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# The third sector in Europe: Towards a consensus conceptualization

Concept coordinator

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## 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 behavior 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.<sup>1</sup>

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 “nonprofit” 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, nonprofit 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, 2001, 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.

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<sup>1</sup> See, for example, Defourny and Pestoff 2014.

### 3.1 Establishing the criteria for an acceptable conceptualization

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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:

- 3.1.1 Sufficient breadth and sensitivity** to encompass as much of the enormous diversity of this sector and of its regional manifestations in Europe as possible;
- 3.1.2 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.
- 3.1.3 Comparability**, to highlight similarities and differences among countries and regions.
- 3.1.4 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
- 3.1.5 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"

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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 such comparability 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**

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Consistent with the concept of a modular approach centered on a common core conceptualization of the third sector was a decision to preserve the component identities of the types of institutions and behaviors 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 behaviors together in one misleadingly undifferentiated conglomeration.

### **3.4 Building on existing progress**

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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 Statistics Division (UNSD 2003) in 2003 issued a *Handbook on Nonprofit 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. According to this *UN NPI 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:

#### **3.4.1 Organizations**, that is, institutionalized to some extent;

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

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

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

**3.4.5 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 *Manual on the Measurement of Volunteer Work* (International Labour Organization 2011) that established a definition of this form of individual action widely considered to be a component of the third sector. 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**

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Finally, to ensure that the project formulated a consensus definition broad enough to encompass the largest possible array of European third sector institutions and behaviors, 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 a 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).

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

| Region                     | Responsible Partner   | Countries Covered   |
|----------------------------|---|---|
| Nordic region              | Institute for Social Research — Norway  | Norway, Sweden, Denmark, Finland  |
| Northern Europe            | Vienna University of Economics and Business — Austria                                       | Netherlands, Belgium, Germany, Austria, (France?)                                   |
| Anglo-Saxon                | University of Kent, School of Social Policy, Sociology and Social Research — United Kingdom | United Kingdom, Ireland   |
| Southern Europe            | The University of Valencia — Spain  | Spain, Portugal, Italy, Greece, (France?)   |
| Central and Eastern Europe | Warsaw University — 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   |
|---------------------------------|---|
| Nonprofit Institutions          | Johns Hopkins/ School of Advanced International Studies/SAIS Bologna (JHU/SAIS Bologna) |
| Mutuals and Cooperatives        | University of Valencia  |
| Social Ventures                 | Centre National De La Recherche Scientifique, France                                    |
| Individual activity without pay | JHU/SAIS Bologna  |

This field guide process consisted of three major steps:

**3.5.1 Concepts and terminology.** The five partners assigned to the preparation of field guides taking a regional approach were asked to identify the kinds of terms used widely to refer to third-sector type entities or behaviors in their respective regions. Similarly, each of the four partners assigned to the preparation of field guides focusing on one of the four types of institutions or individual behaviors 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 behaviors in Europe, and the different meanings that these terms suggested.

**3.5.2 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.

**3.5.3 Testing a tentative third-sector conceptualization.** Finally, a tentative hypothesized third-sector conceptualization was formulated by the Work Package leader based on prior discussions and existing literature and partners were asked to assess which, if any, 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 conceptualization when applied to the realities of their regions or particular types of institution or behaviors.

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 could 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 conclusions

Two major conclusions flowed from this bottom-up review process. *First*, the process surfaced the *extent of diversity among* the types of entities or behaviors embraced within a concept of the third sector in Europe and also *within* the various types of entities considered potentially 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

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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 an 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 nonprofit 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" (UK 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, 197; Six and Leat 1997). 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). 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 Nonprofit 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 to 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 such institutions are dissolved or converted into for-profit status. Whatever legal basis there is for this nonprofit distribution status is limited to tax law, however, which links tax exemption to this nonprofit 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 nonprofit organizations mentioned above. The term third sector encompasses all Nonprofit-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 Nonprofit-Organization (NPO) also is used in all countries. The boundaries between civil society and the NPO sector are 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 nonprofit, 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 nonprofit associations providing various services, advocacy groups, and social ventures.

**4.1.3 Nordic countries.** 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 government 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.

