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The third sector in Europe: Towards a consensus conceptualization

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Content

1	Introduction.....	4
2	The challenge: A diverse and contested terrain.....	4
3.3	Retention of component identities	7
3.4	Building on existing progress.....	7
3.5	A bottom-up strategy	8
4.1	Enormous diversity.....	2
4.1.1	Anglo-Saxon Region	2
4.1.2	Northern Europe.....	4
4.2.	Considerable underlying consensus	7
4.2.1	Wide agreement on three underlying features	8
4.2.2	NPIs are in	8
4.2.3	More than NPIs: Cooperatives and mutuals	8
4.2.4	More than NPIs: Social enterprises	9
4.2.5	More than institutions—the individual component	10
4.2.6	Conclusion: Mapping the third Sector conceptualization	10
5	Consensus definition of the Third Sector	12
5.1	Institutional Components.....	12
5.2	Informal and Individual Components	20
5.5	Conclusion and Next Steps	22
	Bibliography.....	24



1 Introduction

The FP7 tender under which the TSI project is operating emphasized that “there remains a kind of conceptual ambiguity” about the “manifold types of entities that co-exist in the third sector.” In tasking the project to take stock of the European third sector and its impacts, the tender therefore wisely acknowledged that “stock-taking presupposes conceptual clarification” and set the achievement of such clarification as an early objective of the project.

This paper reports on the progress that the TSI project has made toward this objective. It presents a consensus definition of the Third Sector that builds upon a bottom-up investigation of European experiences with various Third Sector concepts and a vigorous set of discussions among project partners and outside stakeholders. The resulting conceptualization takes account of a number of critical European particularities and covers both institutional and individual manifestations of the Third Sector concept while still providing a basis for systematic comparisons among European countries and between them and countries in different regions.

To explicate this proposed conceptualization and how it was developed, the discussion here falls into five sections. Section 2, which follows, describes the basic challenge that the project faced in developing a coherent, common conceptualization of the Third Sector that could work in the various European regions. Section 3 then outlines the strategy that the project employed to find its way around these challenges toward such a consensus conceptualization. In Section 4 we summarize the major conclusions that emerged from the fact-finding and discussion processes undertaken in pursuit of this strategy. In Section 5 we present the key elements of the consensus definition of the third sector that resulted, focusing first on the defining features of the institutional components of the Third Sector and then on the defining features of the individual behaviour components. A final section outlines the next steps that the project plans to undertake to move toward the development of basic data on the Third Sector so conceptualized.

2 The challenge: A diverse and contested terrain

The starting point for our conceptualization work was naturally the existing diversity of views within Europe over whether something that could appropriately be called the “third sector” actually exists in this region, and, if so, what it contains. Indeed, both within Europe and without the Third Sector is probably one of the most perplexing concepts in modern political and social discourse. It encompasses a tremendous diversity of institutions which only relatively recently have been perceived in public or scholarly discourse as a distinct sector, and even then only with grave misgivings given the



apparent blurring of boundaries among its supposed institutional components.¹ Some observers adopt a very broad definition that, in addition to organizations, includes the actions of individuals and societal value systems. Others prefer more narrow definitions, focusing, for example, on “nongovernmental” or “non-profit” or “charitable” organizations. Other definitions fix the boundaries of this sector on the basis of such factors as the source of organizational income, the treatment of their operating surplus, who the organizations serve, how they are treated in tax laws, what values they embody, how they are governed, what their legal status is, how extensively they rely on volunteers, or what their objectives are (Salamon and Anheier, 1997; Salamon, 2010; Evers 2004). These conceptualizations also identify this sector using different terms, including civil society sector, non-profit sector, voluntary sector, charitable sector, third sector, social economy, and many others.

More importantly, conceptualization of the Third Sector is a contested terrain, a battlefield where different and often opposing views vie for ownership of the concept and its ideological, cultural, and political connotations (Chandhoke, 2005, Defourny et al., 1999; Fowler, 2002.) Diverse and often conflicting interest groups, from left wing social movements to conservative think tanks claim the proprietorship of the Third Sector concept because of the emotively desirable connotations it evokes, such as public purpose, freedom of association, altruism, civic initiative, spontaneity, or informality. Many popular perceptions of Third Sector activities appear to share an underlying ideological position that places a premium on individual entrepreneurship and autonomy, and opposes encroachment on that autonomy by state authorities. Third Sector is often conceived as both an expression of individual freedom, and as a buffer that shields such freedom from encroachments by the state and that provides a convenient alternative to state-imposed taxation for dealing with social and economic problems (Howell and Pearce, 2001; Seligman, 1992).

3 Overcoming the challenges: The approach

To deal with this diversity and find its way toward a consensus definition, the TSI project adopted a strategy that has incorporated five key elements.

3.1 Clarifying the criteria for an acceptable conceptualization

¹ See, for example, Jacques Defourny and Victor Pestoff, “Toward a European Conceptualization of the Third Sector,” in E. Costa, L. Parker & M. Andreaus, editors, *Accountability and Social Accounting for Social and Non-Profit Organizations, Advances in Social Accounting, Vol 17: 1-61 (2014)*.



As a first step in this process, decisions had to be made about the type of definition at which the conceptualization work was aiming. This was necessary because different types of definitions may be suitable for different purposes. The fact that the charge in this project ultimately involved measurement of the Third Sector's impact, and that the project aimed not only at a one-off research project but at the creation of an on-going capacity to generate reliable data on the scope and size as well as the impact of the Third Sector over the longer run raised the bar on the type of conceptualization that would be needed. In particular, the project team settled on five such criteria that the consensus definition of the Third Sector would have to meet in order to fulfil the project's objectives. In particular, it would need to offer:

Sufficient BREADTH and SENSITIVITY to encompass as much of the enormous diversity of this sector and of its regional manifestations in Europe as possible;

Sufficient CLARITY to differentiate Third Sector entities and activities from four other societal components or activities widely acknowledged to lie outside the Third Sector: i.e. government agencies, private for-profit businesses, families or tribes, and leisure or recreational activities undertaken chiefly for one's own enjoyment. Defining features that embraced entities or activities with too close an overlap with these components or activities would thus be discouraged;

COMPARABILITY, to highlight similarities and differences among countries and regions.

OPERATIONALIZABILITY, to permit meaningful and objective empirical measurement and avoid counterproductive tautologies or concepts that involved subjective judgments rather than objectively observable, operational characteristics. To the extent that normative features would have to be introduced, objective proxies would have to be found for them; and

INSTITUTIONALIZABILITY, to facilitate incorporation of the measurement of the Third Sector into official international statistical systems so that the work of the project would not be merely a "one-off" undertaking but rather would leave behind statistical machinery that could be integrated into regular official data-gathering and reporting going forward.

