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National report on third sector barriers in Spain

Barriers coordinator

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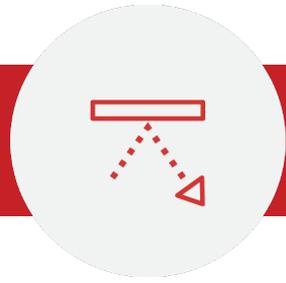
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1. The Spanish third sector at a glance¹

1.1 Introduction

Until recently, scientists and politicians in Spain have underused the term third sector. The two major concepts used to refer to entities “between the State and for-profit businesses” (Defourny and Monzon 1992) have been social economy and NGOs/ non-governmental organisations². The Spanish social economy concept, also used by European Union institutions and in some European countries such as Portugal, Greece, Belgium and France, is a broad conception of the third sector that mostly includes cooperatives, mutual societies, associations, foundations and other labour-oriented enterprises.³ A national platform for social economy enterprises, *CEPES*, has existed since the 1990s. It is a member of the Europe-wide *Social Economy Europe* platform. Due to *CEPES*’ long advocacy activity, in 2011 Spain became the first European country to pass a national Social Economy Act. In the same year, another national platform was created. It focuses on social third sector organisations: the *Plataforma del Tercer Sector* (Third Sector Platform). Similarly, in 2015, a new Social Third Sector Act was adopted. Despite their names, both the Third Sector Platform and the Act only cover entities that work in labour inclusion, social and health services fields, excluding other fields such as sports, culture, research or cooperation for development.

In its wider conception, the Spanish third sector is composed of a large variety of organisations and enterprises. For our analysis, third sector organisations (TSOs) will be categorised into four clusters:

(a) big and medium non-profit organisations, largely dependent on public funds, including the three ‘singular entities’ (ONCE, Red Cross and Caritas)

(b) local and regional TSOs

(c) the new TSOs linked to the new social movements⁴

¹ Section prepared by Rafael Chaves-Avila

² It should be highlighted that, in Spain, debates about other concepts such as the solidary economy or social enterprises are almost non-existent.

³ See the Social economy definition in Monzon and Chaves (2012).

⁴ New social movements and entities that are not well linked to ‘old’ TSOs, or not linked to them at all, have appeared in recent years in Spain. They include social currency experiments, the sharing and collaborative economy, solidarity economy entities, corporate volunteering, and among others, parents’ platforms addressing new child needs or joint custody, immigrants, or LGTB, which present difficulties in distinguishing their main function (socialization, advocacy or welfare service delivery, in Bloch Lainé’s sense).



(d) the social economy enterprises that operate in private markets, mainly cooperatives and mutual societies. Most of these are not included in the scope of this TSI-Project, due to the restrictive definition adopted.

In the present National Report, we focus on the first three clusters of TSOs. We consider entities institutionally recognized, almost all of them with the association and foundation legal forms⁵. For the social services policy field, we consider the Spanish definition of Social Third Sector stated in the recent Act (2015). For the cultural and sport policy field we consider the non-profit entities, mostly foundations, associations, sports clubs and their federations.

1.2 Evolution of the Spanish Third Sector

Until the seventies, a long history of dictatorships (Primo de Rivera and Franco) with severe restrictions on freedom of association and expression contributed to the Spanish third sector being less developed than in Northern European countries. According to Archambault (2001, based on Esping-Andersen 1990) and Chaves and Sajardo (1999), the Spanish third sector follows a Mediterranean third sector pattern that affects the three policy fields considered: social and health services, sport and culture. The features of this pattern are the main religion and their links with TSOs, the relationship between TSOs and the government, the labour market situation (unemployment, flexibility and security) in relation to volunteering, the ratio of social protection to GDP, and the share of public expenditure.

Since the death of Franco in 1975, despite a process of profound secularisation in many previously religious TSOs, a latent conflict between the state, the Catholic Church and congregations, and left-wing social organisations persists in the Spanish third sector. TSOs are viewed as assets in the competition between clerical and secular camps, mostly in social and health services and education. Part of the third sector retains links to Catholic congregations (Archambault 2001).

Compared to Northern European countries, the Spanish welfare state has been built belatedly, in the late 1970s and 80s, and is therefore less developed, with a lower ratio of social protection to GDP and a lower share of public expenditure. It is a mix between Bismarckian (elderly people and people with disabilities) and Beveridgian (health) social security schemes. Mutual societies remain a large part of this welfare system.

Nowadays, the policy environment is highly decentralised and complex: public policies, funds and services come from national, regional and local governments. Also, the third sector has difficulties in building long-term partnerships with these governments.

⁵The main Spanish laws concerning TSOs are: Law 1/2002 on Associations, Law 50/2002 on Foundations, Law 27/1999 on Cooperatives, Law 49/2002 on fiscal regulation for non profit entities, Law 20/1990 on fiscal regulation for cooperatives, Law 45/2015 on volunteering, Law 43/2015 on the social action third sector and Law 5/2011 on the social economy.



Spain is one of the European countries with the highest levels of unemployment and lowest work security. The unemployment rate has stayed over 20% since 2010. Work flexibility has increased considerably over the last two decades. Additionally, a new issue has recently spread: the working poor, that is to say, working people whose incomes fall below the poverty line.

The Spanish show low levels of civic engagement in volunteering, especially inside organisations. CIS (2015) has shown that fewer than 30% of the population are involved in associations and other civic activities, including volunteering. The long periods of dictatorship during the 20th century had a deep impact on the collective culture of civic engagement. Instead of being involved in organised engagement, Spanish people are more willing to be involved in informal activities and in the extensive family, the Mediterranean model of family, which has a strong presence in this country. The extended family is bonding social capital, compared to bridging and linking social capital in Putnam’s sense.

During the period of democracy (1978 until the present), the Spanish third sector has changed profoundly. The main changes, classified by historical periods, may be found in the table below.

Table 1. Evolution of the Spanish Third Sector, 1978-2015

<i>Period</i>	<i>Features of the Spanish third sector and its environment</i>
<i>1978 – 1988</i>	<p><u><i>The spread of the third sector. The ‘claiming’ function</i></u></p> <ul style="list-style-type: none"> - <i>New democracy after the Franco dictatorship. New freedoms are recognised (expression, association, etc.). 1978, new democratic Constitution; 1986, Spain enters the EU</i> - <i>Deployment of civil society organisations, mostly calling for welfare services</i> - <i>Spanish governments deploy welfare services at both national and regional levels during an era of deep economic crisis (the era of building the Spanish welfare state)</i>
<i>1989-2002/3</i>	<p><u><i>Transformation, institutionalisation and consolidation of the third sector</i></u></p> <ul style="list-style-type: none"> - <i>Limits to Government welfare state deployment and transformation into private delivery of public services in Spain (Government provision but private delivery)</i> - <i>New public financing tools for the TSO (1989, 0,52% of income tax allocated to social TSOs)</i> - <i>Transition of the third sector from a ‘claiming’ model to a ‘delivery’ model</i> - <i>Professionalisation of TSOs</i>



	<ul style="list-style-type: none"> - <i>First internal debates inside the third sector (claiming vs service delivery; government dependence vs independence; professional vs volunteering)</i>
2002/3 – 2010	<p><i>Deepening of the institutionalisation and transformation of the third sector</i></p> <ul style="list-style-type: none"> - <i>2002/3: major changes in legislation and taxation of the Third Sector (laws on foundations, associations, taxation of non-profit organisations and donations, social utility entities regulations) and, from 2006, income tax allocated to TSO increased to 0.7%)</i> - <i>Deepening of the third sector delivery model linked to public funds</i>
2010 - today	<p><i>Readjustment: the third sector in an era of retrenchment</i></p> <ul style="list-style-type: none"> - <i>Explosion of social needs due to deep social and economic crisis (the first crisis)</i> - <i>Austerity policies, reduction in public funds at national and regional levels (second crisis)</i> - <i>Reduction in private funds from businesses and saving banks (impact of the economic crisis and the bankruptcy of saving banks; the third crisis)</i> - <i>Changing environment presents different impacts on the different 'TSO clusters'</i> - <i>Changes in the TSOs' strategies at micro and macro levels (building platforms such as PTS)</i> - <i>New internal debates. New forms of volunteering and social movements not well linked to 'big quango' TSOs</i>

The current situation in the third sector in Spain, according to the main studies available, is as follows: The Monzon report (2010) estimated that in the year 2008 there was a total of 151,725 active associations, of which 27,345 belonged to the social third sector and 124,380 to other areas (principally, in this order: 'culture, sports and leisure', 'education and research', 'community development and housing', 'civil rights' and others). These associations had 28.3 million members, including 5.3 million in the social third sector. They employed 470,348 persons, including 287,285 in the social third sector, and generated expenditure of €22,642 million, of which €13,439 million were in the social third sector. There were also 1644 social third sector foundations, which employed 28,868 persons and generated €1052 million in expenditure, as well as 2,548 foundations in other sectors, with 18,082 employees and an expenditure of €1,767 million.



A more recent study (Ruiz 2015) provided new information on the social third sector in the year 2013, which comprised 29,737 organisations, had 1.3 million volunteers and employed 644,979 persons. Out of all these organisations, the three that are considered 'singular entities' (ONCE, the Red Cross and Caritas) employed 77,000 paid staff and managed a total income of €14,470 million, 1.5% of Spanish GDP (Ruiz 2015).

Concerning the cultural and sport Spanish third sector, despite the scarcity of studies, it is estimated respectively in 70.381 and 23.845 the paid workers in both TS policy fields for 2010.

In the year 2012 there were also 22,045 active cooperatives, employing 360,979 people, with 7,543,928 members and a sales figure of €63,204 million. These included 15,790 workers cooperatives that employed 188,673 people. In addition, 1201 social enterprises (work integration social enterprises and special employment centres) gave employment to 48,901 persons, overwhelmingly vulnerable people or people with disabilities, and achieved sales worth €1812 million (Monzon et al 2014).



2. Policy Field under Study: Social services⁶

2.1. History

After a dictatorship that lasted nearly 40 years, Spain had to wait until the end of the 1970s, with the advent of democracy, the Moncloa pacts between the different political forces and the passing of a progressive constitution in 1978, to begin to build a welfare state, in the social and health services, that would be comparable to those of other European countries. Previously, public intervention was a marginal mode, fragmentary and subsidiary to the services provided by private organisations, which were essentially church-based non-profit institutions. The prevalent notion of social services was characterised by its primarily discretionary concept and its social and its ideological control aims and marginalisation of the 'beneficiaries', rather than a social integration objective. It was not until the last years of the dictatorship, and only for the beneficiaries of the incipient Social Security system, that these services began to take the form of a subjective right based on the contributive nature of this system. Given the context, the main pillar of social services in Spain was the extended family and, to lesser extent, other informal assistance provided through solidarity; the public network and private religious network were eminently ancillary to these (Chaves and Sajardo 1999). Throughout the Franco dictatorship, public expenditure on social services and the public network of social welfare services remained insignificant: 0.5% of the central government budget in 1958 and 0.6% in 1972, according to Rodríguez-Cabrero (1990), and 0.18% of GDP in 1978 according to Barea (1997).

The provision of social services by TSOs linked to the Catholic Church and its congregations cast its net very wide, rivalling their public provision, as had been the case for educational services in the 1930s, during Spain's 2nd Republic. The considerable social and financial weight of the church-based TSOs gave them considerable bargaining power with the state. For example, they obtained a specific regulation for the provision and management of social services through the concordat of 1953 between the Spanish government and the Holy See, a situation that despite secularisation remained partly in force after the arrival of democracy at the end of the 1970s.

The transition to democracy and the first steps towards constructing a welfare state took place at the height of the petrol crisis of the late 1970s. This shows that political and social will can prevail over the financial restrictions of the particular moment in history. The process of intense transformation is shown by the evolution of public expenditure on social services, which rose from 0.18% of GDP in 1978 to 0.87% in 1990 (Barea 1997:125). The new democratic regime took action on various fronts: (a) recognising a wide range of freedoms

⁶ Section prepared by Rafael Chaves-Avila



(of association, religious, etc.) and social rights, (b) introducing a welfare state, satisfying social demands with public services through the budget, (c) secularising, in other words abolishing the politicised (linked to the National Movement) and Catholic (linked to the Catholic Church) nature of the existing public sector, and (d) reforming the institutions of government by introducing a tier of autonomous regional governments (Comunidades Autónomas — CCAA) and increasing municipal powers.

With the advent of democracy, the internal composition, culture and visibility of the social third sector underwent a great transformation (Chaves and Sajardo 1999). One aspect of the internal reorganisation of the Spanish third sector was the strong emergence of a new secular third sector in response to the ferment of social demands and the new liberties and rights. As a result, the creation of third sector organisations, particularly associations, increased spectacularly from the early days of democracy. The mean annual registration rate grew from 100 associations a year before 1977-79 to over 5,000 in the 1980s and over 10,000 from the 1990s onwards, and a young third sector emerged in Spain, signifying the “return of civil society” (Pérez Diaz 1987).

In spite of its considerable heterogeneity and internal fragmentation, the Spanish third sector soon embarked on an intense coordination, development and modernisation process. One of the latest landmarks in its organisation is the foundation of the Plataforma del Tercer Sector Social (Spanish social third sector platform) in 2011. The traditional church-based third sector still exists but is undergoing profound internal restructuring and secularisation. Certain organisations that are considered ‘singular’, such as ONCE, the Red Cross and Caritas, have preserved some of the benefits they received from the authorities in the previous period, particularly as regards their tax treatment, funding awards and the special lottery run by ONCE.

From the 1980s onwards, increasing public funds for the system were accompanied by the introduction of new social services. A basic public network of social services was set up and a variety of partnerships with the third sector have formed around it. Spain’s mixed welfare system has been built along two main lines. On the one hand, the national and regional governments fund and regulate the services already introduced by private and social initiatives. On the other hand, they introduce new social services such as home help or new residential homes for dependent persons, with public funding but privately produced/managed, for which they turned first to social initiatives (cooperatives and other non-profit organisations) but have increasingly been resorting to for-profit private initiatives. This began a long wave of mercantilisation and privatisation of these services (Chaves and Sajardo 1999).

A snapshot of the situation in the mid-1990s in Catalonia found that 20.5% of the residential places for old people were public, 35.7% were provided by non-profit organisations and 43.8% by private for-profit organisations (Ruiz Olabuénaga 2000, based on IDESCAT data). The degree of the social services TSOs’ dependence on money from public funds was already



similar to that of neighbouring countries in 1995: of their €2829 million monetary revenues that year, 48.3% came from government subsidies, grants and contracts, 31.2% from membership fees and payments for services and 19.5% from private donations (Ruiz Olabuénaga 2000). The flow of public money has tended to concentrate on a small number of organisations, encouraging their growth. These TSOs, which have been classed as the first cluster, include what are known as the 'singular entities'. The remaining TSOs, the majority, remained fragmented and of small or medium-size. The groups the TSOs mainly cared for were, in this order, the elderly, people with disabilities, young children and young people.

The private business sphere is showing increasing interest in the social services and TSOs. Until the recent economic crisis, one differentiating factor for Spain was the importance of the savings banks, which accounted for approximately half of the financial sector. Their legal form is that of a financial foundation with objects that include social work, and they funnelled considerable funds towards the social services and social TSOs. Antares consulting (2009) estimated the funds transferred by the social work of the Spanish saving banks in 2008 at €300.5 million, benefiting 19,729 TSOs. The savings banks' social work funded over 75% of the cost of 26% of the programs carried out by these TSOs and was their main source of private funding, second only to the public sector.

Nowadays, the business sector proper is increasingly entering this field, not only because of the rise in the solvent demand for social services (from the elderly and other groups with purchasing power, and through privatisation of the management of new public services), but also because of its increasing interest in sponsorship and corporate social responsibility. Nevertheless, although philanthropic private funding is growing, it will remain in a minority compared to other sources of funds.

Recent scenario: the three crises of the Spanish third sector

After a long period of prosperity, Spain has been one of the European countries where the economic crisis has had the deepest impact: it has one of the highest unemployment rates (around 25%) and youth unemployment rates (more than 50%), 'poor workers' and people in risk of severe poverty and major increases in inequalities and drops in salaries. Since the beginning of the crisis, the major fields of TSO attention have been poverty, immigration, social inclusion, homelessness, the unemployed and services to vulnerable people, which have greatly increased. More people are in a situation of vulnerability and there are more social needs: in three quarters of TSOs, the number of people asking for help as a result of the economic crisis has increased (Fundación Lealtad 2013). In Catalonia, for example, the social third sector went from attending to 1.7 million people in 2007 to 2.1 million people in 2011 (Vidal 2013). The economic crisis is the first crisis for Spanish Third Sector.