**4.1.4 Southern Europe.** 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 nonprofit 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 nonprofit, 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 nonprofit 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. 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 as a distinct sector around which data should be organized. Rather, cooperatives and mutuals are considered "market producers" and as such are grouped with for-profit companies in the corporation sector of national accounts.

**4.1.5 Central and Eastern Europe.** 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 nonprofit sector, are used to denote the set of organizations with different legal foundations, including associations, foundations, cooperatives, mutual companies, labor 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 nonprofit 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.

**4.1.6 Social enterprises.** 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 nonprofit organizations or to organize as regular for-profit businesses.<sup>2</sup>

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 continent. 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, 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**

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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, and popular usage has bought into this formulation.

More importantly, a somewhat surprising degree of consensus also surfaced in the responses to our field guide search for clarification of the elusive concept of the third sector in its European manifestations. The discussion below outlines a number of important components of this consensus.

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<sup>2</sup> On the legal forms of social enterprises, see: Lane 2011. On the phenomenon of social enterprises more generally, see: Nicholls 2006; Bornstein 2004.

**4.2.1 Wide agreement on three underlying features.** In the first place, while there was disagreement about the precise institutions or behaviors 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 Nonprofit Institutions in the System of National Account* as NPIs, or nonprofit institutions.<sup>3</sup> As spelled out in that *NPI Handbook*, as noted previously, these are *institutions* or organizations, whether formally or legally constituted, that are *private, self-governing, non-profit-distributing*, and engaging people *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 widespread agreement that nonprofit 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 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 to some production cooperatives as well. Because of this, there was little consensus about the appropriateness of bringing the entire "social economy" collection of institutions into the common core concept of

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<sup>3</sup> Cohen and Arato (1994); VanTil (1988); Edwards (2011), Evers and Laville (2004), Chambers and Kymlicka (2002), Howell and Pearce (2001); Defourny, 2001:4; Salamon et al. 2004.

the third sector in Europe. What is more, there is little sign that it would be possible to convince 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.

Reflecting these concerns, much of the analytical attention in devising a “common core” conceptualization of the third sector in Europe came to focus on identifying a suitably operational concept of “limited profit distribution” 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.

**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 the countries of 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 nonprofit 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 differentiating them 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 from those carried out on behalf of others.

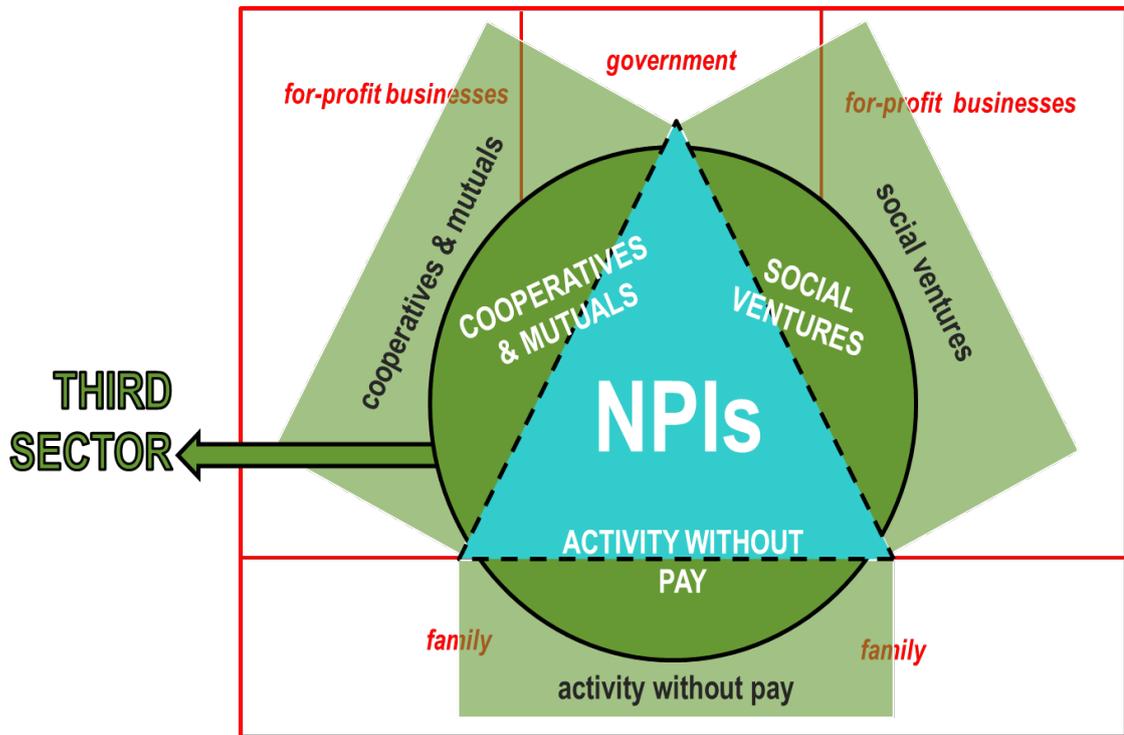
The task here was greatly simplified, however, by the existence of the International Labour Organization *Manual on the Measurement of Volunteer Work*, which offered an operational definition of volunteer work that included many of the activities that could easily be interpreted as manifestations of 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 beyond 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) nonprofit 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 distinguished. 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 three green shaded areas represent types of social phenomena that are partly in-scope of the core concept of the third sector and partly out-of-scope of it. The circular line represents the boundary of the third sector.

