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PART 2/2

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a Directive of the European Parliament and of the Council

on European cross-border associations

{COM(2023) 516 final} - {SEC(2023) 306 final} - {SWD(2023) 292 final} - {SWD(2023) 294 final}

ANNEX 1

PROCEDURAL INFORMATION

1. Lead DG, Decide Planning/CWP references

The preparation of this file was led by DG Internal Market, Industry, Entrepreneurship and SMEs (GROW). It was included as the following items in the DECIDE/Agenda Planning database: PLAN/2022/1465.

2. Organisation and timing

The initiative is a deliverable under the Commission Work Programme 2023 announcing a Social Economy package (made of binding and non-binding measures to better address the needs of the Social Economy actors in line with the Social Economy Action Plan of December 2021.

The initiative also follows up the Commission reply of May 2022 to the European Parliament Resolution adopted on 16 February 2022[1].

A Public Consultation and a Call for Evidence were published on 5 August 2022 with a feedback period until 3 November 2022 [2].

The Inter Service Steering Group (ISSG) for the Impact Assessment was set up by the Secretariat General (SG). It included the following DGs and services: DG BUDG, DG CLIMA, DG COMM, DG EAC, DG ECFIN, DG EMPL, DG ENER, DG ENV, DG FISMA, DG JUST, DG NEAR, DG HOME, DG REGIO, DG INTPA, DG ESTAT, DG TAXUD, DG TRADE, SJ, RTD, JRC, and OLAF.

Meetings were organised as follows: 29 June 2022 (first informal meeting), 7 December 2022, 12 January 2023 and 15 February 2023. Information was also exchanged outside of these meetings through a dedicated ISSG Teams space.

The ISSG discussed the Call for Evidence and the main milestones in the process including main stakeholder consultation activities, key deliverables from the support study, and the draft Impact Assessment report before the submission to the Regulatory Scrutiny Board.

3. Consultation of the RSB

An informal upstream meeting with the Regulatory Scrutiny Board (RSB) took place on 23 January 2023. After final discussion with the Inter-Service Steering Group (ISSG), a draft of

[1] Texts adopted - A statute for European cross-border associations and non-profit organisations - Thursday, 17 February 2022 (europa.eu)

[2] Single market – Proposal for a legislative initiative on cross-border activities of associations (europa.eu)

the IA was submitted to the RSB on 1 March 2023 and discussed at a meeting with the RSB on 29 March 2023. The RSB issued a negative opinion on 31 March 2023, following which this Impact Assessment was revised as follows:

RSB Recommendations	DG replies
(1) The report should provide evidence (including stakeholder views) on the existence of the problem. It should also more precisely define the scale of the problem to justify better the proportionality of the initiative and the options considered. Whereas the report acknowledges the lack or insufficient quality of data on associations at EU and Member State level, it should better explain the reasons behind them. It should be clear on where the data gaps are, and what assumptions have been made. It should bring to the report the available qualitative evidence to better illustrate the magnitude of the problem. The report should indicate whether and how foresight analysis has informed the problem definition.	The revised draft report provides further clarifications on the evidence underpinning this IA, including the issues of scarcity and data gaps and the stakeholder input. Such revisions were included in the market context (Section 1.4) and in the problem analysis (Section 2), in view of providing a more precise understanding of the magnitude of the problem, but also across the draft report and in Annex 4 where necessary. Regarding the data gaps in particular, further clarifications were added in a separate box introducing the market context (Section 1.4) as well as in several footnotes across the document explaining the robustness, background and input for calculations of estimations and assumptions. Also, the problem analysis (Section 2) was revised in order to further assess the problem and to include quantitative data and bring in new qualitative elements. The reach of the consultation activities was clarified through a more detailed and nuanced presentation of stakeholders input in Section 2 and in Annex 2, highlighting that a high proportion of respondents were umbrella organisations (29 in total), representing the voice of associations across EU Member States. The presentation of consultation activities was split in terms of replies received per each type of consultation (i.e. public consultation, call for evidence, survey and interviews), underlying that the consultation activities overall represented the voice of approximately 3,026 associations (including individual associations and umbrella organisations, either in cases where an association directly contributed to a consultation activity, or indirectly, where the contribution was made via the umbrella organisation the association is a member of). Regarding foresight analysis, links to several megatrends and basic foresight elements were added in the section developing the dynamic baseline (Section 5).
(2) In view of the Commission's withdrawn proposal on a new legal form for associations in 2005, the report should indicate how conditions have changed. It should clarify what the main objective of the current initiative is. It should also better explain, how this initiative is related to the Social Economy package and Democracy package.	The revised draft report clarifies in which context the Commission proposal of 1992 was withdrawn in 2005 and the evolution of the socio-economic context since then (Section 1.3 and Section 3 of Annex 9). Furthermore, explanation on how assessed policy options (as presented in Section 5) differ from the Commission proposal of 1992 was added in Section 5, particularly underlying differences with the policy options 1 and 3.

	The introduction, notably Section 1.2, was revised to better explain interlinks with other measures included in the Social Economy Package. Synergies with the Council Recommendation on social economy frameworks were better highlighted regarding the common objective of fostering an enabling environment for social economy entities, of which associations are the predominant legal form. The complementary? with this initiative which underpins the non-binding nature of the Recommendation has been also clarified. Furthermore, interlinks and complementarities between this initiative and the taxation-related guidance were clarified across the draft report (notably in sections 1.2 and 2.2). Granular language to explain the links with the Defence of Democracy package were introduced in Section 1.2 (and Annex 9). Section 5.1.3 was improved by showing a dynamic baseline to encompass the impacts that the other initiatives under the Social Economy and Defence of Democracy packages may have on the current initiative.
(3) The impacts analysis should clearly explain how additional employment and Gross Value Added as well as the number of additional cross-border associations have been estimated. The report should improve the description on the robustness of the input data and assumptions used along various steps of the analysis. It should clarify how robust the overall analysis is and if there is a risk of overestimation. If assumptions are theoretical, this should be recognised.	Different sections across the revised draft report (Section, 1.4, Section 2, Section 5.1 and Section 6), as well as parts of annex 4, were improved to explain the methodology in more detail and clarify the robustness of the assumptions through the successive steps towards the estimates presented in the IA: 1) Scoping of the sector in its entirety (total number of associations, GDP and employment contributions) 2) Estimation of current cross-border associations 3) Estimation of the number of potential cross-border associations that can be unlocked given policy intervention. A more conservative scenario was added to mitigate potential overestimations. 4) The uptake of different policy options (impacts) is estimated starting from the maximum potential cross border associations (baseline). This assessment includes further clarification of the input sources as well as the theoretic estimates and assumptions made. For every step taken, a footnote was added summarising the different steps and caveats (Sections 1.4, 2, 5.1 and 6). The risk of overestimation for some estimates was explicitly highlighted in the appropriate sections (Sections 2 and 6). To overcome this (i) a more conservative scenario was added to the assessment and (ii) a range was applied to the uptake percentages (a 10 p.p. margin).
(4) The report should explore a more targeted and possibly more proportionate variant of the option establishing EU-level legal form of association, based on a 'European association' only set up for cross-border activities, while the rest remains under Member	A variant of PO1, "PO1b" (a 'European association' only set up for cross-border activities), was introduced, assessed and compared with other policy options (Sections 5, 6, 7). Relevant differences between PO1a and PO1b were assessed qualitatively

State law. The report should present the costs and benefits of all relevant options, paying sufficient attention to transposition, implementation and enforcement aspects, including issues of legal clarity, risks of fragmentation and divergent interpretation. In this context, the report should also clarify the implications of the choice of the type of legal delivery instrument i.e. Directive or Regulation, and how this would impact the effectiveness, efficiency and coherence of the options.	in a separate section added to section 6.1 on impact analysis for PO1. Aspects related to implementation and enforcement of each policy option were clarified, as well as related to the choice of legal instrument (Sections 5-8). Furthermore, Sections 5 and 6 were specifically clarified and improved concerning the introduction, application and explanation of the impacts on the different policy options and impacts in terms of cost and benefits (e.g. baseline development, a second scenario added to the baseline and ranges were applied for impacts in terms of benefits). The consequent main methodological steps were included into the report via footnotes across the document.
(5) The comparison of options should present a comprehensive and consistent narrative to explain how options compare. The scoring methodology needs to be better explained and should be fully consistent with the preceding impact analysis. The report should better explain the choice of the preferred option taking into account the assessment of the options' scores on effectiveness, efficiency and proportionality. It should explain the discrepancy between the efficiency and proportionality assessment on the one hand and the large differences in the proportionality scores on the other hand.	The comparison of policy options was revised, including clarifying better the scoring methodology (Section 7). The assessment of proportionality was deepened, while other areas of the comparison were clarified and made more nuanced (Section 7-8) and more consistent with impact analysis of section 6. The choice of the preferred option was better justified (Section 8). As there is very little harmonization in the Union concerning association law and there is a history of an unsuccessful attempt to create a European Association at EU level, the need for proportionality in the envisaged preferred option is underscored (Section 8).
Some more technical comments have been sent directly to the author DG.	Clarifications and improvements have been provided in the introduction to better explain the focus of the initiative and the entities falling in its scope (a new figure 1 was added and relevant footnotes were revised). More clarity on terminology was provided to differentiate the legal form of association (in scope of this initiative) from legal forms outside of the scope of the initiative as well as links with legal statuses or qualifications an association could acquire (see Introduction and Glossary). Clarifications regarding the legal basis and its choice brought in Section 3. Links with the relevant SDGs were also added in Section 1 in line with Section 7. All RSB comments regarding presentation and terminology have been addressed. In addition to Annexes 2, 4 and 9 mentioned above, further clarifications and updates were also provided in Annexes such as 3, 4, 5, 6, 7, 8, 10, 11, 12, 13 and 14. The executive summary has been revised to reflect all changes made to the IA report and Annexes.

A revised version of the draft Impact Assessment was resubmitted to the RSB on 8/05/2023. The RSB delivered a positive opinion (with reservations) on 8/06/2023, following which this Impact Assessment was revised as follows:

RSB Recommendations	DG replies

(B) Summary of findings	
(1) The report does not explain why options with different legal bases are presented.	The revised draft includes additional elements of clarification to explain the choice of different legal bases as most appropriate for the different policy options. Replies in point (C) below specify in detail the revisions made.
(2) The report is not sufficiently clear on the difference in impacts of the policy options, in particular those resulting from the choice of legal instruments. The comparison of options does not sufficiently differentiate proportionality from subsidiarity aspects.	The revised draft includes additional elements to clarify (i) the difference of impacts among the policy options, in particular those resulting from the choice of legal instruments and (ii) the comparison of the options with regard to proportionality and subsidiarity. Replies in point (C) below specify in detail the revisions made.
(C) What to improve	
(1) The report should be clear which legal basis fits best with the problems at stake. It should better explain why for the policy options establishing an EU legal form via a regulation Article 352 TFEU is the appropriate legal basis, whereas for options using the delivery instrument of a directive Article 114 TFEU is chosen. Given the non-profit character of the associations in scope of the initiative, the single market dimension should be better justified.	In section 3.1, new elements related to the activities of the associations in the single market have been added to justify the adequacy of Article 114 TFEU as the appropriate legal basis, in light of associations' potential capacity to perform economic activities and send/receive capital in the single market. Additionally, in section 5.2.1 and 5.2.3, the difference between PO1b and PO3 has been explained in a more granular manner to better reflect the difference in the choice of the legal basis. More precisely, it is explained that PO1b has an 'exhaustive' approach harmonising cross-border aspects at EU level, while PO3 limits its action to an approximation of laws between Member States in the said cross-border area.
(2) The report should be clearer on the differences in impacts between the policy option that fully prescribes an EU level legal form (PO1a) and the option (PO1b) that limits 2 EU action to cross-border aspects. It should better explain why the presented cost estimates do not differ. In this respect, it should better explain why it is assumed that the uptake would be similar even though the options have different scopes. It should consider using some estimates (e.g. economic benefits) from the analysis of option PO3 (additional national legal form), given that PO1b and PO3 essentially regulate the same cross-border aspects.	Parts in section 6.1.5 are revised in order to better articulate the differences of impacts between PO1a, PO1b and PO3. More precisely, the differences and similarities in terms of cost-benefits between PO3 and PO1b are further developed, as well as further elements in terms of subsidiarity and proportionality are added (p. 59). Also section 7 is updated with relevant elements in this regard, mainly in the section on subsidiarity and proportionality (p. 74-75).
(3) The comparison of options should provide a more granular analysis, so that the differences between the options in terms of effectiveness and efficiency come out in a clearer and more detailed manner, including in the comparison table. The comparison of efficiency, including in terms of Benefit-Cost-Ratios, should be informed by more quantitative information. The scoring methodology used for comparing the options should be explained, in particular, given the similar scoring among the options.	Several improvements have been added clarifying the differences in terms of effectiveness and efficiency in section 7. The scoring methodology is overall explained in more granularity and the scoring was adapted accordingly, as explained in point (4) below. An explanatory footnote is added to the table header "Efficiency (cost/benefit ratio)" explaining the conversion of monetary values of table 13 to the +/_ assessment in table 14. This should make clear that the differences in launch costs for PO1 and PO3 are non-significant in the overall sum of excess cost reductions, and consequently justify an equal scoring for cost/benefit ratio between PO1 and PO3 (p.70-73). The available quantitative information and consequent

	assessments made are integrated in the efficiency section, further supporting the qualitative assessment.
(4) The report should clearly differentiate the assessment of options on proportionality from the one on subsidiarity, including in the comparison table. On subsidiarity, the report should better explain the different scoring between the option creating the European cross-border association (PO1b) and the one creating an additional national legal form of association designed for a cross-border membership and/or cross-border purposes or activities (PO3) given that both options seem to prescribe at EU level the same cross-border aspects. The scores in the comparison summary table should be adapted accordingly.	The assessment of the differences of the policy options in terms of proportionality and subsidiarity in section 7 has been divided in two parts: one concerning proportionality and another concerning subsidiarity. The comparison table (Table 14) has therefore been updated accordingly by adding a new row especially dedicated to the scoring of the subsidiarity of each policy option. The scoring of the proportionality of each policy option in Table 14 has also been updated to reflect the new assessment (p.74-75).

Furthermore, although not part of the 2nd opinion of the Board, updates have been provided in the IA in the context of the Social Economy package and Democracy package (IA report section 1, Annex 9).

The comments formulated by the Board have been duly addressed and integrated in the final version of the Impact Assessment, stemming both from the first and second opinion of the RSB.

4. Evidence, sources and quality

To support the analysis of the different options, the European Commission awarded a contract for a support study to external experts Capgemini (consortium lead), Ecorys and a legal advisory panel and network of legal experts [GROW/G2 964/PP/GRO/SME/22/13215 under FWC GROW/2021/OP/0001]. These experts worked in close cooperation with the European Commission throughout the different phases of the study.

The Impact Assessment further relies on the information received from consultation activities as detailed in the synopsis report contained in Annex 2 of this Impact Assessment.

In addition, this Impact Assessment has been supported through further evidence and analysis stemming from the study on Comparative legal analysis of associations laws and regimes in the EU,[3] published on 29.09.22 and a recent independent study on comparative analysis on merger rules for associations[4] (to be published in Q2 2023).

[3] Corporate author(s): Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (European Commission), RAS Institute.

[4] Corporate author(s): Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (European Commission), RAS Institute

ANNEX 2

STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

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1. INTRODUCTION

The impact assessment underpinning the legislative initiative on cross-border activities of associations in the single market included a consultation process that covered a variety of different consultation activities aiming at gathering the views of relevant stakeholders, and in particular: associations, other Non-Profit Organisations (NPOs), EU citizens engaging in associations and other NPO activities, Member States and public authorities, businesses, experts, and researchers in non-profit law. The aim was to ensure that the views from different organisations and stakeholder types were presented and considered.

Overall, the consultation activities included a **Call for Evidence** (50 replies received), a **Public Consultation** (64 replies)[5], a **targeted consultation** (i.e. an online survey) and **64 interviews** which were carried out to further enhance the evidence base and support the preparation of the policy options.

The aim was to improve the understanding of the problem described in section 2 and those obstacles encountered by associations in the single market. The targeted groups of the online survey consisted of domestic and cross-border associations (88 in total), service providers (in total 12), academia/research institutes (in total 14), competent authorities (in total 11). The interviews (in total 64) targeted associations and umbrella organizations of associations.

While the return across the consultation activities was generally limited, the level of representativeness of contributions is worth noting, especially through the involvement of umbrella organisations, which were consulted and represented the voice of a much broader number of associations.

Across the above-mentioned consultation activities (i.e. Call for Evidence, Public Consultation, targeted survey and interviews), **29 umbrella organisations** were reached out to and represented the voice of **3 026** individual associations, either in cases where an association directly contributed to a consultation activity, or indirectly, where the contribution was made via the umbrella organisation the association is a member of. The table below show the break-down of the consultation activities with regard to associations' consultation in the context of this IA.

[5] Single market – Proposal for a legislative initiative on cross-border activities of associations (europa.eu)

Consultation activity	Number of stakeholders that were reached out to[6]	Of which were associations	Replies received [7]	Of which are associations	Total number of individual associations represented in the consultation activity *	Number of associations having provided an input under their own authority[8]	Umbrella organisations participated in the consultation activities (representing x n. of associations)	
Call for Evidence	N/A	N/A	50 replies	42	**1 841**	26	**16**	1 815
Public Consultation	N/A	N/A	64 replies	38	**1 958**	25	**13**	1 933
Targeted survey	2 491	1 700	140 replies	88	**2 115**	73	**15**	2 042
Interviews	146	93	64 replies[9]	41	**1 840**	23	**18**	1 817

Table 1: Overview of represented associations in all consultation activities

***** This number includes the voice of association provided either in cases where an association directly contributed to a consultation activity, or indirectly, where the contribution was made via the umbrella organisation the association is a member of.

[6] This numbers takes into account all categories of stakeholders that were reached out to for the consultation activity mentioned.

[7] This numbers takes into account all categories of stakeholders that provided an answer to the consultation activity mentioned.

[8] The associations counted in this section may have already been counted as members of umbrella organisations. However, it is considered that the two contributions should be counted separately as the content of the contributions differs by its content and nuances.

[9] This number takes into account both scoping and in-depth interviews conducted throughout the IA study.

Although there is no guarantee that the view conveyed by the umbrella organisations is supported in every respect by every member represented by the 29 umbrella organisations across the consultation activities, the way of gathering the views of their members can be potentially regarded as a mitigation measure, taking into account the possibility to channel their position through the shared platform that umbrella organisations represent[10].

In addition to the activities mentioned above, the Commission informed and discussed regularly with the members of the GECES (Expert group on social economy and social enterprises (2018-2024)[11] on the initiative on cross-border activities of associations.

The stakeholder consultation activities fed into the process of determining and defining the magnitude of the problem.

This synopsis report presents a summary of these consultation activities and their results.

2. PUBLIC CONSULTATION AND CALL FOR EVIDENCE

The Public Consultation and a Call for Evidence were accessible to the public (in all EU languages) for 12 weeks (i.e. from 5 August 2022 until 3 November 2022).

2.1. Feedback from the Call for Evidence

In total, 50 responses were submitted, most of which were provided by NGOs (29- 58%) followed by business associations (7-14%), Other (5- 10%) EU Citizens (5-10%), Company business (2 - 4%), Academic Research Institution (1- 2%) and one Trade Union (1- 2%). 25 positions papers were submitted.

The majority of stakeholders (e.g. NGOs/ Business Associations/Other) welcomed the European Commission initiative to strengthen the cross-border activities of associations and supported an intervention at policy level. A large part among stakeholders did not specify a preferred policy option.

Across stakeholders, some also asked for the initiative to cover all NPOs including foundations for the purpose of creating an enabling environment that respects the diversity of social economy organisations.

Restrictions faced:

The majority of stakeholders (with no big differences between the stakeholder groups) reported recurrent challenges and obstacles when conducting cross-border activities with issues such as:

- Providing services in another Member State without registration
- Visibility barriers/ recognition in another Member State
- Access to funding

[10] When it comes to input provided by umbrella organisations, it is worth noting that it builds on the assumption that, during the consultation activities, umbrella organisations stay in close contact with their members on any issues of importance and of relevance to their activities as the support and views of their members is essential for their functioning.

[11] An overview of members and the minutes are accessible via the Commission webpage: Expert groups (europa.eu)

- Different VAT regimes and approaches in different EU countries

Some stakeholders also stressed difficulties in employing staff across Member States, which required permanent establishment in those Member States, and it might result in a disproportionately high and duplicated tax burdens.

Creation of a European Public Benefit/Non-Profit

Across the stakeholder groups, many advocate for creating a public-benefit legal form via EU law, based on common public-benefit criteria, which would enable these new national entities to be recognised in other Member States jurisdictions by mutual recognition.

2.2. Feedback from the Open Public Consultation

2.2.1. Information on respondents

In total, 64 responses were obtained during the public consultation and 18 position papers. One respondent, with the legal form of association, submitted a formal position paper, which was endorsed by 20 other organisations. In addition, two position papers were received outside of the EU Survey.

Among the respondents, 47% were non-governmental organisations (NGOs) (30 out of 64), followed by an 16% classified as Other category[12] (10 out of 64), and 14% as a business association (9 out of 64), 9% as EU citizens (6 out of 64), 6% as Trade Unions (5 out of 64), two (3%) as company/business organisations and two 3% as public authorities[13].

According to the results, 67% of all respondents were part of the Non-profit sector. Among the respondents who were part of the non-profit sector, 59% (38 out of 64) respondents defined themselves under the *legal form of association*[14].

Regarding the countries of operations, 22% of respondents have activities in *several EU Member States* (14 out of 64), 33% of respondents replied in *one Member State* (21 out of 64), and 20% of respondents replied, *in EU Member States and non-EU countries* (13 out of 64).[15] Among 38 the Associations, 26% indicated to have operations in *several EU Member States* (10 out of 38), 37% in *one Member State* (14 out of 38), and 34% in *EU Member States and non-EU countries* (13 out of 38).

[12] Four out of 10 respondents in this category defined themselves as "Public Organisation", and four as "Association" whereas the remaining two respondents did not provide further details.

[13] Estonia and Denmark.

[14] As indicated in the questionnaire, for the purpose of the public consultation the following definition of association applies: "Association" refers to the legal form of associations or charities that are membership-based organizations of persons created for a specific purpose, usually for an indefinite period of time and having their own legal personality. They are established for a purpose other than sharing the potential profits from an economic activity, which leads to the qualification of "non-profit".

[15] 16 respondents did not answer this question. This question was only asked to respondents who completed the questionnaire on behalf of an organisation and indicated that they were a business association, consumer/business organisation, consumer organisation, environmental organisation, non-governmental organisation or trade union.

2.2.2. General summary of the results of the Open Public Consultation[16]

Operating cross-border

Majority of the respondents (58%) strongly agreed that *for reaching the objectives of an association, it is necessary to be able to easily operate across different Member States/cross-border in the EU Single Market*".

The most important needs for associations that **operate or want to operate** in more than one Member State are the *provision of services in another Member State without registration* (24% - 48 out of 64), followed by *getting equal tax treatment for donors in case of cross-border donation* (18% - 36 out of 64). (The answers do not differentiate among respondent type)

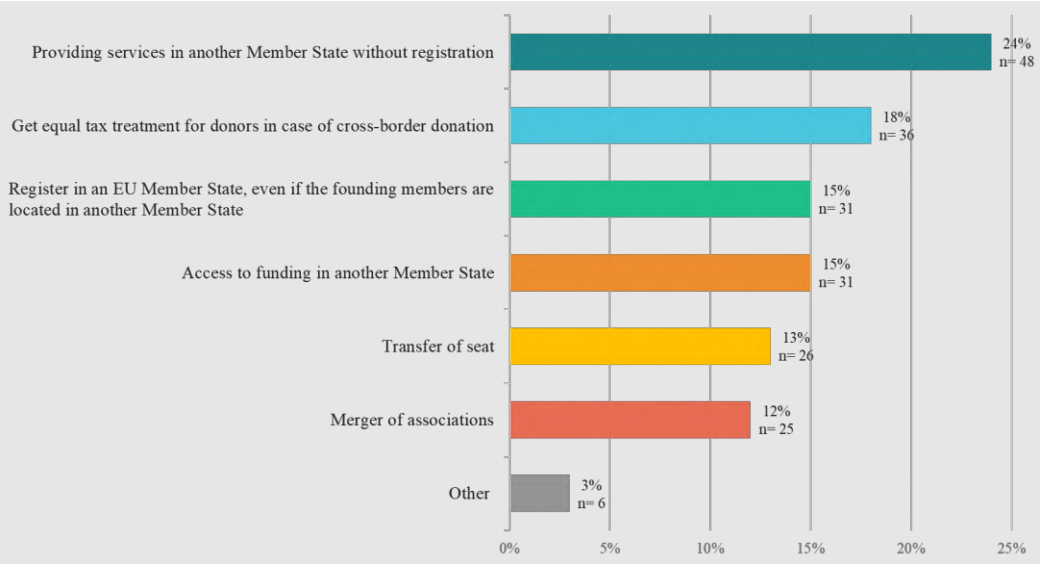

Figure 1: Most important needs for associations operating or willing to operate in more than one Member State.

Restrictions faced by associations

58% of the respondents agreed that *"an association registered in an EU Member State currently faces restrictions when seeking to operate in another EU Member State.*

[16] For the complete Factual Summary Report on the Public Consultation: Have your say (europa.eu)

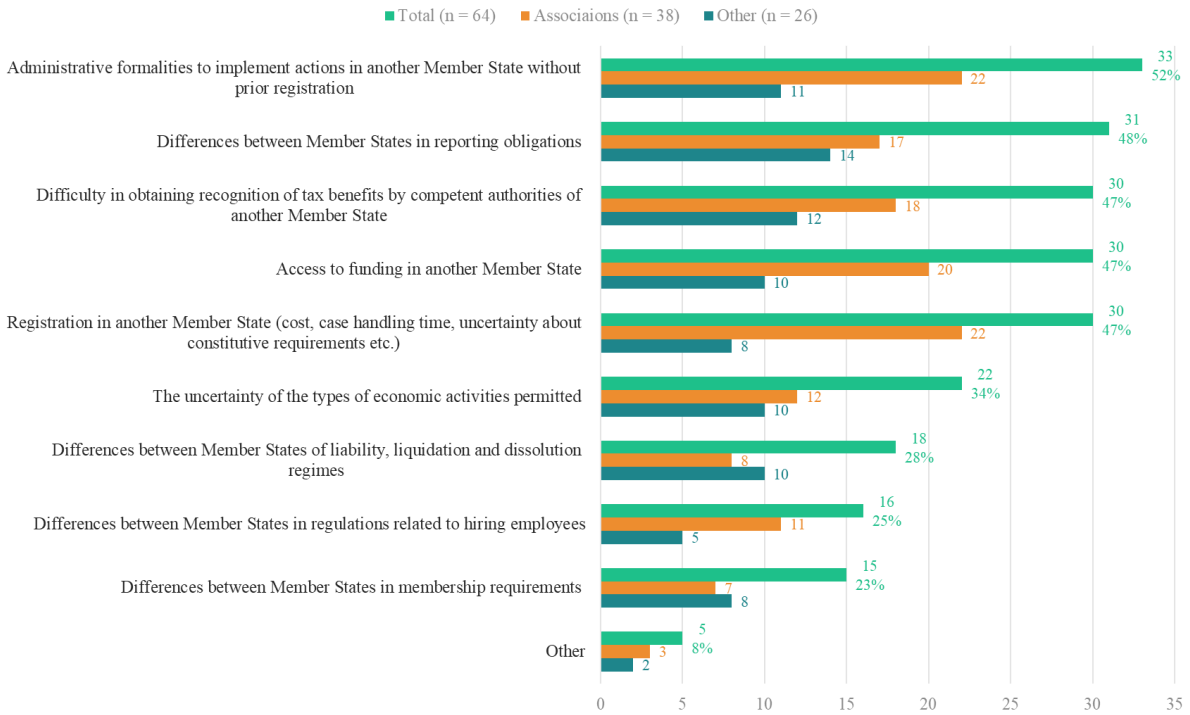

Figure 2: Restrictions identified by the different stakeholder groups when associations engage in activities across borders.

When asked which restrictions respondents see as most dissuasive, the following topics are the most recurrent ones[17]: *Tax related issues* (12 out of 44 replies), *registration process* (9 out of 44 replies), and *administrative formalities* (6 out of 44 replies).

Figure 3 provides an overview of the replies (answer options: yes, no, no opinion/don`t know) from the 64 respondents to three of the questions in the questionnaire.

17 Open text question.

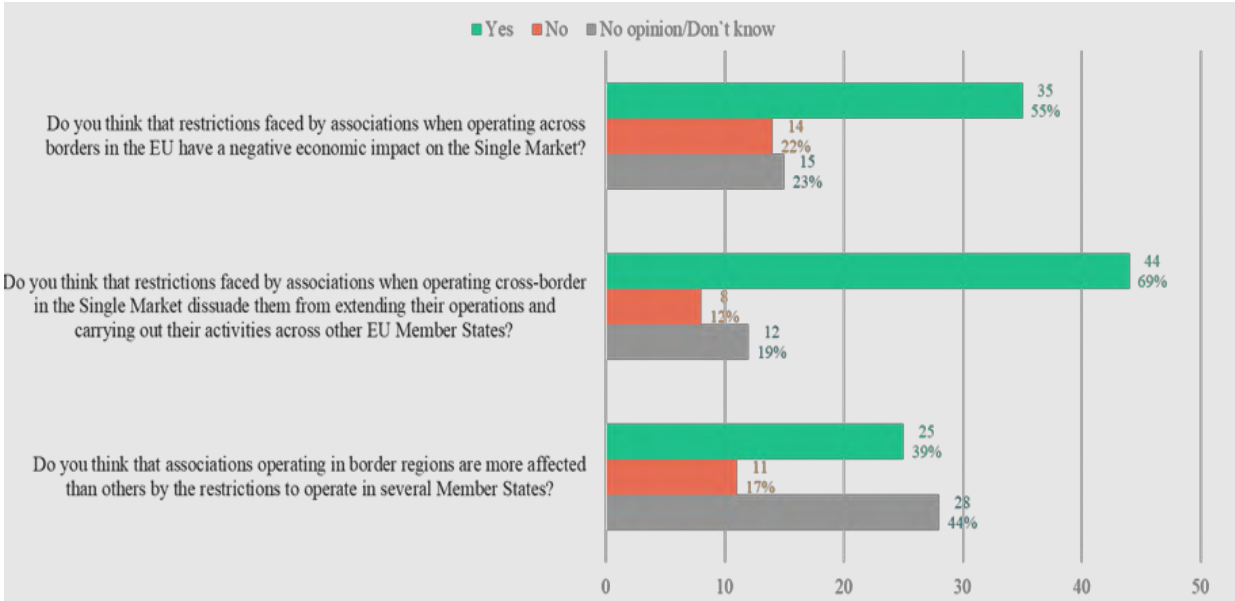

Figure 3: Overview of replies to three of the questions from the questionnaire.

Need for EU Action

As regards ways to mitigate the identified restrictions, most respondents (73% - 47 out of 64) agreed that there is a "*need for policy action at EU level"* to mitigate restrictions encountered by associations either when currently operating in several Member States or planning to do so.

76% (29 out of 38) of the respondents who defined themselves under **the legal form of association**, agreed with the need for EU policy action and only two respondents (5% - two out of 38) disagreed. 69% (18 out of 26) of the respondents with other forms of establishment (i.e., other than associations) also agreed that policy action is needed at EU level.

Preferred policy option

Figure 3 depicts the respondents' preferred choice among the envisaged policy options[18]. Among the policy options, for 36% (22 out of 64) a preferred policy option would be *a new legal form for associations,* 42% (26 out of 64) of respondents indicated the *harmonisation of common minimum standards for cross-border operations in the EU*, whereas 15% (nine out of 64) of respondents opted for an *EU information campaign* and 7% (four out of 64) of respondents chose *other* options.[19]

Among the 38 respondents who defined themselves under the legal form of association, 42% (16 out of 38) favoured *a new legal form for associations* (option 1), 32% respondents (12 out of 38) chose *the harmonisation of some common minimum standards* (option 2), and 18% respondents (seven out of 38) showed support for an *EU information campaign* (option 3). The distribution of the respondents with other forms of establishment (i.e. other than

[18] Multiple responses were allowed.

[19] The results on policy sub-options are not included given the response rate was not representative.

associations) was slightly different, with 54% respondents (14 out of 26) preferring Option 2, 23% respondents (six out of 26) Option 1 and 8% respondents (nine out of 26) Option 3.

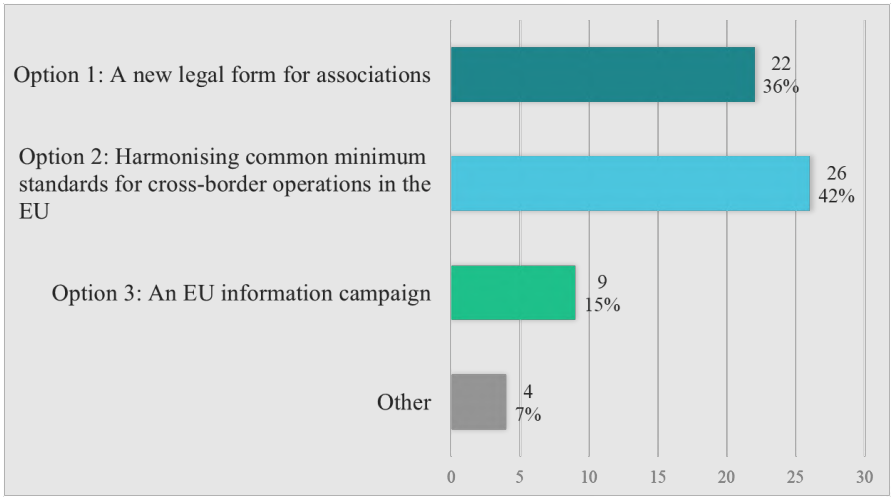

Figure 4: Preferred policy options.

