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Social Enterprises and Health Care Services within the European Legal Framework

Alceste Santuari
PhD, Department of Sociology and Business Law, Alma Mater Studiorum – Unviersity of Bologna; e-mail: alceste.santuari@unibo.it
https://orcid.org/0000-0002-2553-0003

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Abstract: Social enterprises (SEs) are organizations that pursue a purpose of general interest through the carrying out of economic activities on a steady and permanent basis. Despite the legal, economic and social differences among the Member States (MSs) of the European Union, SEs display at least two similar characteristics. Firstly, SEs are capable of combining entrepreneurial activities together with the pursuit of a social mission. Secondly, SEs largely deliver health care services both independently and in close partnership with public authorities, either through public procurement or by means of direct co-operation agreements. In this perspective, modern welfare systems rely heavily on a significant proportion of health care services and benefits provided by SEs. In addition, in some MSs, such as Italy, SEs are supported by enabling legal frameworks, which also include some important tax benefits. Against this background, the article aims to shed light on the legal aspects and the role of SEs in the delivery of health care services as well as their contribution to ensuring citizens/patients their fundamental right to health.

1. Introduction

SEs are broadly defined as nonprofit distributing organizations that achieve (some of) their income through trading, both in public and private-sector

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markets, in order to accomplish a purpose of general interest.[1] SEs are then part of the third sector engaged in trade, through which they pursue their social aims.[2]

As part of the broad range of goals that SEs can pursue, they may also be engaged in the delivery of health and social care services, either as an alternative or complement to mainstream public services.[3] Moreover, in carrying out their activities, SEs may favor the employment of disadvantaged or hard-to-place groups of people.[4]

Over time, the combination of these two characters has contributed to a widespread acknowledgement of the role of SEs. They are regarded as innovative organizational forms that are capable of meeting the demand for health and social care services, while also creating new employment opportunities and workplace structures that are inclusive and enable worker productivity and well-being.[5]

In some MSs, SEs have gained their own specific legal recognition, whereas in others they are the result of a process of organizational adaptation of existing legal forms, such as associations, foundations, and social co-operatives.

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1 See: Francesca Calò et al., "Collaborator or Competitor: Assessing the Evidence Supporting the Role of Social Enterprises in Health and Social Care," *Public Management Review* 20, no. 12 (2018): 1790–814; and Antonio Fici, "Funzione e modelli di disciplina dell'impresa sociale in prospettiva comparata," in *Diritto dell'economia sociale*, ed. Antonio Fici (Naples: Editoriale Scientifica, 2016).

2 Michael J. Roy, Rachel Baker, and Susan Kerr, "Conceptualising the Public Health Role of Actors Operating outside of Formal Health Systems: The Case of Social Enterprise," *Social Science & Medicine* 172 (2017): 144–52.

3 Richard Hazenberg and Kelly Hall, "Public Service Spin-Outs in the UK: Towards a Theoretical Understanding of the Spin-Out Process," Paper presented at the 4th EMES European Research Network International Research Conference on Social Enterprise, University of Liege, Belgium, 01–04 July 2013.

4 The reference here is to "Work Integration Social Enterprises" (WISEs), a form of social enterprises designed to provide a supportive environment for vulnerable people. For a comprehensive analysis of these type of social enterprises, see: Isabel Vidal, "Social Enterprise and Social Inclusion: Social Enterprises in the Sphere of Work Integration," *International Journal of Public Administration* 28, no. 9–10 (2018): 807–25.

5 Terry Krupa and Shu-Ping Chen, "Psychiatric/Psychosocial Rehabilitation (Psr) in Relation to Vocational and Educational Environments: Work and Learning," *Current Psychiatry Reviews* 9, no. 3 (2013): 195–206.

It is noteworthy that both social and legal recognition of SEs has not been easy to achieve for at least two main reasons. Firstly, according to the European legal tradition, any kind of enterprise has long been assigned a profit motive only. It would therefore be hard to accept that an entrepreneurial organization could not achieve a profit as its main goal. There was also a widespread conviction among economists that the maximization of profits is a fundamental condition for the efficiency and success of any firm. Secondly, public authorities were for a long time the only entities responsible for the preparation and delivery of health and social care services Consequently, private entrepreneurs pursuing social goals were significantly reduced to a marginalized role.