3.2 The concept of a "common core"

In order to adhere to the comparability criterion, the project had to settle on a conceptualization that could be applied in all of the countries of the continent. This is a fundamental precept of comparative work. The alternative would be equivalent to using different-sized measuring rods to measure tall people and short people so that everyone would come out seeming to be the same basic height. To achieve this in the face of the



great diversity of concepts and underlying realities, the project set its goal not as the articulation of an all-encompassing “definition,” but rather to articulate the broadest possible conceptualization of a “*common core*” of the Third Sector. Central to the concept of a “common core” is the notion that particular countries may have elements in their conceptions of the Third Sector that extend beyond the common core. This allows for a “modular approach,” using the common core for comparative purposes but adding additional elements to reflect local circumstances and peculiarities. This “modular” conception makes it possible to identify a workable common conceptualization of the Third Sector without displacing other concepts around which research, data-gathering, policy development, and other notions can be organized.

3.3 Retention of component identities

Consistent with the concept of a modular approach centred on a common core conceptualization of the Third Sector was a decision to preserve the component identities of the types of institutions and behaviours ultimately identified as belonging to the Third Sector. This approach opened the door to making it possible to acknowledge the significant variations in the composition of the Third Sector in different locales and avoided lumping quite different collections of institutions and behaviours together in one misleadingly undifferentiated conglomeration.

3.4 Building on existing progress

Fortunately, our project was not completely “at sea” in setting out to conceptualize the Third Sector. Fortunately, some important progress had already been made in official statistical systems in clearly differentiating one set of likely third-sector institutions—i.e., associations and other non-profit institutions (NPIs) -- and one broad set of likely third-sector individual activities, i.e. those undertaken without pay.

So far as the first is concerned, the United Nations Statistical Division (UNSD) in 2003 issued a *Handbook on Non-profit Institutions in the System of National Accounts* that incorporated an operational definition of NPIs into the guidance system for international economic statistics, and called on statistical agencies to produce so-called “satellite accounts” that would better portray this one important potential component of the “third sector” more effectively than previously possible in official national economic statistics. ² According to this Handbook, such non-profit institutions (NPIs) could be identified and differentiated from other societal actors on the basis of five defining features. In particular, they were:

²United Nations Statistics Division, *Handbook on Non-profit Institutions in the System of National Accounts*. (New York: United Nations, 2003);



Organizations, that is, institutionalized to some extent;

Non-profit distributing, that is, governed by binding arrangements prohibiting distribution of any surplus generated to their stakeholders or investors;

Self-governing, that is, able to control their own general policies and transactions;

Private, that is, institutionally separate from government and able to cease operations on their own authority; and

Non-compulsory, that is, involving some meaningful degree of un-coerced individual consent to participate in their activities.

Likewise, the International Labour Organization in 2011 issued a *Handbook on the Measurement of Volunteer Work* that established a definition of this form of individual action widely considered to be a component of the third sector.³ Specifically, volunteer work is defined as “unpaid non-compulsory work; that is, time individuals give without pay to activities performed either through an organization or directly for others outside their own household.”

All institutional units and activities identified by both definitions are clearly separated from for-profit businesses, government agencies, and household activities. These definitions thus served as useful starting points from which to set out on a search for defining elements of a broader Third Sector concept. At the same time, based on knowledge of the European research literature, it was clear that these existing definitions were likely too narrow to embrace the common core of the concept of the Third Sector in its European manifestations.

3.5 A bottom-up strategy

Finally, to ensure that the project formulated a consensus definition broad enough to encompass the largest possible array of European Third Sector institutions and behaviours, a bottom-up research strategy was deployed leaning heavily on the input of the project’s consortium partners, which comprise an extraordinary set of institutions and researchers with expertise on European third sector realities. To structure their work, a pair of conceptualization Field Guides was developed, one focused on regional variations in conceptions of the Third Sector and the second on various potential institutional or individual embodiments of Third Sector components. (For an indication of how these responsibilities were allocated among the project partners, see Tables 1 and 2 below).

³ International Labour Organization, *Manual on the Measurement of Volunteer Work*. (Geneva: International Labour Organization, 2011)



Table 1: Partner Responsibilities for Analysis of Third Sector Concepts and Manifestations: by Region

Region	Responsible Partner	Likely Countries Covered
Nordic region	ISF-Norway	Norway, Sweden, Denmark, Finland
Northern Europe	WUW-Austria	Netherlands, Belgium, Germany, Austria, (France?)
Anglo-Saxon	KU—United Kingdom	United Kingdom, Ireland
Southern Europe	UV-Spain	Spain, Portugal, Italy, Greece, (France?)
Central and Eastern Europe	Uniwersytet Warszawski-Poland	Poland, Hungary, Slovakia, Croatia, Slovenia, Romania, Bulgaria, the Czech Republic



Table 2: Partner Responsibilities for Analysis of Third Sector Concepts and Manifestations:

By Types of Institutions and Individual Activities

Institutions/Activities Covered	Responsible Partner
Non-profit Institutions	JHU/SAIS Bologna
Mutuals and Cooperatives	University of Valencia
Social Ventures	Centre National De La Recherche Scientifique
Individual activity without pay	JHU/SAIS Bologna

This Field Guide process consisted of three major steps:

Concepts and terminology. The five partners assigned to the preparation of Field Guides taking a regional were asked to identify the kinds of terms used widely to refer to third-sector type entities or behaviours in their respective regions. Similarly, the four partners assigned to the preparation of Field Guides focusing on four types of institutions or individual behaviours previous discussion had identified as potential candidates for inclusion in the conception of a Third Sector were each asked to identify the types of terminology in use to depict one of these types of institutions or behaviours in Europe and the different meanings that these terms suggested.

Institutional or Individual Embodiments of these concepts and terms. Partners were then asked to identify the precise types of entities or activities each of the terms they had identified actually embraced.

Testing a tentative third-sector conceptualization. Finally, a tentative hypothesized third-sector conceptualization was formulated by the WP leader based on prior discussions and existing literature and partners were asked to assess which of the identified institutional or individual manifestations of the concept of the Third Sector present in their region would pass muster as valid components of the Third Sector according to this hypothesized, tentative conceptualization and what problems, if any, they found with this conceptualized when applied to the realities of their regions or particular type of institution or behaviour.

This methodological approach was developed in a collaborative and consultative manner allowing the project's partners to present and discuss their unique regional perspectives and concerns at every stage of the investigation, and reconcile them with the overarching objective of developing a consensus conceptualization of the third sector that can be

effectively applied throughout Europe and possibly beyond. Every proposed conceptual component was thoroughly reviewed by all project partners and tested against both the agreed criteria and the reality in the European countries covered by this project.