3. TARGETED STAKEHOLDER CONSULTATION

A targeted survey covered four stakeholder groups; cross-border associations; single-country associations; companies (service providers); competent authorities and academic entities (academia, research institutes). A tailored survey questionnaire was created for each of the stakeholder groups. The online survey was open from 12 December 2022 and eventually closed 21 February 2023 to allow for a thorough analysis to be performed in order to inform IA study.

Table 2: Targeted consultation – Survey: Stakeholders overview

Type of organisation	Number contacted	Answers received
Associations active in one MS	1700	45
Associations active in several MS		43
Academia/Research institutes	75	15
Companies	649	12
Competent authorities	Every MS	11
Others		15
Total		**140**

As indicated in Table 2, only 88 associations filled in the questionnaire. This low response rate can be attributed to numerous factors. To begin with, the survey ran during the holiday period, which may have limited the ability of associations to participate in the consultation.

In addition, from a capacity point of view, it may be more difficult to reach an association and to obtain its views. Associations have a relatively smaller number of employees who cover more than one responsibility.[20] In a smaller structure, the capacity can be rather limited when it comes to allocating resources to answering surveys and questionnaires and many of them mentioned they had received a significant number of requests for surveys and questionnaires.

The objective of the survey was to gather the views from the listed stakeholder groups with a higher degree of detail in comparison to the Open Public Consultation. As part of this Survey, a tailored questionnaire was developed, focusing on barriers to working cross-border and relevant costs.

3.1. Cross-border associations

Out of the 45 associations active cross-border, 16 indicated to have encountered difficulties with establishing, registering, and/or continues running of operations cross-border. Table 2 illustrates the countries in which 13 associations acting cross border faced barriers for their cross-border activities; 3 other associations also indicated to have encountered barriers they had encountered but did not specify a particular Member State. Not only was Belgium mentioned most frequent to the questions where problems were encountered, it was also named as the country posing most difficulties for the associations active in multiple countries cross-border (4 out of 13 respondents – 31%). It should however be put into perspective with the fact that a large part of the sample of associations are interested in establishing themselves in Brussels due to the proximity to the European Institutions, which may have given the study more material to study on Belgian procedures and related difficulties.

Member states	Answers
Austria	1
Belgium	7
France	1
Germany	4
Hungary	3
Italy	3
Romania	2
Spain	3

Table 3: Response to: "Please list the Member State(s) where you experienced difficulties with establishing, registering, and/or the continued running of your operations."

The most often mentioned highly or extremely bothersome types of barriers faced by associations acting in several EU Member States (13 associations replied) when engaging in activities across borders are: different set of national rules for establishing associations (7 out of 13 – 54%), followed by difficulties merging associations across different EU Member States (5 out of 13 – 38%), different rules on tax exemptions for associations across the EU Member States (4 out of 13 – 31%), different rules on tax exemptions for public benefit or

20 For example, many associations have a structure in which one person can be in charge of legal, finance, operations, HR, and administration while other employees would also cover multiple roles such as member acquisition, board management, external communications, and event organisation.

associations with a similar status across the EU Member States (4 out of 13 – 31%), different rules on taxation (e.g., VAT) and tax reporting between the EU Member States (5 out of 13 – 38%), different rules on audits between Member States (5 out of 13 – 38%), different rules on reporting requirements between Member States (5 out of 13 – 38%), different rules on receiving private and public donations for associations or their donors across the EU Member States (4 out of 13 – 31%), difficulties/ discrimination of donations from other EU Member States (4 out of 13 – 31%), difficulties in accessing finance/ financial support in the target EU Member State (4 out of 13 – 31%), difficulties in opening bank accounts/ transferring money between the EU Member States (4 out of 13 – 31%).

3.2. Associations active in only one Member State

8 out of 42 associations active in only one country considered expanding operations to another Member State. The disincentives to carry out these operations were quite like the ones listed by cross-border associations with the addition of a majority identifying the following additional issues as highly bothersome or extremely bothersome: different set of national rules on what defines an association and/or the types of activities an association is allowed by law to carry out (4 out of 8 – 50%), different set of national rules on running an association (e.g., reporting requirements, necessary bodies such as management board, rules for decision-making, etc.) (4 out of 8 – 50%), additional layer of obligations or rules for associations from another EU Member State, including limitations to fundamental rights activities (4 out of 8 – 50%), difficulties admitting members from another EU Member State, including board members (3 out of 8 – 38%).

3.3. Academia and research centres

In total 14 academia and research centres participated in the survey. When asked about the barriers to cross-border activities of associations they identified the following as being the most highly or extremely burdensome for associations engaging in cross-border activities: Different set of national rules for establishing associations (6 out of 14 – 43%), different set of national rules on what defines an association and/or the types of activities an association is allowed by law to carry out (6 out of 14 – 43%), difficulties merging associations across different EU Member States, including transfer of seat (6 out of 14 – 43%), difficulties converting associations across borders between different EU Member States (7 out of 14 – 50%), different rules on tax exemptions for associations across the EU Member States (6 out of 14 – 43%), different rules on tax exemptions for public benefit or associations with a similar status across the EU Member States (6 out of 14 – 43%), different rules on taxation (e.g., VAT) and tax reporting between the EU Member States (5 out of 14 – 36%), difficulties in accessing finance/ financial support in the target EU Member State (4 out of 14 – 29%), different rules on donations for associations or their donors across the EU Member States (4 out of 14 – 29%), difficulties in opening bank accounts/ transferring money between the EU Member States (4 out of 14 – 29%), lack of contacts in the target country (2 out of 14– 14%), different civil society cultures across EU Member States (2 out of 14 – 14%).

3.4. Service providers (Companies)

The 12 service providers that participated in the survey indicated the main barriers for associations for cross-border activities as following: the fact that associations were often treated as companies in the single market (2 out of 8 – 25%), complex employment conditions in cross-border situations (1 out of 8 – 12,5%), disincentivizing donation framework for companies (1 out of 8 – 12,5%).

3.5. Competent authorities

The 11 competent authorities (i.e. BE, HR, IT, DK, FI, CY, FR, HR, LV)[21] that provided answers to the survey were not asked about existing barriers, but rather provided feedback on the specific numbers related to employed FTE's, number of registered entities etc. Their view on the barriers were later elaborated in the interviews that followed.

4. INTERVIEWS

Interviews were conducted with 64 parties, mainly umbrella organisations and individual associations, namely: **8 umbrella organisations of associations during the scoping phase**, and **33 associations during the interview phase (**22 of which were individual associations, and 11 were umbrella organisations).[22]

4.1. Associations acting in several Member States:

The 18 associations acting in several Member States that participated in the interview highlighted the following aspects as the most burdensome:

The complexity of dealing with the different national legislations (5 out of 18). The following specific points on that aspect were mentioned:

- *Requirement of translation of the statute into national language*
- *Different set of rules at national levels are recurring issues*
- *Hungary: Difficulties in pursuing certain activities, e.g., migration. Further monitoring and inspections imposed from the State*
- *Understanding national legislation*
- *Administration costs*

Regarding "taxation system": The complexity of taxation system depending on the host countries and the requirements implied by the various systems (5 out of 18). The following specific points on that aspect were mentioned:

- *"There are subsequent checks, and all revenues will be examined and could be considered taxable"*
- *"It is very complex to run a pan-European organization across Europe if the fiscal possibilities or incentives to operate in certain places are not the same"*
- *"It is not possible nowadays to make a single tax declaration when you receive donations from different countries. MS rules are different across EU. AISBL in Belgium, 3 categories for NPOs in Italy and as many in other MS, no mutual recognition. Opening a new office would entail opening a new tax debt"*
- *"There are tax exemptions in the Netherlands, but not in Lithuania, and this creates discrepancies"*
- *"Understanding the situation of other countries is often really complex, we have a diverse staff and the question of residency, double taxation, social security etc. is a real issue we are face*

21 Two different bodies provided information for BE, FI and DK.

22 Number of umbrella organisations at the interview stage showcased in Table 1 is 18, since one of the umbrella organisations (GEANT) took part in both scoping and in-depth interviews.

with on a daily basis as an entity acting on a European level"
- *"The most important barrier to be named is the VAT one. When we are using services abroad, we have to pay for VAT but as we are not VAT subject, we cannot claim it back"*

Regarding the complexity of uneven accessibility of funding, both from the European Union and the Member States themselves (4 out of 18). The following specific points on that aspect were mentioned:

- *"It is difficult receiving donations from other countries and accessing public procurement. Every single MS has their own rules which is really difficult"*
- *According to one association, between 30% and 50% of the money they receive can disappear in tax.*
- *"The criteria given by the Commission to get relevant subsidies are very hard to reach for small entities", one interviewed association considers that associations that are not in Brussels or/and of sufficient importance do not benefit of enough contacts, and once a subsidy application is out, they do not have the capacity to react quickly enough.*
- *"This is also one of the reason that shared administration at the border is so hard to have: shared public money is a complex topic"*

Compliance complexity related to banks for associations (3 out of 18), with comments added:

- *"As an association it is not a real problem to open a bank account. But banks today have to conduct thorough checks and if someone is absent (President) it becomes very complicated"*
- *"Banking services can be difficult to access to all NPOs in NL, acting cross-border or not"*

The important difference of perception of civic society in the EU (3 out of 18). The following specific points on that aspect were mentioned:

- *"There is a real barrier of education on sensitive topics depending on the Member State"*
- *"Difficulties can lie in the language and cultural differences with regards to social economy"*
- *"There is a historical side in Eastern countries where associations are seen as relics of the old communist regimes, and therefore civil society is less fostered because of that"*
- *"Associations are highly dependent on the goodwill of Member States"*

4.2. Associations acting in a single Member State

The following aspects were raised as most burdensome:

- *"Registration" – In some cases, e.g., Italy, necessary to register with two ministries.*
- *Legal expertise needed for setting up new status complying with national legislation.*
- *Difficulties in setting up in order to receive tax-exempt status.*

The complexity of the taxation system depending on the host countries and the requirements implied by the various systems (4 out of 15). The following specific points on that aspect were mentioned:

- *"Donor associations are asked to register in Portugal"*
- *"The different rules are really complex; the double taxation can happen very quickly if you are considered as having a permanent establishment"*
- *"There is an obligation to register in a country (here Spain) if you want to have a regular*

activity in it even if they don't specially want a privileged status"

The complexity and uneven accessibility of funding, from the European Union and the Member States themselves or donations (7 out of 15). The following specific points on that aspect were mentioned:

- *Fundraising issues. Registration is sometimes a precondition for receiving funds.*
- *Difficulties in ensuring foreign government funding if registered in another MS.*
- *"We receive around 1 grant a year, while the ones based in Brussels receive around 10 so it would make a large difference if we were to move. There is a discrepancy in the EU funding based on where your associations are located"*

Compliance complexity related to banks for associations (6 out of 15). The following specific points on that aspect were mentioned:

- *"The reporting behind donations received is very heavy even for very small amounts"*
- *Opening and closing bank accounts is difficult.*
- *"In the Netherlands, it is very hard to open a bank account and all the time you wait is time when you don't get any funding"*
- *"Setting up another account was difficult because we had to amend and go through all the processes of doing so. This could have affected their cashflow if we hadn't had the necessary funds already"*

4.3. View on policy options:

Regarding these associations both acting in a single state and cross-border view on the policy options described in the IA Study, most associations agreed on the fact that the one that *would* be most likely to have impacts is the regulation, as recommendations or directives are, according to this group, subject to interpretation of the Member States which could be an issue.

Nevertheless, the different perception of the matter at hand led a number of associations to also consider the enhanced cooperation as a valid option as this would allow countries with a will to act to start the harmonisation process; even though that would also imply, according to some associations, that problematic areas probably would not be addressed.

Regarding the policy options, it was highlighted by most that while the regulation would be the preferable approach, its feasibility was an issue. Thus, the most supported option in this case was the directive that would allow more flexibility and have more chance to have an impact in the end. However, it was stressed that the scope of the options was not precise enough yet.

4.4. Academia and research centres

Matters raised by the five academia and research centres interviewed were the following:

- *"Access to public funding is more burdensome for foreign associations and small associations"*
- *"There is a lack of predictability of resources"*

Compliance complexity:

- *Opening bank accounts (2 out of 5 respondents)*
- *Reporting differences in perception of civic society: (3 out of 5 respondents).*

4.5. Competent authorities

Interviews were conducted with the following Member States: BE, BG, CY, DK, FI, FR, DE, LV, LT, SE. While no particular barrier was raised by the interviewed competent authorities, views on the policy options were shared. Overall, authorities tended to favour the option that would lead to the least changes in their own legislation. This approach was motivated by the large number of consultations that would have to be done in parallel to the changes.

5. COMMISSION EXPERT GROUP ON SOCIAL ECONOMY AND SOCIAL ENTREPRENEURSHIP (GECES GROUP[23])

Meeting of 25 January 2022, relevant points raised during the discussion:
An expert mentioned the obstacles in the cross-border operations for philanthropy and foundations and asked how this could be tackled at EU level. The Commission replied that it had launched two studies and expected results in the first half of 2022. One aimed to map the rules across Member States when it comes to philanthropy to assess their diversity. The second study was on the cross-border obstacles for associations and non-profit entities.[24]

Meeting of 15 June 2022, relevant points raised during the discussion:
Following a question on how the European Commission intends to follow-up of the EP resolution of February 2022 with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations,[25] DG GROW confirmed that the related open consultation, including the call for evidence, will be launched by July 2022. An expert expressed thanks for the update on the EP JURI report[26], which was considered as a game-changer for the civil society, including the philanthropic sector. The expert confirmed that their association looks forward to the announced public consultation and will gather experts on the matter in order to be able to contribute.

Meeting of 14 November 2022, relevant points raised during the discussion:
The experts welcomed the initiative and the announced actions on the cross-border activities of associations, but asked if the wider NPOs sector, including not only associations but also foundations, would be covered in the new legislative initiative as a follow-up of the European Parliament resolution of February 2022. For instance, it was highlighted a barrier related taxation, and more concretely the implementation of the non-discrimination principle within the EU. An expert asked if there will be guidance for Member States on how to best implement the non-discrimination principle in taxation in the context of cross-border donations as announced in the Action Plan for the Social Economy of December 202

[23] Expert groups (europa.eu)

[24] Comparative legal analysis of associations laws and regimes in the EU - Publications Office of the EU (europa.eu)

[25] PR_INL (europa.eu)

[26] MEPs push for game-changer rules for pan-European civil society | News | European Parliament (europa.eu)

ANNEX 3

WHO IS AFFECTED AND HOW?

1. Practical implications of the initiative

The preferred option (i.e. **"**Create an additional legal form of association designed for cross-border purposes ("cross-border association"), based on mutual recognition**"** would generate the cost and benefits as summarised in the table below.

At this point in time, it is only possible to give a rough idea about the nature of the costs and benefits and it has to be kept in mind that these are dependent on concrete modalities of implementation by competent authorities and on a series of decisions made by associations, that makes is unpredictable to estimate the exact number of associations wishing to opt to spread across borders (see Annex 4). Having said that, this Annex tries to provide an overview of the main consequences in terms of cost-benefits for the concerned stakeholders (e.g. associations operating cross-border in the single market) that are likely to stem from the preferred option.

Who will be affected? This annex will focus on:

- Associations:
  - those operating cross-border activities
  - those potentially operating cross-border activities
  - those not interested to operate cross-border.
- Member States (who have to transpose and set up registries etc.)

Indirectly, citizens (benefiting from more associations going cross border, either as members of associations or recipients of the associations' services) and for-profit companies (potentially experiencing more competition from more associations operating cross-border) could be affected. For more elaboration on these indirect impacts, see overview table in Annex 4.

2. Summary of costs and benefits

I. Overview of Benefits – Preferred option		
Description	***Amount***	***Comments***
Direct benefits		
Associations: recurrent administrative and compliance cost reduction.	Excess cost reduction (against baseline) of: • **Compliance cost** (internal): EUR 190 million • **Information cost** (internal): EUR 350 million • **Direct cost/ External**	The preferred policy option has the potential to reduce costs of operation for those associations using it and thus simplifying gathering information, compliance and needs for regular external advisory support. It is not likely to expect such effect to materialise from year 1,

	advisory cost (External running cost): EUR 230m This leads to a total cost reduction of **EUR 770 million / year.** Over a time span of 15 years, the estimate total cost reduction is of **EUR 8.5 billion**	and in particular: - **a lag effect of 1 year is included** (where no effects can be observed), due to the time to effectively implement the appropriate policy intervention and produce the desired effects on relevant stakeholders (e.g. introduction into national law). - **starting from year 1, it can be expected a linear increase** from the current situation to the full cost reduction potential (i.e. EUR 770 million per year) until year 5. - **as of year 5, the policy intervention can be expected to be fully effective** and to produce the maximum expected results.
Associations: estimated reduction for launching operations	Excess cost reduction (against baseline): • Internal setup cost (compliance cost): EUR 1 500 • External advisory cost (direct cost): EUR 650 • **Total: EUR 2 150 per launch** Applying this cost estimate to the number of new associations that are expected to launch cross border operations under this policy option, the **excess cost reduction amounts to:** Scenario A: EUR 338 million – EUR 378 million[27] Scenario B: EUR 283 million –	A key benefit of the preferred policy option is that it might lead to a lesser need to fully establish in other Member States and even if the requirements would be largely the same. This affects all components, from internal setup costs to external advisory needs and information gathering costs. Compared to the operation costs, the setup costs will only affect new cross-border (potential estimated) associations and will not affect the existing ones.[28]

[27] With central estimate EUR 358 million, applied to the OIOO.

[28] Unless those would develop new operations.

	EUR 317 million (within the assessed 15 years time frame).	
Indirect economic benefits		
Unleash new cross-border associations in the single market	Estimated new number of additional cross-border associations range between 157 000 – 176 000 for scenario A and 132 000 – 147 000 for scenario B for the next 15 years, through e.g. new access to markets (including public procurement), scaling of services provision and better access to research and innovation, etc.	These are generated by the reduction of barriers to entry (reduction of cost and administrative burden) and consequent better access to new markets within the single market. Starting from the **baseline scenario (A)**, it is estimated that in case of "no intervention" to unlock any of this potential, the opportunity cost will exist throughout the full duration of these 15 years leading to a total of: • 185 000 associations not
Generation of additional (annual) GDP	Estimated increase in GDP ranges between EUR 3.57 billion – EUR 4 billion for scenario A and EUR 3 billion – EUR 3.3 billion for scenario B.	

Generation of additional employment	Resulting in additional employment (FTE) ranging between 64 000 – 71 000 for scenario A and 54 000 – 60 000 for scenario B.[29]	deciding to expand cross border • 75 000 jobs not being created and • Annual contributions to GDP of EUR 4.2 bn not being made. • A **scenario (B)** is added anticipating a possible overestimation of the opportunity costs above (based on a 10 p.p. lower scenario) starting from: • 155 000 associations not deciding to expand cross border • 63 000 jobs not being created. • an annual contributions to GDP of EUR 3.4 billion not being made
Guaranteeing a level playing field and assurance of operation across the Single market	Not Quantifiable.	
Administrative cost savings related to the 'one in, one out' approach		
(direct/indirect)	Excess cost reduction (against baseline) of: • **Compliance cost** (internal): EUR 190 million • **Information cost** (internal): EUR 350 million • **Direct cost/External advisory cost (External running cost):** EUR 230 million This leads to a total cost	The preferred policy option has the potential to reduce costs of operation for those associations using it and thus simplifying gathering information, compliance and needs for regular external advisory support. It is not likely to expect such effect to materialise from year 1, and in particular: - a lag effect of 1 year is included (where no effects can be observed), due to the time to

[29] Figures for both scenario's A and B based on a policy uptake range between 85% and 95%. This range corresponds to a central estimate 90% uptake of the policy intervention as suggested by the IA study based on targeted survey and in-depth interviews, as well as legal analysis

	reduction of **EUR 770 million / year.** Over a time span of 15 years, the estimate total cost reduction is of EUR 8.5 billion Excess cost reduction (against baseline): • Internal setup cost (compliance cost): EUR 1 500 • External advisory cost (direct cost): EUR 650 • **Total: EUR 2 150 excess cost reduction per launch**	effectively implement the appropriate policy intervention and produce the desired effects on relevant stakeholders (e.g. introduction into national law). - starting from year 1, it can be expected a linear increase from the current situation to the full cost reduction potential (i.e. EUR 770 million per year) until year 5. - as of year 5, the policy intervention can be expected to be fully effective and to produce the maximum expected results. A key benefit of the preferred policy option is that it might lead to a lesser need to fully establish in other Member States and even if the requirements would be largely the same. This affects all components, from internal setup costs to external advisory needs and information gathering costs. Compared to the operation costs, the setup costs will only affect new cross-border (potential estimated) associations and will not affect the existing ones.
Adjustment cost	n/a	There will be a need for adjustment (one-off) for the associations taking the new legal form. These have however not emerged to be significant in the analysis (IA study).

3. **Impact on Member States:**

Changes in the legal framework may cause **costs of adjustment and costs of compliance/administrative burden for competent authorities** depending on the magnitude of these changes. In the case of this initiative, these impacts largely depend on (i) the extent of adaptation of existing procedures for the recognition of legal personality and for registration, (ii) the number of future registrations for cross-border associations and (iii) information costs, when comparing the baseline with the policy options and specific changes brought by each policy option.

Associations operating across-borders generally need to re-establish/register in the Member States in which they expand, depending on the scope of their activities. Policy preferred

policy option (PO3) is expected to reduce this necessity and will consequently reduce the burden on public authorities in the long run. In the short term, this policy option will require competent authorities to familiarise themselves with the new framework.

Considering **one-off costs for adapting registration procedures and registers**, costs depend on the need for adaptation of current registers or for setting up a new register. Member States will be responsible for the registration of the new legal form. The intention is to leave Member States the flexibility whether to adapt existing registers or establish new ones, as well as requiring Member States to offer the option of online registration.

As detailed in the IA study and Annex 10, **24 EU Member States already have dedicated registers in place**. Member States without a dedicated register (Sweden, Denmark and Ireland), may decide to set-up a dedicated register for cross-border associations or adapt existing registers e.g. used for associations. For instance, in Denmark, associations must register with the Danish Business Authority to obtain a unique 'cvr-number' if they conduct commercial activities or wish to obtain public subsidies. Similarly, the same practice takes place in Sweden for non-profit associations. This means that also in countries where no association-specific register is established, mechanisms exist already to allow associations to register. Consequently, also for these Member States, the obligation to register the new legal forms is likely to have non-significant costs.

To conclude that legislative changes imply minor adjustments, including adding a separate section or entry to the existing registers. Similar initiatives[30] have shown that on average to EUR 100 000 per Member State in additional one-off costs could be expected. Consequently, this is not deemed to be particularly burdensome, since once this adjustment is implemented, the public authority is expected to return to its business as usual. Hence, no significant additional annual running costs can be expected.

In cases where registers need to be established (Ireland, Denmark and Sweden), converted or a new "registration line" should be created in an existing register, it is anyhow recommendable to promote digital registers, as a 2017 study shows that "e-procedures" could reduce costs by yearly EUR 19 million for cross-border businesses and EUR 810 million for domestic businesses. Moreover, research has shown that digital registration processes are less subject to fraud because of harmonised safeguards on electronic identification. As shown by the Danish conversion towards digital business registers: between 2011-2015 the average time for case handling decreased by 69% and the average ramp-up time for a new employee decreased by 90%.[31]

To make an estimation of **costs of online registration** (assuming a register already exists), an indication can be offered by the assessed costs for setting up an online registration possibility for limited liability companies.[32] For Member States the set-up costs for such an online

[30] Impact assessment to modify Directives 2009/102/EC and (EU) 2017/1132: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SWD:2023:0178:FIN:EN:PDF

[31] European Commerce Registers' Forum report, 2017, p. 45 and 56, as referred to in the Commission SWD: Impact Assessment - Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law, p. 17.

[32] It is to be noted that all MS already provide for electronic business registers since 2007 following a requirement introduced into EU law at the time. Directive 2003/58/EC of the European Parliament and of

registration tool varied from EUR 42 000 in Ireland to EUR 100 000 in Poland, or around EUR 120 000 in Latvia.[33] In the short to medium term, competent authorities may be required to invest in acquisition of such tools and adjust processes including training of staff. Considering annual maintenance for digital registries in Member States are found to be non-significant.[34]

Consequently, the European Commission may **encourage interoperability of national registers** with an EU level platform/portal either to be established or building on existing initiatives, such as the Single Digital Gateway to allow for automated data access and exchange, and/or the use of agreed (minimum) standards to ensure comparability of data.

Finally, and considering the elements mentioned above, in the short-term[35] non-significant adaptation costs may occur for competent authorities. PO3 is also expected to reduce in the long run recurrent costs for competent authorities related to compliance and monitoring of cross-border activities and mobility of associations (such as for the creation of legal personality, registration, merger, monitoring, informing associations and establishment procedure costs). Significant extra costs are not expected for competent authorities, as the volume of operations will be either similar to the already existing procedures or even lighter as more simplified (and digitalised) procedures will be in place for cross-border associations and overall, less registrations will be needed.

II. Overview of costs – Preferred option						
	Citizens/Consumers		**Businesses (Associations)**		**Administrations (Member State)**	
	One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**

the Council of 15 July 2003 amending Council Directive 68/151/EEC, as regards disclosure requirements in respect of certain types of companies, OJ L 221, 4.9.2003, p. 13

[33] Commission SWD: Impact Assessment - Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law. A DK government position paper addressed to the DK Parliament regarding the same proposal estimates that changes in the Danish Business Authority's IT systems, are estimated at DKK 2 million (approx. EUR 270 000).

[34] As indicated by a Danish Government position paper assessing the costs of maintenance for the Central Business Register (CVR), estimating EUR 40 000 on annual basis in relation to implementing Directive COM/2018/239.

[35] Short term adaptation costs (one-off) are found to be as non-significant by the IA study. E.g. most Member States have already have a (digital) register for associations or register associations in more generic registers (e.g. NL) and have already acceptance and monitoring procedures in place that can be adapted with minimum costs. DK, IE and SE do not have a register for associations. In the case of DK associations are required to register in the Central Business Register (CVR), which collects primary data on businesses in Denmark regardless of economic and organizational structure, including associations under certain cases. In the case of SE, non-profit associations are required to register in the Swedish Companies Register, if they conduct commercial business activity, exceed certain thresholds in terms of number of employees, balance sheet total and net turnover.

Action (a)	Direct adjustment costs	None	None	Associations can voluntarily convert to the new legal form. There will be no costs for the associations that don't want to take the new legal form (no adjustment and no administrative costs). The costs for those that take the new legal form will be depending on the extent harmonisation differs from national rules (old form versus the new legal form) and are expected to be not significantly different from the former legal form. Neither targeted survey, nor in-depth interviews indicated that associations expect significant cost related to direct administration impacts based on any of the policy options.		Adaptation of existing register: EUR 100 000. Expected costs to offer online registration option (IT tool) vary between EUR 40 000 and EUR 120 000.	NA
	Direct administrative costs	None	None				
	Direct regulatory fees and charges	None	None	No significant effect, (average registration fee = EUR 60).[36]	None	N.A.	
	Direct enforcement costs	None	None	N.A.	N.A.	N.A.	Depending on registration requirements differs from existing national rules. Neither targeted survey, nor in-depth interviews indicated that competent authorities expect significant cost impacts related to enforcement based on any of the policy
	Indirect costs	None	None	N.A.	Neither targeted survey, nor in-depth interviews indicated that competent authorities expect significant cost impacts related to enforcement based on any of the policy		

36 See also Section 8.1 of the IA.

					options.		options.
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	None	None	None			
	Indirect adjustment costs	None	None				
	Administrative costs (for offsetting)	None	None				

4. Relevant sustainable development goals

III. Overview of relevant Sustainable Development Goals – Preferred Option(s)		
Relevant SDG	**Expected progress towards the Goal**	**Comments**
SDG 8: Decent work and economic growth	New jobs created including better conditions), better access to economic opportunities.	
SDG 16: Peace, justice and strong institutions	Strengthened civil society through guaranteeing of operations of associations including those protecting fundamental rights.	
SDG 3: healthy lives and promote well-being for all	Indirectly supportive by facilitating cross-border activities of associations mainly active in sectors such as health, care and social services.	

ANNEX 4

METHODOLOGICAL ANNEX

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1. Introduction

This methodological annex provides further information on the assumptions made and data used to make calculations in the scope of the IA. Therefore, this annex is mostly based on the supporting IA study and follows to great extend its structure. It first presents the methodology for the socio-economic impacts, followed by the methodologies for assessing the baseline scenario and the impacts of the policy options.

Note that this file provides the background for the calculations presented in the main body of the IA study and the IA itself. It does not repeat sources and data points cited and discussed in the main report, unless these have been used for the calculations.

2. Methodology for socio-economic impacts

Many Member States provide data on either association themselves or on non-profit organisations in general. However, as no consistent definition, reporting and collection of data at EU level exist, most numbers used in the report stem from national sources. Where possible, the IA and the IA study relies on data from official sources, such as the national statistical bureaus, other authorities as well as previous research performed on the topic.

It's important to note that here are no clear-cut statistics on the number of existing non-profit organisations across the EU-27. Information is not collected consistently neither by Eurostat nor by national statistical bureaus. In addition, the definition of associations and thus the scope of the term and the type of organisations captured differ across countries. As a consequence, exact numbers that provide a breakdown of NPOs or even associations per year, on their value added, employment data, and other economic metrices are difficult to come by, especially for the EU-27. In many instances, it is necessary to rely on incomplete or somewhat outdated data.

There are, therefore, uncertainties regarding the statistics illustrating the economic impact of associations. Where needed, theoretic assumptions had to be applied based on comparable sources, interventions, and effects. Those are explained in this annex as well as in the IA via a summary of the steps followed (as also explained in the relevant footnotes in the IA). Nevertheless, the trends, data ranges and best estimates presented and developed here help to draw a clear and approximate picture of the economic impact of associations across the Member States.

The objective was to quantify the number and economic impact of associations across Europe in order to more precisely define the scale of the problem. However, these data points are not always available. At times, the Section also relies on data for the third sector and NPO sector, concepts that are wider than associations, including notably also other entities such as foundations, cooperatives, and social enterprises. While some of the numbers and estimates might be inflated, it is noteworthy (as is shown below), that associations usually account for the largest share of NPOs across countries (usually in a range between 80% and more than 90%). Therefore, the data points available for NPOs overall can be seen as proxy for data for associations, albeit very likely overestimating the true situation for associations. Nevertheless, these data points provide valuable intuition on the value added of and employment by associations across the EU-27.

2.1. Overall number of NPOs and associations

Available Data

For many Member States, data on either NPOs and/ or associations are available. However, as no consistent definition, reporting and collection of data at EU level exist, most numbers used in the IA study stem from national sources. Where possible, the IA study relies on data from official sources, such as the national statistical bureaus, other authorities as well as previous research performed on the topic.

The table below reports available data on the number of NPOs and associations per Member State, where available. In total, it was possible to identify relevant data for almost all Member States. For each data point, the table also provides information on the year the data stems from and mentions the respective source.

Table 1: Overview of available data points for NPOs and associations, by country.

Country	Number of NPOs	Year	Number of associations	Year
Belgium	150 247	*2018*	140 188	*2022*
Bulgaria			18 305	*2010*
Czechia	132 953	*2018*	126 661	*2022*
Denmark*			100 000	*2020*
Germany	674 452	*2022*	615 759	*2022*
Estonia	45 873	*2022*	43 149	*2021*
Ireland	34 331	*2021*		
Greece	7 190	*2018*	4 671	
Spain	273 497	*2007*	264 851	*2007*
France	1 500 000	*2020*	1 300 000	*2020*
Croatia*	52 973	*2017*	52 731	*2022*
Italy	363 499	*2022*	309 723	*2022*
Cyprus			3 046	*2022*
Latvia*	24 367	*2021*	22 834	*2021*
Lithuania	35 000	*2020*	7 087	*2022*
Luxembourg			8 377	*2021*
Hungary	61 034	*2021*	38 412	*2021*
Malta	1 854	*2021*	1 780	*2021*
Netherlands	256 829	*2022*	128 553	*2022*
Austria			130 162	*2022*
Poland	95 200	*2020*	66 800	*2020*
Portugal	71 885	*2017*	66 761	*2017*
Romania			46 430	*2020*
Slovenia	27 593	*2023*	24 375	*2023*
Slovakia	71 486	*2020*	50 575	*2020*
Finland*	110 632	*2022*	108 032	*2022*

Country	Number of NPOs	Year	Number of associations	Year
Sweden	206 506	*2020*	161 843	*2020*

Table 2: Sources of the data points presented in the table above.