However, the progressive recognition of the broader concept of enterprise, which may also include the pursuit of social aims, on the one hand, and the crisis of welfare state, on the other, has allowed for a thriving development of SEs across Europe. Currently, SEs play an essential role in the provision of health and social care services, especially due to their specific mission as well as their organizational and legal patterns. In this respect, not only are SEs often partners of public authorities in providing health care services,[6] they also actively and significantly contribute to ensuring European citizens' right to health by delivering the services that allow them to enforce the principles that welfare systems encompass in their legal frameworks.

Against this background, the article will analyze the legal and institutional aspects as well as the role of SEs in Europe in the provision of health care services, especially with reference to their capability of ensuring citizens' right to health. The article will also endeavor to prove that both EU law and national legal systems may offer legal frameworks conducive to the development of SEs.

The article is divided into seven sections. Section 1 outlines the reasons for analyzing SEs. Section 2 delves into the historical evolution of nonprofit organizations in Europe. Section 3 explains the relations between the

[6] Despite the differences between the national health and legal systems within the European Union, it is widely noted that SEs have developed less as competitors and more as collaborators of public authorities in the provision of health and care services in Europe. For a complete discussion on this issue, see: Calò et al., "Collaborator or Competitor," 1790–814.

crisis of welfare systems and the development of SEs. Section 4 is devoted to explaining the specific relationship between SEs and the provision of services of general interest. Sections 5 underlines the role of SEs in ensuring the right to health. Section 6 illustrates the innovative features of the recent Italian SEs Reform Act. Finally, section 7 includes some concluding remarks.

2. A Brief Historical Overview of the Role of Nonprofit Organizations in Europe

As SEs are, in a sense, the organizational and legal evolution of traditional nonprofit organizations, a brief historical analysis of these organizations is needed to fully grasp the modern features of SEs.[7]

In Europe, by the end of the eighteenth century, nonprofit organizations had long been engaged in charitable activities, such as social work, health and social care, alms housing and education, especially for the benefit of the needy.[8] Nonprofit and charitable organizations could be freely set up to pursue their public goals and perform their activities in these sectors. The role of public authorities at that time was to supervise and ensure that charities would carry out their activities according to their charitable status and purposes.[9]

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7 See: Antonio Fici, *The Law of Third Organisations in Europe. Foundations, Trends and Prospects* (Rome: Springer – Giappichelli, 2023).

8 Alun Withey, "Medicine and Charity in Eighteenth-century Northumberland: The Early Years of the Bamburgh Castle Dispensary and Surgery, c. 1772–1802," *Social History of Medicine* 29, no. 3 (2016): 467–89. In Italy, at the end of the thirteen century, there were 10 hospitals in Milan, among which the St. Stephan Hospital could provide 500 beds and welcome 350 babies and 1,000 adults. In 1624 Rome, there were 8 hospitals, 21 confraternities, 11 colleges and 17 national hospitals, providing services to people coming from Venice, Milan, Germany and other states. See: Alberto Cova, "La situazione italiana: una storia di non profit," in *Il Non Profit Dimezzato*, ed. Giorgio Vittadini (Milan: Rizzoli, 1997), 31–2. In Milan, the case of the "Cà Granda" Hospital is paradigmatic: it was a huge "enterprise" that provided food to 1,600 men (barbers, chemists, bookkeepers, tailors) every day, in addition to the inmates. In the eighteenth century, the hospital was the largest landowner of the State. See: Ettore Verga, *Storia della vita milanese* (Milan: Casa Editrice Nicola Moneta, 1931), 174.