Government policies during the crisis focused firstly on assisting banks (with the support of the Euro rescue package), and secondly on applying restrictive budgetary policies, mostly affecting welfare state services, and a labour reform. Despite some opinions, such as Stiglitz's (2009) claim that the economic crisis could be seen as an opportunity to give the



third sector a major role in a new model of development in Europe, in fact only a few policies that have been launched have fostered the third sector and the social economy. This holds true for Europe at large. However, the trend is particularly visible in a number of mostly Southern European countries, such as Spain, Greece, Portugal, Belgium and France (Chaves and Demoustier 2013). The mainstream policy towards the third sector has been austerity measures combined with a restructuring of welfare state arrangements. The general perception in the Spanish third sector has been that ‘we have to respond to more needs with less money and less manpower’. The impact of the austerity policies was deep, on the social TSO. In fact, it was their second crisis. As it was appointed above, the collapse of Spanish saving banks, that were a major help for TS, was their third crisis.

2.2. Sub Sector Infrastructure

Umbrella organisations above all provide TSOs with a lobbying function, spreading the image of the whole third sector and the promotion of spaces of understanding between the TSOs themselves. Few umbrella organisations provide TSOs with counselling, studies, training, specialised training or other services such as recruiting staff and volunteers, legal support or financing. One of the few examples of an umbrella organisation that provides the latter services is *Lares* and its foundation. In a few cases, support organisations and specialised agencies other than the umbrella organisations themselves have been created (Social TSO expert interview, 2). Some examples are the *Observatorio del Tercer Sector* (OTS) in Cataluña, *OTS Observatorio del Tercer Sector* in Vizcaia and the *Fundación Luis Vives*.

Umbrella organisations perform a monitoring and information gathering task that makes it possible to identify or foresee changes and convey this information to the TSOs. As regards the general public, they undertake a social awareness-raising mission, foster media attention, publicise the value of the TSOs’ contribution and encourage associationism and volunteering. Given the considerable fragmentation of the social sector, the creation of umbrella organisations is also intended to promote spaces for mutual understanding, catalyse collaboration instead of confrontation and competition, and generate a shared collective identity and a sense of belonging. Lastly, umbrella organisations have difficulty in rolling out services because they might come into competition with small or grassroots TSOs.

One of their main functions is lobbying (political advocacy). Umbrella organisations are set up to represent the sector, defend its interests and present a unified voice to the authorities and other social interlocutors. Their work mainly focuses on new rules for the sector. One of their latest achievements has been the passing of national Social Third Sector and Volunteering Acts at the end of 2015. Even more than promoting new laws, however, the umbrella organisations fulfil the function of alerting to new rules that could constitute legal barriers for third sector development. E.g. the PTS – *Plataforma del Tercer Sector* has worked largely in ironing out problems due to new tax provisions and rules on subsidies and



grants, which would have been damaging to the TSOs, particularly smaller ones (Focus group discussion, November 2014).

2.3. Finances

2.3.1 Financial resources

The financial structure of social service TSOs is highly dependent on public funding. The percentage of public funding was already high before the crisis: between 61.3% for Spain (Ruiz 2015:94) and 49% for Catalonia (Vidal 2013). However, the degree of dependence of the different TSO clusters is very uneven, so the impact of the budgetary austerity policies applied during the crisis years has also been uneven. Public funds accounted for two thirds of the income of medium-sized TSOs. These were the TSOs that had grown and expanded most during the period of economic prosperity that preceded the crisis. They were also those which suffered the greatest reduction in public funding. Another group of very large TSOs and 'singular entities' are less dependent on the public purse (around 33%). Lastly, small TSOs also depend less on public funding (33%), which they mainly receive from the regional and municipal levels of government. One major challenge for the TSOs is diversifying their funding and correcting its concentration on a single source. While this dependence has lessened in part, in the boom years it also increased, placing a number of TSOs in a vulnerable position of excessive dependence and consequent financial risk (Fundación Lealtad 2013). External audits continue to be on the to-do list for many TSOs, as 58.45% do not audit their accounts (Ruiz 2015:92). The major form of funding is subsidies and grants, rather than agreements and contracts with government bodies.

The budgetary austerity policy was applied two years after the crisis began, mainly from the end of 2010 onwards. The reduction in public funding had a broad, widespread but uneven impact on the TSOs. The total public funding of Spanish social sector TSOs fell from €10,480.5 million in 2010 to €8002.34 million in 2013, in other words, it fell by an average 23.6% (Ruiz 2015:95). By level of government, approximately 50% of the funding is from the regional governments, around 30% from the provincial and municipal councils and 10-15% from the central government.

2.3.2 EU financing

Funding from the European Union is scarce (less than 5% of total public funding), is falling (down by 60.5% between 2008 and 2013) and concentrates on the big TSOs as its main beneficiaries (Ruiz 2015:95). EU funding remains distant, complex and mostly reserved for large organisations and for northern European countries. A need to make these funds accessible at the local and micro-level is claimed and can be considered a major challenge for the EU institutions regarding social policies and the third sector (Social TSO expert interview, 2).



2.3.3 Modalities of public sector financing

The budgetary austerity policy has mostly been seen in regional and provincial public funding cuts, as central government funding has increased, although not enough to make up for the cuts from other levels of government. At the same time, budgetary cuts have had a particular impact in reducing public contracts, subsidies and grants. In other words, the relationship between government bodies and TSOs has changed, with funding by way of agreements becoming predominant (68.3%) in 2013, compared to 44.5% in 2008, very similar to subsidies and grants (39%). The weakest relationships (subsidies and grants) saw the greatest adjustment in the 2008-10 period. As a result of this budgetary adjustment pattern, the TSOs that depended most on regional and provincial funds and on subsidies and grants are those which have suffered most from its impact.

Overall funding from private sources has risen from 38.7% of the TSOs' total funding to 44.7% in 2013, but in absolute value terms it has fallen from €6511 million to €6468 million. Its main components are membership fees, which have risen over these years and totalled €1852.52 million in 2013, donations/grants from the savings banks, which have fallen significantly, from €1395.62 million to €1019.06 million, and payments for the sale of services, which have also fallen, from €1454.62 million to €970.19 million. The reduction in private donations from saving banks is due to the impact of the economic crisis and the bankruptcy of Spanish saving banks. This is another negative impact of the financial crisis, as saving banks accounted for half of the Spanish financial system before the crisis. Private donations from individuals have fallen as well, from €737.55 million in 2010 to €595.15 million in 2013. Contributions from companies and other foundations have grown moderately, rising from €1046 million to €1192 million between 2010 and 2013. Of this, €499.7 million took the form of sponsorships and private contracts and the remainder were company donations. This panorama contrasts with the corporate economic crisis that Spain has been experiencing these years (Ruiz 2015:95). Regular donations by private individuals make up a higher proportion for smaller TSOs, while public contracts and agreements for the provision of services are mainly undertaken by larger organisations.



Table 2. Evolution of social TSO funding in Spain, 2010-13. In € millions

Sources of funds		2010	2013	Δ
1. Market sales		10526.5	8171.9	
Public markets	Public contracts and agreements	7881.3	6185.8	-21.5
Private markets	Sponsorships and private contracts	680.3	499.7	-26.5
	Payments from users for services and product sales	1964.9	1486.4	-24.4
2. Public subsidies and grants		2599,2	1816.5	
	Subsidies and grants	2483.9	1816.5	-26.9
	Public sponsorship	115.3	0.0	-100.0
3. Private subsidies and grants		1004,6	895.5	
	Subsidies and grants	1004.6	895.5	-10.9
4. Own resources		3337.2	3586.7	
	Donations	832.9	937.6	12.6
	Membership fees	2218.7	2326.9	4.9
	Property income	285.6	322.2	12.8
Total		17467.5	14470.6	-17.2

Source: own compilation based on Ruiz 2015

Table 3. Evolution of social TSO funding in Spain by major funding source group, 2010-13. In € millions

Sources of funds	2010	2013	
Market sales	10526.5	8171.9	-22.4
Public subsidies and grants	2599.2	1816.5	-30.1
Private subsidies and grants	1004.6	895.5	-10.9
Own resources	3337.2	3586.7	7.5
TOTAL	17467.5	14470.6	-17.2

Source: own compilation based on Ruiz 2015

From Tables 2 and 3, it may be seen that sales on public and private markets continue to be the main source of funds for TSOs as a whole, but that they fell by 22.4% between 2010 and



2013. Subsidies and grants, both public and private, have also fallen. In contrast, the genuine internal resources of the third sector have increased (up from 19.1% to 24.8% of total funds), although not enough to offset the reductions in other sources.

The main conclusion is that the TSOs, faced with public funding cuts, have not generally opted to turn to the private market and become 'social businesses' as in the English-speaking world, but have intensified the use of voluntary resources as regards both volunteer work and internal funding.

2.3.4 What adjustment to the crisis has been made?

As we have seen, together with a general reduction in public funding there has been a restructuring of sources of funds and types of funding, which has also led to a changing relationship between the TSOs and the public sector. The general impact, however, has been the squeeze on TSOs budgets. In Andalusia, for example, 33% of these organisations stated that their budget had fallen by over 50% while another 26% had seen it cut by between 25% and 50%. Only 10% had not been affected (PAV 2014). TSOs which were in the process of expanding and diversifying on the basis of projects with the public authorities, particularly regional, were the most affected by the cuts in public funds (Vidal 2013).

Adjustments to the crisis have been made in various ways:

- (1) restructuring work teams, particularly through lower working hours, reorganising functions, redundancies and pay cuts, and more volunteer work;
- (2) increased debt: in 2010, 66.1% of TSOs said they were debt-free and 21.7% said their debt was 25% or less. In 2013, 60.4% of TSOs said they were in debt by up to 25% and 15.8% reported between 50% and 100% indebtedness. They also reported difficulties in accessing private bank loans (Ruiz 2015). Their increasing debt levels or access to capital markets need to be viewed in the light of government payment methods, particularly at regional and provincial level, where the authorities' own financial problems have tended to extend the payment period significantly even when the obligation has already been recognised. Their liquidity shortfall has obliged the affected TSOs to run into debt in order to meet their own obligations. TSOs that are more financially solvent have been better able to withstand this extension of payment periods;
- (3) a minority have sought out new forms of funding (such as crowdfunding, ethical banks, raffles, or a timid co-funding of services) and sharing expenses (coworking). Of the innovative new forms of funding, crowdfunding or micro-sponsorship is the one that has become most widespread, as 14.2 % of social action TSOs have employed it, while 7-8% have used collaborative consumption, responsible consumption groups and/or fair trade and a very marginal proportion (under 4%) have used time banks and social currencies (Ruiz 2015:122). It should also be noted that in many TSOs, particularly small local ones, part of the public funding is provided in kind, such as the use of municipal premises or facilities.

Major impacts of the three crisis on TSO



- TSO faced deep public funds cuts, mostly from regional governments, and major cuts in saving banks funds. But not all TSOs have come badly out of the crisis, although a small number of TSO bankruptcies have been registered.
- Social sector organisations increased their staff from 529,029 in 2008 to 635,971 in 2010 and 644,979 in 2013, while the number of entities has stabilised, increasing from 28,790 to 29,737 (Ruiz 2015) .
- Most TSOs have experienced difficulties in shifting their funding from public to private sources, as was seen in the United States in the 1980s (Salamon 1986). Business activities and fees have increased in this period, but slowly.
- TSOs are no longer privileged in public contracts and the emerging ‘social clauses’ in public calls for tender that are appearing in the regulations are still incipient (limited to social enterprises such as special employment centres and work integration social enterprises) and are seldom applied (Fadei 2014). Contracts and agreements between TSOs and the public sector are based more on good relations.
- Debates: TSOs are debating whether to lean towards mercantilisation and instrumentalisation or towards volunteering and social activism. Moving towards mercantilisation of the TSOs’ services tends to reduce their ‘claiming’ function of advocacy and channelling social demands. For this reason, as TSOs grow in size they tend to neutralise their ‘claiming’ function, whether of their own accord or because they are required to do so. Furthermore, the public funding model based on uniformity, considerable bureaucracy and requirements favours professionalisation and larger organisations, which become ‘third party government’ agencies.

2.4. Image

NGO are well regarded by Spanish society. The CIS barometer (2011) and Elcano barometer (2014) reveal that NGOs are the best regarded institutions: NGOs are regarded as ‘very good’ or ‘good’ by 78.7% of Spaniards (CIS 2011) and score 6.4 out of 10 in the credibility ranking, ahead of the media (4.9), trade unions (2.4), the justice system (3.6) and others (Elcano 2014).

As regards the degree of trust in third sector organisations, Spanish society as a whole rates the TSOs’ services and actions very positively, as do users/beneficiaries. Trust is a key variable because it affects the legitimacy of TSOs and, consequently, their operating capacity and their ability to broaden their membership and attract resources. Nevertheless, there are significant differences in the degree of trust depending on the type of TSO. The highest-rated TSOs are those dedicated to social action and combating exclusion and poverty. The worst-rated are religious ones and those that defend the interests of certain groups (trades unions, employers, feminists). Also, 53% of Spaniards perceive TSOs as being highly dependent on public funds and consider that these funds are not adequately controlled.



Finally, Spaniards are readier to justify giving public funds to TSOs they trust more — those for social action and combating exclusion and poverty — rather than those in which they place less trust (López 2002).

Organisations such as Caritas, Taula del Tercer Sector Social Català and the EAPN are familiar to the public because of their campaigning on social problems such as poverty. Most TSOs have carried out communication and awareness raising campaigns, both on the problems they are combating and on their own activities. The biggest TSOs are the best known to the public at large. Companies take advantage of this fact, so most of their collaboration and sponsorship concentrates on these TSOs (Social TSO expert interview, 3).

Table 4. Degree of confidence in third sector organisations (on a scale of 0 to 10)

Social action associations	7.54
Associations to support disabled people	7.44
Human rights organisations	6.75
Development aid NGOs	6.69
Organisations to support groups with integration problems	6.46
Parents' associations	6.24
Youth organisations and groups	6.19
Environmental groups	6.04
Sports organisations and groups	5.92
Consumer organisations	5.75
Professional organisations and colleges	5.50
Community development associations	5.37
Cultural and regional associations and supporters' clubs	5.23
Feminist groups	4.54
Employers' associations	4.38
Trades unions	4.11
Associations of a religious nature	3.92

Source: De la Torre (2001), based on Encuesta Telefónica, FONCE-2002

The high financial dependence of a sector of TSOs has contributed to the emergence of a certain critical view of some TSOs, which are considered 'institutionalised entities' or even 'the NGO caste' (Social TSO expert interview, 1). This social perception may lie at the root of a recent phenomenon whereby some new social and volunteering movements are distancing themselves from those TSOs. Social demobilisation has even been found in the spaces where the most institutionalised TSOs have the strongest presence: "There are studies that show that where the most institutionalised TSOs are most deeply rooted, citizen participation has fallen," (Social TSO expert interview, 3).

Other firmly established perceptions in Spain concerning the professionalism and role of TSOs are: 93% agree totally or agree that "People who work in these organisations are



usually supportive people who want to improve society” and 76% agree totally or agree that “These organisations do work that the authorities (government) should cover”. Regarding their professionalism, 57.4% believe that the organisations make good use of their financial resources, 55.4% believe that “These organisations are as efficient as companies” and 68.9% do not agree at all that “Organisations with hired staff work better than those that only have volunteers” (OTS 2012).

2.5. Inter-organisational linkages

Despite the spread of official and institutionalised consulting bodies created at local, regional and national levels –similar to the European Economic and Social Committee – for diverse specific policy fields, in fact the most widespread way that TSOs access and collaborate with policy institutions is through informal contacts: “The relationship between PTS – *Plataforma del Tercer Sector* and the Ministry is very smooth. They pay attention to us and have frozen or changed rules thanks to our lobbying. We would like this relationship to be formalised in an official body” (Focus group discussion, 24 Oct. 2014). In practice, however, citizen participation councils in the different policy fields are not very active or decisive (Savall 2013).

In some cases, TSOs have made policy innovations: TSOs improve policy functions when governments have limitations, e.g. taking care of refugees, acting as a bridge between different administrations that do not have bodies to coordinate their actions in a particular policy field, etc. “As our policy field involves different government agencies — national and regional — that have no contact with each other, whether formal or informal, some of our users are neglected; it is our association that acts as a de facto coordinator between the different administrations and generates coherence in this social area” (Social TS expert interview, 4).

To channel their political advocacy work, and also for mutual recognition, exchanging information between TSOs and generating a common image and a sense of belonging, different umbrella organisations have been set up at different levels (local, regional and national), essentially focusing on a single policy field. As well as the national platforms already mentioned (PTS and CEPES), there are other more specialised national ones such as *Plataforma de ONG* [the NGO platform], CERMI (for people with disabilities) and REAS, as well as regional ones such as the PTS of Murcia, Aragon and Valencia, Saren Sarea in the Basque country and *Taula del Tercer Sector Social* in Catalonia.