Country	Sources
Belgium	https://www.brusselstimes.com/48241/graydon-finds-that-belgian-charities-have-significant-reserves-but-fail-to-invest-sufficiently;https://media.kbs-frb.be/fr/media/10179/zoom_barometre_associations_FR_2022
Bulgaria	https://static1.squarespace.com/static/5650290ee4b093974a0327c5/t/5656c9b0e4b09e258543013e/1448528303999/Sozialwirtschaft+i+d++EU+2012%281%29.pdf
Czechia	https://eu-russia-csf.org/wp-content/uploads/2019/04/190327_RU-EU_Report2018_allpages.pdf;https://www.ohchr.org/sites/default/files/Documents/AboutUs/CivilSociety/ReportHC/states/46_CzechRepublic.doc
Denmark*	https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662630/EPRS_STU(2021)662630_EN.pdf;https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
Germany	https://www.ziviz.de/sites/ziv/files/vereine_in_deutschland_2022.pdf;https://www.ziviz.de/sites/ziv/files/vereine_in_deutschland_2022.pdf
Estonia	https://www.stat.ee/en/find-statistics/statistics-theme/economy/economic-units;https://andmed.stat.ee/en/stat/majandus__majandusuksused__kasumitaotluseta-uksused/ER041/table/tableViewLayout2
Ireland	https://benefactslegacy.ie/wp-content/uploads/2022/03/benefacts-nonprofit-sector-analysis-2021.pdf
Greece	https://eu-russia-csf.org/wp-content/uploads/2019/04/190327_RU-EU_Report2018_allpages.pdf;Country fiche
Spain	https://ec.europa.eu/citizenship/pdf/national_report_es_en.pdf;https://ec.europa.eu/citizenship/pdf/national_report_es_en.pdf
France	https://institutfrancaisdumondeassociatif.org/en/french-institute-for-non-profit-organisations/;https://www.insee.fr/fr/statistiques/5365639?sommaire=5371421
Croatia*	https://www.researchgate.net/publication/344349882_The_Institutional_Settings_of_the_Recovery_of_the_NGO_Sector_in_Post-Communist_Countries;https://registri.uprava.hr/#!udruge
Italy	https://www.istat.it/it/files//2022/10/REPORT-NON-PROFIT-2022.pdf;https://www.istat.it/it/files//2022/10/REPORT-NON-PROFIT-2022.pdf
Cyprus	http://www.moi.gov.cy/moi/moi.nsf/pagede1b_gr/pagede1b_gr?OpenDocument
Latvia*	https://nvo.lv/uploads/research_on_the_sector_of_civil_society_organizations_in_latvia_2020202456.pdf;https://nvo.lv/uploads/research_on_the_sector_of_civil_society_organizations_in_latvia_2020202456.pdf
Lithuania	https://fra.europa.eu/sites/default/files/fra_uploads/franet_lithuania_civic_space_2021.pdf;https://osp.stat.gov.lt/statistiniu-rodikliu-analize?hash=4c919020-9559-4fcd-a7ab-8f6e68e1cd9e#/
Luxembourg	rapport_amif_6_f_vrier_2023_version_finale.pdf (elsevierpure.com)
Hungary	https://www.ksh.hu/stadat_files/gsz/hu/gsz0014.html; https://www.ksh.hu/stadat_files/gsz/hu/gsz0069.html;https://www.ksh.hu/stadat_files/gsz/hu/gsz0014.html;

Country	Sources
	https://www.ksh.hu/stadat_files/gsz/hu/gsz0069.html
Malta	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1;Country fiche
Netherlands	Country fiche
Austria	Country fiche
Poland	https://stat.gov.pl/obszary-tematyczne/gospodarka-spoleczna-wolontariat/gospodarka-spoleczna-trzeci-sektor/dzialalnosc-stowarzyszen-i-podobnych-organizacji-spolecznych-fundacji-spolecznych-podmiotow-wyznaniowych-oraz-samorzadu-gospodarczego-i-zawodowego-w-2020-r-wyniki-wstepne,3,9.html;https://stat.gov.pl/obszary-tematyczne/gospodarka-spoleczna-wolontariat/gospodarka-spoleczna-trzeci-sektor/dzialalnosc-stowarzyszen-i-podobnych-organizacji-spolecznych-fundacji-spolecznych-podmiotow-wyznaniowych-oraz-samorzadu-gospodarczego-i-zawodowego-w-2020-r-wyniki-wstepne,3,9.html
Portugal	https://www.cases.pt/wp-content/uploads/2019/07/19ContaSatEconSocial_2016ENG.pdf;https://www.cases.pt/wp-content/uploads/2019/07/19ContaSatEconSocial_2016ENG.pdf
Romania	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
Slovenia	https://www.cnvos.si/en/ngo-sector-slovenia/;https://www.cnvos.si/en/ngo-sector-slovenia/
Slovakia	https://datacube.statistics.sk/#!/view/sk/VBD_SLOVSTAT/ns2003rs/v_ns2003rs_00_00_00_en;https://datacube.statistics.sk/#!/view/sk/VBD_SLOVSTAT/ns2003rs/v_ns2003rs_00_00_00_en
Finland*	https://www.prh.fi/en/yhdistysrekisteri/statistics/numberofassociationsandreligiouscommunities.html
Sweden	https://www.scb.se/en/finding-statistics/statistics-by-subject-area/business-activities/structure-of-the-business-sector/the-civil-society/;https://www.scb.se/en/finding-statistics/statistics-by-subject-area/business-activities/structure-of-the-business-sector/the-civil-society/

Note that for some countries (marked with an asterix), the number of NPOs was calculated using information on different types of NPOs, most notably disaggregated data on associations and foundations. These data points most likely underestimate the true number in said countries to some degree, as some forms of NPOs might be omitted from the calculations (due to lack of data).

Using Eurostat data on the population in 2022, the number of NPOs and associations can be expressed per capita for the Member States for which data are available.

Table 3: NPOs and associations per inhabitant, based on 2022 population data from Eurostat.

Country	Population (2022)	NPOs per inhabitant	Associations per inhabitant
Belgium	11 631 136	0.013	0.012
Bulgaria	6 838 937		0.003
Czechia	10 516 707	0.013	0.012
Denmark	5 873 420		0.017
Germany	83 237 124	0.008	0.007
Estonia	1 331 796	0.034	0.032
Ireland	5 060 005	0.007	
Greece	10 603 810	0.001	0.0004
Spain	47 432 805	0.006	0.006
France	67 842 582	0.022	0.019
Croatia	3 879 074	0.014	0.014
Italy	58 983 122	0.006	0.005
Cyprus	904 705		0.003
Latvia	1 875 757	0.013	0.012
Lithuania	2 805 998	0.012	0.003
Luxembourg	645 397		0.013
Hungary	9 689 010	0.006	0.004
Malta	520 971	0.004	0.003
Netherlands	17 590 672	0.015	0.007
Austria	8 978 929		0.014
Poland	37 654 247	0.003	0.002
Portugal	10 352 042	0.007	0.006
Romania	19 038 098		0.002
Slovenia	2 107 180	0.013	0.012
Slovakia	5 434 712	0.013	0.009
Finland	5 548 241	0.020	0.019
Sweden	10 452 326	0.020	0.015

Another relevant metric is the share of associations among all NPOs. The table below reports these shares where data are available.

Table 4: Associations as share of NPOs, for Member States where sufficient data are available.

Country	Share of associations
Belgium	93.3%
Bulgaria	
Czechia	95.3%
Denmark	
Germany	91.3%
Estonia	94.1%

Country	Share of associations
Ireland	
Greece	65.0%
Spain	96.8%
France	86.7%
Croatia	99.5%
Italy	85.2%
Cyprus	
Latvia	93.7%
Lithuania	20.2%
Luxembourg	
Hungary	62.9%
Malta	96.0%
Netherlands	50.1%
Austria	
Poland	70.2%
Portugal	92.9%
Romania	
Slovenia	88.3%
Slovakia	70.7%
Finland	97.6%
Sweden	78.4%
Weighted average	**86.8%**

Building on this, it is also possible to derive a weighted average, factoring in the relative weight of the countries in the number of associations overall. The weighted average is calculated as follows:

$$Weighted\ Average = \frac{\sum S_C A_C}{\sum A_C}$$

Where S is the share of association for country C, and A is the number of associations for country C. This yields a **weighted average of 86.8%**, suggesting that associations account for the largest share of NPOs overall.

Estimating missing data points for Member States

To estimate missing values, the following techniques were employed:

- To **calculate the total number of NPOs**, and where the number of associations is available, the weighted average is used to yield the total number of NPOs. For this, the number of associations is divided by the average weight. This technique has been used for Bulgaria, Denmark, Cyprus, Austria, and Romania (marked with * in the table below).
- To calculate the number of associations for Ireland the weighted average share of associations among NPOs is used to calculate the likely number of associations.

The estimation techniques yielded the following results.

Table 5: Complete overview of the number of NPOs and associations by country, data gaps closed by extrapolation.

Country	Number of NPOs	Country	Number of associations
Belgium	150 247	Belgium	140 188
Bulgaria*	21 100	Bulgaria	18 305
Czechia	132 953	Czechia	126 661
Denmark*	115 200	Denmark	100 000
Germany	674 452	Germany	615 759
Estonia	45 873	Estonia	43 149
Ireland	34 331	Ireland	29 801
Greece	7 190	Greece	4 671
Spain	273 497	Spain	264 851
France	1 500 000	France	1 300 000
Croatia	52 973	Croatia	52 731
Italy	363 499	Italy	309 723
Cyprus*	3 500	Cyprus	3 046
Latvia	24 367	Latvia	22 834
Lithuania	35 000	Lithuania	7 087
Luxembourg*	9 700	Luxembourg	8 377
Hungary	61 034	Hungary	38 412
Malta	1 854	Malta	1 780
Netherlands	256 829	Netherlands	128 553
Austria*	149 900	Austria	130 162
Poland	95 200	Poland	66 800
Portugal	71 885	Portugal	66 761
Romania*	53 500	Romania	46 430
Slovenia	27 593	Slovenia	24 375
Slovakia	71 486	Slovakia	50 575
Finland	110 632	Finland	108 032
Sweden	206 506	Sweden	16 843

For the EU, this implies the following estimates, applying a range of 3% (these 3% represent approximately the average growth rate of the number of associations across six years, see below) as lower and upper bound estimates.

Table 6: Overall estimates of the number of NPOs and associations in the EU-27.

	Lower bound	Central estimate	Upper bound
NPOs	4 500 000	4 600 000	4 700 000
Associations	**3 800 000**	**3 870 000**	**4 000 000**

Discussion on the data

The **data presented on the number of associations can be considered very robust**. To the largest extent, data stems from most recent official sources (between 2020 – 2023)[37]. It is thus likely to draw

[37] Except for BG (2007) and Spain (2010).

an accurate picture of the overall number of associations in the EU-27. Yet, when interpreting the data, a few qualifications need to be made:

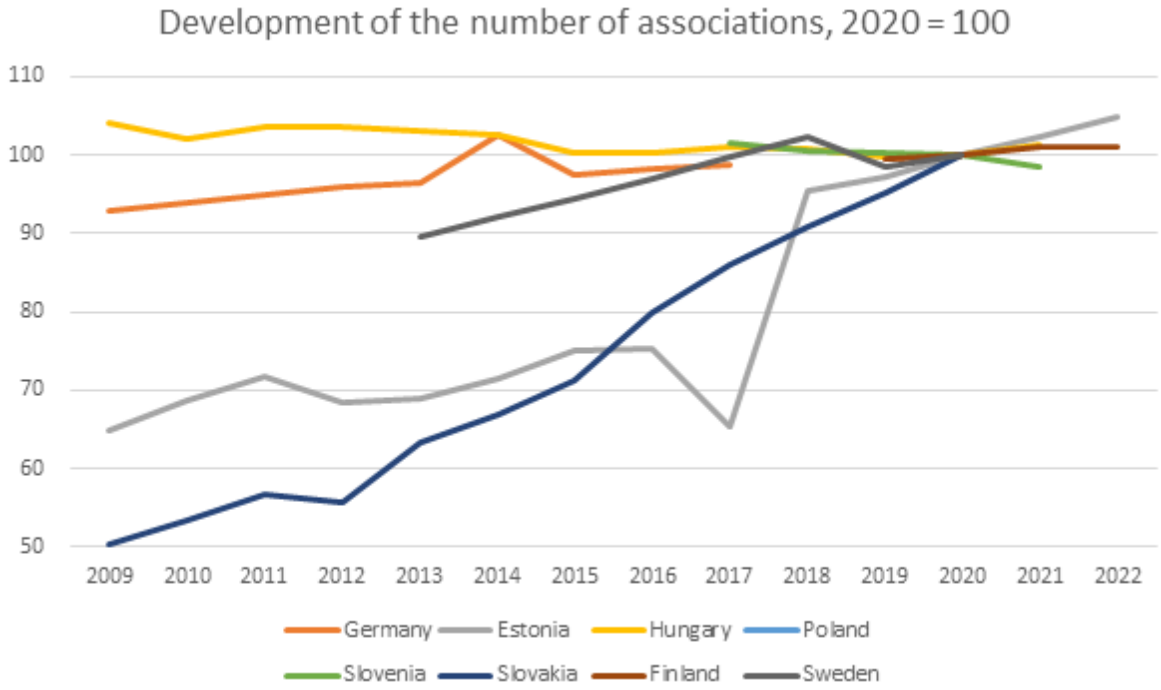
- Data for Spain (numbers from 2007) and Bulgaria (2010) are outdated. However, jointly, the two countries account for approx. 7% of all associations only.[38]. Therefore, the overall data for the EU-27 provide a clear intuition and very good understanding of the state of play across countries. They further provide a robust basis for the following estimations and calculations, as the difference between the actual number of associations and the number reported is likely to be relatively small.
- The differences in national definitions, registration, and frequency of the maintenance of potential registries or databases requires attention when comparing the data. The data points reported represent the number of associations as they are understood in their national context, which differs among the EU-27. In addition, some countries reports highlight the potential under-registration or lack of up to date and accurate database (e.g. Greece).
- The data has been compared and amended, where useful, with the results from the recent study "Comparative legal analysis of associations laws and regimes in the EU (European Commission, 2022).[39] The data identified by the previous study is mostly in line with the data identified for this report. Note that where it was possible to identify more recent data, these have been included in the analysis for the IA study. Furthermore, it was possible in the IA study to close some data gaps and update numbers for several Member States of previous studies by extensive desk research.

Development over time

Overall, the number of associations appears to have increased over time. For example, statistics indicate that the annual growth in the number of associations amounted to 2.8% in France between 2011 and 2017.[40] The detailed data table further below provides the yearly numbers of associations for eight countries between 2009 and 2022, representing almost one third of all associations. For example, in Germany, the number of associations increased by about 45 000 entities between 2009 and 2022, representing an increase of about 8% across this time period. Over the same period of time, the number of associations increased by about 100% in Slovakia, while slightly decreasing in Hungary and staying more or less the same in Poland and Sweden. Using 2020 as a base year, the development over time can be compared visually as well, as presented in the figure below.

Figure 1: Development of the number of associations for selected Member States.

[38] For all but 3 countries, data available for associations stems from 2020 to 2023. The variation in the estimate by applying a growth rate would not lead to a change in the rounded central estimate that is used for further analysis.
[39] https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1.
[40] https://www.associations.gouv.fr/IMG/pdf/tchernonog_associations_fcc_2018.pdf.



Source: See tables below

The table below provides some estimates for annualised growth in the number of associations in more recent years. The weighted average of the values below (using the relative share of associations as weight) yields an annual growth rate of 0.4%. Depending on the availability of data, the three-year total and annual growth has been calculated for the eight countries explored. The data suggest that in recent years, the growth rate for associations might have slowed down. For example, a recent report for Germany notes that it is likely that in the coming years, the number of associations might actually decrease.[41] Therefore the IA study uses a 0 growth %.

Table 7: Recent total and annual growth in the number of associations for eight Member States.

Country	2017/18	2020/2021	Total growth	Annual growth (2017/18 to 2020)
Germany	605 911	613 594	1.3%	0.4%
Estonia	39 305	42 122	7.2%	2.4%
Hungary	34 579	34 811	0.7%	0.2%
Poland	69 100	66 800	-3.3%	-1.1%
Slovenia	23 272	22 793	-2.1%	-0.7%
Slovakia	45 938	50 575	10.1%	3.4%
Finland*	106 318	107 898	1.5%	0.7%
Sweden	165 798	161 843	-2.4%	-0.8%

**Data for 2019 is used*

[41] https://www.ziviz.de/sites/ziv/files/vereine_in_deutschland_2022.pdf.

Table 8: Time series data of the number of associations for eight Member States.

Country	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Germany	570 374	576 357	582 339	588 368	591 759	630 143	598 210	602 602	605 911		610 720	613 594		615 759
Estonia	26 679	28 303	29 507	28 183	28 376	29 439	30 859	30 948	26 857	39 305	40 044	41 141	42 122	43 149
Hungary	35 743	35 042	35 549	35 583	35 396	35 192	34 484	34 470	34 742	34 579	34 284	34 340	34 811	
Poland		67 900		69 500		72 000		73 400		69 100		66 800		
Slovenia	20 417								23 529	23 272	23 204	23 146	22 793	
Slovakia	25 460	26 991	28 648	28 205	31 989	33 894	36 041	40 386	43 544	45 938	48 206	50 575		
Finland											106 318	106 879	107 898	108 032
Sweden					144 827	149 001	152 800	156 845	161 370	165 798	159 298	161 843		

Table 9: Sources of the time series data presented above.

Country	Source
Germany	https://www.ziviz.de/sites/ziv/files/vereine_in_deutschland_2022.pdf
Estonia	https://andmed.stat.ee/en/stat/majandus__majandusuksused__kasumitaotluseta-uksused/ER041/table/tableViewLayout2
Hungary	https://www.ksh.hu/stadat_files/gsz/hu/gsz0014.html
Poland	https://stat.gov.pl/obszary-tematyczne/gospodarka-spoleczna-wolontariat/gospodarka-spoleczna-trzeci-sektor/dzialalnosc-stowarzyszen-i-podobnych-organizacji-spolecznych-fundacji-spolecznych-podmiotow-wyznaniowych-oraz-samorzadu-gospodarczego-i-zawodowego-w-2020-r-wyniki-wstepne,3,9.html
Slovenia	https://www.cnvos.si/en/ngo-sector-slovenia/number-ngos/
Slovakia	https://datacube.statistics.sk/#!/view/sk/VBD_SLOVSTAT/ns2003rs/v_ns2003rs_00_00_00_en
Finland	https://www.prh.fi/en/yhdistysrekisteri/statistics/numberofassociationsandreligiouscommunities.html
Sweden	https://www.statistikdatabasen.scb.se/pxweb/en/ssd/START__NV__NV0117__NV0117A/CivSamSyssJURFORM2/table/tableViewLayout1/

2.2. Economic value added of associations

Combining several studies and sources it is possible to identify estimates of the value added of either associations or NPOs more generally almost in all EU Member States. To compile the data, the same approach as for the number of associations was employed: The results of independent desk research were compared with the findings of the previous studies, which yielded similar results. Where possible, data from the previous studies was updated with more recent data. In addition, it was possible to close several data gaps. Combining the different data sources, it was possible to collect the share of GDP for 24 of the 27 EU Member States. For each value, it was established whether it captures the share of GDP for associations only (A), or NPOs more generally (NPO). For those countries where an estimate was missing, the share of GDP was calculated by computing the average share for a set of similar countries:

- The estimate for Estonia relies on the share of GDP for Lithuania and Latvia;
- The estimate for Cyprus relies on the share of GDP for Greece;
- The estimate for Netherlands relies on the share of GDP for Germany, Belgium, and Denmark.

The table below reports on the share of GDP for all EU Member States, providing the most recent year for which data are available and citing the corresponding source.

Table 10: Share of GDP linked to the activities of NPOs, by country.

Country	Share of GDP	Coverage	Year	Source
BE	4.90%	A	2020	https://media.kbs-frb.be/fr/media/7722/306217.pdf
BG	0.40%	A	2020	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
CZa	1.60%	A	2009	https://js.sagamorepub.com/jnel/article/download/7583/5732
DK	0.12%	A	2011	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
DE	4.10%	NPO	2020	https://www.hausdesstiftens.org/in-diese-zukunftstechnologien-investiert-der-deutsche-non-profit-sektor/
EE	0.79%	A	*Est*	
IE	3.00%	NPO	2021	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
EL	1.40%	NPO	2012	https://www.britishcouncil.org/sites/default/files/greece_social_and_solidarity_economy_report_english_british_council_0.pdf
ES	1.41%	NPO	2021	http://www.plataformatercersector.es/sites/default/files/1643189654_estudio-2021-resumen-ejecutivo.pdf
FR	5.20%	A	2018	https://www.associatheque.fr/fr/creer-association/chiffres-cles.html
HR	1.70%	A	2019	https://udruge.gov.hr/UserDocsImages/dokumenti/udruge_u_RH_2020.pdf
IT	0.50%	NPO	2019	Country fiche
CY	1.40%	NPO	*Est*	
LV	1.50%	A	2019	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
LT	0.08%	A	2020	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
LU	2.00%	NPO	2020	https://paperjam.lu/article/economie-sociale-et-solidaire-
HU	3.70%	NPO	20	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-

Country	Share of GDP	Coverage	Year	Source
			20	11ed-92ed-01aa75ed71a1
MT	0.16%	NPO	2014	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
NL	3.04%	NPO	*Est*	
AT	8.00%	NPO	2010	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
PL	1.12%	NPO	2020	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
PT	3.00%	NPO	2017	https://www.cases.pt/contasatelitedaes/
RO	0.60%	NPO	2016	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
SI	1.90%	NPO	2022	Country fiche
SK	0.20%	NPO	2020	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
FI	6.00%	NPO	2020	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
SE	3.10%	NPO	2019	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1

As most of the data points are recent, and assuming that the share of GDP remained relatively constant for the other cases, it is possible to calculate the contribution towards GDP in absolute terms, using data from 2021. The results of these calculations are presented by Member State in the table below.

As specified, the estimates of the share of GDP reported above are sometimes not limited to associations only but capture NPOs more generally. Where this is the case, the share of GDP for NPOs can be seen as a proxy and starting point for the estimation of the GDP contributions of associations. Similarly, where data are available for associations, these are a starting point to estimate the GDP contribution of NPOs overall. A breakdown of the contribution of NPOs and associations towards GDP in monetary terms is presented by country in the table below. The calculations rely on Eurostat data on GDP for 2021 to translate the shares reported above into absolute monetary terms.

Table 11: Contribution of NPOs and associations to GDP in absolute terms, by country.

Country	Coverage	Main estimate NPOs (EUR m)	*Share of associations among NPOs*	Main estimate associations (EUR m)
Belgium	A	26 400	*93.3%*	24 600
Bulgaria	A	300	*86.8%*	300
Czechia	A	4 000	*95.3%*	3 800
Denmark	A	500	*86.8%*	400
Germany	NPO	147 700	*91.3%*	134 800
Estonia	A	200	*94.1%*	200
Ireland	NPO	12 800	*86.8%*	11 100
Greece	NPO	2 500	*65.0%*	1 600
Spain	NPO	17 000	*96.8%*	16 500
France	A	150 000	*86.7%*	130 000

Country	Coverage	Main estimate NPOs (EUR m)	*Share of associations among NPOs*	Main estimate associations (EUR m)
Croatia	A	1 000	*99.5%*	1 000
Italy	NPO	8 900	*85.2%*	7 600
Cyprus	NPO	300	*87.0%*	300
Latvia	A	500	*93.7%*	500
Lithuania	A	200	*20.2%*	40
Luxembourg	NPO	1 400	*86.4%*	1 200
Hungary	NPO	5 700	*62.9%*	3 600
Malta	NPO	24	*96.0%*	23
Netherlands	NPO	26 000	*50.1%*	13 000
Austria	NPO	32 500	*86.8%*	28 200
Poland	NPO	6 400	*70.2%*	4 500
Portugal	NPO	6 400	*92.9%*	5 900
Romania	NPO	1 400	*86.8%*	1 200
Slovenia	NPO	1 000	*88.3%*	900
Slovakia	NPO	200	*70.7%*	100
Finland	NPO	15 100	*97.6%*	14 700
Sweden	NPO	16 600	*78.4%*	13 000

Source: IA study

**For France, the share of GDP available provides an estimate for associations. Thus, the calculation has been turned around, using the value for associations to extrapolate to the value of NPOs.*

Combining the data from across Member States yields the estimates at EU level for both NPOs and associations in terms of GDP contribution. Here, the same limitations described as above apply.

Table 12: EU level GDP contribution from NPO's and associations.

	Upper bound (EUR)	Share of GDP (2021)
NPOs	490 bn	3.4%
Associations	**420 bn**	**2.9%**

Source: IA study

2.3. Employment

For data on employment, extensive desk research was undertaken to update and validate previous studies. Estimates developed as part of the research performed by Salomon and Sokolowksi provide a good first overview. They report the estimated number of FTEs employed by associations and foundations in 2014 (see table below). The estimates can be considered a relatively close – albeit somewhat outdated – approximation of the number of FTEs employed by associations by EU Member State.

Additional desk research yielded more recent and more exact estimates of the number of people employed. Importantly, the data points identified capture **employment by associations only**. It was possible to identify more recent and more accurate data points for

16 out of the 27 EU Member States. For the remaining 11 Member States, the weighted ratio between the estimated numbers from Salomon and Sokolowski and the data points available was used to estimate fill the data gaps.

Table 12: FTEs (2014) and people (most recent year) employed by associations in EU MS

Country	FTEs in 2014 according to Salamon/ Sokolowski (associations and foundations)	Number of employees (associations)	Employees per association	Share of employment	Year
Belgium	450 732	538 857	3.8	11%	2022
Bulgaria	15 243	46 451	2.5	2%	2020
Czechia	96 665	117 000	0.9	2%	2017
Denmark	130 990	160 000	1.6	6%	*Est*
Germany	2 322 895	2 838 000	4.6	7%	*Est*
Estonia	19 765	24 000	0.6	4%	*Est*
Ireland	177 985	164 922	5.5	7%	2021
Greece	243 022	23 553	5.0	1%	2022
Spain	664 047	535 514	2.0	3%	2021
France	1 496 736	2 200 000	1.7	8%	2018
Croatia	70 512	17 961	0.3	1%	2019
Italy	836 581	170 129	0.5	1%	2020
Cyprus	22 885	28 000	9.2	7%	*Est*
Latvia	34 130	42 000	1.8	5%	*Est*
Lithuania	6 608	7 185	1.0	1%	2021
Luxembourg	22 483	17 851	2.1	6%	2017
Hungary	81 909	43 814	1.1	1%	2021
Malta	10 504	5 500	3.1	2%	2020
Netherlands	841 480	1 028 000	8.0	13%	*Est*
Austria	154 965	189 000	1.5	5%	*Est*
Poland	190 058	260 100	3.9	2%	2020
Portugal	170 467	151 779	2.3	4%	2016
Romania	25 013	31 000	0.7	0%	*Est*
Slovenia	42 663	5 178	0.2	1%	2021
Slovakia	17 595	10 331	0.2	0%	2020
Finland	64 549	79 000	0.7	3%	*Est*
Sweden	178 215	72 813	0.4	2%	2020
EU-27	8 390 000	**8 810 000**	2.3	**5%**	---

The table below provides a detailed overview of the data sources for the number of people employed by associations identified via desk research for the different EU Member States.

Table 14: Number of employees for association, including the year and source for the data available.

	Number of people	Year	Source

	employed		
BE	538 857	2022	https://media.kbs-frb.be/fr/media/10179/zoom_barometre_associations_FR_2022
BG	46 451	2020	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
CZ	117 000	2017	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
IE	164 922	2021	https://benefactslegacy.ie/wp-content/uploads/2022/03/benefacts-nonprofit-sector-analysis-2021.pdf
EL	23 553	2022	
ES	535 514	2021	http://www.plataformatercersector.es/sites/default/files/1643189654_estudio-2021-resumen-ejecutivo.pdf
FR	2 200 000	2018	https://www.insee.fr/fr/statistiques/5365639?sommaire=5371421
HR	17 961	2019	https://udruge.gov.hr/UserDocsImages/dokumenti/udruge_u_RH_2020.pdf
IT	170 129	2020	https://www.istat.it/it/files/2022/10/REPORT-NON-PROFIT-2022.pdf
LT	7 185	2021	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
LU	17 851	2017	https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1
HU	43 814	2021	https://statinfo.ksh.hu/Statinfo/haViewer.jsp
MT	5 500	2020	https://maltacvs.org/wp-content/uploads/2022/02/Malta-Council-for-the-Voluntary-Sector-Executive-Report-2020.pdf
PL	260 100	2020	https://stat.gov.pl/obszary-tematyczne/gospodarka-spoleczna-wolontariat/gospodarka-spoleczna-trzeci-sektor/dzialalnosc-stowarzyszen-i-podobnych-organizacji-spolecznych-fundacji-spolecznych-podmiotow-wyznaniowych-oraz-samorzadu-gospodarczego-i-zawodowego-w-2020-r-wyniki-wstepne,3,9.html
PT	151 779	2016	https://www.cases.pt/wp-content/uploads/2019/07/19ContaSatEconSocial_2016ENG.pdf
SI	5 178	2021	https://www.cnvos.si/en/ngo-sector-slovenia/number-people-employed-ngos/
SK	10 331	2020	https://datacube.statistics.sk/#!/view/en/VBD_SLOVSTAT/ns2004rs/v_ns2004rs_00_00_00_en
SE	72 813	2020	https://www.scb.se/en/finding-statistics/statistics-by-subject-area/business-activities/structure-of-the-business-sector/the-civil-society/

2.4. Sectors of activity

Associations are active in a wide range of sectors. Building on data from the Comparative legal analysis of associations laws and regimes in the EU (European Commission, 2022),[42] the table on the following pages indicates the share of NPOs active in different sectors across EU Member States.

Given that associations account for the largest share of NPOs in almost all countries (see above), the values presented below are a good proxy for the actual shares among associations.

A comparison across Member States appears to be difficult. Due to differences in reporting, it is not easily possible to compare data by sector across countries. Already the different sectors specified suggest that individual Member States interpret and define the scope of relevant sectors differently. In addition, there might further be differences in the interpretation of the scope of the same sector across

[42] https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1

countries. This appears to be particularly relevant for the social domain. While for some countries (e.g. Czechia and Denmark) all social services appear to be captured by 'health and social services', the statistics for Germany appear to be more granular.

Yet, an attempt was made in the IA study to classify the activities reported by Member States to facilitate the comparability of data. First, activities have been allocated by NACE code. Due to differences in the level of aggregation of the reported data, shares can only be reported at the highest NACE code level. The table suggests that generally, most NPOs (and thus most likely associations) are active in the social and health related, as well as the cultural, recreational and communication sectors. Across countries and average of about a fourth of all entities are active in the social and human health realm, while close to 40% are active in communication, information, arts, entertainment, and recreation.

Table 13: Activities of NPOs by sector, using the NACE classification.

Country	M and P - Research and education	Q - Human health and social work activities	J and R - Information, communication and arts, entertainment and recreation	S - Other services activities	Other/ unclear
BE		23%	16%		61%
BG	34%	45%			21%
CZ	29%	23%	33%		16%
DK	11%	40%	3%		47%
DE	21%	11%	47%	18%	4%
IE	33%	8%		7%	54%
EL		30%	37%	12%	21%
ES		33%	10%	18%	40%
FR	7%	11%	63%	15%	4%
HR	9%	13%	45%	27%	7%
IT	4%	10%	70%	11%	6%
LT		56%			44%
LU		80%			20%
HU			61%		39%
AT		21%	27%	15%	38%
PL	11%	24%	39%		27%
PT	4%	16%	47%	27%	7%
SI	9%	19%	52%	11%	9%
FI		6%	35%	16%	43%
SE	16%	20%	27%	19%	18%

Note that data for Malta exceeded 100% significantly. Thus, data for this country were excluded from the overview. For Spain, it was not possible to allocate a considerable share of relevant activities (related to Ideology, culture, education and communication (38.1%)).

Another, more promising approach for clustering the activities for NPOs reported by Member States is to use the International Classification of Non-Profit Organizations[43]. This classification

[43] https://unstats.un.org/unsd/classifications/Family/Detail/2008.

differentiates 12 groups of activities for NPOs. Comparing these groups or categories with the categories of activities of Member States, this classification appears to be more fit for purpose and allows for a more nuanced and disaggregated comparison of the activities of NPOs and associations across sectors. The results of the clustering are reported in the table below. Note that again, due to the reporting style of Member States, some categories had to be merged.

There are seven countries where more than half of all NPOs are active in just one (or two) sectors. In France, Italy, and Hungary, and Slovenia, more than 50% of the entities are active in the cultural, communication and recreational sector. Also for the other countries, this sector appears to be particularly relevant, with a third of NPOs active in it.

The second most important sectors (with regards to the number of entities active) are human health and social services. In Luxembourg, entities in this sector account for 80% of NPOs overall, and the share of entities further exceeds 50% in Lithuania. Among the other countries for which data are available, these sectors comprise on average a fifth of the entities in the given country.

In addition, also education, professional and research services and activities are pursued by relatively large shares of NPOs across Member States. In Bulgaria and Ireland, about every third NPO are active in these sectors, while the share of entities exceeds 10% in the Czech Republic, Denmark, Germany, and Poland.