9 In England, the relations between charities and the Government mostly revolved around co-operation and mutual support rather than on conflicts or antagonism. It was in the Government's interest to sustain and help charitable organizations to grow and develop, not only because such intervention would relieve the Government itself of a certain number of responsibilities but also because this approach was perfectly in line with the liberal culture of

The legal and social environment in which charitable organizations had developed until then changed dramatically in the nineteenth and twentieth centuries under the pressure of a new kind of approach towards charities and the establishment of the modern welfare state. Starting from the end of the eighteenth century, when the French Revolution broke out, suspicion and aversion towards charities began to grown in Europe, with the exception of England, especially because they were mostly considered to be connected to the Catholic Church.[10] On the one hand, the ideology of the Enlightenment postulated that the State was to be recognized as the only "voice" of the people's will. No other established body could then exist, as citizens had to strengthen the authority of the State in order to expand and protect their individual rights.[11] On the other hand, the mainstream

the time. Charities then performed their activities in several areas, such as education, elderly care, poor relief, etc., especially in the big towns during the Industrial Revolution. The urban population, which consisted of workers living in cities like London, Norwich and Bristol, was considered to be "a sort of wild, savage, not welcomed people, whom nobody knew and nobody visited." See: Gareth Jones, *History of Charity Law 1530–1827* (Cambridge: Cambridge University Press, 1967), 178. The history of British charities and voluntary sector has always been defined by the search for a partnership with the State. "In the late nineteenth century, the voluntary sector took the lead in establishing the nature of the partnership; in the later twentieth century it is Government that has proposed a new 'Compact' on relations between the two sectors (Home Office, 1998)." See: Jane Lewis, "Reviewing the Relationship between the 'Voluntary Sector' and the State in Britain in the 1990s," *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 10, no. 3 (1999): 255–70.

10 Alceste Santuari, *Le ONLUS* (Padova: Cedam, 2012), 21. In 1850, in Piedmont (Italy), the Government passed some statutory acts that confiscated all the assets of religious organizations and prevented religious and charitable organizations from carrying out activities without a specific royal authorization. In 1890, other statutory acts incorporated private charitable organizations into public bodies, which were to be directly supervised by local governments and managed by public officers. Later on, Fascism hampered and absorbed nonprofit organizations into the corporatist State, thus making them operate like public agencies. In this perspective, the Fascist regime strengthened the Italian social security system by allowing only State authorities to be in charge of providing social and health care services.

11 "The 1789 French revolution radically changed the philanthropic landscape, instituting the State as the sole ruler and custodian of the 'public interest' of the French people. The Le Chapelier Act of 1791 dissolved all existing charitable associations and nationalized all foundations under the principle that "no one is allowed to incite citizens to have an intermediary interest [between their own and the State's], to separate them from the Nation by spirit of cooperation". The 1793 republican constitution formally assigned the responsibility of the welfare of French citizens to the State: "Society owes subsistence to the unfortunate citizens, either

economic doctrine of *laissez-faire* ventured that economic relations were to be governed by market-driven forces only, thus disregarding all organizations that were not established for the purpose of making a profit.

This cultural and economic approach became also a legal attitude. The French Civil Code of 1804 included a comprehensive regulation of corporations, but it did not recognize any role for charitable organizations, because they did not pursue an economic goal. Accordingly, foundations and associations, which were the main nonprofit legal forms, would henceforth be devoid of any entrepreneurial features, as they would not be considered capable of carrying out economic activities.

From the late 1940s, the concept of welfare state began to develop across Europe.[12] Public authorities were progressively entrusted with a wide range of public interest functions. Such tasks also implied that they would be in charge of delivering welfare services. Hence, nonprofit organizations started to lose their role as health and social care providers and began to carry out mainly advocacy activities,[13] thus eventually playing an even more minor role than in the past.

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by getting them work or by insuring means of subsistence to those who cannot work." See: Arthur Gautier, Anne-Claire Pache, and Valérie Mossel, "Giving in France: A Philanthropic Renewal after Decades of Distrust," *Research Center ESSEC Working Paper* 3 (2013): 1318.