The heterogeneity is a general feature of Spanish TSOs. This heterogeneity hinders the collaboration among them: They collaborate very little with each other, although they sometimes build alliances in lobbying activities or cooperate in specific areas. The OTS study (2012) found that 80% of TSOs acknowledged that they collaborate little or not at all with other TSOs and 70% are barely aware of the activities of the others. They also compete with other TSOs for public contracts and funds.



There is little cooperation with companies, and most is with big, well-known TSOs working in policy fields that are well accepted by the public. “Companies that want to sponsor TSOs prefer to place their sponsorship banners with big, well-known TSOs with good reputations, such as Caritas, rather than small, unknown organisations. They even flee from organisations that work in harsher or more sensitive sectors such as ours (we work with prisoners and ex-prisoners)” (Social TSO expert interview, 4). Moreover, stereotypes continue to predominate in both camps, with TSOs believing that traditional companies have few ethical considerations and need convincing to become socially responsible. The Basque country OTS found that 47.9% of TSOs had no relations with the business sector, except with savings banks, which present a unique situation. Foundations of saving banks remain a high ability to organize cooperation, e.g. *La Caixa* Foundation, finance long-term projects and organizes the cooperation among a large number of TSOs.

2.6. Legal environment

The common legal forms of TSO in Spain are associations, foundations and cooperatives. National laws and specific tax regulations for each legal form exist in this country. Additionally, many of the 17 regions have their own specific laws, for example, Catalonia, the Basque Country and the region of Valencia have their own laws on cooperatives, foundations and volunteering.⁷ In fact there is a complex and changing legal environment for TSOs⁸.

TSOs face legal issues in such matters as the conduct of specific activities, like the ambulance sector, and labour regulations relating to their paid staff in some policy fields. Additionally, the new regulations on volunteering have introduced more restrictions on beginning to volunteer, especially regarding the need for training.

Furthermore, TSOs have to watch out for new regulations that affect them and for interpretations of existing regulations. For instance, recent draft regulations on foundations, on subsidies and grants⁹ or on the new corporate income tax rules could have seriously prejudiced TSOs as a whole and small TSOs in particular, increasing the requirements and bureaucracy. They could also have affected some TSOs' access to public funds such as the national '0.7% of income tax revenue' fund. This fund amounts to approximately €200 million annually. In recent years, access to it has become a cause of litigation between

⁷ See ANNEX I of this National Report: “Legal barriers to Third Sector development in Spain”.

⁸ A specific academic law journal that specialises in the third sector and the social economy is www.ciriec-revistajuridica.es

⁹ For example the 2013 draft regulation on subsidies and grants could have led to the disappearance of 90% of TSOs. It would have meant an "enormous worsening as regards access to subsidies and grants, collection of advances, percentages of co-funding, documentary proof processes, and an exorbitant penalty system" (PTS press release, <http://www.plataformatercersector.es/es/noticias/m%C3%A1s-del-90-de-las-entidades-del-tercer-sector-podr%C3%ADan-desaparecer-con-la-reforma-de-la-ley>).



national and regional (Catalan) TSO platforms. Some years ago, the non-profit cooperatives were also excluded from access to the 0.7% fund despite their legal non-distribution constraint. The concepts of 'nonprofit distribution' and 'not for profit' need to be clarified to precise the limits of the TS; in this context, PTS representatives claims to remain the 'nonprofit distribution constraint' as a major feature of the TS (Focus group discussion, June 2016).

Lastly, in the context of the new European concept of public procurement (Social Platform 2015), the introduction of social clauses into public contracts and of labour insertion into public tenders is being allowed. There is already an incipient body of regulation in Spain, but also difficulties in extending it on the grounds that it infringes the freedom of the market. However, these clauses are little applied in practice.

2.7. Personnel (Human resources)

The social base of those involved in TSOs can be seen from a broad perspective as comprising 5 groups: volunteers, paid staff, members, target groups/users of its services, and financial contributors. This project essentially examines the first two groups. However, the social base, the membership as a whole, is the fundamental asset of these organisations in the widest sense. This concept makes it possible to diversify the forms of participation and establish different levels of involvement and co-responsibility with the organisation and with society (Vidal 2013). An active, committed social base contributes to the involvement of the target group, avoiding the services being considered charity, and makes it possible to propose transformation and social innovation as TSO strategies.

2.7.1. Volunteers

The level of social mobilisation and participation in Spain has traditionally been low. In 2014, 85.2% of Spaniards stated that they had never belonged to a social support or human rights organisation, 73.1% had never belonged to a sports group, 75.8% to a cultural or leisure group, 87.6% to a religious organisation or association, 88.1% to a youth or student association, and 85.3% to any other type of voluntary association. Only 8.5% of Spaniards said that they currently belong to a sports group, 9.7% to a cultural or leisure organisation and 6.4% to a social support or human rights organisation (Barómetro del CIS nº 3041, oct.2014). However, the crisis and solidarity have changed this panorama somewhat, increasing the level of social solidarity. Between 2008 and 2013, the overall number of volunteers increased steadily in Spain among social action TSOs, rising from 873,171 to 1,272,338. 60% are women 22% of these volunteers work in the three 'singular entities' (Ruiz 2015).

Nevertheless, the composition of the social base and changes to it have differed among the different types of TSO. In small TSOs, the number of employees has fallen and the proportion of volunteers has risen overall. The proportion of TSOs that only have voluntary resources has increased (it has already reached 18.5% of all TSOs). In medium and large



TSOs, the number of volunteers has increased to a proportionally greater extent. The number of volunteers has increased in parallel to adjustments in paid work, which could mean a certain transfer of work done by paid staff to unpaid workers (Ruiz 2015).

Also, volunteers are putting in more hours a week than before. As regards functions and tasks, their level of participation, integration and involvement covers a broad range and is very varied, including decision-making and organisation and planning (Ruiz 2015). This shows that the strategic option taken by Spanish TSOs as a whole has been to intensify their social and volunteering dimension.

Regarding the nature of the volunteers and their involvement in TSOs: “It is increasingly difficult to get volunteers involved long-term. This has become much more fluid. Also, new forms of volunteering and social movements that are active outside the traditional third sector and have no contact with the larger, more traditional TSOs have emerged” (interview with stakeholders, 2014). The proportion of volunteers that participate occasionally and are less involved appears to have increased. A new challenge which has also arisen is managing and retaining the new volunteer profiles: early retiree or retired volunteers who want to do something, new volunteers associated with social networks and new technology, unemployed people who opt for volunteering as a way to acquire training, and occasional short-term volunteers. 31% of TSOs have students on work placement (Vidal 2013).

Increasingly, TSOs (and the Volunteering Act) are more demanding about recruiting and managing volunteers. They demand a minimum age and training. The training is provided by the associations themselves and, to a lesser extent, by the authorities and the *Plataformas de Voluntariado* or volunteering platforms. However, the volunteer management and monitoring programmes present considerable deficiencies (PAV 2014).

2.7.2. Paid workers

The overall level of employment in TSOs grew strongly up to 2009/10. For example, in Catalonia the contracted staff rose from 52,000 to 200,000. However, since then the austerity policies have led to a fall in employee numbers throughout the country. Adjustment to the crisis and reduced budgets has involved restructuring work teams (Vidal 2013): 26% have cut their working hours, 25% have restructured functions and tasks, 25% have laid off employees, 22% have lowered salaries, 17% have implemented voluntary redundancies and 13% have restructured jobs. The ‘singular entities’ have had fewer labour adjustments than other TSOs.

TSOs are a sector where women make up a high proportion of the workforce: 79% of employment (Ruiz 2015). 54% are employed full-time, a lower proportion than in the rest of the economy. The temporary employment rate of TSOs has fallen but is still higher than average, as 56.7% of the paid staff has been working in the organisation for over five years. Employees in the social action third sector have a specific collective agreement, showing the stability and regulation of working conditions, which are attractive compared to the situation of increasing unemployment and precarious work in Spain. Vidal and Villa (2009)



show that until the beginning of the crisis, some TSOs were a way to enter the working world, a way to acquire training for people who then tended to work in the public sector. However, this tendency was broken when public sector employment was frozen. Given the generalised precariousness of the Spanish labour market and the high level of unemployment, to be a paid employee of a TSO is not a bad job option nowadays.

2.7.3. Executives

There is a generalised need for 'professionalisation' of executives. The level of work-related qualifications and university education among TSO managers is high. The best qualified managers tend to rise to the higher-tier organisations (platforms and federations) rather than remaining in the grassroots TSOs.

TSO executives have a considerable influence on the direction their organisations take, and also on the involvement of their social base (Chaves and Sajardo 2004). "In TSOs, a conflict often emerges between two major visions and types of executive: 'well-intentioned do-gooders associated with charity and altruism' and those who are characterised by the 'professionalism' of their actions. If the managers have a 'business' outlook, they cannot expect great involvement from their social base and volunteers. On the other hand, the current new context requires not only organisational skills and skills related to the specific sector the TSO works in, but also new ones such as relational skills. Considerable deficiencies exist in this area (Social TSO expert interview, 1 and 3).

2.8. Institutional facilities

Only 28% of facilities-buildings are TSO property (Ruiz 2015). This percentage decrease to less than 11,9% for small TSO, with an annual budget under 150.000€. The crisis has affected differently the TSO: there is a decrease in small TSO with building properties but an increase in big TSO with building properties.

2.9. Governance

Similarly to the finding that voluntary engagement appears to be less continuous, it is becoming increasingly difficult to appoint volunteer board members, an engagement that relies on long term commitment. 71,5 % of the TSOs report that they face difficulties appointing members (Online Survey, 2015).

As a result, TSOs are reconstructing their governance structure. They are professionalizing their governance bodies and introducing a dual structure: a management board composed of paid staff is accompanied by an advisory board of volunteers.

To be more efficient and cheaper than their competitors, market-compatible structures have been introduced. The ideational and economic activities have been separated organisationally.



There is a rise in managerial business practices, including financial methods like controls and cost and activity accounting, performance measurements like quality management and benchmarking and personnel instruments like performance-based pay and target agreements. There is also a need to introduce impact assessments of the TSO's activities.

The action of different groups of volunteer and paid staff in value-based organizations makes special management practices necessary, which we refer to as 'managed participation'. Methods that are frequently applied are round tables, coaching and training for volunteers, as well as joint teams composed of paid and volunteer staff.

Organisational growth risks: internal growth in organisations that already have a certain history entails a risk of dissociation between mission and management and involves investing major efforts to overcome the difficulties associated with less participation by members, managing and motivating volunteers, renewing the management, etc.



3. Policy field under study: Sport¹⁰

3.1. History

In Spain, following the example of other European countries with a longer sporting tradition such as the United Kingdom or Germany, sports in modern times have been based mainly around associations. The sports associations that spread from Catalonia from the end of the 19th century were largely formed on the British club model, with elitist and competitive connotations, rather than on the German *Verein* model, which is more part of the social fabric and less competitive (Heinemann 1999; García Ferrando and Llopis 2010).

Sports associations shed their minority character from the late 1970s onwards, when the political transition to democracy and the new constitution of 1978 laid the foundations of a new social and democratic state subject to the rule of law, in the area of sports as well. The constitution states that the authorities must ensure the possibility of access to sport for the whole population and must “foster health education, physical education and sports” (art. 43.3). Following the adoption of this Constitution, a regulatory framework was set up with two tiers, one national and the other regional, and a principal promoter, the municipality or local council. At the national level, the Physical Culture and Sports Act of 1980 has been replaced by the Sports Act of 1990. Since the constitution gives the regions, known as Autonomous Communities, powers to “promote sports and the adequate use of leisure” (art. 148.1), they have successively adopted their own, largely disparate, regional sports laws (Arévalo 2006; Blanco 2014). The result is a legislative mosaic.

In the new social state, the town halls became the main players in the ‘sports shift’ and in promoting sports. The vast majority of local councils, particularly those with over 25,000 inhabitants, introduced Municipal Sports Services. These made major investments in building sports facilities throughout the country as well as managing these sports facilities and services and promoting the democratisation of sporting activities, particularly by supporting sports associations (Gambau 2002; Blanco 2008).

After the years of dictatorship, with new freedoms, new rules and support, a rapid rebuilding of civil society took place throughout the 1980s and public structures were created in the area of sports. The ‘return of civil society’ resulted in an unprecedented blossoming of clubs for all types of sport, an example of the democratisation and popularisation of sports associations that went hand-in-hand with the public’s increasing interest in practising sports for non-competitive reasons. In time, the sports associations

¹⁰ Section prepared by Rafael Chaves-Avila



consolidated into two currents: the traditional professional and high-level clubs, federated and motivated by their interest in competing, and the popular, amateur clubs, motivated by social, recreational and health reasons.

In short, with the development in the 1980s and 1990s of policies to promote sports, the public sector (municipal, regional and national) became the main actor in the sports sector, along with a powerful and growing commercial sector and a large and revitalised third sector comprising sports clubs and associations. In figures, at the end of the 2000s 55% of sports facilities were managed by public bodies and 30% by private organisations, including public facilities managed by sports clubs and associations (Gallardo and Lozano 2006:104). From a different angle, the CIS (Study 2833 of April 2010) found that of the Spaniards who practised sports, 51.3% used public facilities, 44.9% open spaces, 17.8% a private club, 12.7% a private gymnasium, 10.8% their own home and 4.9% an educational establishment.

At the same time, sports activities spread throughout society and the number of people practising sports rose steadily, from 25% of the Spanish population in 1980 to 40% in 2010 (García Ferrando and Llopis 2010). In 2015, 53.5% of the population over 15 years old practised sport either regularly or occasionally, 19.5% of the population practised sport on a daily basis and 46.2% at least once a week. In total, 20,840,000 people practise some form of sport. The types of sport most practised in annual terms include cycling, at 38.7% of the population who practised as sport in the past year; swimming, 38.5%; hiking and mountaineering, 31.9%; and running, 30.4% (Ministry of Education, Culture and Sport 2016). The Centro de Investigaciones Sociológicas (CIS) data (CIS Study 3024 of June 2014) are similar: of the population that practises a sport, 18.6% practise recreational cycling, 17.1% run, 14.9% play football, 16.1% practise recreational swimming, 11.4% mountaineering and 9.4% do gymnastics at a sports centre.

The breakdown of those practising sports differentiates between members of closed clubs (private), of gyms (commercialised activities) and of sports associations. All three increased between 2000 and 2010: members of private clubs (mostly comprising persons of middle/high social class) rose from 7% to 8%, those of private gyms from 3% to 10% (a spectacular rise) and those of sports associations from 11% to 15%. A further 75% of those who practise sports do not belong to any private club, gymnasium or association.

Of the people who practise sports in a club or association, it is important to distinguish between federated sports (competitive) and recreational sports (social). In 2010, 75% of those who practised sports stated that they did so without any concern for competing even with their friends. This being the case, only 16% of those who practised sports in 2010 held a licence (García Ferrando and Llopis 2010). While the number of persons who practise sports grew, the number who practised competitive sports fell, from 20% in 2000 to 13% in 2010, owing to the rise of recreational, fun/entertainment and social sports. From a different point



of view, in 2015, 9.8% of the population that practised sport stated that they held at least one current sports licence. These rates were highest in men, at 14.8%, compared to 5% in women. The number of licences has grown steadily, from 2 million in 1982 to 3.5 million in 2010 and 3.804 million in 2015, according to the CSD or Spanish Sports Council (Consejo Superior de Deportes, Ministry of Education, Culture and Sport 2016). CIS data (CIS Study 2833 of April 2010) showed that 15.1% of those who practised sports were licensed by a federation.

The rise in non-competitive and social sports is shown by the main motivations for those who practise sports: fitness, at 29.9%, is the main reason given for doing sports, especially among women (32.7%, compared to 27.6% in men). This is followed by fun or entertainment at 23% (27% among men and 18.4% among women); health, 14.8%; sports as a way to relax, 13.7%; enjoy doing sports, 11.9%; and, finally, like to compete or professional reasons, 2.2%. Six out of ten people who do sport usually use specific facilities, with 23.1% usually using private gyms, 17.9% public facilities, 13.2% public gyms and 12.1% other facilities or private sports clubs (Ministry of Education, Culture and Sport 2016). The specific population groups to which sports have been promoted over the last 20 years have been children (in a school setting), old people, people with disabilities and, recently, women's races (running).

3.2. Sub sector infrastructure

In 2014 there were 64,755 sports clubs in Spain, up from 57,231 in 2007. The rise in the number of clubs has also been seen in the 'king of sports': the number of football clubs grew from 18,285 in 2007 to 21,649 in 2014. Last year the sports with the greatest number of clubs were hunting, with 6535, basketball with 3843, cycling with 3420 and mountaineering with 2263 clubs (Ministry of Education, Culture and Sport 2015).