Table 14: Activities of NPOs by sector, using the International Classification of Non-Profit Organizations[44]

Category	A	B and K	C and D	E	F	G	H	I	J	L
BE	16%		23%							12%
BG		34%	45%		24%					
CZ	33%	29%	23%							
DK	3%	11%	40%							5%
DE	47%	21%	11%	3%		9%	1%	4%	2%	4%
IE	15%	7%	23%	6%	27%	7%	3%	5%	7%	
EL	37%		30%	12%						
ES										
FR	63%	7%	11%		3%	15%				
HR	44%	9%	13%	5%	10%	17%		2%		
IT	70%	4%	10%	2%		8%				6%
LT			58%							
LU			80%							*less than 5%*
HU	61%									
MT										
AT	27%		12%		18%		8%	1%	7%	28%
PL	39%	11%	24%							
PT	47%	7%	13%	1%	3%	8%	0%	12%	5%	3%
SI	52%	9%	13%	7%	12%	1%		3%		2%
FI	41%		6%			4%		1%	10%	37%
SE	25%	2%	3%	1%	30%	9%	2%	3%	3%	21%

A = Culture, communication, and recreation activities, B and K = Education services and Professional, scientific, and administrative services, C and D = Human health services and Social services, E = Environmental protection and animal welfare activities, F = Community and economic development, and housing activities, G = Civic,

[44] Source: https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1.

advocacy, political and international activities, H = Philanthropic Intermediaries and voluntarism promotion, I = Religious congregations and associations, J = Business, professional, and labour organizations, L = Other Activities

Employment across sectors

Data suggests that employment is more concentrated in some of the sectors NPOs are active in. The table below reports the share of associations in France and Germany that have employees by sector. As the data suggests, 52% of all associations providing health and social services in Germany have employees, compared to only 16% of associations active in the country in the realm of philanthropy and voluntarism promotion. Data for France is a bit more scattered, but it suggests that the share of associations with employees is the highest in the educational and research sector – for this sector, the share of associations employing people is second-highest in Germany.

Table 15: Share of associations with employees among all associations, by sector.

Categories	Share of associations with employment	France	Germany
A	Culture, communication, and recreation activities	9%	17%
B and K	Education services and Professional, scientific, and administrative services	24%	39%
C and D	Human health services and Social services	17%	52%
E	Environmental protection and animal welfare activities	N/A	17%
F	Community and economic development, and housing activities	18%	22%
G	Civic, advocacy, political and international activities	5%	24%
H	Philanthropic Intermediaries and voluntarism promotion	N/A	16%
I	Religious congregations and associations	N/A	28%
J	Business, professional, and labour organizations	N/A	32%
L	Other Activities	N/A	22%
	Year	2019[45]	2017[46]

Looking at the share of employees across sectors, it becomes clear that most of them are employed in the human health and social services sectors. Almost two thirds of all people employed by NPOs work in these sectors in France and Portugal, and almost half in Ireland. The second most important sectors are education and research in Ireland and Portugal, and the cultural, sports and recreational sector in France.

The difference between the share of organisations with employees compared to the high number of employees working for association in the social sectors in France could suggest that there is a small number of large entities active in this sector, which is further supported by the fact that only 11% of all associations in France have paid staff.[47]

Table 16: Share of employees by sector.

Categories	Share of employees employed by NPOs	FR	IE	PT	IT	HU
A	Culture, communication, and recreation activities	15%	4%	5%	16%	53%
B and K	Education services and Professional, scientific, and administrative services	19%	23%	15%	16%	4%

[45] https://injep.fr/wp-content/uploads/2019/07/Chiffres-cles-Vie-associative-2019.pdf

[46] https://www.ziviz.de/download/file/fid/529

[47] https://injep.fr/wp-content/uploads/2019/07/Chiffres-cles-Vie-associative-2019.pdf.

Categories	Share of employees employed by NPOs	FR	IE	PT	IT	HU
C and D	Human health services and Social services	55%	48%	62%	36%	30%
E	Environmental protection and animal welfare activities	N/A	1%	0.3%	1%	2%
F	Community and economic development, and housing activities	6%	17%	1%	2%	6%
G	Civic, advocacy, political and international activities	5%	2%	1%	2%	3%
H	Philanthropic Intermediaries and voluntarism promotion	N/A	0.4%	0.1%	2%	1%
I	Religious congregations and associations	N/A	1%	4%	1%	2%
J	Business, professional, and labour organizations	N/A	2%	4%	23%	N/A
L	Other Activities	N/A	2%	8%	1%	N/A
	Year	2019[48]	2020[49]	2016[50]	2022[51]	2021[52]

Table 19: Activities covered by associations/ NPO's by Member state

[48] INJEP (2019) Les chiffres clés de la vie associative. Last accessed on 17/03/2023 and available at : https://injep.fr/wp-content/uploads/2019/07/Chiffres-cles-Vie-associative-2019.pdf

[49] Benefacts (2021) Nonprofit Sector Analysis. Available at: https://benefactslegacy.ie/wp-content/uploads/2022/03/benefacts-nonprofit-sector-analysis-2021.pdf.

[50] Instituto Nacional De Estatistica (2016) Social Economy Satellite Account. Available at: https://www.cases.pt/wp-content/uploads/2019/07/19ContaSatEconSocial_2016ENG.pdf.

[51] Istituzioni Non Profit (2022) Social Economy Satellite Account – Annon 2020. Available at: https://www.istat.it/it/files//2022/10/REPORT-NON-PROFIT-2022.pdf.

[52] https://statinfo.ksh.hu/Statinfo/haViewer.jsp.

Country	Activities covered by associations/ NPOs
BE	- social and medical actions (23%) - arts (16%) - services (12%)
BG	- education (34%) - social services (29%) - regional development (24%) - youth (16%)
CZ	- culture, advertisement, recreation (32.6%) - education (28.7%) - health and social services (23.0%)
DK	- health and social services (40%) - research (6%) - education (5%) - retail (4.6%) - culture (2.8%)
DE[53]	- sports (22.6%) - education (18.3%) - culture and media (16.1%) - leisure, social life (7.9%) - social services (7.1%) - other (4.3%) - religion (4.0%) - health (3.5%) - environment and environmental protection (3.1%) - civil protection (3.1%) - international solidarity (3.1%) - consumer protection (2.7%) - research (2.3%) - business and professional associations (1.6%) - community services (0.7%)
IE	- education (33%) - alleviation of poverty or economic hardship (7,5%) - religion (6,6%) - any other purposes that benefit the community (53,9%)
EL	- culture (37%) - social solidarity (18%) - health and social protection (12%) - environment (12%) - child protection
ES	- ideology, culture, education and communication (38,10%) - women, equal treatment and non-discrimination (1,70%) - children, youth, seniors, family and well-being (3,50%) - environment and health (9,80%) - disability and dependency (2,20%) - victims, affected and injured parties (1,70%) - solidarity (10,70%) - economy, technology, profession and interest representation (18,10%) - sport and recreation (9,70%) - other (4,60%)
FR	- sports (24%) - leisure, entertainment, social life (19%) - rights and interest representation (15%) - art (14%) - education, training and research (7%) - social assistance, humanitarian aid, charity (excluding accommodation) - (7%) - culture (excluding show, protection and promotion of heritage) (6%) - health (3%) - management of business services and local development (3%) - social or medical accommodation (1%)
HR	- sport (17,7%) - culture and art (12,9%) - sports (12,8%) - education, science and research (8,5%) - social activity (7,4%) - economy (6,4%) - human rights (5,7%) - international cooperation (5,6%) - democratic political culture (5,5%) - environmental protection (5,2%) - health care (3,7%) - sustainable development (3,2%) - defenders and victims (2,1%) - spirituality (1,5%) - hobby (1,2%) - other (0,7%)
IT	- culture, sport and recreation (70%) - social assistance and civil protection (6,6%) - trade union relations and interest representation (6%) - education and research (3,8%) - healthcare (3,3%) - protection of rights and political activity (2,4%) - environment (2,1%) - other (philanthropy, religion, economic development) (5,8%)
LT	- childcare and youth (32,2%)

[53] Based on https://www.ziviz.de/download/file/fid/529.

Country	Activities covered by associations/ NPOs
	- social problems and health (25,4%)
LU	- collective social and personal services (60%) - health and social work (around 20%) - education, agriculture, manufacturing, electricity, gas and water, retail - (less than 5%)
HU	- leisure (22%) - sports (22%) - culture (17%)
MT	- philanthropy (17,8%) - education and sport (41,2%) - religion (5%) - health (14%) - social and community (45,6%) - culture, arts and national heritage (38,6%) - environment and animal welfare (10,6) - promotion of human rights (9,9%)
AT[54]	- sports (26.6%) - saving clubs (17.5%) - charity (7.3%) - profession (6.4%) - gardening and animal protection (5.9%) - conviviality (6.2%) - parents (4.4%) - formal military staff (2.1%) - student affairs (1.4%) - religion (1.2%) - colleague (0.5%) - rotary clubs, Lions Club, Schlaraffia (0.5%) - other (20.0%)
PL	- sport, tourism, recreation, hobby (26,9%) - rescue services (15,3%) - culture and arts (12,4%) - education and upbringing, scientific research (10,5%) - social and humanitarian aid (8,3%)
PT[55]	- Culture, communication, and recreation activities (46.9%) - Education services (3.6%) - Human health services (3.3%)

Country	Activities covered by associations/ NPOs
	- Social services (9.7%) - Environmental protection and animal welfare activities (1.0%) - Community and economic development, and housing activities (2.9%) - Civic, advocacy, political and international activities (8.2%) - Philanthropic Intermediaries and voluntarism promotion (0.4%) - Religious congregations and associations (11.9%) - Business, professional, and labour organizations (5.3%) - Professional, scientific, and administrative services (3.5%) - Other Activities (3.1%)
SI	- sports and recreation (35,3%) - helping people in need (13,0%) - culture and art (17,0%) - scientific research, education (9,3%) - environmental protection, animal and plant breeding (7,1%) - housing (5,9%) - local development (6,4%) - politics (1,2%) - spiritual life (2,6%) - other (2,1%)
FI	- not classified (29,2%) - culture (17,8%) - sports and exercise (13,6%) - profession and trade (10,1%) - leisure (9,6%) - social and health (6,2%) - other (6,0%) - political (4,3%) - national defence (1,9%) - religion (1,3%)
SE	culture and recreation (27%) social welfare (20%) education and research (16%) religion (14%) employment (8%) politics, identity and interest representation (5%)

[54] Translated into shares.

[55] Amended by https://www.cases.pt/wp-content/uploads/2019/07/19ContaSatEconSocial_2016ENG.pdf.

2.5. Number of cross border associations

Data on the share of associations operating across borders within the EU are very scarce. The table below reports the few data points available.

Table 20: Available estimates for cross-border activities.

Country	Share of associations active across borders	Year	Source
Germany	**8%**	**2017**	ZiviZ-Survey 2012/2017
Estonia	36%	2019	https://www.siseministeerium.ee/media/331/download
Italy	1.40%	2020	https://www.istat.it/it/files//2022/10/REPORT-NON-PROFIT-2022.pdf
Austria	**8.50%**	**2014**	https://research.wu.ac.at/ws/files/19851385/FB_01_2015_gesamt.pdf

The values for Estonia and Italy have to be treated with care. For Estonia, the 36% refer to the total number of NPOs active internationally, including third countries. Also given Estonia's proximity to a third country (Russia), this share is clearly an overestimation of the actual share of associations operating across borders but within the EU. The value for Italy represents the share of associations that indicate to be active in the field of humanitarian/ international solidarity. This value therefore also captures associations active in third countries but omits any association active in another field across borders. It can therefore be considered to be an underestimation of the true share.

The shares for Germany and Austria stem from representative surveys among associations in the respective countries. These values can therefore be considered robust and representative for the two countries. The similarity of the shares of cross-border associations in the two countries might be explained by their socio-economic, social, cultural, and linguistic similarities. Given their historically strong third sectors and vibrant, organised civil societies, as well as their level of economic prosperity, the share of associations active across the EU might be overall smaller than the shares reported for Germany and Austria. However, data for these countries appears reliable. Therefore, this study uses the minimum value of 8% identified for Germany as a starting point for its estimations. The table below further specifies the number of cross-border associations for slightly smaller shares (5% and 6%) that are, however, not backed by hard evidence.

Table 21: Estimated number of cross-border associations.

Estimate	Total number of associations	Number of cross-border associations		
		5%	6%	8%
Lower bound	3 800 000	190 000	228 000	304 000
Central estimate	**3 870 000**	194 000	232 000	**310 000**
Upper bound	4 000 000	200 000	240 000	320 000

Making use of the share of FTEs working on cross-border activities reported by the study for the European Parliament[56] is another approach to estimate the share and number of cross-border

[56] https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/JURI/DV/2021/05-11/Study_StatuteforEuropeancross-borderassociationsandnon-profitorganisations_EN.pdf.

associations. The study reports on the shares of FTEs employed by NPOs that pursue activities internationally. These shares for NPOs can be used as proxies for associations, too.

Assuming that the share of FTEs employed by associations active across borders is similar to the share of associations active across borders, these shares can be employed to gain estimates of the number of cross-border associations per Member State.

Data are available for 14 of the EU-27, albeit it is not made transparent which year these data refer to (the study suggest that the estimates stem from various years). The arithmetic average share (1.19%) is used for countries for which no estimate is available. The table below reports the results of this estimation.

Table 22: Alternative approach towards the estimation of cross-border associations, by country.

Country	Share of FTEs active internationally	Total number of associations	Number of cross-border associations
Belgium	0.4%	140 188	600
Bulgaria	1.2%	18 305	200
Czechia	1.4%	126 661	1 800
Denmark	1.2%	100 000	1 200
Germany	1.6%	615 759	9 900
Estonia	1.2%	43 149	500
Ireland	0.4%	29 801	100
Greece	1.2%	4 671	100
Spain	2.6%	264 851	6 900
France	2.4%	1 300 000	31 200
Croatia	1.2%	52 731	600
Italy	0.6%	309 723	1 900
Cyprus	1.2%	3 046	40
Latvia	1.2%	22 834	300
Lithuania	1.2%	7 087	100
Luxembourg	1.2%	8 377	100
Hungary	1.0%	38 412	400
Malta	1.2%	1 780	20
Netherlands	1.2%	128 553	1 500
Austria	0.4%	130 162	500
Poland	1.0%	66 800	700
Portugal	1.2%	66 761	800
Romania	1.2%	46 430	600
Slovenia	1.2%	24 375	300
Slovakia	0.9%	50 575	500
Finland	0.4%	108 032	400
Sweden	2.3%	161 843	3 700
EU-27	---	**3 870 000**	**65 000**

However, as already the study that the study for the European Parliament argues that the shares above severely underestimate the true dimension of cross-border activities, suggesting that these estimates present the lower bound estimate of associations active across borders.

2.6. Number of FTEs on cross-border activities

Using the same FTE data and combining it with the data on the total number of FTEs employed by associations by the EESC yields estimates for the number of FTEs working on cross-border activities by country. The arithmetic average is used for countries with missing data. Note that as for the number of cross-border associations, the same limitation apply. The values presented below as central estimate are therefore most likely underestimating the true number of FTEs active across borders and should be interpreted with care. Because of these uncertainties, an error margin of 10% has been employed.

Table 23: Number of FTEs working on cross-border activities, by country.

Country	FTEs in 2014	Lower bound estimate (-10%)	FTEs cross border Central estimate	Upper bound estimate (+10%)
Belgium	451 000	1 600	1 800	2 000
Bulgaria	15 000	200	200	200
Czechia	97 000	1 200	1 400	1 500
Denmark	131 000	1 400	1 600	1 700
Germany	2 323 000	33 400	37 200	40 900
Estonia	20 000	200	200	300
Ireland	178 000	600	700	800
Greece	243 000	2 600	2 900	3 200
Spain	664 000	15 500	17 300	19 000
France	1 497 000	32 300	35 900	39 500
Croatia	71 000	800	800	900
Italy	837 000	4 500	5 000	5 500
Cyprus	23 000	200	300	300
Latvia	34 000	400	400	400
Lithuania	7 000	100	100	100
Luxembourg	22 000	200	300	300
Hungary	82 000	700	800	900
Malta	11 000	100	100	140
Netherlands	841 000	9 100	10 100	11 100
Austria	155 000	600	600	700
Poland	190 000	1 700	1 900	2 100
Portugal	170 000	1 800	2 000	2 200
Romania	25 000	300	300	300
Slovenia	43 000	500	500	600
Slovakia	18 000	100	200	200
Finland	65 000	200	300	300
Sweden	178 000	3 700	4 100	4 500
EU-27	8 389 000	114 200	126 800	139 500

2.7. GDP generated by cross-border activities

Combining the results of the previous estimations, it is further possible to calculate the GDP generated by cross-border activities. For this, the GDP generated by FTE working for associations is calculated. This information is then used to extrapolate the cross-border GDP added, using the estimated number of FTEs active across borders calculated above. For GDP, both the lower and upper bound estimates have been used for these calculations. Since the total number of FTEs working cross-border derived is most likely underestimating the true value, the upper bound estimate should be considered as the most reliable.

The table below reports on the estimations per country. Given the assumptions and estimations made to derive the individual components for this calculation, the estimates should be treated with care, especially at Member State level. Nevertheless, the estimates derived at EU level (highlighted in blue at the bottom of the table) suggest that the total GDP generated by cross-border activities of associations is considerable.

Table 24: GDP linked to cross-border activities of associations, by country.

Country	FTEs (total)	GDP associations (EUR m)	GDP associations per FTE (EUR)	FTEs cross-border (lower bound)	FTEs cross-border (upper bound)	GDP cross-border lower bound (EUR m)	GDP cross-border upper bound (EUR m)
Belgium	450 732	24 600	55 000	1 600	2 000	88.0	110.0
Bulgaria	15 243	300	20 000	200	200	4.0	4.0
Czechia	96 665	3 800	39 000	1 200	1 500	46.8	58.5
Denmark	130 990	400	3 000	1 400	1 700	4.2	5.1
Germany	2 322 895	134 800	58 000	33 400	40 900	1 937.2	2 372.2
Estonia	19 765	200	10 000	200	300	2.0	3.0
Ireland	177 985	11 100	62 000	600	800	37.2	49.6
Greece	243 022	1 600	7 000	2600	3 200	18.2	22.4
Spain	664 047	16 500	25 000	15 500	19 000	387.5	475.0
France	1 496 736	130 000	87 000	32 300	39 500	2 810.1	3 436.5
Croatia	70 512	1 000	14 000	800	900	11.2	12.6
Italy	836 581	7 600	9 000	4,500	5 500	40.5	49.5
Cyprus	22 885	300	13 000	200	300	2.6	3.9
Latvia	34 130	500	15 000	400	400	6.0	6.0
Luxembourg	22 483	1 200	53 000	200	300	10.6	15.9
Lithuania	6 608	40	6 000	100	100	0.6	0.6
Hungary	81 909	3 600	44 000	700	900	30.8	39.6
Malta	10 504	23	2 000	100	140	0.2	0.3
Netherlands	841 480	13 000	15 000	9 100	11 100	136.5	166.5
Austria	154 965	28 200	182 000	600	700	109.2	127.4
Poland	190 058	4 500	24 000	1 700	2 100	40.8	50.4
Portugal	170 467	5 900	35 000	1 800	2 200	63.0	77.0
Romania	25 013	1 200	48 000	300	300	14.4	14.4
Slovenia	42 663	900	21 000	500	600	10.5	12.6
Slovakia	17 595	100	6 000	100	200	0.6	1.2

Finland	64 549	14 700	228 000	200	300	45.6	68.4
Sweden	178 215	13 000	73 000	3 700	4 500	270.1	328.5
EU-27	**8 388 697**	**420 000**	**50 000**	**114 200**	**139 500**	**5 710**	**7 000**

2.8. Size of NPOs and associations (SMEs and large associations)

To understand the structure of the size of associations, the number of employees is one important metric that also allows comparisons to other forms of (economic) organisations.

In Italy, 91% of all associations do not have any employees, but only rely on volunteers. In contrast, the share of associations that employ more than 10 people is at just 1% (see table below). Patterns are similar in other countries. In France, 88.2% of the associations do not have any employees,[57] while this share is lower in Germany, where about one in four associations employs one person, and 7% of the associations employ at least 50 people.[58] In Lithuania, 96% of all associations have fewer than 5 employees, and for Malta, a study suggests that 95% of all associations qualify as micro or small enterprises. In Flanders (Belgium), 95% of all associations have less than 50 employees.[59]

Table 25: Different sizes of associations, based on the number of employees, by country.

Country	No employees	Employees	1 employee	1 or 2 employees	3 to 9 employees	10 or more employees	50 or more
	Share of total		Of which				
Belgium							
Bulgaria							
Czechia							
Denmark							
Germany	**72%**	**28%**	24%				7%
Estonia							
Ireland							
Greece							
Spain							
France	88.2%	**12%**		6.40%			
Croatia							
Italy	**91%**	**9%**	N/A	4.8%	2.7%	1.2%	N/A
Cyprus							
Latvia							
Lithuania							
Luxembourg							
Hungary							
Malta							
Netherlands							
Austria							
Poland	**63.40%**	**37%**					
Portugal							
Romania							
Slovenia	**96%**	**5%**	2.4%	3.3%	1.2%	0.4%	0.1%

[57] https://www.associations.gouv.fr/l-association-employeur-de-salaries.html

[58] https://www.ziviz.de/download/file/fid/529.

[59] https://verso-net.be/cijfers/vestigingen/vestigingen.

Slovakia							
Finland							
Sweden							

3. Methodology to assess the baseline scenario

3.1. Dynamic baseline

Assessing hypothetical scenarios requires to formulate different assumptions and collect various reference data from previous experiences to be used for extrapolation, as by definition there are no data available that can be used for such assessment. The methodology of the IA study to assess the impacts of the different policy options builds on findings from the economic dimension of associations across the EU, as described in the previous Sections, and therefore bears the same caveats. Data ranges and best estimates presented and developed here help to draw an approximate picture of the potential impacts on associations across the EU of the different policy options, particularly related to the following dimensions:

- **Estimation of the number of associations and the share of those currently operating cross- border (presented in previous Sections)**
- **Estimation of the number of potential cross-border associations and the share potentially unlocked by policy intervention**
- **Estimation of the proportionate GDP and employment of potential cross-border association**
- **Estimation of costs for launching and operating cross border**
- **Identification and selection of potential impacts of policy options**
- **Qualitative assessment of impacts intensity**
- **Translation of qualitative impact intensity into quantitative percentages**

As regards the size of associations, survey and interviews show that small associations are equally interested in going-cross border. Notably, as regarding potential/new cross-border associations, major impacts are expected on small associations. Policy intervention could help to simplify the process of establishing and operating an association in different Member States, making it easier for small associations to expand their activities across borders.

Larger associations have lower fix costs, so existing barriers are arguably lower. Large associations generally have the resources to navigate different legal requirements in different jurisdictions, but they may still face challenges related to complying with different rules and regulations. Policy intervention could help large associations by reducing uncertainty and facilitating cross-border activities, so they will be impacted mostly through cost reduction, rather than on the decision to go cross-border. Estimates on costs reduction are expected to differ only in relative terms and not being dependent on the size of associations. What can be expected to change is the relative importance of these reductions in the cost structure.

For this assessment, various sources of information were used. In particular the IA study used estimates of associations, employment and GDP, as described in previous Sections, and combined them with data collected through the stakeholder consultations (targeted survey and in-depth interviews), other reports (e.g. Single Market report[60]) and qualitative assessment of options. However, important limitations come from the nature of the assessment, which needs to take into account various uncertainty elements. For instance, the impacts of any policy options lowering barriers to entry will still depend on personal decisions of individual associations to expand cross-border, bearing important uncertainties.

[60] https://single-market-economy.ec.europa.eu/news/commission-presents-2022-single-market-report-and-updated-depth-review-europes-strategic-2022-02-23_en

Therefore, the estimates presented hereafter should be interpreted with the necessary care. Estimates should be regarded as supporting the understanding of the overall magnitude of costs which the policy options aim to reduce, based on the best estimate techniques using a combination of publicly available statistics, survey/interviews responses and extrapolation techniques. In the following Sections, methodological steps taken will be present more in detail to assess the potential impacts of the different policy options.

3.2. Potential cross-border associations and their unlocked potential

According to the *Better regulation*' guidelines[61], the design of possible policy options should always consider the option of changing nothing (baseline scenario) and use this as the benchmark against which each policy option should be compared. In order to use the baseline scenario as benchmark, its **opportunity costs** were assessed and measured. Here opportunity costs are to be intended as:

- the **potential GDP contribution and additional employment** related to associations' foregone international activities, due to the existing barriers and no policy change;
- the **maximum estimated GDP contribution and additional employment** that could be generated, if any policy options induced all potential associations interested in going cross-border to expand their operations beyond one Member State.

In order to estimate the number of potential associations willing to go cross-border, various sources were employed, including Eurobarometer[62] and Eurochambers[63] surveys which explored the interest to go **cross-border for companies not yet active.** A further breakdown by size of organisations was used. Data on micro-enterprises were used as proxy for associations, as associations can be conceptualised to be most similar to micro-enterprises, given their resources available and number of employees (presented in previous Sections).

These sources pointed to the same estimate of 9% share of all companies that are willing to go cross-border. This figure was triangulated with information collected via the stakeholder survey specifically targeted at associations, which showed comparable results. Notably, the survey pointed towards a slightly higher share of associations willing to go cross-border (~17%). In terms of size, over 90% of associations responding to the survey were small or micro-organisations, reflecting the typical (micro) structure of associations. However, due to the topic of the survey and the stakeholders reached out to, there was likely to be a certain selection bias towards respondents from organisations that are interested in the topic of cross-borders activities, leading to a slightly overestimated figure.

By taking this potential bias into account, the more conservative estimate was taken into account (i.e. 9%). **This share was applied to the number of existing associations in order to estimate the approximate magnitude of associations that are willing to go cross-border**.

Table 26: Estimated number of potential cross-border associations.

[61] https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/better-regulation-guidelines-and-toolbox_en

[62] https://europa.eu/eurobarometer/api/deliverable/download/file?deliverableId=51209.

[63] https://www.eurochambres.eu/wp-content/uploads/2020/08/Business-Survey-The-state-of-the-Single-Market-Barriers-and-Solutions-DECEMBER-2019.pdf.

	Number of potential (new) cross-border associations[64]
Lower bound estimate (3.8 m * 9%)	340 000
Best estimate (3.87 m * 9%)	**350 000**
Upper bound estimate (4 m * 9%)	360 000

However, it was not realistic to assume that any policy option could solve all existing barriers, being some of these outside the scope of intervention. Assessing a hypothetical counterfactual scenario, it is important to collect reference points from previous experiences. Thus, in order to estimate the number of potential cross-border associations that could be affected by policy intervention, the "*30 years of Single Market*" report[65] was identified and used as the most suitable benchmark. The report estimated that companies' trade in **services within the Single Market increased from 5% to 8% (as a share of the GDP) within 2004-2019** in the EU, representing an increase of 60% of trade in services within the Single Market, while substantial reduction of barriers has been observed. A potential policy change lifting barriers for cross border operations of associations can be assumed to also be a progressing development over a period of similar duration, i.e. ~15 years. Data on companies' trade in services were used as proxy for associations, as associations mostly provide services, as indicated by stakeholders consulted. This is also confirmed by available literature, pointing towards a large share of associations engaged in service provision[66]. Therefore, this value was used as a proxy to estimate the impact on associations from further integration of the Single Market, if some of the barriers were lifted through policy intervention, assuming they are likely to **experience a similar impact over a similar timespan of 15 years**.

By applying the same 60% increase to the number of associations estimated to be already active cross-border, **an estimate is made of a total potential cross border associations of ~ 185 000 that are realistically within the scope of reach to go cross-border in the event of sufficient policy intervention**. These are the associations that could be incentivised to go cross-border in a timeframe of 15 years in the event of sufficient policy intervention, similar to what was observed for companies in recent decades as outlined in the Single Market report. These represent ~53% of the estimated total theoretical maximum number of associations interested in going cross-border (i.e. 350 000 associations see table above).

GDP and employment of potential cross-border associations

The employment and GDP contribution of potential cross-border associations were calculated based on figures available for associations already active cross-borders (see previous Sections on steps for calculations). In particular, it was assumed that potential cross-border associations would generate proportionally equivalent values of employment and GDP contribution, therefore in the IA study constant estimates for associations currently operating cross border were applied to the number of potential newly unlocked cross-border associations, according to the formulas below:

[64] These figures refer to associations that are currently operating in one single Member States but potentially interested in going cross-border.

[65] https://single-market-economy.ec.europa.eu/publications/30-years-single-market-taking-stock-and-looking-ahead_en

[66] https://link.springer.com/chapter/10.1007/978-3-319-71473-8_3

$$CB\ associations\ (310\ 000): international\ FTEs(126\ 800) = potential\ CB\ associations(350\ 000)\ :\ potential\ international\ FTEs\ (142\ 500)$$

The variables used are as follows:

- CB associations is the number of associations already active cross-border, estimated as described in previous Sections
- International FTEs are associations' employees dealing with cross-border operations, estimated as described in previous Sections
- Potential CB associations is the number of potential associations willing to expand cross-border, estimated as describe above
- Potential international FTEs are the additional (potential) associations' employees that would deal with cross-border operations (if potential CB associations were to expand cross-border), estimated by applying the above formula

$$CB\ associations\ (310k): GDP\ contribution\ (7bn) = potential\ CB\ association(350k)\ :\ potential\ GDP\ contribution\ (9bn)$$

The variable used are as follows

- CB associations is the number of associations already active cross-border, estimated as described in previous Sections
- GDP contribution is the GDP generated by international activities of current cross-border associations, estimated as described in previous Sections
- Potential CB associations is the number of potential associations willing to expand cross-border, estimated as describe above
- Potential GDP contribution is the additional (potential) GDP that would be generated by the potential cross-border associations (if they were to expand cross-border), estimated by applying the above formula.

As noted above, ~53% of potential cross-border associations are estimated to be realistically within the scope of reach to go cross-border in the event of sufficient policy intervention. **This applies also to the corresponding FTEs and GDP contribution generated.**

Therefore, a total of potential new cross-border associations within the range of 185 000 associations (60% of the estimated current cross-border associations (310 000), which translates to ~53% of the estimated total number of association interested in going cross-border, i.e. 350 000) was estimated, which could be incentivised to go cross-border in a timeframe of 15 years in the event of sufficient policy intervention, similar to what has been observed for companies in recent decades as outlined in the Single Market report. Assuming these new associations would generate employment and GDP contribution (proportionally) equivalent to those already active cross-border, an estimate of around ~75 000 new jobs (i.e. additional FTEs working cross-border) and additional contribution to the GDP of their international activities of EUR 4.2 bn can be made. The latter represents the maximum estimated annual opportunity cost of no policy intervention

The IA has added 3 scenarios based on a -5, -10 and -15 p.p. lower potential compared to the above calculated "benchmark" of 185 000 associations. The analysis in the IA only used the benchmark and the -10 p.p. scenario for the estimation of potential future benefits and cost excess reductions. This was also translated towards potential GDP and employments as described in the above steps and calculations. This second scenario anticipates a potential overestimation. The different scenarios of associations that could consider operating cross-border in the event of sufficient policy intervention are:

Scenario 1: Benchmark (60%)	**185 000 (SCENARIO A)**
Scenario 2: -5p.p. (55%)	170 500
Scenario 3: -10p.p. (50%)	**155 000 (SCENARIO B)**
Scenario 4: -15p.p. (45%)	139 500

Below, scenario A and B are translated into a series of policy uptake ranges 'unlocking potential'. In the IA (Section 6) this is adapted to a 5 p.p. upper and lower bound starting from the central estimates.[67]

Table 27: Estimated economic benefits regarding the unlocking potential of cross-border activity of associations (scenario A)

Estimated benefits Scenario A (60% increase)	Additional n. of cross- border associations	Additional annual GDP (after complete uptake) €bn	Additional employment
50% - 60 % policy uptake	93 000 – 112 000	2.1 - 2.5	38 000 – 46 000
60% - 70 % policy uptake	112 000 – 130 000	2.5 - 2.9	46 000 – 53 000
70% - 80% policy uptake	130 000 – 149 000	2.9 - 3.4	53 000 – 60 000
80% - 90% policy uptake	149 000 – 167 000	3.4 - 3.8	60 000 – 68 000
Maximum potential of policy intervention (100%)	185 000	4.2	75 000

Table 28: Estimated economic benefits regarding the unlocking potential of cross-border activity of associations (scenario B)

Estimated benefits Scenario B (50% increase)	Additional n. of cross- border associations	Additional annual GDP (after complete uptake) €bn	Additional employment

[67] Consequently the range in the IA for PO1 and PO3 (90% central estimate) is differently applied than the theoretic tables show below. In the IA the range is set at 85% and 95% as the central estimate is 90%. For PO2 the range is the same as shown in both table: 80%-90%.

50% - 60 % policy uptake	78 000 – 93 000	1.8 - 2.1	32 000 – 38 000
60% - 70 % policy uptake	93 000 – 108 000	2.1 - 2.4	38 000 – 44 000
70% - 80% policy uptake	108 000 – 124 000	2.4 - 2.8	44 000 – 50 000
80% - 90% policy uptake	124 000 – 140 000	2.8 - 3.1	50 000 – 57 000
Maximum potential of policy intervention (100%)	155 000	3,5	63 000

3.3. Costs of launching and running cross-border operations

Cost of launching

Registration costs

In the current legal and policy framework, most operations across borders require associations to set up their operations in the other Member State. This requires familiarisation with the national requirements, the set-up of a correct legal form and registration in the country where the associations wishes to expand.