12 The original idea of the modern welfare state dates back to the mid-40s of the last century in the UK, when the National Health Service was established. Lord William Henry Beveridge was one of the promoters and architects of the NHS. On 20 November 1942, William Beveridge submitted to the British Parliament a report titled "Social Insurance and Allied Services". It was the first and comprehensive analysis of welfare policies, which were to be regarded as an integrated and consistent combination compatible with a market economy. The Beveridge Report proposed the introduction of a universal social security coverage and a covenant between the Government and voluntary organizations: "The third principle is that social security must be achieved by co-operation between the State and the individual. The State should offer security for service and contribution. The State in organising security should not stifle incentive, opportunity, responsibility in establishing a national minimum, it should leave room and encouragement for voluntary action by each individual to provide more than that minimum for himself and his family". See: William Beveridge, "Social Insurance and Allied Services," *Bulletin of the World Health Organisation* 78, no. 6 (2000): 848.

13 The rationale for nonprofit advocacy role is that it promotes the "public interest", defined as the collective or indivisible interests of the general public. See: Craig J. Jenkins, "Nonprofit Organizations and Political Advocacy," in *The Nonprofit Sector. A Research Handbook*, eds. Walter W. Powell and Richard Steinberg, 2nd ed. (Yale University Press, 2006), 307.

3. The Crisis of the European Welfare Systems and the Rise of Social Enterprises

At any rate, this "minority condition" of nonprofit organizations was soon to change. During the 1970s, the European welfare systems began to crumble under the weight of financial and organizational difficulties. Declining economic growth and rising unemployment were at the root of this crisis, which led to growing public deficits, among other things. While public revenues grew at a slower rate than in the past, public expenditures increased faster, especially in countries with generous subsidies for the unemployed and for the retirees and pre-retirees. In the first stage, most European countries responded to the fiscal crisis by both reforming employment subsidies and restructuring, slowing down or blocking the growth in the public supply of health and social care services. The subsequent increasing inability of traditional welfare policies to respond to an ever-swelling demand for health and social care services has led to a legitimacy crisis of the European welfare regimes.[14]

When European policy makers realized that the decline in economic growth would be a lasting phenomenon, they tried to implement a wide-ranging reform of welfare systems. Measures were taken to reduce the impact of public services provision on the public budget and to adapt, at least in theory, the supply of services to users' needs.[15] These objectives were pursued by (a) decentralizing to local authorities certain powers to decide and implement social and health care polices,[16] (b) introducing

14 Bruno Palier, "A Long Good Bye to Bismarck? The Politics of Welfare Reforms in Continental Europe" (Paper presented at the RC19 conference on Social policy in a globalizing world: developing a north-south dialogue, 6–8 September 2007–07–18 Florence University), 9.

15 See: Hans Dubois and Robert Anderson, *Impacts of the Crisis on Access to Healthcare Services in the EU* (Dublin: European Foundation for the Improvement of Living and Working Conditions, 2013).

16 See: Dolores Jiménez and Peter Smith, "Decentralisation of Health Care and Its Impact on Health Outcomes," *Discussion Papers Centre for Health Economics* 5/10 (2005); Rosella Levaggi and Peter Smith, "Decentralization in Health Care: Lessons from Public Economics" (Paper prepared for Conference on Economics and Health Policy Centre for Health Economics, University of York, 16th December 2003).

prices and tariffs,[17] and (c) privatizing some public services.[18] These policies were expected to make the European welfare systems more efficient and dynamic. On the contrary, the same policies often negatively affected the most vulnerable groups of citizens, thus reducing social cohesion.[19]

However, such a negative effect was to be partly balanced by the emergence of the role of nonprofit organizations as service providers. They progressively developed due to the decentralization and privatization process of health care services, which resulted[20] in the separation of financing responsibilities from service provision. While in many European countries, the financing of health care services is still largely within the competence of public authorities, the provision of those services has been contracted out to nonprofit organizations.[21] From this perspective, the distinction between purchasers and providers[22] has allowed for a better acceptance of civil so-

17 See: Jan B. Oostenbrink and Frans F.H. Rutten, *Cost Assessment and Price Setting in the Dutch Healthcare System A contribution to Work Package 6 of the EU Funded Research Project 'HealthBASKET': Approaches for Cost/Price Assessment in Practice* (Rotterdam: Institute for Medical Technology Assessment (iMTA), 2005).

