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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**

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Glossary

| Term or acronym | Meaning or definition |
|-----------------|---|
| CJEU | Court of Justice of the European Union |
| CSO | Civil Society Organisations |
| EESC | The European Economic and Social Committee |
| EU | European Union |
| FTE | Full Time Equivalent (employment) |
| GDP | Gross Domestic Product |
| IA | Impact Assessment |
| MS | Member State |
| NGO | Non-governmental organisation |
| NPO | Non-profit/not-for profit organisation |
| R&D | Research and Development |
| SDGs | (UN) Sustainable Development Goals |
| SME | Small and medium sized enterprise |
| TEU | Treaty on the European Union |
| TFEU | Treaty on the Functioning of the European Union |
| UN | United Nations |
| VAT | Value added tax |

Main working definitions

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| Cross-border activity | This refers to, in particular, the following aspects of EU-based associations across Member States: (i) conducting economic activities (including the |
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| | provision of goods and services) in a Member State other than the one of its domicile or in multiple Member States; (ii) sending and receiving capital in another Member State (i.e. membership fees, funding, donations); (iii) having members or board members who reside in another Member State than the one of the association's domicile. |
| Cross-border conversion | This refers to a situation where an association, without being dissolved or wound up or going into liquidation, converts its legal form under which it is domiciled and registered in a Member State into a legal form of another Member State and transfers at least its registered office to the said destination Member State, while retaining its legal personality. |
| Cross-border division | This refers to situations where: (a) an association being divided, on being dissolved without going into liquidation, transfers all its assets and liabilities to two or more recipient associations in different Member States; (b) an association being divided transfers part of its assets and liabilities to one or more recipient associations in different Member States. |
| Cross-border governance role | This refers to members of statutory management bodies of an association, such as a board of directors, supervisory board, or executive committee, who reside in another Member State than where the relevant association is domiciled. |
| Cross-border merger | This refers to situations where (a) one or more associations domiciled in different Member States, on being dissolved without going into liquidation, transfer all their assets and liabilities to another existing association, the acquiring association; or (b) two or more associations domiciled in different Member States, on being dissolved without going into liquidation, transfer all their assets and liabilities to an association that they form, the new association. |
| Cross-border membership | This refers to a situation where a member of an association resides in another Member State than the one where the relevant association is domiciled. |
| Cross-border mobility | This refers, in particular, to (i) a conversion of an association involving transferring its registered office to another Member State; (ii) when an association wants to merge with or divide from an association in another Member State. |
| Recognition of legal personality | This refers to the situation where an association, which has legal personality in the Member State where it is domiciled, has therefore legal personality in all Member States. |
| Social economy | The social economy is an umbrella term covering a wide range of private entities, with profit-making or non-profit making purpose, that prioritise people, social, and environmental causes over profit. While the scope and the terms used to describe the social economy concept can vary depending on national traditions, it typically comprises cooperatives, mutual benefit societies, associations (including charities), foundations, and social enterprises (with different legal forms). |
| Third sector | Although there is no common definition, it usually embraces institutional and individual-action components that embody, in general, three underlying attributes: a) private, b) primarily oriented to the public good and c) unpaid non-compulsory work. Non-profit organisations are at the core of the third sector. However, the third sector is wider and encompasses the non-profit |

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| | sector, also including the social economy and uncompensated work performed through third sector organizations. |
| Non-profit sector | It includes entities that do not operate for the benefit of themselves but use profits in the pursuit of their purpose. |
| Non-profit organisations | Entities operating in the non-profit sector not meant to operate for the benefit of themselves, but that must use profits in the pursuit of their purpose. |
| Legal statuses/qualifications | They are created by national laws with the intention of awarding an accreditation scheme that can be adopted by the organisations that meet the requirements and must be distinguished from the notion of “legal form”. A variety of entities, including foundations, companies and cooperatives that meet the necessary legal requirements can adopt the status – for profit and non-profit. |

1. INTRODUCTION

The non-profit sector

The non-profit sector is instrumental for bringing together the social, green and digital objectives of the European Union. It does so by showing “another way” to generate value and meet societal needs that the market and, in some areas, the State cannot address.¹ For instance, the non-profit sector enables grassroots initiatives to emerge and contributes to face challenges such as, more recently, the COVID-19 pandemic and the crisis originated by Russia’s aggression in Ukraine, while it can also help ensure a just green transition for all parts of the society.² Unlocking the potential of the non-profit sector can strengthen its positive role in generating value in economic and societal terms across the European Union. It can also help underpin civic participation, EU values and fundamental rights.

The legal form of association

Out of almost 4.6 million organisations within the non-profit sector at EU level around 87% (3.87 million) have the legal form of associations.³ Associations are also the largest in number of the four legal forms traditionally encompassed by the social economy,⁴ which includes both non-profit and profit-making entities with or without economic activities that prioritize social or public interest goals and share common principles and features.⁵ Associations are also present in the so called third sector.⁶ It is important to note that, in some Member States, there are legal statuses connected, for example, with fiscal privileges or access to public funding, which associations may decide to acquire in addition to their legal form, provided that they

¹ The non-profit sector is not strictly defined because the entities therein are very diverse and the rules outlined for members of this sector can vary depending on the country in which they are established. The common feature identifying entities in the non-profit sector is that they are not meant to make benefit for themselves, but they must use profits in the pursuit of their purpose.

² According to a recent Eurobarometer survey on “Fairness perceptions of the green transition”, 88% of EU citizens agree that the green transition should not leave anyone behind (Special Eurobarometer 527, October 2022). Survey available at: [Fairness perceptions of the green transition - Eurobarometer survey \(europa.eu\)](#).

³ These figures were developed in the context of the independent study supporting this impact assessment (hereinafter “IA study”). Concerning the figure of 87%, this is calculated based on Member State sources for number of associations and NPOs. The basis for this figure is very robust as most Member States have recent and reliable data. The relative number of organisations per country is factored in to yield the weighted average, see Annex 4 (Section 2.1). **Placeholder for publication reference to the IA study when available**

⁴ [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Building an economy that works for people: an action plan for the social economy’](#) of December 2021. Hereinafter “the Social Economy Action Plan”. The other legal entities present in the social economy are cooperatives, mutual benefit societies (or mutuals) and foundations.

⁵ According to the Social Economy Action Plan, the social economy covers entities sharing the following main common principles and features: the primacy of people as well as social and/or environmental purpose over profit, the reinvestment of most of the profits and surpluses to carry out activities in the interest of members/users (“collective interest”) or society at large (“general interest”) and democratic and/or participatory governance.

⁶ There is no common definition of the “third sector” which embraces institutional and individual-action components that embody, in general, three underlying attributes: a) private, b) primarily oriented to the public good and c) unpaid non-compulsory work (volunteering). Non-profit organisations are at the core of the third sector. However, the definition of the third sector is wider and encompasses in addition to non-profit organisations the social economy and uncompensated work performed through third sector organizations (volunteerism). [Beyond Non-profits: In Search of the Third Sector, Lester M. Salamon & Wojciech Sokolowski, 2018.](#)

satisfy specific requirements for such qualifications and depending on the jurisdiction where they operate.⁷

Figure 1 provides an overview of the legal forms commonly present in the social economy (the non-profit sector and the third sector), as well as the legal statuses (or qualifications) that associations may decide to acquire. Annex 9 provides more information on the legal forms in the social economy and the non-profit sector.

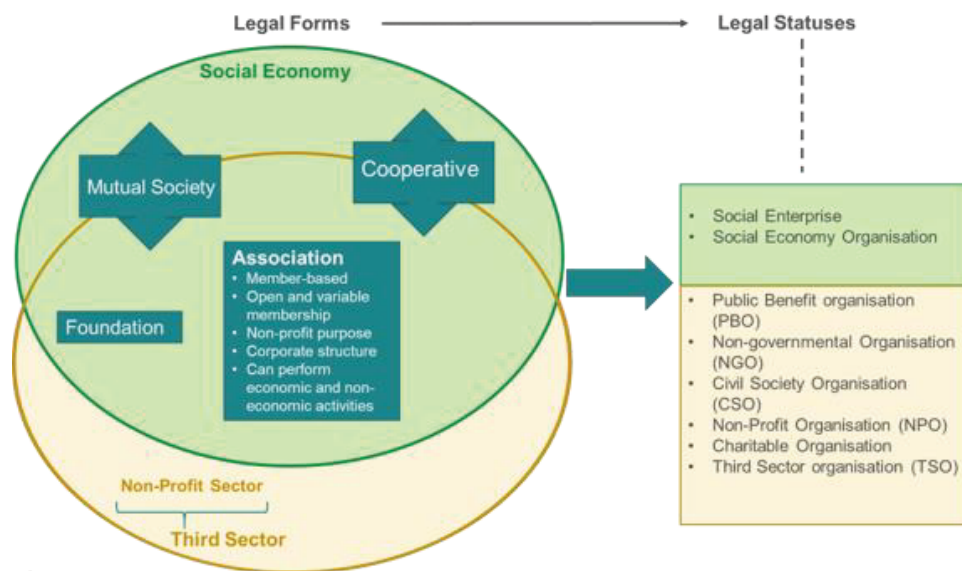


Figure 1: Overview of common legal forms and statuses present in the non-profit sector, the social economy and the third sector.

Non-profit associations are membership-based legal forms that may or may not perform entrepreneurial/economic activities, serving a collective or social interest or public benefit, and any revenues they generate exceeding expenses must be committed to the entity's purpose (contrary to entities operating as a business aiming to generate profit and distribute it to its owners or shareholders). Associations are active in all Member States, where they provide goods and services, addressing needs ranging from local communities to broader societal challenges, and lower the threshold for civic participation in sectors such as sports, recreation and culture, as well as in social and health services, education and training. While they largely operate at local and national level, there are already associations that operate in several Member States.

⁷ As an example, entities legally established in the form of an association can assume the legal status or qualification of non-profit organizations (NPOs), public benefit organizations (PBOs), non-governmental organizations (NGOs), civil society organizations (CSOs), third sector organizations (TSOs), charities, provided they satisfy the legal requirements for such qualifications. Additionally, other legal statuses may be relevant when discussing about associations (e.g. social enterprise and social economy organization).

Associations are regulated through legislation and rules specific to them in 24 out of 27 Member States (Annex 10 provides an overview of the legal regimes of associations in the Member States).⁸

According to the legal comparative analysis conducted in the IA study underpinning the preparation of the impact assessment, national regulatory frameworks are, in principle, adequate for the development of associations operating at national level. At the same time, rules on cross-border aspects of associations are generally not provided for in national legislations or, when provided, they differ or they may be effectively constraining associations operating in more than one Member State. This results in regulatory fragmentation legal uncertainty about the applicable rules and unjustified administrative practices and costs for associations, creating barriers for those associations engaged or wishing to engage in activities in more than one Member State (Annex 11 summarises national rules on cross-border aspects of associations).

Against this background, the initiative assessed in this impact assessment report ('IA Study') focuses on non-profit associations as the predominant legal form in the non-profit sector and aims create an enabling framework for cross-border activities of associations in the single market.

1.1 Scope of the initiative

With the view to unlocking the potential of the non-profit sector in the EU, this initiative captures "non-profit associations" having a legal personality and seeks to address barriers that they face in their cross-border activities and mobility in the single market (as described in Section 2). The entities in the scope of the initiative will be hereinafter referred as "associations".

As associations represent the predominant legal form among non-profit organisations at EU level and through their membership-based structure, they have a direct leverage effect on citizens who are members, donors or beneficiaries of their activities. Therefore, creating an enabling framework for cross-border activities of associations has potentially a multiplying positive impact on the largest part of the EU non-profit sector.

This said, cross-border obstacles faced by associations in the areas of taxation and labour law will not be addressed by this initiative, taking into account the EU limited competence in these areas and the principles of proportionality and subsidiarity (notably taxation aspects will be tackled through specific factsheets on legislative frameworks and case-law, as explained in Sections 1.2 and 2 and in Annexes 9 and 12).

⁸ With the exception of Ireland, Denmark and Sweden.

Other legal forms present in the non-profit sector and the social economy, such as foundations,⁹ cooperatives and mutual societies, are excluded from the scope of this initiative (as explained in Annex 9).

Entities excluded from the scope of the initiative are outlined in Box 1.

Box 1: Non-profit sector and social economy entities and types of associations excluded from the scope of this initiative and not assessed in this IA.

- Foundations, cooperatives and mutual societies (as explained in Annex 9)
- Political parties, due to their particular status within national and EU law¹⁰
- trade unions¹¹
- Churches and other religious communities and philosophical or non-confessional organisations (as referred to in Article 17.1 TFEU) due to their particular status within national law which the Union is bound to respect
- The so-called “economic associations” present in a few Member States (i.e. Germany, Denmark, Finland, and Sweden), due to their profit-making purpose¹²

1.2 Political context

The initiative is embedded in the broader political objectives of the European Green Deal and the Digital Decade 2030.

More specifically, it addresses the political priority “[An economy that works for people](#)”¹³, contributing to the objective of “an economy that can fully respond to the needs of EU citizens thereby ensuring social fairness and prosperity”. In this sense, the initiative interlinks with the other measures announced in the Social Economy Action Plan and forms with them the Social Economy framework as follows:

First, a proposal for a [Council Recommendation on developing social economy framework conditions in the Member States](#) which will recommend Member States to integrate the social economy into their socio-economic policies and create a favourable environment for the sector, including through targeted public policies and adapted legal frameworks. Having as objective

⁹ When it comes to foundations in particular, it is important to note the following elements to exclude them from the scope of the initiative (as further explained in Annex 9): important differences exist between foundations and associations; one of the major problems that for example foundations face when operating cross-border is taxation-related; a Commission proposal seeking to create a single European legal form for public benefit purpose foundations (i.e. the European Foundation) was withdrawn in 2015 due to the lack of consensus among Member States.

¹⁰ [Regulation \(EU, Euratom\) No 1141/2014 on the statute and funding of European political parties and European political foundations](#), under ongoing revision.

¹¹ In line with Article 153 TFEU relevant to the right of association for representation and defence of the interests of workers and employers.

¹² IA study. They are not considered as associations in the strict sense, because they do not share the same (non-profit) purpose and, therefore, fall within another category of private law organizations (such as cooperatives).

¹³ [The European Commission priorities for 2019-24](#).

to foster access to the labour market and social inclusion, it 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. Despite the difference in scope, the proposal for a Council Recommendation is particularly linked with the current initiative in that it is promoting an enabling environment for social economy entities, including associations, but it does not touch upon cross-border activities of associations specifically and its recommendations are non-binding for the Member States. Therefore, there is no overlap between the two initiatives.

Second, two Commission Staff Working Documents (notably on “relevant taxation frameworks for social economy entities” and on “non-discriminatory taxation of charitable organisations and their donors: principles drawn from EU case-law,”) are planned to be presented together with this initiative. They will provide factual information as to the state of play of legislative frameworks in Member States and the case-law on taxation matters, thus tackling cross-border taxation obstacles falling out of the scope of this initiative.¹⁴

The Social Economy Action Plan recognised that associations face constraints in operating cross-border and referred to a forthcoming European Parliament initiative¹⁵, which was eventually adopted in February 2022. This [European Parliament resolution](#) aims to promote associations and other non-profit organisations in the EU in completing the single market, protecting their fundamental rights and fostering an EU democratic space. It asked the Commission, under Article 225 TFEU, to submit two new legislative proposals: a Regulation (under Article 352 TFEU), which creates the legal form of “European Associations”, and a Directive harmonising common minimum standards for NPOs (under Article 114 TFEU).

Sharing the need to create an enabling environment for the non-profit sector, as stemming from the EP resolution, and building on the objectives of the Social Economy Action Plan, the Commission committed to pursue the matter. This initiative is, therefore, included in the [Commission work programme 2023](#), as part of the Social Economy framework, and is complemented by the measures mentioned above. The Social Economy framework will address the broader scope of issues raised in the European Parliament resolution, combining legislative and non-legislative actions, in line with the principles of subsidiarity and proportionality (details are provided in Annex 9).

Furthermore, this initiative may have links with the ‘Defence of Democracy package’ (see the [Call for Evidence](#) of 16 February 2023), announced under the political priority of “A new push for European democracy”.

¹⁴ SWD(2023) 211 on “Relevant taxation frameworks for social economy entities, which is based on available analysis and input provided by Member States’ authorities and social economy stakeholders; and SWD(2023) 212 on “Non-discriminatory taxation of charitable organisations and their donors: 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.

¹⁵ Social Economy Action Plan, page 5.

Addressing cross-border aspects of non-profit associations as civil society actors, this initiative is also in line with the findings of the 2022 [Annual report on the application of the EU Charter of Fundamental Rights](#), which stresses that civil society organisations may advocate policies and legislation beyond the borders of Member States and that their role is particularly relevant in the context of current challenges the EU is facing.¹⁶ In this connection, the **Conference on the Future of Europe** recognises the important role of the civil society and mentions the need for a statute for European cross-border associations and non-profit organisations.¹⁷

This initiative further underpins the political priority “**a Europe fit for the digital age**” by seeking to facilitate the cross-border activities of associations and thereby enabling them to play an active role in responding to the opportunities and challenges of the digital transformation.¹⁸ This is relevant for strengthening freedoms of information and expression in civil society (e.g. [European Media Freedom Act](#)), [as well](#) as for boosting civic engagement, especially for youth, and volunteerism in general. In this regard, the [European Solidarity Corps](#), financing volunteering and solidary projects in the EU and partner countries aiming at addressing unmet societal needs, constitutes a concrete illustration.

This initiative also supports the objectives of the [EU Industrial Strategy](#) and its update of May 2021,¹⁹ and in particular the Proximity and Social Economy ecosystem, one of the 14 industrial ecosystems identified as critical for post-COVID recovery, for the resilience of the EU economy and for the green and digital transition. In this context, the transition pathway for Proximity and Social Economy presented in November 2022,²⁰ mapped barriers and opportunities and identified, in co-creation with stakeholders, 14 areas of shared action to fulfil the potential for the green and digital transition of the actors in this ecosystem, including associations.

Lastly, the initiative contributes to the Sustainable Development Goals (SDGs) and it particularly supports the SDG 8 ([Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all](#)), by supporting job creation and improving equal and inclusive access to economic opportunities. It further addresses the SDG 16 ([Peace, justice and inclusive societies](#)), by strengthening civil society through protecting associations among other entities. This initiative also indirectly supports SDG 3 ([Ensure healthy lives and promote well-being for all](#)), by facilitating cross-border activities of associations mainly active in sectors such as health, care and social services.

¹⁶ See Charter of Fundamental Rights of the European Union, OJ C 202, 7.6.2016, p. 389–405.

¹⁷ See [Conference on the Future of Europe, Report on the final outcome](#), May 2022.

¹⁸ EESC, Exploratory opinion Presidency of 18.09.2020, [Digitalisation and Sustainability – status quo and need for action in civil society perspective](#)

¹⁹ COM (2021) 350 of May 2021, [Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe’s recovery](#).

²⁰ SWD(2021) 982 of December 2021, [Transition pathway on Proximity and Social Economy ecosystem](#).

1.3 Legal context

EU level

The right to freedom of assembly of association is a fundamental right enshrined in the EU Charter of Fundamental Rights (Article 12).²¹ The Court of Justice of the European Union (CJEU) has recognised it as one of the essential foundations of a democratic and pluralistic society.²²

In terms of the regulatory conditions for associations in the single market, there is no dedicated EU-level legislation, such as there is for companies²³ and cooperatives²⁴. The Commission proposed creating a European legal form for associations, the European Association, in 1992, based on the current Article 114 TFEU.²⁵ The proposal was, however, criticised by some Member States on grounds of subsidiarity and unsuitability of the legal basis compared to its scope and purposes and because according to their view it did not answer to any proven need, its provisions did not embody the diversity of national legislations and it laid excessive administrative burden on associations.²⁶ The European Parliament was supportive and continued to ask for progress on the proposal until 2005 when it was eventually withdrawn by the Commission due to lack of progress at the Council. Section 5 and Annex 9 provide further information on the Commission proposal of 1992 and explain differences with the current initiative, including the reasons why it failed and how the situation has evolved since then.

Furthermore, there are additional legal forms at EU level that aim to facilitate cross-border co-operation and which do not exclude associations: in particular, the European Digital Infrastructure Consortia (EDIC)²⁷, the European Research Infrastructure Consortium (ERIC)²⁸, European Grouping of Economic Interest (EEIG),²⁹ and European Territorial Cooperation Grouping (EGTC)³⁰. As their names imply, these focus on cooperation of entities. As such, their personal scope may partially cover associations with cross-border activities, to the extent that these are eligible entities, but they do not address the specific challenges faced by

²¹ Article 12 of the Charter reads as follows “1. *Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.* 2. *Political parties at Union level contribute to expressing the political will of the citizens of the Union*”.

²² Judgment of 18 June 2020, *Commission v Hungary*, C-78/18, EU:C:2020:476, quoting ECtHR, 17 February 2004, *Gorzelik and Others v. Poland*, CE:ECHR:2004:0217JUD004415898, §§ 88, 90 and 92, and ECtHR, 8 October 2009, *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, CE:ECHR:2009:1008JUD003708303, §§ 52 and 53).

²³ [Council Regulation \(EC\) No 2157/2001 of 8 October 2001 on the Statute for a European company \(SE\)](#).

²⁴ [Council Regulation \(EC\) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society \(SCE\)](#).

²⁵ Proposal for a Council Regulation on the Statute for an European Association (91/273). It specified the rules of the formation, registration, constitution, functioning, financing, dissolution, liquidation and insolvency of the association.

²⁶ For further details on the history of this file, see e.g. Tim Wöffen (2018), ‘[European Associations: The Political Debate and Basic Legal Questions](#)’.

²⁷ Decision 2022/2481 of 14 December 2022 establishing the Digital Decade Policy Programme.

²⁸ [Council Regulation 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium \(ERIC\)](#).

²⁹ [Council Regulation 2137/85 of 25 July 1985 on the European Economic Interest Grouping \(EEIG\)](#).

³⁰ [Regulation 1082/2006 of 5 July 2006 on a European grouping of territorial cooperation \(EGTC\)](#).

associations wishing to extend operations in more than one Member State and that this initiative targets. For a detailed overview of existing legal forms and how they relate to the entities and the scope covered by this initiative, see Annex 9.

Regarding the cross-border activities of associations in the single market, CJEU case law has confirmed that the right to establishment and the free movement of services apply to “*undertakings*”, which are defined broadly as not limited to persons seeking to make a profit, as long as activities are remunerated.³¹ Moreover, CJEU jurisprudence in EU competition law establishes that NPOs - associations in this case - may be considered ‘undertakings’.³² A further analysis of the specificities of associations and, broadly, the non-profit sector under EU law is found in Section 3 of this IA. Associations benefit from the freedom of movement of capital in the single market. Article 63 (1) TFEU states that all restrictions on movements of capital with a cross-border dimension are prohibited. In this context, the term “movement of capital”³³ is to be understood in cross-border contexts as including, inter alia, inheritances and gifts, and funding, as well as financial loans or credits, sureties or other guarantees, while the concept of “restriction”³⁴ is intended to cover any obstacle to the free movement of capital with a cross-border dimension.

Member State level

Associations are subject to dedicated regulation in 24 Member States (in the majority of cases separate laws, otherwise their regulation can be either found in the civil code or in a few Member States they are regulated in one legal act together with foundations³⁵), with the exception of Denmark, Ireland and Sweden. In general, these are comprehensive laws, regulating associations in detail. Fundamental aspects and features of association regimes have common points across the 27 Member States, including the possibility for associations to undertake economic activities, although usually with varying limitations. This said, cross-border aspects essential to mobility and activities of associations are not comprehensively regulated in any Member State. Individual cross-border aspects are regulated to some extent with different approaches, with eighteen Member States having some rules on different aspects (see comparative table of national rules on cross-border aspects for associations in Annex 11).

Overall, from the perspective of an association active in more than one Member States, the applicable legal rules and resulting administrative practices vary depending on where (i.e. the specific Member State) it is domiciled and where (i.e. the specific Member State) it is active.

International level

³¹ CJEU C-179-14

³² See cases C-180/98 and C-184/98 and C-222/04 para. 125 and C-74/16, para. 41-50), as well as for example Commission/Italy (C 119/06, EU:C:2007:729) para. 37-41 and CoNISMa (C 305/08, EU:C 2009:807) para.45.

³³ Based on a settled case-law including C-318/07 paragraph 29 and C-235/17 paragraph 54.

³⁴ Both between Member States and between Member States and third countries. See “Nomenclature of The Capital Movements”, Annex 1 of Directive 88/361/EC, as well as cases C-105/12 and C-45/17.

³⁵ One unique case is that of Belgium where there is the “Code of Companies and Associations” which regulates different types of legal forms, including foundations, cooperatives and other European legal forms. As to the Member States where associations are regulated in one legal act together with foundations, this is the case for: Bulgaria, Cyprus, Latvia, Luxembourg and Romania.

The freedom of association is a human right, recognized by the Universal Declaration of Human Rights (Article 20), the International Covenant on Civil and Political Rights (Article 22) of the United Nations and the European Convention on Human Rights (Article 11) of the Council of Europe.³⁶

The Council of Europe has adopted initiatives to facilitate within its membership the cross-border operation of non-governmental organisations, including associations. These initiatives emphasize a non-profit making objective, while the possibility to conduct economic activities is present to support the said objective. The European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations of 1986 includes elements of mutual recognition and attempts to harmonise many aspects of association law: contracting parties agree to recognise “as of right” the legal personality and capacity as acquired by the contracting party where the organisation has its statutory offices. So far, only twelve Council of Europe Member States (out of 46) have ratified the Convention, eight being EU Member States.³⁷ In addition, two non-legally binding initiatives are: the Recommendation on the legal status of non-governmental organisations in Europe,³⁸ suggesting minimum standards for non-governmental organisations on a number of topics such as formation, legal personality, governance, funding, and transparency, and the Fundamental Principles on the Status of Non-governmental Organizations in Europe³⁹ building on the above Recommendation.

1.4 Market Context

This Section provides the measure of the socio-economic value of associations in the EU and thereby an indication of their untapped potential in terms of activities offered for citizens’ participation, services, goods and assets for the public benefit. First, this is done by analysing the “socio-economic impact of associations in the EU” in terms of their presence at EU level, their economic contribution to the EU Gross Domestic Product (GDP) and to the European labour force; second, by focusing on the main cross-border activities that they perform across Member States. The Section is complemented by Annex 6 which provides evidence on the market context, looking at those associations operating cross-border and sectors where they are most active.

Box 2: Treatment of data constrains on associations in the market context.

³⁶ Article 11 ECHR reads as follows: “1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

³⁷ [CETS 124 - European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations \(coe.int\)](#), European Treaty Series - No. 124.

³⁸ Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member States on the legal status of non-governmental organisations in Europe.

³⁹ [Fundamental Principles E \(cartercenter.org\)](#).

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 associations, e.g based on the legal form. In addition, there are no recent comparative studies on associations 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.

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.

To address the chronic data gaps on associations, and more broadly the social economy, the Commission has undertaken actions such as: (i) contribution since 2017 to the joint work of ESTAT and the OECD on the establishment of national satellite accounts for the social economy, also covering associations. A few Member States (e.g. France, Poland, Portugal) have concluded or are performing first pilots. Available data from these satellite accounts were used as input data in the methodology of this IA; (ii) a study on the economic performance of the Proximity and Social

Economy industrial ecosystem (including associations) is launched in Q2 2023. Its first results will feed the future monitoring of the initiative (see Section 9).

Based on the methodology of this IA, when it comes in particular to the impact of associations at EU level, the analysis establishes and builds on an estimated number of **3.87 million associations at EU level** (see table 1).⁴⁰ These data suggest that, while NPOs encompass other types of organisations (as explained in Section 1), data for NPOs are likely to be mostly driven by associations.