Data on registration costs were gathered across Member States through the legal analysis and dedicated desk research. These costs represent direct one-off costs and vary considerably across countries. In order to estimate the typical cost of registration for associations across the EU, a weighted average was applied, by taking into account each country' share of associations out of total EU. In particular, the following formula was applied:

Typical registration cost = $\sum_i^n \text{Registration cost } (i) * \text{Share of associations out of total EU } (i)$

i = Member State 1, Member State 2…. Member State n

Table 29: Registration costs.

Member state	Registration fee	Digital registration	Average (registration fee and digital registration)	Share of associations out of total EU
Austria	EUR 35	Available	EUR 35	3.4%
Belgium	EUR 187	EUR135	EUR 161	3.6%
Bulgaria	EUR 25.6	EUR 12.8	EUR 19.2	0.5%
Croatia	n/a			1.4%
Cyprus	EUR 50		EUR 50	0.1%
Czech Republic	EUR -	Available	EUR -	3.3%
Denmark	n/a			2.6%
Estonia	EUR 30	Available	EUR 30	0.6%

Finland	EUR 180	EUR 50	EUR 115	2.8%
France	EUR -		EUR -	33.8%
Germany	EUR 74[68]	Not possible	EUR 74	16.0%
Greece	n/a			0.1%
Hungary	EUR -	Available	EUR -	1.0%
Ireland	n/a			0.8%
Italy	EUR 300		EUR 300	8.0%
Latvia	EUR 11.4	EUR 10.2	EUR 10.8	0.6%
Lithuania	EUR 18.8	EUR 12.0	EUR 15.4	0.2%
Luxembourg	EUR -		EUR -	0.2%
Malta	EUR 350[69]	EUR 350.0	EUR 350	0.0%
Netherlands	EUR 52.0		EUR 52.0	3.3%
Poland	EUR -	Available	EUR -	1.7%
Portugal	EUR 300.0		EUR 300	1.7%
Romania	n/a			1.2%
Slovakia	EUR 66.0		EUR 66.0	1.3%
Slovenia	EUR 31.7	Not possible	EUR 31.7	0.6%
Spain	EUR 38.9		EUR 38.9	6.9%
Sweden[70]	EUR 143.4	EUR 116.6	EUR 130	4.2%
Weighted EU average			**EUR60**	

In order to estimate the lower and upper bounds, lowest and highest cost values were used, with the minimum being 0 (in various Member States) and maximum being EUR 300 – EUR 50 (e.g. Italy and Malta). Notable exceptions have to be noted, where registration fees depend on the value of associations/foundation's assets and can exceed EUR 1000 (e.g. Malta), or notarial deeds are prescribed by the law for specific cases (e.g. BE for INPAs, ranging EUR 200-2,500). Being exceptional cases, these were treated as outliers and excluded from the average computation of typical registration costs. As noted, registration requirements differ considerably across countries. For instance, some countries offer the possibility to register electronically, generally at lower fees. Also, some countries mandate the payment of registration and notary fees, while other offer registrations free of charges. For more detail information on requirement per country, please refer to Section 3 in the IA.

Set-up cost

Besides registration, set-up costs were further broken down into: **internal staff (compliance costs) and external advisory costs (direct costs)**. These costs represent **one-off costs**. In fact, most operations across borders require associations to set up their operations in the other Member State, requiring staff familiarisation with the national requirements and preparation for the set-up of a correct legal form. Most associations also consult legal or tax advisory support for the establishment.

[68] A registration fee of 74 euro needs to be paid to the register of associations (Vereinsregister), which is administrated by the local courts (Amtsgericht) within the jurisdiction of each federal state. The law of many federal states rules that associations with tax-privileged status are exempt from the registration fee. The details, however, differ.

[69] Registration fees depend on the value of associations/foundation's assets and can exceeds EUR1,000. For calculations the lower bound was used, to reflect typical small size of associations

[70] For calculations fees were used foreseen for associations willing to conduct economic activities. There is no registration requirement, unless the association wishes to conduct economic activities.

Costs of staff and external providers differ significantly depending on the local economic circumstances and requirements. The estimates thus provide an indication of what can be expected and must not be taken as exact cost structures for any association across the EU. The numbers presented the report reflect estimates based on best estimate techniques using a combination of publicly available statistics, survey and interview responses and extrapolation techniques. The exact numbers must therefore be interpreted with the necessary care. This note applies to all estimates discussed hereafter.

Internal staff costs (compliance costs)

For internal staff costs, primary data collection (targeted survey and in-depth interviews) provided a basis for assessment. In particular, associations already acting cross-border were asked the following question, to be answered either in number of days or percentage of annual FTE:

- *How much time did your staff spend on preparing the expansion of operations into another Member State?*

In order to **estimate the typical time spent by internal staff to expand cross-border, an average was applied**, both to responses from the survey and interviews, which led to similar results. In particular, according to the targeted survey of the IA study, associations require their own staff to spend between 9-20% of an FTE to organise the establishment of operations in another Member State (15% on average). This entails one off costs for staff to familiarise with the legislation in the new country, as well as to check, prepare and conduct the administrative formalities required by the country where the associations intend to expand. To translate time spent (in % of annual FTEs or number of days) into monetary cost, the *Eurostat Structure of earnings survey* and *the Labour Force Survey data for Non-Wage Labour Costs* were used, to account for differences across countries in labour costs. Data on these costs are presented in the table below.

Table 30: Hourly Earnings 2018 + Non-Wage Labour Costs (NWLC)+ 25% Overheads (OH).

MS	**ISCO 1** Legislators, senior officials and managers	**ISCO 2** Professionals	**ISCO 3** Technicians and associate professionals	**ISCO 4** Clerks	**ISCO 5** Service workers and shop and market sales workers	**ISCO 6** Skilled agricultural and fishery workers	**ISCO 7** Craft and related trades workers	**ISCO 8** Plant and machine operators and assemblers	**ISCO 9** Elementary occupations	**ISCO 1-5** Non-manual workers	**ISCO 7-9** Manual workers	**MS Average Hourly Income 2018** + NWLC + OH
BE	64.7	50.4	35.0	27.6	23.6	n/a	26.5	27.0	21.6	36.0	23.7	**33.0**
BG	11.3	7.2	6.1	4.2	3.0	3.0	4.2	3.8	2.9	5.8	3.6	**4.9**
CZ	25.7	17.1	14.1	10.6	8.6	7.9	10.8	10.0	7.3	13.9	9.8	**12.2**
DK	74.1	50.2	47.7	39.4	32.4	36.1	42.6	41.5	34.0	44.4	38.2	**43.0**
DE	75.0	46.8	35.3	29.0	21.4	24.5	29.5	26.0	18.2	35.0	24.3	**31.5**
ET	21.0	16.9	13.8	11.0	8.2	9.1	11.7	10.7	7.9	13.8	10.2	**12.6**
EI	50.1	48.1	34.9	27.1	21.2	21.7	25.8	25.6	20.4	36.7	23.4	**33.8**
EL	31.7	21.7	17.6	14.2	11.0	11.3	15.2	14.6	10.1	17.1	12.6	**16.0**
ES	41.0	29.6	23.5	18.3	14.8	15.2	17.9	18.8	14.0	22.4	16.5	**20.4**
FR	58.7	44.1	33.9	26.3	24.9	24.0	26.6	26.7	22.4	37.0	25.1	**33.7**
HR	18.3	13.6	10.4	8.9	6.9	6.4	7.3	7.8	6.0	10.5	7.0	**9.4**
IT	74.4	42.4	30.5	24.1	19.0	20.1	20.9	22.1	17.8	30.5	20.0	**27.1**
CY	48.0	25.8	19.0	12.7	10.1	9.7	13.7	12.9	9.5	19.2	11.4	**17.1**
LV	17.7	13.6	11.0	8.6	6.5	6.8	8.9	8.6	6.0	11.4	7.7	**10.1**
LT	16.0	11.8	8.9	7.6	6.0	5.7	8.0	7.8	5.4	10.6	7.3	**9.3**
LU	69.5	46.0	37.5	29.6	23.8	22.4	25.3	24.0	20.2	41.9	23.0	**35.3**
HU	17.2	12.2	8.8	7.9	5.9	5.7	7.3	6.8	4.9	10.1	6.3	**8.5**
MT	27.1	20.3	17.0	13.6	12.1	10.8	13.8	13.3	9.9	17.3	11.6	**15.8**
NE	56.1	41.8	33.5	27.1	21.6	22.4	26.7	25.8	17.3	32.9	22.0	**30.0**
AT	62.2	42.2	33.9	28.0	20.9	n/a	26.5	25.7	19.8	32.8	23.9	**29.6**
PL	17.7	13.2	9.3	7.4	5.8	5.7	7.4	7.3	5.5	11.1	7.0	**9.6**

PO	30.1	20.8	14.9	10.2	8.0	7.4	8.5	8.4	7.1	14.3	8.0	**12.1**
RO	15.8	12.9	8.4	6.4	4.9	4.8	6.1	5.8	4.6	9.8	5.5	**8.0**
SL	30.4	19.5	16.1	12.8	10.2	10.7	11.7	11.1	9.1	16.4	10.7	**14.2**
SK	22.0	14.3	12.6	9.7	8.1	7.1	10.5	9.8	7.1	12.7	9.4	**11.4**
FI	68.9	41.0	32.1	26.3	23.9	22.2	27.9	28.0	21.2	33.6	25.9	**31.6**
SE	63.3	43.1	39.7	31.3	30.1	28.8	35.0	34.0	26.7	38.8	32.4	**37.4**
EU	47.8	35.6	29.6	23.7	18.6	21.0	21.4	19.1	16.1	**28.9**	**18.8**	**25.7**

To calculate the **average FTE annual cost** across the EU, the following formula was used:

$EU\ average\ hourly\ income$ (EUR 25.7) $*$ $average\ weekly\ working\ hours$[71] (36.4) $*$ $N.of\ working\ weeks$ (52) = 48 700

Simple average FTE annual cost was also checked against a weighted average considering the share of each country of the total estimated international FTEs employed by associations, showing comparable results.

$$\sum_{i}^{n} \text{Average hourly income cost } (i) * \text{Share of international FTEs out of total EU } (i)$$

i = Member State 1, Member State 2…. Member State n

Total internal staff costs to prepare and implement expansion cross-border were calculated as follows:

$Average\ FTE\ annual\ cost$ (EUR $48.7k$) $*$ $average\ time\ spent\ by\ internal\ staff(in\ \%\ of\ annual\ FTE, 15\%) * Crossborder\ FTEs$ (126 800)= EUR 930 m

External advisory costs (direct costs)

Most associations also consult legal, accounting or tax advisory support for the establishment. For external staff costs, primary data collection (IA study targeted survey and in-depth interviews) provided a basis for the assessment.

In particular, according to the targeted survey and interviews conducted, associations spend on average EUR 2,650 in external advisory cost to support their expansion cross-border, corresponding to a total of EUR 820 m spent on such services by current cross-border associations.

Therefore, it is estimated that a total setup costs for associations currently operating cross-border (~310 000) is around EUR 1.7 bn (EUR 820 m direct costs + EUR 930 m compliance costs)

Overview of the estimated typical cost of launching operation cross-border, per association

No policy option is expected to eliminate all costs in their entirety, as some of these will remain. Therefore, it is important to distinguish between different cost items. When referring to cross-border costs, the total cost consists out of two main blocks:

- Costs that are fixed and cannot be reduced by policy intervention
- Excess cost: cost that exist (or potentially exist) due to non-harmonisation and can potentially be avoided by policy intervention.

When looking at cost for the launch of operation, for already existing cross border associations these can also be called opportunity cost, but excess cost also represent a barrier to entry. Therefore, cost

[71] https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Hours_of_work_-_annual_statistics

reductions do not necessarily equal 'cost savings' as these cost blocked off an entry rather than are being reduced. It is therefore not possible talk about 'cost savings' and need to talk about reduction of 'excess cost'.

Moreover, internal costs are expected to benefit the most from potential lifting of barriers, as external advisory services are still expected to be somewhat relevant in order to conduct cross-border operations (e.g. advisory on labour, accounting and tax laws in countries where associations wish to expand). According to insights collected from stakeholders consulted, in the best scenario with policy intervention setup, costs can be expected to be reduced by up to 25% (external services) and 50% (internal costs). This led to estimating the excess costs at EUR 670 m[72], which is unnecessary cots spent by associations due to the unresolved problem. Looking at individual associations, a new association willing to expand cross-border could save up to a maximum estimated ~EUR 2,150 in case of policy intervention, compared to the current situation, where there are excessive (unnecessary) cost due to the unresolved problem.

Table 31: Breakdown of costs of establishment of cross-border operations for a typical association.

One-off costs of launching cross-border operations for a typical association	**Current cost (best estimate)**	**Current excessive cost[73]**	**New cost (without excessive cost)[74]**
Staff cost *(time spent to familiarise with legislation, check and prepare admin formalities)*	~ EUR 3 000	~ EUR 1 500	~ EUR 1 500
Other setup costs *(external services + registration costs)*	~ EUR 2 650	~ EUR 650	~ EUR 2 000
Total	~ EUR 5 650	~ EUR 2 150	~ EUR 3 500

Source: Estimates based on targeted survey and in-depth interviews in the IA study

When applying the scenarios for potential new associations developed in table 27 and 28 to the potential excess launch cost reductions (a full reduction of the excess cost of EUR 2 150 for PO1 and PO3 and a partial reduction of the excess cost of EUR 1 850 for PO2) the total excess cost reduction for launching operations can be calculated for each of the policy options over a time span of 15 years. The table below also adds upper and lower bounds for each policy option (+/- 5 p.p. to the central estimates of policy uptake: 75% for PO1 and PO2 and 90% for PO3):

Table 32: Excess launch costs – scenario A[75]:

Excess launch costs (15 years) reduction	**Potential new associations**	**Excess cost reduction**	**Excess cost reduction**

[72] Calculated as 50% of total staff cost + 25% of total external services.

[73] Excess cost are defined as the unnecessary cost which could be avoided by solving the problem. These need to be distinguished from the actual cost which include also the unavoidable component of the cost category.

[74] Difference between previous two columns.

[75] Figures are rounded. Source IA study.

SCENARIO A *Uptake % policy option*		*EUR 2 150*	*PO*	*EUR 1 850*	*PO*
70%	130 000	EUR 278 million	PO1	EUR 240 million	PO2
80%	149 000	EUR 318 million	PO1	EUR 274 million	PO2
85%	157 000	EUR 338 million	PO3		
95%	176 000	EUR 378 million	PO3		
100%	**185 000**	**Maximum potential scenario B**			

Excess launch costs (15 years) reduction	**Potential new associations**	**Excess cost reduction**		**Excess cost reduction**	
SCENARIO B *Uptake % policy option*		*EUR 2 150*	*PO*	*EUR 1 850*	*PO*
70%	108 000	EUR 233 million	PO1	EUR 201 million	PO2
80%	124 000	EUR 267 million	PO1	EUR 229 million	PO2
85%	132 000	EUR 283 million	PO3		
95%	147 000	EUR 317 million	PO3		
100%	**155 000**	**Maximum potential scenario B**			

Table 33: Excess launch costs – scenario B[76]:

3.4. Costs of operating cross-border

For those associations overcoming the barriers to operate cross-border, the current framework requires to allocate resources to compliance activities and administrative burden that might be avoidable. Cost of operating cross-borders may vary greatly depending on various factors, particularly linked to country specificities (e.g. specific national regulatory framework, costs of external services etc.) and the size and types of activity of the associations. Moreover, the factor whether an association is active in two or more Member States plays a role. Typical costs reported in the OPC, the targeted survey and interviews, consist of staff dealing with cross-border complexity and external services, including legal, accounting and tax advisory services faced by associations to run operations in another Member States.

Therefore, costs of operating cross-border were broken down into internal staff costs dealing with cross-border complexity and external costs for advisory services. Internal staff costs were further

[76] Figures are rounded. Source IA study.

broken down into information and compliance costs. There represent recurring costs to be borne annually by associations to operate cross-border.

The main source of information for the assessment of these costs was primary data collection, via the targeted survey and in-depth interviews, which also focused on costs assessment. Costs were also assessed against available secondary data.

Internal staff costs

For internal staff costs, associations already acting cross-border were asked the following question:

How much time do you or your colleagues spend per year on administrative tasks to be active in that other Member State (i.e. tasks needed to support/ enable the running of the actual operations of your association)?

Associations surveyed reported typically between 4% and up to 30% (in some cases they report however even more than 100%) of an FTE for managing their cross-border activities. In order to estimate the typical time spent by internal staff to deal with cross-border complexity, an average was applied to responses from the survey and triangulated with interviews results, leading to 17%.

To translate time spent into monetary cost, the average FTE annual cost for the EU was used (as described above).

The average time spent by internal staff of 17% (in % of annual FTE) for all associations currently acting cross-border translates into monetary recurring costs for internal staff dealing with cross-border complexity (information and compliance costs) of ~EUR 1.08bn.

Notably, the following formula was applied:

$Average\ FTE\ annual\ cost$ (EUR 48 700) $*$
$average\ time\ spent\ by\ internal\ staff(in\ \%\ of\ annual\ FTE,$ 17%) $*$
$Crossborder\ FTEs$(126 800)= ~EUR 1.08 bn

These internal staff running costs were further broken down into two main components, namely information and compliance costs. This was done applying the following shares, which emerged as typical based on interviewed stakeholders:

Share of staff dealing with understanding (admin burden)	**Share of staff dealing with compliance (compliance costs)**
65%	**35%**
Total staff costs dealing with understanding	**Total staff costs dealing with compliance**
65%*EUR 1.08 bn = EUR 00 m	35%*EUR 1.08 bn = EUR 78 m

External advisory services (recurring costs)

On top of internal staff costs, there are also annual legal, accounting, tax or other advisory services that associations require. For external advisory services, associations already acting cross-border were asked the following questions:

- *Do you require any of the following services to run your operation in another EU Member State: Legal advisory, Accounting services, Tax advisory, Other services (please specify)?*
- *If yes, please provide an estimate of the annual costs of these services?*

Costs for such annual external services reported in the IA study targeted survey to associations typically range between EUR 1 000 and EUR 10 000 depending on the Member States of operation

and the specific needs of the association. On average, external services costs for a typical association amounts to an estimated EUR 2 900 annually. This corresponds to a total spending for external services of ~EUR 920 million. Calculations were based on the typical association, thereby excluding costs of very large associations that would skew the estimates. The following formula was applied:

Total external advisory services costs (recurring costs) = Average cost per association (EUR 2 900) * Number of CB associations (310 000) = EUR 920 m

Costs for external services were also checked against available secondary data[77], to compare the estimated ranges. This source indicates average running expenses for external counselling related to international activities to be ~EUR 3 000, which are very similar to our estimate (i.e. EUR 2 900)

Similarly for setup costs, recurring operational costs can be expected to be reduced by up to a maximum of 25% (external services) and 50% (internal costs) in the event of policy intervention, which are identified as excess costs due to the unresolved problem. Abolishing these excess costs to the full potential would lead to annual cost savings of ~EUR 770 million[78] for associations currently acting cross-border.

Table 34: Costs of operating cross-border for a typical association.

Costs of cross-border operations for a typical association	**Current cost**	**Current excessive cost**	**New cost (without excessive cost) 79**
Staff costs *(information and compliance costs)*	~ EUR 3 500	~ EUR 1 750	~ EUR 1 750
External services	~ EUR 2 900	~ EUR 750	~ EUR 2 150
Total	~ EUR 6 400	~ EUR 2 500	~ EUR 3 900

Source: Estimates based on targeted survey and in-depth interviews IA study

4. Impacts of policy options

The impacts of policy options were assessed in five stages:

1. Identification of potential impacts
2. Selection of expected impacts
3. Qualitative assessment of impacts
4. Quantification of expected significant impacts
5. Validation of estimates

[77] CSI, Feasibility Study on a European Foundation Statute

[78] Calculated as 50% of total staff cost + 25% of total external services.

[79] Difference between previous two columns.

4.1. Identification of potential impacts

Starting point for the identification was the list from the Better Regulation guidelines. Based on the stakeholder consultations (e.g. interviews, survey, public consultation) and available literature the IA study selected those impacts that are potentially seen to be directly, indirectly or in induced form related to possible policy interventions. In particular, in the IA study it is indicated which impact categories are directly expected to emerge from policy options and which may be impacted through the functions of associations.

This screening was important to ensure that the subsequent assessment focused on the most important impacts for each specific policy options.

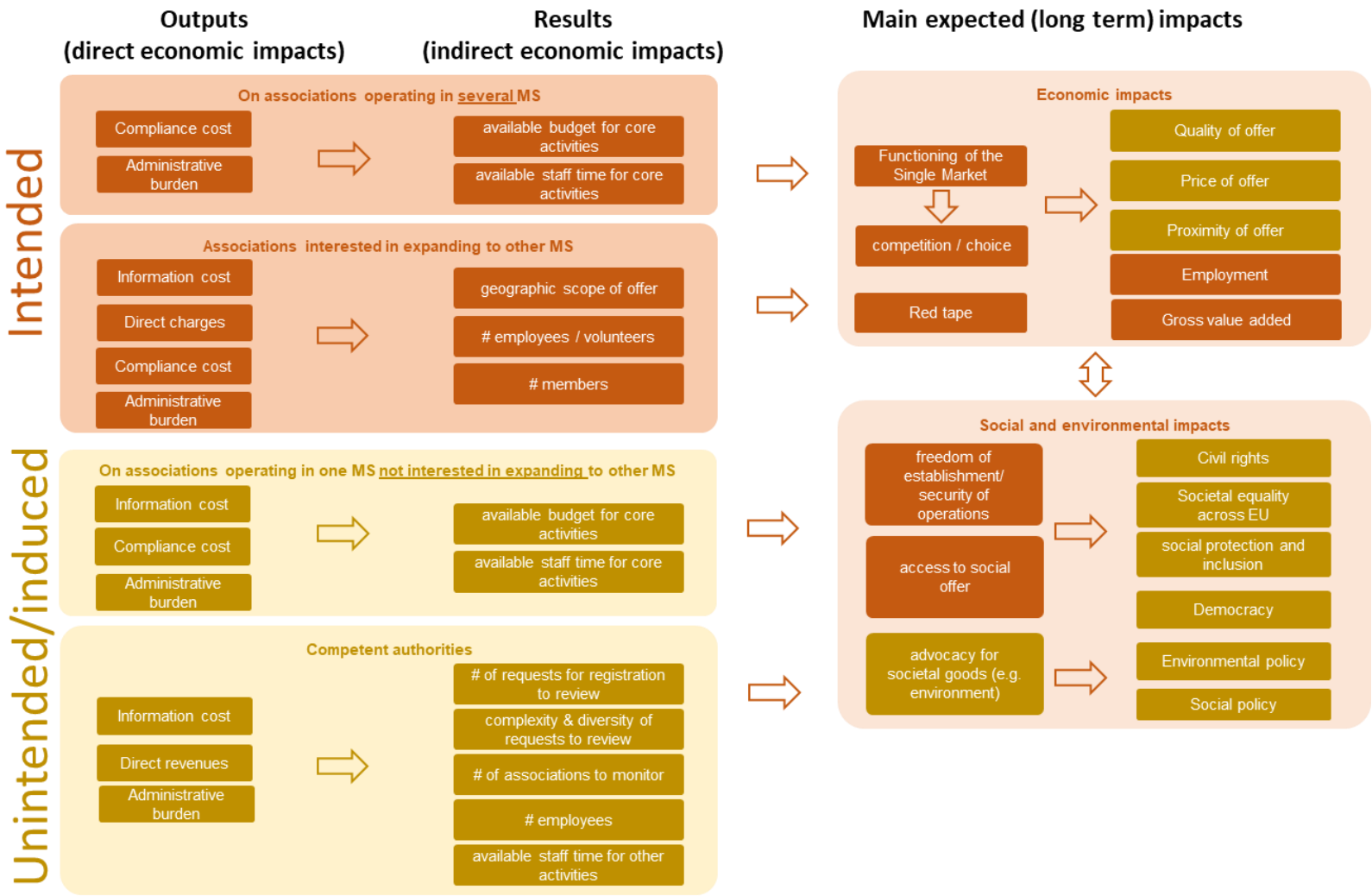
4.2. Selection of expected impacts

Using the identified possible impacts and the analysis of the problem, the IA study established a theory of change illustrating the expected causal relationship between the expected impacts. The theory of change distinguished between the **two stakeholder groups that are intended to be directly affected** by policy options, namely:

- Associations acting cross border
- Associations interested in acting cross border and
- those that may be unintentionally directly affected:
    - Associations not interested in expanding cross border
    - Competent authorities

Key impacts that are intended to be indirectly achieved (e.g. generation of GDP, employment, freedom of establishment) and those that may be induced through the operations of associations were highlighted, as illustrated below.

Figure 2: Direct and indirect impacts – Theory of Change.



4.3. Qualitative assessment of impacts intensity

The qualitative assessment of impacts is based on a triangulation of the legal analysis, feedback from consultations and an assessment of the theory of change. Based on this, for each of the policy options and expected impacts a weighting on how strong the potential of each policy option is expected to be in generating such impact was established. The use of 'potential' in this analysis refers to the approach that each policy option contains a significant level of uncertainty in its final scope, form of implementation and uptake. Therefore, the assessed impact potential needs to take into account what can be considered 'reasonable' based on other similar initiatives related to the integration of the Single Market, as described above.

Feedback from the survey and interviews was used to assess the effectiveness of each policy option in addressing existing barriers (Note: the survey asked respondents to score the effectiveness of each policy option). These findings were then quality checked against the legal analysis. The potential impact of each policy option was therefore qualitatively assessed, according to a five levels classification:

Impacts on adjusting existing barriers
Low
Low - medium
Medium
Medium - High
High

4.4. Quantification of expected significant impacts

Impacts on adjusting barriers to entry

For the quantification of expected significant impacts, it was needed to translate the qualitative assessment into quantitative terms. To assess the impacts on the number of new cross-border associations and related additional GDP and employment resulting from adjusting existing barriers to entry ranges were applied presented in the table below. It must be noted that each policy option is expected to have some positive impact even if limited. Therefore, a low impact was translated into >0%, namely an up to 10% effect. At the same time, none of the policy options is likely to address all barriers, so the highest impact potential was estimated to lead up to 90%. The percentages for the remaining three levels were chosen based on the scoring in the survey and qualitative judgement emerging from the interviews as well as triangulation with the legal analysis. These shares were applied based on other similar initiatives related to the integration of the Single Market, as described above.

Table 35: Potential impacts on adjusting existing barriers to enter (scale)

Potential impacts on adjusting existing barriers to enter	Potential to adjust existing barriers
Low	10%
Low - medium	25%
Medium	50%
Medium - High	75%
High	90%

As explained above, a potential policy change lifting barriers for cross border operations of associations can be assumed to be a progressing development over a period of time. To define the time duration, recent experience from similar policy intervention aimed at strengthening the Single

Market was used. Data on companies' trade in services were used as proxy for associations, as associations mostly provide services, as indicated by stakeholders consulted and confirmed by available literature. Therefore, data form the Single Market report was used as a proxy to estimate the potential impact on associations from further integration of the Single Market, if some of the barriers were lifted through policy intervention, assuming they are likely to experience a similar impact over a similar timespan of 15 years.

For each policy option, the related potential (in %) to address existing barriers was used to calculate the maximum number of cross-border associations and related GDP and employment that could be unlocked by the policy option (applied to the maximum estimated above, namely 185 000 associations, 75 000 new employees and additional contribution to the GDP of their international activities of EUR 4.2 bn).

Impacts on excess cost reduction

To assess the potential of the different policy options in reducing setup and operations costs of acting cross-border, in the IA study ranges presented in the table below. In assessing the potential impacts of the different policy option on these costs, distinguished answers were:

- Associations active in one Member States but **willing to go cross-border**. Impacts on these associations mainly relate to setup costs
- Associations **already active cross-border.** Impacts on these associations relate to both setup (based on past experience) and operating costs.

As indicated by consulted stakeholders, no policy option is expected to eliminate all costs in their entirety, as some of these will remain. Moreover, internal costs are expected to benefit the most from potential lifting of barriers, as external advisory services are still expected to be somewhat relevant in order to conduct cross-border operations (e.g. advisory on labour, accounting and tax laws in countries where associations wish to expand).

Table 36: potential impacts on cost reduction (per cost type)

Potential impacts on cost reduction	Potential cost reductions				
	Internal setup costs	External setup costs (advisory)	Internal running costs (information)	Internal running costs (compliance)	External running costs (advisory)
No impact / reduction	0%	0%	0%	0%	0%
Low	10%	5%	10%	10%	5%
Low - medium	20%	10%	20%	20%	10%
Medium	30%	15%	30%	30%	15%
Medium - High	40%	20%	40%	40%	20%
High	50%	25%	50%	50%	25%

Also, it is not likely to expect effects on excess cost reduction to materialise from year 1. For each policy option, the IA study can assume a lag effect of 1 year where no effects can be observed, due to the time to effectively implement the appropriate policy intervention and produce the desired effects on relevant stakeholders. Therefore, starting from year 1, the IA study expects a linear increase from the current situation to the full cost reduction potential until year 5. As of year 5, the IS study expects the policy intervention to be fully effective and to produce the maximum expected results.

4.5. Validation of estimates and discussion of results

The final estimates generated were compared to the overall GDP estimates and typical cost structures to assess their reliability. Moreover, for the IA study literature was compared. Although the estimates

developed follow a logical set of assessment steps integrating both primary and secondary data and have been cross validated and contextualised, absolute conclusions from the numbers must be treated with care. As stated above, these are estimates on the expected potentials. The extent to which such potentials can be unlocked will depend on the final specifications of policy measures as well as the take up of Member States and local and regional authorities and ultimately on the individual decisions taken by representatives of associations. As the impacts are usually the result of behavioural choices of economic operators based on a bundle of combined various individual drivers, a mathematical deduction of final conclusions is particularly challenging.

ANNEX 5

COMPETITIVENESS CHECK

1. Overview of impacts on competitiveness

Dimensions of competitiveness	Impact of the initiative (++ / + / 0 / - / --/ n.a.)	References to sub-sections of the main report or annexes
Cost and price competitiveness	+	Section 6.3
Capacity to innovate	+	Section 6, introduction.
International competitiveness	0	NA
SME competitiveness	+	Section 2.3 Section 6.3 Annex 7

2. Synthetic assessment

a. Cost and price competitiveness

The preferred option is expected to increase the competition in markets where associations provide comparable goods and services with other market players. The competitiveness of associations should improve as they will be able to operate across borders while facing a reduced administrative burden.

The preferred option is expected to **reduce the excess costs** of operating cross border and to lower the threshold for associations to launch cross border operations. This has two main effects:

1. Associations with cross border activities have more time and financial resources available for their core activities (economies of scale)
2. More associations will provide their offer cross border, which increases the quantity in sectors associations are operating (e.g. health-, care- and social services, social work, work integration, training and education and services to households) and thus increases competition on quality and price.

Annex 3 provides a **detailed overview of the excess cost reductions**, as well Section 6, 7 and 8 of the Impact Assessment (IA).

b. Capacity to innovate

Positive effects on the capacity to innovate[80] may emerge due to more resources available, easier access to cross-border research and projects, mostly relevant to sectors such as health-,

[80] https://link.springer.com/article/10.1007/s11301-022-00297-2 and European Commission study on cross border activities of the social economy (2023).

care- and social services, social work, work integration, social housing, training and education.

A facilitation of cross border activities can have positive result in terms of innovation capacity of associations:

- innovation transfer: increased cross-border partnerships, sharing and uptake/access to (social) innovation applications;
- joint innovation undertakings (transnational/cross border), for example engaging in cross border partnership in an interregional context (e.g. cross border clusters developing R&D in assistive technologies supporting workers and residents in elderly, child/disability care);
- cost savings allow more investment for (social) innovation (intra organisational)[81];
- improved access e.g. to (social) innovation skills, education and training offer, as well as skills alliances[82] and opportunities for staff.

c. International competitiveness

The initiative has no impact on international competitiveness of associations. This does not exclude positive secondary effects, which are not assessed here as non-relevant.

d. SME competitiveness

As most associations can fall under the definition of SMEs, the initiative thus captures SMEs. Albeit, due to costs and administrative burden, most SME size associations are hampered to operate across borders in the single market. Mostly larger associations are usually organised under the form of an international NGO or NPO with capacity to overcome these barriers. Still evidence from the IA study showed that also smaller associations have interest and drivers to operate across borders. This might suggest that the positive impact on SME associations might be bigger than on larger associations, as the "relative burden" in terms of costs and administration, but also other barriers (e.g. language, capacity) is higher. Consequently, SME size associations might be more likely to operate across borders when the existing barriers are lowered.

The preferred option is expected to enhance services and goods flows within the single market and enhance the competitiveness of associations acting cross-border within the EU. Easier access to the single market for offering goods and services, as well as setting up new branches, mergers and other ways of organisational scaling (e.g. social franchising models).

[81] For example in the sector of sheltered workshops etc. (Today mostly transformed into work integration). The largest ones are operating in several countries and are organized in international innovation projects. They operate like traditional business be it under an association legal form (or coop or foundation depending on the countries traditions).