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.

Figure 1. Conceptualizing the third sector in Europe: A first cut



The triangle in the middle thus represents the nonprofit institution sector identified through the UN *NPI Handbook*, while the ILO *Volunteer Measurement Manual* offered a way to differentiate the in-scope individual activities from the out-of-scope ones. The dotted line separating NPIs from cooperatives, mutuals, social enterprises, and activity without pay is intended to reflect the fact that some cooperatives, mutuals, and social enterprises are also NPIs, and that some volunteer work takes place within NPIs. The remaining challenge was therefore to find the dividing lines that could differentiate in-scope cooperatives, mutuals, and social enterprises from those that blurred too extensively into for-profit businesses.

To meet this challenge, we began with the existing consensus definitions of the NPI sector and volunteer work, respectively, and searched for ways to refine them to incorporate portions of these other potentially in-scope institutional and individual-action components while still adhering to the criteria of breadth, comparability, operationalizability, and institutionalizability we had set for ourselves at the outset. The resulting 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 conception 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

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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 nonprofit organization, an association, a cooperative, a mutual, a social enterprise, or any other type of institutional entity in a country-- must meet all five of these features to be considered “in-scope” of the third sector.

In particular, to be considered part of the European third sector, 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.**

More specifically, each of these features was translated into operational terms as follows:

**5.1.1 The organization feature.** To be considered an **organization**, a unit need not be legally registered. What is important is that it involves groups of people who interact according to some understood procedures and pursue one or more common purposes for a meaningfully extended period (e.g., longer than several months). Groupings that lack even these minimum features of permanence and understood procedures for defining participants and taking decisions (e.g., ad hoc social movements or protest actions) can still be considered parts of the third sector as parts of the individual action component of the third sector.

**5.1.2 The private feature.** To be considered **private**, an entity must be institutionally separate from government. This means that the organization is not a government

unit, does not exercise governmental authority in its own right, and is able to dissolve itself and cease operations on its own authority.

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

**5.1.3 The self-governing feature.** To be considered **self-governing**, an entity must be able to control its own activities and not be 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 all or most of the organization's governing officials;
- A meaningful degree of financial autonomy, including the ability to refuse funding from an external source;
- The ability to determine the basic mission and purpose of the organization.

**5.1.4 The non-compulsory feature.** To be considered **non-compulsory**, participation with the organization 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 that 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 requirement outlined below, serves as a proxy for a public-interest purpose since organizations in which individuals freely choose to participate but from which they can expect to secure only limited profit or none at all must be organizations that serve some public purpose in the minds of those who are involved with them.

**5.1.5 The limited profit-distribution feature.** 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 limits all or some significant portion of the distribution of any profit it may generate to directors, shareholders, members, or other individuals. This means that the organization can compensate its employees for work performed, but is otherwise subject to either a total prohibition, or significant limitation, on any distribution of profits to employees, investors, directors, or others.