Table 1: 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 |

Concerning their growth, the number of associations in the EU remained roughly stable in the last years⁴¹ and they are most present in the social and health sectors, communication and information (i.e. advocacy), culture, education, recreation (i.e. sports) and entertainment.⁴²

Associations' economic contribution to the EU GDP is estimated at EUR 420 billion (i.e. 2.9% of EU GDP)⁴³. In terms of job creation, the IA study estimates that associations are **employing about 5% of the European labour force** (8.8 million employees)⁴⁴, without counting the non-paid jobs their volunteers represent. However, there is considerable variation across Member States in the number of employees per association, as well as the share of all employees that associations account for. For example, in Belgium, people employed by associations accounted for about 11% of the total employees in 2022, and the average employment per association is above the EU average. Contrary to this, in Croatia, on average

⁴⁰ Figure considered as very robust. Official and recent data for number of associations is available for 26 MS (not for IE). For DK, AT, LU, CY, BG, RO, no data for NPOs exist. For the missing data points estimates have been developed using two different estimation techniques; for IE the weighted average share of associations among NPOs across countries is used to estimate the number of associations. Where the total number of NPOs is not available the average number of associations per capita for similar countries is used as a proxy value to estimate the number of associations. For more details see Annex 4 (Section 2.1).

⁴¹ Considering growth in number of associations, only 8 Member States have data at hand. The weighted average of the values yields an annual growth rate of 0.4%. However, recent data also suggests that the growth rate for associations might slow 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. Therefore, the IA uses a conservative 0 % growth assumption.

⁴² Recent data on sectoral activity is available for 20 Member States, be it at most aggregated NACE code.

⁴³ 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).

⁴⁴ 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).

less than one person is employed per association, and the total number of people employed by associations account for only 1% of employment overall. Besides paid staff, many associations rely fully on volunteers to perform their activities.⁴⁵ For example, data for France⁴⁶ and Austria⁴⁷ suggest that the work delivered by volunteers amounts to an additional 580 000 and 230 000 Full Time Equivalent workers (FTEs)⁴⁸ per year respectively.⁴⁹

Annex 6 and Annex 4 offer more details and additional indicators on market context.

2. PROBLEM DEFINITION

Box 3: Treatment of data constrains on associations in the problem definition.

The analysis in this Section of the IA is challenged by the limited availability of input data. Robust data sets concerning the magnitude of the problem do not exist and this also links to the limitations described in the Market Context above (Section 1.4). Moreover, the Public Consultation yielded a limited sample in terms of absolute number of individual contributions, albeit relatively representative in terms of the nature of respondents (including 13 umbrella associations representing the voice of around 1,958 associations) As mitigation measures, the analysis of the nature and magnitude of the problem is complemented with qualitative and quantitative information coming from a dedicated survey and interviews, desk research and literature review and the use of anecdotal evidence and of case studies. Where assumptions need to be made, this is duly indicated and relevant conclusions are nuanced. For more information on the methodology, see Annex 4.

2.1 Preliminary remarks

Stakeholders' views collected through the Public Consultation and further substantiated by a targeted survey and interviews underpinning the IA study, identified a clear need for associations to operate and perform activities in different Member States or having the potential to do so, as follows:

Table 2: Stakeholders' views on the need to operate and perform activities in other Member States.⁵⁰

⁴⁵ A recent Eurobarometer survey suggests that almost half of the population of the EU were engaged with civil society organisations in one way or another in 2020 (on average 47% of respondents), including donating money, engaging in volunteering, or taking part in activities civil society organisations offer. [European Parliament \(2018\), Civic Engagement, Flash Eurobarometer \(FL4023\)](#) last accessed on 17/03/2023.

⁴⁶ [Institut national de la statistique et des études économiques](#) (2018) Les associations actives en 2018. Last accessed on 17/03/2023.

⁴⁷ [BÜNDNIS FÜR GEMEINNÜTZIGKEIT](#) (2022), last accessed on 17/03/2023.

⁴⁸ See glossary.

⁴⁹ Data are available for the EU Third sector, shows that a total of 16 million FTE workers in the EU are volunteers (EU-28, including UK). The Size and Composition of the European Third Sector, Lester M. Salamon and Wojciech Sokolowski, 2018.

⁵⁰ The data limitation disclaimer under Market Context applies.

| | |
|--|--|
| EC PUBLIC CONSULTATION⁵¹ | 73% out of 64 respondents (among them, 29 out of 38 associations) agree that associations need to be able to easily operate cross-border in the single market in order to reach their objectives. To note that, in total 13 out of those 38 associations are umbrella organisations and thereby representing a reach of approximately 1,958 individual associations in the EU. |
| TARGETED SURVEY OF THE IA STUDY | 49% of responding associations (43 out of 88) have operations in more than one EU Member State. <hr/> Out of the 50% of responding associations (45 out of 88) operating in one single Member State, 19 % (8 out of 45) have considered expanding their operations to another Member State. <hr/> |

For the purpose of understanding the scale of cross-border activities of associations, this IA reflects the input of a total number of 3 026 associations (including individual associations and umbrella organisations) throughout the overall consultation activities⁵², either in cases where an association directly contributed to a consultation activity, or indirectly, when the contribution was made via the umbrella organisation the association is a member of. In total, 29 umbrella organisations representing the interests and needs of their members were reached out during the consultation activities (more details in Annex 2, Table 1), thereby reinforcing the representativeness of the collected evidence. The following Member States competent authorities contributed to the consultation activities: Estonia, Denmark and France⁵³ (Public Consultation⁵⁴); Belgium, Croatia, Italy, Denmark, Finland, Cyprus, France, Latvia (Targeted Survey⁵⁵); and for the in-depth interviews: Belgium, Bulgaria, Cyprus, Denmark, Finland, France, Germany, Latvia, Lithuania, Sweden.

⁵¹ Given the low number of respondents, any derived conclusion should be read with caution ('re. representativeness').

⁵² These activities included a Call for Evidence (50 replies) and a Public Consultation (64 replies). Moreover, a Targeted Survey (140 replies received out of which 88 are associations) and 64 in-depth interviews (replies from 41 associations) were carried out to further enhance the evidence base.

⁵³ France authorities specifically provided a position paper during the Public Consultation.

⁵⁴ To note that Member State authorities did not provide a contribution to the Call for Evidence.

⁵⁵ Two different bodies provided information for Belgium, Finland and Denmark.

To further support the collected evidence base, the need to facilitate associations to engage in activities and move across different Member States is further corroborated by recent literature.⁵⁶

2.2 What is the problem?

Based on the stakeholder input gathered from different sources – the Public Consultation, the preparation of the IA study, the European Parliament Resolution and its supporting study, as well as two recent independent studies commissioned by the European Commission⁵⁷ the following problem has been identified:

ASSOCIATIONS THAT WANT TO OPERATE ACROSS BORDERS IN THE SINGLE MARKET ARE FACED WITH UNCERTAINTY ABOUT APPLICABLE RULES AND ADDITIONAL ADMINISTRATIVE BURDEN AND COSTS

Figure 2: Problem statement.

The problem refers to both conducting cross-border activities and the possibility for cross-border mobility for associations across the Union, as described below.

Associations concerned by the identified problem

To identify current **associations with cross-border activities**⁵⁸, **there is no direct data available for most EU Member States**. An estimate was developed based on reliable data for Austria and Germany, assuming that 8% of EU associations perform cross-border operations: **310 000 cross-border associations in the EU**.⁵⁹ These associations appear to be organised in several Member States. They are active at the EU or international level in areas such as

⁵⁶ See e.g. Breen, O. B. (2018). ‘Enlarging the space for European philanthropy’, European Foundation Centre (EFC) and Donors and Foundations Network of Europe (DAME); Charrad, Kristina (2014), ‘Why Is There No Statute for a European Association?’, M. Freise, T. Hallmann (eds.), Modernizing Democracy, DOI 10.1007/978-1-4939-0485-3_16, Berlin and New York: Springer Science+Business Media.; and Simon Loubris (2003) ‘European Association Status: the neglect of Europe’s associations’.

⁵⁷ European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, [Comparative legal analysis of associations laws and regimes in the EU: final report \(hereinafter “Comparative legal analysis of associations laws and regimes in the EU: final report”\)](#), Publications Office of the European Union, 2022; Directorate-General for Internal Market, Industry; Entrepreneurship and SMEs, Study on promoting cross-border activities for social economy (to be published by 2023).

⁵⁸ For instance, when associations provide goods and services beyond their de jure or de facto 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. The data scarcity also translates into an absent single definition of a ‘cross border activity’ that can be applied to the available data and research used and developed in Annex 4. Consequently, a relatively broad definition is applied when it comes to data gathering for associations with cross border activities (based on the studies available for Austria and Germany).

⁵⁹ IA study. Estimates are based on data available for Austria and Germany. Data for Estonia and Italy were also available, however not reliable nor representative and were therefore excluded from the estimation exercise. This figure also includes 4 996 so called International NPOs associations, which are established across the EU countries in 2020 (UIA, 2021). Their number has increased about 30 % since 2010 (about 100 INPOs per year). For a detailed overview see Annex 4 (Section 2.5).

healthcare and social services, social inclusion, sports, humanitarian aid, as well as in cross-border innovation and research projects. It is important to note that these figures are best estimates and, therefore, present a risk of overestimation, as extrapolations had to be made, as explained in Annex 4, Section 2.5.

Table 3: Estimated total number of associations and number of cross-border associations at EU level.

| Estimate | Total number of associations | Number of cross-border associations |
|------------------|------------------------------|-------------------------------------|
| | | Cross-Border Share: 8% |
| Lower bound | 3 800 000 | 304 000 |
| Central estimate | 3 870 000 | 310 000 |
| Upper bound | 4 000 000 | 320 000 |

The consequent contribution of cross-border associations to EU GDP is estimated between **EUR 5.7 billion and EUR 7.0 billion** (see table below).⁶⁰ These estimates should be treated with cautiousness, as there might be a risk of overestimation due to limited official data.

Table 4: Estimated contribution of cross-border associations to the EU GDP (2021).

| Lower bound estimate | Upper bound estimate |
|---------------------------|---------------------------|
| EUR 5.7 billion | EUR 7.0 billion |
| 0.04% of total GDP (2021) | 0.05% of total GDP (2021) |

Among cross-border associations, there are associations active in border regions. The IA study survey showed that 70% (30 out of 43 replies) of the associations acting cross-border had activities in at least one border region.⁶¹ In addition, qualitative and quantitative information, building on the participation of civil society organisations, including associations, to implement Interreg programmes,⁶² supports that associations active in border regions are (or desire) undertaking cross-border activities in neighbouring Member States (see box 2).

Box 4: Associations present in Interreg Cross-Border Programmes.

Data from [keep.eu database](https://keep.eu/database)⁶³ for the programme period 2014-2020 provide a good picture about associations involved in different Interreg programmes, thereby indirectly showing that associations have clear incentives

⁶⁰ IA study. Estimates based on the combination of data on the share of FTE working cross-border with the estimated contribution of associations to GDP. As the estimates for cross-border employment are likely to underestimate the true cross-border activities considerably, the upper bound estimate should be seen as more reliable. For more info see Annex 4 (Section 2.7).

⁶¹ IA study. However, due to the limited sample, the study information is insufficient to achieve proper estimations on the total number of associations active in border regions.

⁶² For example, <http://www.at-cz.eu/>

⁶³ 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.

to operate cross-border, including cross-border activities in neighbouring regions. A minimum 1 335 or **15% of all projects had associations** as a partner or consortium leader.⁶⁴ Looking at projects in NUTS III regions from at least two different Member States directly on the borders or adjacent to them (neighbouring regions), associations were engaged in 536 or 6% of the overall projects. Main areas of cross-border, transnational and interregional cooperation involving associations: tourism (10%), cultural heritage and arts (8%), SME and entrepreneurship (6%), sustainable management of natural resources (4%), education and training (4%), social inclusion and equal opportunities (4%), clustering and economic cooperation (4%).

A second group to be considered as concerned by the identified problem are associations that are not yet active in more than one Member State, but which would potentially expand cross-border, if barriers to be specified below were removed. These are associations active domestically with an interest to go cross-border. Arguably, estimating the size of this group of associations is the most challenging, as no clear-cut information is available. Several estimation techniques (based on company data and surveys)⁶⁵ were used to arrive at a “**theoretical maximum potential**” of **350 000 associations** that could be engaged in cross-border activities, should identified barriers be removed. This corresponds to 9% of the total number of associations⁶⁶ in the EU. This is the most conservative approach (e.g. compared to the stakeholder survey showing 17%). This corresponds to a theoretic maximum ‘opportunity cost’ of EUR 7.9 billion (annual contribution to EU GDP) and 140 000 jobs (FTEs working cross-border)⁶⁷. This estimate is the most conservative result that could be used amongst applied methods.

Furthermore, as it is not realistic to assume that any policy option assessed in the IA could solve all identified barriers (as some of them are outside the scope of intervention such as those relating to taxation or labour), the IA study estimated⁶⁸ that **at maximum 185 000 associations could be expected to consider operating cross-border** in the event of sufficient policy

⁶⁴ This is most likely an underestimation as selection could only be based on projects in English, German and French. Projects registers in another language are not selected. These figures are at project level, where at least 1 association is engaged as a (lead) partner. This means that actual participation of associations will be a multitude to the figures above. From the program period 2021-2027 onwards such figures will also become available at partner level.

⁶⁵ In order to estimate the maximum theoretic potential of associations willing to go cross-border, various sources were employed, including Eurobarometer and Eurochambers 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. See Annex 4 (Section 3.2) for detailed steps and sources.

⁶⁶ This figure of 350 000 associations (or 9% of the total number of associations) was triangulated with information collected via the stakeholder survey specifically targeted to associations, which showed 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, a certain selection bias is likely towards respondents from organisations that are interested in the topic of cross-border activities, leading to a slightly overestimated figure. For this reason the **more conservative estimate of 9% was used**. For more details see Annex 4 (Section 3.2).

⁶⁷ Deducted from data on employment and GDP contribution of associations already operating cross-border. For more detail, see Annex 4 (Section 3.2).

⁶⁸ Based on a benchmark of small and medium sized enterprises in services sectors increasing their cross-border trade over a 15-year timeframe.

intervention.⁶⁹ A further element to mitigate the risk of a potential overestimation builds on the fact that, as compared to SMEs in the service sector, associations (i) have more limited operational and financial capacity (ii) are mostly small to micro-organisations and (iii) are much rooted to the territory with missions and business models addressing local markets.

Based on the above qualitative arguments, the table below shows three lower growth scenarios for associations expected to consider operating cross-border in the event of sufficient policy intervention.

Table 5: Different scenarios of associations that could realistically consider operating cross-border in the event of sufficient policy intervention (as a share (%) of “current cross border associations” of 310 000 associations).

| | |
|------------------------------------|---------------------------|
| 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 |

N.B.: to note that only scenarios 1 and 3 will be further used to measure the impacts (IA, Section 6). As scenario 2, 3 and 4 are more conservative scenarios proportionate to the benchmark scenario, only one lower scenario will be further used in the assessment of impacts. For clarity purposes, scenario 1 and 3 will be referred to thereafter as ‘scenario A’ and ‘scenario B’, respectively.

Table 6: Summary of best estimates for associations operating and potentially operating cross border.

| | | | |
|---|--|------------------------|--|
| Total number of associations (EU) | 3 870 000 | % of total | IA Impact Section 6 |
| Associations currently engaged in cross-border activities | 310 000 | 8% | Basis for impact calculations for “recurrent costs” |
| <i>Associations that could potentially operate cross-border (theoretical maximum)</i> | <i>350 000</i> | <i>9%</i> | |
| Associations that could potentially operate cross-border (maximum unlocked in case of policy intervention) | 185 000 (scenario A) 155 000 (scenario B) | 5% 4% | Both scenarios are used as a basis for impact calculations for “one-off costs” and potential benefits |

⁶⁹ Estimate based on developments for SMEs in the service sector. The “30 years of Single Market” report was 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. The same 60% increase is applied to the number of associations estimated to be already active cross-border (310 000). See Annex 4 (Section 2.5).

When considering the **sectors and size** of associations active or willing to operate across-borders, the IA study highlights that no clear evidence exists at hand. In terms of sectoral activity, assumptions can be made that associations operating in sectors with comparable internationalisation degree in the for-profit sector might be more likely to pursue cross-border ambitions, despite of associations generally being rooted to the territory and with potentially fewer international ambitions. In terms of size, the IA study offers arguments supporting the assumption that bigger and more professionalised associations are more likely to operate across border than small ones, as they have more capacity, resources, scaling potential and are more likely to operate in international context driven by trade or knowledge sharing. The deterring effect of costs to operate cross-border is likely to be bigger for smaller associations with little or no paid employees that need to spend additional time to gather information, establish the cross-border activities and comply with any potential legal requirements if no policy intervention occurs. Furthermore, according to interviews during the scoping phase underpinning the IA study, the need to carry out cross-border activities mostly concerns: (i) fields which tend to cover a cross-border dimension (e.g. education, culture, health, environmental and fundamental rights) and (ii) associations with presence in many Member States (as an indication, around 5 000 International NPOs⁷⁰ exist in the EU. Their number has increased by about 30 % since 2010).

Description of the identified problem

As emerged from the Public Consultation, the survey conducted for the IA study and further corroborated by anecdotal evidence, associations face a fragmented landscape of diverse rules or the lack of enabling rules in the Member States applying to their cross-border activities, mobility, and cross-border internal organisation elements (i.e. membership or governance functions).⁷¹ This fragmentation creates an uneven playing field for associations preventing them from enjoying their freedoms in the single market and resulting in regulatory and administrative barriers and unnecessary excessive costs.⁷² This is further confirmed by the legal analysis conducted.

Based on the comparative analysis of laws in the Member States, as conducted in the IA study and building on a recent comparative legal analysis of associations laws and regimes in the EU,⁷³ it appears that, while the legal framework in the Member States is, in principle, adequate

⁷⁰ The [Union of International Associations](#) defines NPOs that are set up in more than one Member State with objectives and activities framed in a European or wider context as International NPOs (or INPOs).

⁷¹ IA study: 36% (16 out of 45) of the surveyed associations active cross-border, indicated to have encountered difficulties with establishing, registering, and/or continues running of operations cross-border. Public Consultation: “an association registered in an EU Member State currently faces restrictions when seeking to operate in another EU Member State”, more than half of the respondents (58% - 37 out of 64) strongly agreed with the statement.

⁷² The importance of costs was raised by 31% (9 out of 33) of the interviewed associations conducted for the IA study. The nature of those costs can significantly vary, ranging from legal establishment costs to legal consulting services for instance. An association that tried to expand to other Member States, but eventually did not, stated that the costs of starting activities in a new Member State would have cost them EUR 30 000. Small associations, as pointed out by one of the interviewed stakeholders, are not able to cope with such expenses. Even if their cashflow is consequent due to their funding model, they do not have the sufficient reserves to disburse important sums and therefore chose not to expand.

⁷³ [Comparative legal analysis of associations laws and regimes in the EU: final report](#)

for the development of associations in a domestic context, barriers in the single market exist in four areas: 1) the cross-border activities of associations in relation to their right to establishment, thereby hampering associations' capabilities to provide services and goods in the single market; 2) the movement of capital in the single market; 3) the possibilities for cross-border membership and participation in governance bodies; and 4) associations' possibilities for cross-border mobility.

As it will be described in more detail under the respective problem drivers below, barriers consist of de jure or de facto uncertainties, restrictions or requirements resulting in burdensome administrative processes and costs, in particular, regarding the recognition of the legal personality, registration formalities, secondary establishment, cross-border mobility, cross-border donations, membership and governance. Overall, it is rare that a specific restriction is present across all Member States. On the contrary, in many cases, only a few Member States retain a certain type of restriction, as is explained in Annex 11.

The above-mentioned barriers are distinct to associations and have been invoked by interviewed associations⁷⁴ as one of the causes of their reduced cross-border capacity, including to be active in the single market as providers of services and goods. Other barriers are in line with generic barriers in the single market, such as difficulties in obtaining information on the relevant regulatory requirements, problems related to registration of economic activities in another Member State, and burdensome procedures due to differences in tax systems and administrations.⁷⁵ Furthermore, associations present in services sectors face general barriers, as do entities established in other legal forms, including those related to requirements of having a specific legal form, as indicated by reports published by the European Commission.⁷⁶

Main barriers encountered by associations operating across borders (as identified in the IA study) are:

⁷⁴ IA study. For example, 33 associations participated in the interview. The most prominent problem they raised was the different set of national rules for establishing the legal personality of associations (14 associations), followed by the different set of rules defining the associations themselves in the various Member States. For more details see Annex 2.

⁷⁵ COM/2020/93. [Commission Communication on Identifying and addressing barriers to the Single Market](#) of 10.03.2020.

⁷⁶ European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, Mapping and assessment of legal and administrative barriers in the services sector: summary report, Publications Office, 2021.



Figure 3: Barriers encountered by associations operating cross-border.

To note that some of the identified barriers, such as obtaining recognition of tax-benefits (e.g. value added tax [VAT], income tax and tax breaks linked with charitable donations) and administrative procedures and controls when opening or closing bank accounts will not be addressed by the current initiative, taking into account the limited EU competencies in the area of taxation, as well as the overall single market focus of the initiative. To note that a common denominator in many Member States⁷⁷ is the so-called public benefit status, which often unlocks access to both of the said aspects.⁷⁸ There are significant challenges in having this status recognized in cross-border contexts, despite CJEU case law establishing a principle of non-discrimination (details are found in Annex 12). This said, these aspects will be covered by the Commission Staff Working Documents on the state of play of taxation frameworks in Member States and on non-discriminatory taxation of charitable organisations and their donors, as explained in section 1.2 and elaborated further in Annex 9. Furthermore, regarding VAT, as of 2025, associations engaging in economic activities that qualify as SMEs can benefit from the new simplification rules which will open the VAT exemption to small businesses established in other Member States and help reduce VAT compliance costs,⁷⁹ thereby also positively affecting the situation for associations operating cross-border. When pertaining to the EU anti-money-laundering and counter-terrorism legislation, the stakeholder consultation of this IA has raised problems associations face when opening bank accounts and accessing other financial services.⁸⁰ These will also not be covered under this initiative.

The identified barriers, as developed under the problem drivers below, illustrate the range and scale of the problems faced by associations in the single market. This situation hampers associations currently active across borders in the Union (310 000 already active across borders) or discourages associations wishing to go cross-border (350 000 estimated as theoretical maximum potential number to expand their activities cross border, yet the IA takes

⁷⁷ (Austria, Bulgaria, Germany, Spain, France, Croatia, Hungary, Ireland, Luxembourg, Romania), see [Comparative legal analysis of associations laws and regimes in the EU: final report](#).

⁷⁸ Indirectly, via fiscal facilities tax-privileged status for private donors (e.g., Estonia, Spain, Hungary, Romania, Sweden, Slovenia) or recipient associations (Austria, Germany, Bulgaria, Denmark, Estonia, Spain, Finland); and/or directly preferential access to public funds and use of public assets (e.g., Bulgaria, Hungary, Romania).

⁷⁹ [VAT scheme for Small Businesses \(europa.eu\)](#).

⁸⁰ Associations raised these points during the in-depth interviews regarding compliance complexity related to banks as one of the main difficulties associations face when acting in a single Member State (6 out of 15). For more details see Annex 2.

185 000 as a more realistic proxy to base the analysis) to benefit from the freedoms granted by the single market and reach their full potential as economic and civic actors.

2.3 What are the problem drivers?

The relationship between the problem itself, its drivers, as well as its consequences is set out below in the problem tree table, Figure 4.

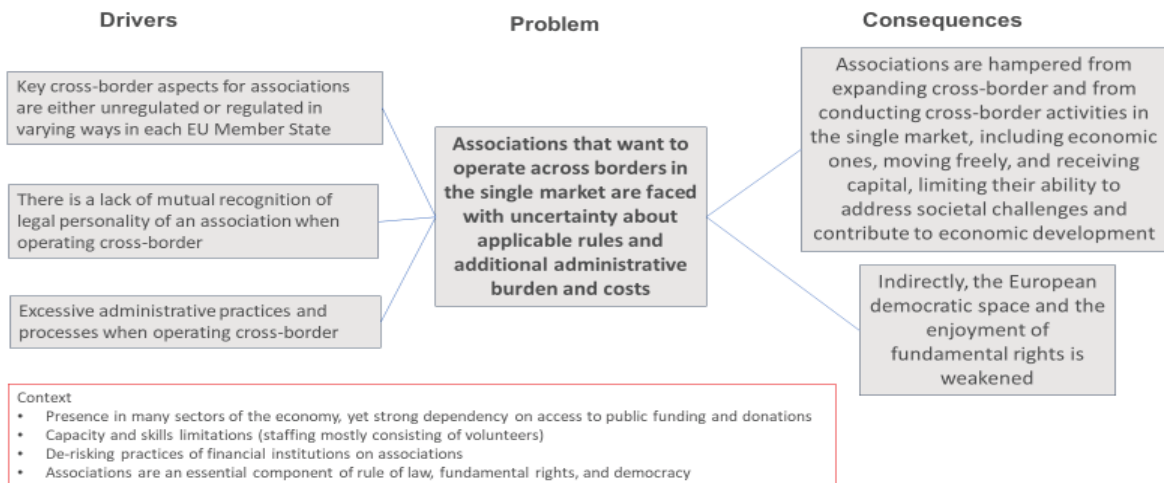


Figure 4: Tree table of the problem definition.

2.3.1 Driver 1: Key cross-border aspects for associations are either unregulated or regulated in varying ways in each EU Member State

The differences in legislation across Member States concerning the recognition of their legal personality and related formalities, economic activities (provision of services and goods), cross-border mobility, cross-border capital transfers and internal organisation elements of associations create legal uncertainty and burden cross-border associations in several ways, including through additional costs or effort in order to find basic information about applicable rules on regulatory requirements and administrative procedures in the Member State(s) in which an associations seeks to operate.⁸¹

More specifically, when asked in the context of Public Consultation about the most important needs for associations that operate or want to operate in more than one Member State, about one fourth (i.e. 24% - 48 out of 64) of respondents indicated the provision of services in another Member State without registration as most important. In this context, it is worth noting that

⁸¹ IA study: 36% (i.e. 16 out of 45) of the surveyed associations active across borders indicated to have encountered difficulties with establishing, registering, and/or conducting activities cross-border. Results from the Public Consultation show, among the identified causes of restrictions that associations face when operating across borders, the following ones: associations' lack of knowledge/understanding of legislation in other Member States (53% - 34 out of 64), lack of administrative procedures taking into account cross-border activities of associations (52% - 33 out of 64), incompatible legislation between Member States (50% - 32 out of 64).

challenges SMEs are facing when it comes to understanding regulatory requirements⁸² also apply to associations engaging in economic activities and concurrently falling within the definition of SMEs.⁸³ Among the needs based on the replies to the Public Consultation, were also cross-border mergers (i.e. 39% 25 out of 64 respondents) and conversions (i.e. 40% 26 out of 64 respondents).⁸⁴

According to the comparative analysis of national laws and as outlined earlier in Section 2, while there is a number of common traits when it comes to association laws at Member State level (illustrated in Annex 10), significant differences exist. Furthermore, most national legislations do not attempt to facilitate cross-border issues, which is the targeted focus of this initiative.

As said above, regulatory and administrative barriers concerning this driver and affecting cross-border associations exist in four particular areas: 1) related to the right to establishment and thereby hampering associations' capabilities of the provision of services and goods; 2) related to the movement of capital (i.e. donations, membership fees), 3) related to the possibilities for cross-border membership and participation in governance bodies, and 4) related to their possibilities for cross-border mobility.

Regarding establishment, a key challenge is the variation in the Member States of the recognition of a non-domestic association's legal personality. While no mechanism exists at EU level, practices vary from automatic recognition to no recognition, requiring expanding associations to set up a new legal entity or branch in the other Member State. This point will be elaborated separately under Driver 2 below.