[82] Associations active in work integration are developing an EU skills alliance with a focus on shared digital innovations and technologies. B-WISE | Skills for the future : WISEs ready ! (bwiseproject.eu)

ANNEX 6

MARKET CONTEXT

As explained in Section 1.4 of the Impact Assessment report, the aim of this Annex is to provide more detailed evidence and figures to support the market context in which associations operate in the EU including when activities are performed across borders in the single market and showing the sectors in which they appear to be commonly active.

Box 1: Treatment of data constrains on associations in the market context

The analysis in this Section of the IA is challenged by the minimal availability of recent, qualitative and relevant data on associations at EU and Member State level.

Producing quantitative data on associations at EU level is difficult for the following reasons: (i) absence of official statistics gathering data on associations (beyond registration) at Member State and EU level, (ii) economic indicators are usually not collected in traditional business statistics at Member State and EU level, with the exception of sectoral satellite accounts, ad-hoc research projects or databases of private federations and sectoral actors, (iii) lack of harmonised definitions and different traditions of the non-profit sector and different registration requirements in the Member States (e.g. Orbis database does not allow to distinguish organisations that could be defined as associations), and (iv) comparative studies at EU level are scarce and limited in economic indicators.

The IA (Section 1.4 and Annex 4) is informed by the two following existing studies, mostly using the same input data (2014-2015): (i) a study from the European Economic and Social Committee on recent evolutions in the social economy and (ii) a study performed for the UN on the size and scope of the EU Third sector.

Basic data on the number of associations presented in this IA can be considered robust, as building on available and recent official data for most Member States; and as half of the Member States have recent data available in terms of associations employment and contribution to the GDP. However, when it comes to other economic indicators such as size of the organisation, sectoral presence and cross border activities, data on associations is often outdated or completely missing for most Member States. Data in European databases such as Eurostat (e.g. Structural Business Statistics) or ORBIS do not allow to disaggregate data on at EU level. Sectoral data or specific data on social economy, the third sector, NPOs, NGOs, CSOs, etc. are available and used where appropriate, but they do not represent disaggregated data specific to associations, e.g based on the legal form. In addition, there are no recent comparative studies on associations.

Consequently, data about cross-border activities of associations is mostly absent (specific data on internationalisation and cross-border activities of associations is available for only four Member States (Germany, Austria, Italy and Estonia). Estimates in the IA regarding associations operating cross- border are, therefore, based on theoretical assumptions, analogies and benchmarking (e.g. parallels with similar sectors and activities), allowing extrapolations of input data available (Annex 4 provides for a detailed overview on how each estimate is calculated and for which data points theoretical assumptions had to be made). It is important to note that these data points may present a

risk of overestimation. As mitigation measures, the analysis underpinning this IA builds on the lower bound estimates and complements with qualitative information (based on literature review as well as interviews and a targeted survey, as outlined in Annex 2) in order to further support the quantitative methodology. More details on the methodology are provided in Annex 4.

1. Socio-economic impact of associations in the EU

Based on the methodology of this IA, an estimate of 3.87 million associations operate in the EU, representing about 86,8% of NPOs.[83] Data from the IA study suggests that the economic contribution of associations to the EU GDP amounts to EUR 420 billion (i.e. 2.9% of EU GDP).[84]

In terms of job creation, associations are employing about 5% of the European labour force (8.8 million employees).[85] More recent data on share of employment exist for some Member States (France 9,7%, Belgium 12%, and The Netherlands 13%).[86]

Taken on individual basis, associations have typically limited resources in terms of budget and staff. The combined evidence on number of employees and annual income suggest that a large majority of the association can likely be considered to be SMEs[87], in particular micro enterprises.[88] Their main revenue sources are market sales, membership fees, public funding

[83] In some Member States, such as Germany and Sweden, associations are the most predominant legal form among NPOs (i.e. about 75% of NPOs registered as associations in Sweden and, 90% in Germany in 2022) while France has the highest absolute number of associations among Member States (i.e., 1.3 million of associations in 2022 on a total of 1,5 million NPOs).

[84] Figure considered as robust. Official and recent data for GDP contribution of NPOs is available for 22 Member States. For the missing data points of EE, CY, EL, NL and IE estimates have been developed. The estimate for GDP contribution of associations is deducted from the collected data for NPOs. For a detailed overview see Annex 4 (section 2.2).

[85]Figure considered as robust. Estimated based on recent sources for 16 Member States combined with an EU comparative study: The Size and Composition of the European Third Sector, Lester M.Salamon and Wojciech Sokolowski, 2018 (figures for associations and foundations. UK and Norway are excluded from the calculations). These figures are also confirmed by the EESC study on Recent Evolutions of the Social Economy in the European Union, 2016. For a detailed overview of the calculations, see Annex 4 (section 2.3).

[86] See Annex 4, Section 2.3

[87]Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises. See Article 1: "An *enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity*."

[88] As indication, in France 96% of associations do not have any employees, while this share is lower in Germany, where 7% of associations employ at least 50 people. IA study.

(including public procurement contracts), grants and donations, though in different mix across different Member States.

Figures showing the share of non-profit associations with non-economic (disinterested) activities versus economic activities are not available.[89] This is because associations have often a mixed portfolio of economic and non-economic activities, while revenue from economic (commercial) activity is used to fulfil the activities related to the statutory mission. So called "hybrid associations" became more common, since the emergence of the social enterprise model in the last decade, e.g. encouraged by the Social Business Initiative of 2011. A conversion from a primarily state-supported to a hybrid form of non-profit association saw a surge due to gradual phasing out of state support after an economic crisis and as a result of austerity policies.[90] Given the lack of data, we consider indirect indicators to capture the economic activities and relevance of associations.

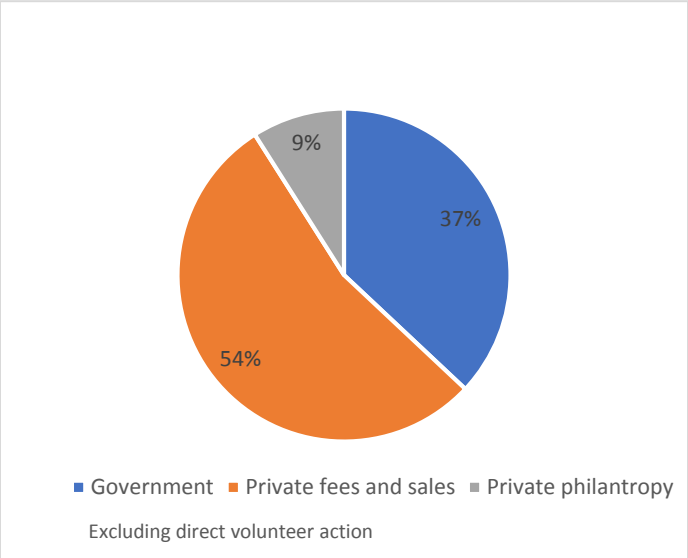


Figure 1: European Third sector revenue structure in 29 countries, 2014[91]

First, the revenue sources can give a good understanding. Figure 1 above shows figures for the third sector in the EU[92] (mainly composed of associations and foundations, around 86.8% are

[89] For the purposes of this IA, economic activities refer to those that are remunerated, whereas non-economic activities refer to those that are publicly funded or otherwise free of charge.

[90] EESC study on Recent Evolutions of the Social Economy in the European Union, 2017.

[91] 978-3-319-71473-8_3.pdf (springer.com)

[92] This is further corroborated by figures coming from the two Member States with the highest absolute number of associations. In France public sector grants represent 20% of non-profit sector budgets (2017) but have

associations), where **private fees and market income** (including private payments for goods and services, membership dues and investment income) accounts for 54%**.** Public resources account for 37%, and do not only cover subsidies and grants, but more importantly, public procurement contracts in sectors such as health care or education, also to be understood as market income. The last category is private philanthropy (9%).[93]

Second, another indicator to consider is the presence of associations in different sectors (in terms of market share and employment share). Following existing literature, most common sectors are social, health- and care services, social work, education and training, sports, arts and culture, leisure and recreation, services to households, business and employment services.[94] When looking at the figures, this is mostly confirmed when considering traditional NACE code categorisation (see Figure 2).[95]

Figure 2 below shows the sectors with most labour expenditure for the third sector in the EU with a clear dominance for social, health and care services, education and training and arts, entertainment, and recreation.[96] Box 1 zooms into certain sectors where associations are known to perform a considerable share of market activities.

Figure 2: Non-Profit Sector workforce paid, by field of expenditure, various years.[97]

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decreased significantly in the last years because of an overall reduction of public spending. Other large sources are revenue are fees and charges (42%), public sector contracts (24%) and membership fees (9%). In Germany, associations derive their revenue primarily from membership fees (38.6%), self-generated revenue (20.1%), donations (18.8%), and public funding (11%). Figures include UK and NO.

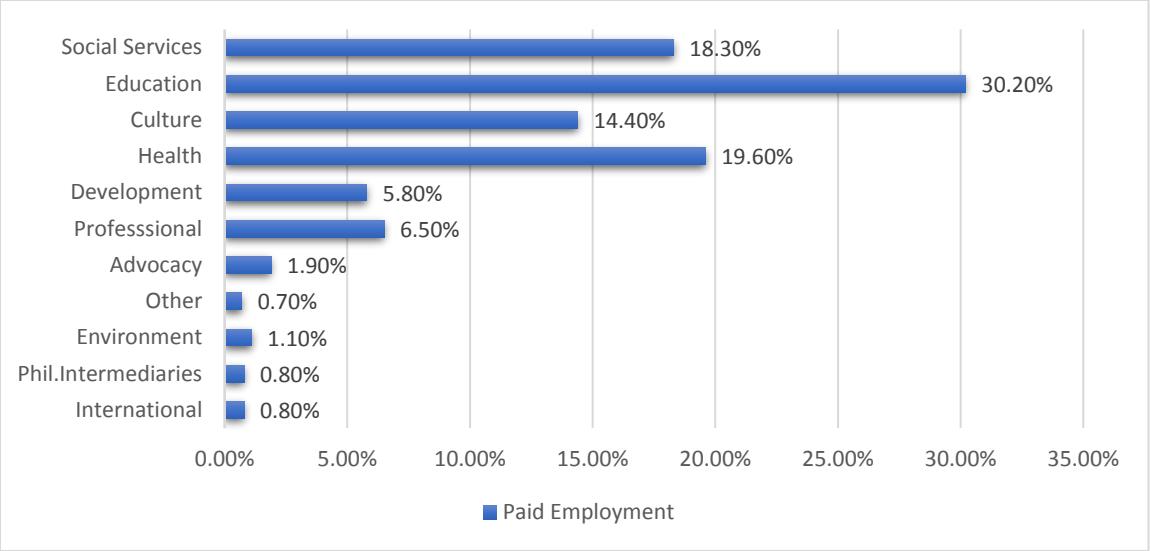
[93] These figures encompass foundations and associations and keeping in mind that 86.8% of NPOs are associations, it is very plausible that in reality market-related revenue and public contracts occupy a larger share for associations, since the 9% private philanthropy relates primarily to foundations.

[94] IA study.

[95] See annex 4 and 13 for a breakdown per Member State as well as overview of sectoral activities of associations following the International Classification of Non-Profit Organizations: https://unstats.un.org/unsd/classifications/Family/Detail/2008

[96] European Parliamentary Research Service: A statute for European cross-border associations and non-profit organisations European added value assessment. Figures for third sector (as already assessed, association are a dominant group in the third sector. Consequently, this graph gives a good estimation for the reality of associations in sectors with biggest labour intensity.

[97] The Size and Composition of the European Third Sector | SpringerLink



A comparison across Member States appears to be difficult. Due to differences in reporting, it is not easily possible to compare data by sector across countries. Already the different sectors specified suggest that individual Member States interpret and define the scope of relevant sectors differently. In addition, there might be further differences in the interpretation of the scope of the same sector across countries. This appears to be particularly relevant for the social domain. While for some countries (e.g. Czechia and Denmark) all social services appear to be captured by 'health and social services', the statistics for Germany seem to be more granular.[98] Another approach for clustering the activities for NPOs reported by Member States is to use the International Classification of Non-Profit Organizations (see table 2).

Table 1: Activities of NPOs by sector, using the NACE classification

Country	M and P – Research and education	Q – Human health and social work activities	J and R – Information, communication and arts, entertainment and recreation	S – Other services activities	Other/ unclear
BE		23%	16%		61%
BG	34%	45%			21%
CZ	29%	23%	33%		16%
DK	11%	40%	3%		47%
DE	21%	11%	47%	18%	4%
IE	33%	8%		7%	54%
EL		30%	37%	12%	21%

[98] IA study. Activities have been allocated by NACE code. Due to differences in the level of aggregation of the reported data, shares can only be reported at the highest NACE code level. The table suggests that generally, most NPOs (and thus most likely associations) are active in the social and health related, as well as the cultural, recreational and communication sectors. Across countries and average of about a fourth of all entities are active in the social and human health realm, while close to 40% are active in communication, information, arts, entertainment, and recreation.

ES		33%	10%	18%	40%
FR	7%	11%	63%	15%	4%
HR	9%	13%	45%	27%	7%
IT	4%	10%	70%	11%	6%
LT		56%			
LU		80%			20%
HU			61%		39%
AT		21%	27%	15%	38%
PL	11%	24%	39%		27%
PT	4%	16%	47%	27%	7%
SI	9%	19%	52%	11%	9%
FI		6%	35%	16%	43%
SE	16%	20%	27%	19%	18%

Table 2: Activities of NPOs by sector, using the International Classification of Non-Profit Organisations[99]

[99] Comparative legal analysis of associations laws and regimes in the EU - Publications Office of the EU (europa.eu)

Category	A	B and K	C and D	E	F	G	H	I	J	L
BE	16%		23%							12%
BG		34%	45%		24%					
CZ	33%	29%	23%							
DK	3%	11%	40%							5%
DE	47%	21%	11%	3%		9%	1%	4%	2%	4%
IE	15%	7%	23%	6%	27%	7%	3%	5%	7%	
EL	37%		30%	12%						
ES										
FR	63%	7%	11%		3%	15%				
HR	44%	9%	13%	5%	10%	17%		2%		
IT	70%	4%	10%	2%		8%				6%
LT			58%							
LU			80%							*less than 5%*
HU	61%									
MT										
AT	27%		12%		18%		8%	1%	7%	28%
PL	39%	11%	24%							
PT	47%	7%	13%	1%	3%	8%	0%	12%	5%	3%
SI	52%	9%	13%	7%	12%	1%		3%		2%
FI	41%		6%			4%		1%	10%	37%
SE	25%	2%	3%	1%	30%	9%	2%	3%	3%	21%

A = Culture, communication, and recreation activities,
B and K = Education services and Professional, scientific, and administrative services,
C and D = Human health services and Social services,
E = Environmental protection and animal welfare activities

Box 2: Sectors with strong presence of associations and NPOs in the EU

Social services sector: long term elderly care

As a benchmark for the economic size of social service providers[100], Social Services Europe represents over 200 000 primarily not-for-profit organisations employing 10 million employees in 2018. The mix of public, for profit and non-profit entities in this sector is very different across Member States.

Zooming into the market share of the long-term elderly care sector, many Member States have non-profit social service providers dominating the market vis-à-vis the for-profit actors: The Netherlands (100% of the market), Germany (59%), Italy (49%), Belgium/Flanders (49%) and Austria (29%). In a few Member States, the public sector represents the majority (FI, LT, SK).[101] In Ireland (65%) and Estonia (80%) the market is dominated by for

[100] Roughly speaking the social services sectors covers fully NACE 88 ad 89.

[101] https://socialemployers.eu/en/news/new-report-on-the-social-services-workforce-in-europe-current-state-of-play-and-challenges/ The size in terms of employment goes beyond the figures earlier captured in this Annex. There

profit providers.[102] Given the aging demographics in the EU, the market value of this sector is expected to grow exponentially. Since the 1990s, several Member States opened the elderly care market to for-profit providers with the aim to lower the price and increase the quality (mixed success).

Research & Technology Organisations (RTOs)

RTOs are mainly non-profit organisations whose core mission is to produce, combine and bridge various types of knowledge, skills, and infrastructures to deliver a range of research and development activities such as **technological and social innovations.** RTOs have a very distinct funding model that neither has the substantial basic funding of universities nor an assured market income, while they still pursue their mission to support enterprises to fund their R&D investment.[103] The network organisation EARTO represents 350 RTOs – **of which 80% are NPOs** engaging 150.000 of highly skilled researchers and engineers managing a wide range of technology infrastructures.

NACE code information is limited – the Work Integration sector

It is not always possible to identify the real economic activity based on the NACE code categorization of the company. For example, Work Integration Social Enterprises (WISE) are companies, often registered under an association legal form with the aim to employ persons with a distance to the labour market (e.g. persons with disabilities). As a consequence, those are mainly registered under NACE code social work activities (NACE 88) or others. However, a recent study shows that such WISEs in reality are mainly present in production sectors such as manufacturing, packaging, assembly, recycling, repair, as well as service provision sectors. Consequently, the actual economic activity and value is not well represented in official business statistics.[104]

Third, another indicator relates to the tax regime (e.g. tax benefits) of associations in the Member States. According to the IA study, there are no Member States that prohibit associations from conducting economic activities. In some Member States, **associations are explicitly considered as undertakings, that is, as entities performing economic** activities (e.g. BE, NL)[105]. However, in other Member States, certain restrictions exist apart from the tax regime and, as a general rule, in the associations' legal framework. For example, in some Member States, the economic activity must be linked to the statutory purpose (e.g. RO and LT). Others require to identify the economic activities that they wish to carry out in their founding documents (SI). Others state that the economic activity should not be the primary purpose or main activity but only incidental/ auxiliary (HU, LV, CZ). Some Member States allow to perform economic activities if they register for these activities as a for-profit legal entity (PL, CZ, SK). Some Member States restrict the use of the profit solely for the achievement of the statutory goals and performing the primary activities of the organization (CZ and SI).

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are two reasons: 1) the big share of public social service providers and 2) the figures for social services are more recent (5-year gap).

[102] Care homes for older Europeans: Public, for-profit and non-profit providers (europa.eu)

[103] https://www.earto.eu/about-rtos/

[104] https://www.bwiseproject.eu/en/results

[105] Subject to applicable exception, based on case

2. Sectors of activities of cross-border associations

Where certain datasets are helpful to demonstrate the economic activity of associations in general, this is barely the case for specific cross-border activities of associations. Following the literature at hand, associations perform cross-border activities when they provide goods and services beyond their Member State of establishment, when their members come from different Member States, as well as when they collect assets, notably in the form of donations. Associations are also specifically organised at the EU or global level when it comes to facilitation of cooperation in certain sectors (e.g. health, care and social services), policy areas (e.g. social inclusion, sports policy), as well as to develop cross-border innovation and research projects (e.g. RTO's and social innovation projects) and perform general activities (regional, civil society, sectoral, business). Many of those activities can greatly overlap.

Two specific types of activities can be highlighted as particularly relevant in this context, which are expected to benefit from this initiative: first, associations that are particularly active across borders in neighbouring regions, for example in service sectors such as health-, care- and social services. However no exact data is at hand to estimate such activities. Alternative manners to estimate the relevance are for example to look at research done by of the European Association for Border Regions[106] and the thematic priorities of Interreg Europe program with over 60 cross-border programmes (to be understood here in the context of neighbouring regions) singling out 'association' as a specific beneficiary of support, engaged in 15% of all projects during the program period 2013-2013.[107] A second group are the so called "International NPOs" (INPOs), defined as NPOs that are set up in more than one Member State with objectives and activities framed in a European or wider context. In total, there were an estimated 5000 INPOs established across the EU countries in 2020 (UIA, 2021), which is however a firm underestimation.[108]

Germany (8%) and Austria (8,5%) are amongst the few Member States with reliable data picturing associations operating cross border.[109] Combining these figures with secondary sources

[106] Association of European Border Regions | AEBR | AGEG | ARFE

[107] Cross-border Archives • Interreg.eu and the Keep.eu database contains data for 9 079 Interreg projects (out of the 9 485 or 96%). It serves all professional audiences in need of aggregated data regarding projects and beneficiaries of European Union cross-border, transnational and interregional cooperation programmes among the member States, and between member States and neighbouring or pre-accession countries.

[108] The number of INPOs has increased about 30 % since 2010, with an increase by about 100 each year. According to the European System of National Accounts, operations of NPOs in another Member State are counted as 'domestic' actors if they have an ongoing and formally registered presence there. For example, the various Caritas operations across Europe would not be part of Caritas Germany or Caritas International but would be included in the domestic non-profit sector in the respective Member States where they are present. Many NPOs have de facto become major European actors but are not recorded as such officially (European Parliament, 2022).

[109] Stemming from representative surveys among associations in the respective countries, leading towards an 8% estimate. Given their historically strong third sectors and vibrant, organised civil societies, as well as their level of

offers a best estimate figure of **8 % of all associations in the EU, which is about 310 000 associations** operating cross-border (see annex 4 for detailed calculations). The sets of figures presented in this section give the measure of the socio-economic value of associations in the EU but also an indication of their untapped potential and scale of missed opportunities for the single market, more precisely in terms of goods and services provided.[110]

economic prosperity, the share of associations active across the EU might be overall smaller than the shares reported for Germany and Austria.

[110] More detail, see Annex 4, Section 2.1 and Section 3.2

ANNEX 7

SME TEST

1. Step 1/4: Identification of affected businesses

According to the revised user guide to the SME definition (2020)[111] and Title I of the annex to Recommendation 2003/361/EC[1], SMEs are defined on the basis of two parameters:

i) Number of employees and turnover
ii) Performing of an economic activity, irrespective of its legal form, without any reference to whether or not the undertaking has the purpose of making a profit.

The comparative legal analysis conducted in this Impact Assessment (IA) shows that in all Member States associations are characterized by a non-profit purpose, which is mostly interpreted as a purpose other than profit-sharing and implies the profit non-distribution constraint. It is by now generally recognized that the non-profit purpose of associations does not prevent an association from conducting economic activities and even from making profits from them, as the non-profit purpose only implies the prohibition on the distribution of profits.

Therefore, associations engaged in economic activities may fall within the formal definition of micro, small and medium-sized enterprises adopted by the European Commission and should then be regarded as enterprises.

Typically, associations have a small number of staff and low budget available. For example, in Italy, 91% of all associations do not have any employees, but only rely on volunteers. In contrast, the share of associations that employ more 10 people or more is at just 1%[112]. Similarly, in France 96% of the associations do not have any employees,[113] while this share is lower in Germany, where about one in four associations employs one person, and 7% of the associations employ at least 50 people.[114] In Lithuania, 96% of all associations have fewer than 5 employees, and for Malta, a study suggests that 95% of all associations qualify as micro or small enterprises. In terms of resources available, in Germany 51% of the associations operate with less than EUR

[111] DocsRoom - European Commission (europa.eu)

[112] EUR-Lex - 32003H0361 - EN - EUR-Lex (europa.eu)

[113] https://www.associations.gouv.fr/l-association-employeur-de-salaries.html

[114] https://www.ziviz.de/download/file/fid/529

10 000 per year, while only 3.8% of the associations have an annual income exceeding EUR 1 000 000.[115] In France, the share of associations operating with less than EUR 10 000 is higher (74.6%), and only 1.3% of the associations have an annual budget exceeding EUR 500 000.[116] Therefore, the large majority of associations can qualify as micro-enterprises.

In light of this, while the initiative does not specifically target SMEs or impose new administrative obligations on SMEs, its objectives directly affect associations that qualify as such. Notably, the initiative focuses on associations and aims to tackle barriers to associations' activities across borders in the single market. Given that small associations have typically fewer resources and capabilities at hand to overcome existing barriers, adjustments of the barriers to entry and operate are expected to have a particularly positive impact on the competitive position of small associations. Still, evidence from the Impact Assessment Study ("IA study" thereafter) shows that also SME size associations have clear drivers and interest to develop cross border activities. Data collected through the IA study suggests that there are around 3.87 million associations in the EU, with a part of them qualifying as micro-organisations, as mentioned above. Among existing associations, it is estimated in the IA study that around 8% (~ 310 000) are already active cross-border and some 350 000 are estimated as theoretical maximum potential number to expanding their operations cross border. It must be noted however, that not all barriers can be addressed by this initiative, and it is thus not realistic to expect all unused potential to be unlocked by this initiative. A comparative analysis with reduction of barriers for companies in the last 15 years indicates that the short to medium term maximum potential of this initiative is to mobilise a total of 185 000 additional associations (5% of the estimated total number of associations interested in going cross-border) that could go cross-border in the event of sufficient policy intervention at EU level generating ~75 000 new jobs (i.e. additional FTEs working cross-border).

Given that the assessment suggests the preferred option to be PO3, meaning creation of an additional legal form of association at national level recognised in all Member States through mutual recognition, only associations that take up the additional legal form are expected to be affected.

Key question: **To what extent is the initiative relevant for SMEs?**

The preferred policy option does not per se distinguish between size classes. The impacts of the preferred option (PO3) may however have distributional effects given that the identified barriers to operate cross border are particularly difficult to overcome for micro associations. In many cases barriers for cross border operations translate into costs of information gathering and provision, which tend to be disproportionately higher for smaller organisations.
As analysed in the IA , the preferred policy option will only affect associations that want to take up the new legal form, meaning there is no imposed obligation to convert to the new legal form

[115] Ibid.

[116] https://www.associations.gouv.fr/IMG/pdf/tchernonog_associations_fcc_2018.pdf.

in order to conduct cross-border activities. Notably, the preferred policy option is expected to improve their situation in terms of reduced costs and administrative burden to set up and conduct activities cross-border. The extent of the impact and distributional effects depend largely on the uptake of such a new legal form. (See step 3).
The preferred option (PO3) can be seen as a mixed form of PO1 and PO2 packaged in one: it provides advantages for everyone as it does not force harmonisation but allows for lowered entry barriers also for small associations. Consequently, PO3 is expected to be more inclusive in that also smaller associations are more likely to benefit.

2. Step 2/4: Consultation of SME Stakeholders

The consultation activities captured SMEs and representative associations representing SMEs. In addition to the public consultation, the targeted survey ensured a solid sample of stakeholders, by reflecting associations' typical structure. 88 associations responded to the survey, whereas 45 of them were active in only one Member State and 43 active cross border. At least 77 (over 90%) of the associations responding to the survey can be classified as SMEs, whereas at least 60 are micro-organisations with less than 10 employees. Small organisations were also the primary target of subsequent in-depth interviews, where 33 (60%) of the 64 in-depth interviews were conducted with associations. Inputs were analysed and integrated into the analysis.

The majority of the associations that took part in the in-depth interviews indicated they face restrictions when operating in other Members States. The most significant Single Market barriers include the following: administrative formalities to implement actions in another Member State without prior registration, registration in another Member State (cost, case handling time, uncertainty about constitutive requirements etc.), and differences between Member States in reporting obligations.

Other relevant barriers indicated include: access to funding in another Member State, difficulty in obtaining recognition of tax benefits by competent authorities of another Member State, uncertainty of the types of economic activities permitted, differences between Member States of liability, liquidation and dissolution regimes, differences in regulations related to hiring employees and differences in membership requirements.

All these barriers are considered powerful enough to dissuade associations from extending their operations and carrying out their activities across Member States. This is also confirmed by respondents to the targeted survey (mainly micro/small associations).

3. Step 3/4: Assessment of the impact on SMEs

During this Impact Assessment, data collection tools were designed to gather information on costs of (cross border) operation and establishment and the opportunity cost of unused potential of cross border activities of associations. Since SMEs were a part of the stakeholder group for the stakeholder targeted survey, their inputs were used as evidence to assess the impacts of the different policy options and are reflected in the main findings.

The preferred policy option (PO3) is expected to generate costs savings and lead to simplified engagement across borders (as outlined in the IA , Section 7). Notably, under this policy option the direct economic costs of cross-border operations are expected to be significantly reduced compared to the baseline for associations (e.g. compliance and administrative cost of launching cross-border operation) and, consequently, the compliance and administrative burden will decrease. Furthermore, the preferred option has the potential to reduce costs of establishment, notably the information costs relating to cross-border and the need to understand the new legal form. An association wanting to establish in another Member State is expected to save costs, as the legal form in the host country will benefit of mutual recognition. As a potential cost savings for operating cross-border (recurring costs), it is estimated an order of magnitude leading to up to EUR 770 million in comparison to the baseline (maximum possible excess cost reductions per year, see annex 4 for calculations).

SME companies offering services or goods in situations and in sectors where associations are strongly presented, may increase competition with associations qualified as SMEs. The increasing competition will depend on the sector and the uptake of the legal form of the PO3.

4. Step 4/4: Minimising negative impacts on SMEs

As noted above, despite targeting associations in general, the initiative is relevant for small organisations, which represent the vast majority of associations. Therefore, SMEs can be regarded as the main beneficiaries of potential costs reduction and lifting of barriers by the preferred policy option, also in light of the fact that compliance costs and administrative burden tend to be disproportionally higher for small organisations. For the specific design of concrete new requirements, it will be crucial that the mutual recognition across Member States is granted. Moreover, it will be important to avoid introducing new obstacles in form of additional requirements being added at national level.

ANNEX 8

ASSOCIATIONS OPERATING OR WISHING TO OPERATE CROSS BORDER IN THE SINGLE MARKET – TERRITORIAL DIMENSION

1. Introduction

This Annex is about the activities of associations operating in border regions under the assumption that associations in and near border regions have a practical need to operate and cooperate across borders (simply due to the fact that the usual area of their operations/catchment area falls on foreign territories), and they are consequently directly affected by the problems identified in the Impact Assessment.

The territorial aspect has been, therefore, considered in the context of this Impact Assessment but no specific findings have been gathered and thereby the **preferred policy option has the potential to benefit associations in cross border regions as well as the associations operating cross-border in the single market**.

The current Annex first examines the evidence provided by the Impact Assessment Study underpinning the initiative on cross-border activities of associations in the single market (hereinafter the "IA study") and by the Public Consultation launched in July 2022, then provides a case study extracted from recent literature, and finally touches upon the European Grouping of Territorial Cooperation (EGTC) legal form (more details below and in Annex 9).

2. Gathering evidence

The Impact Assessment (IA) study as well as the Public Consultation do not provide specific findings on problems encountered by associations operating in border regions due to the general lack of information found (see below).

In particular, the IA study does not provide evidence related to the specific number of associations in border regions currently operating or wishing to operate across national borders – the latter are captured under the overall estimated number of associations with cross-border activities in one or more Members State (i.e. 310 000) or with potential cross-border activities (i.e., a theoretical maximum potential of 350 000). The IA study only mentions that "associations encounter difficulties in employing people living only a few kilometres on the other side of the borders due to taxes, residency rights, and social security",[117] which issue is anyway presumably expected to be faced not just by associations but also by other legal forms in border regions.

[117] IA study. Insights from interview with the Association of European Border Regions (AEBR)

The public consultation also delivered few results. Among the collected data, it can be noted that 58% out of 64 respondents agree on the statement that "a*n association registered in an EU Member State currently faces restrictions when seeking to operate in another EU Member State"*. Moreover, 25 respondents out of 64 explained that associations are affected by challenges specific to border regions. Most respondents did not provide further details on the nature of those specificities and principally assumed that cross-border collaborations could be higher in border regions, despite they did not provide further evidence and neither statistical data can confirm this. The IA study survey showed that 70% (30 out of 43 replies) of the associations acting cross-border had cross-border activities in at least one border region.

In addition, qualitative and quantitative information regarding "Interreg programmes promoting cooperation across borders (2021-2027)" can support that civil society organisations, including associations, active in border regions are (or desire) undertaking cross-border activities in neighbouring Member (see IA, Section 2 for more details).

When it comes to the existing literature, one case study was identified in the Compendium 2020-2021 document titled "B-solutions: solving Borders and Obstacles", which shows the specific difficulties encountered in border regions[118]. The case study concerns the establishment of a single cross-border entrance for the European Archaeological Park at Bliesbruck-Reinheim. The Park is situated on the territories of the Saarpfalz-Kreis and the Département de la Moselle border regions, creating many problems for the French and German local authorities due to different applicable legal frameworks. For instance, the establishment of a joint entrance involves various legal matters that must be addressed, specifically in the fields of finance law, tax law, customs law, public procurement law, budget law, domiciliary right and security. Hence, the authorities decided that the best option was to create a common legal form for the Archaeological Park. In the short-term, they decided to create an association on a partnership basis under French local law, which however could serve only as temporary solution, since an association for this purpose is somewhat limited in its scope and capacity. In the long term, they decided to make it evolve to a more suitable legal form, such as a EGTC[119], which has the benefit of being a binding structure of cross-border cooperation. This said, the definitive form must be suitable first and foremost to the tasks of the park. Moreover, the problems the park encountered do not seem to be all within the scope of the initiative on cross-border activities of associations. More generally, the EGTC offers three advantages by being a statute provided at European level:

1. It gives better visibility to the structure at a European level;
2. It allows exchanges of good practices with other EGTCs;

118 Doc B-solutions: solving border obstacles – a compendium 2020-2021: Case study: Establishment of a single cross-border entrance for the European Archaeological Park at Bliesbruck-Reinheim, p. 59, available at 8f68c1_d4b7ca6eb8c4448598e62e0b66f8c08e.pdf (b-solutionsproject.com) - from DG REGIO

119 European Grouping of Territorial Cooperation (europa.eu)

3. And it binds structures of cross-border cooperation.[120]

The Compendium document also highlights the important use of the EGTC legal form to address specific needs at border regions level.