These clubs are organised into second- and third-tier organisations, in other words, they belong to one or more of the 600 regional federations or local ones that operate at a regional level, and these in turn are affiliated to the national sports federations that are overseen by the national government's Sports Council (Gambau 2002). These federations or umbrella organisations provide their members with support services such as licences, organising competitions and other services, which are often governed by national and regional regulations. It is important to point out that the highest membership of these federations is found among the professional or elite-competition sports associations and clubs, whose sportspersons hold federation licences, and not so much among the amateur associations that have more recreational, education, health and social purposes.



There are also different types of institutions that provide training, advice and innovation support for the associative fabric, such as the *Instituto Nacional de Educación Física* (INEF), a long-standing public body.

3.3. Finances

The economic and financial situation of Spain's sports third sector is very diverse. In particular, we need to distinguish between the small associations and clubs in the regional and national associations and the big professional clubs that have become sports plcs. The small and medium-sized clubs have small budgets, mainly based on membership fees and in-house resources and to a lesser extent on selling services, and are highly dependent on public funds. Two studies show slightly different situations. Gambau (2002:150) provided data on sports clubs in Galicia and indicated that the main sources of funds were membership fees and self-funding (39.4 %), subsidies (37.5%) and advertising and sponsorship (13%). Another study, this time of Catalan sports clubs, revealed that 48.8% of their income came from membership fees, 12.6% from the sale of services, 9.2% from advertising/sponsorship, 5.3% from subsidies, 1.8% from donations and the rest from other sources. However, in the smaller sports clubs the income from subsidies (largely local) reached 12% (Observatori Catalá de l'Esport 2016).

The regional and national federations are more dependent on public funds. For instance, Gambau (2002:25) stated that 65% of the federations' funding came from the public purse. In contrast, the income of the national federations, with the exception of the football federations, fell by €198.7 million to €137 million between 2009 and 2015, heavily affected by the economic crisis and the reduction in public funding (CSD 2016). Between 2009 and 2015 their debt level also fell, by €95.3 million to €50.5 million (CSD 2016).

Table 5. Funding of national sports federations other than football (%)

	National public funding (CSD)	National public funding (Olympic Association)	Regional and local public funding and ONCE	Private funding (own resources)
2009	36.9	4.7	6.3	52.2
2015	31.2	6.6	4.7	59.1

Source: CSD (2016)

Table 6. Breakdown of the funding of national sports federations other than football (€ million)

	Total own resources	Advertising and sponsorship	Licence s/fees	Competition s/fees	Training	Other (sales)
2009	103.6	16.6	36.7	26.9	4.2	19.1



2015	79.4	13.2	23.7	18.8	4.5	19.1
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Source: CSD (2016)

It is important to note that the regional and local sports clubs tend to manage or use facilities provided by local governments, which made major investments in the 1980s.

Most of the big football and basketball clubs, which are more competitive and commercialised, became SADs (sports plcs) because they were required to do so by law and also because of their high debt levels, aiming to make it easier to attract capital through the stock market or from abroad. The result has not been a great success as none of them are quoted on the stock market, they have barely reduced their debts at all, there has been little foreign investment and some clubs, now SADs, are on the verge of bankruptcy.

3.4. Image

As noted in part 2.4 of this National Report, NGOs are well-regarded in Spanish society. Among third sector organizations, sports organizations and groups enjoy a high degree of trust, 5.92 on a scale of 0 to 10, similar to environmental organizations (6.04) but less than development aid NGOs (6.69) (De la Torre 2001, based on *Encuesta Telefónica, FONCE–2002*).

3.5 Inter organizational linkages

A large majority of sports clubs are members of federations. In Catalonia, for instance, 91% of sports clubs are members of one of the 69 sports federations and 15% are affiliated to 2 or more federations. Nevertheless, the evolution of Spanish society over the past 30 years has significantly increased the pool of potential sports association members — people who could contribute involvement, time and money. The clubs that have been best able to adapt to change have been those that have increased their membership and diversified into non-competitive sport (Observatori Català de l'Esport). Those that have adapted have done so by offering services that complement their federated sports (71% of Catalan clubs already do so), with non-sporting social activities and non-federated sports activities associated with recreation, physical activity and health, and even one-off sports activities.

The new trends include setting up clubs that are not affiliated to competitive federations but geared towards sports as a recreational activity. New federations for new types of sports have also been recognised (Observatori Català de l'Esport).

One of the sports clubs' key relationships is with the authorities, particularly local government. In Spain, unlike Germany, the central actor in the sports sector is the public sector. The prevailing model in Germany is one of subsidiarity: the public sector delegates to



a large organisation, DSK, which is the owner of the facilities and services and enjoys considerable tax advantages. In Spain, the relationship is one of collaboration between the state and the sports third sector, with the state occupying a hegemonic position. Associative organisations present a certain federative capacity for negotiating with the authorities. Often they even enjoy excellent informal relations with the local authorities (Heinemann 1999) “We have an excellent collaborative relationship with the councillor for sports, who consults us about many aspects of sports policy and related projects” (TSO representative, 4).

The following data illustrate this: 94% of Catalan sports clubs say that they have relations with their town council and half of them have relations with district or regional organisations such as the *Consell Català de l'Esport* [Catalan Sports Council]. These clubs have a positive opinion of their relationship with the local authorities, which largely centres on the latter ceding municipal sports facilities and providing the club with resources (financial) (Pérez and Viñas 2010). Authors such as Blanco (2008:26) are more critical and see a certain marginalisation of sports associations and foundations as regards collaboration in the management of public sports facilities, compared to the subordinate relationship of private sports companies. However, there are exceptions: in Catalonia, for instance, social clauses proposed in relation to sport have gone beyond mere subsidies or the use of installations and moved towards ceding the management of sports facilities.

Given the multi-level architecture (national, regional and local) of Spain's public sports sector, the sports associations should weave a second- and third-tier associative fabric that is capable of managing the complexity of these relations.

3.6. Legal environment

Article 12 of the Sports Act provides for various types of sports associations: clubs, national-level groups of clubs, national-level sports promotion organisations, professional leagues and Spanish sports federations.

The legal framework governing Spanish third sector sports organisations is not only complex because of its double aspect (national and regional), it is also creating a number of pressures on these social organisations. Firstly, each region has regulated its own associative model with little regard for the national sports legislation or for those of its neighbouring regions (Gambau 2002). Secondly, even where the new national legislation has not caused sports clubs to become capitalist companies rather than social economy enterprises, it has raised barriers to the development of the sector. One example is the explicit pressure in favour of mercantilisation in the new regulations: the foreword to the Sports Act of 1990 states “(...) regulate sporting events, considering them a progressively commercialised [*mercantilizada*] activity”. Another is the recent Labour Regulations issued by the Ministry of Labour, which are extending the Social Security registration and contributions requirement to sports sector



workers who devote only a few hours to this occupation, bordering on volunteering, such as trainers or masseurs. The new regulations are causing problems above all for small third sector organisations with semi-volunteer workers which do not generate ‘real jobs’ and are going to have to dispense with these experts. A third example is that the legal form of a sports plc (*sociedad anónima deportiva* or SAD) is now legally required in order to take part in official sports competitions of a professional nature at national level, with the exception of clubs that enjoyed a healthy financial situation at the time when the Sports Law was adopted. This has affected the football and basketball worlds and forced dozens of football clubs (but not Real Madrid or FC Barcelona) to become SADs. In other words, the most competitive and commercial part of the third sector has been required by law to lose all its individuality and adopt the form of a capitalist company. It is true that the justification for this new rule was the high level of indebtedness of the clubs in the previous decade, but conversion to this legal form has not solved the problem yet has been maintained.

This regulation does not affect the second and third tier organisations of the sports associations — such as the Spanish sports federations and the regional sports federations that belong to them — or the Spanish Olympic Committee, which have all been declared of public interest by the Council of Ministers and enjoy the corresponding tax benefits. However, there is also a provision that clubs that take part in national-level official competitions and sports promotion organisations “could be of public interest” (Arévalo 2006).

The regulatory pressure in favour of mercantilisation, a change in the legal form of the clubs and a single federated sports model contrasts with the scanty interest that those with the highest political responsibilities take in the social dimension of the clubs and of organisations with a social vocation, such as sports promotion organisations (*Entes de promoción deportiva* or EPD). Sports promotion organisations, as regulated in national law, are associations of clubs or organisations whose object is to promote and organise physical and sporting activities for recreational, educational and social purposes. In practice, none has been created. This is partly due to the high number of members (6000) required to set them up and partly because they cannot take part in any official national-level competition or activity organised by the sports federations (Gallardo and Lozano 2006: 22-29). As Blanco (2014) noted, this reveals how little interest the authorities responsible for sports, with a few exceptions, have shown in sports promotion organisations’ serving the coordination of sports for all and, consequently, diversifying the structure of the sports system in Spain.

3.7. Personnel (Human resources)

3.7.1 Volunteers

In the sphere of sports and sports associations, voluntary civic engagement is a well-established practice. The number of people who have participated in or support sports



activities through voluntary work for specific sporting purposes is estimated at 2,863,000 (7.4% of the population). In addition, 1,225,000 people (3.1% of population) have participated through donations for specific sporting purposes. This shows the social significance of voluntary civic engagement. In both cases (volunteers and donors), men outnumber women by two to one (source: Ministry of Education, Culture and Sport 2016). Specifically, 41.7% of those involved in the sports policy field do volunteer work, an altruistic activity that is more prevalent among men (45.1% of those practising sports) than among women (35%) (Viñals and Vilanova 2014). Additionally, as regards civic engagement, 2,290,000 people (12.7% of the population) are members of sports associations/clubs. Sports clubs are generally small, with fewer than 300 members each.

According to the Observatorio Catalá de l'Esport (Catalan sports observatory), the contribution of Catalan sports volunteers is estimated to be worth €213 million a year.

3.7.2. Paid workers

In 2014, 189,400 persons were in paid work associated with sports in Spain. These jobs presented higher temporary and part-time employment rates than in the country's overall employment figures. Male employment accounted for 75% of the total. The educational level was higher than in the country as a whole (higher education 50.3%, against 42%). The main occupations were sports trainers and instructors (source: Anuario de Estadísticas Deportivas 2015).

Employment in the Spanish sports third sector presents differences compared to sports employment in the public sector and in the private business sector. In Catalonia, employment in the associative sector has been found to be worse paid and with fewer open-ended contracts and a higher percentage of persons without a contract (22.8%, when the mean was 5%). The most common profiles of people working in sports clubs were trainer, club manager and out-of-school teacher. This employment remained predominantly masculine (71% of the total in 2014, against 75% in 2010) (Viñals and Vilanova 2014). This is also a sector that has undergone intense professionalisation since the 1980s, particularly in clubs with greater financial resources (Observatori Catalá de l'Esport 2014).

There are no official data on paid work in the Spanish sports third sector, although some studies at provincial or regional level have been published in recent years. In the province of Gipuzcoa, Arrizbegi et al. (2011) estimated a total of 3606 jobs in the sports sector in 2010. Of these, 1340 (37% of the total) were generated by the 1300 associations, federations and sports clubs that were active in the area of sports services. In addition, these associations mobilised 3201 volunteers and 180,121 members. By extension, this ratio gives an estimate of 70,381 jobs in the Spanish sports third sector. Another reference is the Observatori Catalá de l'Esport (2010), which estimated a total of 91,468 jobs in the sports sector in Catalonia in 2006, of which 59,858 were in non-profit organisations, including 57,778 in sports clubs.



Paid work in the Spanish sports third sector has fallen in recent years. In the national sports federations, the number of employees grew from 772 in 2007 to 797 in 2010 but fell to 658 in 2015, affected by the economic crisis (CSD 2015).

As noted in the Legal Environment section, the border area between paid work and voluntary work is a zone of conflict with the social security authorities, owing to the latter's interest in regularising this 'semi-emerged' employment.

3.7.3. Executives

Sports third sector organisations have followed a trend towards professionalizing their executive posts, particularly in the larger organisations that have greater financial resources and are more sports competition-oriented. The most influential factors have been an increase in the degree of liability in aspects regarding the safety and protection of those practising sports, the greater need for particular abilities and specialisation of those in charge of managing these sports organisations effectively and efficiently, and skills in making use of sports volunteers (attracting, coordinating and directing them) (Gambau 2002:20). The universities have created a number of degrees and specific training courses for this type of manager. Finally, as in other jobs in this sector, 75% of the executives are men (Observatori Catala de l'Esport 2014).

3.8. Institutional facilities

The majority of sports facilities are public property, specifically municipal, and have been built since the arrival in the 1980s of democratic town councils and an interest in extending the practice of sports to the population as a whole. One strategic factor is which organisations manage these facilities. According to Gallardo and Lozano (2006:104), 55% of sports facilities are managed by public bodies and 30% are privately-owned. A management model which has become widespread is public ownership-private management agreements.

3.9. Governance

Almost half (39%) of those involved in running Catalan sports clubs are volunteers. The board members of both the sports clubs and their federations are men in 79% of cases and only 11.9% of their chairs are women. The *Observatori Catala de l'Esport* has detected certain dysfunctions that reveal 'participation exhaustion'. For instance, 9% of the clubs do not hold an annual general meeting and their officials refer to difficulties in recruiting people who are prepared to become involved in the board of management.



4. Policy field under study: Culture¹¹

4.1. History

The first thing that stands out about the cultural third sector in Spain is the lack of empirical studies and data, both quantitative and qualitative. There are no official registers or statistical series that allow this sector to be viewed as a whole. All that is available is small, isolated pieces of the puzzle that this part of the third sector represents.

The two main studies to date on the third sector/social economy in Spain as a whole, that of Ruiz Olabuénaga (2000) on the Non-Profit Sector, part of a Johns Hopkins University international project, and that of Monzon (2010) on the Social Economy, for the Ministry of Labour and Immigration and the ONCE Foundation, did not include any specific chapter or data breakdown for the cultural third sector or any similar term.

While the former (Ruiz Olabuénaga, 2000) mentioned in passing that in 1995 there were 57,545 non-profit 'Culture and Art' organisations, it aggregated their data into a macro area named 'Culture, Sport and Leisure'. It identified 147,557 organisations in this macro area, including 1140 foundations, 88,328 associations and others (the latter mainly sports clubs); 717,767 volunteers, in a broad sense, out of a total of 2,931,219 volunteers for the entire non-profit sector; and 55,856 full-time equivalent paid jobs (fewer than those in the social third sector, which it estimated at 151,224 employees). It also indicated that this macro area showed less dependence on public funding for its revenues: 18.2% compared to the mean 32.1% for the non-profit sector as a whole.

The second study (Monzón, 2010) revealed that in 2008 only 48% (151,725) of the 317,411 associations that were registered and not dissolved were in fact active. Of these, 59% (90,322 organisations) belonged to the 'Culture/Sports/Leisure' macro area. This study gave the following figures for this macro area: mean employees per organisation 0.7 and a total of 64,552 employees; mean volunteers per organisation 31.3 and a total of 2,828,279 volunteers; and a mean budget of €37,512 per organisation, making an overall total of €3388 million. It also estimated the number of foundations in this macro area at 850, with a mean of 3.9 employees per foundation, totalling 3334 jobs; a mean of 17.3 volunteers per foundation, totalling 14,701 volunteers in this macro area; and, finally, a mean budget of €403,613 per foundation, making a total expenditure of €343 million.

As well as the above empirical studies with reference to the cultural third sector, the following may also be cited: a study of cultural associations in Spain for the Fundación Autor

¹¹ Section prepared by Rafael Chaves-Avila



de la SGAE, the Spanish Society of Authors' foundation (San Salvador et al., 2008), a further three on the cultural third sector in Catalonia (Mas & Pros, 2008; Mutilva & Llatcha, 2015; Villarroya, 2015) and a specific study on musical cultural associations in the region of Valencia (Rausell, 2014).

This extremely poor research panorama is not unconnected to two facts: the cultural third sector's lack of self-recognition as an even minimally differentiated and structured reality, as otherwise it would have demanded to be studied, and, as will be seen below, the lack of a proactive and coherent public policy for this part of the third sector, unlike (differences aside) the attitude towards the social third sector and social economy enterprises.

Looking back, Spain has historically lacked much of a cultural policy but has a tradition of active grassroots associations and non-profit private organisations in the field of culture. However, a sharp shift in this sphere has occurred since the advent of democracy at the end of the 1970s.

During the first period of the new democracy in Spain, a new cultural policy was constructed, inspired by the European cultural democracy paradigm (Zimmer & Toepler, 1996; Ariño, 2010; Sánchez, 2015). This new policy presented the following pattern: firstly, it saw public agencies as the central actors in the cultural system, regulating and producing goods and services classed as 'cultural rights' in order to democratise canonical or 'high' culture and make it available to the population as a whole, as a form of redistributing cultural goods. This concept found expression in an unprecedented process of constructing cultural infrastructure (museums, libraries, cultural centres, etc.), subsidising its consumption and professionalising the cultural administration (Ariño, 2010:90). Secondly, cultural policy must not only support historical and canonical culture but also promote cultural diversification, including local forms of culture, popular culture and new types of creativity. Thirdly, while the cultural policy is based on the centrality of the public role it also relies on private agents, particularly on the different forms of third sector organisation but also on private patronage.