Concerning cross-border mobility, key aspects are largely unregulated, including cross-border conversions, mergers and divisions.⁸⁵ This causes legal uncertainty for interested associations. Moreover, a few Member States explicitly impose restrictions, such as excluding the possibility for an association to transfer its registered office abroad, without going through a process of liquidation.⁸⁶

Concerning movement of capital (i.e. donations, including gifts, and inheritances), which is a crucial foundation of the existence of many associations⁸⁷, they face varying requirements such

⁸² COM/2020/93. [Commission Communication on Identifying and addressing barriers to the Single Market](#) of 10.03.2020.

⁸³ Based on the definition of an SME in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (Text with EEA relevance) (notified under document number C(2003) 1422): "...an enterprise should be considered to be any entity, regardless of its legal form, engaged in economic activities, including in particular entities engaged in a craft activity and other activities on an individual or family basis, partnerships or associations regularly engaged in economic activities."

⁸⁵ Results from the Public Consultation show that 28% (i.e., 18 out of 64) reported differences between Member States of liability, liquidation and dissolution regimes as one of the most significant restrictions faced associations when engaging in activities across borders.

⁸⁶ Austria and Germany.

⁸⁷ For the purposes of this IA, donations are the most relevant cross-border capital transfer, including gifts and inheritances. See e.g. C-78/18.

as transparency duties,⁸⁸ additional duties of care⁸⁹ or even State approval⁹⁰ which, although applied also for domestic associations, especially affect foreign associations,⁹¹ thereby restricting the free movement of capital relied upon by associations.⁹² This links also to Driver 3. According to the in-depth interviews conducted with associations, 22% (4 out of 18) reported difficulties in receiving donations from other countries.

Box 5: Example of restrictions for an association to receive donations.⁹³

Example: In Belgium, associations need State approval for donations from individuals exceeding EUR 100 000, which is a restriction on an association's possibility to receive capital and on foreign donors to donate across borders in the EU.

Source : Arrêté ministériel du 14 avril 2005 exécutant les articles 16, 33 et 54 de la loi du 27 juin 1921 sur les associations sans but lucratif, les associations internationales sans but lucratif et les fondations.

Furthermore, legal restrictions that associations face exist in relation to their cross-border governance and membership. In Poland, non-nationals cannot establish an association, but can join it only after it is established. In Finland, the chairperson of the executive committee of an association must be resident in the country. These issues are further specified in Annex 11. Further, results from the Public Consultation show that 23% (15 out of 64) of the respondents identified *differences between Member States in membership requirements* as one of the restrictions when associations engage in activities across borders. Further challenges arise from the differences and legal limitations in possibilities to use modern technology in the governance of associations, such as arranging meetings of the general assemblies virtually.⁹⁴

2.3.2 Driver 2: Lack of mutual recognition of legal personality of an association when operating cross-border

When asked what they considered to be the causes of the restrictions that associations face when operating across borders in the single market, 58% (i.e. 37 out of 64 respondents) of the respondents to the Public Consultation identified the lack of recognition of an association's legal personality in other Member States. There is a general absence of rules at EU level and at Member State level allowing for automatic recognition of an association's legal personality in the EU, which creates uncertainty and fragmentation. For cross-border associations, this results in either mandatory legal requirements for establishing a new legal entity or a branch,

⁸⁸ This is the case for Cyprus and Greece, for more details see Annex 11.

⁸⁹ This is the case for Germany, for more details see Annex 11.

⁹⁰ This is the case for Luxembourg and Belgium, for more details see Annex 11.

⁹¹ In this respect, it should be recalled that also national measures which apply equally to domestic and imported goods could inhibit the free movement of goods based on the differences between the national rules of the Member States, see case C-120/78.

⁹² IA study. In some MSs there are some restrictions to donations from abroad, e.g. in Cyprus the source of any revenue shall be known and lawful, in Greece there is an obligation for associations to disclose donations above a certain amount, in Belgium and Luxembourg the state approval is required for donations above a certain threshold, and finally in Germany donations may trigger additional duties of care for banks and accountants. See Annex 11 for more details.

⁹³ IA study.

⁹⁴ IA Study.

as is the case in a few Member States⁹⁵ or legal requirements for registration in a public register, only after which the association's legal personality is recognized, which is the case in another few⁹⁶

The main exception to this concerns eight EU Member States that have ratified the Council of Europe Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (see also Section 1.3), given that these Member States have agreed to mutually recognise “as of right” the legal personality and capacity of associations meeting the criteria set in the Convention (such as non-profit aim of international utility, and activities in at least two Member States), as acquired by the Member State where the organisation has its statutory offices. To benefit, associations would need to operate between these Member States which have ratified the Convention, which leaves the single market fragmented.

Box 6: Example of an association facing various challenges in border regions.⁹⁷

Example: Establishment of a single cross-border entrance for the European Archaeological Park at Bliesbruck-Reinheim

The aim was to create a European Archaeological Park between the region of Bliesbruck in France and Reinheim in Germany, including a single cross-border point of entry, using the legal form of an association. The different legal frameworks in France and Germany make it difficult to choose the best possible legal structure. The establishment of a joint entrance involves various legal matters to be addressed and various potential barriers were identified.

Full recognition in a Member State of the legal personality of an association established in another Member State and equal treatment with the associations of the respective Member State could arguably reduce these challenges.

[Source: 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. 59-61.]

Box 7: Example of burden resulting from absence of recognition of an association's legal personality.

A pan-European association active in the democracy and fundamental rights sector needed a full year to be registered in one Member State, while the same process lasted on average 3 months in another Member State. This was due to the absence of recognition of the legal personality and the lack of knowledge of the local administration about legislation in another Member State which was different.

[Source: IA study]

⁹⁵ e.g. Greece, Slovakia, and Spain.

⁹⁶ e.g. Croatia, Cyprus, Romania.

⁹⁷ See also Annex 8 on challenges faced by associations present in border regions.

2.3.3. Driver 3: Excessive administrative practices and processes when operating cross-border

In the Public Consultation, when asked about the most often mentioned types of restriction faced by associations when engaging in economic activities across borders, more than half (i.e. 52% - 33 out of 64) of respondents referred to: administrative formalities to implement actions in another Member State without prior registration and registration procedures in another Member State (cost, case handling time, uncertainty about constitutive elements etc.). The replies from the Public Consultation refer to registration requirements as a condition for being able to operate in another Member State, in some cases for the purpose of achieving recognition for their legal personality (as also described in Driver 2 above). In addition, close to half (i.e. 47% - 30 out of 64) of respondents reported as barrier registration requirements in relation to VAT when conducting activities abroad.

Another example concerns the transfer of seat, which is restricted in some Member States,⁹⁸ requiring an arduous process of dissolution. This is supported by evidence from the Public Consultation, where 40% of the respondents (26 out of 64) identified ‘transfer of seat’ as one of the most important needs for associations operating or willing to operate in more than one Member State.

This leads to the understanding that administrative practices and processes are a barrier in cross-border contexts. To be precise, it is not the case only for associations. When identifying existing barriers in the single market, several surveys consistently quote complex administrative procedures as being one of the most serious obstacles in the single market, particularly for SMEs.⁹⁹ The scale is however magnified for associations when taking into account their limited operational and financial capacity and their non-profit character, as well as in comparison with those of other actors in the single market.¹⁰⁰ For example, the requirement to set up a distinct legal entity or a branch regardless of the nature of operations in question or the obligation to seek approval for or register cross-border capital transfers in certain Member States, as described under Driver 1. In the Belgian example below the process for seeking approval for receiving a donation from abroad may take up to three months.

⁹⁹ European Commission: Identifying and addressing barriers to the Single Market. COM (2020)93.

⁹⁹ European Commission: Identifying and addressing barriers to the Single Market. COM (2020)93.

¹⁰⁰ IA study.

Box 8: Examples of excessive administrative practice.

An association active in the democracy and fundamental rights sector pointed at particular requirements of the registration process in Belgium: an association is required to have a physical address in Belgium to register (and ultimately to operate in Belgium).

[Source: IA study.]

The notary procedure is a regular obstacle for pan-European boards and slows down communications with association registers. For example, it is not possible to use German notarial services from Belgium or to submit documents via the diplomatic representation as an alternative. A mixed-national board must therefore appear in person at a notary's office in Germany "in a number authorised to represent" (in vertretungsberechtigter Zahl) in order to submit amendments to the articles of association to the German registry court.

[Source: Call for Evidence.]

Finally, the burden emanating from administrative formalities, for instance from the effort needed to organise and collect documents and arrange for translations, is linked to an insufficient degree of administrative cooperation between authorities of the Member States. In-depth interviews in connection with the IA Study highlighted that language capacity is observed as a barrier for both associations' staff and administration employees. Formal documents usually need to be submitted in the official language of the relevant Member State.¹⁰¹ In part, this burden could be alleviated by improving the access to information and administrative cooperation, by leveraging digitalisation and digital tools.

2.4 How likely is the problem to persist?

Without any policy intervention, the identified barriers associations are facing in the single market are likely to persist. These barriers are of legal or administrative nature resulting from the application of law, hence it cannot be expected that non-binding initiatives, such as those announced in the Social Economy Action Plan or the mentioned initiatives of the Council of Europe (as outlined in Section 1), can resolve them fully or to a meaningful extent.

There is no indication of Member States planning legislation in this space and there is currently a general lack of legislative measures in Member States addressing specifically the cross-border activities and mobility of associations. Only one Member State (Belgium) has a dedicated legal form concerning international activities and only three Member States (Bulgaria, Croatia and Cyprus) regulate individual elements, such as explicitly mentioning the possibility to establish a branch in another country. Overall, Member State-level measures are of limited benefit, in the absence of a simple way to obtain recognition of the legal personality of associations, facilitating mobility as well as the free movement of capital, and the provision of goods and services cross-border. Moreover, as already indicated, a cross-border conversion requires dissolution of the association and liquidation of its assets in two Member States. (These cases are described in Annex 11).

¹⁰¹ IA Study

Furthermore, the magnitude of the social and economic consequences is expected to grow for the following reasons:

- Bearing in mind data limitations, there appears to be an increasing need for associations to operate cross-border – involving not only recurring activities, but also cross-border restructuring and mobility – based on the results from the Public Consultation, where 45% of the respondents strongly agree that associations are likely to increase cross-border activities in the EU single market in the future and that these organisations might be inclined to enhance their activities further if barriers were removed.¹⁰²
- The nature and scale of successive crises (pandemic, the Russian aggression on Ukraine, high energy prices, disrupted supply chains), current challenges (fight against climate change, digital divide, migration, aging demographics, disinformation) and a “Just Transition leaving no one behind” require mobilisation of all actors, including the non-profit sector. These challenges call for long-term action across Member States, especially in sectors in which the presence of associations is strong such as health, fundamental rights, humanitarian aid, communication and advocacy, education, culture.¹⁰³
- The civic space is reported to be shrinking in parts of the Union, and pressure on civil society organisations, associations included, from state authorities and non-state actors is increasing.¹⁰⁴ Overall civil society organisations report a range of challenges, obstacles and restrictions in certain Member States that have limited their ability to carry out their activities, thereby hampering associations capacity to fulfil their purposes and restrict their fundamental rights and those of their members.¹⁰⁵
- While the IA study generally suggests that the developments in the number of associations have been dynamic across Member States between 2011 and 2017,¹⁰⁶ the growth trend seems to slow down in recent years. As suggested in the IA study, although year-on-year changes in their numbers are relatively small, associations seem to remain an important social and economic driver. However, when it comes to International NPOs, there is a growth trend (30% increase in 10 years time). This trend confirms the growing interest of associations to operate across borders, and more precisely in a pan European context.¹⁰⁷

¹⁰² 19% respondents somewhat agreed (12 out of 64), 11% indicated neutral (seven out of 64), 8% somewhat disagreed (five out of 64), 9% strongly disagreed (six out of 64) and 8% indicated no opinion or did not know (five out of 64).

¹⁰³ Examples, most of which are cross-border, in the context of the UA war have been included in the 2022 Charter report [1_1_201131_2022_charter_report_en.pdf \(europa.eu\)](#), p. 4.

¹⁰⁴ [EUROPE'S CIVIL SOCIETY: STILL UNDER PRESSURE — Update 2022 \(europa.eu\)](#)

¹⁰⁵ 2022 Charter report [1_1_201131_2022_charter_report_en.pdf \(europa.eu\)](#), p. 4.

¹⁰⁶ IA study. E.g. the number of associations in France and in Germany grew respectively by 2.4% and by 3.4% in the same period.

¹⁰⁷ UIA, 2021.

3. WHY SHOULD THE EU ACT?

3.1 Legal basis

In light of the identified problem and objectives, as well as their socio-economic value in the single market created by associations, the initiative could be based on Article 114 TFEU on the approximation of national rules for the establishment and well-functioning of the single market, Article 50 TFEU on attaining the freedom of establishment for associations in the single market or on article 352 TFEU, which provides an appropriate legal base when no other provision in the Treaty gives the necessary powers for EU institutions to adopt a measure, depending on the precise content.

The main aim of this initiative is to address the barriers described in section 2 which create fragmentation with regard to applicable rules on associations in the single market, resulting in legal uncertainty, undue administrative burden and costs. Therefore, Article 114 TFEU could be an appropriate legal basis for measures aiming at harmonising aspects of national legislations on cross-border activities of associations, for instance the conditions for recognition of the legal personality of associations, which is the one of the most basic conditions, if an association seeks to conduct activities in another Member State and thus enable associations to enjoy their freedom to provide services and goods in the single market. Article 114 TFEU could also be the appropriate basis for measures aiming at the approximation of national laws concerning the freedom of movement of capital (excluding any measure on taxation) and the capacity of associations to send/receive capital in the single market, in particular to benefit from cross-border funding and donations.

Article 50 TFEU could serve as legal basis for measures that facilitate the exercise of the right of establishment of associations and their mobility (cross-border conversions and mergers of associations). This could also cover rules on the registration and the formalities linked to the registration which limits the possibility for associations to operate cross-border and thus enable them to enjoy their freedom of establishment and association in the single market.

Article 352 has been used for the creation of new forms of legal entities at EU level,¹⁰⁸ which leaves unchanged the different national laws in existence and does not aim to approximate the laws of the Member States.¹⁰⁹

The legal basis will depend on the final content of the proposal. For each of the available policy option, it is necessary to assess which could be the appropriate legal basis. In light of the single market objectives, the scope, and the approach of preferred option (see section 8), this initiative is likely to be based on either Article 114 TFEU, Article 50 TFEU or on a combination of the two. This initiative is subject to the shared competence of the EU, and therefore the subsidiarity and proportionality principles apply.

¹⁰⁸ For instance Regulation 2157/2001 on the European association, Regulation 1435/003 on the European cooperative society.

¹⁰⁹ CJEU C 436/03

3.2 Subsidiarity: Necessity of EU action

The key problem drivers result from regulatory diversity and/or restrictions among Member States. The current situation, as described in previous sections, demonstrates that the problem is not properly addressed at national level and that, in the absence of mutual recognition mechanisms among Member States, its cross-border character requires a European solution to remove identified barriers to the cross-activities and cross-border mobility of associations in the EU single market.

The problem is not only limited to certain territories or regions but appears widely as associations are present in all Member States. There is little coordination by individual Member States to facilitate cross-border activities, mobility and capital transfers of associations. Such coordination, although theoretically possible, appears unlikely in the near future¹¹⁰. For instance, notwithstanding the withdrawal in 2005 of the Commission proposal for a Council regulation on the statute for a European association, only few Member States have legislated in ways to facilitate cross-border aspects of associations: either by enacting provisions to allow establishing branches abroad¹¹¹, s to allow associations' cross-border mobility to another Member State in some way¹¹², or by ratifying the Council of Europe Convention on the recognition of international non-governmental organizations (which may cover also associations)¹¹³ have introduced measures allowing cross-border mergers and divisions, whereas one Member State expressly prohibits merger and division of domestic associations with associations which are not entered in the national register.¹¹⁴ In particular, individual action or inaction by Member States, most often, focuses on their specific national context and usually would not seek to facilitate the cross-border dimension. Relying on Member State action alone, it is likely that the legal, administrative, and economic barriers for associations would therefore persist.

The objective of this initiative cannot be achieved sufficiently by the Member States and can be better achieved at Union level.

3.3 Subsidiarity: Added value of EU action

Without intervention at Union level, Member States will keep their national rules, resulting in the continuation of fragmentation of requirements and limitations, therefore not allowing a level playing field for associations in the single market. As indicated in the European

¹¹⁰ Although the existence of legal forms at EU level for cross-border cooperation such as the Territorial Grouping for Territorial Cooperation (EGTC), they ultimately cannot meet the objectives of the current initiative (as explained in Annex 8). Furthermore, Annex 9 details existing EU legal forms that may be partially used by non-profit associations for cross-border purposes and their specific limitations.

¹¹¹ Bulgaria, Croatia and Cyprus.

¹¹² Luxemburg, Italy and Portugal.

¹¹³ Netherlands.

¹¹⁴ Estonia.

Parliament's resolution, the intensity and volume of cross-border activity of associations does not reach its potential. Only EU action would enable the adoption of common or mutually recognised rules that would ease the cross-border activities and mobility of associations. By acting, the EU would provide a clear and predictable framework enabling associations to fully benefit from their single market freedoms. Indirectly, EU intervention may potentially help to promote the diversity and strengthen the potential of the non-profit organisations, of which associations are the dominant legal entities, thereby contributing to unleashing the full potential of the non-profit sector.

4 OBJECTIVES: WHAT IS TO BE ACHIEVED?

The links between the identified problem and the objectives of this initiative are presented in Figure 5 below.

Figure 5: Tree table of the links between problems and objectives.



4.1 General objectives

The general objective of the initiative is to **improve the functioning of the single market by removing legal and administrative barriers for associations operating in more than one Member State**. This includes enabling associations to fully benefit from the single market freedoms, in particular the freedom of establishment (including facilitating mobility of associations), the freedom to provide and receive services and goods, as well as the free movement of capital (such as cross-border donations and membership fees). Removing these barriers would make it easier for associations to engage in activities across Member States and enable them to unleash their full potential to generate economic and societal value in the EU.

Although no direct cause-effect link may be established and while this initiative is centred on the functioning of the single market for associations, improving the conditions for associations to operate in the single market could have indirect spill-over effects on strengthening civil

society in the EU and its potential to lower the threshold of citizens' engagement in different sectors across the Union.

4.2 Specific objectives

The specific objective of the initiative are:

1- Improve possibilities for an association to have its legal personality recognized in other Member States, thereby ensuring equal treatment in the single market

Associations conducting cross-border activities do not benefit from the same legal recognition across the EU. Recognition of legal personality – whether automatic across the Union or mutual between Member States – can overcome burdensome bureaucratic procedures to be repeated in each Member State in which associations wish to expand their activities, by notably avoiding multiple registrations or setting up multiple legal entities, resulting in red tape and additional costs.

2- Reduce the regulatory formalities for associations operating in more than one Member State

An enabling regulatory framework for the cross-border activities and mobility of associations is necessary in order for them to operate seamlessly in the single market. Reducing the regulatory formalities, in particular regarding existing barriers to their cross-border activities, such as administrative formalities related to registration, service provision, receiving capital, as well as related to the recognition of legal personality, cross-border conversions, and cross-border mergers.¹¹⁵ Digital solutions when addressing these administrative and regulatory formalities should be also considered to address problems described under Driver 3 in Section 2.3.3.

The progress to achieving the specific objectives can be measured through the monitoring indicators described in Section 9.

5 WHAT ARE THE AVAILABLE POLICY OPTIONS?

5.1 What is the baseline from which options are assessed?

In the baseline scenario, no policy intervention is introduced at the EU level, with associations continuing to be governed exclusively by national law. Existing barriers (as described in Section 2) will most likely remain or in some cases worsen in light of societal challenges, future crises and market developments (see Section 2.4).

¹¹⁵ These are all defined in the Glossary.

The baseline includes a brief description of the wider socio-economic context and the relevant policy action at EU and international level that might impact on the magnitude of the problem.

5.1.1 Socio-economic context

Associations will continue to play an active role in the society and, many of them, will continue to provide goods and services in areas of limited profitability (i.e. the goods and services they provide are partially at market prices, partially below).¹¹⁶ In addition, when this is part of their mandate, associations will continue to build awareness and advocate for policies and legislation, as well as the protection and promotion of fundamental rights. They will promote engagement and effective participation of citizens in the policy-making processes and in so doing contribute to the democratic foundations of the Union.¹¹⁷ They will do all the above either nationally or beyond the borders of individual Member States. Associations will offer essential services for society and will play an instrumental role in the fight against current or new societal challenges. For example, ageing demographics will exponentially increase the need for elderly care and healthcare services, both of which are sectors where associations are key service providers.¹¹⁸ Such trends will also continue in the absence of policy intervention, with associations continuing to face the identified regulatory and administrative burden when operating across borders.

Although the vast majority of associations operate in a domestic setting, an increasing role for international NPOs and findings from the Public Consultation and the survey conducted under the IA study, are an indication that a growing number of associations are expected to either operate or are exploring opportunities to operate in another Member State, therefore magnifying the identified problem.¹¹⁹ Not removing the identified barriers burdening associations already active cross-border (an estimated of 8% of all associations in the EU) and discouraging those who would be interested to expand cross-border, would ultimately limit the distribution of the value created by these associations and by their potential individual and corporate donors, instead of diffusing these services, goods and assets across different Member States. Consulted associations expressed the need for a level-playing field to carry out their purposes which often require by nature a cross-border dimension.¹²⁰ Solidarity going in principle beyond borders and the societal challenges linked with a ‘perma-crisis mode’ in recent years – including challenges related to the green and digital transitions – require scaling of action of all actors.

Some relevant megatrends are, therefore, identified to strengthen the dynamic baseline through foresight-based analysis. First, associations play an important role in prospects and anticipation when it comes to “*Changing nature of work*”¹²¹. In this regard, associations, as social economy actors, offer participatory business and management models which increase employees’ wellbeing and improve employability for those with a distance to the labour market, thereby

¹¹⁶ IA study.

¹¹⁷ [Europe's civil society: still under pressure - 2022 update | European Union Agency for Fundamental Rights \(europa.eu\)](#) and [2022 Rule of law report \(europa.eu\)](#).

¹¹⁸ [Increasing demographic imbalances | Knowledge for policy \(europa.eu\)](#).

¹¹⁹ The European Parliament resolution of February 2022 is also based on this assumption.

¹²⁰ Indicated by multiple associations interviewed during the scoping phase of the IA study.

¹²¹ [Changing nature of work](#), Megatrends hubs, Competence Centre on Foresight of the Joint Research Centre, European Commission.

contributing to sustainable working environments. Also, associations will continue to play an important role by upskilling and reskilling people with a distance to the labour market and in jobs transition. Associations active in the area of “*Climate change and environmental degradation*”¹²² will continue to play a crucial role in the development of political agendas at the local level (e.g., nature preservation, biodiversity) or EU and global level (e.g. climate and environmental protection action, wildlife protection); and they can act as innovators when it comes to raising awareness, designing new circular and ecological products, services and business models. In doing so, associations active in the environmental sphere are also contributors when coping with resources and environmental challenges related to the “*Growing consumption*”¹²³. For example, agrifood related associations may bring alternative solutions through innovative methods applicable in agriculture and in support of a sustainable food supply. The experience of many associations in the circular economy is also expected to bring valuable contributions in terms of recycling, upcycling, eco-design, shared and collaborative economy. Other megatrends where associations are expected to offer a major contribution in the future are the “*Shifting health challenges*”¹²⁴ as many associations are operating in health, care and social service provision where they drive innovation and bring new organisation methods, techniques and services. Finally, associations are expected to continue playing a major role in the anticipation towards the “*Increasing demographic imbalances*”¹²⁵; for example, by offering a major contribution to aid and development programmes for most vulnerable countries and regions in the world.

5.1.2 Costs of operating cross border (baseline)

Estimates in the IA study show that, without policy intervention, up to 75 000 new jobs (i.e. additional FTEs working cross-border) and an additional contribution to the EU GDP of EUR 4.2 billion would not be generated, as up to 185 000 new associations would not be created. This reflects the “opportunity cost” of no action, in line with the maximum theoretical potential. Given the risk of overestimation, a second scenario was developed (see Section 2). This scenario shows that without policy intervention, up to 63 000 jobs, 3.5 billion GDP of EUR and 155 000 new associations would not be created.

Based on desk research, interviews and stakeholder surveys conducted in this IA, the most relevant costs related to identified barriers are categorised in two main cost types and several costs subtypes:

- 1) Associations operating across borders that are bound to allocate resources to unnecessary or excessive compliance activities and administrative burden. They experience costs grouped in three subtypes: (i) information cost (internal), (ii)

¹²² [Climate change and environmental degradation](#), Megatrends hubs, Competence Centre on Foresight of the Joint Research Centre, European Commission.

¹²³ [Growing consumption](#), Megatrends hubs, Competence Centre on Foresight of the Joint Research Centre, European Commission.

¹²⁴ [Shifting health challenges](#), Megatrends hubs, Competence Centre on Foresight of the Joint Research Centre, European Commission.

¹²⁵ [Increasing demographic imbalance](#), Megatrends hubs, Competence Centre on Foresight of the Joint Research Centre, European Commission.

compliance cost (internal), (iii) direct cost/external advisory cost (external running cost).

- 2) Associations that want to operate and cooperate in the single market but are hindered in doing so due to high (perceived) cost of expansion. They experience: (i) internal staff costs, including the time spent to familiarise with national legislation (e.g. labour and tax laws) applicable in the Member State where the association wish to expand its operations and the time spent to prepare such expansion, (ii) registration costs/ administrative fees, (iii) external advisory services (e.g. legal and/ or tax advisory, accounting services etc.)

The above cost categories are mainly related to the three problem drivers described in Section 2.3 informing the problem definition (i.e. cross-border aspects for associations are either unregulated or regulated in varying ways across Member States; lack of mutual recognition of legal personality of an association when operating cross-border; and excessive administrative practices and processes when operating cross-border).

Operating costs

It is important to note that associations face costs of operating cross-border that consist of (i) *fixed costs* that cannot be reduced by policy intervention, (ii) *excess cost*¹²⁶ that exist (or potentially exist) and can potentially be avoided, due to policy intervention. When looking at the cost for the launch of operation in another Member State, the excess cost also represents a barrier to entry in the single market. Therefore, cost reductions do not necessarily equal ‘cost savings’ as these costs block off an entry rather than being reduced.

When it comes to (recurrent) cost of operating cross-border, factors linked to country specificities and the size and types of activity of the associations are determining and may vary greatly. While some contextual factors may improve the situation (e.g. digitalisation, more cooperation between certain Member States), others may worsen costs and administrative burden. Moreover, the factor whether an association is active in two or more Member States plays a role. Typical costs reported 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. In addition, there are also annual legal, accounting, tax or other advisory services that associations require. As the targeted survey and in-depth interviews of the IA study show, a clear improvement of the situation cannot be expected without policy intervention.

Bearing these considerations in mind, under an assessed timeframe of 15 years, no action is expected to lead to the excess cost for associations operating cross-border, as outlined in the Table 6 below:

¹²⁶ IA study. “Excess costs” 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. More details in Annex 4.