4 Key findings and conclusion

Two major conclusions flowed from this bottom-up review process: first, the process surfaced the *extent of diversity among* the types of entities or behaviours embraced within a concept of the Third Sector in Europe and also *within* the various types of entities considered appropriate for inclusion; but second, the process also revealed a *significant area of agreement* around certain key components that could potentially be captured in a “common core” definition of the European Third Sector. The discussion below outlines these two critical findings in more detail.

4.1 Enormous diversity

In the first place, the review of conceptualizations of the Third Sector evident in different European regions certainly confirmed the initial impressions of enormous diversity in the way this term is used in different European countries and regions, and about the range of human activity it could be conceived to embrace. The discussion below briefly summarizes some of the highlights of the insights generated by project partners on this question.

4.1.1 Anglo-Saxon Region

In the UK, the most widely accepted conceptualization is that of public charities, which has its legal basis in the Charities Act of 2011, but its real roots in the Elizabethan Poor Law of 1601. This concept is rather narrow and, though broadened a bit in recent legislation and policy debate, remains confined to a historically evolved concept of charity (Kendall and Thomas, 1996; Garton, 2009). To be seen as having charitable purposes in law, the objects specified in organizations’ governing instruments must relate to a list of 12 particular purposes specified in the Charities Act of 2011, and be demonstrably for the public benefit. Not all non-profit organizations are considered charities in the U.K. Only those that meet the definition of a charity in the common law tradition and in subsequent legislation.

However, broader concepts such as “Third Sector,” “Civil society,” “Voluntary and Community sector,” “Volunteering,” “Social enterprise” and “Social Economy” are



sometimes used for policy purposes but have no legal basis and no clear definitions. The notion of Third Sector was developed by policy actors and applied over the past decade or so. The emphasis here was simply on being constitutionally outside the state and the market, and operating in the pursuit of 'values'. The New Labour government (to 2010) sought to specify the term at a general level as 'values driven', with its "Office for the Third Sector" in the Cabinet Office and other Departments referring to how: "The third sector comprises organizations that are 'value-driven' – that is, that are primarily motivated by the desire to further social, environmental or cultural objectives rather than make a profit per se; and principally reinvest surpluses further to their social, environmental and cultural objectives" (Office for the Third Sector, 2006, p. 8). But these terms were not clearly defined and therefore remain somewhat abstract. The notion of a "voluntary and community sector" has a much longer lineage than the 'third sector', and grew out of the "voluntary action" agenda of the post-World War II period (Beveridge, 1948; Wolfenden, 1978; Gladstone, 1979; 6 and Leat, 1995).

This notion includes registered charities, as well as non-charitable, non-profit organizations, associations, self-help groups and community groups. Typically, organizations belonging to this group have a discernible "public benefit" and utilize some aspect of voluntarism. The concept of "civil society" gained momentum from events and developments outside the UK over the past 2 decades and has been adopted by some British foundations and institutions within media and policy circles in their efforts to promote social progress through nonmarket, non-state action (Carnegie UK Trust, 2008; Young Foundation, 2012). The term "Social enterprise" includes community enterprises, credit unions, trading arms of charities, employee-owned businesses, co-operatives, development trusts, housing associations, social firms and leisure trusts. Social enterprises usually take the legal form of Industrial and Provident Societies, Companies Limited by Guarantee or latterly Community Interest Companies. Finally, the term "social economy" was not widely recognized in the UK until the 1990s (Amin et al 2002) and is not widely used.

In short, there is no commonly accepted concept of a third sector in the U.K., and the plethora of terms and concepts in use raises questions about whether a coherent conceptualization of the third sector is possible, even in a single country, let alone across national borders. At the very least, different definitions may be appropriate for different purposes.



4.1.2 Northern Europe

In Germany and Austria a somewhat broader conceptualization prevails, which is based on the concept of Non-profit Institutions (NPIs) as defined in the System of National Accounts and in the UN *NPI Handbook* mentioned above. Central to this concept is the notion of a set of institutions that is “private,” i.e., not part of the government apparatus, and subject to an absolute prohibition on distribution of profits to members, managers, directors, or investors as well as a “capital lock” that requires that any assets amassed by such institutions be preserved for the same charitable or public-purpose objective in the event the institutions are dissolved or converted into for-profit status. Whatever legal basis there is for this non-profit distribution status is limited to tax law, however, which links tax exemption to this non-profit distribution constraint and to legally defined notions of public benefit and tends to be decided on an individual case basis.

The most inclusive concept used in these countries is “civil society”, which refers to the domain that exists between the state, the economy and the private sphere in which people attempt to represent and define their own interests, often related to the ideas of participation, democracy and social equality (Edwards 2009; Pollack 2004; Zimmer and Priller 2007). However, the values expressed by various actors in this sphere are frequently contested (Chambers and Kopstein 2001; Heins 2002; Teune 2008). And this term does not normally extend to the service-providing, non-profit organizations mentioned above. The term Third Sector encompasses all Non-profit-Organizations, distinguishing them from the public and private for-profit sectors. This notion includes only organizations, however, and non-formalized (individual) activities are excluded. The term Non-profit-Organization (NPO) also is used in all countries. The boundaries between civil society and the NPO sector is often blurred, and “civil society”, “third sector” and “NPO sector” are often used synonymously (Simsa 2013) and research under the title of civil society is frequently limited to references to NPOs. Although voluntary associations are often characterized as the organizational core or infrastructure of civil society and there is a strong historical overlap of the NPO sector with the networks of social movements (Roth 1994; Rucht 2011), this approach does not cover all the diverse and heterogeneous aspects of civil society. Only NPOs fulfilling at least a minimum advocacy function can be seen as part of civil society. In the last years the term social entrepreneurs has gained importance, meaning innovative approaches to mainly social problems, with high market-orientation, not necessarily non-profit, not necessarily voluntary elements, where financial gains can be at least of equal importance with the mission. Cooperatives and mutuals, because they can distribute profit, would not be



included in the concept of a Third Sector in Austria or Germany, though these institutions do exist as parts of the commercial sector.

In the Netherlands also there is no a single overarching concept of the Third Sector, but three mid-range conceptualizations-- *particulier initiatief* (private initiatives), *maatschappelijk middenveld* (societal midfield), and *maatschappelijk ondernemerschap* (social entrepreneurship)-- are used instead. These correspond roughly to non-profit associations providing various services, advocacy groups, and social ventures.

Likewise, there is no a single overarching concept of the Third Sector in Nordic Countries, and instead nine different types of institutions are commonly identified, some of which have a legal basis while others do not: voluntary associations, ideal organizations, idea-based organizations, self-owning institutions, foundations, social enterprises, cooperatives, mutual insurance companies and banks, and housing cooperatives. Cooperatives are not widespread in the Nordic countries and those that exist typically have some limitation on their distribution of profits. Norway did not establish a law on cooperatives until 2008, for example. Sweden has a category of “economic associations” (“*ekonomiska föreningar*”) and has recently developed the cooperative form in areas where the public until recently has been the main supplier, through the establishment of parental and cooperative kindergartens, schools, services in elderly care and mental health, dental care and social services. The Nordic countries are also distinctive for the special emphasis they put on volunteer efforts of various sorts.