18 See: Hans Maarse, "The Privatization of Health Care in Europe: An Eight-Country Analysis," *Journal of Health Politics*, *Policy and Law* 31, no. 5 (2006): 981–1014; Martin Powell and Robin Miller, "Privatizing the English National Health Service: An Irregular Verb?," *Journal of Health Politics, Policy and Law* 38, no. 5 (2013): 1051–9.

19 See: Richard Clayton and Jonas Pontusson, "Welfare-State Retrenchment Revisited: Entitlement Cuts, Public Sector Restructuring, and Inegalitarian Trends in Advanced Capitalist Societies," *World Politics* 51, no. 1 (1998): 67–98.

20 See: Christopher Newdick, "Global Capitalism and the Crisis of the Public Interest – Sleepwalking into Disaster," in *Research Handbook on Disasters and International Law*, eds. Susan C. Breau and Katja Samuel (Cheltenham: Edward Elgar, 2016). See also: James Barlow and Martina Köberle-Gaiser, "The Private Finance Initiative, Project Form and Design Innovation: The UK's Hospitals Programme," *Research Policy* 37, no. 8 (2008): 1392–402.

21 Julian Le Grand, "Quasi-Markets and Social Policy," *The Economic Journal* 101, no. 408 (1991): 1256–67.

22 Steven Harrison and Gerald Wistow, "The Purchaser/Provider Split in English Health Care: Towards Explicit Rationing?," *Policy and Politics* 20, no. 2 (1992): 123–30; Liina-Kaisa Thynkkynen, Ilmo Keskimäki, and Juhani Lehto, "Purchaser–Provider Splits in Health Care—the Case of Finland," *Health Policy* 111, no. 3 (2013): 221–5; Elenka Brenna, "The Lombardy Health Care System," *Università Cattolica del Sacro Cuore – Milan, Quaderni dell'Istituto di economia dell'impresa e del lavoro* n. 63 – maggio (2011); Josep Figueiras, Ray Robinson, and Elke Jakubowski, eds., *Purchasing to Improve Health Systems Performance* (European Observatory on Health Systems and Policies Series, Open University Press, 2005).

ciety's initiatives and has made their public funding more viable.[23] It has also stimulated supply and has especially spurred new projects in a sector that for-profit enterprises regarded as of little interest to them.[24] This set of changes has supported a growth in the demand for private providers of health care services. It has also widened the range of social and health needs, which have consequently opened up new opportunities for the nonprofit sector.[25] Yet, probably the most distinctive feature of such an evolution of nonprofit organizations is related to the recognition of health care as one of the fundamental rights of the individual.[26] The increased blurring of the private sphere, where human rights were traditionally not applicable, and of the public powers accounts for a new way by which nonprofit organizations have been perceived by the public at large. These organizations are regarded as falling within the purview of human rights law. As such, not only are they called upon and engaged in the delivery of essential services, but they are also expected to ensure human rights entitlements.

The ever-increasing involvement of nonprofit organizations in the delivery of health care services has brought about some significant changes in their legal and organizational patterns.[27] From the 1980s and the 1990s, nonprofit organizations began to diversify the measures through which they obtained funds for their activities. In addition to the more traditional income deriving from donations and fundraising campaigns, nonprofit organizations also started to pursue economic activities to find new financial resources for their mission. Nonprofit organizations realized that income generation would improve the efficiency, effectiveness, quality and

23 Union, Committee of the Regions, "The Management of Health Systems in the EU Member States – The Role of Local and Regional Authorities," 21 July 2011.

24 See: Henry B. Hansmann, "The Role of Nonprofit Enterprise," *Yale Law Journal* 89, no. 5 (1980): 843.

25 See: Ruud Ter Meulen, Wil Arts, and Ruud Muffels, eds., *Solidarity in Health and Social Care in Europe* (Springer, 2001).