Table 7: Excess cost for associations operating cross-border (recurrent).¹²⁷

| | Per year | 15 years |
|---|-------------------|-------------------|
| Information cost (internal staff) | ~ EUR 350 million | ~ EUR 5.2 billion |
| Compliance cost (internal staff) | ~ EUR 190 million | ~ EUR 2.8 billion |
| Direct cost/External advisory cost (External running cost) | ~ EUR 230 million | ~ EUR 3.5 billion |

Launch costs

The current legal and policy framework requires familiarisation with the national requirements, the set-up of a correct legal form and registration in the Member State where the association wishes to expand. Registration costs (and obligations) vary across Member States, ranging from 0 (free of charge) to EUR 300 – EUR 350.¹²⁸ Most associations also need to rely on external legal or tax advisory support for their establishment in a new jurisdiction, while it is estimated that associations' own staff spends between 9-20% of FTE to organise the establishment of operations in another Member State (per launch).¹²⁹

The elements above determine the estimation of current average **(one-off) cost¹³⁰ for setting up cross-border operations** (per launch). This baseline is calculated at EUR 5 650 capturing an excess cost¹³¹ of EUR 2 150.¹³² This means that an 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, which brings excessive (unnecessary) cost due to the

¹²⁷ IA study. "Staff costs": input figures based on surveyed associations, expert interviews (time spent on cross border activity and complexity: information and compliance). Direct costs: annual legal, accounting, tax or other advisory services that associations require. Input figures based on surveyed associations. Calculations based on 310 000 current associations operating cross border. For more detail see Annex 4 (Section 2.4).

¹²⁸ IA study. With the exception of few countries where registration fees depend on the value of associations/foundation's assets and can exceeds EUR 1 000 (e.g. Malta), or notarial deeds are prescribed by the law for specific cases (e.g. Belgium for INPAs, ranging EUR 2 000 – 2 500). Various Member States (e.g. Belgium, Bulgaria, Estonia, Finland, Hungary, Latvia, Lithuania, Poland, Slovenia) offer the opportunity of digital registrations, generally at lower fees compared to paper forms.

¹²⁹ IA study. 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 Member State where the associations intend to expand. Examples from the conducted interviewees (14 out of the 33 associations), reported that associations in cases had to rely on pro-bono law firms to understand the requirements of establishment.

¹³⁰ IA study. The estimates are based on figures provided by associations on their costs for launching cross-border operations, via the survey and in-depth interviews. Launching costs were structured according to the three main cost items identified to set up the operations in another Member State. For more detail see Annex 4 (Section 3.3).

¹³¹ IA study. Starting from total cost (EUR 5 550) it is estimated how and if these costs could be reduced through policy intervention based on evidence from in-depth interviews, backed by assessment based on the legal analysis, resulting in a (maximum) cost reduction of EUR 2 150, or "excess cost" reduction.

¹³² The current excessive levels of inflation and predictions on inflation development are expected to cost increases. The cost expressed should thus be interpreted in real term cost at 2023 price levels.

unresolved problem.¹³³ It should be noted that the costs for launching cross-border operations are not expected to significantly change in the absence of policy intervention. While some cost linked to the establishment of operations or even the necessity of establishing for certain activities may be reduced over time due to increasing digitalisation, other factors such as further stringent rules in certain Member States may increase the complexity of the situation and the launch of new activities in certain Member States.

5.1.3 EU level action

When it comes to legislation at EU level, there is no harmonisation or approximation of the national laws regarding the cross-border dimension of associations, whether related to activities mobility or movement of capital.¹³⁴ The status quo would likely continue without EU action of binding nature.

At the same time, a number of ongoing and forthcoming initiatives at EU level are relevant and potentially conducive to a more dynamic baseline. First, the [Single Digital Gateway](#) facilitates online access to information, administrative procedures, and assistance services that EU citizens and businesses (also possibly capturing associations engaged in economic activities to an extent) need when trading, establishing themselves or expanding their business across borders. By the end of 2023, online access to the most important administrative procedures in 21 areas will be ensured in all EU Member States including certain registering procedures. This has the potential to somewhat help associations, among other actors, depending on its implementation and the relevance of these administrative procedures to associations. Second, the European Media Freedom Act,¹³⁵ which aims at alleviating the fragmentation of national rules undermining the efficiency of the European internal media market, sets out, among others, the framework for a structured dialogue with stakeholders and explicitly civil society (including associations). Freedoms of expression and information will continue to be strengthened in this framework and will, therefore, contribute to an enabling environment for associations operating cross-border in the single market.¹³⁶ Third, the non-binding measures that the Social Economy Action Plan envisages (as indicated in the Introduction and in Annex 9), will complement this initiative by providing non-binding recommendations to Member States to better design and implement enabling policies for the social economy, including associations, (Council Recommendation) and provide a clearer understanding of the rules for cross-border taxation of non-profit organisations like foundations and associations (two Staff Working Documents). Furthermore, regarding VAT, associations engaging in economic activities that qualify as SMEs can benefit from simplified rules which will help reduce VAT compliance costs as of 2025 (as explained in Section 2.2).

¹³³ 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.

¹³⁴ Although the Commission has proposed a Statute for a European Association (91/273), unsuccessfully.

¹³⁵ [EUR-Lex - 52022PC0457 - EN - EUR-Lex \(europa.eu\)](#)

¹³⁶ See European Parliament resolution of February 2022: i) underlining the importance of impartial and independent information on the activities of non-profit organisations in the private and public media as well as the access to pluralistic information as key pillars of democracy; ii) highlighting the Parliament resolution on SLAPPs of 11 November 2021.

Depending on the exact content, the measures mentioned above could facilitate the potential of associations to operate cross-border in the single market. However, their positive impact is likely to be limited in relevance to the objectives of this initiative, as these measures neither target cross-border aspects directly nor are all of them legally binding.

5.1.4 International level

The Council of Europe initiatives mentioned in the Introduction (1.3 Legal Context) did not have much uptake by EU Member States (8 have thus far ratified the Council of Europe Convention introduced in 1986).¹³⁷ A recent report of civil society's perception of their implementation shows that Council of Europe Member States have largely not taken these instruments into account in their policymaking, though it does not specify the reasons.¹³⁸ This situation is not expected to change, given the non-binding nature of these initiatives.

5.2 Description of the policy options

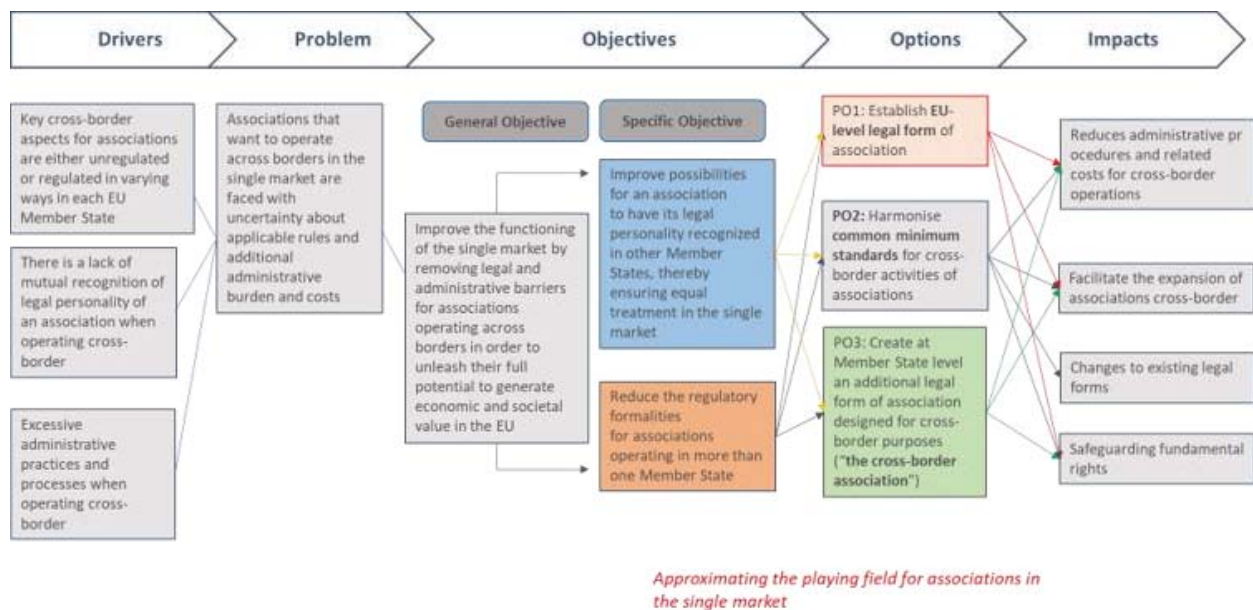
The following alternative policy options have been constructed from a list of policy measures, based on the findings of the IA study. These measures were screened¹³⁹ to identify policy options that should be retained for further analysis. The screening process resulted in a list of three self-standing policy options retained for impact assessment (see Figure 6 below as a part of the intervention logic).

Figure 6: Intervention logic.

¹³⁷ [CETS 124 - European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations \(coe.int\)](#), European Treaty Series - No. 124; Recommendation on the legal status of non-governmental organisations in Europe, CM/Rec (2007)14 of the Committee of Ministers; [Fundamental Principles on the Status of Non-governmental Organizations in Europe](#)

¹³⁸ Council of Europe Expert Council of NGO Law: The Legal Space for Non-Governmental Organisations in Europe. Civil society's perception of the implementation of Council of Europe CM Recommendation (2007)14 to Member States on the Legal Status of Non-Governmental Organisations in Europe, p. 39.

¹³⁹ Screening was developed in accordance with Tool #17 of the Better Regulation Toolbox. The longlist of measures was assessed against seven criteria, namely: feasibility, stakeholder acceptability, effectiveness, efficiency, proportionality, EU value added, and coherence.



All retained options address the general objective and the specific objectives, as further described under each option below.

5.2.1 Option 1: Establish an EU-level legal form of association

Sub-option 1a: An EU level legal form: ‘The European Association’

This sub-option of policy option 1 (hereinafter “PO1a”) fully prescribes an EU level legal form, i.e. “The European Association”. Under this sub-option, the initiative would introduce a European legal form of association (the “European Association”), which would regulate all aspects relevant to the functioning of an association, including rules on the formation, registration, constitution, functioning, financing, dissolution, liquidation and insolvency, and would co-exist with legal forms of associations at Member State-level while not replacing them (details in Annex 9). It would also ensure non-discrimination and equal treatment, when it comes to European Associations as service providers, in line with the Services Directive.¹⁴⁰

Regarding formation, interested natural and legal persons could set up a European Association and existing associations may form one by conversion. The main criterion to form a European Association would be to have a link to at least two Member States. This can be one of the following: citizenship or residence of members, employees, or volunteers; the location of its activities or the registered location of established branches; formation through merger of existing associations domiciled in at least two separate Member States.

The European Association would enjoy automatic recognition of its legal personality across the Union. While it would be regulated by EU law, with regard to rights, it would enjoy at minimum, equal treatment with national associations in the Member States where it would be domiciled and/or engage in activities (i.e. provision of services or goods). Furthermore, it would have rules on cross-border mobility (mergers, divisions and conversions in cross-border

¹⁴⁰ [Directive 2006/123/EC on services in the internal market of 12.12.2006.](#)

contexts). European Associations would enjoy non-discrimination as receivers of capital transfers, such as donations, including the non-discrimination of their donors.¹⁴¹

Regarding implementation, Member States would designate a competent authority, with defined powers. Competent authorities would be required to cooperate and exchange information with each other.

Registration of the new legal form would be done at Member State level, in line with the ‘digital by default’ principle: setting up the European Association would be possible in a fully digital manner, using standardised on-line procedures and entailing standardised information required for the registration of the new legal form. Member States will be required to establish a digital register (or adapt an existing register) and make publicly available essential information about the associations registered under this legal form. To facilitate access to information about registered European Associations, Member State registries would be interoperable with or connect to an EU level platform/portal either to be established or building on existing initiatives (i.e. the Single Digital Gateway).

The European Association would be well suited for those associations interested in being active in many Member States. Given the relevant cost and administrative effort of setting it up, it would be less beneficial for small associations or those with only occasional activities across borders.

Although this sub-option shares with the Commission proposal of 1992 (and its revision in 1993) the general objective to regulate all aspects for associations by creating a European statute for associations, it differs in its policy focus, and in particular in the following elements:

- As regards key provisions on mobility, the former proposal did not mention the possibility for the European Association to merge. On the contrary, PO1a would provide for rules in order for associations established in the new legal form to merge with other associations, both domestically and cross-border, without such merger resulting in the involuntary termination, prohibition or dissolution, or suspension of the activities of the organisation.
- As regards online registration and the digitalisation of the registries. PO1a, as stated above and given the digitisation of the society, would ease the access to information on associations for the public. The former proposal did not provide for online registration or for rules concerning an EU level platform.
- Regarding the rules governing the financing of the European Association, while the past proposal allowed the European Association to avail itself of all forms of financing under the most favourable conditions applying to associations in the Member State in which it has its registered office (Article 41 of the Commission proposal of 1992), sub-option PO1a is more specific and goes deeper. It would oblige Member States to allow a European Association established, registered or operating in their territory to solicit and receive capital transfers, such as donations. In terms of procedure, PO 1a would be based on Article

¹⁴¹ Following the principles of the CJEU, inter alia in C-78/18.

352 TFEU,¹⁴² requiring unanimity; while the former Commission proposal was based on Article 100a of the Treaty establishing the European Economic Community (current Article 114 TFEU), which links with the ordinary legislative procedure of qualified majority.

Sub-option 1b: An EU level legal form: “The European cross-border Association”

This sub-option of policy option 1 (hereinafter “PO1b”) establishes an EU level legal form covering only cross-border aspects: “The European cross-border Association”.

Under this sub-option, the initiative would introduce a European legal form of association at EU level, as under sub-option 1a, but instead of a fully prescribed legal form, this sub-option would exhaustively prescribe at EU level only cross-border aspects¹⁴³ and, to the extent needed for coherence, main features of the new legal form,¹⁴⁴ while otherwise referring to existing Member State law, as it regulates comparable entities. The new legal form would co-exist with legal forms of associations at Member State-level and would not replace them. Member States would enact the necessary provisions for the effective application of the new legal form where relevant matters that the Regulation refers to are not sufficiently regulated.

The European cross-border Association would enjoy automatic recognition of its legal personality across the Union.

Key elements of the new legal form to be prescribed at EU level would under this sub-option include, in particular, the following:

- specific rules concerning the formation of the new legal form; for instance, the main criterion to form a “European cross-border association” may be to have a link to at least two Member States. This can be one of the following: citizenship or residence of members, employees, or volunteers; or based on the registered location of established branches; formation through a merger of associations domiciled in at least two separate Member States.
- specific rules allowing for cross-border membership and governance roles (nationality and residence).
- non-discrimination and equal treatment, when it comes to European associations as service providers, in line with the Services Directive¹⁴⁵.
- non-discrimination of the new legal form, as receiver of capital transfers (excluding taxation), such as donations, in cross-border contexts, including the non-discrimination of donors based on nationality or place of residence.

¹⁴² This legal basis has been confirmed by the CJEU as the appropriate legal base for new legal forms created at EU level. See Case 436/03.

¹⁴³ Inter alia ability to open branches abroad, cross-border mobility procedures, ability to provide services without a local establishment, and ability to solicit and receive funding across borders.

¹⁴⁴ Inter alia non-profit aim, non-distribution constraint, full ability to engage in economic activities and right to acquire legal personality

¹⁴⁵ Directive 2006/123/EC

- cross-border conversions without undergoing a dissolution and liquidation procedure, by providing relevant safeguards.
- rules and safeguards on the process of mergers and divisions of the new legal form.

Regarding implementation, Member States would designate a competent authority with defined powers. Competent authorities would be required to cooperate and exchange information with each other.

Registration would be at Member State level as for PO1a, in line with the ‘digital by default’ principle: setting up the European cross-border Association would be possible in a fully digital manner, using standardised on-line procedures and entailing standardised information required for the registration of the new legal form. Member States will be required to establish a digital register (or adapt an existing register) and make publicly available essential information about the associations registered under this legal form. To facilitate access to information about registered European cross-border Associations, Member State registries would be interoperable with or connect to an EU level platform/portal either to be established or building on existing initiatives, such as the Single Digital Gateway.

The European cross-border Association, similarly to sub-option PO1a, would be well suited for those associations interested in being active in many Member States. As such, it would solve current obstacles concerning the right of establishment and free provision of goods and services across the EU. It would also partially solve issues related to the cross-border receipt of capital to the extent those issues concern seeking approvals and reporting in some Member States with regard to donations.

As in PO1a, this sub-option would be based on Article 352 TFEU, and would take the form of a regulation, as this option would not approximate national rules as required for Article 114 TFEU. The fact that this policy option would exhaustively prescribe at EU level the cross-border aspects and the core features of the new legal form further justifies the choice of this legal basis.

The Commission proposal of 1992 (and its revision in 1993) and this sub-option differ in their scope and procedure in ways already described concerning PO1a. In addition, in terms of policy focus, a key additional difference concerns a more limited scope on elements relevant for cross-border contexts.

5.2.2 Option 2: Harmonise common minimum standards for cross-border activities of associations

Under this option (hereinafter “PO2”), the initiative would harmonise common minimum standards for the cross-border activities and mobility of associations across Member States. It would contribute to reducing the differences between national association laws. PO2 would imply in practice removing or amending existing provisions or introducing new provisions in Member State law, in particular for the purpose of facilitating cross-border mobility of associations, the provision of services and goods and the free movement of capital (i.e. donations), but also rules on membership and governance roles to allow for cross-border dimension.

In detail, the initiative would harmonise national association laws to the extent needed to facilitate the cross-border aspects mentioned above. The key provisions to be required mirror those mentioned under PO1b, *mutatis mutandis*.

Existing registration requirements related to e.g. establishment and provision of goods and services, would not be prohibited as such, but they would be required to serve justified purposes and be non-discriminatory and proportionate, and in line with existing EU legislation, such as the Services Directive.¹⁴⁶

Moreover, the possibility for a fully online registration and the existence of digital registers and standardised on-line procedures should be encouraged under this option, in line with the ‘digital by default’ principle and bearing in mind proportionality and subsidiarity, for the purpose of facilitating the registration of cross-border associations, as well as exchange of information among Member States and at EU level. This could possibly be facilitated by the Internal Market Information System.¹⁴⁷ Compatibility of the said registers with the Single Digital Gateway would be explored. Overall, digital procedures and tools would also facilitate administrative formalities linked with registration, cross-border merger, cross-border conversion, or cross-border donations.

Associations could automatically benefit from these harmonisation measures. Depending on the scope of harmonisation, all associations may be affected by the new rules, as the respective rules governing them would partially change. Under this option, partial harmonisation of national laws would lead to a regulatory simplification for associations in cross-border contexts, thanks to an approximation of relevant rules and given that sufficient rights and safeguards would be provided for their cross-border mobility and activities regulated at EU level. It would be relatively straightforward even for smaller associations or those with only occasional engagement across borders.

The legal instrument would likely be a directive. Implementation of this Directive would require Member States to transpose its provisions into their national law thereby reducing regulatory fragmentation for associations operating across Member States. The likely legal base of this option would be either Article 114 or 50 TFEU, or a combination thereof, taking into account the material scope of the initiative¹⁴⁸, as this option would approximate national laws by laying down minimum standards.

5.2.3 Option 3: Create at Member State level an additional legal form of association designed for cross-border purposes (“the cross-border association”) and recognised by Member States

This option (hereinafter “PO3”) combines elements from PO1 (creation of legal form) and PO2 (partial harmonisation of national laws). It would require Member States to introduce in their national legal systems a new legal form of association for cross-border purposes (‘the cross-

¹⁴⁶ An example: proportionate registration requirements could be required by MS for taxation purposes or when the foreign association hires local staff.

¹⁴⁷ [Regulation \(EU\) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System.](#)

¹⁴⁸ See Legal Context under Section 1 for details.

border association’). Member States would transpose common provisions set by EU law into their national law (with relative flexibility to adapt them to the national setting), thereby approximating rules and administrative procedures for associations operating across Member States and improving legal certainty and the level-playing field in the single market.

The new legal form would be specifically designed for cross-border membership, governance, activities and would also allow for cross-border mobility.¹⁴⁹ It would encompass only requirements and safeguards necessary for facilitating the said cross-border purposes, and it would co-exist alongside existing legal forms for associations in national law and would not replace them.¹⁵⁰ Those interested could form a ‘cross-border association’ in several ways, including by setting up a new one, converting from an existing association, or by a merger of several existing associations.

Key elements of the new legal form to be prescribed by EU law would be the same as described under PO1b (in Section 5.2.1 above).

Once established and registered in the Member State of domicile, ‘cross-border associations’ would not need to establish in each Member State separately, as their legal personality would be recognised either automatically, with limited discretion for justified exceptions for Member States or, alternatively through a simplified procedure (mutual recognition).

The principle of equal treatment of ‘cross-border associations’ vis-à-vis existing legal forms of associations in the Member States, as well as safeguards concerning procedures for recognition of legal personality, would be established. For instance, PO3 would set a maximum duration by which the recognition procedure for ‘cross-border associations’ must be completed and safeguards to lead to a duly substantiated decision by the competent authority in the host Member State (e.g. within three months after the date on which the applicant's complete file was submitted).

Registration would be done at Member State level, in line with the ‘digital by default’ principle: setting up the “cross-border association” would be possible in a fully digital manner, using standardised on-line procedures and entailing standardised information required for the registration of the new legal form, to facilitate the registration of the “cross-border associations”, as well as sharing information between Member States and to the EU level. In order to further facilitate the recognition of the legal personality and the registration of cross-border associations, as well as exchange of information among Member States and at EU level, Member States would be required to establish a digital register (or adapt an existing register)

¹⁴⁹ See also Belgian law entitled « Loi sur les associations sans but lucratif, les associations internationales sans but lucratif et les fondations » of 2.05.2002 establishing the “International association without a profit purpose” (AISBL/IVZW). The AISBL is a Belgian legal form which requires associations to specify in their statute and to concretely pursue an objective of international public utility. It allows people and organizations from any country to form such an association. It differs from our initiative because our scope is the EU territory and the European associations.

¹⁵⁰ Importantly, this also differentiates this option from the Commission proposal for a Directive on single-member private limited liability companies (COM(2014)212), based on Article 50 TFEU, which was withdrawn in 2018. Creating legal forms at national level, it concerned, first, general rules for single-member private limited liability companies and, second, rules on the formation, registration, articles of association, single share, share capital, structure and operational procedures.

and make publicly available essential information about the “cross-border associations” registered. Compatibility with the Single Digital Gateway would be considered as well as potential use of the Internal Market Information System, for the same purposes as explained for PO1 above (see Section 5.2.1).¹⁵¹

Regarding implementation, Member States would designate a competent authority, with defined powers. Competent authorities would be required to cooperate and exchange information with each other.

Existing registration requirements related to e.g. establishment and provision of goods and services, would not be prohibited concerning this new legal form, but they would be required to serve justified purposes and be non-discriminatory and proportionate, and in line with existing EU legislation, such as the Services Directive.¹⁵²

In light of its scope and approach and depending on the exact content of the proposal, the likely legal base of this option would be either Article 114 or 50 TFEU, or a combination thereof, due to the purpose of approximating certain aspects of national laws.¹⁵³ With regard to PO1b, PO3 would prescribe cross-border aspects at EU level on a very targeted manner. It would only encompass those requirements and safeguards needed to approximate national laws by introducing the cross-border aspects necessary for this new legal form to operate. To be noted that legislative proposals based on Article 50 TFEU are limited to directives.

5.3 Options discarded at an early stage

In the course of this IA, some of the originally conceived options, as identified in the IA study, were not retained for a full assessment as they were not considered feasible or realistic in light of their advantages, but also crucial disadvantages. The said discarded options are:

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

In particular, the non-binding options were discarded due to their lack in effectiveness, whereas the creation of a European legal status for public-benefit associations was considered not feasible in light of the limited competence of the EU in the area of taxation. Finally, the harmonisation of common standards for associations was considered unlikely to be accepted by Member States given the strong cultural roots embedded in the national association law and the scope of the envisaged harmonisation under this option. For more details see Annex 13.

¹⁵¹ Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System.

¹⁵² An example: proportionate registration requirements could be required by MS for taxation purposes or when the foreign association hires local staff.

¹⁵⁴ That can be a specific register for associations.

6 WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

Box 9: Treatment of qualitative and quantitative analysis regarding the impact of the policy options.

The following assessment provides a qualitative analysis of the specific economic impacts generated by each proposed policy option, based on the evidence gathered from diverse sources. It also provides, to the extent possible, a quantitative analysis of benefits and costs relating to the main economic impacts. The cost/benefit analysis is not fully comprehensive, due to significant data gaps and limitations, as explained in section 1.4. Therefore, the quantification of costs and benefits is based on a number of assumptions (see Annex 4) deriving from different sources of input: the Commission's assessment of stakeholder feedback to the Public Consultation, additional targeted stakeholders survey and interviews, existing literature, and other relevant sources of knowledge on the matter (e.g. sectoral studies and data gathering). When it comes to the indirect economic benefits, the aim of this assessment is to provide ranges of the magnitude of potential impacts generated by each policy option, rather than exact monetisation.

Despite the mitigation measures (developed in this section) and application of conservative estimations, a potential overestimation for the potential reduction of costs and potential benefits cannot be fully excluded.

A detailed breakdown for the calculation of costs and benefits for associations can be found in Annex 4. All costs are considered administrative costs since they relate to registration, information, and adapted administration requirements. Annex 3 provides an overview of costs and benefits per target group assessed for the preferred option.

Nominally, the current excessive levels of inflation and predictions on inflation development are expected to cost increases. The cost expressed should thus be interpreted in real term cost at 2023 price levels.

This Section assesses the impacts of each retained policy option in relation to the identified barriers and the drivers leading to the identified problem in Section 2. The Section analyses the potential economic and social impacts on relevant target groups per policy option (associations, Member States, citizens). Environmental and climate change impacts are only present in an indirect manner and, therefore, are briefly addressed for all policy options. Additionally, the Section assesses per policy option the impacts on Member States (e.g. in terms of adaptation of legislation and compliance, administration and monitoring).

The Section is structured as follows: the first part summarises the main similarities or non-significant impacts of all policy options together, taking into account the objectives and scope of the initiative; the second part presents specific or significant impacts per policy option. As section 5 outlined, Policy Option 1 (PO1) has 2 sub-options: PO1a and PO1b. The sub-options will only be referred to separately when there is a difference in terms of impact. Consequently, references to 'PO1' are made for those impacts valid for both sub-options.

Taking into account the objectives and scope of the initiative, the main similarities or non-significant impacts for all policy options are presented below:

a. Economic impacts on associations

Based on a combination of stakeholder surveys, expert interviews and literature, the IA study concludes that **excess cost reductions** for associations are present for all POs and will result in reduction of time allocated by their staff for the management of the cross border-related administrative procedures, as well as in related reduced direct costs. However, when it comes to total excess cost reduction estimates over 15 years, one needs to consider the caveats in available data (mentioned in section 2 and section 5) and the consequent uncertainties resulting in a possible overestimation. The direct economic impacts (excess cost reductions) for associations per policy option are detailed in the second part of this Section.

Considering **indirect economic impacts**, all POs present an improvement for associations operating or with the ambition to operate across borders in terms of:

- **less burdensome access to new cross-border markets** and cross-border provision of goods and services,
- **more financial and human resources** that can be allocated to core activities and purpose.
- **improved safeguards for the freedom of establishment and security of operations.** Besides economic value, the impact of promoting civil rights and democracy, environmental policy, equality, the European civil society, etc. will be leveraged, especially for those associations active in these sectors.

For associations engaged in economic activities specifically, all POs (be it in different degrees, as described in Section 5) would have a positive effect on the level playing field in the single market in sectors where associations compete with for-profit companies. More precisely, cost reduction and improved access to the single market for associations may lead to:

- increased offer of services and products in certain economic sectors (e.g. health, care, social services), leading to considerable positive effects in terms of quality and price, and enlarged geographic scope of the offer (e.g. new markets are reached), as well as convergence of quality service delivery across the Union in sectors in which non-profit associations are an active operator;
- increased specific know-how in certain sectors (e.g. healthcare, social services) and Research and Development (e.g. international research and technology associations, work integration), as well as economies of scale and business opportunities in various sectors;
- increased pool of potential employees, volunteers and members engaging in the association.