3. Linking with the European Grouping of Territorial Cooperation

As also explained in Annex 9, the EGTC is a legal form intended to facilitate and promote cross-border, transnational and/or interregional cooperation between its members. In principle, this form can be used by associations willing to cooperate across borders, but there is a clear limitation in scope due to the fact that interested associations must consist of either public bodies or bodies governed by public law or, ultimately, they must correspond to undertakings entrusted with operations of services of general economic interest.

In practice, when it comes to national rules implementing the EGTC Regulation[121], it has to be considered that in some cases the EGTC form is assimilated to non-profit or public benefit organizations. For instance, in Bulgaria, "the [EGTC] with registered office in the territory […] shall be registered as non-profit legal entities". Similarly, an EGTC that "has its registered office located in Greece shall take the form of a civil non-profit company (in accordance with article 741 of the Civil Code)". Romania and Hungary also follow the same legal approach to EGTCs.

Finally, the Commission proposal of 2018 for a Regulation "*on a mechanism to resolve legal and administrative obstacles in a cross-border context (ECBM)*"[122] is also intended to support, among others, the EGTC and could be reasonably expected to further enhance the usability of this legal form for cooperation purposes, especially in the case of border regions. In this respect, the proposal for a Regulation sets up a voluntary mechanism to overcome legal obstacles (i.e. legal provisions that obstruct the planning, development, staffing, financing or functioning of a joint project) in border regions, by derogating to the "normally" applicable rules. This proposal, once adopted by the co-legislator, would help address specific needs and obstacles at border regions level. Although supported by the European Parliament, the competent Council's working party has stopped its works on the proposal.

A recent initiative of the European Parliament aims to facilitate to overcome the impasse on the ECBM by issuing a legislative own-initiative report ('INL') revising the ECBM proposal of 2018[123], the Parliament will make use of its indirect legislative initiative powers (Article 225

120 Doc B-Solutions Annex I.a. Final report by the expert, 2021, p.5. *Report_17.pdf (aebr.eu)

121 Regulation (EC) No 1082/2006 of 5 July 2006 on a European grouping of territorial cooperation (EGTC)

122 Proposal for a Regulation of the European Parliament and of the Council on a mechanism to resolve legal and administrative obstacles in a cross-border context, COM(2018)373final of 29.5.2018.

123 Draft report with recommendations to the Commission on amending the proposed mechanism to resolve legal and administrative obstacles in a cross-border context (2022/2194 INL) of 27.04.2023.

TFEU) inviting the Commission to present a new legislative proposal building on the EP initiative. The European Parliament vote is scheduled for September 2023.

ANNEX 9

RELATIONSHIPS OF THE INITIATIVE ON CROSS-BORDER ACTIVITIES OF ASSOCIATIONS WITH
1) LEGAL FORMS IN SOCIAL ECONOMY
2) RELATED INITIATIVES ON SOCIAL ECONOMY AND DEMOCRACY
3) COMMISSION PROPOSALS SETTING A EUROPEAN ASSOCIATION

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1. Relationship with legal forms in the social economy and others

The aim of this annex (point 1) is to provide an overview of the existing types of legal forms at national and/or EU level and their relevance to the initiative on cross border activities of associations in the single market.

Association is a legal type of entity (or a legal form of organisation) among others operating in the Social Economy (i.e., foundations, cooperatives and mutual societies)[124].

These legal forms, with adaptations to national specificities, are present in all Member States jurisdictions or in most of them. In addition, there exist specific EU legal forms provided by EU Regulations, e.g. for a European Economic Interest Grouping ('EEIG') or for a European Cooperative Society ('SCE'), for the European Grouping of Territorial Cooperation, for the European Research Infrastructure Consortium (ERIC).

1.1. Other Social economy legal forms

1.1.1. European Cooperative Society

The European statute concerning cooperatives, i.e. the **"European Cooperative Society" (ECS),** was created through Regulation EC N° 1435/2003 which aims to help cooperatives who have activities in more than one EU country. Although a limited number of European cooperatives societies have been set up since the entry into force of the above-mentioned Regulation[125], the statute has had numerous positive effects, including amelioration and indirect approximation of national cooperative laws, an increase on the visibility of cooperatives.[126] For instance, the existing EU legal form takes into account the cross-border aspects relevant to European Cooperatives, by laying down specific provisions on transnational membership, transfer of the registered office, principle of non-discrimination, procedure governing mergers and so on.

Furthermore, having regard to the principal object of this legal form – which is the satisfaction of its members' needs and/or the development of their economic and social activities - and given that it normally allows for a limited distribution of profits to its members, the European Cooperative Society is not suitable to serve the purpose of the current initiative, which instead concerns associations with a wide variety of purposes and, primarily, with a non-profit aim.

In light of this, the European Cooperative Society addresses potential cross-border barriers encountered by cooperatives, which are, therefore, excluded from the scope of the initiative on cross border activities of associations.

1.1.2. Foundations

Foundations are, along with associations, one of the often used social economy legal forms. However, associations' role and activities are far more numerous than foundations (see chapter 1

[124] Action Plan for the Social Economy (COM/2021/778 final) of 9.12.2021: "Traditionally, the term social economy refers to four main types of entities providing goods and services to their members or society at large: cooperatives, mutual benefit societies, associations (including charities), and foundations. They are private entities, independent of public authorities and with specific legal forms".

[125] COM (2012) 072 final. The Commission's report on the implementation of the ECS regulation acknowledges the creation of 24 European cooperatives which is the latest existing data on the matter.

[126] Study of 2010 on the implementation of the European Cooperative Regulation.

under the market context). For instance, according to the 2021 EP study[127], there were approximately 2 million registered associations in the face of around 5 000 foundations in France, whereas in Germany there were almost 600 000 associations in the face of 25 000 independent foundations. Along this same line, in 2018 in Italy associations accounted for 85% of NPOs whereas foundations represented the 2.2% of the total share. Foundations are regulated under the national legislation.

Associations and foundations both act for a non-profit purpose, can cooperate together in their social economy work[128], and in some Member States are regulated in the same legislative act.[129]

At the same time, there are **important differences between foundations and associations**, as indicated in the table below:

Table 1: Main differences between foundations and associations

Foundations	Associations
Foundations are "about money" – they are set up by one or more natural and/or legal persons (founders) to allocate assets for a determined purpose. They often have a patrimony/endowment, which is linked to achieving a specific purpose. They do not have members.	Associations are "about people" – established to pursue a common goal. They are set up by two or more natural and/or legal persons who qualify as members (member-based model of organization). Associations do not have share capital and their governance is not focused on the administration of the assets but on co-decisions of the members as to how to fulfil the association's purpose.
Foundations are required to register in most Member States and State approval is needed in the majority of Member States. They have legal personality.	Associations are required to register in most Member States and, only in few cases, a recognition by a public authority is the prerequisite to acquire legal personality.
Majority of foundations are public benefit purpose foundations and these are recognised in all Member States (10 MS recognise only public benefit purpose foundations). Some countries also recognise private benefit purpose foundations (that mainly focus on members of a family or on a closed circle of beneficiaries).	Associations can acquire a public benefit status in all Member States. This status, regardless of its exact denomination, grants a promotional status which entails a number of benefits (including of fiscal nature).

[127] A statute for European cross-border associations and non-profit organizations Potential benefits in the current situation | Think Tank | European Parliament (europa.eu)

[128] E.g. the Friedrich Ebert Foundation or the Konrad Adenauer Foundation are registered associations and operate in several MS; Caritas Germany is an umbrella organisation of 25 000 entities registered as an association that sub-includes foundations and associations.

[129] As an example, in 5 EU national jurisdictions (i.e. Bulgaria, Cyprus, Latvia, Luxembourg and Romania), associations are regulated together with foundations in a separate act on non-profit entities or on associations and foundations.

Foundations are governed by a special body composed by the founder (governing board and in some Member States, foundations also have supervisory boards). They do not have an assembly of members, because they do not have members.	Associations have a corporate structure that comprises at least, a decision-making body and an executive body. Additionally, it could be also provided a body of financial control.
Foundations are often owners of or control groups of companies. They can also generate funds through asset management (in some countries it is limited to less risky investments).	Associations' resources mainly derive from non-profit activities, donations, membership fees, payment for products services provided, as well as from public funding and subsidies.
Foundations are normally subject to strict formation, governance and supervision rules (e.g. all Member States require them to report on their finances on at least an annual basis and majority MS require an annual report on activities; most Member States mandate public supervision by an authority or court) to prevent abuse of the founding patrimony or assets.	Associations are subject to State supervision both during the registration phase (where a first legality control is made) and during their operation (due to the annual financial reporting obligations provided for in all Member States).

One of the **major problem that foundations face when operating cross-border is taxation-related**[130] (given the different national tax concessions for public benefit purpose foundations and tax incentives for their donors), and the two Staff Working Documents issued as part of the "Social Economy framework" will provide a clearer understanding of the rules for cross-border taxation of non-profit organisations like foundations and associations (see point 2.1 of this Annex for more details).

In the recent past, foundations were already subject to a **Commission proposal on a European Foundation in 2012**[131], which aimed to remove cross-border obstacles for public benefit purpose foundations and their donors, and to facilitate the efficient channelling of funds for public benefit purposes. This proposal had to be withdrawn in 2015 due to lack of agreement among Member States. There are no indications that the situation has sufficiently changed in the meantime. Due to substantial divergences between national foundation rules based on legal and cultural traditions, any harmonisation of national laws would be likely to meet comparable if not higher resistance than the Statute.

In light of the above reasons, and considering the differences with associations, foundations are not in the scope of the current initiative.

1.1.3. Mutuals

[130] Impact assessment accompanying the document Proposal for a Council Regulation on the Statute for a European Foundation (FE); Comparative highlights of foundation laws - The Operating Environment for Foundations in Europe

[131] COM(2012) 35 final.

Mutual societies (or simply mutuals) are a legal form present not in all EU Member States, while associations are present in all Member States. Roughly 4 000 mutuals companies were present in Europe according to a study of 2017.[132]

Mutual are excluded from the scope of the initiative on cross border activities of associations given that specific needs that may have and barriers that may face should be tackled separately given their presence in some Member States only. This is demonstrated by a former attempt aimed at creating a European statute on mutual, made in the past, that however ended up in the withdrawal of the initiative by the Commission, in 2006.

Activities on the subject resumed in 2010 and two studies on mutuals were then commissioned[133.] The European Parliament adopted a resolution in 2013.[134] The resolution asked the Commission to present a Statute for a European Mutual to the Council and EP, similar to the other existing European business legal forms (e.g. the European Company and the European Cooperative Society). The Commission also carried out a public consultation which concluded in June 2013 and indicated that a specific legal Statute, as a means to promote the activities of mutuals across borders, is not supported by "all Governments and stakeholders"[135].

In light of the above reasons, and considering the specific barriers faced by mutuals as well as their uneven presence across the EU and the lack of support from "Member States and stakeholders" (as emerged following the public consultation of 2013) – mutuals are not in the scope of the current initiative.

Table 2: Main differences between mutuals and associations

Mutuals	Associations
Absence of shares: mutuals are a grouping of persons (physical or legal), which qualify as members. Their funds are owned and managed jointly and indivisibly. A mutual has no external shareholders and does not seek to maximize profits. Mutual organizations exist for the members to benefit from the services they provide; their main resource are the fees or premiums paid by their members/owners.	An association is a membership organization composed of natural and/or legal person who qualify as members. It exists for the pursuit of a purpose other than that of profit-making.
Mutuals have free membership, i.e. free entry (and free exit) for everyone who fulfils the conditions laid down in the by-laws and abides by mutualism principles. Mutuals can be "open" (to the population at large) or "closed" (i.e. reserved to a geographical area, an industry or an occupation).	Associations have an open and variable membership, which means that the admission of new members does not require formalities such as the amendment of the statute and that any member can decide at any moment to withdraw his/her membership.

[132] CIRIEC 2017 – Report on 'Recent evolutions of the social economy in the European Union.

[134] cf. GRIJPSTRA D. ET AL. (2011) and PANTEIA (2012)

[135] See Commission reply to the Parliamentary question - E-010487/2014 of 26.02.2015

Mutuals are based on the historical principle of solidarity among its members. It means a joint liability, a cross subsidization between good risks and bad risk and no discrimination among members.	There is no equivalent principle for associations.
Democratic governance: principle "one person, one vote" in opposition with the rule "one share, one vote" which is symbolic of the corporate governance.	Associations are characterised by a democratic voting system based on the "one person – one vote" rule.
Independence: mutuals are private and independent organizations, neither controlled by government representatives nor funded by public subsidies.	Associations are private legal entities, but this does not imply that public legal entities cannot found or participate in an association.
Limited profit sharing: part of the profit of a mutual can be shared among the owners/ members, usually as discounted premiums or rebates. However, the main part of the profit is reinvested in order to improve the services proposed to members, to finance the development of the business or to increase their own funds.	Associations are non-profit organizations, which means that they are barred from distributing profits to their shareholders.

1.2. Other types of legal forms

1.2.1. Private and public limited liability companies

Private and public limited liability companies are the main economic operators "for profit" and are covered by the freedom of establishment of Treaty on the Functioning of the European Union (Article 54 TFEU). They are subject to a comprehensive EU acquis harmonising different aspects, e.g. formation, capital and disclosure requirements, and operations (domestic mergers and divisions, cross-border conversions, mergers and divisions) as laid down in Directive (EU) 2017/1132 (Codified Company Law Directive)[136]. The Court of Justice of the EU has issued several judgments on the freedom of establishment of companies (from Daily Mail to Polbud[137]). In addition, EU law provides the statute of the **European Company** *('Societas Europea'* or 'SE'), set in Regulation 2157/2001, which allows public limited liability companies from different Member States to create an SE and run their business in the EU under a single European brand name. The SE statute was supplemented by the Council Directive 2001/86/EC, which details the rights for involvement of employees in SEs.

Due to the intrinsic differences between companies and associations, and considered the far more harmonised legal context that companies benefit from within the EU - especially in relation to

[136] Based on Article 50 TFEU, which is the legal basis for EU company law.

[137] For "Daily mail" case see C-81/87, for "Polbud" case see C-106/16.

the regulation of cross-border aspects[138] - private and public limited liability companies are not relevant for the current initiative.

1.2.2. European Economic Interest Grouping (EEIG)

Another existing legal form is represented by the **European Economic Interest Grouping** (EEIG). According to Regulation 2137/85, an EEIG is a grouping composed of companies, legal entities, or individuals from at least two different EU countries. It aims to enhance cross-border economic activities of its members by pooling resources, activities, and skills. The main purpose of an EEIG is to facilitate or develop the economic activities of its members – although this entity is not meant to make profits for itself - that is why when it comes to natural persons, only those who carry on an industrial, commercial, craft or agricultural activity or who provide professional or other services can be its members.

Formally, in accordance with Article 4 of the Regulation, also associations can be members of an EEIG[139]. However, this provision addresses associations intending them as already established legal entities, whereas the current initiative aims to cover, in addition to this case, that of single individuals willing to form a new association with cross-border features.

In conclusion, due to its economic focus as well as to the described membership limitation – which excludes natural persons not providing any economic/ professional contribution to the entity – this legal form cannot serve the purpose of the current initiative on cross-borders associations.

1.2.3. European Grouping of Territorial Cooperation (EGTC)

Another type of organisation present in EU law is the **European Grouping of Territorial Cooperation** (EGTC). According to Regulation 1082/2006, an EGTC enables public entities from at least two Member States to team up under a new legal entity with full legal personality. The objective of an EGTC is to facilitate and promote cross-border, transnational and/or interregional cooperation between its members, with the exclusive aim of strengthening economic and social cohesion. While associations can participate in it, they must consist of either public bodies or bodies governed by public law or, ultimately, they must correspond to undertakings entrusted with operations of services of general economic interest. Hence, this legal form excludes all the associations falling out of this scope to benefit from an easier way to operate across borders. More details available in Annex 8.

As for the previous legal forms, also the EGTC form is not suitable for the purposes of the current initiative, given its limitations in terms of members allowed.

1.2.4. European Research Infrastructure Consortium (ERIC)

[138] Meaning right to establishment which includes right to merge, divide convert across borders, as well as right to provide services and receive/send capitals across different Member States.

[139] Along with other types of legal entities, as specified by article 4.

Introduced with the Regulation 723/2009, the European Research Infrastructure Consortium (ERIC) is a specific legal form that facilitates the establishment and operation of Research Infrastructures with European interest on a non-economic basis. One of the obligatory requirements for the establishment of an EIRC is the carrying-out of European research programmes and projects.

It clearly follows from its inherent features and objectives that this legal form is not suitable for addressing overall obstacles encountered by associations operating cross-border activities.

1.2.5. European Digital Infrastructure Consortia (EDIC)

After adoption of Decision 2022/2481 on 14 December 2022, establishing the Digital Decade Policy Programme 2030, the possibility to set up European digital infrastructure consortia (EDIC) was introduced. The EDIC is an implementation mechanism meant for the deployment of multi-country projects aimed at contributing to the achievement of the digital objectives set out in the Decision thereof. To set up a EDIC, Member States shall submit a written application to the Commission, upon which the latter shall adopt a formal decision - either setting up the EDIC or rejecting the application - by means of implementing acts. Membership of an EDIC may be open to entities other than Member States, including third countries, international organisations of European interest, and public or private entities.

Bases on its field of application as well as on its formation procedure, this legal form is not suitable for the purposes of the current initiative.

2. Relationship with forthcoming related initiatives

As foreseen in the Commission Work Programme 2023, the **Social Economy framework,** under the Commission's priority "An economy that works for people"[140], will include the legislative initiative on cross-border activities of associations, which will be developed consistently with the non-binding initiatives that are also part of the package – i.e. the *Council Recommendation on developing social economy framework conditions*[141], the *Commission Staff Working Document on "Relevant taxation frameworks for social economy entities*"[142], which is based on available analysis and input provided by Member States' authorities and social economy stakeholders; and the *Commission Staff Working Document on "Non-discriminatory taxation of charitable organisations and their donors*[143]*: principles drawn from EU case-law"*, which provides a description of this key principle as interpreted by the Court of Justice of the European Union – see below for more details.

Furthermore, the legislative initiative on cross-border activities of associations will also indirectly link with the **Defence of Democracy initiative**, under the Commission's priority of "A new push for European democracy".[144]

2.1. Social economy framework

Other initiatives planned in the Social Economy framework are:

2.1.1. Council Recommendation on framework conditions for social economy

The Social Economy Action Plan of December 2021 announced a *Council Recommendation on developing framework conditions for social economy*.

The Council recommendation will aim to advance social inclusion and access to the labour market by supporting Member States in integrating the social economy into their socio-economic policies and creating supportive measures and a favourable environment for the sector. Tapping the potential of the social economy requires both adapted legal frameworks and targeted policies by Member States. This will be achieved by drawing on research, learnings, and stakeholder feedback to provide recommendations on how public policies and legal frameworks can be tailored to meet the needs of social economy entities, particularly in areas where it is less

[140] The European Commission priorities for 2019-24.

[141] Proposal for a Council recommendation on developing social economy framework conditions, COM(2023) 316 final of 13.06.23

[142] Staff Working Document: Relevant taxation frameworks for Social Economy Entities, SWD(2023) 211 final of 13.06.23

[143] Staff Working Document: Non-discriminatory taxation of charitable organisations and their donors: principles drawn from EU case-law, SWD(2023) 212 final of 13.06.23

[144] Idem

developed, and how administrative and institutional structures can be adapted to support these entities and engage with stakeholders in the sector. These recommendations will touch upon a variety of areas of relevance to the social economy, such as employment policy, education, skills, and training, social services, green transition, territorial cohesion, data and research, access to funding, access to markets, State aid, taxation, public procurement, and social impact measurement.

While the current initiative will focus on associations that operate cross-border, the Council Recommendation is broad in scope, aiming at addressing the various legal forms that compose the social economy (the main ones being cooperatives, mutual benefit societies, associations, and foundations).

It should be considered another fundamental difference when it comes to the choice of legal basis among the two initiatives: the Council recommendation (Art. 292 TFEU) will likely be based on article 153, point h and/or j (respectively, integration of persons excluded from the labour market and the combating of social exclusion), and article 149 (incentive measures to encourage cooperation between MS and support their action in the field of employment); while the initiative on cross-border activities of associations will likely be based on Articles 114 and/or 50 TFEU.[145]

That being said, interlinkages exist between the two initiatives. The aim of the legislative initiative – improving the conditions for the functioning of the single market by facilitating the activities of associations across borders – ties in with the aim of the Council recommendation to foster social inclusion and access to the labour market by promoting an enabling environment for the social economy that improves regulatory and administrative conditions for social economy entities, including associations.

The Social Economy Action Plan of December 2021 also announced the two following sets of guidance (which together with the initiative on cross-border activities of associations will be part of the Social Economy framework):

2.1.2. Commission Staff Working Document on relevant taxation frameworks for social economy entities

This provides a comparative overview of the tax framework in which social economy entities operate in each Member State. It also provides an overview of the tax framework applicable to public benefit organisations, as many Member States consider social economy entities to be public benefit organisations and tax them accordingly. This is complemented by country fiches for each Member State highlighting the relevant features.

The Staff Working Document will be broader in scope than the initiative on associations, as it will cover legal entities that fulfil the requirements for public benefit purposes of Member States (e.g. associations and foundations) and/or which are considered as social enterprises. When it

[145] See also point 1.2 of the Staff Working Document – impact assessment report.

comes to associations in particular, it can be considered that this Staff Working Document can address some of the tax-related issues which were identified in the course of this Impact Assessment and, given their nature, could not be tackled by the current initiative.

2.1.3. Commission Staff Working Document on non-discriminatory taxation of charitable organisations and their donors

This will address the principles to be drawn from the case-law of the Court of Justice of the EU with respect to taxation of charitable entities and their donors. In this respect the following cases are relevant: *Stauffer* (C-386/0414), *Persche* (C-318/07), *Missionswerk* (Case C-25/10), *Commission v Austria* (C-10/10), *Commission v France* (C-485/14) and *Commission v Greece* (C-98/16).

This Staff Working Document builds on the fact that Member States enjoy broad discretion in designing their tax systems. Thus, it is for each Member State to determine whether it will provide for tax incentives for charitable entities and charitable giving and, if so, what kind of general interests it wishes to promote by such tax incentives. However, once a Member State decides to provide for a beneficial tax treatment for a charitable entity and for charitable giving, it must provide for non-discriminatory tax treatment of comparable foreign entities and donations and bequests made to such entities, as required under the fundamental freedoms of the TFEU.

While the case-law of the Court of Justice of the EU deals with charitable organisations and donations/bequest to such organisations, it applies, by analogy, also to other legal forms, including associations and foundations, when a comparable domestic association enjoys a beneficial tax treatment. When it comes to associations in particular, it can be then considered this Staff Working Document can address some of the tax-related issues which were identified in the course of this Impact Assessment and, given their nature, could not be tackled by the current initiative.

2.2. Defence of Democracy Package

Following the Commission President Von Der Leyen announcement in September 2022, a future initiative on *"Defence of Democracy Package"* was included in the Commission Work Programme 2023 under the Commission priority "A new push for European democracy".

3. Commission proposal of 1992 setting a European Association

The Commission adopted a proposal for a Council Regulation on the Statute for a European Association on 6 March 1992,[146] prescribing rules of the formation, registration, constitution, functioning, accounting, financing, dissolution, liquidation and insolvency of the association.

The proposal was amended in July 1993. In this amended proposal,[147] the Commission changed some fundamental provisions in comparison to the previous proposal. For example, Article 2 on

[146] Proposal for a Council Regulation (EEC) on the Statute for a European association, COM (91)273

[147] Amended proposal for a Council Regulation (EEC) on the statute for a European association, COM (93)252

the legal personality was amended to give rise to the creation of rights instead of an entitlement to perform certain activities. The number of natural persons that could form an association was diminished from 21 to 7 and the obligation to involve at least two EU nationalities was discarded in favour of the obligation to involve two different EU residencies in the pool of natural persons creating the association (Article 3(1)). As regards financing, Article 41 was extended to allow the European Association to benefit from all forms of financing under the most favourable conditions applying to associations in the State in which, not only the European Association had its registered office, but also in which it was established.

Despite these substantial modifications which were intended to improve the text and facilitate the discussions at the Council some Member States, (e.g. Germany, Denmark and UK known to be the most critical to the proposal[148]) continued to oppose the Commission's proposal to create a European Association Statute,[149] on grounds of subsidiarity and unsuitability of the legal basis compared to the scope and purposes of the proposal[150] and they, further, argued that the proposal did not meet any proven need, its provisions did not embody the diversity of their own national legislation and it laid excessive administrative burden on associations. The European Parliament was supportive and continued to ask for progress on the proposal until 2005 when it was eventually withdrawn.[151]

It is worth noting how the EU socio-political and legal context has evolved since the 1990s in different ways relevant to the current initiative, e.g. recognising a growing role for non-profit sector entities (where associations are the predominant legal form) to face societal challenges. Indeed, two waves of EU enlargement have changed the scale, profile and aspiration of the civil society.[152] Moreover, in recent years, the nature and the scale of successive crisis (COVID-19 pandemic, Russian war in Ukraine, climate change, digital divide, migration, aging demographics, disinformation) require mobilisation of all actors, and particularly the civil society. At the same time, while EU Member States have adapted or introduced laws regulating domestic associations, little has been done at national level to enable associations' cross-border

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[148] European Associations: The Political Debate and Basic Legal Questions, By Tim Wöffen, October 2018. As an example, the German government criticised that the draft did not distinguish between non-economic and economic

Associations; while, in general, the proposal was also criticized for placing too much administrative burden on associations.

([149]) Proposal for a Council Regulation on the Statute for an European Association (91/273). To note that the past proposal was exhaustive, regulating in detail the formation, organisation and operation modalities of the European association.

([150]) The proposal was based on what is now Art. 114 TFEU, which was criticised by some Member States as being incorrect and the equivalent of Art. 352 TFEU should have been used.

[151] For further details on the history of this file, see e.g. Tim Wöffen (2018), 'European Associations: The Political Debate and Basic Legal Questions'.

([152]) Overall, the number of associations appears to have increased over time. Between 2009 and 2022, the number of associations increased by about 100% in Slovakia, by 8% in Germany, and in France, this number increased by 2,8% between 2011 and 2017. Annex 4 of the IA, p. 9 and 10.

activities and mobility (e.g. three Member States[153] enacted explicit measures on cross-border conversions of associations in another Member State and four Member States[154] on cross-border mergers). resulting in fragmentation and regulatory and administrative barriers for associations, as described in the IA (Section 2.3).

Furthermore, the need to facilitate cross-border activities and mobility of associations remains relevant, even more so in the face of challenges going beyond national borders, where non-profit associations bring value through their activities, such as health and social services, education and training, or humanitarian assistance, advocating for policies, legislation, or the promotion of fundamental rights, contributing to the democratic foundations of the Union.

Although this initiative builds on similar needs as the Commission proposal of 1992 and taking into account the socio-political context evolution since then, it is crucial to stress that the current initiative differs from the 1990s proposal in some substantial aspects. It is more targeted and narrowly focused on reducing barriers to the specific cross-border aspects for associations in the single market, while not creating a European statute for associations nor intending to affect national traditions. Section 5 of the IA provides a clear and more detailed description on these aspects.

([153]) Italy, Luxembourg and Portugal.

([154]) Croatia, Czechia, Hungary and Italy.

ANNEX 10

LEGAL REGIMES OF ASSOCIATIONS IN EU MEMBER STATES

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The aim of this annex is to provide an overview on legal regimes of associations in Member States building on the information provided in the context of the Impact Assessment Study underpinning the preparatory work for the initiative on cross-border activities of associations in the single market as well as the study on "Comparative Legal Analysis of Associations' laws and regimes in the EU.

In the European Union, the legal regime for associations varies among Member States. Each Member State has its own laws and regulations governing the formation, operation, and dissolution of associations.

This Annex provides information on the regulatory frameworks for associations existing at the national level and is mainly based on the study entitled "Comparative legal analysis of associations laws and regimes in the EU" published by the Commission in September 2022, as well as on the study prepared for this Impact Assessment. We refer to the aforesaid sources for any additional detail concerning the information provided herein.

1. Essential and recurrent elements of associations

Box 1 Associations: fundamental characteristics

Essential elements

1. Member-based
2. Open and variable membership (admission of new members and exit of actual members do not imply formalities and/or amendment of the statutes)
3. Non-profit purpose (non-distribution of profits to members, directors, etc.)
4. Corporate structure (including at least a members' general assembly and a board of directors)

Additional recurrent elements

1. "Ideal" purpose (associations are not established for making profits through the carrying-out of economic activities)
2. Asset-lock (all the assets of associations must serve its purpose, so that assets can never be distributed, not even at member exit and upon dissolution)
3. Legal personality (associations are legal persons)
4. Limited liability (associations are liable with their assets for their debts and obligations; members and directors are not additionally and jointly liable)
5. Entrepreneurial or non-entrepreneurial activities (associations may perform either entrepreneurial or non-entrepreneurial activities)

Table 17: National Laws on Associations in the EU.

Member State	National Laws on Associations	Notes
Austria	*Verein* Federal Law on Associations of 2002	
Belgium	*Association* Code of Companies and Associations of 2019	The Code also deals with foundations, cooperatives,

		cooperatives accredited as social enterprises, and the European legal forms
Bulgaria	*Асоциация* Law on Non-Profit Legal Entities of 2000	This Law also regulates foundations
Croatia	*Udruga* Law on Associations of 2014	
Cyprus	*Σωματεια* Law on Associations and Foundations no. 104(I)/2017	This Law also regulates foundations
Czech Republic	*Spolek* Civil Code of 2012 (sections 214-302)	
Denmark	*Forening* No specific legislation exists (associations are regulated by principles developed through case law and legal doctrine)	Limited liability associations (*foreninger med begrænset ansvar*) of sect. 3, Law no. 249 of 1/2/2021, are those that engage in commercial activities for promoting, to a not insignificant extent, the financial interest of their members
Estonia	*Mittetulundusühing* Non-Profit Associations Act of 1996	
Finland	*Yhdistys* Associations Act no. 503/1989	
France	*Association* Law 1 July 1901[155]	
Germany	*Verein* Civil Code of 1896 (articles 21 ff.)	Economic associations are also provided for
Greece	*Σωματείο* Civil Code of 1946 (articles 78-106)	
Hungary	*Egyesület* Civil Code of 2013 (sections 3:63 ff.)	
Ireland	No specific legislation exists (associations are regulated by case-law)	
Italy	*Associazione* Civil Code of 1942 (articles 14-42*bis*)	In this group of articles of the Civil Code the regulation of

[155] The Association Law of 1 July 1901 does not apply to the Alsace and Lorraine regions where associations are subject to specific laws: https://www.associatheque.fr/fr/creer-association/associations-alsace-moselle.html

		foundations is also found
Latvia	*Biedrība* Associations and Foundations Law no. 161/2004	This Law also regulates foundations
Lithuania	*Asociacija* Law on Associations no. IX-1969 of 22 January 2004	
Luxembourg	*Association* Law on Associations of 21 April 1928	This Law also regulates foundations
Malta	*Assoċjazzjoni* Civil Code (2nd Schedule)	
Netherlands	*Vereniging* Civil Code (articles 2:26-2:52)	
Poland	*Stowarzyszenie* Law on Associations of 7 April 1989	
Portugal	*Associação* Civil Code (articles 167-184)	
Romania	*Asociația* Governmental Ordinance no. 26/2000	This Law also regulates foundations
Slovakia	*Združenie* Act 83/1990 Coll. on Associations	
Slovenia	*Društvo* Law on Associations of 2006	
Spain	*Asociación* Law no. 1/2002 on the Right of Association	Associations are also regulated at the regional level by autonomous laws
Sweden	*Förening* No specific legislation exists (associations are regulated by principles developed through case law and legal doctrine)	Economic associations are regulated by Act no. 2018:672, but they are, in fact, cooperatives

2. Formation requirements and constitutive acts and elements

Most of the 27 EU Member States (18 MS in total, namely AT, BE, BG, DE, ES, FI, FR, EL, HR, IT, LU, LV, NL, PL, PT, RO, SE, SI) require **two main steps to form an association**.

1) The **first step** concerns the **formation and the signing of** the association's **constitutive act** (AT, BE, BG, CY, CZ, DE, EE, ES, FI, FR, EL, HU, IE, IT, LT, LU, LV, NL, MT, PL, RO, PT, SE, SI, SK).
2) The **second step** involves the **request for recognition** (usually a request for registration) from the competent body (which is usually the Court of Registration, the Register of Associations, a ministry, or public office).

Differences exist in terms of the **minimum number of members** that are required to form an association:

- AT, BE, DK, EE, FR, and LV (six Member States) require only **two members**,
- BG, CZ, FI, IT, LT, and LU (six Member States) require at least **three members**.
- The rest of the countries (fifteen Member States) require **more than three members**.

Usually, a **notarial deed** is not mandatory to form an association, except in BE and EL in case of donation, and in the case of IT (only for recognized associations).

3. Registration

Although registration process varies among EU Member States, four main tendencies can be observed:

- **Registration is a prerequisite to acquire legal personality** (AT, BE in case of ASBL, BG, CY, CZ, DE, DK[156], EE, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL in case of registered associations, PT, RO, SI)
- **Registration is not a prerequisite to acquire legal personality** since the association acquires legal personality when it is formed (SE, ES)
- **Recognition by a public authority is a prerequisite to acquire legal personality** and its procedure is similar to registration (EL, BE in case of AISBL)
- **Registration is required but not for acquiring legal personality** since the association cannot have legal capacity at all (SK, PL in case of ordinary associations).