Following the adoption of the new Constitution of 1978 and imbued with this concept of cultural policy, rights and freedoms in the cultural sphere were regulated, affecting everything from publishing and newspapers to the theatre, cinema and fine arts. The Ministry of Culture was created in 1977 and public action of unprecedented proportions was undertaken in the sphere of culture, with heavy public investment, in a three-level mosaic (national, regional and local) in accordance with the new framework of political institutions in Spain. The traditional cultural and linguistic plurality of the different parts of the country reappeared in force and a heterogeneous associative fabric proliferated anew in the cultural sphere.

In the early 1990s, the cultural policy changed. As in other areas of the welfare state, growth in the public supply and management of cultural services progressively shrank in favour of private management by both social initiatives and for-profit companies (Álvarez, 2004).



Externalised management of cultural services became the prevailing model. This new model was not neutral towards the third sector. As noted by Sánchez (2015) and Rubio-Arostegui (2014), in this context of externalisation social organisations found themselves at a disadvantage in terms of their ability to meet the technical and financial requirements demanded when tendering for the management of municipal facilities and services, as no distinction was made between contractors. Also, new rules such as the Associations, Foundations and Patronage Act of 2002 empowered the private sector. The absence of social clauses in the contracts, together with deficiencies in the regulations, reinforced the progressive marginalisation of the third sector in this sphere. Another trend is the latent mercantilisation process seen in public cultural services, which affects, among others, the use of public libraries. Last but not least, exchanges and relations between the different layers of government, particularly regional governments, are few and far between. Another source of tension that works against the cultural third sector is that some cultural policies are oriented towards the ‘Guggenheim model’, in other words, they do not aim to integrate citizens and democratise culture but to improve the cosmopolitan image of the city through great projects and events (Álvarez, 2004; Sánchez, 2016). Also, the Ministry of Culture itself appears and disappears on the central government’s organisation chart, alternating between being a ministry or a department depending on the colour of the government and revealing yet again the politicisation and fragmented mosaic of the cultural policy implemented in Spain.

Internally, the cultural third sector in Spain is highly heterogeneous, fragmented and lacking coordination. The few studies to date have not addressed this situation or paid it sufficient attention. One criterion with heuristic capability, both synchronic and diachronic, lies in distinguishing these organisations according to their three main functions (Bloch-Lainé): 1) social and recreational (*integration/community building*), more geared towards users, 2) political and making demands (*advocacy/interest representation*) and 3) economic or providing and managing goods and services. The cultural third sector comprises all three types of organisation with their respective patterns of structural characteristics and their own history¹².

The bulk of traditional associative life belongs to the first group (recreational-cultural), which may be termed the *associative cultural third sector*. It is made up of associations that

¹² Recently, Partal et al. (2011:133) have worked along similar lines to those proposed here. They have identified two organisation models in the Catalan cultural third sector: the traditional cultural association and the ‘new’ industrial cultural entrepreneur model. The association model is based on the mass of its membership, which is its organisational backbone and the source of its volunteers. The objective of this first type of organisation is the internal cohesion of its social mass, so it tends to promote intergenerational interaction, trust among its members and the continuity of the organisation. The second type of model is made up of younger organisations that are geared towards promoting creativity. Its members join for professional reasons, to obtain services, rather than to meet people and socialise.



organise local festivities (*fallas, moros y cristianos*) or the practical defence of local languages and traditions, cultural and civic neighbourhood centres, athenaeums, associations connected with cultural institutions (friends of the theatre, of the museum ...), etc., in other words, associations that generate a sense of community and participation, generally in specific cultural segments, and is where the social and volunteering mass of this third sector are concentrated.

Alternative cultural movements and organisations to promote particular areas of culture — local studies institutes, for instance, among others — which are very sensitive to political ups and downs because of their explicit political-cultural orientation, belong in the second group of organisations, which we shall call the *advocacy cultural third sector*.

The third group, which we shall call the *professional cultural third sector*, comprises the more professionalised organisations which, while creating or maintaining employment, aim to engage in new creative cultural activities or to manage and increase the appreciation of canonical cultural goods. This third group of organisations is the one that has been affected most by cultural policies, public funding and the recent economic crisis. It has also been the most involved in financial and legal diversification in recent years: on the one hand, because of the recession, it has had to seek private funding — in the market, in patronage and in alternative methods such as crowdfunding — more than the other two groups, and on the other hand, the new forms of ‘social enterprise’ in the cultural sector are using more ‘business-oriented’ social economy legal forms such as cooperatives (González & Lorenzo, 2015).

According to the cultural statistics annual (MECD, *Anuario de Estadísticas Culturales*) and Álvarez (2004), employment in the Spanish cultural sector has grown steadily over the past 20 years. In thousands of jobs, it grew from 302 in 2002 to 568.8 in 2008, fell to 481.7 in 2011 owing to the crisis and has since climbed back to 511.8 in 2014. In 2014, cultural employment accounted for 3% of the total employment in Spain. In this cultural employment, 67.4% of the workforce had a university degree, 85% were full-time, 15% part-time, 29.7% non-salaried, 52.6% salaried with an open-ended contract and 17.7% salaried with a temporary contract, and 60.1% were men and 39.9% women. Still in 2014, 107,922 cultural enterprises were active in the country. Of these, 53.7% were natural persons, 35.7% were capital-based companies (SA or SRL, equivalent to plc or Ltd.) and 10.6% (11,418) were “Other legal forms”, including cooperatives, associations and foundations. In 2009 there were 102,945 cultural enterprises, including 8937 taking “Other legal forms”. This would seem to indicate that during the economic crisis, the cultural third sector has diminished less than other cultural sectors (*Anuario de Estadísticas Culturales*, 2015 and 2010).



4.2. Sub sector infrastructure

The Spanish cultural association sector is highly fragmented. Currently there is no umbrella organisation, either national or regional, in the cultural third sector.

According to San Salvador et al. (2008), in 2008 only half (54%) of cultural associations had relations or contacts with other non-profit organisations, while 36% of associations had relations with a federation. The services they obtained from the federations and from foundations with which they work are mainly communication tools, training, and access to resources. In a study that focused on Catalan cultural federations, Mas & Pros (2008) also observed a high degree of fragmentation in this associative sector, as well as competition among the cultural third sector organisations and the federations for the available resources and insufficient cooperation, synergies and openness.

However, they also detected an incipient structuring process, not only regionally but also internationally. As some federations have grown, they have set up parallel foundations to improve the management of their assets. Some of the arguments given for not joining or being connected to these federations, particularly national-level ones, are that they do not exist or are useless (cultural expert 1, personal communication, May 2015).

4.3. Finance

The Spanish cultural sector has undergone profound transformations in its financial structure in recent decades. These changes have affected the cultural third sector in a similar manner. From the 1980s onwards, the implementation of cultural policies led to a sustained rise in public expenditure on culture, with local governments taking a leading role. Local governments accounted for over half of the total, providing 57% of all the public expenditure on culture in the year 2013, for instance (see Table 1).

The previous 10 years saw two big budget shocks: one positive, between 2004 and 2008, and the other negative, coinciding with the economic crisis. In the first five of these 10 years, with the Spanish economy booming, the total public expenditure on culture rose by 49.1% to a record €7110.7 million. This made Spain the Western European country with the highest growth in public expenditure in those 10 years. Public expenditure per capita reached €153 in 2009, compared with a European mean of €98.7, €112 in Germany, €134 in Italy and €331 in the Netherlands (Rubio-Arostegui, 2014, 2016:49).

The economic crisis and the austerity policies of the following five years put a drastic stop to this expansion. Public expenditure collapsed as the three levels of government applied budget adjustment policies. Overall, the budget was cut by 43.7%. This reduction was sharper at the regional level (49.7%) and less so at local level, where the greatest negative effects on the associative fabric were seen. The final scenario after these two shocks is



shown by cultural public expenditure as a proportion of GDP, which rose from 0.57% in 2004 to 0.66% in 2008 and then fell back to the levels of the early 2000s in 2013, at 0.38%.

Table 1. Evolution of paid-up cultural expenditure by level of government (€ millions and %)

level	2004	2008	2009	2011	2013	% 2013	Δ 2008-13
National	749.9	1075.3	1135.3	956.9	629.7	15.7	-41.4%
Regional	1329.3	2128.9	2046.4	1486.0	1071.0	26.8	-49.7%
Local	2691.0	3906.5	3838.8	3396.8	2300.5	57.5	-41.1%
	4770.2	7110.7	7020.5	5839.7	4001.2	100.0	-43.7%

Source: Own compilation based on *Anuario de Estadísticas Culturales* data (Ministry of Education, Culture and Sport)

No less important was the crisis in the Spanish savings banks. Its impact was an additional shock for the third sector. Between 2008 and 2014 the savings banks' charitable work budget fell from €2058.9 million to €709.9 million, which included cutting the social action budget (which particularly benefits the social third sector) from €781.4 million to €357 million and the culture and historical and artistic heritage budget from €609.2 million to €142.2 million, which in the latter case is a 76.7% reduction (source: CECA annual reports).

The crisis has directly affected private operators and sector professionals/workers. They have had to explore new job opportunities and innovative forms of funding, eminently private, such as crowdfunding. Meanwhile, private demand is reluctant to grow owing to there being little habit of paying for culture and to the emergence of perverse phenomena such as piracy (Rubio-Arostegui, 2014:20).

The financial panorama in the cultural third sector presents specific characteristics. According to San Salvador et al. (2008), the two main sources of funding for these third sector organisations are membership fees and public subsidies. For over half of the associations, membership fees are the sole or main source of revenue, so their annual budgets are small. Meanwhile, 73.1% of associations receive some public subsidy and 40% keep afloat largely thanks to public subsidies and grants. A large majority of this public funding comes from the town halls and takes the form of subsidies. There is little use of more stable public funding formulas such as contracts or agreements. Cultural associations do not enjoy stable public funding such as specific budget items or grants to named organisations. They normally receive one-off subsidies (Álvarez, 2004). Complaints have been made about the criteria and the lack of openness in awarding these subsidies (cultural expert 2, personal communication, May 2015).



According to Mutilva & Llatcha (2015), 70% of the 3445 cultural associations that were active in 2013 in Catalonia had a budget of under €10,000 and only 8.5% had a budget of over €50,000. Their income structure was as follows: 33.5% public subsidies, 23.9% membership fees, 17.1% sale of services, 16.1% fundraising, and 7.3% donations and patronage. This study is the only one in Spain that has broken down the public funding of the cultural third sector by level of government and by public sector funding modality. It shows that 80.5% of Catalan cultural third sector organisations received government aid. Those that stated that they received aid indicated that none received funding from the European Union and almost none from the national government (0.8%), and though 25.7% received funding from the regional government, most was from local levels of government: 93.1% received assistance from town halls and 29.1% from provincial councils.

Nevertheless, the impact of the crisis and budgetary adjustments has not been evenly spread throughout the cultural third sector. Music societies in the Valencia region, a particularly significant subsector of this third sector, with a budget of €46 million and 1840 paid employees in 2011, have been affected less. Their overall total of subsidies from the regional government remained stable at around €6 million a year between 2008 and 2014, although it fell considerably in two years, 2009 and 2010. For these societies, public subsidies only account for 21% of their revenues and membership fees for 5.5%, as the majority of their income comes from the sale of services (Rausell, 2014).

A minority of cultural federations (Mas & Pros, 2008) have been able to adjust to the new context by adapting their offering to a wider public and diversifying their funding sources, attempting on the one hand to stabilise their public funding through agreements instead of the traditional one-off subsidies and on the other, to obtain revenues through selling their services. This has also required them to expand their paid staff and become more professional.

The above panorama shows that from the financial and economic point of view there is no stable partnership in Spain between the public sector and the third sector in the area of culture.

4.4. Image

As noted in a previous section, “Cultural and regional associations and supporters’ clubs” enjoy a medium level of trust among Spanish people, ranking 5.23 on a scale of 0 to 10, well below Parents’ associations (6.24), Environmental organizations (6.04) and Development aid NGOs (6.69), but above Trades Unions (4.24) (De la Torre (2001), based on *Encuesta Telefónica, FONCE–2002*).



Cultural associations like Fallas, music societies or those supporting other popular traditions are deeply rooted in the social fabric of their areas and constitute a true institution (cultural expert 2, personal communication, May 2015).

As regards the professionalism of cultural associations, the study by San Salvador et al. (2008) and cultural expert 2 (personal communication, May 2015) both indicate that there is no evidence of a lack of the knowledge or resources to manage these organisations, or of professionalisation.

4.5. Inter organizational linkages

As noted before, the cultural third sector is highly fragmented. Barely half of the cultural associations say that they have relations with other associations and for those that do it is largely in order to share communication tools (San Salvador et al, 2008). According to Partal et al. (2011), the cultural third sector has no sentiment of belonging to a differentiated segment and therefore lacks collective positioning with a common strategy of collaboration. There is practically no use of terms such as 'cultural third sector' or 'cultural social economy' to refer to themselves (cultural expert 2, personal communication, May 2015). However, instances of integration and stable collaboration are emerging.

There is still very little relation between the cultural third sector and private business enterprises in Spain. According to San Salvador et al. (2008), barely 20% of cultural associations state that they have relations with for-profit enterprises, and 80% of the latter are local.

In contrast, 87% of cultural associations have contact with government. Most have relations with municipal governments (88.4% of cases), and to a lesser extent with provincial (42.6%) and regional (45.2%) governments. Only 4.6% of cultural organisations, mostly in the audiovisual, general culture, performing arts and literature sectors, say that they have relations with the central government or the European Union. Permanent relations between third sector and general government are found more in the local sphere (56.1% of cases), predominantly through the award of subsidies (San Salvador et al, 2008).

The quality of the relationship between the third sector and governments in Spain is far from being that of a partnership. As reported by Sánchez (2015), organisations that have built up a more solid and stable relationship with governments have often been turned into providers of public services, at a high cost in terms of depoliticisation and loss of critical capacity. Their relations have become instrumental, based on economic task execution criteria and with no participation in the design stage. In this situation, the difference between an association and a private company that has been awarded the management of a sociocultural facility is blurred.



4.6. Legal environment

The two main legal forms used by the cultural third sector are associations and foundations, although cooperatives, in the modality of *professional cultural third sector* organisations as described above, have been spreading in recent years.

In spite of two modifications to the Foundations Act, in 1994 and 2002, which aimed to extend this legal form and encourage individuals and companies to take part in philanthropic and general interest activities, the fact is that, compared to other European countries or the United States, foundations are still a minority phenomenon in Spanish society, although they have multiplied over the past two decades. They are concentrated in Madrid and Barcelona. Most are small and have limited endowment budgets, so need to ‘construct’ their budget through financial engineering every year. The annual budget of 40% of the foundations of all types is under €60,000 and 58.5% receive public funding. This source of revenue is more frequent in cultural foundations and in the more recent and smaller ones (Rubio et al., 2014).

The new Volunteering Act (Law 45/2015, modifying the previous law 6/1966) includes the concept of cultural volunteering for the first time, viewing it as “that which promotes and defends the right to access to culture, particularly cultural integration for all, the promotion and protection of cultural identity, the defence and safeguarding of cultural heritage and participation in the cultural life of the community”. Nevertheless, this new legislation establishes additional requirements for engaging in activities as a volunteer, particularly in voluntary organisations.

The national voluntary work plans implemented by the Ministry of Labour establish strategic lines for developing volunteering but do not include any measures for cultural volunteering (Álvarez, 2004).

A key barrier to the development of the cultural third sector is the increasing bureaucracy. Mas & Pros (2008:17) called the process of complying with procedures and meeting deadlines a *via crucis*. A further problem is associated with the most common type of relation between governments and social organisations: grants and subsidies. Cultural expert 3 (personal communication, May 2015) said that subsidies often depended on opaque criteria and political patronage.

In relation to taxation, the same person (cultural expert 3, personal communication, May 2015) stated that the cultural third sector suffered discrimination in comparison to the social third sector. The tax advantages are not as generous for cultural organisations and constitute a disincentive to corporate patronage, for instance. They are calling for the cultural third sector to be at least equated with the social third sector.



4.7. Personnel (Human resources)

The only available series of data that gives an idea of the evolution of the main figures for the cultural third sector is that of Villarroya (2015) for Catalonia. This shows the severe impact of Spain's triple crisis (the economic crisis, another in the savings banks and the third from the budget austerity policy applied).