For PO1 and PO3, the scale of impacts depends mainly on the uptake of the new legal forms (the scenarios for the uptake are detailed per option in the second part of the section).

Having this in mind, all POs are expected to have a positive effect on the completion and functioning of the single market, as they bring considerable harmonising effects to enhance cross-border activities for associations, though to a different extent. Harmonisation effects are broadest for PO1 as it implies automatic recognition of an additional European legal form, prescribed fully (PO1a) or partially (PO1b) at European level and through a legal instrument more impactful in terms of implementation and level-playing field (regulation). PO2 would imply partial harmonisation of laws on associations in the Member States regarding specific cross-border aspects, impacting domestic and cross-border associations. PO3 would imply an additional legal form for cross-border purposes at Member State level, thereby not affecting the functioning of domestic associations not interested in cross-border activities, but rather creating an option for those associations operating or wishing to operate in more than one Member States, who could take on the new legal form which will be recognised in other Member States. Possible risk of fragmentation and divergent interpretation linked with the choice of the legal instrument in PO2 and PO3 may be overcome through setting safeguards and achieving the right balance between rules prescribed by EU law and by Member State law.

b. Impacts 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 options (PO1 and PO3) that reduce this necessity will consequently reduce the burden on public authorities in the long run. In the short term, policy options changing the requirements completely by introducing a separate legal form (i.e. PO1 and PO3) 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. This is mostly relevant for PO1 and PO3, while PO2 will also have similar impacts (existing registration procedures might need to be adapted), but to a lesser extent as it does not imply the creation of a new additional legal form.

To note that, for none of the policy options an EU level registration will be foreseen, mainly for reasons of proportionality and subsidiarity. Consequently, Member States will be responsible for the registration of a new legal form (PO1 and PO3), as well as for the adaptation of registration procedures in PO2. The intention is to leave Member States the flexibility whether to adapt existing registers or establish new ones, while requiring Member States to offer the option of online registration in case of a newly created legal form.

As detailed in the IA study and Annex 10, **24 EU Member States already have dedicated registers¹⁵⁴ in place** (except for Ireland, Denmark, and Sweden). 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 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 (in case of PO1 and PO3) is likely to have non-significant costs.

To conclude that legislative changes would lead to the adjustment of existing, rather than the creation of a completely new¹⁵⁵ system. The IA study substantiates that policy options creating a need to adapt registers (PO1 and PO3, and PO2 to a lesser extent) implies minor adjustments, including adding a separate section or entry to the existing registers. 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%.¹⁵⁶

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.¹⁵⁷ For Member States the set-up costs for such an online registration tool varied from EUR 42 000 in Ireland to EUR 100 000 in Poland, or around

¹⁵⁴ That can be a specific register for associations.

¹⁵⁵ In the event of a new register to be established, few data for the actual costs are available, as many organisation of business registers were setup decades ago and evolved over time. Looking at comparable EU initiatives (in terms of prescribed need to establish a register) can provide some perspective. (i) The impact assessment accompanying the Proposal amending Directive (EU) 2015/849 estimates the costs for setting up a public registry for national authorities to be limited (EUR 28 000 for IT/software setup, one-off cost). Hence, this datapoint might present an underestimation of the true set-up costs as it is less numerous and expected to be less complex than for associations.

¹⁵⁶ 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.

¹⁵⁷ 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 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

EUR 120 000 in Latvia.¹⁵⁸ For those policy options (PO1 and PO3) that concern setting up a new legal form, the provision of the option of **online registration would become compulsory**, while for harmonising minimum standards (PO2), it could be encouraged. 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.¹⁵⁹

Consequently, the European Commission may **encourage or mandate 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.

Besides the elements above, **other (in)direct economic impacts** for Member States can be expected for all policy options:

- Increased service and product offer in the national markets as well as cooperation and competition in critical sectors of high public relevance (e.g. healthcare and social services, social work, work integration, training and education services, employment services and research and development). This includes increased presence of service providers in public markets as well as influx of specific know-how improving quality and capacity.
- Indirect Revenues: the reduced need for full establishment in all Member States where the association is active, certainly for PO1 and PO3, is likely to have a negative impact on direct revenues of authorities as overall less registrations will be needed (with corresponding loss of fee income).¹⁶⁰ However, such impacts are expected to have a low magnitude (e.g. fees are largely used to compensate the administrative procedure and are not considered as a revenue) and are likely to be offset by the increased indirect revenues by new market players. While individual associations might be inclined to move their seat for these reasons, interviews and the very nature of associations suggest that they are often-times deeply rooted in their regional or national contexts.

Impacts on individual Member States are hard to predict as many factors play in the decisions of individual associations where to establish (favourable local environment, cultural links, and roots, ambitions of scale and roll out of operations). For ‘pan-European’ or international associations, it might be argued that Member States hosting many International or inter-governmental Institutions (e.g. France, Germany, Netherlands, Luxemburg, and Belgium) will be more likely to become the main location for associations following the rules proposed in the context of this initiative. Additional pull- and push factors might influence the decisions of associations to optimise their basis of operations. Amongst others, these could be

¹⁵⁸ 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 Danish 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).

¹⁵⁹ 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.

¹⁶⁰ This impact will favour potentially those Member States with international political institutions and well-developed international communities.

economic (e.g. tax optimisation, market demands), legal, or political (e.g. to safeguard activities against political pressure). The factors that might affect the decisions of associations to maintain or move their seat are manifold and complex, which could lead to different results. Therefore, it is not possible to judge the direction of these decisions and identify clear-cut patterns or trends for different groups of Member States.¹⁶¹ Other elements are related to neighbouring countries and border regions that might have more cross-border activity amongst associations, for example those Member States that share the same language, host minority populations of a neighbouring country or have traditionally strong cross-border civil society ties.

To conclude, and considering the elements mentioned above, in the short-term¹⁶² non-significant adaptation costs may occur for competent authorities. However, all POs are 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. As argued, predicting differences between Member States is highly speculative, as many different direct and indirect factors are at stake as well as very contextual elements in relation to cross-border relationships of associations in neighbouring regions.

c. Potential economic benefits

To estimate to what extent each **policy option can be expected to unlock the maximum potential of 185 000¹⁶³ associations, 75 000 jobs and 4.2 billion GDP¹⁶⁴ contribution**, an “unlocking percentage” is estimated for each policy option, corresponding to the anticipated uptake of the policy option over a 15-year time frame. This percentage is based on surveys,

¹⁶¹ IA study

¹⁶² 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.

¹⁶³ See market context and problem definition Sections: After having estimated the theoretic maximum potential (350 000), the maximum potential of policy intervention is the basis to calculate potential benefits under scenario A (185 000).

¹⁶⁴ The estimates for job creation and GDP are linked to the number of associations that would be unlocked due to a given policy intervention. Job creation was then calculated assuming an equal employment need for new cross border associations in comparison to the given ones. Constant estimates for currently operating cross border associations are applied to the newly unlocked by the policy option (i.e. a constant FTEs/ (current) cross-border association ratio was applied to the new ones).

expert interviews and legal analysis.¹⁶⁵ Despite this approach, a potential overestimation cannot be excluded, given the uncertainties of these unlocking percentages. To mitigate this risk, a 10 p.p. lower scenario was introduced (resulting in an A and B scenario of potential cross-border associations, see also Section 2). A second element to anticipate uncertainty is the use of a range with an upper and lower bound for each potential benefit (- 5p.p and + 5 p.p. to the central estimate per policy option, resulting in ranges of potential benefits.¹⁶⁶

SCENARIO A

Table 8: Estimated economic benefits regarding the unlocking potential of cross-border activity of associations¹⁶⁷

| Estimated benefits Scenario A | Estimated PO / scenario | Additional n. of cross-border associations | Additional annual GDP in EUR billions | Additional employment |
|--|--|--|---|--------------------------|
| 70% - 80% policy uptake | PO1 & PO2 = central estimate 75% | 130 000 | 2.9 | 53 000 |
| | | 149 000 | 3.4 | 60 000 |
| 85% - 95% policy uptake | PO3 = central estimate 90% | 157 000 | 3.57 | 64 000 |
| | | 176 000 | 4 | 71 000 |
| Maximum potential of policy intervention | 100% | 185 000 | 4.2 | 75 000 |

A second scenario is added mitigating a possible overestimation of the maximum potential explained above. This is based on 155 000 associations as maximum unlocked potential by policy intervention (10 p.p. lower scenario¹⁶⁸ as regards scenario A see also Section 2) and gives the following range of potential benefits.

SCENARIO B

Table 9: Estimated economic benefits regarding the unlocking potential of cross-border activity of associations.

¹⁶⁵ Responses from the IA study survey are used as a starting base, which then were validated in the IA study with responses of in-depth interviews and the legal analysis and translated into percentages. More detail on the justification of the percentages is included in the methodological Annex 4 (Section 4.4).

¹⁶⁶ Figures for both scenarios A and B based on a policy uptake range corresponding to a 5p.p. margin to the central estimate (75% for PO1 and PO2 and 90% for PO3) as suggested by the IA study. Central estimate based on targeted survey and in-depth interviews, as well as legal analysis.

¹⁶⁷ See annex 4 (Section 3.2) for more details.

¹⁶⁸ Scenario B corresponds to 50% of current cross border associations (310 000) instead of 60% (scenario A). See also Annex 4 (Section 2.5) for details.

| Estimated benefits Scenario B | Estimated PO / scenario | Additional n. of cross-border associations | Additional annual GDP in EUR billions | Additional employment |
|--|--|--|---|--------------------------|
| 70% - 80% policy uptake | PO1 & PO2 = central estimate 75% | 108 000 | 2.4 | 44 000 |
| | | 124 000 | 2.8 | 50 000 |
| 85% - 95% policy uptake | PO3 = central estimate 90% | 132 000 | 3 | 54 000 |
| | | 147 000 | 3.3 | 60 000 |
| Maximum potential of policy intervention | 100% | 155 000 | 3.5 | 63 000 |

d. Environmental-, climate- and social impacts and fundamental rights

In the context of this IA, the difficulty generally emerged to determine a causal relationship between an EU intervention aiming at simplifying regulatory and administrative rules on cross-border operations of associations, on the one hand, and the potential environmental, fundamental rights and social impacts, on the other hand. It can, anyway, be assumed that an EU intervention under the three policy options will trigger indirect and non-measurable positive effects.¹⁶⁹

Environmental and climate impact

In principle, the nature and objectives of the initiative are not expected to generate measurable direct environmental and or climate impacts.

When looking at the potential indirect benefits, all policy options are expected to generate a positive impact by improving the position and presence of cross-border associations active in the environmental and climate change sphere¹⁷⁰, such as promotion of biodiversity, nature preservation and the fight against climate change.

Social impact

¹⁶⁹ For example, by simplifying the creation of cross border alliances and partnerships between organisations, mobilising volunteers, improving the representation at EU level and having a more efficient outreach in Member States.

¹⁷⁰ E.g. on climate, quality of natural resources (water, soil, air etc.), biodiversity (including flora, fauna, ecosystems, and landscapes), animal welfare, sustainable consumption and production, efficient use of resources, etc.

Similar potential benefits will occur for all POs in terms of social impacts. More precisely by improving the access for citizens in sectors offering social services across Member States (e.g. health, care and -services, community service social work, education and training, employment services, etc.). Consequently, this impact will foster convergence between the different models and offers in the Member States, including mainstreaming of innovation, leading to an overall enhanced quality and offer of such services in the EU. Given the strong presence of associations in areas described above, PO2 is expected to foster positively the access to those services offered by smaller organisations which, for instance, could be offered without the need for establishment. Finally, all POs are expected to foster participatory and citizen oriented civic space (e.g. participation in civil society, sports, arts and culture) potentially being interlinked across borders.

Looking at different options, PO1 (and to certain extent PO3) would be likely to benefit associations with an explicit social impact mission and organised at EU level with action in all (or multiple) Member States (e.g. social enterprises, social service providers, health, care and household service, social protection and rights). In this sense, PO1 and PO3 would strengthen the right to freedom of assembly and association in a non-discriminatory manner, as associations using the new legal forms would be treated in an equal manner with associations that already exist under national laws, albeit by automatic recognition under PO1 as opposed to mutual recognition in PO3. Still, at Member State level, limitations to the type of activities performed by the associations may occur when the association is not established. For example, in case such activities may be subject to specific national legislation (e.g. labour law, social security, taxation rules, etc.) implicitly requiring establishment.

Fundamental rights

Although this initiative is centred on the functioning of the single market for non-profit associations, all POs would have an indirect positive effect on the protection and promotion of fundamental rights. For instance, by improving the conditions for associations to operate in the single market, they will strengthen the enjoyment of the right to freedom of expression and information (Article 11 of the Charter) and right to freedom of peaceful assembly and to association (Article 12 of the Charter) in the EU.

From this viewpoint, all POs would indirectly strengthen the civil society and mitigate the overall shrinking civic space trends observed in Europe,¹⁷¹ by facilitating cross-border activities and mobility of associations and enabling them to mobilise members, volunteers and interest groups across different Member States. The options would ultimately have an indirect positive impact on the EU democratic space.¹⁷²

When it comes to fundamental rights impacts of the different policy options, it has to be noted that creating a new legal form at EU level (i.e. PO1 sub-options), according to desk research

¹⁷¹ As observed by the reports/opinions by the Council of Europe (Resolution 2226 (2018). [New restrictions on NGO activities in Council of Europe member States](#) of 27 June 2018), European Parliament (2021/2103 INI resolution on the shrinking space for civil society in Europe of 8 March 2022), European Commission (COM(2022) 716. “[A thriving civic space for upholding fundamental rights in the EU 2022. Annual Report on the Application of the EU Charter of Fundamental Rights](#) of 6.12.2022)

¹⁷² [Democracy Index 2021: less than half the world lives in a democracy](#)

and Public Consultation results¹⁷³, is considered as a strong contribution to the Europeanisation of the civic space.¹⁷⁴ The effects of PO2 are not expected to be as pronounced as those of PO1 and PO3, as it would only harmonise certain national rules (listed in Section 5). Similarly to PO1, PO3 would be expected to have a strong positive - although indirect - impact in terms of safeguarding the fundamental right to freedom of assembly and association and right to freedom of expression and information of associations and their members. It will in fact allow associations with cross-border ambitions to effectively expand and conduct their activities in other Member States, thereby also contributing to the exercise of fundamental rights that they advance through their activities, by benefitting from a uniform and sufficiently complete legal framework which, differently from PO1 sub-options, would not neglect the national specificities. The new rules would however not be applicable to pre-existing associations, unless they convert to the new form, which would create minor negative effects from the perspective of equality among associations.

PO2 and PO3 might not as directly favour a “European brand” through a “European legal form” (in comparison with PO1), however they would still simplify procedures in the single market by reducing administrative burden and costs for cross-border associations, indirectly benefitting those associations active in the area of fundamental rights at pan European scale.

Taking into account the objectives and scope of the initiative, the specific and significant impacts per policy option are described as follows:

6.1 PO1a and PO1b: Establish an EU-level legal form of association: ‘the European Association’ (PO1a)” or ‘The European cross-border Association’ (PO1b)

This section will first discuss the impacts that are equal for both PO1a and PO1b, as outlined in Section 5. Consequently, when “PO1” is used this refers to both sub-options, unless stated otherwise. Under Section 6.1.4 only specific impacts for PO1b will be discussed.

Overall, PO1 would introduce a supranational legal form of association facilitating operations across borders that would co-exist with other legal forms in the Member States. Once a European Association would be established and registered, it would be automatically recognised in all Member States, and it should be treated the same as associations incorporated under their national laws (principle of non-discrimination). Associations not using the new legal form remain unaffected.

The legal instrument for both PO1a and PO1b would be a regulation. It is the only legal instrument available for creating a new legal form at EU level, as confirmed by the CJEU. The benefit of this instrument is legal clarity resulting from its direct applicability and uniformity in content across the Union. However, creating a new legal form in this way may generate unwanted effects, not be entirely proportionate to the scale and nature of the identified problems, , given that Member States would not be able to adapt the requirements to their national

¹⁷³ Among the respondents’ preferred choice of the envisaged policy options 36% (22 out of 64) of respondents indicated that their preferred policy option would be a new legal form for associations.

¹⁷⁴ It would “provide the most democratic and citizen-powered kind of association”.

settings and tradition. At the outset, the said unfamiliarity could involve adjustment costs and may raise the threshold to take up this form.

The consequence (and downside) is that PO1 requires from already established associations wishing to benefit to take the new legal entity, with all related administrative implications and cost. The creation of a new legal form has, therefore, uncertainty of uptake and might create potential confusion for stakeholders as more legal forms will exist in parallel. Furthermore, it can create ‘competition’ between existing legal forms for associations in the Member States and the new legal form prescribed and regulated by EU law.

6.1.1 Economic impacts on associations

The overall impact on the **costs of cross-border operations** is expected to be significant, allowing associations active cross-border to substantially reduce their cost of compliance and administrative burden. Moreover, it is expected that the reduced barriers to entry will unlock a significant share of associations interested in operating cross-border. In particular:

1. Associations already active cross-border: when transforming to the new legal form, substantial simplification in terms of compliance cost and administrative burden can be expected in terms of running cost of operating cross-border;
2. Associations interested in launching cross-border operations, but hesitating due to existing barriers: in addition to the significantly reduced cost of operating cross-border also the need for establishment and the activities to be undertaken to act cross-border for those making use of the new legal form will be significantly reduced;
3. Associations not interested in launching cross-border operations: this policy option does not affect such associations as they are not obliged to transform.

This would be particularly beneficial for associations whose scope extends over the territory of several or all Member States. The voluntary nature of using the EU legal forms (PO1a and PO1b) means that it would not impose any additional compliance costs on associations that do not want to obtain them.

Costs of operating cross-border (recurring) for associations active cross borders (310 000): PO1 has the potential to significantly reduce costs for associations using the EU legal form and thus simplifying gathering information, less internal staff working on compliance and less needs for regular external advisory support. The extent to which such benefits materialise depends, however, on the extent of uptake of the new legal forms (PO1a or PO1b). As a potential **cost reduction**, the IA study estimates an order of **magnitude leading to up to EUR 770 million per year (for the assessed timeframe of 15 years)**, see Annex 4 for calculations).¹⁷⁵

¹⁷⁵ This cost reduction is not applicable to those associations not acting across borders or without the ambition to develop such initiatives in future. The basis for calculations are those associations estimated to be already active cross borders (310 000). For detailed calculations see annex 4 (Section 2.5). The main source of information for the assessment of the operation 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 (IA study). However, it is not likely to expect such effect to materialise from year one. We can assume a lag effect of one

Table 10: Excess cost reduction per year (for the assessed timeframe of 15 years).

| | Max cost reduction per year for PO1 (relative to the baseline) |
|--|--|
| Information cost (internal staff) | ~EUR 350 million |
| Compliance cost (internal staff) | ~EUR 190 million |
| Direct cost / External advisory cost (External running cost) | ~EUR 230 million |

As additional impacts, for future cross-border operations of associations (associations not yet active cross-border but potentially interested to do so, if barriers are removed), the launch cost is estimated at EUR 3 500, which is a **cost reduction of EUR 2 150 per launch**¹⁷⁶, compared to the baseline of EUR 5 650 (for detailed overview see Annex 4).¹⁷⁷ Within the assessed 15-year time frame, this excess cost reduction could potentially range between EUR 278 million and EUR 318 million, in case of scenario A, and between EUR 233 million and EUR 267 million, in case of scenario B¹⁷⁸ (for detailed information about the two scenarios see introduction section 6).

6.1.2 Indirect economic effects

Given the fact that both legal forms under PO1 are expected to significantly lower the barrier for cross-border associations active in multiple Member States, it is expected that particularly large associations will make use of the European legal forms. The extent to which it trickles down to smaller associations will depend on the complexity of transforming a national legal form into one of the two legal forms under PO1 prescribed fully or partially by EU law.

As described in tables 7 and 8, for this PO1 estimated benefits range as follows: number of additional cross-border associations between 130 000 – 149 000 for scenario A and 108 000 – 124 000 for scenario B; additional GDP between EUR 2.9 billion - EUR 3.4 billion for scenario A and EUR 2.4 - EUR 2.8 billion for scenario B; and additional employment GDP between

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 (e.g. stakeholders to familiarise with new legislation). Therefore, starting from year one, we can expect a linear increase from the current situation to the full cost reduction potential (i.e. EUR 770 million per year) until year five. As of year five, we can expect the policy intervention to be fully effective and to produce the maximum expected results.

¹⁷⁶ IA study. Estimates based on association responses to the targeted survey and in-depth interviews.
Internal setup cost (compliance cost): EUR 1 500 and external advisory cost (direct cost): EUR 650

¹⁷⁷ In case the legal form allows associations to operate in other Member States (without establishment) this saved costs would be multipliable by the amount of Member States where a registration had to be done under the baseline scenario.

¹⁷⁸ Applying this excess cost estimate (2 150) to the estimate range (considering both scenario A and scenario B) of new associations that are expected to launch cross-border given this policy option.

53 000 – 60 000 for scenario A and 44 000 – 50 000 for scenario B.¹⁷⁹ In terms of the speed of uptake, an exponential growth rate can be expected with some associations being ‘early birds’ and others hesitating and waiting to see the ‘proof of concept’. Another element which will play a role in the uptake depends greatly on what type of activities will be deployed. For example, in case local staff would be hired or in case non-tax exempt services are offered (of an otherwise need for a local presence), the need for registration or establishment in some form will at least partially remain.¹⁸⁰ A counter example is, when services are offered in a digital context, it is likely that registration in each Member State will not be needed and this PO1 could have a very positive effect.

6.1.3 Impacts on Member States

As explained in the first part of this Section, the magnitude of the cost for all policy options is not expected to constitute a significant cost for competent authorities at Member State level. This Section will, however, provide a short overview of different costs and benefits for PO1.

Information costs: the EU and/or competent authorities will likely need to set up awareness-raising activities to make the new legal form better known among associations.

Adjustment costs (monitoring and supervision): the creation of an additional form at EU level can increase the complexity for authorities’ monitoring and supervision, as different regimes will exist next to each other. However, as assessed in the introduction of Section 6, it is expected that this should be a low one-off investment. In the medium and long term, depending on the uptake of the legal form, PO1 will require minimal additional costs related to mainly legal and administrative monitoring and supervision of the newly established associations under the EU legal form (e.g. the registration and establishment procedures, fiscal declarations). Differences might occur between Member States, e.g. those Member States (mainly Belgium, France, Luxembourg, Netherlands, and Germany)¹⁸¹ with many international institutions might have a better uptake compared to others.

Adjustment costs (registration): an EU legal form would require the creation of a framework for registration in the Member States. Please note that impacts relating to the creation or adaptation of national (online) registers under all options are presented in the first part of Section 6.

6.1.4 Stakeholders’ views on policy option 1

PO1 would be particularly favoured by associations established in more than one Member States or with activities at a pan- European level (multiple Member States). In terms of its

¹⁷⁹ 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 75% uptake of the policy intervention as suggested by the IA study based on targeted survey and in-depth interviews, as well as legal analysis.

¹⁸⁰ Although in most countries employers are obliged to register in that country for tax purposes when hiring employees, it is not always required to establish a legal entity. There are, however, quite a few countries where no separate legal entity is to be established for the purpose of hiring employees, but a branch office is to be opened instead. International Employment Law Guide (deloitte.com).

¹⁸¹ [Study StatuteforEuropeancross-borderassociationsandnon-profitorganisations_EN.pdf \(europa.eu\).](#)

effectiveness in facilitating associations establishing operations in another Member State, this policy option was ranked the highest in the targeted survey conducted for the IA study (on average 4 out of 5).¹⁸² Results from the Public Consultation show that 36% (22 out of 64) of respondents indicated that their preferred policy option would be *a new legal form for associations*. 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*”.

6.1.5 Specific impacts related to Policy option 1b: EU level legal form covering cross-border aspects: ‘The European cross-border Association’

The technique of creating a legal form at EU level by partially prescribing applicable rules and otherwise relying on Member State law has both advantages and disadvantages. In that sense, this sub-option represents a limited variation of PO1a, prescribing at EU level only cross-border aspects and main features of the new legal form to the extent needed for coherence. Otherwise, it would refer to existing Member State law.¹⁸³ Just like PO1a, this sub-option would be directly applicable without transposition. Therefore, it would be uniform in content across the Union regarding the elements it prescribes. Implementation would require Member States to make necessary provisions to ensure effective application (for example, in cases where they lack relevant provisions in national law) and designating a competent authority.

Like for PO1a, the legal instrument would be a regulation, with similar benefits as described for PO1a with regard to its uniform application and the additional benefit that the scope would be smaller (limited to cross-border aspects), meaning that this sub-option responds better to the criteria of subsidiarity and proportionality, compared to PO1a. Compared to PO3, PO1b would likely be roughly equally effective, efficient, and coherent. However, due to the choice of legal instrument and the introduction of the new legal form at EU level, PO1b would be slightly less proportionate, given that it does not allow Member States to adapt the legal form to their national specificities through transposition. Moreover, its impact in terms of legal clarity is not straightforward.. Stakeholder feedback shows that this technique adds complexity for those using such legal form created at EU level and may have a negative effect on uptake, as shown in the input to consultations concerning the evaluation of the European Cooperative Society..

While this sub-option is more targeted and proportionate compared to PO1a, it can be expected to have similar effects as the broader PO1a regarding the key cost-benefit indicators of cross-border operation.

Consequently, **the impact on operating costs for individual associations** is expected to be similar to PO1a and PO3 (as this IA makes the theoretical assumption that PO1 and PO3 have similar impacts in terms of operating costs for associations).

¹⁸² IA study.

¹⁸³ Inspiration regarding the level of detail and material scope could be taken from the regulatory approach of the European Cooperative Society, but stretched in a way that references to Member State law cover major elements and provisions prescribed at EU level cover only what is essential for cross-border purposes.

When it comes to the **launch cost**, the excess cost reduction per launch could also be assumed to be similar as for PO1a and PO3 (EUR 2 150). However, there is more uncertainty as regards the overall total impacts, as this depends on the potential uptake of both policy options.

Assuming that the estimated potential uptake is higher for PO3 than for PO1, PO1.b would result in a lower total estimated excess cost reduction for launching operations over a 15-year time frame compared to PO3.

It should be noted that, given the similarities in how PO1b and PO3 address the cross-border barriers in terms of scope and magnitude (given that PO1b and PO3 essentially regulate the same cross-border aspects), it is plausible to assume that the uptake for PO1b might reach similar levels and thus approach potentially the uptake of PO3, which would be higher than for PO1.a. Consequently, this would result in higher reduction of excess launch cost for PO1b, compared to PO1a, and similar launch cost to PO3. However, as the targeted stakeholder consultation for this IA did not include a specific question for PO1b to test this plausibility, this IA will hold the most prudent approach which assumes a similar policy uptake (and the excess cost reduction of launch costs) of PO1b and PO1a. The same reasoning could be made for potential benefits in terms of GDP and job creation. Another element defending the more conservative approach is that PO1b does not provide harmonisation for the more ‘occasional’ cross border activities and therefore will not be equally effective.

The expected result is that particularly larger associations eager to operate at international level will make use and benefit from such a new legal form, similarly to PO1a. As argued before, PO1b has a more proportionate character than PO1a, but still remains an EU legal form. The extent to which these benefits will trickle down to smaller associations will depend on the complexity and cost of converting into such a legal form, or, for newly established associations, the extent to which this is more complex than using national legal forms. Stakeholder feedback on comparable precedents shows that this kind of technique adds complexity for those using such legal form, given that it requires relying on an EU Regulation in part and on national law otherwise, which may have a negative effect on uptake.¹⁸⁴ Hence, in summary, due to lack of specific evidence that would point otherwise, and the assumed similarity in the uptake potential between PO1a and PO1b, the long-term estimated impacts of PO1b are not likely to differ from PO1a.