By contrast, in France and Belgium, as well as in the Southern European countries, the concept of ‘social economy’ has gained widespread attention. In contrast to conceptions prevailing elsewhere in Europe, which underscore features like charitable purpose, volunteer involvement, or a non-profit distribution constraint, the social economy conception focuses on social features, such as the expression of social solidarity and democratic governance. In its broad formulations, the concept of social economy embraces not only the voluntary, charitable, or non-profit sectors, but also cooperatives and mutuals that produce for the market. Since many cooperatives and mutuals have grown into enormous commercial institutions, the social economy concept thus blurs the line between market-based, for-profit entities and the non-profit, or non-profit-distributing entities that are central to many northern European and Anglo-Saxon conceptions of what forms the heart of the third sector. Indeed, one conceptualization of the social economy concept adopted in a *Social Economy Satellite Accounts Manual* formulated for one of the European Commission’s Directorate Generals (Barea and Monzón, 2006), restricted this concept exclusively to cooperatives and mutuals and



excluded non-profit organizations completely. Perhaps because it embraces a substantial set of economically powerful enterprises in fields as diverse as agriculture, banking, and insurance, the social economy concept has gained substantial political recognition in both national and European-wide institutions

The Social Economy concept has also been recognized in political and legal circles, both national and European. Thus, for example, the European Economic and Social Committee issued an Opinion on 1 October 2009 on Diverse Forms of Enterprise and the European Parliament issued a Report of 26 January 2009 on Social Economy (EESC, 2012). To date, however, Eurostat, the European Statistical Agency has not incorporated the concept of the “social economy” into its statistical system, nor has the United Nations Statistical Division recognized such a grouping. Rather, cooperatives and mutuals are considered “market producers” and as such are grouped with for-profit companies in the corporation sector of national accounts.

One other institutional element identified in several countries as potential components of the Third Sector are so-called social enterprises. These are enterprises that use market-type activities to serve social purposes. Examples include catering firms that sell their products on the market but choose to employ mostly disadvantaged workers (e.g., persons with previous drug habits or arrest records), using the business to help rehabilitate these workers and train and prepare them for full-time employment. Special legal forms have been created for such enterprises in some countries, but not all such enterprises have chosen to seek such legal status, preferring to organize under laws that apply to non-profit organizations or to organize as regular for-profit businesses.⁴ Yet another conception of what constitutes the Third Sector can be found in Central and Eastern Europe where the broad overarching concept of “civil society” is widely used in public discourse. Civil society consists of formal organizations and informal community-based structures as well as individual actions taken for the benefit of other people, including improvement of the community or natural environment, participation in elections or demonstrations, informal volunteering, and general political participation. More narrow terms, Third Sector or Non-profit Sector are used to denote the set of organizations with different legal foundations, including associations, foundations, cooperatives, mutual companies, labour unions, business associations, professional associations, and religious organizations. The use of various terms changed during the political transformation period following the dissolution of the Soviet bloc. The term non-

⁴ On the legal forms of social enterprises, see: Lane 2011. On the phenomenon of social enterprises more generally, see: Nichols 2006; Bornstein 2004.



profit sector was very popular in the beginning of the transformation. However, the accession to the EU introduced the concept of social economy in this region as well. Recently, the very broad and inclusive term ‘third sector’ has been gaining popularity. It includes all kinds of civil society activities that have permanent or formal structure, including cooperatives and mutuals that allow profit distribution.

In sum, conceptualizations of the Third Sector scope vary across Europe from the narrow conception based on the legal tradition of the Charities Act in the UK, to very broad notions of social economy and third sector popular in different regions of the continental Europe. These conceptualizations focus on different salient features, such as charitable purpose, non-profit distribution constraint, independence from government, expressions of social solidarity or civic values, such as public participation, or democratic governance. These features, in turn, connect to deeper cultural traditions in these different countries and regions—a strict division between profit-seeking entities and non-profit-seeking ones in the Anglo-Saxon region and in the North of Europe, a much heavier emphasis instead on norms of solidarity manifested through market or quasi-market institutions in the South. In the process, and a broad focus on citizen engagement embodied in the notion of “civil society” growing out of the struggle to open the closed Soviet-style regimes in Central and Eastern Europe. Given these different conceptions reasonable doubts can exist about whether a common core conceptualization of the third sector in Europe, let alone one that meets the criteria articulated early in this project, is even feasible.

4.2. Considerable underlying consensus

In fact, however, despite the apparent impossibility of bridging the considerable disparities in conceptualizations of the social space connoted by the concept of a “third sector” in Europe, it is well to remember that the Third Sector is not the only societal sector that has faced the challenge of dealing with diversity in finding a suitable conceptualization of itself. Certainly the business sector has every bit as much diversity as the third sector, with multiple legal structures, radically different lines of activity, gross variations in scale, complex interactions with government funding and regulatory regimes, and widely divergent tax treatments. Yet, scholars, policy-makers, and statisticians have found reasonable ways to conceptualize this complex array of institutions and distinguish it from other societal components.

More importantly, a somewhat surprising degree of consensus also surfaced in the responses to our field guide search for clarification of this elusive concept in its European



manifestations. The discussion below outlines a number of important components of this consensus.

4.2.1 Wide agreement on three underlying features

In the first place, while there was disagreement about the precise institutions or behaviours that the concept of the Third Sector might embrace, the Field Guides revealed a considerable degree of consensus about some of the underlying ideas that the concept of a Third Sector evoked in Europe (and perhaps beyond it). Three of these can be easily identified. They thus identify the third sector as embodying: (i) forms of *individual or collective action* outside of for-profit businesses, government, or households; (ii) undertaken to *create something of value* primarily to the broader community or to persons other than oneself or one's family, and (iii) pursued *voluntarily and without compulsion*.

4.2.2 NPIs are in

A second component of the underlying consensus revealed in the Field Guide responses and confirmed in existing research (some of it undertaken by members of the project's consortium), was a general agreement that whatever else it embraced, the concept of the Third Sector certainly embraces the set of institutions defined in the United Nations *Handbook on Non-profit Institutions in the System of National Account* as NPIs, or non-profit institutions.⁵ As spelled out in that *NPI Handbook*, these are institutions or organizations, whether formally or legally constituted or not, that are *private, self-governing, non-profit-distributing*, and operating without compulsion. The defining elements of this component of the Third Sector have been tested already in more than 40 countries and incorporated into the official System of National Accounts that guides the work of statistical agencies across the world. Several partners reverted to this basic set of institutions in defining the core of the third sector concept.