Table 2. Evolution of variables in the cultural third sector in Catalonia, 2007/09 – 2013

	2007/09	2013	Change (%)
Organisations	3,904	3,445	-11.8
Budget (€)	97,407,929	75,025,400	-23.0
Paid jobs	4,213	2,266	-46.2
Volunteers	35,874	48,995	36.6

Source: Villarroya (2015)

The main way in which this part of the third sector has adjusted to the crisis has been to reorganise its workforce, cutting its paid staff by almost half (down by 46.2%) and increasing its volunteers (up by 36.6%). The overall budget of these organisations has fallen, showing that private funding has not made up for the fall in public funding. A number of organisations have not survived the crisis and have had to close down. In 2013 there were 11.8% fewer organisations than in 2007/09.

According to Mutilva & Llatcha (2015), in 2013 the cultural third sector in Catalonia employed 2266 paid workers¹³ and 48,995 volunteers and had 430,000 members (5.7% of the region's inhabitants). The sector was balanced by gender among the paid staff (49.8% men, 50.2% women), volunteers (53.1% men, 46.9% women) and members (51.7% men and 48.3% women). Three subsectors accounted for 93% of the paid workforce and 57.3% of the volunteers: music, with 59.7% of the staff and 20% of the volunteers; theatre, with 17.4% of the staff and 21% of the volunteers; and dance, with 15.8% of the staff and 17.2% of the volunteers. As regards volunteers, the immense majority (80%, 38,548 people) worked on an occasional basis, with a daily average of 1.6 hours. Only 4% of the volunteers (1948 persons) worked full-time (7.2 hours a day).

4.7.1 Volunteers

Civic engagement in the sphere of cultural associations in Spain has remained relatively stable over recent decades, with a membership of around 9% of the Spanish population, a similar percentage to that of sports associations (see Table 3).

¹³ Estimation: applying a multiplication factor of 5,66 (employees in Catalonia / employees in Spain in 2013) to 2.266, we can estimate in 23.845 the staffs in the Spanish cultural Third Sector.



Table 3. Membership of cultural and sports associations (% of the total population)

	2001	2008	2015
Cultural associations			
Is a member	9.1	8.6	9.6
Has never been a member	80.4	74.6	74.3
Sports associations			
Is a member	9.4	7.0	8.9
Has never been a member	71	72.9	71.9

Source: CIS – Centro de Investigaciones Sociológicas

According to San Salvador et al. (2008), 52% of cultural associations in Spain have volunteers who help with the scheduled activities. They are considered persons who collaborate actively without paying membership fees or taking part in general meetings. Of the associations that have volunteers, 69% state that they have fewer than 25 volunteers each, while only 11% of the associations have over 51 volunteers.

4.7.2 Paid staff

The cultural associations in Spain that are employers are overwhelmingly micro-enterprises. According to San Salvador (2008), only 17% of cultural associations have at least one paid employee. Of these, 84% have 5 employees or fewer and only 7% have over 10 paid staff. Other characteristics of the associations which are employers are that the number of employees increases with the age of the association, the proportion of male and female employees is balanced and the employment is concentrated in three subsectors: audiovisual arts, musical arts and crafts. Most of the employees work part time: in 61% of the associations that employ paid staff, the employees work fewer than 20 hours a week, although there is one segment (27%) in which all the employees work full time.

According to Mutilva & Llatcha (2015), a majority of the paid staff in the Catalan third sector have open-ended contracts (1277 people, 56.5%), while 43.5% are temporary.

4.7.3. Executives

Better-qualified, more capable and competent management teams and management professionalisation are some of the main factors that music societies, one of the most highly developed segments among the cultural associations, say they need in order to improve their standards (Rausell, 2014; cultural expert 3, personal communication, May 2015).



4.8. Institucional facilities

Local governments are central to supporting the cultural third sector with facilities. Of the Spanish cultural associations, 84% have facilities for their activities. In 76% of cases, these facilities are ceded by a government body, essentially local. Only 10% of the associations that have premises own them, while 12% rent them. In 59% of cases the use of these premises is shared with other social organisations (San Salvador et al., 2008).

A similar situation is found in Catalonia: according to Villarroya (2015), 81.4% of Catalan third sector organisations had the use of premises ceded by public or private institutions. For 71.9%, the premises were assigned exclusively to them, not shared. Only 8.9% of these organisations owned their premises and 9.7% rented them. Approximately half of them had the use of a room for meetings and for practice or rehearsal and had their own Internet connection and domain.

In the case of Valencian music associations, which have greater financial resources, 46% owned their premises while in 48.1% of cases the premises were ceded to them (Rausell, 2014).

4.9. Governance

The associative fabric of Valencia (Spain), particularly in the organisations we have termed the associative cultural third sector, has traditionally possessed a genuine, natural asset, '*els maneguetes*', that has facilitated the government and management of these social organisations.

The *maneguetes*, also known as '*els que van per davant*' [those who go in front], are the minority who participate assiduously and enthusiastically in associative life. Their motivation to take part contrasts with the more or less generalised participatory apathy among the other members, so this small group of people finds itself 'obliged' to participate and rotate in the management positions for many years, remedying the problem of recruiting and replacing members to participate in general meetings and in the decision-making bodies. It is not so much a problem of democratic deterioration, where some take control of the association and discourage participation, as the result of a convergence between the personal motivations and social legitimacy (since 'people are satisfied') of a few and the associative passivity of the majority (Ariño, 2008).

Nevertheless, the governance and management of the more mature, larger and financially more powerful cultural organisations are beyond the capabilities of *maneguetes*. A number of different problems have arisen. For instance, the following governance problems have been identified in Catalan cultural third sector federations (Mas y Pros, 2008): problems in recruiting voluntary managers owing to burnout among the managers and the absence of a



successor, problems of mismatches between the qualifications of the organisation's managers and the new needs of its members, generation change problems and, in the more mature organisations, falling memberships. Finally, as the associative fabric is geographically disperse, problems arise with the functioning of participation and with attending meetings and general meetings.

For its part, the Valencian music association movement has been reflecting collectively for years, together with the University and the authorities, on its outreach and future strategy. These working groups have identified several vectors of tension that reveal the transformations it faces, both internally and in its surroundings. Specifically, these are: 1. Tension between complexity/professionalisation and closeness/volunteering; 2. Tension between musical specialisation and functional diversification; 3. Tension between continuing in the local sphere and opening up to the global sphere; 4. Tension between retaining a financial structure based on the social factor and subsidies, and diversifying the internal resources; 5. Tension between strengthening the federal structure (clustering) and maintaining the autonomy of individual organisations; and 6. Tension between musical professionalisation and focusing on amateurs and social education. The population of music societies harbours different sensitivities and preferences regarding future models (Rausell, 2014; *cultural expert 2, personal communication, May 2015*).



5. Common trends and policy recommendations¹⁴

5.1. Common Trends

In the wider conception of the third sector, the European social economy conception, the Spanish third sector is composed of a large variety of organisations and enterprises highly dependent on macro transformations in societal needs, public policies and internal trends. Nowadays, four major structural types of third sector organisations (TSOs) can be distinguished: (a) big and medium non-profit organisations, largely dependent on public funds, including the three ‘singular entities’ (ONCE, Red Cross and Caritas), mostly delivering social and health services, (b) local and regional TSOs, mostly in culture and sport policy fields, but also in social services, that are deeply rooted in communities and are part of traditional civic engagement, (c) new TSOs linked to new social movements and new social needs, and finally, (d) social economy enterprises that operate in private markets, mainly cooperatives and mutual societies, but these are not considered in this study.

This heterogeneity of the Spanish third sector is also a challenge for building umbrella organizations, common identity, specialized studies/data and strategies. The social third sector seems most advanced, as it soon embarked on an intense coordination, development and modernisation process. One of the latest landmarks in its organisation is the foundation in 2011 of the *Plataforma del Tercer Sector Social* (Spanish Social Third Sector Platform), which has played a major role in this process. Main achievements of PTS in recent years have been the approval of the Social Action Third Sector and Volunteering Acts, the II. Strategic Plan of the STS, promotion of TSO transparency, and lobbying activities defending vulnerable people’s rights.

The Spanish third sector in the fields of culture and sports, on the other hand, remains unknown and dispersed, with a lack of self-recognition as an even minimally differentiated and structured reality. There is also no proactive and coherent public policy for this part of the third sector.

5.1.1 The uneven impact of the four crises in Spanish TSOs

Since 2008, a deep crisis has affected Spain and its third sector that can be divided in four related sub-crises. The first is the economic crisis that has increased dramatically social needs (unemployment, poverty, exclusion) and has reduced private business sector donations. The second is the drastic reduction in public funds due to the austerity policies deployed. The third is the collapse of the saving banks that constituted half of the Spanish financial sector before the crisis and were the major private traditional source of financing

¹⁴ Section made by Rafael Chaves-Avila



for the third sector. Last but not least, the fourth crisis is the qualitative austerity policy, not only in form of an increase in bureaucracy but also in delays, procedures of applying and implementing and other exigencies, that complicates, even precludes, the collaboration of the third sector with the public sector. These crises have an uneven impact on the third sector: nearly a quarter of third sector entities have disappeared, more than half of them have been involved in deep human resources and budget restructuring processes, while only a low percentage has maintained or increased their level of activity.

5.1.2 Major key barriers for the development of TSOs

Common general trends in the Spanish Third Sector (TS) are the following:

- Deep social and economic crisis in Spain that affects TSOs in a double way: cuts of funds (specially public funds) and increase in social needs;
- Adjustment to crisis with low shifting of resources, with more volunteers and reduction/adjustment in staff;
- Increase in volunteers during the crisis, but less involved and less regular;
- Heterogeneity of the TS that hinders the collaboration among TSOs and sector-structuring in Platforms;
- Public attitudes: good public image of TS;
- Low links between business sector and TSOs;
- Challenges with public sector at all administrative levels (state, regions and local): making public policies, public service delivery, law barriers;
- Lack of awareness of the social and economic impact of TSOs by the public and politicians and a need of an official system of statistics concerning it;
- Problems from the EU level: Difficulties in accessing EU funds for the development of the TS, EU regulation on VAT and on public procurement, major social policies for vulnerable people.

According to stakeholders and the TSI online survey, the major key barriers identified are the following:

- (1) Funding problems, especially, the lack of public funding and of private individual contributions;
- (2) Problems regarding labour, such as difficulties in recruiting employees, the low employees' salaries, and difficulties in recruiting volunteers;
- (3) Governance problems, i.e. difficulties appointing volunteer board members;
- (4) Image problems, due to limited public awareness of the TS;
- (5) Legal and fiscal barriers: lack of a favourable tax treatment and the lack of a clear legal status;
- (6) Increasing bureaucracy;



(7) The lack of support organizations.

On the other hand, there are key factors that are not major problems for Spanish TSOs:

- Labour/ employment problems, as competition with for-profit businesses in recruiting employees, low motivation and low qualification of employees, difficulties recruiting executives, difficulties in the cooperation between paid staff and volunteers;
- Lack of confidence in professionalism of your organization;
- Bad condition of TSOs' facilities / Out-dated technology;
- Difficulties to access to capital markets (not applicable);
- Lack of trust in TSOs.

5.2 Policy Recommendations

What is needed to get over the barriers and overcome the challenges? The following policy recommendations have been largely suggested by TSO representatives interviewed, experts and TSI focus groups.

5.2.1 Policy recommendations to public authorities

Enhance the Spanish Welfare Mix into an advanced Public-TSO partnership

- 1) Institutionalizing effective spaces of co-decision of TSOs in public policies at different levels of government;
- 2) Developing new ways of collaboration between Public Sector and TSOs in the implementation of public policies. Collaboration needs more long term contracts, less subsidies and 'social value added of TSO' needs to be valorised (e.g. generalization of Social Clauses in public procurements)
- 3) Design and implementation of long term programmes for enhancing TSO/ Social Economy, with appropriate funds, as it is appointed in the Council of the EU conclusions (ST 15071 2015 INIT). Among these programmes, three initiatives should be highlighted:
 - Recognition of the diversity of TSO and the different kind of support measures;
 - Launching an Observatory for the entire TS (ETS), for studies, statistics, training, look over laws and policies; and the implementation of a National Council for ETS with different policy field representation;
 - Launching Centres (public or in alliance with TS platforms) to improve volunteering, social involvement and corporate governance
- 4) Improving the public financial flow, cutting (ending) the "quantitative" and "qualitative" austerity policies towards TSOs as outlined before;



5) Getting over legal and taxation barriers of TSO activities. Reducing legal complexity. Reducing the barriers that force TSOs to change their legal status into another one.

EU public authorities: Launch a major EU policy to foster TSOs in Europe

In Spain, TSOs have high expectations from EU public authorities. They expect not only concrete measures to improve accessibility to European Institutions in order to participate in decision-making processes and funds to all TSOs, especially to SME TSOs, but more largely, to launch a major EU policy to foster TSOs in Europe.

This claim not only comes from Spanish representatives and experts, but from official statements as the Council of the EU (2015), the European Parliament (2005) and the EESC/CIRIEC (2012). According to the Council of the EU conclusions on the promotion of the social economy as a key driver of economic and social development in Europe (7.12.2015; ST 15071 2015 INIT): “Establish, implement and further develop, as appropriate, European, national, regional and/or local strategies and programmes for enhancing the social economy, social entrepreneurship and social innovation. The various strategies and programmes should be based on a constructive dialogue between European, national, regional and/or local authorities and all relevant stakeholders”. The European Committee of the Regions, the European Economic and Social Committee and the CIRIEC reports have also defended a major policy to enhance Social Economy/ Third Sector in Europe. Finally, according to the [Report of the European Parliament \(European Social Model for the future” 2005/2248\(INI\)\)](#), “one of the cornerstones of the European social model is the social economy, (...) comprising cooperatives, mutual societies, associations and foundations, which form a structural part of the model itself, given their historical role, and are a factor for development, sustainability and efficiency in the future”, then, the Social Economy should be deeply enhanced in Europe (Toia Report of the European Parliament, 2009).

5.2.2 Policy recommendations to enhance private engagement toward TSO

Due to the fact that Spaniards have one of the lower levels of civic and corporate engagement in volunteering, giving and social participation in Europe, to enhance and persuade them to participate (in general terms) should be considered a major aim to develop the TS.

Main policy recommendations are the following:

- New regulation and better fiscal treatment to improve collaboration between businesses and TSOs;
- Improving collaboration between private sector and TSO;
- Improving corporate engagement in TSOs of all sizes, not only in big TSOs, giving and social responsibility;
- New regulation duties for businesses, public sector and TS that have to include social impact reports (not only financial);



- Give social initiatives and TSOs more autonomy and help their own development and their own umbrellas and innovation systems;
- Improving new forms of management of 'new' volunteering, considering that this new volunteering does not wish only to deliver services but constitutes civic engagement for a variety causes;
- Help TSOs to reduce volunteer management costs (recruitment, training, and involvement);
- Improve general Spanish culture towards citizenship and social participation.

5.2.3 Policy recommendations to TSOs and their umbrella organizations

- To state a definition of the third sector that makes it easily recognizable. This is not the case for the conceptualization of the third sector developed by TSI: the Spanish Third Sector does not recognize informal volunteering or social enterprises as part of the TS;
- Improving the public image of all TSOs through a better knowledge of TSOs and their impact (at micro & macro levels) by the public, the authorities and target populations, and by a better communication of the TSO message;
- Improving relationships between TSOs, especially through new platforms and innovation systems, and through the further development of existing Platforms such as the PTS.



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ANNEX I: Legal barriers to third sector development in Spain¹⁵

The institutional framework is an influential factor for the Third Sector's development potential. For this reason, academic writers (Chaves 2012) have traditionally assigned a key role among public policies in this field to those which are designed to improve this social sector's institutional setting. The main action areas are removing legal and fiscal obstacles, activating spaces and bodies for social consensus-building and policy development and adapting regulations to meet the real demands of this social sector.

In Spain, several types of legal and tax barriers that limit the development potential of the Third Sector can be identified. The first type is related to the country's multi-level government model (state, region and municipality), which at present is detrimental to Third Sector organisations, causing problems of coordination, fragmentation and complexity. The second type are barriers associated with the lack of any real development of the regulations as regards both the activation of organs of social consensus and policy guidance, and social clauses. The third type are barriers associated with limitations on the economic activity of certain forms of organisation, such as associations, or the unequal treatment of the different forms of Third Sector organisation in terms of access to tax advantages or public funds. Lastly, the fifth type of barrier is related to the very possibility of their operating in certain economic sectors. These barriers are described in greater detail below.

¹⁵ Section prepared by Isabel Gemma Fajardo



LEGAL BARRIERS TO THE DEVELOPMENT OF THE THIRD SECTOR

Foundations and associations, the organisations that comprise the bulk of what is known as the Third Sector, have encountered common problems for a number of years and also now face new challenges.

Their long-standing problems include shortcomings in the applicable legal system that cause legal uncertainty. Both associations and foundations are mentioned in the Constitution. Their legal framework is relatively modern but complex, with rules made by the state, rules made by the autonomous regions and special rules according to their economic sector.

The Spanish Constitution of 1978 (CE) recognises the right to association (art. 22) and the right to establish foundations for general interest aims (art. 34).