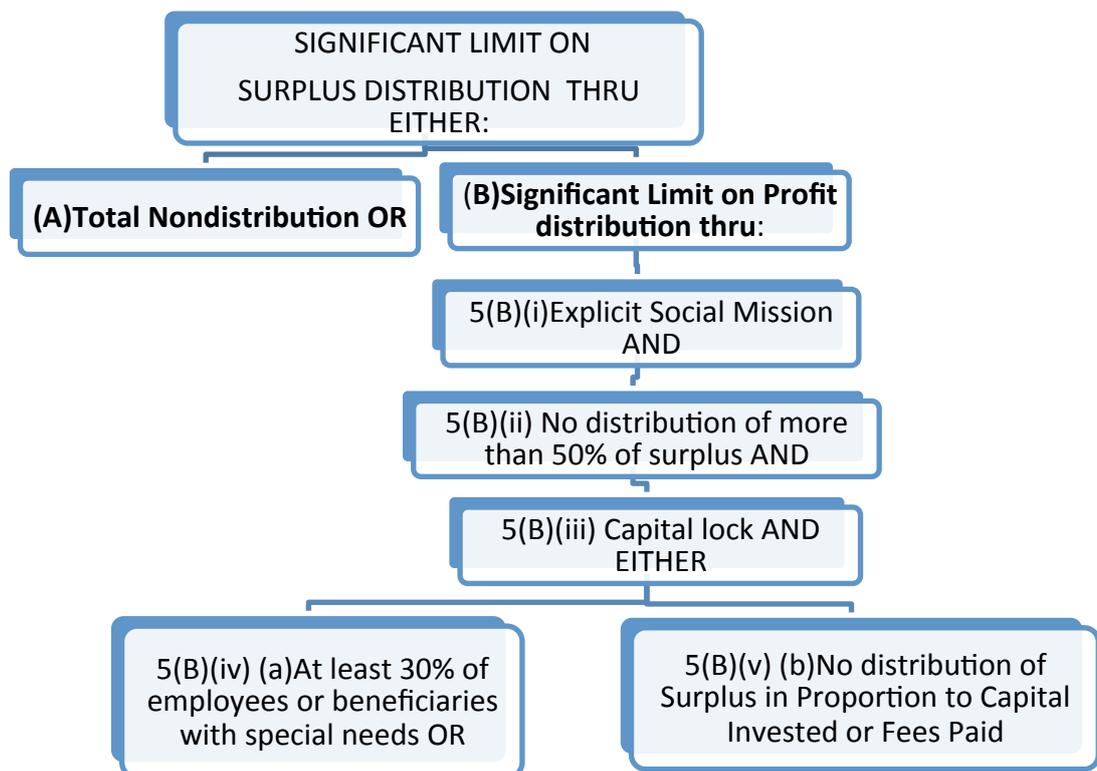
This feature embraces the full non-distribution of profit feature used to define “nonprofit institutions” but broadens it to embrace organizations that permit some distribution of profit (e.g. cooperatives, mutual, and social enterprises), but still restricts it to those entities that are required by law or custom to place some significant limit on such distribution.

Based on our investigations into existing laws and practices in Europe, such limitations may either be *direct* (involving a direct limit on the share of profit distributed), or *indirect* (involving some constraint on the organization’s operations that effectively constitutes such a limit. More specifically, five such limits were identified and were incorporated into our definition of the third sector. As noted in Figure 2 below, to meet the “limited profit distribution” feature of our definition of the third sector, organizations would have to fulfil four of the following five conditions: (i) have a legally binding social purpose that may limit the surplus generated by its activities; and (ii) be prohibited from distributing any more than 50 percent of any profit they may earn to any stakeholders or investors; and (iii) operate under a “capital lock” that requires that all retained profits must be used to support the organization or, in the case of its dissolution or conversion, to support another entity with a similar social purpose; and either (iv) include at least 30 percent of individuals with specified special needs among its employees or beneficiaries; or (v) be prohibited from distributing any profits 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 widely associated with the concept of a

third-sector, but it 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 more than a limited profit, the organization must be serving some purpose that they consider to be for the public good.