Considering impacts on Member States, they are largely the same as under PO1a: limited costs can be expected arising from the need to introduce a new legal form and allow for registration and monitoring of this legal form. In this sub-option, such cost should however be somewhat lower than in PO1a, given its scope limited to cross-border aspects requiring adaptation and information costs of small scale. Differences arise concerning the elements that are not prescribed at EU level, but which rather refer to Member State law concerning comparable entities. Some Member States might still need to create some additional legislation for these elements, given that not all Member States currently comprehensively regulate on association law.

¹⁸⁴ As shown by consultations concerning the evaluation of the European Cooperative Society.

6.1 PO2: Harmonisation regarding common minimum standards for cross-border activities of associations

As PO2 would harmonise national association laws (see Section 5.2.2 for an overview of standards identified to be subject of the harmonisation), it would have the main advantage (unlike PO1 and PO3) of not requiring setting up a new legal form for cross-border operations. It would address barriers by setting common minimum standards for cross border aspects.

The legal instrument would be a directive. The benefit of this legal instrument is that it allows for adapting the prescribed rules to national settings, which may also facilitate uptake and reduce adjustment costs, given the general lack of resources associations are facing. This is also very much compliant with the principle of subsidiarity. The downside concerns the risk of fragmentation resulting from divergent application among the Member States, as well as administrative burden for the Member States, as a result of the transposition process. This may be mitigated through the overall level of precision of the proposed instrument, which may promote legal clarity regarding the prescribed rules and their application. Given the intended content, it is likely that a directive is the only available legal instrument for this policy option.

The most significant impact of PO2 would stem from a partial harmonisation leading to simplification of recurring activities for associations (e.g. gathering information, compliance and need for regular external advisory support in cross-border contexts, such as registrations). Consequently, PO2 would impact all associations to the extent that the new requirements differ from the current national settings (baseline scenario).

Yet, the impact on associations not interested in operating cross-border is expected to be non-significant, as the changed requirements are in principle only tackling elements relevant for cross-border activities, given the targeted scope of harmonisation under this option.

For associations operating cross border, PO2 would lift the identified obstacles that they face when operating across borders and would allow for a mechanism for mutual recognition of legal personalities. Harmonisation would not address taxation or labour law and in this respect, barriers will essentially remain. Also, administrative burden will not entirely be prevented. For example, specific registration requirements could still exist for associations that want to operate cross-border (e.g. linked to national requirements concerning taxation, employment), but they should serve justified purposes and be reasonable in terms of burden.

At the level of the Member States, PO2 would directly generate impacts in terms of adaptation (e.g. they would be required to take specific action by making the relevant amendments to their national laws). Harmonisation may imply removing or adjusting existing provisions or introducing provisions that are absent. Only a few Member States already have provisions or a separate legal form for cross-border associations, while most do not have established provisions tackling cross-border aspects, as mentioned in previous Sections of the IA.

6.2.1 Economic impacts on associations

Under PO2, the direct economic costs of cross-border operations are expected to be significantly reduced compared to the baseline. In particular:

1. Associations already active cross-border: harmonisation of rules in the single market leading to substantial simplification in terms of compliance cost and administrative burden for the running cost of operating cross-border;
2. Associations interested in launching cross-border operations but hesitating due to existing barriers: barriers to entry are significantly reduced thanks to harmonisation of rules in the single market. No need to convert into a new legal form. Particularly beneficial for small associations or those aiming to occasionally work across borders as no costs of converting into a new legal form;
3. Associations not interested in launching cross-border operations: may be affected by the adaptation of national rules on associations, depending on the transposition of the legal instrument by the Member States.

Costs of operating cross-border (recurring) for associations already active cross-border (310 000): PO2 has the potential to significantly reduce excess costs of operation compared to the baseline due to its harmonisation effect and thus simplifying gathering information, less internal staff working on compliance and less needs for regular external advisory support. The potential cost reduction is estimated at an order of **magnitude of up to EUR 465 million per year (for the assessed timeframe of 15 years)**, see Annex 4 for calculations).¹⁸⁵.

Table 11: Excess cost reduction per year (for the assessed timeframe of 15 years).

| | Max cost reduction per year for PO2 |
|--|-------------------------------------|
| Information cost (internal staff) | ~EUR 210 million |
| Compliance cost (internal staff) | ~EUR 115 million |
| Direct cost/External advisory cost (External running cost) | ~EUR 140 million |

It should be stressed that this cost reduction is not applicable to associations not acting across borders or without the ambition to develop such operations.

For future cross-border operations of associations, the launch cost is estimated at EUR 3 800 which is a **cost reduction of EUR 1 850 per launch**¹⁸⁶, compared to the baseline of EUR 5 650

¹⁸⁵ This cost reduction is not applicable to those associations not acting across borders or without the ambition to develop such initiatives in future. The basis for calculations are those associations estimated to be already active cross borders (310 000). For detailed calculations see Annex 4 (Section 2.5). The main source of information for the assessment of the operation 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 (IA study). However, it is not likely to expect such effect to materialise from year one. We can assume a lag effect of one 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 (e.g. delay of uptake that can be expected due to the transposition timeframe of the Directive). Therefore, starting from year one, we can expect a linear increase from the current situation to the full cost reduction potential (i.e. EUR 465 million per year) until year five. As of year five, we can expect the policy intervention to be fully effective and to produce the maximum expected results.

¹⁸⁶ IA study. Estimates based on association responses to the targeted survey and in-depth interviews.

Internal setup cost (compliance cost): EUR 1 200 and external advisory cost (direct cost): EUR 650.

(for detailed overview see Annex 4).¹⁸⁷ Within the assessed 15-year time frame, this excess cost reduction could potentially range between EUR 240 million and EUR 274 million, in case of scenario A and between EUR 201 million and EUR 229 million, in case of scenario B.¹⁸⁸

6.2.2 Indirect economic effects

PO2 is expected to significantly lower the barrier to launch cross-border operations as it would benefit also associations that only occasionally are interested in cross-border activities. This could be often smaller associations (small number of paid employees or budget), which account for by far the largest share of associations overall.

As described in tables 7 and 8, for this PO2, the estimated number of additional cross-border associations range between 130 000 – 149 000 for scenario A and 108 000 – 124 000 for scenario B, additional GDP range between EUR 2.9 billion – EUR 3.4 billion for scenario A and EUR 2.4 billion – EUR 2.8 billion for scenario B and additional employment GDP range between 53 000 – 60 000 for scenario A and 44 000 – 50 000 for scenario B.¹⁸⁹

6.2.3 Impacts on Member States

In general, PO2 is expected to have the strongest impact on Member States as it would require adaptation of the national rules on associations. This said, and as illustrated in the first part of this Section, the magnitude of the cost is not such that it constitutes a significant cost for competent authorities at Member State level.¹⁹⁰

This section will, however, provide a short overview of different costs and benefits.

Information costs: all associations with or without cross-border activities will need to be informed about changes in the legislation and subsequent compliance. Differences between Member States will greatly depend on the degree to which existing legislation should be adapted to guarantee a homogeneous way of introducing the new provisions in the respective legal systems of Member States (for example when introducing new rules on cross-border aspects or amending existing one, when there is not yet a register, or the registration processes needs to be fully or partially adapted). The information “weight” (complexity of changes) is expected to be relatively higher than for PO1 and PO3 as it would imply informing all associations about changes made in the national framework for associations, despite the targeted elements of compliance (those harmonised) of potential interest for those associations with cross-border needs.

¹⁸⁷ In case the legal form allows associations to operate in other Member States (without establishment) this saved costs would be multipliable by the amount of Member States where a registration had to be done under the baseline scenario.

¹⁸⁸ Applying this cost estimate to the estimate range (considering both scenario A and scenario B) of new associations that are expected to launch cross-border given this policy option.

¹⁸⁹ Figures for both scenarios A and B based on a policy uptake range between 85% and 95%. This range corresponds to a central estimate 75% uptake of the policy intervention as suggested by the IA study based on targeted survey and in-depth interviews, as well as legal analysis.

¹⁹⁰ IA study.

Adjustment costs (monitoring and supervision): PO2 will impact competent authorities as adjustment costs related to monitoring and supervision framework are to be expected in this respect, given that new procedures concerning mutual recognition may be established. This, in turn, may give rise to an increased number of associations to monitor and supervise. On the other hand, with improved possibilities to recognise the legal personality for cross-border associations, therefore less procedures in terms of full establishment (setting up new legal entities or establishing branches) will need to be managed by the supervising authority in the long run (less costs).

Adjustment costs (registration): in the short term, considering adjustment costs for authorities related to the registration of associations, PO2 will require the adaptation of current registers (or for those without a register: create a register or adapt another existing register) to the common standards allowing recognition and equal treatment across borders.¹⁹¹ Please note that impacts relating to the creation or adaptation of national online registers under all options are presented in the first part of the section 6.

6.2.4 Stakeholders' views on policy option 2

In terms of its effectiveness in facilitating associations to establish operations in another Member State, this policy option received on average a score of 3.4 of 5 in the targeted survey. Results from the Public Consultation show that 32% (12 out of 38) of the respondents who identified themselves under the legal form of associations chose '*harmonisation of some common minimum standards*' as their preferred policy option. And 42% (26 out of 64) of all of respondents to the Public Consultation indicated as preferred option the harmonisation of common minimum standards for cross-border operations in the EU.

6.3 PO3: Creation of an additional national legal form of association designed for a cross-border membership and/or cross-border purposes or activities

This policy option would require Member States to introduce in their legal systems a legal form for associations specifically designed for cross-border membership and/or for cross-border activities and/or purposes ('cross-order association'). PO3 would be based on limited provisions essential to cross-border activities and based on mutual recognition among Member States (see Section 5.3.3), while respecting varying national traditions in association law (as it leaves existing legislation in the Member States untouched). It offers a combination of PO1 and PO2, in that it creates an additional new legal form of association (similar to PO1), but with provisions relevant to cross-border aspects, which Member States may adapt to their respective national setting through transposition (similar to PO2), but without amending rules on existing legal forms on associations in the Member States.

The legal instrument would be a directive. The benefit of this legal instrument is that it allows for adapting the prescribed rules to national settings, which may also facilitate uptake and reduce adjustment costs, given the general lack of resources associations are facing. This is also very much compliant with the principle of subsidiarity. The downside concerns the

¹⁹¹ Those Member States without a register (such as Ireland, Denmark and Sweden), will need to establish one to allow the mutual recognition or integrate it in existing registers (see also cost estimates in the intro of this Section).

possible risk of fragmentation resulting from divergent interpretation among the Member States, as well as administrative burden for Member States, as a result of the transposition process. This may be mitigated through the overall level of precision of the proposed instrument, which may promote legal clarity with regard to prescribed rules and their application. Given the intended content and appropriate legal basis, it is likely that a directive is the only available legal instrument for this policy option.

Under PO3, no full streamlining of all administrative procedures for (cross-border and national) associations will be achieved, as PO3 does not touch existing legislation. Finally, the creation of an additional legal form (as for PO1) could create ‘competition’ between existing legal forms for associations in the Member States and this new legal form may lead to a sort of ‘jurisdiction shopping’ by the associations wishing to take up the new legal form. It is important to note that PO3 will not affect associations that do not want to operate across borders.

6.3.1 Economic impacts on associations

Under PO3, the direct economic costs of cross-border operations are expected to be significantly reduced compared to the baseline. In particular:

1. Associations already active cross-border: if converting to the new legal form at national level, substantial simplification in terms of compliance cost and administrative burden can be expected.
2. Associations interested in launching cross-border operations, but hesitating due to existing barriers: if converting to the new legal form at national level, significantly reduced costs thanks to the recognition of new legal form among Member States, legal certainty and reduced red tape;
3. Associations not interested in launching cross-border operations: this policy option does not affect these associations as they are not obliged to transform.

Consequently, the compliance and administrative burden will decrease. This is particularly relevant for associations active in multiple or all Member States, though they would first have to invest in their conversion to the new form to benefit (similar to PO1).

Costs of operating cross-border (recurring) for associations active across borders (310 000): PO3 has the potential to reduce costs of operation particularly for associations operating in multiple Member States, due to its harmonisation effect and simplification in terms of gathering information, internal staff working on compliance and needs for regular external advisory support. The extent to which such benefits materialise depends, however, largely on the extent of uptake of the new legal form. The potential cost reduction is estimated at an order of **magnitude of up to 770 million per year (for the assessed timeframe of 15 years)**, see Annex 4 for calculations.¹⁹²

¹⁹² This cost reduction is not applicable to those associations not acting across borders or without the ambition to develop such initiatives in future. The basis for calculations are those associations estimated to be already active cross borders (310 000). For detailed calculations see Annex 4 (Section 2.5). The main source of information for the assessment of the operation 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 (IA study).

Table 12: Excess cost reduction per year (for the assessed timeframe of 15 years).

| | Max cost reduction per year for PO3 |
|--|-------------------------------------|
| Information cost (internal staff) | ~EUR 350 million |
| Compliance cost (internal staff) | ~EUR 190 million |
| Direct cost/External advisory cost (External running cost) | ~EUR 230 million |

This cost reduction is not applicable to associations not acting across borders or without the ambition to develop such initiatives in the future.

For future cross-border operations of associations, the launch cost is estimated at EUR 3 500 which is a **cost reduction of EUR 2 150¹⁹³** per launch compared to the baseline of EUR 5 650 (for detailed overview see Annex 4).¹⁹⁴ Within the assessed 15-year time frame, this excess cost reduction could potentially range between EUR 338 million and EUR 378 million, in case of scenario A,¹⁹⁵ and between EUR 283 million and EUR 317 million, in case of scenario B.¹⁹⁶

6.3.2 Indirect economic impacts

PO3 is expected to significantly lower the barrier to launch cross-border operations for associations that aim to establish in more than one Member States, but also for those that work and act in border regions and may more occasionally operate cross border. The extent to which associations interested in cross-border activities can be reached will lie on their capability of transforming to the new legal form. However, it is important to note that, for PO3, the effectiveness greatly depends on the harmonisation effect (see Section 5.2.3) and thus, on the extent that barriers do not remain in areas that are not covered by this policy option.

As described in tables 7 and 8, estimated benefits in terms of number of additional cross-border associations range between 157 000 – 176 000 for scenario A and 132 000 -147 000 for scenario B, additional GDP range between EUR 3.57 billion – EUR 4 billion for scenario A and EUR 3 billion – EUR 3.3 billion for scenario B and additional employment range between

However, it is not likely to expect such effect to materialise from year one. We can assume a lag effect of one 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 (e.g. introduction into national law). Therefore, starting from year one, we can expect a linear increase from the current situation to the full cost reduction potential (i.e. EUR 770 million per year) until year five. As of year five, we can expect the policy intervention to be fully effective and to produce the maximum expected results.

¹⁹³ IA study. Estimates based on association responses to the targeted survey and in-depth interviews.

Internal setup cost (compliance cost): EUR 1 500 and external advisory cost (direct cost): EUR 650.

¹⁹⁴ In case the legal form allows associations to operate in other Member States (without establishment) this saved costs would be multipliable by the amount of Member States where a registration had to be done under the baseline scenario.

¹⁹⁵ With a central value for this range of EUR 358 million.

¹⁹⁶ Applying this cost estimate to the estimate range (considering both scenario A and scenario B) of new associations that are expected to launch cross-border given this policy option.

64 000 – 71 000 for scenario A and 54 000 – 60 000 for scenario B.¹⁹⁷ In terms of the speed of uptake an exponential growth rate can be expected with some associations being ‘early birds’ and other hesitating and waiting to see the ‘proof of concept’.

6.3.3 *Impacts on Member States*

In general, and as illustrated in the first part of the Section, under PO3 the magnitude of the cost is not such that it would not constitute a significant cost for competent authorities at Member State level.

This section will, however, provide a short overview of different costs and benefits.

Information costs: associations would not be familiar with this new legal form. Member States will need to set up awareness-raising activities to make the new legal form created at national level better known. Information costs are expected to be similar to PO1 and less impactful than PO2 as the creation of the new legal form is of interest to associations with cross-border activities and ambitions.

Adjustment costs (monitoring and supervision): will be equal as described in PO1.

Adjustment costs (registration): in the short term, considering adjustment costs for authorities related to the registration of associations under the new legal form, PO3 would require the adaptation of current registers or setting up a new register, in line with the newly created common standards allowing for recognition and equal treatment of the new legal form across borders. Please note that impacts relating to the creation or adaptation of national registers under all options are presented in the first part of the Section.

6.3.4 *Stakeholders’ views on policy option 3*

In terms of effectiveness in facilitating associations to establish operations in another Member State, this policy option received on average a score of 3.2 out of 5 in the targeted survey. Results from the Public Consultation indicate that the most favoured policy option by associations is a ‘new legal form for associations’ (out of the 38 respondents who defined themselves under the legal form of association, 42% (16 out of 38) favoured the creation of ‘A new legal form for associations’¹⁹⁸, 32% respondents (12 out of 38) chose the “Harmonisation of some common minimum standards”¹⁹⁹ and 18% respondents (seven out of 38) showed support for an “EU information campaign”.²⁰⁰

7 HOW DO THE OPTIONS COMPARE?

Based on the assessment of Section 6, the following table provides a comprehensive and consistent overview on how the impacts of each policy option compare in detail relative to the baseline:

¹⁹⁷ 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.

¹⁹⁸ Option 1 in the Public Consultation questionnaire.

¹⁹⁹ Option 2 in the Public Consultation questionnaire.

²⁰⁰ Option 3 in the Public Consultation questionnaire.

Table 13 Comparison of the impacts of each policy option relative to the baseline.

| Main impacts on: | PO 1 ²⁰¹ : ‘the European Association’ (PO 1a)” or ‘The European cross-border Association’ (PO1b) | PO 2: Harmonisation regarding common minimum standards for cross-border activities of associations | PO 3: Creation of an additional national legal form of association designed for a cross-border membership and/or cross-border purposes or activities |
|--|---|---|--|
| i. Associations active cross border | Need to set up new legal form (administrative procedure and cost). | No need to change statutes or legal form. Adaptation based on familiarisation of new rules, as transposed by the relevant MS. | Need to set up new legal form (administrative procedure and cost). |
| | Automatic recognition in all MS (freedom of establishment and mobility in the single market). | Mutual recognition for associations to enjoy freedom of establishment and mobility in the single market. | Mutual recognition for associations to enjoy freedom of establishment and mobility in the single market. |
| | After setting up a new legal form, substantial simplification in terms of compliance cost and administrative burden for cross border activities. | Substantial simplification in terms of compliance cost and administrative burden for the running cost of operating cross border, depending on the extent of harmonisation and the transposition. | After setting up a new legal form at national level, substantial simplification in terms of compliance cost and administrative burden for cross border activities. |
| | International and large associations with presence in several Member States and an explicit European character (PO1a) and associations with targeted cross-border needs and ambitions (PO1b). | Associations with only occasional cross-border needs or with interaction with only a limited number of Member States. | International and large associations with presence in several Member States and an explicit European character, and associations with targeted cross-border needs and ambitions. |
| | Legal certainty about freedom of establishment and full mobility across Member States when converting into a ‘European association’. | Advantageous for small associations or those aiming to occasionally work across borders as these would incur otherwise a relatively high one-time cost from setting up a new legal form through conversion. | Legal certainty about freedom of establishment and full mobility across Member States when converting into the new legal form. |
| ii. Associations interested in launching cross border operations, but hesitating due to existing barriers | Same as above | Same as above | Same as above |

²⁰¹ PO1 captures both the sub-options PO1a and PO1b.

| | | | |
|---|---|---|--|
| iii. Associations not interested in launching cross border operations | Not affected (as they are not obliged to convert). | Effects may occur depending on the transposition (e.g. should a MS wishes to update its rules on a given element overall). In case the requirements change because of the new harmonised rules – then the existing associations would also need to adapt. | Not affected (as they are not obliged to convert). |
| Member States | Need to introduce a new legal form fully or partially regulated by EU law and allow for registration and monitoring of such a form. | Need to adapt their current national laws on associations to new harmonised requirements, for (all) associations. | Need to introduce a new legal form within the national legal framework partially regulated by EU law and allow for registration and monitoring of such a form. |
| | Short-term cost increase, adaptation of current registers to common standards and possible reduction of revenues from registrations. Long-term costs reduction thanks to automatic recognition of new legal form and online registration (digital registers). | Information cost about changes in the legislation and subsequent compliance (in terms of monitoring and supervision). Short-term cost increase, adaptation of current registers to common standards. | Short-term cost increase, adaptation of current registers to common standards and possible reduction of revenues from registrations. Long-term costs reduction thanks to recognition of new legal form and online registration (digital registers). |
| Citizens | EU citizens would have the possibility to establish associations facilitating transnational activities (including cross-border provision of services, cross-border collaboration among associations from different MSs, tackling shared challenges across Member States and EU regions etc.) EU citizens would enjoy improved access and offer, thanks to potential new service providers from other Member States, especially in sectors where associations are most present (e.g. social and health services). | | |
| Other entities which are active in the same sectors/markets will be impacted, | Other market actors active in the same sectors and markets as non-profit providers such as associations will experience greater competition (given that would more easily offer their services in the single market Member States). All policy options are expected to generate a positive impact in intensifying competition and price quality of services and goods (taking into account the differences in effectiveness, as described for each policy option in this Section below). | | |
| | Improved public procurement market at EU level, given that all policy options would allow associations to compete more easily for contracts tendered by public institutions also in other Member States (particularly in specific sectors such as care, health and social services, employment services and social work, where in recent decades a large increase of (cross-border operating) for-profit providers has been observed). | | |
| ASSOCIATIONS: ESTIMATES OF MAXIMUM POTENTIAL EXCESS COST REDUCTIONS PER YEAR | | | |
| | PO1 (a) and (b) | PO2 | PO3 |
| Operating costs (recurrent) | EUR 770 million | EUR 465 million | EUR 770 million |

| | | | |
|---|------------------------------------|------------------------------------|------------------------------------|
| Compliance cost (internal) | EUR 190 million | EUR 115 million | EUR 190 million |
| Information cost (internal) | EUR 350 million | EUR 210 million | EUR 350 million |
| Direct cost/External advisory cost (External running cost) | EUR 230 million | EUR 140 million | EUR 230 million |
| ASSOCIATIONS: ESTIMATES OF MAXIMUM POTENTIAL EXCESS COST REDUCTIONS OVER 15 YEARS²⁰² | | | |
| Operating costs (recurrent) | EUR 8.5 billion | EUR 5.1 billion | EUR 8.5 billion |
| ASSOCIATIONS: ESTIMATES OF MAXIMUM POTENTIAL EXCESS COST REDUCTIONS PER OPERATION LAUNCH | | | |
| | PO1 (PO1a & PO1b) | PO2 | PO3 |
| Launching launch costs²⁰³ (one-off): | EUR 2 150 | EUR 1 850 | EUR 2 150 |
| Internal setup cost (compliance cost) | EUR 1 500 | EUR 1 200 | EUR 1 500 |
| External advisory cost (direct cost) | EUR 650 | EUR 650 | EUR 650 |
| ASSOCIATIONS: ESTIMATED OF MAXIMUM POTENTIAL EXCESS COST REDUCTIONS PER OPERATION LAUNCH²⁰⁴ OVER 15 YEARS | | | |
| | PO1 (PO1a & PO1b) | PO2 | PO3 |
| Launching costs (one-off) – <i>Scenario A</i> | EUR 278 million EUR 318 million | EUR 240 million EUR 274 million | EUR 338 million EUR 378 million |
| Launching costs (one-off) – <i>Scenario B</i> | EUR 233 million EUR 267 million | EUR 201 million EUR 229 million | EUR 283 million EUR 317 million |

The assessed policy options are compared below in both qualitative and quantitative ways for: effectiveness in reaching the objectives stated in Section 4; benefit-cost ratio and cost-efficiency; proportionality, including feasibility and subsidiarity; and coherence with other EU policy objectives and with other policy objectives, such as the SDGs (see Section 1).

Scores are allocated based on an internal assessment, building on Section 6, as well as available sources – in particular the IA study and the stakeholder consultation.

²⁰² Figures represent the total excess cost reductions over 15 years. Calculations of totals over 15 years take account of potential lag effects as it is not likely to expect such full excess cost reduction materialise from year one. A lag effect of one year is assumed 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. delay of uptake that can be expected due to the transposition timeframe of the Directive). Therefore, starting from year one, we can expect a linear increase from the current situation to the full cost reduction potential (i.e. EUR 770 million for PO1 and PO3 and EUR 465 million per year for PO2) until year five. As of year five, we can expect the policy intervention to be fully effective and to produce the maximum expected results.

²⁰³ Nominally, the current excessive levels of inflation and predictions on inflation development are expected to cost increases. The cost expressed should thus be interpreted in real term cost at 2023 price levels.

²⁰⁴ Applying this cost estimate to the number of new associations that are expected to launch cross-border operations under this policy option (see below).

Legend: 0 no / neutral impact; + minor positive impact; ++ positive impact; +++ significant positive impact; - minor negative impact; -- negative impact; --- significant negative impact.

Table 14: Comparison of PO1(a and b), PO2, and PO3.

| | PO 1a | PO 1b | PO 2 | PO 3 |
|--|-------|-------|------|------|
| 1. Effectiveness (in achieving the objective) | +++ | +++ | ++ | ++ |
| Specific Objective 1: Improve possibilities for an association to have its legal personality recognized in other Member States, thereby ensuring equal treatment in the single market | +++ | +++ | ++ | ++ |
| Specific Objective 2: Reduce the regulatory formalities for associations operating in more than one Member State | +++ | +++ | ++ | ++ |
| 2. Efficiency (cost/benefit ratio)²⁰⁵ | +++ | +++ | ++ | +++ |
| 3. Coherence | +++ | +++ | +++ | +++ |
| 4. Proportionality | 0 | ++ | ++ | +++ |
| 5. Subsidiarity | 0 | + | +++ | +++ |
| TOTAL SCORE | ++ | ++ | ++ | +++ |

Effectiveness (in reaching the objectives). All policy options will contribute to achieving the policy objectives of the initiative, albeit in different manner and extent. Therefore, all received a reasonably high score. A legislative instrument to remove identified barriers for associations operating cross-border in the single market – whether through the creation of a new legal form (both PO1 sub-options and PO3) or harmonisation of common minimum standards (PO2) – will reduce the existing regulatory barriers and will improve possibilities for an association to have its legal personality recognized in other Member States. PO1 scores highest and has a significant positive impact, compared to the positive impact of PO2, for the following reasons. Regarding Specific Objective 1 (SO1), PO1 scores the highest, as it is based on automatic recognition of the new legal form applied in a uniform manner (regulation). For the same reason, being a fully or partially prescribed supranational legal form, both sub-options of PO1 have the most immediate harmonisation effect in the single market linked with the choice of

²⁰⁵ For the efficiency (cost/benefit ratio) in table 14, PO1 and PO3 score equally high (+++) as the excess cost reductions for cross-border operations over a 15-year time span are equal for PO1 and PO3 (EUR 8,5 billion) , compared to EUR 5,5 billion for PO2. There is a difference between PO1 and PO3 as concerns the launch costs, however it is of a considerably smaller size . Consequently, in the sum of total excess cost reductions for PO1 and PO3 that difference is non-significant. Therefore both policy options have an equal score in terms of efficiency (cost/ benefit ratio) of +++ versus ++ for PO2, for which cost reductions in both operational and launch costs are significantly smaller.

the legal instrument (regulation) and therefore score the highest regarding the specific objective 2 (SO 2).

Efficiency (cost/benefit ratio). All policy options will have a considerable positive impact in terms of cost efficiency for associations and for competent authorities in the Member States. Differences between the options in terms of cost reduction depend, to a certain extent, on the cross-border ambitions and current/future activities of associations. Also the uptake of the policy option is a factor that will greatly decide upon this cost/benefit ratio. These are to certain extent uncertain factors that can only be indirectly influenced by the legal framework that the policy options aim to improve and thus depends inevitably on a series of assumptions made in this IA (as outlined in Annex 4).

