially, this explains the high percentage of students among volunteers. 53% of volunteers are students, who view volunteer activities as a way of professional development and the opportunity to acquire practical experience.

("Counterpart" data).

At the same time, there are highly qualified experts who devote some time to volunteer activities. Since a lot of NGOs are located outside large cities and lack financial resources, most of them cannot afford permanent staff. Such organization, and especially those focusing on social problems, cannot pay for the professional development and training of their most active members. Rural NGOs are often not registered at all and operate only based on the good will and enthusiasm of their members.

- What jobs do they offer (gender and quality aspects)?
Please indicate sources used:

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21. Головаха Є., Паніна Н. Соціальні зміни в Україні: пострадянська деінституціоналізація і особливості становлення нових соціальних інститутів // Політична думка. – 2001. – №4. – С. 3–24. (*Social changes in Ukraine: post-Soviet deinstitutionalization and the development of new social institutions*)
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