26 Birgit Toebes, "International Health Law: An Emerging Field of Public International Law," *Indian Journal of International Law* 55, no. 3 (2015): 299–328.

27 Over the last decades, various legal forms have been created to better institutionalize or embed such an evolution of a nonprofit organization, which has been generally identified with the definition of social enterprise.

diversity of services that they provided for the benefit of the public,[28] especially the more marginalized and vulnerable people.[29] Simultaneously, they improved their partnership with public authorities[30]: some systematic funding policies have helped to strengthen the role of nonprofit organizations. These have begun to provide services to respond to health and social needs and not simply to advocate specific group interests.[31]

Ever since then, nonprofit organizations have (re)gained an important role in the provision of welfare services, including health care, particularly for the benefit of local communities.[32] According to privatization and contracting-out processes, these services are often provided as the result of public tenders in which nonprofit organizations take part as private providers. As a consequence of these policies, in many European health systems, a large number of associations and foundations that traditionally did not operate on the market have progressively moved towards a new organizational form, namely the social enterprise.[33] This represents a legal qualification which is currently recognized in most European jurisdictions.[34]

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28 See: European Center for Non-Profit Law, "Legal Regulation of Economic Activities of Civil Society Organizations," Policy paper, Budapest, February 2015.

29 See: Conference of INGos of the Council of Europe, "The Contribution of NGOs to the Fight against Poverty and Social Exclusion in Europe" (document prepared by Jean-Pierre Golle Vice-President of the Grouping 'Extreme Poverty and Social Cohesion' Grouping of the Conference of INGOs of the Council of Europe International Movement ATD Quart Monde, September 2007).

30 Jennifer M. Coston, "A Model and Typology of Government-NGO Relationships," *Nonprofit and Voluntary Sector Quarterly* 27, no. 3 (1998): 358–82. Before such a turning point, the voluntary welfare sector, "when matched against the welfare state, was consistently viewed as the 'junior partner in the welfare firm' in terms of both overall size and scale of service delivery." Michael Chesterman, "Foundations of Charity Law in the New Welfare State," in *Foundations of Charity*, eds. Charles Mitchell and Susan R. Moody (Oxford: Hart Publishing, 2000), Chapter 9, 251. See also: Tony Bovaird, "Efficiency in Third Sector Partnerships for Delivering Local Government Services: The Role of Economies of Scale, Scope and Learning," *Public Management Review* 16, no. 8 (2014): 1067–90.

31 See: Walter Devillé et al., "Health Care for Immigrants in Europe: Is There Still Consensus among Country Experts about Principles of Good Practice? A Delphi Study," *BMC Public Health* 11 (2011): 699.

32 Chesterman, "Foundations of Charity Law," 250.

33 See: Calò et al., "Collaborator or Competitor," 1790–814.

34 See: Fici, "Funzioni e modelli di disciplina," 289; Dana Brakman Reiser, "Theorizing Forms for Social Enterprise," *Emory Law Journal* 62 (2013): 681; Alex Nicholls, "Institutionalizing Social Entrepreneurship in Regulatory Space: Reporting and Disclosure by Community

SEs are organizations that are driven line businesses,[35] but at the same time they are bound to pursue social goals by law and by their own articles of association.[36] SEs are then characterized by an entrepreneurial nature and a social dimension. The entrepreneurial nature of social enterprises is usually defined by the following five aspects: (1) a continuous and necessary economic activity producing goods and/or services of general interest; (2) an appropriate degree of financial and economic autonomy; (3) a significant level of economic and management risk; (4) the presence of paid work; (5) a market orientation. All these aspects imply that most of SEs' income has to derive from the market (services sold directly to users) or from contractual transactions with public authorities.[37]

Social enterprises would therefore be engaged in a wide range of different activities, which can be divided into two main areas: the work integration of disadvantaged people and the provision of welfare services.[38] Social enterprises performing work integration activities have been traditionally engaged with both public authorities and private companies to develop specific employment programs for people with disabilities.[39] As for health and welfare services, SEs may perform a wide range of activities: from traditional health and social care services, like almshouses or residential care homes, to more innovative services, such as those benefiting migrants.[40]

Interest Companies," *Accounting, Organizations and Society* 35, no. 4 (2010): 394–415; Simon Teasdale, "What's in a Name? Making Sense of Social Enterprise Discourses," *Public Policy and Administration* 27, no. 2 (2012): 99–119.