4.2.3 More than NPIs: Cooperatives and mutuals

While there was wide agreement that non-profit institutions were appropriately considered part of the "common core" of the third sector concept in Europe, there was also considerable agreement that they could not be considered to constitute the whole of it. Rather, other types of institutions also needed to be considered. Most obvious were the cooperatives and mutuals that form the heart of the social economy conception so prominent in Southern Europe, but present in other parts of the continent as well. The

⁵ Cohen and Arato (1997); VanTil (1988); Edwards (2011), Evers and Laville (2004), Chambers and Kymlicka (2002), Howell and Pearce (2001); Defourny, 2001:4; Salamon et al. 2004.



problem here, however, was that some types of cooperatives and mutuals have grown to the point where they are hard to distinguish operationally from for-profit businesses. This applies particularly to such organizations operating in the insurance and financial industries, but applies as well to some production cooperatives as well. Because of this, convincing statistical authorities to treat the entire class of cooperatives and mutuals as something other than regular “market producers” appropriately assigned to the corporations sectors in national accounts was perceived as highly unlikely. What is more, many partners worried about departing too far from the already accepted concept of the non-distribution of profit as a key to defining components of the Third Sector in ways that clearly and unambiguously distinguish them from commercial businesses.

To address these concerns, an effort was made to find a middle ground between an absolute prohibition on the distribution of profit and the total absence of any limitation in order to distinguish cooperatives and mutuals that are in-scope of the Third Sector from those considered out-of-scope. Limitation on the pursuit of profit, in other words, was conceived as a proxy that would help ensure that the institutions in question truly exhibit the underlying Third Sector characteristic of voluntarily “creating something of value primarily to the broader community or to persons other than oneself or one’s family” and are not simply essentially commercial firms that happen to be organized under a cooperative or mutual legal form. The challenge, however, was to find an operational basis for defining such limitations and ascertaining that such a basis could be found in laws or customs of a significant number of countries.

4.2.4 More than NPIs: Social enterprises

A similar situation surrounds the relatively recent concept of social enterprises. This type of enterprise that mixes social purpose with market methods has recently gained considerable prominence in a number of European countries, such as the U.K., France, and into Central and Eastern Europe. More even than cooperatives and mutuals, however, these entities raise difficult definitional challenges since they seek market returns and are often organized under laws that apply equally to for-profit businesses. In some countries, such as the U.K., to be sure, special legal categories have been established for such entities to acknowledge their mixture of social and commercial objectives and activities. In Italy, for example, a special class of “social cooperatives” has been established for enterprises that operate market production facilities but are required to employ a minimum of 30 percent of their workers from persons who exhibit one of a list of legally defined forms of disadvantage. In other countries as well the



cooperative form is also used for such enterprises while elsewhere they organize as non-profit organizations.

Given the interest generated by this type of entity, there was considerable support for considering how at least some portion of them could be incorporated into our conception of the Third Sector. But the same problem of differentiation from for-profit firms necessitated finding a suitable proxy for the special social purpose that they purport to pursue. The same concept applied to cooperatives and mutual—i.e., some operationalizable concept of profit limitation—came to be accepted as a suitable way to make such a differentiation.

4.2.5 More than institutions—the individual component

Finally, given the prominence of the concept of civil society with its emphasis on citizen action, social movements, and the so-called “public sphere” as embodiments of the Third Sector, especially in Central and Eastern Europe; as well as the emphasis on voluntarism as an important component of the Third Sector concept in the Nordic countries, the U.K., and Italy, it also became clear that confining the concept of the Third Sector to any particular set of institutions would not suffice: rather, it was important to include individual activities of citizens within our conceptualization of the Third Sector. But clearly not all citizen actions could be included. Here, again, distinctions were needed to differentiate activities citizens engage in for their own enjoyment or as part of their family life

The task here was greatly simplified, however, by the existence of the International Labour Organization *Manual on the Measurement of Volunteer Work*, which offered an operational definition of volunteer work that included many of the activities that could easily be interpreted as manifestations of civil society, including participation in demonstrations, other forms of political action, as well as other activities undertaken without pay for the benefit of one’s community or other persons other than one’s household.

4.2.6 Conclusion: Mapping the third Sector conceptualization

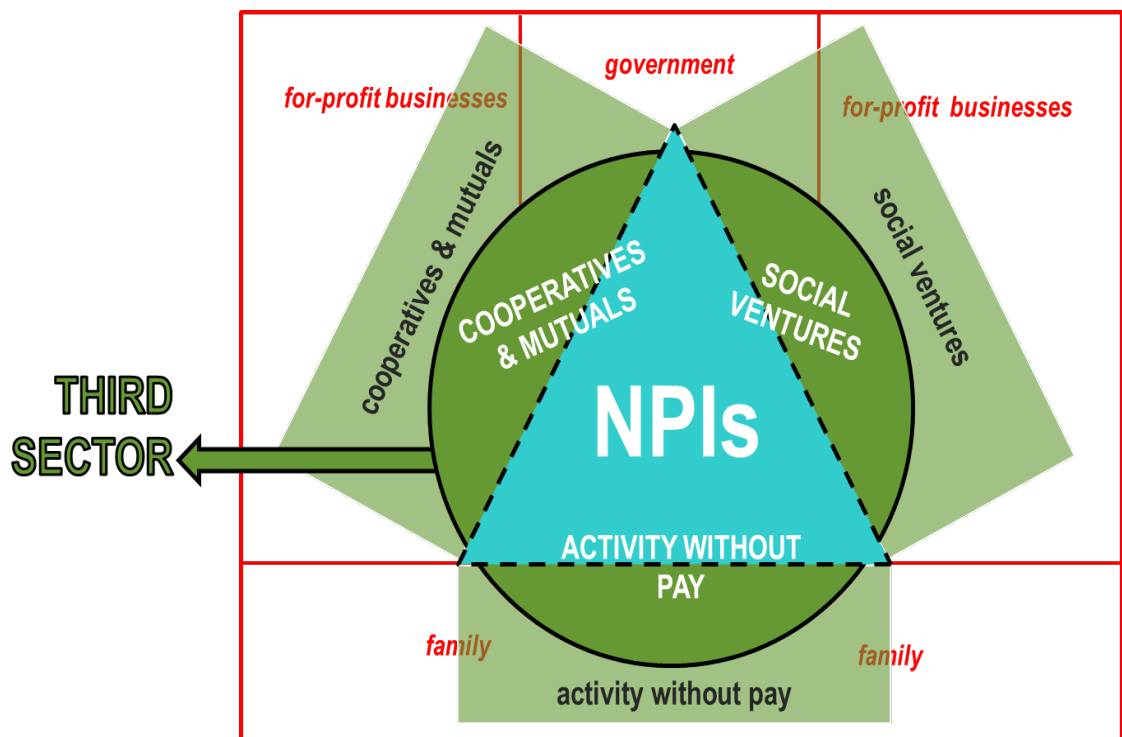
Four more-or-less distinct clusters of entities or activities thus emerged from our bottom-up review process as candidates for inclusion within our consensus conceptualization of the European Third Sector in whole or in part: (i) non-profit organizations; (ii) mutuals and cooperatives; (iii) social enterprises; and (iv) human actions such as volunteering and participation in demonstrations and social movements that are undertaken without pay. However, not all of the entities in each of these clusters seem appropriate to include