Foundations are governed by the Foundations Act (Law 50/2002 of 26 December 2002, abbreviated as LF) and the Regulations for foundations under state jurisdiction adopted by Royal Decree 1337/2005 of 11 November 2005 (RF). There are also sector rules for particular classes of foundations, such as the Banking Foundations Act (Law 26/2013 of 27 December 2013). A number of regions (*comunidades autónomas* or CCAA) have Statutes of Autonomy that give them legislative jurisdiction over foundations that mainly operate within that region. This dual jurisdiction has led to some conflicts that have been resolved by the Constitutional Court (STC 120/2011 of 6 July 2011) and to a number of regional laws (general, special and regulations). The regions that have adopted such laws include the Basque Country, Madrid, the Valencian Community, Castile and Leon, Andalusia, Galicia, La Rioja, Navarre and Catalonia¹⁶.

Because of this plurality of jurisdictions there are several Registers of Foundations: one for each region and one for the Spanish state. However, the State Register provided for in law and regulated in detail by the Regulations of the Register of Foundations approved by Royal Decree 1611/2007 of 7 December 2007 (RRF) has not yet come into existence, so the existing ministerial registers continue in force (as provided in the 4th Transitional Provision of the law). This means that instead of a single state register of foundations, there are as many registers as there are ministries, which in many cases creates legal uncertainty as to which is the competent register.

Another shortcoming of the legal framework for foundations is the regulation of the Protectorate (*Protectorado*), the organ that supervises the correct application of the law of foundations and the legality of their formation and functioning. Each of the autonomous regions with a Foundations Act has its respective Protectorate, and this too is endorsed by

¹⁶ These include the Foundations Acts of the following regions: Basque Country (Law 12/1994 of 17 June 1994), Madrid (1/1998 of 2 March 1998), Canary Islands (2/1998 of 6 April 1998), Valencia (8/1998 of 9 December 1998), Castile and Leon (13/2002 of 15 July 2002), Andalusia (10/2005 of 31 May 2005), Galicia (12/2006 of 1 December 2006), Rioja (1/2007 of 12 February 2007), a regional tax regime law in Navarra (*Ley Foral Navarra de Régimen Tributario* 10/1996 of 2 July 1996) and the civil code of Catalonia (4/2008 of 24 April 2008).



the constitution (STC 49/1988 ruling of 22 March 1988). The Spanish state also has one (single) Protectorate as provided in the Foundations Act, but since this was not created until the end of 2015, before that date the foundations under state jurisdiction continue to be assigned to the existing protectorates in the various ministries, giving rise to contentious situations in that it was the same ministry that registered the foundation, subsidised it and supervised it. For this reason, Legal opinion has repeatedly called for the creation of a single register and protectorate for foundations under state jurisdiction, as required by the LF (Terol 2012), and even for control of the foundations to be external and independent rather than linked to any specific government department (Piñar 2010). Recently, Royal Decree 1066/2015 of 17 November 2015 has placed all the Protectorate functions for state jurisdiction foundations other than banking foundations under the Ministry of Education, Culture and Sports. Despite this unification, regulation of the Protectorate as provided for in Royal Decree 1337/2005 (arts. 40-48) still awaits the statutory regulations announced in the Public Sector Act (Law 40/2015 of 1 October 2015, 4th final provision).

In the same way as for registers and protectorates, the LF has still to be implemented in other matters also, such as setting up the High Council of Foundations and the Registry Cooperation and Information Committee. The former is a consultative body made up of representatives of the regional and state governments and of the foundations (through their associations). The purpose of the latter, made up of representatives of the state and regional governments, is to establish mechanisms for mutual cooperation and information exchange between the different registers regarding the names of foundations and communication of their registration and cessation. These omissions prevent the full potential of the act from being deployed, adversely affecting the foundations.

The legislative responsibility for associations is also shared between the state and certain autonomous regions. Additionally, there are also special laws at both state and regional level for particular classes of association such as sports clubs (Law 10/1990 of 15 October 1990) or consumer associations (Legislative Royal Decree 1/2007 of 16 November 2007). The main rules governing associations at state level are the Right of Association Act (Organic Law 1/2002 of 22 March 2002), Royal Decree 949/2015 of 23 October 2015 adopting the Regulations of the National Register of Associations and its relations with the other registers of associations, and Royal Decree 1740/2003 of 19 December 2003 on procedures regarding associations of public interest. At regional level, the following have passed Associations Acts: the Canary Islands (Law 4/2003 of 28 February), Andalusia (Law 4/2006 of 23 June), the Basque Country (Law 7/2007 of 22 June), Catalonia (Law 4/2008 of 24 April, Civil Code Book III), and Valencia (Law 14/2008 of 18 November).

In recent years, owing to the economic crisis and cutbacks in the public provision of welfare benefits, the associations have been impelled to tackle new and greater social needs even though their legal framework does not provide sufficient guarantees of control over the financial results of their economic activities or their solvency. Associations not classed as being of public interest are obliged to keep accounts that will give a true picture of their



assets, balance and financial situation, as well as of the activities they conduct. These accounts must be approved each year by the General Meeting, but they do not have to be audited, filed with any public registry or made public in any way other than to the association's members. This reduces the associations' trustworthiness in the eyes of other stakeholders (clients, volunteers, suppliers, funding sources). The situation is different in the case of foundations and associations of public interest. They are subject to similar accounting and publicity requirements to those governing other organisations that engage in economic activities. They must keep their accounts in accordance with the provisions of Royal Decree 1491/2011 of 24 October 2011 adopting the rules for adapting Spain's General Accounting Standards to non-profit organisations, must have the accounts audited if the circumstances set out in the law apply, and must make them public by filing them with the respective Register. In short, the rules concerning inspection of the accounts of associations needs to be brought into line with their increasing economic development.

It should also be highlighted that social action non-profit associations find it difficult to claim any type of government aid, which is essentially reserved for foundations and associations declared of public interest. As legal writers have complained, the rules governing the latter are very strict, allowing few associations to benefit from this classification (Palomar 2012, 62). Being declared of public interest essentially entitles an association to tax exemptions and benefits and to free legal aid (Law 49/2002 of 23 December 2002 on the tax regime for non-profit organisations). The important social work carried out by the associations even when they are not declared of public interest should be remembered when public policies to foster social action are decided. With this in mind, the Social Action Third Sector Act (Law 43/2015 of 9 October 2015) has recently been adopted. Its purpose is to regulate organisations in this sector (associations and foundations), strengthen their capacity as interlocutors of the national administration and define measures to foster them. It envisages a number of promotion measures (art. 6) and a programme to boost these organisations (art. 7) that must be approved before 10 October 2016. This programme will contain measures such as promotion, dissemination and training of the Social Action Third Sector; this sector's cooperation with national public services; funding; enhancement of mechanisms for collaboration with the administration (agreements, contracts, etc.); and strengthening the role of these organisations in social policies (preamble to Law 43/2015).

Lastly, both associations and foundations have been asking for some time for appropriate legal instruments to allow them to undertake cross-border operations. In 1992 the European Commission published a proposed Regulation of the Statute of European Association, which went no further. On 8 February 2012 the Commission presented a proposed Statute of European Foundation which finally did not achieve the unanimous agreement of all the member states required for its approval, so on 16 December 2014 the Commission decided to withdraw the proposal. Currently, if these organisations want to set up cross-border structures under European law they have to found a European plc or a European co-operative.



Funding is currently one of the main problems facing the Third Sector. As Galindo, Rubio and Sosvilla (2014, 20) point out, the replacement role that the Third Sector has to adopt in providing social services, given the social policy cuts in different countries, demands a gigantic financial effort and its future financial prospects need to be assessed. There are various ways in which the Third Sector can increase its equity, from conventional instruments and procedures to others that are more appropriate for its characteristics (Comos, Valiñani and Gómez 2014). However, public funding remains one of the Third sector's main resources, so it is a matter of some interest to ascertain whether or not the corresponding rules promote the activities of this sector, particularly as regards the rules on subsidies and on public contracts.

The regulation of subsidies through Law 38/2003 of 17 November 2003 has long given rise to numerous complaints from the sector, as it is not suited to the characteristics of social action third sector organisations. Amendment of this legislation has been called for on numerous occasions, to make it less bureaucratic and its procedures less burdensome; make the tendering criteria more flexible; establish stable, transparent budget items; replace original certificates with declarations of responsibility; facilitate advance payments, etc. (De Castro 2011, 80). The reform initiated by the government in 2014 through the preliminary draft law to amend the Subsidies Act (Law 38/2003) did not meet the needs of these organisations, however. The main criticisms of the proposed draft have included: a) its restriction on subsidies in specific names, which will place constraints on many projects; b) its requirement for co-funding or financial complementarity, which will prevent the third sector from competing with for-profit organisations; and c) its toughening of the system of sanctions and liabilities and the ease with which sanctions may be incurred. Criticisms of the proposed draft may be seen in De Lorenzo (2014). There has been more acceptance of other reforms introduced in 2015, such as:

a) Law 31/2015 of 9 September 2015 adopting measures to foster and promote the social economy. This law has added a 4th section to art. 5 of the Social Economy Act (Law 5/2011), whereby special employment centres and work integration social enterprises constituted and identified as such, and any other social economy organisation that also has as its purpose the labour integration of groups at risk of exclusion, are declared organisations providing services of general economic interest (art. 3). This recognition means that subsidies granted to these organisations are subject to Commission Regulation (EU) 360/2012 and their ceiling can rise from €200,000 to €500,000 in any three-year period.

b) The Social Action Third Sector Act (Law 43/2015 of 9 October 2015), which declares in its seventh additional provision that in view of the general interest that social action third sector organisations serve and the singularity of their nature and activities, the rules governing bids for subsidies from the Spanish national administration shall consider the specialities of these organisations in matters of public support, aid and subsidies.



Public procurement is one of the main ways in which the Third Sector generates activity and resources, but the regulations and procurement criteria do not distinguish between commercial companies and non-profit organisations of public interest. A repeated criticism is that the main factor influencing the award of these contracts is price rather than the quality of the action or its suitability for meeting social needs. Calls have been made for the introduction of social clauses that value social inclusion related actions (Larrazabal 2011; Paniagua 2013), for the law to make social clauses obligatory in all contract proposals and for greater positive action in contracts with social action organisations such as work integration social enterprises and special employment centres (De Castro 2011, 83). Over time, some improvements in the public procurement rules have been achieved, but they are insufficient. Currently, all other conditions being equal, organisations that employ people with disabilities and work integration social enterprises are given preference in the award of public contracts. Preference is also given to non-profit organisations if the contracts relate to social or welfare assistance, and to fair trade organisations when the contract is for products where a fair trade alternative exists (fourth additional provision of Legislative Royal Decree 3/2011 of 14 November 2011 adopting the Revised Text of the Public Sector Procurement Act). As regards the possibility of reserving contracts, the fifth additional provision of the same law allows calls for tenders to reserve participation in or execution of the contract for special employment centres, and since 2015 also for work integration social enterprises (the Social Economy Promotion Act, Law 31/2015), when at least 30% of the workers involved are people with disabilities or at risk of social exclusion.

Lastly, reference may also be made to certain rules that constitute unjustified discrimination against the Third Sector and should be abolished, fundamentally in order to comply with Directive 2006/123/EC of 12 December 2006, which aims to ensure free access to the provision and performance of services within the European Union, and Law 17/2009 of 23 November 2009 transposing this directive into Spanish law.

Such discriminatory measures include Law 44/2007 of 13 December 2007 regulating work integration social enterprises, which does not allow foundations and associations to be integration enterprises and obliges them to set up commercial companies or co-operatives in order to pursue these aims (articles 4 to 6).

Another discriminatory measure is Order PRE/1435/2013 of 23 July 2013 further to the Overland Transport Planning Act Regulations, art. 10, regarding health sector transport, which forbids authorising non-profit legal persons to undertake this type of activity, such as transport by ambulance.

Lastly, a further point is that Law 17/2009 forbids making entry into or conduct of an activity dependent on constituting a non-profit organisation (art. 11.1 b), whereas what is forbidden in the applicable Directive (Directive 2006/123/EC) is to require a particular legal form for entering into or conducting an economic activity (art. 15.2 c). The Spanish rule expands the prohibition to the detriment of non-profit organisations.



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ANNEX II: Taxation barriers to the development of the third sector

The tax regime governing Third Sector organisations in Spain possesses certain peculiarities in both their corporate income tax (*Impuesto sobre Sociedades – IS*) and value added tax (*Impuesto sobre el Valor Añadido – IVA*), and can create barriers to their functioning.

Firstly, Third Sector organisations are normally assigned to one of the special corporate income tax regimes, as follows:

Non-profit co-operatives	Special regime for co-operatives	Law 20/1990
Foundations and associations declared of public interest	Special regime for foundations	Law 49/2002
Associations not declared of public interest	Special regime for non-profit organisations	Law 27/2014 (LIS), arts. 9 and 109-111

Introduction

The tax treatment of non-profit organisations (NPOs) is based on two criteria. The first is their non-profit nature, which makes them unsuitable for taxation as they have little or no income. The second is the existence of incentives based on the public benefit of the activities carried out by these organisations. These incentives are applied to the corporate income tax paid by the non-profit organisation and to gifts or donations made to it by companies, individuals, etc.

In the Spanish corporate income tax system, NPOs can be treated in one of two ways:

1) Partial exemption

This treatment is mainly based on the non-profit nature of these organisations (associations etc.).

2) The most favourable treatment under Law 49/2002, namely:

a. Total exemption from corporate income tax with the exception of certain very limited revenues from some economic activities, which are taxed at 10%.

b. Eligibility for tax relief on the donations and gifts these organisations may receive.

The second treatment is related both to the particular objectives of these organisations in relation to the activities they carry out and, naturally, to their non-profit nature. It is reserved for specific organisations: foundations, associations declared of public interest, and similar organisations. Co-operatives are not on the list of organisations that benefit from this treatment.



Foundations and associations declared of public interest

There is a special tax regime for particular non-profit organisations, regulated by Law 49/2002 of 23 December 2002 on the fiscal system for non-profit organisations and fiscal incentives for sponsorship.

However, this same law makes the special regime optional and voluntary, so there may be non-profit organisations that do not opt for it. Additionally, some organisations may not meet all the requirements of art. 3 of the law and may therefore not be eligible for the special tax regime. Non-profit organisations that do not pay corporate income tax according to Law 49/2002 are governed instead by the regime for partially exempt organisations, as discussed below.

Firstly, it should be emphasised that it is difficult for Third Sector organisations that do not take the form of foundations to opt for this regime, since associations have to request public interest classification, which is difficult to obtain and has to be renewed.

Secondly, the special tax regime makes a distinction between the exempt tax base (practically the entirety) and the non-exempt tax base (made up of revenue arising out of economic activities that are not part of its objects or auxiliary to these and which constitutes over 20% of the organisation's total income). The non-exempt tax rate is 10%.

The negative side of the special regime is that the expenses of the exempt activities cannot be deducted from the tax base. As these are the ones that incur most expenses and are often loss-making, fundraising activities are needed to pay for them.

Associations not declared of public interest

The taxation of these organisations distinguishes between exempt and non-exempt income. Exempt income is confined to the members' contributions and to donations and subsidies received in order to carry out their activity. All other income is taxed at the general rate of 25%.

As with associations of public interest, however, the expenses incurred cannot all be deducted from their non-exempt income, and especially not those expended in fulfilling the objects laid down in their statutes. This means that the associations pay tax on their gross income rather than on their real net income. It also needs to be borne in mind that they pay tax on all the income arising out of their economic activities.

It should be remembered that any possible surplus arising out of non-exempt activities is normally used to underwrite the losses incurred in their typical activities, for which there is normally no charge or only one that will cover all or part of the costs.



Additionally, these organisations are excluded from the sponsorship system provided for in Law 49/2002, which establishes fiscal incentives for natural and legal persons to donate to the non-profit organisations regulated by this law.

Non-profit Co-operatives.

The legal framework for non-profit co-operatives

Although Spain has not created a special class of co-operative like Italy's 'social co-operatives', it recognises co-operatives with social aims within an existing category, generally worker or consumer co-operatives.

For instance, the Spanish Co-operatives Act (Law 27/1999) mentions social initiative co-operatives.

Additionally, the co-operative laws mostly set out requirements that co-operatives must meet in order to be classed as non-profit.

These conditions are:

- The co-operative must manage services of collective interest or by reason of public property, and must also undertake economic activities that lead to the employment of persons who suffer some type of social exclusion.
- The co-operative statutes must contain the following clauses:

One. The positive balance of the financial year may not be distributed among the members of the co-operative.

Two. The interest paid on the members' contributions to the share capital, whether mandatory or voluntary, may not accumulate more than the legal rate of interest, although this may be updated.

Three. The Board of Directors shall fulfil its obligations free of charge, other than reimbursement of expenses that the directors may incur in the performance of their functions.