35 See: Raymond Dart, "Being "Business-Like" in a Nonprofit Organization: A Grounded and Inductive Typology," *Nonprofit and Voluntary Sector Quarterly* 33, no. 2 (2004): 290–310.

36 Cecilia Grieco, Laura Michelini, and Gennaro Iasevoli, "Measuring Value Creation in Social Enterprises: A Cluster Analysis of Social Impact Assessment Models," *Nonprofit and Voluntary Sector Quarterly* 44, no. 6 (2015): 1173–93.

37 See: European Parliament, Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, A European Statute for Social and Solidarity-Based Enterprise, 2017.

38 European Commission, *A Map of Social Enterprises and Their Eco-Systems in Europe*, Brussels 2015, 33.

39 Roy, Baker, and Kerr, "Conceptualising," 145.

40 Social enterprises "provide by-passes to health care as long as the law is officially respected," thus avoiding the insurgence of potentially dangerous cases not only for the beneficiaries but "also for the ethical legitimization of democratic states with portions of public opinion sensitive to human rights." Maurizio Ambrosini, "NGOs and Health Services for Irregular Immigrants in Italy: When the Protection of Human Rights Challenges the Laws," *Journal of*

In providing these services, social enterprises have gradually developed a definite and clear entrepreneurial dimension. This has made them reliable partners of local health authorities: in many MSs, public authorities entrust SEs with public functions and tasks particularly because of their governance, organizational structure and social purposes.[41]

4. Social Enterprises and the Provision of Services of General Interest (SGIs)

The modern role and importance of SEs is particularly clear in the European Union,[42] in which the economic and social spheres have been traditionally separated. Such a separation has allowed the MSs to develop their own culturally distinct social and welfare policies and continue with redistributive policies in tune with national preferences.[43] Yet, over time and due to market globalization, national health care systems have been exposed to EU economic law as providers of health care services and new markets have emerged. However, the EU internal market rule is proving neither flexible nor adequate when it comes to regulating the provision and supply of social and health care services.[44] Within this EU legal framework, welfare and health care services fall under the definition of "Services of General Interest" (SGIs).[45] These are mainly services that governments and local authorities acknowledge to benefit the community at large. Accordingly, SGIs are defined by the activities carried out and by the specific public goal they are

Immigrant & Refugee Studies 13, no. 2 (2015): 118. For discussion on the role of SEs in health care in the UK, see: Rachael Addicott, "Social Enterprise in Health Care," The King's Fund, 4 August 2011.

41 See: Bobby Macaulay et al., "Differentiating the Effect of Social Enterprise Activities on Health," *Social Science & Medicine* 200 (2018): 211–7.

42 For a glance of the fields of activity of social enterprises in Europe, see: European Commission, *Social Economy and Social Entrepreneurship, Social Europe Guide*, vol. 4, March 2013, 37.

43 See: Johan Van de Gronden and Erika Szyszczak, "Introducing Competition Principles into Health Care through EU Law and Policy: A Case Study of the Netherlands," *Medical Law Review* 22, no. 2 (2014): 238–54.

44 See: Wolf Sauter, "The Impact of EU Competition Law on National Healthcare Systems," *Tilburg Law School Legal Studies Research Paper Series*, no. 12 (2012): 1.