within a concept of the Third Sector. This is so because many of them significantly overlap with other institutional sectors i.e., government, for-profit businesses, and household activities – from which the Third Sector must be separated. This mapping exercise thus made it clear that formulating a consensus definition of the Third Sector required finding a way to differentiate those elements of these institutional components that are “in-scope” from those that are “out-of-scope” by virtue of being for-profit businesses, government agencies, or household activities.

Figure 1 below thus provides a pictorial representation of the conceptualization task that the project faced. The circular line in Figure 1 marks the hypothesized boundary that separates the Third Sector components of some of these institutional and individual action components from the out-of-scope components.

Figure 1. Conceptualizing the Third Sector in Europe: A First Cut



Fortunately, previous work, as already hinted, provided a useful basis for clearly identifying one of the potential institutional components of the Third Sector and most of the individual one. The triangle in the middle thus represents the non-profit institution sector identified through the features incorporated into the UN *NPI Handbook*, while the



ILO Volunteer Measurement Manual offered a way to differentiate the in-scope individual activities. The remaining challenge was therefore to find the dividing lines that could differentiate in-scope cooperatives, mutual, and social enterprises from those that blurred too extensively into for-profit businesses.

The task of moving from broad-gauged consensus on potentially eligible components to operational features that could provide the needed clarity called for in our definitional criteria involved a process of testing and revising the defining features already established in official statistical treatments of third-sector institutions and activities, but adding to them features that might bring into better conceptual focus some of the additional types of institutions and activities mentioned earlier. This process was iterative, which means that it consisted of a series of rounds in which partners were asked to provide their input on a set of proposed operational characteristics, on the basis of which the defining features were modified or tweaked, and submitted for additional review until a consensus was reached.

5 Consensus definition of the Third Sector

Two sets of hypothesized operational features emerged from this iterative review process: one for institutional units and one for individual human actions. The discussion below outlines these two sets of features and indicates how they came to be operationalized. Taken together, the result is a consensus operational definition of the Third Sector in Europe (and possibly beyond) that rests on the firm ground of a bottom-up investigative process focusing on actual regional and institutional realities and a systematic review process undertaken by the project's partners with involvement from sector stakeholders.

5.1 Institutional Components

The consensus definition of the institutional components of the Third Sector focuses on five defining features, each of which is translated into operational terms. An institutional unit—whether a non-profit organization, an association, a cooperative, a mutual, a social enterprise, or any other institutional entity in a country—must meet all five of these features to be considered “in-scope” of the Third Sector. A failure to meet any of these features puts the unit out of scope of the Third Sector.



More specifically, to be considered part of the European Third Sector a single entity or group of entities must be:

- Organizations, whether formal or informal
- Private
- Self-governed
- Non-compulsory and
- Totally or significantly limited from distributing any surplus it earns to investors, members, or others

Each of these features, in turn, was translated into operational terms, as follows:

To be considered an *organization*, a unit has to involve groups of people, whether formally or legally constituted, that operate according to some understood procedures and that pursue one or more common purposes for a meaningfully extended period.

Borderline cases include groupings of people that have some general rules and involve activities that may last longer than several months (e.g. social movements or protest actions). Such groupings are generally not organizations unless the rules that they adopt are specific enough to define participants, decision making procedures, and a clearly articulated intent to continue its operation as a group in the form outlined by these rules for a specified or indefinite period of time. Such groupings can be considered parts of the individual action component of the Third Sector if they do not meet this definition of being an organization.

To be considered *private*, an entity must be institutionally separate from government and able to dissolve itself and cease operations on its own authority. This means that the organization is not a government unit, does not exercise governmental authority in its own right, and is not required to secure approval from any governmental authority to cease operations.

Borderline cases include non-profit organizations created by political processes but which operate quasi-independently of the agencies that established them (so-called GONGOS) as well as organizations that oversee certain areas of economic or professional activity, such regulating who can practice a profession, arbitrating labour-management relations, etc. Such organizations may operate in close relationship with government authorities such that it may be difficult to decide whether they are an institutional part of



government. The ultimate test is whether the leadership of such entities can dissolve the units on their own authority. If not, the entities are out of scope.

To be considered *self-governing*, an entity must be able to control its own activities and is not under the effective control of any other entity, private or governmental. To be sure, no organization is wholly independent. To be considered self-governing, however, the organization must control its general policy and operations to a significant extent, have its own internal governance procedures, and enjoy a meaningful degree of autonomy. Key indicators of these capacities include any of the following, but no one of them can be determinative:

- The capacity to own assets, incur liabilities, or engage in transactions in its own right?
- Control over the selection of the organization's governing officials;
- A meaningful degree of financial autonomy, including the ability to refuse funding from an external source.

To be considered *non-compulsory*, individual activity or engagement with the unit must be *free of compulsion* or coercion, that is, it must involve a meaningful degree of choice. Organizations in which participation is dictated by birth (e.g. tribes, families, castes), or legally mandated or otherwise coerced, are excluded.

Forms of compulsion that would place a unit outside the scope of the Third Sector could include the following:

- Membership or involvement that is the product of a governmental decree or other legal obligation (e.g. mandatory military service or alternative service in a particular organization);
- Membership in the unit is required in order to practice a trade or profession, or operate a business, where the choice of profession or business is not itself a matter of choice;