Table 2: Registration of associations in each EU MS

Member State	Register and Competent State Authority
Austria	Register of associations, held by the Federal Ministry of Interior and its subordinate offices
Belgium	Associations must register with the competent District Court
Bulgaria	Register of non-profit legal entities with the competent District Court (within the Ministry of Justice)
Croatia	Register of associations, managed by various administrative offices under the jurisdiction of the Minister competent for general administration
Cyprus	Register of associations, managed by the Registrars (district officers) coordinated by the General Registrar (Director General of the Ministry of Interior)
Czech Republic	Register of associations, administered by the competent courts
Denmark	No register
Estonia	Register of non-profit associations and foundations, administered by Registrars under the Ministry of Justice
Finland	Register of associations, held by the Patent and Registration Office
France	Associations must publish in the Official Journal of Associations and Foundations notice

[156] In the case of DK associations are required to register in the Central Business Register (CVR), which collects primary data on businesses in Denmark regardless of economic and organizational structure, including associations under certain cases.

	of their declaration with the Prefecture
Germany	Register of associations, administered by the District Courts
Greece	Register of associations, administered by the competent courts
Hungary	Associations must register with the competent Court
Ireland	No register
Italy	Register of legal persons (including both associations and foundations), administered by subordinate offices ("Prefectures") of the Ministry of Interior and the Regions (for associations acting only in the territory of a specific Region)
Latvia	Register of associations and foundations, managed by the Register of enterprises
Lithuania	Register of legal entities
Luxembourg	Trade and companies Register
Malta	Register of legal persons
Netherlands	Trade Register
Poland	National Court Register (for registered associations), administered by the competent Courts Register of ordinary associations (for ordinary associations without legal personality), administered by the competent Head of the District
Portugal	Register of legal persons
Romania	Register of associations and foundations, administered by the competent courts
Slovakia	Associations must register with the Ministry of Interior
Slovenia	Register of associations, administered by the competent authorities under the Ministry of Interior
Spain	Register of associations, held by the State or (some) Autonomous Communities
Sweden	No register

4. Liability

The liability of the association is linked to acquiring legal personality. When the association becomes a legal person, it has a separate legal existence from its founders and members, and it is liable for its debts and obligations. If the association does not acquire legal personality, it cannot be held liable for any of its own actions (this is the case in SK and PL). Therefore, the members of the association possess all rights and obligations and are legally responsible for the association's actions.

5. Legal Personality

Legal personality: YES	Legal personality: NO
• By registration (AT, BE in case of ASBL, BG, CY, CZ, DE, DK, EE, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL in case of registered associations, PT, RO, SI) • By recognition of a public authority (EL, BE in case of AISBL) • By formation (SE, ES)	SK, PL in case of ordinary associations

In most EU Member States[157] associations acquire legal personality upon registration in a special register. The **register** can be held:

- **at the government level** (such as in Belgium and Bulgaria[158]).
- **at the level of local courts** (in Germany).

6. Membership regimes

An association is a **membership organization**. As a general rule, a member's entry, termination as well as the duties and rights are to be defined in the constitutive act of the association. All Member States acknowledge the **right to freedom of association**.

7. Economic Activities permitted

One of the main characteristics of associations is that they cannot be founded for the primary purpose to carry out economic activities because they are "non-profit". However, even if they can't be established for profit-making as a primary activity (unlike companies), economic activities are not generally prohibited . The profit gained from such activities cannot be distributed among the members since they must contribute to the main objectives of the association. This is called the *profit non-distribution* constraint. Furthermore, it should be noted that - according to relevant jurisprudence[159] - the concept of economic activity does not necessarily imply a profit-making aim, so that associations are in principle entitled to conduct economic activities despite being non-profit entities.

8. Governance, operating rules and bodies

The legislation of all Member States defines minimum requirements for the governance system of associations. However, the members can define the specific rules according to which the association they formed should operate.

As **structure of governance**, associations have separate bodies for decision-making and management in all Member States:

- The decision-making body
- The executive body

[157] AT, BE in case of ASBL, BG, CY, CZ, DE, DK, EE, FI, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL in case of registered associations, PT, RO, SI.

[158] Where the Ministry of Justice must ensure that registered associations pursue a social goal and do not cause harm to public order.

[159] See C- 179/14 para. 32-33.

In addition to the above bodies, a body for the financial control of an association is also required by many Member States (AT, CZ, DK, FI, HU, LT, LV, MT, RO, SE, SI, SK).

9. State supervision

The state supervision is exercised in most jurisdictions by public bodies falling under the central, regional or local governmental authority. The first **legality control** is made during the registration of an association. The State can initiate a **procedure for involuntary termination** of the association in cases of violation of duties prescribed by the national laws.

Most jurisdictions include regular (at least yearly) **financial reporting** to fiscal authorities and the obligation to notify the competent authority about relevant changes (concerning e.g. the constitutive act or personal data of the beneficial owners).

10. Reporting and transparency[160]

Annual reporting is mandatory in all Member States. Reporting can take several forms and includes one or more of the following elements:

Annual budget	IT, AT
Annual statements	AT, BE, CH, FI, FR, EL, HU, LV, PL, SE, SI, EE, ES,FI
Keeping accounting records	AT, BE, BG, CH, DE, DK, EE, ES, FI, EL, HR, HU, IE, IT, LT, LV, MT, NL, RO, SK, PT
Annual activity reports	AT, BE, BG, CZ, DK, EE, ES, HR, IE, LT, LU, LV, MT, NL, PL, RO, SK, PT
Reports on payments	AT, BE, CZ, DE, DK, EE, ES, FI, FR, HR, IE, IT, LT, LV, MT, LV, NL, PL, RO, SE, SI, SK
Communicating the annual report	AT,BE,CZ,ES,FR,HR,HU,IE,IT,LT,LV, MT,NL,PL,RO,SK,PT, DE, SE
Publishing	CZ,BE,EE

11. Resources and asset management

Associations operate with the following main types of resources:

- **income from main non-profit activity** (AT, BG, CH, DK, HR, HU, PL, RO, SE, SI, SK, PT)
- **income from donations** (AT, BE, BG, CH, CY, DK, EE, EL, HR, HU, PL, RO, SI, SK, PT)
- **income from membership fees** (AT, BE, BG, CH, CY, DK, EE, EL, HU, PL, RO, SE, SI, SK, PT)

[160] For further details see relevant section in the "Comparative legal analysis of associations laws and regimes in the EU" published by the Commission in September 2022.

- **income from other economic activities** (AT, BG, CH, DK, EE, HU, PL, RO, SE, SI, SK, PT)
- **State/EU/institutional funding** (CY, EL, HR, HU, PL, RO, SE, SK)
- **project grants** (financed by local and international foundations) (EE, HR, HU, SE, SI, SK)
- **payments for products and services** (EE, FI, HU, MT, PL, RO, SE, SK, PT)
- **public subsidies** (BE, EE, FR, HU, PL, RO, SE, SI, PT)

Specific regimes exist in some Member States for tax reduction for donors. In case a donation or a legacy given to an association exceeds a certain amount, it has to be authorized by the Ministry of Justice (e.g., LU, BE).

In many Member States, associations are not allowed to distribute their property or assets to their members or other private persons (LT, LV, RO, SI, PT). In other Member States, assets can be distributed without restriction if this is allowed by the constitutive act of the association (BG, SZ, DK, HR, LV, SE, SK).

12. Liquidation

In most Member States, liquidation procedures are very precisely regulated (CY, EL, PT, SE, SI, HU, IT, LT, LU, RO, BG, CH, DK, FR, SK).

In most Member States, the association ceases to exist on the day of its removal from the register (AT, HR, LV, LT, CZ, EE, ES, FI, FR, IT, SK, PL). Another possibility for termination is that some State bodies may ask for judicial dissolution of the association (RO). The association may be dissolved also by the decision of the decision-making body. Liquidation may take place either voluntarily or by court decision.

Asset distribution after the liquidation of an association is regulated by almost all Member States. In many Member States the founders of the association or their relatives are not allowed to benefit from the association's assets after liquidation (BE, BG, IE, NL). It is very common that the assets must be transferred to a non-profit entity carrying out a similar activity as the association or that the assets are transferred to a local authority, which is obliged to utilize them for an activity that is similar to the one pursued by the association (AT, BE, BG, CZ, DE, DK, FR, EL, HU, IE, LT, LV, NL, SK). In some particular cases, the remaining **assets are taken over by the State**. Taking into account the **interests of the creditors** is another important part of the liquidation process.

ANNEX 11

NATIONAL LEGISLATION RULES ON CROSS-BORDER ASPECTS Of ASSOCIATIONS

1. Introduction

The aim of this Annex is to provide an overview on national legislations with regard to the regulation of cross-border issues potentially arising when associations conduct their activities in two or more Member States. In particular, this Annex aims to describe the state of the play by providing information on what cross-border aspects are regulated and how by the different Member States. It builds on the information provided in the context of the Impact Assessment Study underpinning the preparatory work for the initiative on cross-border activities of associations in the single market as well as the study on "Comparative Legal Analysis of Associations' laws and regimes in the EU.

In general, Member States do not adequately take into account cross-border issues[161] when it comes to associations' law, despite the importance of regulating these aspects for associations active in more than one country. Nevertheless, it is possible to find some rules at national level that partially cover some cross-border issues and which may result, in practice, in either enabling or undermining associations' cross-border activities. Below the list of existing national rules, followed by a summary table.

2. General remarks on cross-border aspects of national associations laws

As regards the possibility to operate abroad, national laws generally do not put explicit restrictions on the capacity of national associations to conduct activities in other countries but neither regulate the matter effectively. Nonetheless, there are some Member States where specific provisions can be found. As to **registration** duties, for example, in Croatia[162], Cyprus and Romania[163] it is expressly provided that foreign associations must register in order to operate in the country. Furthermore, associations in Slovakia must have a Slovak legal form to acquire

[161] By "cross border issues" it is referred to the issues related to the establishment in another Member State, to the transfer of seat in another Member State, to the merge with an association governed by the law of a different Member State, to the division in associations located in another Member State, to the recognition of the public benefit status and to the receipt of funds from abroad.

[162] Registration in the register of foreign associations is a condition for operating in the country and also for being recognized for tax purposes.

[163] Foreign non-profit legal entity must register in the Register of associations and foundations to be recognized in Romania.

legal personality. Another case that emerged from the Impact Assessment study is that of Greece and Spain, where foreign associations must establish and register a **branch** if they operate in the country on a stable basis. Differently, in Latvia, Lithuania and the Netherlands foreign associations may freely operate. In some cases, the national law states the right to have a branch abroad, as it is the case in Bulgaria, Croatia and Cyprus. Alternatively, the adherence to the "State of Incorporation doctrine[164] by a Member State (like in the case of Belgium and the Netherlands) substantially contribute to enable an entity to operate[165].

As to the **cross-border conversion**, in the face of countries like Luxemburg, Portugal and Italy where the law provides that associations may transfer their registered office abroad without losing their legal personality[166], some other countries such as Austria and Germany require that the seat of an association be established in their territory, since the transfer of the head office abroad is formally considered as cause for dissolution of the association. Finally, in Belgium and Czech Republic it is possible to find specific rules governing the cross-border conversion, which further take into account the interests of creditors and dissenting members.

Another essential aspect is the possibility for a foreign association to convert into a national form, as well as to **merge and divide** across borders. In this respect, a general lack of regulation at national level is confirmed, except for some cases such as Belgium, Bulgaria, Czechia, Estonia and Latvia where a foreign association is allowed to convert into a national legal form. Italy and Portugal provide for some very generic rules allowing, in principle, the merger and division of foreign associations, while Estonia prohibits mergers and divisions of associations not registered in the national register, which provision particularly affects foreign associations. An interesting case is that of France, Germany and Netherlands, where it is commonly accepted that associations qualify as companies within the meaning of Article 54 TFEU.

In matter of **membership**, it has to be noted that foreigners who are resident in Poland may not establish an association, given that they may only join it after its establishment[167]. Likewise, in

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[164] According to this doctrine, an entity is governed by the laws of the jurisdiction in which it has been incorporated or registered, regardless of where it operates in practice. This implies that activities conducted abroad cannot affect negatively the existence of the entity, which will continue to exist seamlessly (differently from what happens under the "real seat" doctrine).

[165] According to a contribution to the EC Consultation (made by Philanthropy Europe Association) some NPOs - namely foundations - are already faced with the application of either the "real seat doctrine" or the "state of incorporation doctrine". In particular. the former focuses on the principal place of business of a foundation (i.e. where the fundamental decisions by the foundation's management are being implemented effectively into day-to-day activities), while the latter refers to the state in which the foundation has been incorporated or registered. Both doctrines are individually meant to determine, by means of different approaches, which State has the power to govern the internal affairs of that entity.

[166] Provided that the State of their new registered office recognizes the continuation of this legal personality (LU, PT) and that the transfer of seat is carried out in accordance with the laws of the States concerned (IT).

[167] See art. 4 Law of 1989.

Finland, the chairperson of the executive committee of an association must be resident in Finland unless the Registration Authority grants an exception[168].

As to the recognition of the **Public Benefit status** of foreign associations, national laws generally provide that this status - and the associated benefits (also under tax law) - may be acquired by foreign associations if they meet the requirements laid down by the law (this is the case in AT, BE, HR, CZ, DK, FI, FR, DE, IE, LV, LT, LU, MT, PL, RO, SK, ES, SE). Nevertheless, in some cases, a specific registration or a territorial link with the Member State concerned is required, in particular:

- In BG, foreign non-profit legal entities may pursue activities for public benefit but only through their branches in the country in compliance with the applicable law.
- In EE, foreign entities must be registered in Estonia to obtain the status and related benefits.
- In IT, foreign associations must be registered in the register of third sector entity.
- In NL, foreign entities may apply for the ANBI status, which requires registration as such with the tax authorities.
- In PT, non-profit foreign legal persons must have a permanent representation on Portuguese territory, comply with the requirements of public utility set out in Portuguese law and, moreover, the benefits resulting from the public utility status apply exclusively to activities developed in Portugal.

In some other cases, the public benefit status is not recognized to foreign entities even if they are registered in the host country. This is the case in Cyprus, Slovenia (where natural persons may donate only to associations listed in a list of beneficiaries held by the Government, where only Slovenian associations may be enrolled), Greece and Hungary (where the condition for an association to have the public benefit status is to have its seat in, respectively, EL or HU).

Finally, as to the possibility to receive **donations from abroad**, in certain countries there exist restrictions on either donations from abroad (see Germany and France) or on donations overall, but which inevitably affects also and foremost donations from abroad. The concerned countries are: Cyprus (where it is provided that the board of directors of an association must disclose information of the donors, as no revenue shall be received unless the source of its origin is known), Germany (where, even if there are no restrictions, additional duties of care may arise for banks or accountants if transactions involve high risk third countries), France (where religious associations must declare foreign resources in excess of EUR 10 000, while other associations must declare all foreign funding above EUR 153 000 in annual donations), Greece (where there is an obligation for associations to disclose donations exceeding 1 000 euros) and Belgium and Luxemburg (where state approval is required for donations above a certain threshold – respectively above EUR 100 000 and 30 000).

3. Summary table[169]

[168] See sect. 35, para. 3, Act of 1989.

[169] The sources of the information here provided are the Impact Assessment Study as well as the study on "Comparative Legal Analysis of Associations' laws and regimes in the EU".

	Cross-border aspects	Member States concerned
	Membership limitations	PL, FI
	Obligation to register foreign associations	HR, CY, RO
BRANCH	**Right to have a branch abroad**[170]	BG, HR, CY (by law) + BE, NL (by doctrine)
	Obligation to establish a branch and register it[171]	EL, ES
	Obligation to register the branch (only if it exists[172]**)**	LV, LT, NL
CONVERSION	**Restrictions to cross-border conversion**[173]	AT, DE
	Right to cross-border conversion	LU, PT, IT
	Specific procedural rules on the cross-border conversion	BE[174], CZ[175]
	Rules on the domestic conversion of foreign associations	BE, BG, CZ, EE, LV, IT, HR
MERGER AND DIVISION	**Rules hindering merger and division of foreign associations**	EE
	Rules allowing cross-border merger and division of associations	IT, PT,

[170] National laws allow national association to establish a branch in another Member State.

[171] Foreign associations must establish and register a branch if they operate in the country on a stable basis.

[172] In this case there is no obligation to establish a branch in the host country but once the branch is created it must be registered (this is a potential obligation rather than a general one).

[173] The association's center of administration cannot be located abroad (the registered office or seat shall coincide with the main center of administration) because this would cause the dissolution of the association.

[174] See art 14:51 ff of the "Code of companies and associations".

[175] See art 139–142 of the Civil Code.

PUBLIC BENEFIT	**Public benefit status' recognition to foreign associations**	**NO** (CY, EL, HU, SI), **YES IF*** (BG, EE, IT, NL, PT), **YES****(AT, BE, HR, CZ, DK, FI, FR, DE, IE, LV, LT, LU, MT, PL, RO, SK, ES, SE)
DONATIONS		
	Transparency obligation on donations	CY, EL, FR
	Other possible administrative controls linked to receipt of donations from abroad	DE
	State approval required for donations above a certain threshold	BE, LU

*** A specific registration or a territorial link to the MS is required in order to be recognized as Public Benefit organization (e.g. the association must operate with branches in the host country, or must be registered in the host country, or its seat must be in the host country etc.).**

****In general, national laws provide that the status of public utility may be acquired by foreign associations if they meet the legal requirements for the status.**

ANNEX 12

NOTION OF PUBLIC BENEFIT STATUTS (OR EQUIVALENT NOTION) IN MEMBER STATES

This Annex presents the notion of 'Public benefit' which is commonly used when describing the activity of associations (and other organisations), and which generally implies that the association is meant to serve with a "worthy purpose" for the "broader public." A non-profit purpose is the main part of the notion of public benefit related to associations as it is explicitly required in order to benefit e.g. from a privileged fiscal status, such as tax-exemptions as regulated in national laws. The **Non-profit purpose**, is interpreted as a purpose **other than profit-sharing** and implies the profit non-distribution constraint, meaning that associations are not allowed to distribute their potential profits to members, directors, etc, but must use profits in the pursuit of their institutional purpose. This means an association with a public benefit status must always follow a non-profit purpose. However, a non-profit association must not necessarily follow a public benefit purpose.

Although the majority of Member States refer to "public benefit", there is also a variety of terms referring to it such as: *common interest, public interest, general interest, public utility, charitable purpose, or philanthropic and interest for the public good.*

The public benefit status is characterised not only by the variety of denominations in Member States, but also by the **plurality of public benefit statuses** that are identified for different purposes (taxation, access to public grants, public collection of funds, etc.[176]). In some countries, these statuses of public benefit are even structured under one general status that includes more specific public utility statuses (for example, in Italy, Portugal and Spain).

With regard to the national legislation on the public benefit status, regardless of the way it is identified and denominated by national law (public benefit, third sector, civil society, charitable status, etc.), and independently of the place in which its regulation is found (in organizational law (as happens in France and Italy), or exclusively in tax law (which is the case in other countries such as Austria and Germany), **all 27 Member States have laws providing for such a status (see Table 1)**.

Furthermore, the public benefit status is usually acquirable **not only by associations but also by other legal types of organizations**, such as foundations, companies and cooperatives, provided they meet the mentioned requirements for qualification. This may also lead to recognizing as

[176] E.g., in Finland and Spain.

public benefit organizations social enterprises in the shareholder company form (which is the case in Italy).

From a comparative analysis conducted in the IA study, it appears that Member States devote increasingly more attention to the public benefit status with regard to its relevant legislation. In 2021, new laws were enacted in several Member States, including Denmark, Greece and Portugal. A general reform of third sector organizations took place in Italy in 2017 while tax-privileged donations to public benefit organizations have been reintroduced in Sweden, after having been previously abolished.

The status of public benefit is based on the **possession of requirements**, in the sense that only the associations that meet these requirements may obtain and maintain the status, and thus benefit from a specific treatment reserved for this category of organization.

The most common requirements are related to the field of activity associated with the "worthy purpose" defined in the constitutive act of the association (e.g. culture, education, health care, social protection, implementation of family policy, protection of human rights, protection of the environment, protection of animals, sports) and with the engagement to benefit the society or a specific part of it.

Additional requirements exist and they usually relate to one or several of the following requirements: proof of a minimum number of members or income per year, the significance of results achieved, influence and reputation exceeding the local scale, or a minimum duration of existence before applying for public benefit status.

1. Legal requirements for obtaining the public benefit status

The status of public benefit is also based on the possession of some legal requirements, which are necessary to meet in order to obtain the status[177]:

- The acquisition of the status is in most countries subject to the association's registration in certain registers of public benefit organizations.
- The status is obtainable by organizations set up in different legal forms (e.g., foundations, cooperatives, companies) and in principle also available to associations without legal personality.
- Pursue of a public benefit purpose. In some cases, national laws provide a list of these purposes (e.g., Germany and Ireland), or activities that must be pursued (e.g., Italy).
- Subject to specific governance and transparency requirements (imposed on the entity for ensuring its compliance with the requirements for the status, thereby preventing potential violations of the applicable law.)

[177] It must be clear, however, that not all the requirements are present in all national laws and that for each requirement different regulations may be found in national laws.

- Associations that hold the status often recipient of promotional tax treatment (France and Ireland, only a portion of them, formed by organizations that meet further requirements)
- Other measures are provided by law in support of public benefit associations, e.g. eligibility for tax-privileged donations.

On the possibility to be recognized as of public utility, national laws generally provide that the **status of public utility, and the associated benefits (also under tax law), may be acquired by foreign associations if they meet the legal requirements for the status by the host country** (with exceptions existing in Cyprus, Greece and Slovenia). On this point, the main problem resides in the procedures and criteria that are applied at the national level to verify that the foreign association meets the necessary legal requirements.

2. Principle of non-discrimination established by CJEU case-law

When it comes to the public benefit status enjoyed by associations in the Member State where they are domiciled, mutual recognition of the said status does not exist. The CJEU has established a principle of non-discrimination in its case law, concerning public benefit organisations.[178]. In a sentence, the said case law "entitles EU-based foreign public benefit organisations (PBO) to hold the same tax-privileged status as a national entity, provided that it can be shown to be comparable to a national public benefit status[179].

The **"comparability test"** is complex, uncertain and based on the capacity of the donor or the recipient association to prove it, which results in a serious obstacle to the cross-border activity of public benefit associations. Then, the matter is left to the competent administrative authorities that resolve it in different ways leading to costly and lengthy procedures for associations. However, best practices in this regard are those applying in the Netherlands and Luxembourg.[180]

As announced in the Social Economy Action Plan of December 2021, the Commission will issue a set of two Staff Working Documents on relevant taxation frameworks for social economy entities and on non-discriminatory taxation of charitable organisations and their donors[181] (see Annex 9 for more details). These two documents will be part of the Social Economy package together with the legislative initiative on cross-border activities of associations and will

[178] See "Taxation of cross-border philanthropy in Europe after Persche and Stauffer, From landlock to free movement?", European Foundation Centre 2014.

[179] Cf. Laboratoires Fournier (C-39/04) of 2005; Centro di musicologia Walter Stauffer (C-386/04) of 2006; Hein Persche (C-318/07) of 2009; Missionwerk (C-25/10) of 2011; European Commission v Austria (C-10/10) of 2011.

[180] See Circulaire L.I.R. 112/2 of the 7th of April 2010.

[181] Relevant taxation frameworks for Social Economy Entities - Staff working document (2).pdf and Non-discriminatory taxation of charitable organisations and their donors - Staff working document (1).pdf

specifically address tax-related barriers encountered by associations (and other legal forms) which are not tackled by the initiative on cross-border activities of associations (as explained in Section 1 and 2 of the IA report and in Annex 9).

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Table 1: Public Benefit (or Equivalent) Status in the laws of the Members States of the European Union

Member State	Public Benefit (or Equivalent) Legal Status	Notes
Austria	Associations with Public Benefit, Charitable and Religious Purposes of Sect. 34 ff. of the Federal Tax Code	Also applicable to other NPOs, including shareholder companies, meeting the relevant legal requirements
Belgium	Accredited Associations of Art. 154/33 of the Income Tax Code of 1992	Also applicable to other NPOs meeting the relevant legal requirements
Bulgaria	Non-Profit Associations Pursuing Activities for Public Benefit of Arts. 37 ff. of the Law on Non-Profit Legal Entities of 2000	Also applicable to other NPOs. Associations may also acquire the status of "social enterprise" under the relevant national law
Croatia	Associations Pursuing Activities for Public Benefit of Arts. 32 ff. of the Law on Associations of 2014	*Association recipients of 2 percent deduction in the Income Tax to be verified with the NE …*
Cyprus	Charitable Associations of Art. 9(1)(f) of Income Tax Law no. 118(I)/2002	Also applicable to other NPOs, including non-profit limited liability companies
Czech Republic	Public Benefit Associations of Sect. 146 of the Civil Code of 2012 and Associations of Sects. 15(1) and 20(8) of Income Tax Law no. 586/1992	Also applicable to other legal persons
Denmark	Public Benefit Associations of Sect. 8A of Law no. 1735 of 17/8/2021 (Income Tax Law)	Also applicable to other non-profit legal persons
Estonia	Public Benefit Associations of Sect. 11 of the Income Tax Act of 1999	Also applicable to other non-profit legal persons
Finland	Public Benefit Associations of Sect. 22 of Income Tax Act no. 1535/1992	Also applicable to other non-profit legal persons
France	Public Benefit Associations of Art. 11 of Law 1 July 1901	
Germany	Associations pursuing public benefit, charitable or religious purposes of Sects. 51 ff. of the Tax Code of 1976	Also applicable to other non-profit legal persons, including shareholder companies and cooperatives
Greece	Civil Society Associations of Law no. 4873/2021	Also applicable to other non-profit legal persons
Hungary	Public Benefit Associations of Sect. 32 of Law no. CLXXV of 2011 on the right of association, the public benefit legal status, and the operation and support of civil society organizations	Also applicable to other NPOs, including companies
Ireland	Charitable Associations according to the Charities Act of 2009	Also applicable to other legal entities, including non-profit companies
Italy	Associations with the Status of Third Sector Organizations according to the Code of the Third Sector (Legislative Decree no. 117/2017)	Also applicable to other NPOs, including shareholder companies and cooperatives, meeting the relevant legal requirements. Within this legal framework, associations may also acquire the

		sub-status of "social enterprises", which is available also to entities established in other legal forms (including companies and cooperatives)
Latvia	Public Benefit Associations of Law no. 106/2004	Also applicable to other NPOs
Lithuania	Public Benefit Non-Governmental Associations of Law no. XII-717 of 19 December 2013	Also applicable to other NPOs
Luxembourg	Public Benefit Associations of Art. 26-2 of Law on Associations of 21 April 1928	
Malta	Associations Recognized as Voluntary Organizations according to Act no. XXII of 2007	Also applicable to other NPOs, including companies
Netherlands	Associations with the Status of Public Benefit Institutions	Foundations can also be recognized as Public Benefit Institutions
Poland	Public Benefit Association of Act of 24 April 2003 on Public Benefit Activity and Volunteerism	Also applicable to other NPOs, including companies
Portugal	Associations with the Public Benefit Status according to Law no. 36/2021	Also applicable to foundations and cooperatives
Romania	Public Benefit Association of Art. 38 of Governmental Ordinance no. 26/2000	Also applicable to other NPOs
Slovakia	Associations Recognized as Non-Profit Organizations according to Act no. 213/1997	
Slovenia	Associations with the Status of Non-Governmental Organizations in the Public Interest of Law of 2018	Also applicable to other NPOs
Spain	Public Benefit Associations of Art. 32 ff. of Law no. 1/2002	
Sweden	Public Benefit Association of Chap. 7, Sect. 3 ff., of Income Tax Act no. 1999:1229	Also applicable to other NPOs

Source: IA study

ANNEX 13

DISCARDED POLICY OPTIONS AT AN EARLY STAGE

The aim of this Annex is to describe the policy options that have been discarded at an early stage of the Impact Assessment[182], which are:

- Non-legally binding options (i.e. Council recommendations, information campaigns, and guidelines);
- European legal status for public-benefit associations;
- Harmonization of common standards for associations.

Further details are developed below.

1. Non-legally binding options, such as Council recommendations, information campaigns, and guidelines

Under non-legally binding options, including information campaigns and Council recommendations and guidelines, associations would continue to be governed exclusively by their national laws even when operating across borders. According to the study underpinning this Impact Assessment, many European associations consider non-legislative options as presented here a supportive option to complement and accompany other legislative and policy measures as part of an overall roadmap to support civil society and the promotion of fundamental rights at national and EU level, but they have been discarded for the reasons stated below.

A Commission-led information campaign could raise awareness about the rights and obligations of associations in cross-border contexts, and about the rights and obligations of Member States with regard to associations operating cross-border or with cross-border membership. A drawback of this approach is the absence of comprehensive rules that would apply consistently in cross-border contexts. Rather, rules vary depending on the applicable Member State laws in question. Ultimately, awareness raising might increase the cooperation among Member States concerning associations, as well as stimulate cross-border activity to an extent. The problem and the related barriers would however likely remain.

The Commission could propose a Council Recommendation on developing the national legal frameworks for associations, with an aim of facilitating cross-border activity. This could recommend Member States to facilitate the cross-border activity of associations in various ways, including their capacity to receive donations from abroad; facilitate the recognition of foreign associations' legal personality across Member States, in general; and to recommend principles of

[182] See the Impact Assessment study.

non-discrimination and good administration, so as to facilitate cross-border activities. As described above, the Commission is already working on a proposal toward framework conditions for the social economy overall, including concerning associations, as announced in the Social Economy Action Plan. From the perspective of this proposal, the said action is complementary, depending on its final content. However, it will not resolve the problem.

Guidance by the Commission could be particularly relevant in areas with limited legislative competences. Taxation is an area that has particular relevance for associations. Due to their non-profit nature, they are often eligible for tax privileges. When operating in cross-border contexts, they risk forfeiting the said privileges, which discourages donations (if the donor cannot access the tax deduction) and may cancel out their comparative advantage vis-à-vis companies, when it comes to providing services (if the VAT exemption ceases to apply). The Commission is already working on guidance clarifying the existing rules on the tax treatment of cross-border public benefit donations affecting foundations and associations and the implementation of the principle of non-discrimination with Member States, as announced in the Social Economy Action Plan. This measure is complementary, but does not resolve the problem.

Overall, the impact of the non-legislative options is not without precedent. The Council of Europe has adopted both a Convention and issued Recommendations to improve the possibilities for international non-governmental organisations, associations included, to operate across its membership. These measures have only seen very modest uptake, as mentioned above and the same can be expected of non-binding measures at EU level.

Non-binding options may enjoy political support, but lack in effectiveness. The identifies problem will persist and thus for the lack of effectiveness, further non-binding measures do not seem meaningful in addition to those that are already in the pipeline, as described.

2. **Creating a European legal status for public-benefit associations**

Under this option, legislative provisions could require Member States to introduce into their legal systems a European public benefit status similar to that of "public benefit status" already existing in almost all Member Status, which serves to grant preferential treatment primarily for taxation (i.e. income tax, donations, VAT) and other areas (state aid, public procurement). This status is not a legal form, but rather a label, which may be obtained by associations, based on fulfilling certain criteria.

In practice, this would entail creating a definition at EU level for a public benefit status purpose, based on certain criteria. The European status would then be recognized by all Member States in which the association is active, leading to eligibility to all benefits, including tax benefits. It would address key aspects, in particular related to the free movement of capital, that current burden associations in cross-border contexts. This approach to public benefit was proposed by the Commission as a part of its proposal for a Statute for a European Foundation and is also included in the European Parliament proposal to the Commission in the context of this initiative.

Feasibility for this option is low, although it would help addressing one of the problem drivers. This option affects taxation practices and is therefore of limited competence for the EU.

3. Harmonization of common standards for associations

Under this option, a legislative instrument would harmonize aspects of association law throughout the Union. The purpose would be to ensure a level playing field and to ensure associations a secure civic space. Unlike retained option 2, this harmonization would not be targeted at only elements essential for facilitating cross-border activities and mobility,[183] but at approximating association law more broadly.

Elements subject to harmonization could include mutual recognition of legal personality, non-discrimination and equal treatment in providing goods and services and receiving capital, governance, membership, registration, criteria for obtaining public benefit status, mergers, transfer of seat, reporting. Harmonisation could set minimum standards or alternatively set standards as maximum for Member States law on associations.

Feasibility of this option is low. Member States have strong national cultural and historic roots embedded in their association law and the appetite for harmonization is unlikely. Moreover, this would require adjustment costs for all associations.

[183] Policy option 2, as outlined in Section 5 of the IA, differs from this discharged option as it would rather harmonise common minimum standards for the cross-border activities and mobility of associations across Member States by virtue of a directive under Articles 114 and 50 TFEU, would harmonise national association laws to the extent needed to facilitate cross-border activities and mobility, and would introduce standards to ensure for example cross-border conversions, principles and safeguards on the process of cross-border mergers and divisions, non-discrimination when it comes to associations as service providers and/or capital transfers receivers in cross-border contexts, etc.

ANNEX 14

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