As presented in Section 6, it is estimated that all policy options will have a positive effect, as all are expected to lower considerably excess costs and administrative burden for associations (biggest relative impact through the creation of an EU legal form as well as an additional legal form at Member State level), and neither is imposing new costs on relevant stakeholders.

From the point of view of **expected overall excess cost reduction of associations' operating cost**, PO1 and PO3 emerge as the most effective. The uncertainty of this potential of PO1 in terms of take up is however higher than for PO3, certainly for smaller associations. On the other hand, the implementation of PO3 at national level may generate unforeseen differences and complexities, likely reducing the full potential. Over a 15-year time span **a reduction of excess costs up to 770 million per year for PO1 and PO3 and 465 million per year for PO2 is estimated**. For the assessed timeframe of 15 years that potentially results in a total excess cost reduction of up to **EUR 8.5 billion under PO1 and PO3** versus up to EUR 5.1 billion under PO2²⁰⁶.

From the point of view of **cost of launching cross border operations**, while overarching effects are similar for various options, the underlying drivers and affected stakeholder groups differ. Both sub-options of PO1 are particularly relevant to large associations willing to operate cross border (e.g. International NPOs). They provide an option for those looking for an international legal form and allow for managing centrally by using economies of scale at European level. PO2, on the other hand, provides a lowering of the barrier to entry without a need for active choice to advance ones' own position for an association. This facilitates ad hoc cross-border operations and can be more beneficial for micro and small associations, as PO2 provides a reduction of the barrier without a need for action by the associations interested (no need to convert into a new legal form). In monetary terms, the excess cost reduction for the best estimate scenario over a timeframe of 15 years of PO3 is largest and is estimated to range between EUR 338 million and EUR 378 million, followed by PO1 (EUR 278 million - EUR

²⁰⁶ Figures represent the total excess cost reductions over 15 years. See table 9 for PO1 10 for PO2 and 11 for PO3 in Section 6 for sub costs. Calculations of totals over 15 years take account of potential lag effects as it is not likely to expect such full excess cost reductions materialise from year one. A lag effect of one year is assumed 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. delay of uptake that can be expected due to the transposition timeframe of the Directive). Therefore, starting from year one, we can expect a linear increase from the current situation to the full cost reduction potential (i.e. EUR 770 million for PO1 and PO3 and EUR 465 million per year for PO2) until year five. As of year five, it can be expected that the policy intervention is fully effective and produces the maximum expected results.

318 million) and PO2 with the lowest expected reduction (EUR 240 million - EUR 274 million).

In table 13 an overview of the effects on excess cost reductions is displayed, being clear that all policy options have a considerable positive effect on the two main types of costs: operational costs and launch costs, of which operational costs are a larger part. When considering both cost option accumulatively, the estimates show that PO1 and PO3 are equally favourable, followed by PO2 (minor difference occur because of the launch costs as described above). Their target groups differ however. Given that PO3 is expected to be more inclusive for smaller associations because of its likely relative substantive familiarity vis-à-vis that of PO1, the actual expected excess cost reductions (emerging by new associations to launch cross-border activities) are expected for a 15-year time span to be higher than for PO1 (more registrations of small associations compared to fewer registrations of large associations). See table 12 of this Section for a detailed comparison of excess cost reductions for scenario A and scenario B. As argued before, PO1b has a more proportionate character than PO1a, but still remains an EU legal form. However, the extent of “inclusiveness” to which these benefits will trickle down to smaller associations will depend on the complexity and cost of converting into such a legal form, or for newly established associations the extent to which this is more complex than using national legal forms. Hence, in summary, one might assume that PO1b is not as inclusive as PO3 and, due to lack of further specific evidence that would point otherwise, the IA assumes similarity in the uptake potential between PO1a and PO1b. Consequently, the long-term estimated impacts of PO1b are not likely to differ from PO1a.

Finally, PO3 and PO1 will reduce operations costs mostly for associations operating in more than one Member State. PO3 has the specific advantage to stimulate the associations operating across borders by offering them a vehicle vested with reduced administrative burden and costs, while also be mostly adapted to the national context and traditions related to associations. At the same time, it should be noted that for both PO1 and PO3 benefiting would entail that existing associations would need to change their statutes and re-register, if relevant, to meet the requirements of the new legal form or create a new association under the new legal form. This would generate one-off costs and administrative burden.

Coherence. Issues with coherence were not detected and therefore all policy options scored well and equally so. Improving the functioning of the single market is a priority for the EU, which this initiative contributes to. Further, improving the possibilities for associations to operate cross-border contributes to the functioning of civil society and thereby, indirectly, to upholding an enabling civic space. All policy options would support a fair transition for all, given the sectors in which associations are most present. Finally, all policy options are aligned with the Social Economy Action Plan and with the other measures mentioned therein, including the proposal for a Council Recommendation on developing social economy framework conditions and Commission Staff Working Documents providing factual information on relevant taxation frameworks for social economy entities and on the existing case-law on non-discriminatory taxation of charitable organisations and their donors.

All three policy options facilitate exercising the freedom of assembly and of association, as defined in the Charter, the Universal Declaration of Human Rights and the European Convention on Human Rights. Further, measures encouraging intensified cross-border

activities of associations directly support the work of the Council of Europe, and in particular the European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations, the Recommendation to its Member States on the legal status of non-governmental organisations in Europe, and the Fundamental Principles on the Status of Non-governmental Organizations in Europe.

All policy options support SDG 8 on Decent work and Economic Growth and, indirectly, SDG 16 on Peace, Justice, and Strong Institutions as well as indirectly SDG 3 on healthy lives and promote well-being for all, by facilitating cross-border activities of associations mainly active in sectors such as health, care and social services.

Proportionality. In terms of proportionality, PO3 (establishment of an additional legal form at Member State level) scores highest. This policy option is most targeted at associations who wish to operate cross-border and would not necessarily lead Member States to change their existing association law nor would it have direct implications on associations not interested in cross-border activities (as in PO2), in proportion with the scale of the identified problem (8% of all associations in the EU are estimated as currently engaged in cross-border activities). This is also in contrast to PO1a, which would regulate matters beyond what would be essential to facilitate cross-border activities, but also to PO2, which would harmonise common standards for cross-border activities and mobility of all associations, thereby resulting in partial amendment of existing rules on associations in all Member States. Regarding PO1b, which would also create a legal form focusing on cross-border aspects at EU level, it would be slightly less proportionate than PO3, given that it would be applied in a uniform manner (i.e. choice of the legal instrument), which does not allow Member States to adapt the legal form to their national specificities (i.e. through transposition) and therefore may be considered as non-proportionate in relation to the scale and nature of the identified problem in Section 2.

A new legal form for cross-border associations at Member State level (PO3) would allow for flexibility for Member States to adapt it to their respective settings, vis-à-vis an EU-level legal form applied in a uniform manner envisaged in both sub-options of PO1. Moreover, PO3 would not require changing Member States legislation for all associations, as it would be the case for PO2. Therefore, PO3 scores highest on proportionality.

Subsidiarity. In terms of subsidiarity, all policy options answer to the same key problem drivers which have been described above and therefore the necessity of an EU action is covered by all policy options as well as the fact that a solution can be better achieved at Union level (for more explanation, see section 3.1). Furthermore, a Union action would prevent the regulatory fragmentation that currently exists in the EU and only such an action would enable the adoption of common or mutually recognised rules that would ease the cross-border activities and mobility of associations (for more explanation, see section 3.2). However, PO2 and PO3 arguably respect the principle of subsidiarity better than either sub-option of PO1, given that the proposed legal instrument of PO2 and PO3, i.e. a directive, allows Member States flexibility in transposing the requirements set, and therefore score the highest in that regard.

8 PREFERRED OPTION

Overall, all policy options score rather positively as outlined in Sections 6 and 7, as they do not impose significant costs for Member States, while rather reducing excess costs for associations,

albeit to a differing extent. This is particularly the case for options PO1 and PO3, which do not impose costs on all associations, as the choice of taking-up the new legal form will be voluntary. Associations that would choose to convert to or merge with the new form would encounter those administrative costs as assessed in Section 6. Furthermore, costs on authorities are not significant in any policy option, as the objective is regulatory and administrative simplification. PO1 relies on a regulation, while PO2 and PO3 rely on directives.

Although both a directive and a regulation allow for achieving the policy objectives (as outlined in Section 4) in an efficient manner, on balance, a regulation can be seen as more effective and efficient in terms of enforcement and possible divergent interpretation leading to fragmentation. This is due to its direct applicability and uniformity in content. Using a directive may entail risks in transposition, including gold-plating. However, the comparison is not entirely clear-cut. Transposition allows for adapting the prescribed rules to national settings, which may also facilitate uptake and reduce adjustment costs, given the general lack of resources associations are facing. The risk of fragmentation and divergent interpretation among the Member States may be mitigated and legal clarity may be promoted through the overall level of precision of the proposed instrument.

The main differences between the three options concern their level of compliance with the proportionality and subsidiarity principles and their political and legal feasibility in relation to the nature of the identified problem. In light of the foregoing and considering the absence of a sharp difference in terms of efficiency (costs/benefits) between the options, the preferred option appears to be PO3, as described below.

Firstly, PO3 is most suitable in addressing the objectives, when taking into account proportionality. This also takes into account the scale of the identified problem (estimated numbers of associations currently active cross-border and with potential). PO3 allows those associations interested in operating in more than one Member State to benefit from recognition of their legal personality across the Union, as well as to have improved clarity on administrative procedures applying when operating cross-border, including providing goods and services, receiving capital, welcoming members, merging with associations cross-border²⁰⁷ and converting cross-border.

Although they score similarly overall for effectiveness, a substantive advantage of PO3 compared to PO2 concerns the recognition of legal personality. The legal personality of associations under the new legal form would be recognized in other Member States, while national associations under PO2 would only benefit from a standardized procedure for obtaining such recognition on a case-by-case basis. Applying the ‘once only’ principle leads to a minimal number of registrations, hence PO3 is more advantageous over time for existing associations, also smaller ones, despite the higher one-off cost stemming from converting to the new legal form. Both sub-options of PO1 score slightly higher for effectiveness, for the reasons described in Section 7.

²⁰⁷ DG GROW has commissioned an ongoing independent study to describe and compare the 27 national legal regimes for non-profit associations in the EU concerning their legislative approach to mergers and demergers. Results are expected in Q2 2023 in order to feed into the preparation of the initiative.

Thirdly, PO3 does not interfere with national regimes for associations and traditions in the Member States and furthermore allows for them to be duly considered. This also applies to Member States with existing provisions concerning cross-border aspects of associations, given that the said provisions concern existing legal forms. It would rather require adjustment from Member States to incorporate the new legal form in national legislation, and adaptations to ensure mutual recognition of the legal personality, including adaptations to the existing national registries for associations. As there is very little harmonisation 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 is underscored. PO1b, which would also create a legal form focusing on cross-border aspects, would likely be less proportionate, given the notion of subsidiarity and that it does not allow Member States to adapt the legal form to their national specificities through transposition. Its impact in terms of legal clarity is therefore not clear. Precedents show that this technique adds complexity for those using such legal form, thereby having a negative effect on uptake.²⁰⁸

PO3 is therefore targeted and complies the most with the proportionality and subsidiarity principles. All aspects considered, PO3 meets best the objectives of addressing the identified problem and meeting the objective of improving the functioning of the single market for associations, thereby also promoting EU civil society and strengthening economic development in the EU.

Application of the ‘One In, One Out’ Approach

Given the voluntary nature of the preferred option establishing an additional new legal form specifically designed for a cross-border membership and/or for cross-border activities and/or purposes (‘cross-order associations’), no costs would be imposed on existing associations. Associations could however incur direct adjustment costs should they desire to convert to this new legal form, thereby enjoying the potential of reduced costs. (see Annex 3 and 4).

Table 15: Excessive costs reduction related to the ‘One In One Out’ (OIOO) assessment.

| Associations: launching costs ²⁰⁹ | one-off | Excessive cost reduction ²¹⁰ (relative to baseline) | Associations: recurrent yearly administrative and compliance cost reduction. | Excessive cost reduction ²¹¹ (relative to baseline) |
|---|---------|--|--|---|
| Staff cost: time spent to familiarise with new | | ~ EUR 1 500 | Compliance cost (internal): | ~ EUR 190 million |

²⁰⁸ Stakeholder consultation in the context of the European Cooperative Society, see [Report on the application of Regulation No 1435/2003 on the Statute for a European Cooperative Society \(SCE\)](#) of 23.2.2012.

²⁰⁹ 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).

²¹⁰ Excessive cost are defined as the unnecessary cost which could be avoided by solving the identified problem (as outlined in Section 2). These need to be distinguished from the actual cost which include also the unavoidable component of the cost category.

²¹¹ Idem.

| | | | |
|--|---|---|---|
| <i>legislation, check and prepare admin formalities)</i> | | | |
| Other setup costs: <i>external services: advisory on labour, accounting and tax laws in countries where associations wish to expand + registration costs</i> | ~ EUR 650 | Information cost (internal): | ~ EUR 350 million |
| Total per launch | ~ EUR 2 150 | Direct cost/External advisory cost (External running cost): | ~ EUR 230 million |
| Total one-off excess cost reductions (new associations that are expected to launch cross border operations under this policy option) – 15 years | Scenario A: EUR 338 million – EUR 375 million ²¹² Scenario B: EUR 283 million – EUR 317 million | Total recurrent excess cost reductions | ~ EUR 770 million (1 year) EUR 8.5 billion (15 years) |

9 HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

As with any new regulatory initiative, if the preferred option is implemented, there will be periodic evaluation and monitoring. Monitoring could be undertaken by the Commission in conjunction with the EU and national authorities, and the non-profit sector, i.e. representatives of associations and clients or members of associations to get feedback regarding how well (or otherwise) associations are operating across borders and are making the most of the single market opportunities and freedoms. The importance of regular feedback loops between the Commission and key stakeholders (e.g. associations, other actors of the non-profit sector, Member States authorities) can be highlighted. This would provide an opportunity to learn about the impact of the new regulatory initiative on associations operating cross-border in the single market, including advantages, drawbacks and any practical implementation challenges for Member States and associations. This would also allow for further data gathering in order to capture the size and economic value of associations operating cross-border in the single market (e.g. an independent study on the economic performance of the Proximity and Social Economy industrial ecosystem, including associations, has been Commissioned by the Commission under the Single Market Programme. Its first results are expected in 2024 and will feed the future monitoring of the initiative).

There should be an EU legislative intervention, an evaluation will be carried out by 5 years since its entry into force or its transposition by Member States (depending on the nature of the chosen instrument) in order to allow for sufficient period for awareness raising of potential beneficiary associations, and such an evaluation will gather evidence to assess how this specific intervention has performed.

²¹² With a central value for this range of EUR 358 million.

| <i>Table 16: Objectives and Indicators.</i> Objectives | Indicators | Sources of information |
|--|---|---|
| Reduce the regulatory formalities for associations operating in more than one Member State | <p>Compliance level by Member States (i.e. transposition pace, infringement cases).</p> <p>excess cost reductions for associations realised due to reduced regulatory formalities.</p> <p>Number and geographic spread of registered cross-border associations)</p> | <p>Evaluation/ desk research /consultation of stakeholders and authorities</p> <p>(Online) registries in MS (with aggregated information at EU level</p> <p>Information collected through surveys</p> |
| Improve possibilities for an association to have its legal personality recognized in other Member States, thereby ensuring equal treatment in the single market | <p>Perceived satisfaction of associations operating cross-border</p> | <p>Evaluation / desk research / consultation of stakeholders and authorities</p> |

LIST OF ANNEXES²¹³

Annex 1: Procedural information

Annex 2: Stakeholder consultation (Synopsis report)

Annex 3: Who is affected and how?

Annex 4: Analytical methods

Annex 5: Competitiveness check

Annex 6: Description of market context

Annex 7: SME test

Annex 8: Associations operating or wishing to operate cross border in the single market – territorial dimension

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

Annex 10: Legal regimes of associations in EU Member States

Annex 11: National legislation rules on cross-border aspects of associations

Annex 12: Notion on Public Benefit status

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Annex 14: List of Figures, Tables, and Boxes

²¹³ Annexes are not included in this document but provided separately.



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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 2022¹.

A Public Consultation and a Call for Evidence were published on 5 August 2022 with a feedback period until 3 November 2022².

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 the IA was submitted to the RSB on 1 March 2023 and discussed at a meeting with the RSB

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 \(europa.eu\)](#)

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 |
|--|--|
| <p>(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.</p> | <p>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.</p> <p>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.</p> <p>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).</p> <p>Regarding foresight analysis, links to several megatrends and basic foresight elements were added in the section developing the dynamic baseline (Section 5).</p> |
| <p>(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.</p> | <p>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).</p> <p>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.</p> |

| | |
|---|---|
| | <p>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).</p> <p>Granular language to explain the links with the Defence of Democracy package were introduced in Section 1.2 (and Annex 9).</p> <p>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.</p> |
| <p>(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.</p> | <p>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:</p> <ol style="list-style-type: none"> 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. <p>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).</p> |
| <p>(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-</p> | <p>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</p> |

| | |
|---|---|
| <p>border activities, while the rest remains under Member 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.</p> | <p>between PO1a and PO1b were assessed qualitatively 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).</p> <p>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.</p> |
| <p>(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.</p> | <p>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).</p> |
| <p>Some more technical comments have been sent directly to the author DG.</p> | <p>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.</p> <p>Links with the relevant SDGs were also added in Section 1 in line with Section 7.</p> <p>All RSB comments regarding presentation and terminology have been addressed.</p> <p>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.</p> <p>The executive summary has been revised to reflect all changes made to the IA report and Annexes.</p> |

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 associations⁴ (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 shows the breakdown 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 \(europa.eu\)](https://european-council.europa.eu/media/en/press-operations/infographic/docs/Single_market_-_Proposal_for_a_legislative_initiative_on_cross-border_activities_of_associations.pdf)

Table 1: Overview of represented associations in all consultation activities

| 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 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 |

* 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 represent¹⁰.

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
- Different VAT regimes and approaches in different EU countries

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 \(europa.eu\)](https://ec.europa.eu/expertgroups/)

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 category¹² (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 authorities¹³.

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 Consultation¹⁶

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)

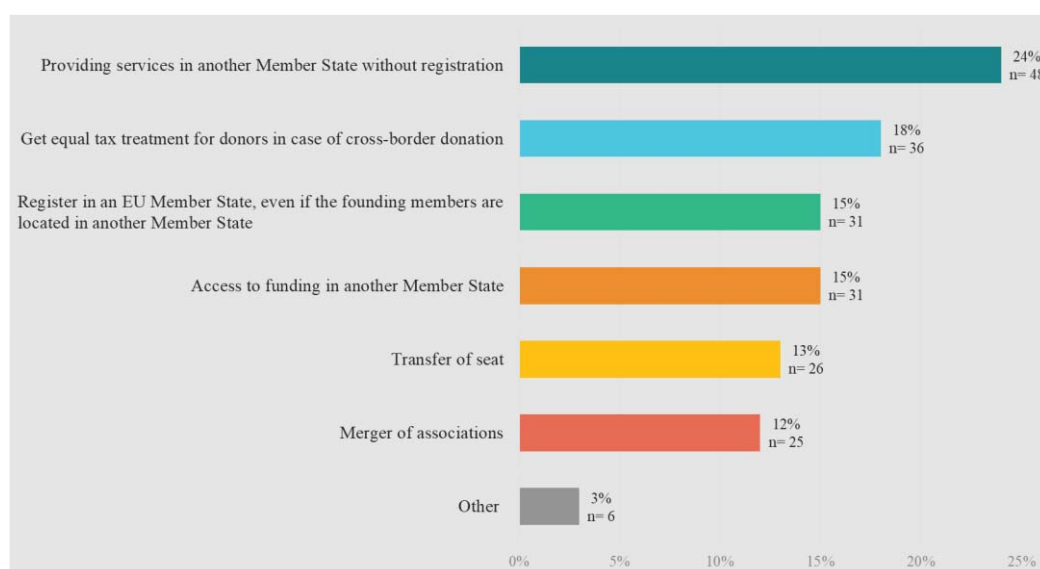


Figure 1: Most important needs for associations operating or willing to operate in more than one Member State.

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 \(europa.eu\)](https://european-council.europa.eu/media/1000000/attachment/data/00000001/16102020/EN/FACTUAL_SUMMARY_REPORT_PUBLIC_CONSULTATION.pdf)

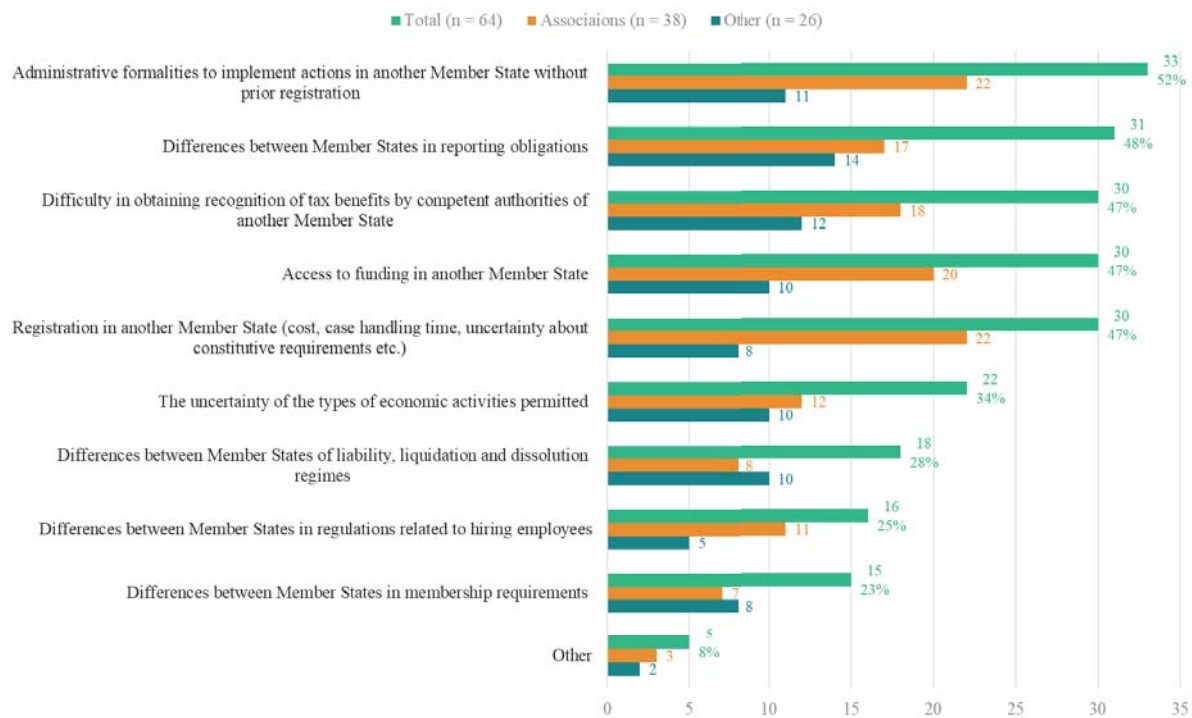


Figure 2: Restrictions identified by the different stakeholder groups when associations engage in activities across borders.

When asked which restrictions respondents see as most dissuasive, the following topics are the most recurrent ones¹⁷: *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 options¹⁸. 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 associations)

¹⁸ Multiple responses were allowed.

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

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.

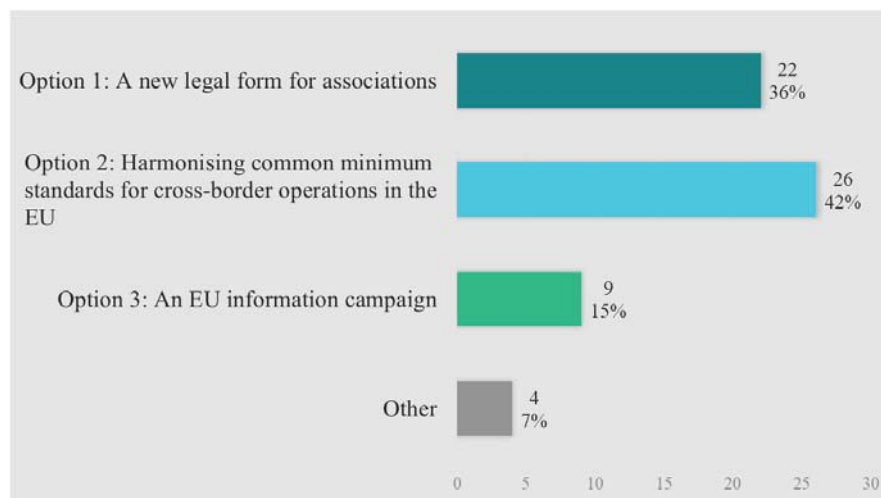


Figure 4: Preferred policy options.

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 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

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.

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

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

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 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”*

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.

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 GROUP²³)

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 report²⁶, 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 it 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 | | |
|--|--|---|
| <i>Description</i> | <i>Amount</i> | <i>Comments</i> |
| <i>Direct benefits</i> | | |
| Associations: recurrent administrative and compliance cost reduction. | Excess cost reduction (against baseline) of: <ul style="list-style-type: none"> • Compliance cost (internal): EUR 190 million • Information cost (internal): EUR 350 million • Direct cost/ External advisory cost (External running cost): EUR 230m | 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: |

| | | |
|--|---|--|
| | <p>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</p> | <ul style="list-style-type: none"> - 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. |
| <p>Associations: estimated reduction for launching operations</p> | <p>Excess cost reduction (against baseline):</p> <ul style="list-style-type: none"> • Internal setup cost (compliance cost): EUR 1 500 • External advisory cost (direct cost): EUR 650 • Total: EUR 2 150 per launch <p>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:</p> <p>Scenario A: EUR 338 million – EUR 378 million²⁷</p> <p>Scenario B: EUR 283 million – EUR 317 million</p> <p>(within the assessed 15 years time frame).</p> | <p>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.</p> <p>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</p> |

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

²⁸ Unless those would develop new operations.

| <i>Indirect economic benefits</i> | | |
|--|---|--|
| 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: |
| 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. | <ul style="list-style-type: none"> • 185 000 associations not deciding to expand cross border • 75 000 jobs not being created and • Annual contributions to GDP of EUR 4.2 bn not being made. • |
| 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 | <p>A scenario (B) is added anticipating a possible overestimation of the opportunity costs above (based on a 10 p.p. lower scenario) starting from:</p> <ul style="list-style-type: none"> • 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 | Not Quantifiable. | |

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

| | | |
|--|--|---|
| assurance of operation across the Single market | | |
| Administrative cost savings related to the ‘one in, one out’ approach | | |
| (direct/indirect) | <p>Excess cost reduction (against baseline) of:</p> <ul style="list-style-type: none"> • Compliance cost (internal): EUR 190 million • Information cost (internal): EUR 350 million • Direct cost/External advisory cost (External running cost): EUR 230 million <p>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</p> <p>Excess cost reduction (against baseline):</p> <ul style="list-style-type: none"> • Internal setup cost (compliance cost): EUR 1 500 • External advisory cost (direct cost): EUR 650 • Total: EUR 2 150 excess cost reduction per launch | <p>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:</p> <ul style="list-style-type: none"> - 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. <p>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.</p> <p>Compared to the operation costs, the setup costs will only affect new cross-border (potential estimated) associations and will not affect the existing ones.</p> |

| | | |
|-----------------|-----|--|
| 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 initiatives³⁰ 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,

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>

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 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-term³⁵ non-significant adaptation costs may occur for competent authorities. PO3 is also expected to reduce in the

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 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

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 |
| 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. |

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.