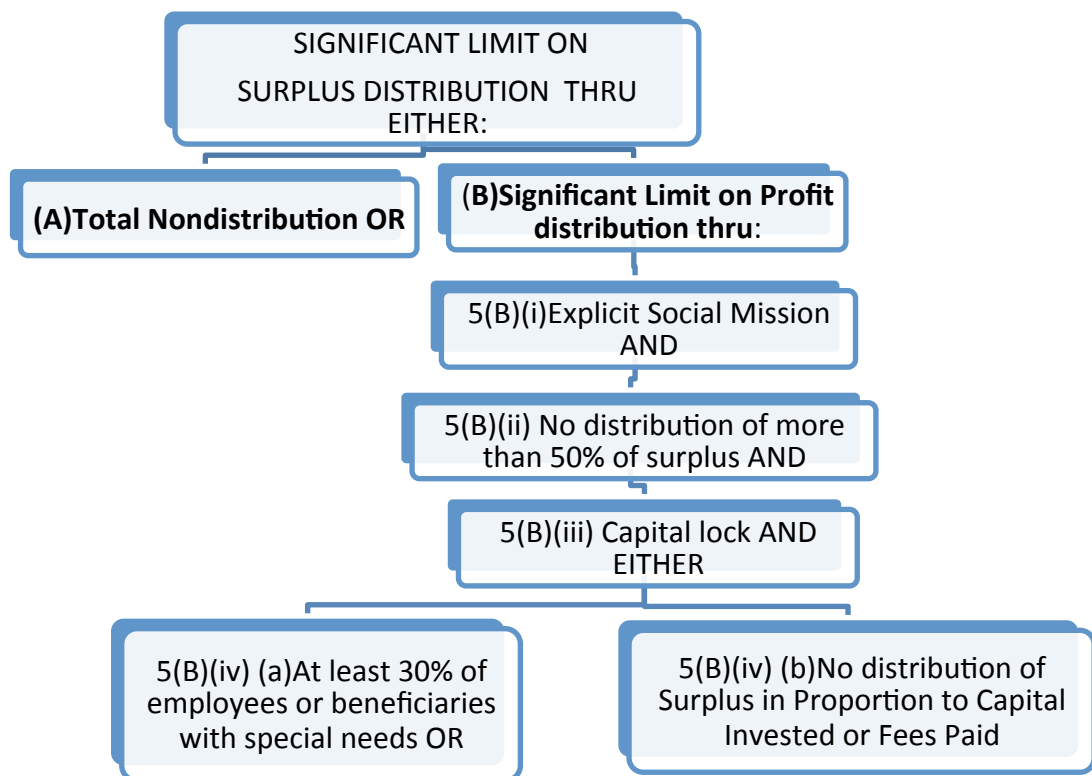
This feature, combined with limited profit distribution outlined below, serves as a proxy for a public-interest purpose as perceived by those who freely agree to work for the organization without expectation or possibility of personal profit.



To be considered *totally or significantly limited from distributing any surplus, or profit an organization must be* subject to some formal or legally binding constraint that that prohibits or limits the distribution of any profits they may generate to directors, shareholders, members, or other individuals. This means that the organization can compensate its employees for work performed, but is subject to prohibitions or limits on any other distribution of profits to investors, directors, or others.

Such constraint may either be direct (involving a direct limitation on profit distribution) or indirect (involving some constraint on the organization’s operations that effectively constitutes such a constraint).

Figure 2. Operational definition of total or significant limits on surplus distribution



- Total nondistribution of profit involves a legal prohibition on an organization’s directors, shareholders, members, workers, or other stakeholders from receiving any portion of the surplus generated by the



organization's activities. If not – terminate the test and conclude that the unit is totally prohibited from distributing surplus. If yes – continue the test.

- Significant limit on profit distribution involves several different conditions: Presence of a legally binding social mission that may limit the surplus generated by its activities; and
 - A legally binding “capital lock” requiring that any retained surplus or accumulated assets must be conveyed to a similarly restricted organization in the event the subject organization is dissolved or converted to a non-third Sector institution; AND
 - A legally binding prohibition on distributing more than 50 per cent of any surplus generated by its activities to members; AND EITHER:
 - A legally binding requirement that a substantial proportion of its employees or beneficiaries (e.g. 30 or more per cent) be people with special needs (e.g., related to housing, employment, access to proper food, addictions, disabilities, illnesses, poverty, prior incarceration or other forms of social exclusion); OR
 - A legally binding prohibition on surplus distribution in proportion to capital invested or fees paid?

Along with the non-compulsory feature, this limited profit-distribution feature serves as a proxy for the “public interest” purpose of a third-sector organization, but locates the definition of public interest in the free choices made by individuals in a society and not in some external rule. The basic concept is that if individuals choose freely to affiliate with an institution from which they can receive either no profit or no significant profit, the organization must be serving some purpose that they consider to be for the public good.

Table 3 demarcates the *institutional* boundaries of the Third Sector set by this definition by listing different types of institutional forms that are in- or out- of the TS scope.

Table 3: Potential In-scope and Out-of-Scope Third Sector Institutional Units



Probable inclusions	Likely inclusions	Likely exclusions
A. Non-profit Institutions, associations, foundations		
Non-governmental organizations (NGOs)		Government-controlled NPIs (GONGOs)
Registered charities	Self-owning institutions	International associations of governments or gov't agencies (e.g. UN, Eurostat)
Civic and social organizations	Disaster preparedness and civil defense organizations	Autonomous public agencies (e.g. central bank, statistics office)
Non-commercial foundations	Commercial foundations	
Amateur cultural organizations (e.g. theaters, ensembles, etc.)	Private cultural institutions	Public cultural institutions (e.g. museums)
Religious congregations and faith based orgs		Official state-controlled churches
	Private health care providers	Public health care providers
	Private social assistance providers	Public social assistance providers
	Private educational institutions	Public educational institutions
Volunteer promotion organizations		
Advocacy organizations	Political parties	
Labor unions		
Professional associations		
Trade or employer		



associations		
Social and hobby clubs		
Amateur sports and recreation associations		
Community benefit associations		
Membership associations		
	Entities nominally registered as non-profits that de facto distribute profits	
Non-profit microcredit organizations	Financial intermediaries organized as mutuals	Commercial financial intermediaries
	Indigenous people associations	
B. Cooperatives and Mutuals		
Non-profit cooperatives	Housing cooperatives	Agricultural cooperatives
Social cooperatives	Building societies	Producer cooperatives
	Insurance cooperatives	Consumer cooperatives
	Credit unions/cooperatives	Worker cooperatives
	Education cooperatives	Retail cooperatives
	Insurance mutuals	Commercial mutuals and cooperatives
	Providence mutuals (mutual health funds)	
C. Social Enterprises		



Social enterprises registered as NPIs	Social enterprises registered as social-purpose companies	Social enterprises operating as for-profit businesses
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Virtually all non-profit institutions (NPIs) as defined in the UN *Handbook on Non-profit Institutions in the System of National Accounts* are in the TS scope. This includes not only NPISH, but also “market NPIs” assigned to the corporations sector in the European System of Accounts inasmuch as they entail the definitional features of NPIs. The only exceptions are those NPIs that are controlled by government (including official state churches) and units nominally registered as NPIs that de facto distribute profits e.g. in the form of excessive compensation of directors or key stakeholders. The borderline cases include those organizational forms whose legal status varies from country to country. Examples include hospitals and universities (in some countries they may be controlled by government), foundations (in some countries they may be permitted to distribute profits), political parties (in some countries they may be controlled by government) indigenous people’s associations (in some countries their membership may be decided by birth or act as quasi-governmental authorities), and cultural institutions such as museums or public libraries (some of them may be government controlled).