Four. Any remuneration paid to the members may not exceed 150% of the market salary rate for equivalent employment, according to the branch of activity and employment category, for which an applicable collective agreement exists.

Tax regime

As required by the Co-operatives Act (Law 27/1999, ninth additional provision), non-profit co-operatives are not governed by the regime for non-profit organisations but by the specific regime that applies to other co-operatives.



The fiscal treatment of co-operatives is mainly based on the specific characteristics of their mutual nature and on the beneficial external effects they have on public welfare as a result of their mutual structure. In Spain, the tax treatment of co-operatives distinguishes two types:

- Co-operatives in the general tax regime, which are considered fiscally protected and pay income tax at the lowest rate, generally 20%, on transactions with their members.
- Co-operatives in the specially protected tax regime, which not only pay tax at a low rate on transactions with their members but are also exempt from half the corporate income tax charge on other transactions.

Eligibility for these types of tax treatment depends on other requirements that describe a 'pure' co-operative model in each category, intensifying the pace of investment activities, and limit the possibility of having members that are not individuals.

This tax regime raises particular barriers to the co-operatives' ability to attract funding and pursue its objects.

Firstly, non-application of the tax regime for non-profit organisations entails a series of drawbacks:

- Social co-operatives have no access to the system of patronage and fiscal incentives for sponsorship, so it is difficult for them to obtain private sector funding.
- Also, gifts or donations from private organisations are considered extra-co-operative income, which is taxed at a higher rate than co-operative income (at the normal corporate income tax rate of 25% instead of 20%).

Secondly, there are also barriers to classification as a specially protected co-operative in the special regime for co-operatives. Social co-operatives are normally consumer or worker / user co-operatives, which in principle could be included in the special protection category, but in order to be fully eligible they have to meet the particular conditions for this classification required of this type of co-operative.

One of the particular specific conditions that hampers social co-operatives is that in specially protected co-operatives, only natural persons may work in or be members of a workers co-operative (Law 20/1990, art. 8) or members of a consumer co-operative (Law 20/1990, art. 12). This prevents companies that acquire participation shares in the co-operative from taking on a capital venture role.

Additionally, co-operative members may only be consumers or workers, not investors or people who perform other roles in the social co-operative, such as volunteers. This not only prevents social co-operatives from obtaining funding but also hinders the social innovation which is one of their characteristics.

Thirdly, in relation to consumer co-operatives, specially protected treatment is only available to co-operatives that provide goods (not services) to their members (or others). This



requirement is particularly difficult for social co-operatives to meet, as they provide social services that are the property of their users. Paradoxically, they are not specially protected for tax purposes as they do not meet this requirement.

Tax regime for work integration social enterprises and special employment centres

There is no specific tax regime for work integration social enterprises (WISEs) or special employment centres (SECs), so the same taxes apply to them as to other companies.

However, there is a corporate income tax advantage that is not specifically intended for these organisations but could be applied to them: Law 27/2014 (LIS), art. 38 contains a deduction for creating employment for workers with disabilities that consists in a rebate in the total tax due amounting to €9000 for each person/year by which the average number of workers with disabilities rises in comparison to the same average in the previous tax period if the degree of disability is 33% or more but less than 65%, and €12,000 if the degree of disability is greater than 65%.

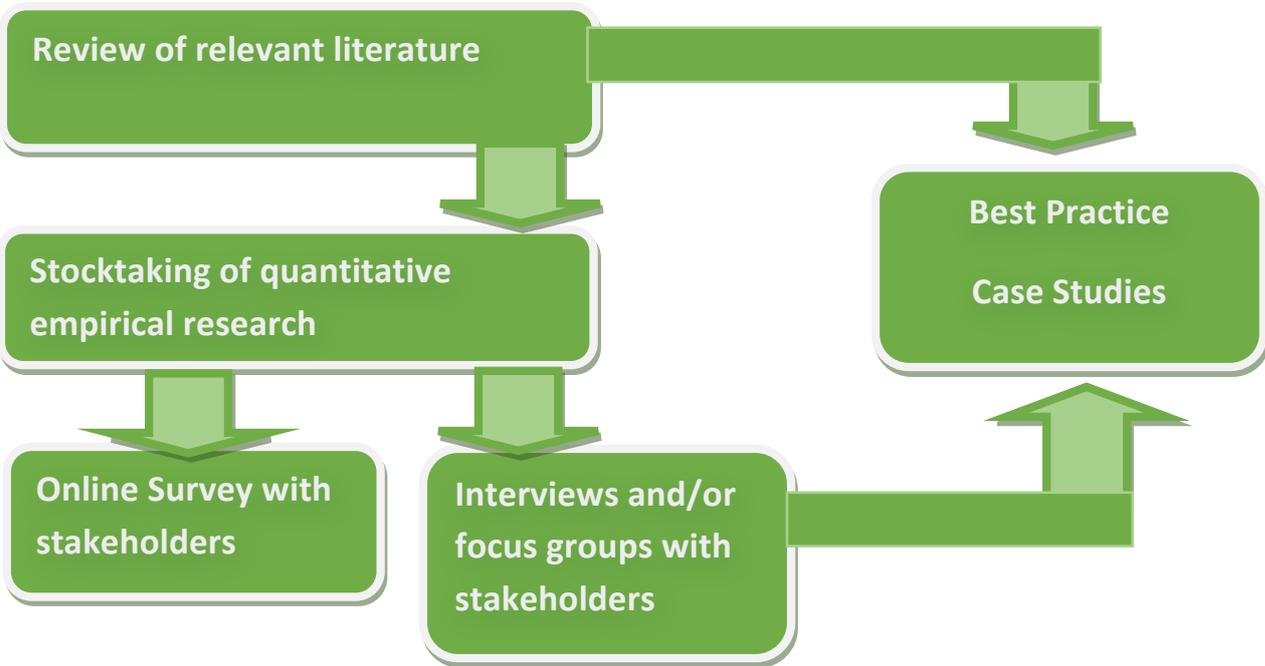


ANNEX III: Methodological notes

This National Report is one of the national reports belonging to the Third Sector Impact European Project whose aim was to identify the external and internal barriers to the development of the Third Sector in Europe, at the national and European levels. In Spain, this study was carried by the University of Valencia, led by prof. Rafael Chaves-Avila.

The study’s research strategy follows a common methodology based on the *Field Guide. Identifying external and internal barriers to Third Sector Development (Barriers)*, given by Zimmer, A. et al. (2014) from Münster University.

Figure 1. Research strategy implemented in this report



Source: Zimmer,A. (2014): *Field Guide. Identifying external and internal barriers to Third Sector Development (Barriers)*, Third Sector Impact project, Münster University.

This strategy uses the following qualitative methods to identify (1) the major obstacles and challenges confronted by Spanish TSO, (2) the strategies already implemented to avoid or overcome them and (3) the recommendations to foster TS as a whole. Concretely, the research work of the Spanish team was the following:

- (1) Review of relevant literature, including stocktaking of quantitative empirical researches. From mid2014 to mid2015;
- (2) Online survey with stakeholders based on a specific common questionnaire for all of the European partners. We have the help of the PTS – *Plataforma del Tercer Sector*- and



CIRIEC-Spain to gather answers from 112 TSO from the three policy fields analysed: social and health services, sport and culture;

Note: The aim of the quantitative data gathered is not to be statistically significant of the whole of the TS policy fields studied but to identify major trends and barriers, which means to be representative of the current situation of the sector. Of course, to obtain statistic data for the whole sector is not an objective of this study. From March to August 2015;

- (3) Focus groups with stakeholders. Five focus groups have been carried at national and regional level including from 5 to 25 participants;
- (4) Face to face qualitative interviews with TSO representatives and experts which were based on a specific common questionnaire for all of the European partners. 31 interviews have been carried in the regions of Madrid, Basque Country, Castilla and León, Catalonia, Murcia and Valencia. From March to August 2015.
- (5) In deep analyse of some best practice case studies, using their websites info, interviews, other information.



9. ANNEX IV: Online study, main results

Tables 1, 2 and 3 summarize the main results of the Online Study answers from more than 120 TSO from the three policy fields analysed: social and health services, sport and culture. According to the stakeholders and the on-line survey, major key barriers are the following:

- Lack of government funding
- Lack of private individual contribution
- Difficulties recruiting employees
- Difficulties recruiting volunteers
- Low pay of employees
- Difficulties appointing volunteer board members
- Limited public awareness of your organization
- Lack of favorable tax treatment
- Increasing bureaucracy
- Lack of clear legal status
- Lack of support organizations

According to the stakeholders and the on-line survey key factor that are not major problems for Spanish TSO:

- Competition with for-profit businesses in recruiting employees / Difficult access to capital markets (not applicable)
- Difficulties recruiting executives
- Low motivation of employees
- Low qualification of employees
- Difficult cooperation between paid and volunteer staff
- Lack of trust in your organization
- Lack of confidence in professionalism of your organization
- Bad condition of TSOs' facilities / Outdated technology



Table 1. Major or minor problems confronting your organization

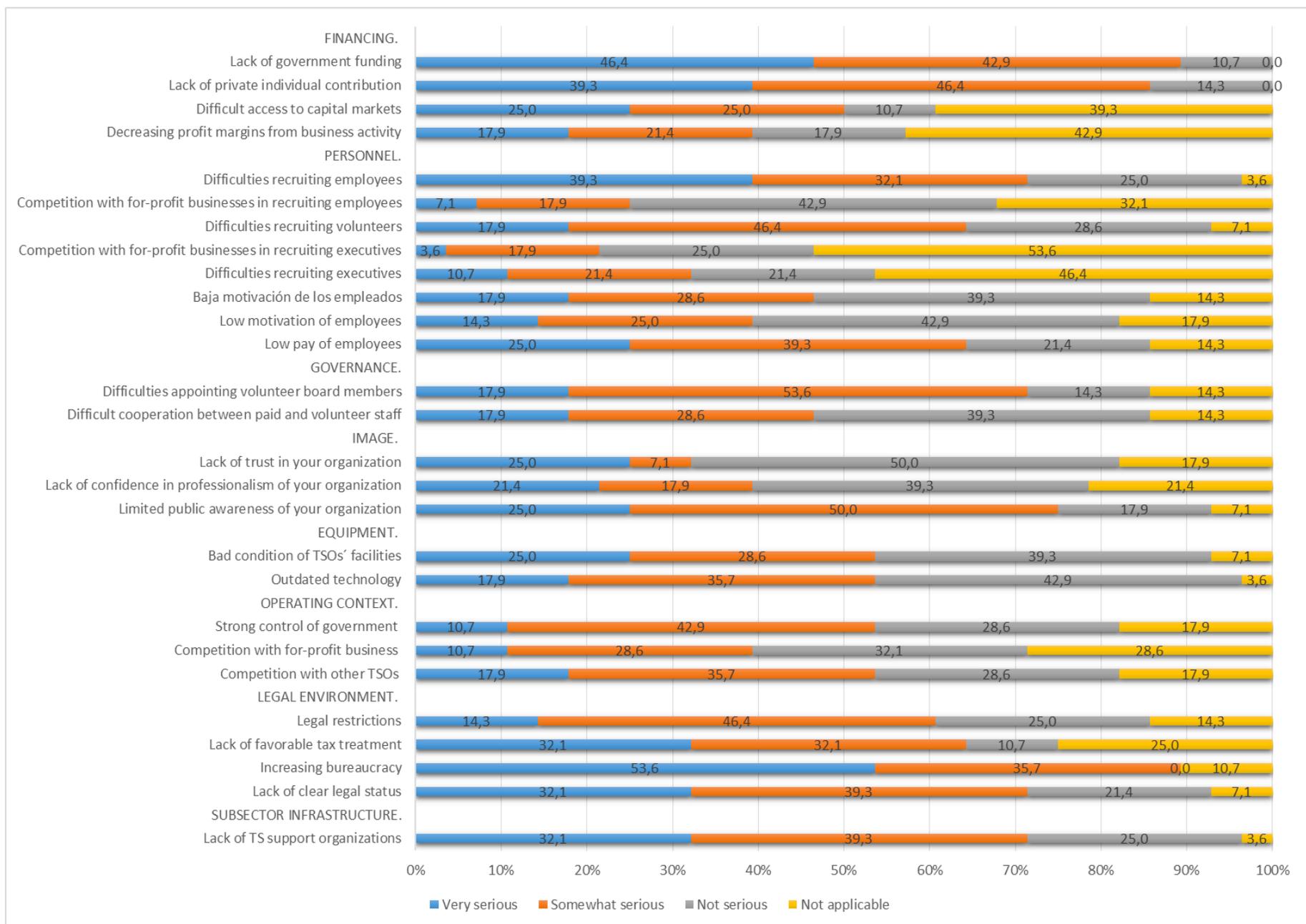


Table 2. In your opinion, does your assessment apply equally to the situation of all TSOs in your field? (Equally, Other is better, Other is worse, Not specified)

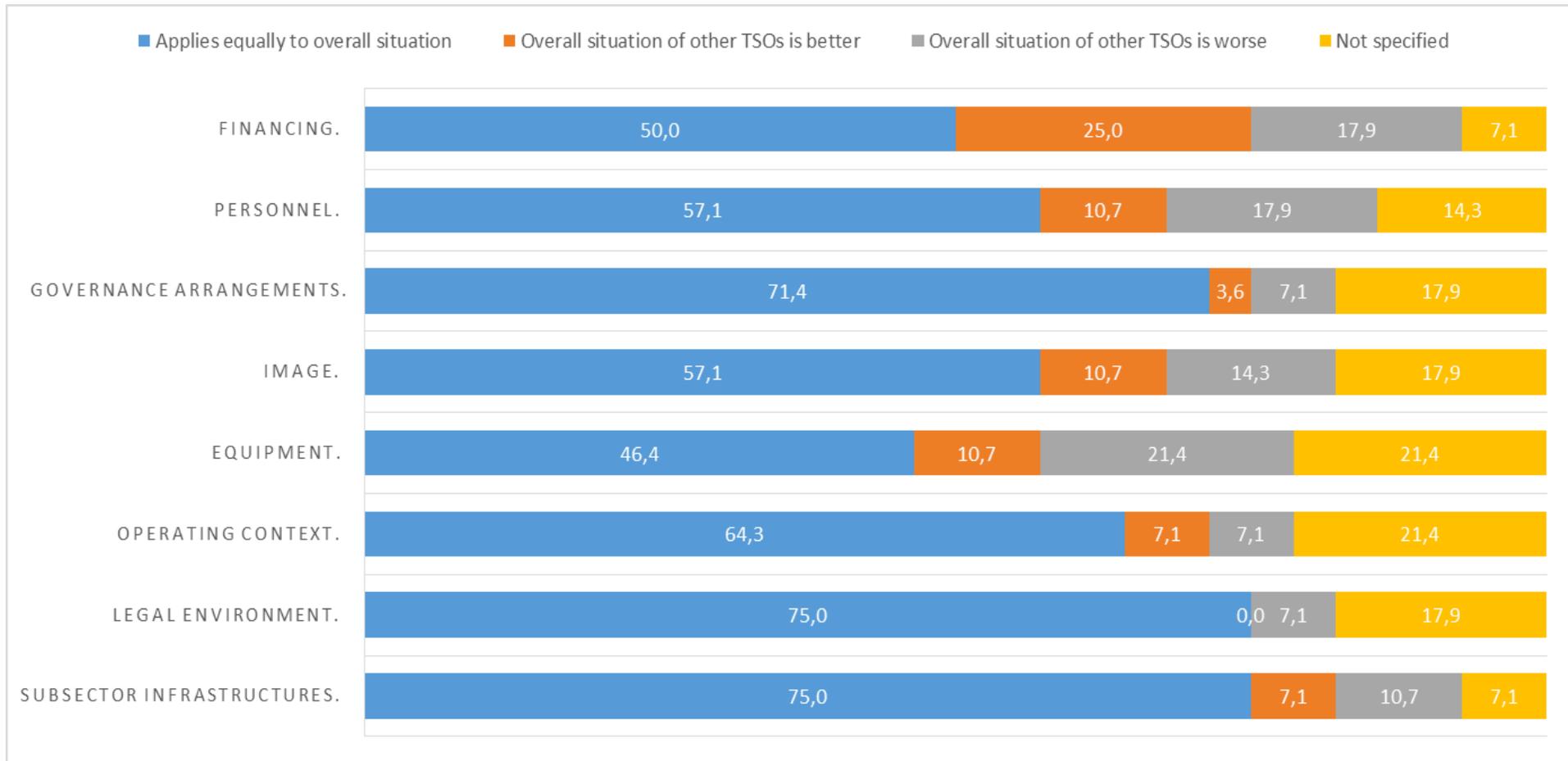


Table 3. For each statement below for possible trends of the sector’s development, please indicate the response category which most closely reflects your view (Strongly Disagree (1), Strongly Agree (5)).