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



Virtually all nonprofit institutions (NPIs) as defined in the UN *Handbook on Nonprofit Institutions in the System of National Accounts* are thus in scope of the third sector under this core definition. 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). Particular types of organizations—e.g. hospitals, universities, cultural institutions—may be organized as “third sector” organizations in some countries and as governmental institutions or for-profit institutions in others. Indeed, all three forms of such institutions can exist in particular countries. Borderline cases can include 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 the organizations may exercise governmental authority).

Some, but not all, cooperatives and mutuals would likely be in scope of the third sector under this core definition. Only cooperatives that are organized as nonprofits, or social cooperatives that operate under legal requirements stipulating a minimum portion of employees or beneficiaries that exhibit certain “special needs,” would be clearly in 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. As a general rule, cooperatives and mutuals in northern European countries (such as Belgium, France, or the Scandinavian countries) tend to lack such clear limitations on their distribution of profits and are therefore likely to be out of scope of the third sector. By contrast, southern European countries (Bulgaria, Greece, Hungary, Malta, Spain, and Portugal) more often impose conditions on cooperatives and mutuals that have the effect of limiting their distribution of profit. These cooperatives are more likely to be in the third sector scope so long as they meet the operational criteria for limited profit distribution identified above. By contrast, 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 likely in scope of the third sector as identified here. Social enterprises registered as corporations are either borderline cases or out of scope depending on the extent to which they meet the operational requirements of meaningful limits on their distribution of profits.

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.

Table 3 demarcates the **institutional** boundaries of the third sector set by this definition by listing different types of institutional forms that are “probable inclusions,” “possible inclusions,” or “probable exclusions” from the third sector as conceptualized here.

Table 3. Potential In-scope and out-of-scope third sector institutional units

| Probable inclusions | Possible inclusions | Likely exclusions |
|---------------------|---------------------|-------------------|
|---------------------|---------------------|-------------------|

| <b>A. Nonprofit Institutions, associations, foundations</b>     |   |   |
|---|---|---|
| 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>B. Cooperatives and Mutuals</b>    |   |   |
|---------------------------------------|---|---|
| Nonprofit 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)                  |   |
| <b>C. Social Enterprises</b>          |   |   |
| Social enterprises registered as NPIs | Social enterprises registered as social-purpose companies | Social enterprises operating as for-profit businesses |

## 5.2 Informal and individual components

In addition to organizations, the third sector embraces 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:

**5.2.1 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.

**5.2.2 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;

**5.2.3 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 of whether such transfers of value constitute compensation lies in the answer to 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;

**5.2.4 The activity is not aimed at benefiting members of one’s household or their next of kin (i.e. parents or children);**

**5.2.5 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;
- The persons performing the activity must be able to cease performing it at any time if they so choose. If not, the activity is not non-compulsory.
- 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 2. Forms of human action in- and out-of scope of the third sector in Europe**

| <b>Likely inclusion</b>  | <b>Possible exclusion</b>   | <b>Likely exclusion</b>   |
|--|---|---|
| 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 of any kind that benefit general public, performed by individuals 15 years of age or older directly for others but not mediated by organizations | 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 a 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 |
| Participation in social movements or advocacy activities   | Certain illegal activities (e.g. civil disobedience)                                  | Criminal activities   |

The human action in scope of the third sector includes (i) all forms of non-compulsory, uncompensated volunteer work through organizations of any kind, private or public; (ii) uncompensated efforts outside of organizations of any kind to organize public, cultural or religious events; to engage in community improvement; to promote public health, safety, or education; to provide emergency relief or preparedness; to clean up the environment or rescue animals; or to help individuals other than the members of one's own household in any other way; as well as (iii) uncompensated pro-bono work undertaken in a professional capacity (e.g. legal or emotional counseling, review of scientific papers for publication, arbitration, etc.).

Forms of human action that are out of the scope of the third sector include all forms of legally mandated public service, such as volunteer work in lieu of compulsory military service, 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).

Finally, borderline cases involve those forms of human action 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 neighbor a ride on one's way to work, or taking care of neighbor'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.

## **6 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 behavior that can reliably be considered to be within scope of the third sector

and consistent with the thinking of numerous stakeholders and of key members of the European third-sector research community.

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 behaviors 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, funding and impact of the third sector so defined are available.

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