Only non-profit and social cooperatives are clearly in the TS scope. Most other types of cooperatives and mutuals are either borderline cases or out-of-scope, depending on whether they operate under meaningful limits on their distribution of profit. In most general terms, most cooperatives and mutuals in northern European countries (such as Belgium, France, or the Scandinavian countries) tend to operate as profit distributing entities and are likely to be out of the TS scope. By contrast, southern European countries (Bulgaria, Greece, Hungary, Malta, Spain, and Portugal) consider cooperatives as social and public benefit entities, which is reflected in their special legal status and tax treatment. These cooperatives are more likely to be in the TS scope. All market-oriented cooperatives that operate as profit distributing businesses and are free to distribute profits are out of scope.

Social enterprises that are registered as NPIs, social or mutual activity cooperatives, or special “social-benefit organizations” are in scope. Social enterprises registered as corporations are either borderline cases or out of scope.



Finally, all privately owned for-profit businesses, all government agencies and units controlled by them and all households are out of the TS scope by definition.

5.2 Informal and Individual Components

In addition to institutions, the third sector may embrace a variety of individual and informal activities. In particular, individual activities considered in-scope of the Third Sector would have to display the following characteristics:

They produce benefits for others and not just, or chiefly, for the person performing them. The test here is whether the activity could be replaced by that of a paid substitute. Thus, for example, time spent playing the piano for one's personal enjoyment would not be considered a third-sector activity, whereas playing the piano for residents of a nursing home would qualify.

They are not casual or episodic. Rather, they are carried on for a meaningful *period of time*, typically defined as an hour in a certain "reference period." Helping an elderly person across the street one day would thus not qualify as an act that is part of the Third Sector but serving as the crossing guard at a school would;

They are unpaid, that is, the person performing them is not entitled to any compensation in cash or kind. Although this feature is straightforward and self-explanatory, its application may be problematic in those circumstances where people performing activities receive something of value that is not formally defined as compensation or wages. This may include token gifts of appreciation, accommodations, reimbursement of expenses, or stipends. The test whether such transfers of value constitute compensation is asking the question "*Does the value received by the performer exceed the expenses that he or she incurs or is likely to incur to perform the activity?*" If the answer is no, then the transfer does not qualify as compensation

The activity is *not aimed at benefiting members of one's household* or immediate family if clear definitions of "immediate family" are available.

The activity is non-compulsory, which means it involves a meaningful element of individual choice. To be considered non-compulsory:



- The person performing the activity must have the capacity to choose whether to undertake the activity. This excludes activities undertaken by minors or the mentally challenged;
- Can the persons performing the activity cease to perform it at any time if they so choose? If not – terminate the test and conclude that the activity is not non-compulsory. If yes – continue the test.
- Performing the activity is not required by law, governmental decree or other legal obligation;
- If performing the activity is required to practice a trade, profession, or similar economic activity or to complete educational requirements, then there must be a meaningful element of choice in the selection of that trade, profession, economic activity or educational program.

The *human action* boundary of the Third Sector set by this definition includes the types of individual human action shown in **Table 4**.

Table 4. Forms of human action in- and out-of scope of the TS in Europe

Likely inclusion	Presumptive exclusion	Likely exclusion
Uncompensated efforts through organizations of any kind by individuals 15 years of age or older	Uncompensated efforts on “company time” i.e. while performing work-related activities	Legally mandated public service
Uncompensated efforts outside organizations of any kind that benefit general public, performed by individuals 15 years of age or older	Uncompensated efforts that are episodic or incidental to other activities	Public service required to complete compulsory education
All forms of uncompensated pro-bono work undertaken in the professional capacity and performed by individuals 15 years of age and older	Public activities that primarily benefit the performer	Uncompensated internship, apprenticeship, and similar training activities to obtain occupational skills
	Certain illegal activities (e.g. civil disobedience)	Criminal activities

The human action in scope of the Third Sector include all forms of non-compulsory volunteer work through organizations of any kind, private or public, performed by



individuals, uncompensated efforts outside organizations of any kind to organize public, cultural or religious events; community improvement; promote public health, safety, or education; emergency relief or preparedness; clean up the environment, animal rescue; or helping individuals other than members of own household performed by individuals 15 years of age or older, as well as uncompensated pro-bono work undertaken in a professional capacity (e.g. legal or emotional counselling, review of scientific papers for publication, arbitration, etc.).

Forms of human actions that are out the TS scope include all forms of legally mandated public service, such as volunteer work in lieu of compulsory military service, or court-ordered retribution, public service requirements to fulfil mandatory educational requirements (e.g. volunteering required to graduate from high school), all forms of uncompensated training activities whose main purpose is the acquisition of occupational skills by the person performing them, and all activities linked to common crime (e.g. criminal gang involvement or acts of street violence), as these by definition do not benefit the general public.

Finally, borderline cases involve those forms of human actions whose principal beneficiaries are difficult to determine. These include uncompensated efforts that coincide with those performed during one's employment (e.g. public benefit work required of employees as a part of corporate social responsibility), uncompensated efforts for others while performing actions benefiting primarily oneself (for example, giving a neighbour a ride on one's way to work, or taking care of neighbour's children while watching one's own kids), or participation in public events that entail a substantial personal benefit component, such as participation in cultural or political events, religious services, public protests, festivals etc. Another borderline case consists of activities that while illegal, are nonetheless intended to benefit the general public, e.g. civil disobedience to force a public debate or a policy change on a particular issue.

All forms of employment-related activities and all forms of household activities (socializing, leisure, etc.) are out of scope by definition.

5.5 Conclusion and Next Steps

The TSI project has thus succeeded in fashioning a consensus conceptualization of the Third Sector in Europe that is rooted in a fairly thorough review of different conceptions of Third Sector realities in the various European regions, and that lives up to the



fundamental criteria we set for such a definition at the outset of the TSI project. The conceptualization describes a broad common core of European institutions and forms of individual behaviour that can reliably be considered to be within scope of the Third Sector and consistent with the thinking of numerous stakeholders and key members of the European research community that works on this topic.

The next step in this process, however, is to assess how fully this conceptualization aligns with existing laws and customs in the different countries, and how fully its “red lines” of demarcation between in-scope and out-of-scope entities and behaviours correspond with existing data systems or can be made to do so. A start has been made on this next step in the course of fashioning the conceptualization but more in-depth investigation is under way as of this writing in order to assess how fully the data needed to portray the scope, structure, and funding of the Third Sector so defined are available.



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