³⁶ See also Section 8.1 of the IA.

| | | | | | | | |
|--|---------------------------------------|------|------|------|--|------|--|
| | | | | | | | |
| | Direct enforcement costs | None | None | N.A. | N.A. | | Depending on registration requirements differs from existing national rules. |
| | 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 options. | 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 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 metrics 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 | Sources |
|-------------|--|
| 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/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 |
| 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/ |
| Slovakia | https://datacube.statistics.sk/#/view/sk/VBBD_SLOVSTAT/ns2003rs/v_ns2003rs_00_00_00_en ; https://datacube.statistics.sk/#/view/sk/VBBD_SLOVSTAT/ns2003rs/v_ns2003rs_00_00_00_en |
| Finland* | https://www.prh.fi/en/yhdistyksrekisteri/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:

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

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

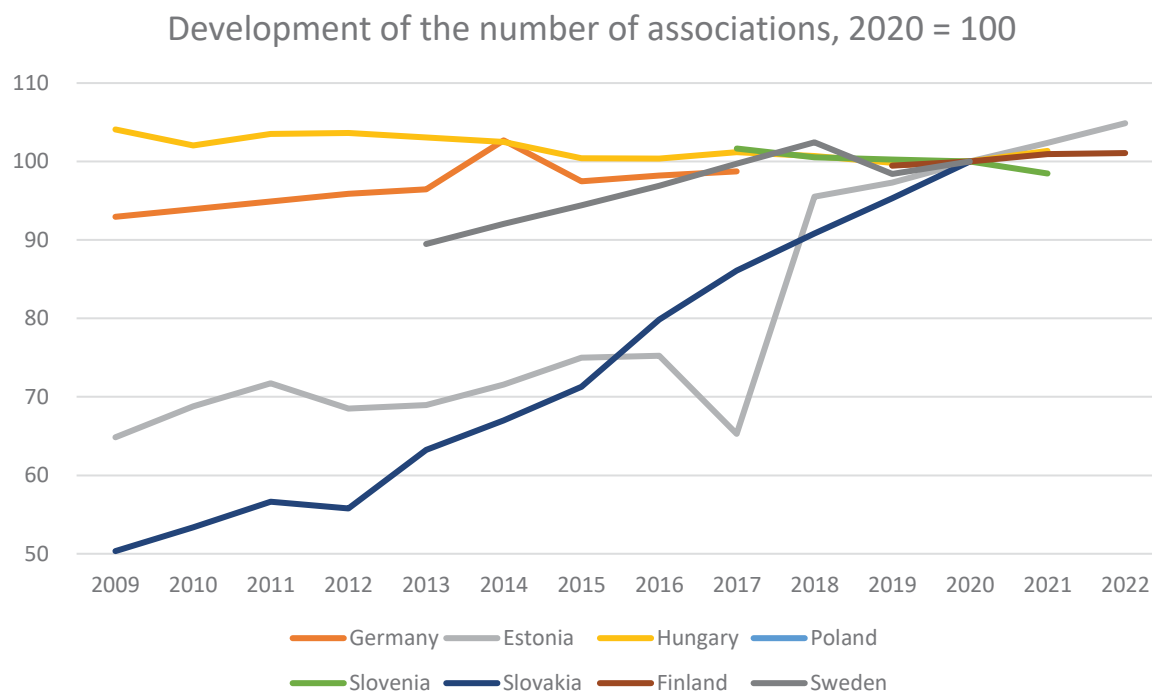
Overall, the number of associations appears to have increased over time. For example, statistics indicate that the annual growth in the number of associations amounted to 2.8% in France between 2011 and 2017.⁴⁰ The detailed data table further below provides the yearly numbers of associations for eight 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_majandusksused_kasumitaotluseta-uksused/ER041/table/tableViewLayout2 |
| Hungary | https://www.ksh.hu/stadat_files/gsz/hu/gsz0014.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 |
| Poland | |
| 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/numeroofassociationsandreligiouscommunities.html |
| Sweden | https://www.statistikdatabasen.scb.se/pxweb/en/ssd/START_NV_NV0117_NV0117A/CivSamSysJURFORM2/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.

| Cou ntry | Share of GDP | Cove rage | Ye ar | 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://udruga.gov.hr/UserDocsImages/dokumenti/udruga_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 | 2020 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |
| MT | 0.16% | NPO | 2014 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |

| Cou ntry | Share of GDP | Cove rage | Ye ar | Source |
|-------------|-----------------|--------------|------------|---|
| NL | 3.04% | NPO | <i>Est</i> | |
| AT | 8.00% | NPO | 20 10 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |
| PL | 1.12% | NPO | 20 20 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |
| PT | 3.00% | NPO | 20 17 | https://www.cases.pt/contasatelitedaes/ |
| RO | 0.60% | NPO | 20 16 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |
| SI | 1.90% | NPO | 20 22 | Country fiche |
| SK | 0.20% | NPO | 20 20 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |
| FI | 6.00% | NPO | 20 20 | https://op.europa.eu/en/publication-detail/-/publication/21adb612-42cb-11ed-92ed-01aa75ed71a1 |
| SE | 3.10% | NPO | 20 19 | 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 |
| Croatia | A | 1 000 | 99.5% | 1 000 |
| Italy | NPO | 8 900 | 85.2% | 7 600 |
| Cyprus | NPO | 300 | 87.0% | 300 |

| Country | Coverage | Main estimate NPOs (EUR m) | Share of associations among NPOs | Main estimate associations (EUR m) |
|-------------|----------|----------------------------|----------------------------------|------------------------------------|
| 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 Sokolowski 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% | <i>Est</i> |
| Germany | 2 322 895 | 2 838 000 | 4.6 | 7% | <i>Est</i> |
| Estonia | 19 765 | 24 000 | 0.6 | 4% | <i>Est</i> |
| 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% | <i>Est</i> |
| Latvia | 34 130 | 42 000 | 1.8 | 5% | <i>Est</i> |
| 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% | <i>Est</i> |
| Austria | 154 965 | 189 000 | 1.5 | 5% | <i>Est</i> |
| 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% | <i>Est</i> |
| 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% | <i>Est</i> |
| 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 employed | Year | Source |
|----|---------------------------|------|---|
| 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://udruga.gov.hr/UserDocsImages/dokumenti/udruga_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/Stainfo/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_000000_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 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.

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

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 Organizations⁴³. This classification 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.

⁴³<https://unstats.un.org/unsd/classifications/Family/Detail/2008>.

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 Organizations⁴⁴

| 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% |
| C and D | Human health services and Social services | 55% | 48% | 62% | 36% | 30% |

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 |
|------------|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| 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/Stainfo/haViewer.jsp>.

| Country | Activities covered by associations/ NPOs |
|------------------------|---|
| BE | <ul style="list-style-type: none"> - social and medical actions (23%) - arts (16%) - services (12%) |
| BG | <ul style="list-style-type: none"> - education (34%) - social services (29%) - regional development (24%) - youth (16%) |
| CZ | <ul style="list-style-type: none"> - culture, advertisement, recreation (32.6%) - education (28.7%) - health and social services (23.0%) |
| DK | <ul style="list-style-type: none"> - health and social services (40%) - research (6%) - education (5%) - retail (4.6%) - culture (2.8%) |
| DE⁵³ | <ul style="list-style-type: none"> - 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 | <ul style="list-style-type: none"> - education (33%) - alleviation of poverty or economic hardship (7.5%) - religion (6.6%) - any other purposes that benefit the community (53.9%) |
| EL | <ul style="list-style-type: none"> - culture (37%) - social solidarity (18%) - health and social protection (12%) - environment (12%) - child protection |
| ES | <ul style="list-style-type: none"> - ideology, culture, education and communication (38,10%) - women, equal treatment and non-discrimination (1,70%) - children, youth, seniors, family and well-being (3,50%) |

⁵³ Based on <https://www.ziviz.de/download/file/ffd/529>.

| Country | Activities covered by associations/ NPOs |
|-----------|--|
| | <ul style="list-style-type: none"> - 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 | <ul style="list-style-type: none"> - 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 | <ul style="list-style-type: none"> - 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%) |

| Country | Activities covered by associations/ NPOs |
|-------------------------|--|
| 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%) |
| LT | - protection of rights and political activity (2,4%) |
| | - environment (2,1%) |
| | - other (philanthropy, religion, economic development) (5,8%) |
| | - childcare and youth (32,2%) |
| | - 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%) |
| | - leisure (22%) |
| | - sports (22%) |
| HU | - culture (17%) |
| | - philanthropy (17,8%) |
| | - education and sport (41,2%) |
| | - religion (5%) |
| | - health (14%) |
| MT | - social and community (45,6%) |
| | - culture, arts and national heritage (38,6%) |
| | - environment and animal welfare (10,6) |
| | - promotion of human rights (9,9%) |
| | - sports (26,6%) |
| AT ⁵⁴ | - saving clubs (17,5%) |
| | - charity (7,3%) |
| | - profession (6,4%) |
| | - gardening and animal protection (5,9%) |
| | - conviviality (6,2%) |
| PL | - parents (4,4%) |
| | - formal military staff (2,1%) |
| | - student affairs (1,4%) |
| | - religion (1,2%) |
| | - colleague (0,5%) |
| PL | - rotary clubs, Lions Club, Schlaraiffa (0,5%) |
| | - other (20,0%) |
| PL | - sport, tourism, recreation, hobby (26,9%) |

⁵⁴ Translated into shares.

| Country | Activities covered by associations/ NPOs |
|-------------------------|---|
| PT ⁵⁵ | - rescue services (15,3%) |
| | - culture and arts (12,4%) |
| | - education and upbringing, scientific research (10,5%) |
| | - social and humanitarian aid (8,3%) |
| | - Culture, communication, and recreation activities (46,9%) |
| SI | - Education services (3,6%) |
| | - Human health services (3,3%) |
| | - Social services (9,7%) |
| | - Environmental protection and animal welfare activities (1,0%) |
| | - Community and economic development, and housing activities (2,9%) |
| FI | - 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%) |
| SE | - Other Activities (3,1%) |
| | - sports and recreation (35,3%) |
| | - helping people in need (13,0%) |
| | - culture and art (17,0%) |
| | - scientific research, education (9,3%) |
| SE | - environmental protection, animal and plant breeding (7,1%) |
| | - housing (5,9%) |
| | - local development (6,4%) |
| | - politics (1,2%) |
| | - spiritual life (2,6%) |
| SE | - other (2,1%) |
| | - not classified (29,2%) |
| | - culture (17,8%) |
| | - sports and exercise (13,6%) |
| | - profession and trade (10,1%) |
| SE | - leisure (9,6%) |
| | - social and health (6,2%) |
| | - other (6,0%) |
| | - political (4,3%) |
| | - national defence (1,9%) |
| SE | - religion (1,3%) |
| | - culture and recreation (27%) |
| | - social welfare (20%) |
| | - education and research (16%) |
| | - religion (14%) |
| SE | - employment (8%) |

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

| Country | Activities covered by associations/ NPOs politics, identity and interest representation (5%) |
|---------|---|
|---------|---|

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 Parliament⁵⁶ 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% |
| Slovakia | | | | | | | |

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>.

| | | | | | | | |
|----------------|--|--|--|--|--|--|--|
| 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 report⁶⁰) 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.

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

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

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*⁶¹ guidelines, 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 Eurobarometer⁶² and Eurochambers⁶³ 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-border 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.

| | 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 |

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>.

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

| | |
|---------------------------------|---------|
| 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” report⁶⁵ 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 provision⁶⁶. 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:

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

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

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

- 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

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

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 |
|--|---|--|--------------------------|
| 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 |

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%.

| | | | |
|---|---------|-----|--------|
| 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's 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 | EUR 135 | 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% |

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.

| | | | | |
|-------------------------|-----------------------|--------------|--------------|------|
| 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 average | EU | | 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.

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?*

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.

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:

$$\text{EU average hourly income (EUR 25.7)} * \text{average weekly working hours}^{71} (36.4) * \\ \text{N. of working weeks (52)} = 48\,700$$

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:

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

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 reductions do not necessarily equal 'cost savings' as these cost blocked off an entry rather than are

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

being reduced. It is therefore not possible to 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 m⁷², which is unnecessary costs 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) costs 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 <i>(time spent to familiarise with legislation, check and prepare admin formalities)</i> | ~ EUR 3 000 | ~ EUR 1 500 | ~ EUR 1 500 |
| Other setup costs <i>(external services + registration costs)</i> | ~ 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 A⁷⁵:

| Excess launch costs (15 years) reduction | Potential new associations | Excess cost reduction | | Excess cost reduction | |
|--|----------------------------|-----------------------|----|-----------------------|----|
| SCENARIO A | | EUR 2 150 | PO | EUR 1 850 | PO |

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.

| <i>Uptake % policy option</i> | | | | | |
|-------------------------------|----------------|-------------------------------------|-----|-----------------|-----|
| 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 | |
|--|----------------------------|-------------------------------------|-----------|-----------------------|-----------|
| <i>SCENARIO B</i> | | <i>EUR 2 150</i> | <i>PO</i> | <i>EUR 1 850</i> | <i>PO</i> |
| <i>Uptake % policy option</i> | | | | | |
| 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 B⁷⁶:

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

⁷⁶ Figures are rounded. Source IA study.

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 65%*EUR 1.08 bn = EUR 00 m | Total staff costs dealing with compliance 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 data⁷⁷, 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 million⁷⁸ 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

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

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.

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.

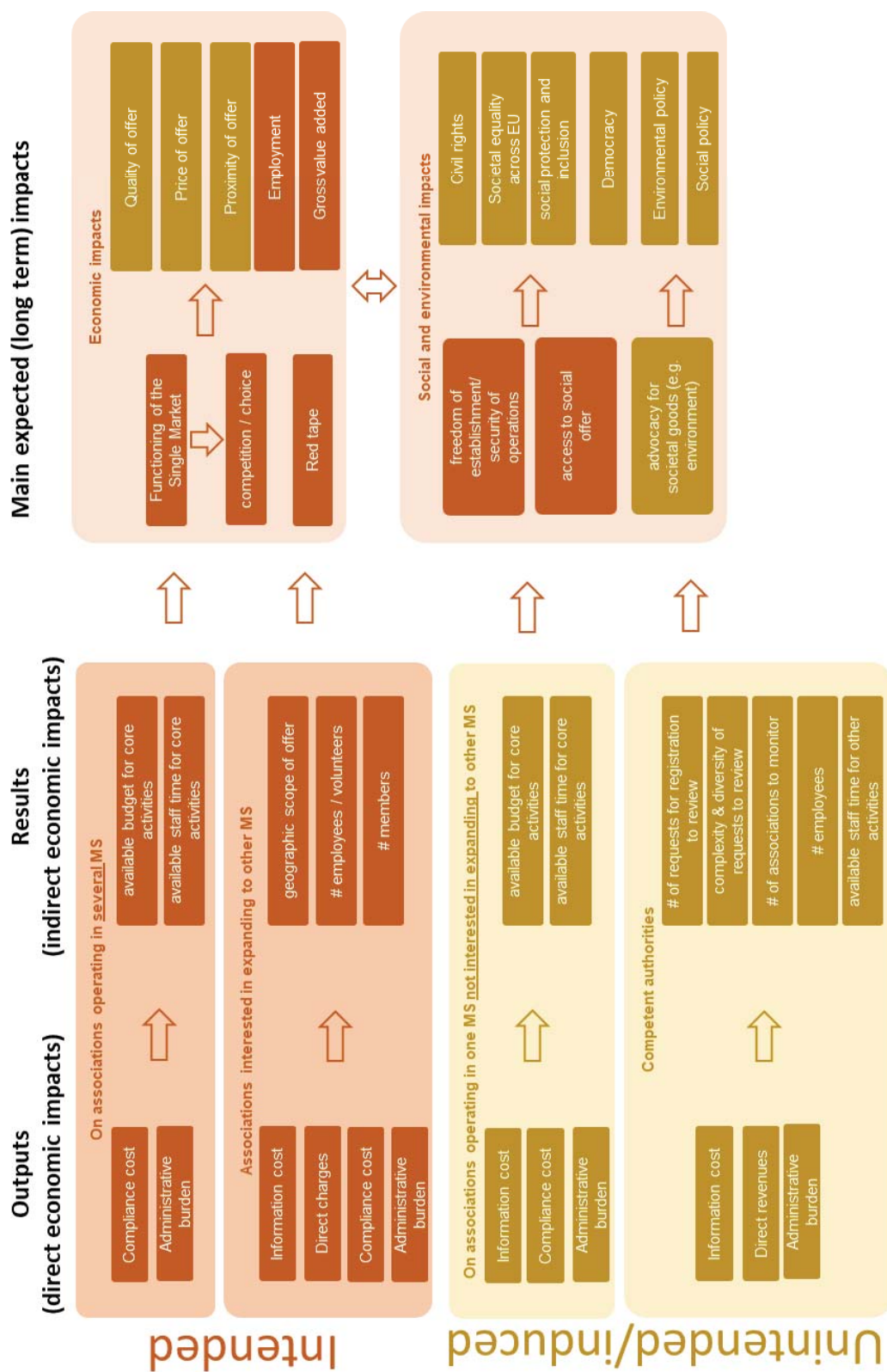
4.2. Selection of expected impacts

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:
 - o Associations not interested in expanding cross border
 - o 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 innovate⁸⁰ may emerge due to more resources available, easier access to cross-border research and projects, mostly relevant to sectors such as health-, care- and social services, social work, work integration, social housing, training and education.

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).

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 alliances⁸² 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 ! \(bwiseproject.eu\)](https://www.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 SMEs⁸⁷, in particular micro enterprises.⁸⁸ Their main revenue sources are market sales, membership fees, public funding (including public procurement contracts), grants and donations, though in different mix across different Member States.

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).

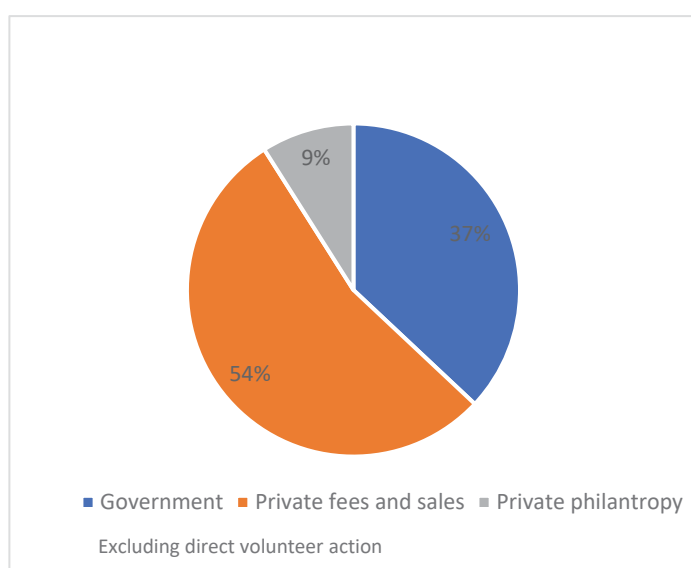
⁸⁶ See Annex 4, Section 2.3

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.

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, 2014⁹¹



First, the revenue sources can give a good understanding. Figure 1 above shows figures for the third sector in the EU⁹² (mainly composed of associations and foundations, around 86.8% are associations), where **private fees and market income** (including private payments for goods and

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 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.

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

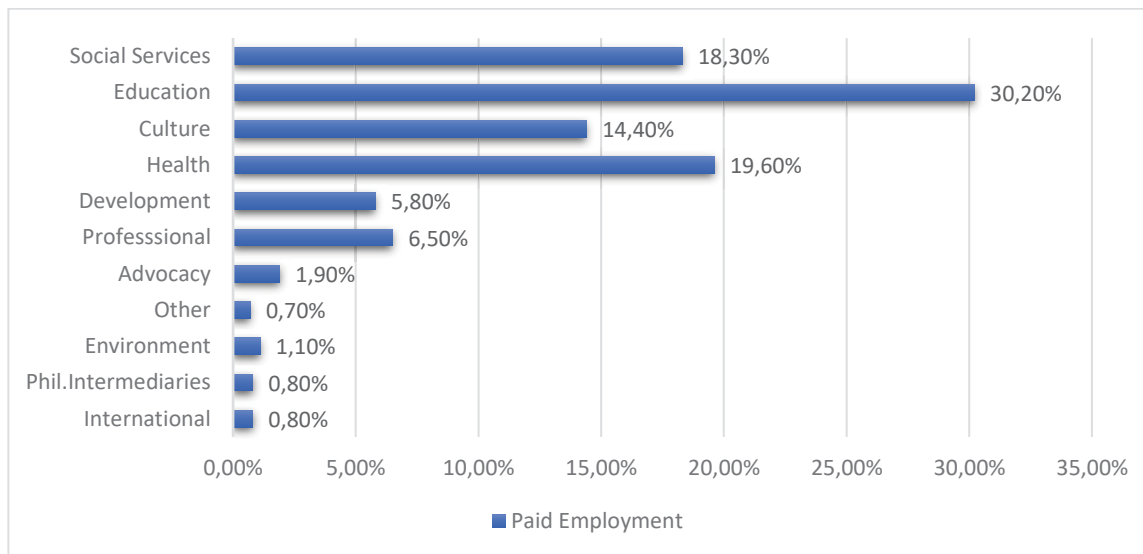
⁹³ These figures encompass foundations and associations and keeping in mind that 86.8% of NPOs are associations, it is very plausible that in reality market-related revenue and public contracts occupy a larger share for associations, since the 9% private philanthropy relates primarily to foundations.

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, associations 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% |
| ES | | 33% | 10% | 18% | 40% |

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.

| | | | | | |
|-----------|-----|-----|-----|-----|-----|
| 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 Organisations⁹⁹

⁹⁹ [Comparative legal analysis of associations laws and regimes in the EU - Publications Office of the EU \(europa.eu\)](http://ec.europa.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% | | | | | | | <i>less than 5%</i> |
| 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 providers¹⁰⁰, 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://socialemmployers.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).

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 Regions¹⁰⁶ 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 offers a

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

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

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/EC¹, 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 10 000 per year, while only 3.8% of the associations have an annual income exceeding EUR 1 000 000.¹¹⁵ In

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>

¹¹⁵ Ibid.

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 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).

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

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 disproportionately 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.

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 “*an association registered in an EU Member State currently faces restrictions when seeking to operate in another EU Member State*”. Moreover, 25

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

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 regions¹¹⁸. 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 EGTC¹¹⁹, 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;
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.

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 \(europa.eu\)](#)

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

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 Regulation¹²¹, 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 2018¹²³, the Parliament will make use of its indirect legislative initiative powers (Article 225 TFEU) inviting the Commission to present a new legislative proposal building on the EP initiative. The European Parliament vote is scheduled for September 2023.

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.

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.

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:

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 Regulation¹²⁵, 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 under the market context). For instance, according to the 2021 EP study¹²⁷, 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

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](#).

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

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 work¹²⁸, 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). |
| 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. |

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 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

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.

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.

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

Activities on the subject resumed in 2010 and two studies on mutuals were then commissioned¹³³. 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. |
| 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. |

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

| | |
|--|--|
| 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 Polbud¹³⁷). 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 the regulation of cross-border aspects¹³⁸ - 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.

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.

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.

Formally, in accordance with Article 4 of the Regulation, also associations can be members of an EEIG¹³⁹. 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)

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 ERIC 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

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

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 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,

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

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 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

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

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 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

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](#)

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 proposal¹⁴⁸) 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 proposal¹⁵⁰ 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 activities and mobility (e.g. three Member States¹⁵³ enacted explicit measures on cross-border conversions of associations in another Member State and four Member States¹⁵⁴ on cross-border mergers). resulting in

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.

(¹⁵³) Italy, Luxembourg and Portugal.

(¹⁵⁴) Croatia, Czechia, Hungary and Italy.

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.

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

| | |
|---|--|
| <u>Essential elements</u> | |
| 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) |
| <u>Additional recurrent elements</u> | |
| 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 | <i>Verein</i> Federal Law on Associations of 2002 | |
| Belgium | <i>Association</i> 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 | <i>Асоциация</i> Law on Non-Profit Legal Entities of 2000 | This Law also regulates foundations |
| Croatia | <i>Udruga</i> Law on Associations of 2014 | |
| Cyprus | <i>Σωματεία</i> Law on Associations and Foundations no. 104(I)/2017 | This Law also regulates foundations |
| Czech Republic | <i>Spolek</i> Civil Code of 2012 (sections 214-302) | |
| Denmark | <i>Forening</i> <u>No specific legislation exists</u> (associations are regulated by principles developed through case law and legal doctrine) | Limited liability associations (<i>foreninger med begrænset ansvar</i>) 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 | <i>Mittetulundusühing</i> Non-Profit Associations Act of 1996 | |
| Finland | <i>Yhdistys</i> Associations Act no. 503/1989 | |
| France | <i>Association</i> Law 1 July 1901 ¹⁵⁵ | |
| Germany | <i>Verein</i> Civil Code of 1896 (articles 21 ff.) | Economic associations are also provided for |
| Greece | <i>Σωματείο</i> Civil Code of 1946 (articles 78-106) | |
| Hungary | <i>Egyesület</i> Civil Code of 2013 (sections 3:63 ff.) | |
| Ireland | <u>No specific legislation exists</u> (associations are regulated by case-law) | |
| Italy | <i>Associazione</i> Civil Code of 1942 (articles 14-42bis) | In this group of articles of the Civil Code the regulation of foundations is also found |

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>

| | | |
|-------------|---|--|
| Latvia | <i>Biedrība</i> Associations and Foundations Law no. 161/2004 | This Law also regulates foundations |
| Lithuania | <i>Asociacija</i> Law on Associations no. IX-1969 of 22 January 2004 | |
| Luxembourg | <i>Association</i> Law on Associations of 21 April 1928 | This Law also regulates foundations |
| Malta | <i>Assoċjazzjoni</i> Civil Code (2 nd Schedule) | |
| Netherlands | <i>Vereniging</i> Civil Code (articles 2:26-2:52) | |
| Poland | <i>Stowarzyszenie</i> Law on Associations of 7 April 1989 | |
| Portugal | <i>Associação</i> Civil Code (articles 167-184) | |
| Romania | <i>Asociația</i> Governmental Ordinance no. 26/2000 | This Law also regulates foundations |
| Slovakia | <i>Združenie</i> Act 83/1990 Coll. on Associations | |
| Slovenia | <i>Društvo</i> Law on Associations of 2006 | |
| Spain | <i>Asociación</i> Law no. 1/2002 on the Right of Association | Associations are also regulated at the regional level by autonomous laws |
| Sweden | <i>Förening</i> <u>No specific legislation exists</u> (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, DK¹⁵⁶, 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 of their declaration with the Prefecture |
| Germany | Register of associations, administered by the District Courts |
| Greece | Register of associations, administered by the competent courts |

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.

| | |
|-------------|---|
| 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 |
|--|---|
| <ul style="list-style-type: none"> • 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 States¹⁵⁷ associations acquire legal personality upon registration in a special register. The **register** can be held:

- **at the government level** (such as in Belgium and Bulgaria¹⁵⁸).
- **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 jurisprudence¹⁵⁹ - 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

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).

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.

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 transparency¹⁶⁰

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)
- **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

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.

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 issues¹⁶¹ 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 Croatia¹⁶², Cyprus and Romania¹⁶³ 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 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

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.

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 operate¹⁶⁵.

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 personality¹⁶⁶, 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 establishment¹⁶⁷. Likewise, in Finland, the chairperson of the executive committee of an association must be resident in Finland unless the Registration Authority grants an exception¹⁶⁸.

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

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.

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

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 table¹⁶⁹

| | 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, |

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”](#).

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 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

¹⁷⁶ E.g., in Finland and Spain.

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 status¹⁷⁷:

- 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.)
- 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.

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.

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 status¹⁷⁹.”

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 donors¹⁸¹ (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 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).

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

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](#)

| 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 | <i>Association recipients of 2 percent deduction in the Income Tax to be verified with the NE ...</i> |
| 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 Assessment¹⁸², 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 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

¹⁸² See the Impact Assessment study.

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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