45 This definition is included in Section 16 of the European Treaty and it is widely dealt with in the White Paper on services of general interest drafted by the European Commission, Brussels, 12 May 2004 COM(2004) 374 final.

intended to achieve. In particular, these services are performed to ensure European individuals' fundamental rights, such as the right to health. This means that health care services must comply with certain strict requirements. Firstly, they are to be universal, meaning that all citizens are expected to be able to access them freely and to afford them. Secondly, these services are to be continuous, meaning that their interruption is forbidden on public grounds. Thirdly, SGIs are to respect certain valuable standards of quality. Finally, SGIs need to ensure an adequate level of users/patients' protection. Due to these characteristics of SGIs, MSs and the European institutions take on the responsibility to provide citizens with services that need to be effective, of quality, non-discriminatory and accessible.[46] It is noteworthy that SGIs are excluded from the internal market rule according to which all MSs are obliged to promote competition among economic operators. Such an exclusion makes it possible for SGIs not to be subject to privatization, liberalization or deregulation policies like others services. This exemption also favors the engagement of SEs in the delivery of this particular category of services. According to Directive 2006/123/EC, health care services are to be reserved to a number of regulated health professions in the Member State in which the services are provided. The Directive does not address the ways and the forms by which these services are organized and financed at the national level or whether the services are supplied by a public institution or a private organization. Insofar as health care services are aimed at accomplishing social cohesion and making fundamental rights enforceable, they should not fall within the scope of the internal market rule. This is the legal reason why EU law takes into account the specific tasks entrusted to the providers of these services.[47] Consequently, given the goals pursued and their organizational nature, SEs are often entrusted with the provision of SGIs, which also helps to enforce citizens' fundamental rights.

46 "In the Union, services of general interest remain essential for ensuring social and territorial cohesion and for the competitiveness of the European economy. Citizens[…] rightly expect to have access affordable high-quality services of general interest throughout the European Union." White Paper on services of general interest, 4.

47 European Commission, *Second Biennial Report on Social Services of General Interest*, Publications Office, 2011, SEC(2010) 1284.

5. Social Enterprises and The Right to Health

Citizens' fundamental rights are enshrined in the Charter of the Fundamental Rights of the European Union.[48] This includes the possibility of accessing a relatively wide range of services.[49] In this respect, Article 35 provides for a general right to health to be enjoyed by all individuals.[50] The circumstance that the right to health falls under the broad definition of human rights makes it part of the EU policy and no longer the obligation of just one Member State. EU law therefore provides for a general obligation not to violate fundamental rights (negative approach). At the same time, it also encourages both governments and nonprofit organizations to be committed to promoting the implementation of those rights according to the European Charter (positive approach).[51] In this perspective, the right to health aims to enhance social equity and solidarity within the European national, public and universal social security systems.[52] The accomplishment of such an aim is entrusted to a system of procedural rights, in which health authorities

48 The Charter was adopted in December 2000 in the framework of the Treaty of Nice. See: Steve Peers et al., eds., *The EU Charter of Fundamental Rights: A Commentary* (Oxford: Hart Publishing, 2014), 951–2.

49 After the ratification of the Treaty of Lisbon, some categories of social rights have undoubtedly become part of the EU law. See: Giovanni Maria Caruso, "Diritti sociali, risorse e istituzioni: automatismi economici e determinismo politico di un sistema complesso," federalismi.it, no. 4 (2016): 12, accessed May 31, 2024, https://federalismi.it/nv14/articolo-documento.cfm?artid=31442. See also: Silvio Gambino, "Livello di protezione dei diritti fondamentali (fra diritto dell'Unione, convenzioni internazionali, costituzioni degli Stati membri) e dialogo fra le Corti. Effetti politici nel costituzionalismo interno ed europeo," federalismi.it, no. 13 (2014): 2, accessed April 28, 2024, https://www.federalismi.it/nv14/articolo-documento.cfm?artid=26474.

50 "Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities."

51 See: Giuseppe Palmisano, ed., *Making the Charter of Fundamental Rights a Living Instrument* (Leiden-Boston: Brill Nijhoff, 2014).

52 All EU Member States entitle almost all their citizens to health coverage. "Respect for human dignity demands that no one refrain from seeking medical care from fear of the consequences of doing so, and that no one suffer financial adversity as a result of having sought care. The moral foundations of universal coverage are as simple as that." See: Lawrence D. Brown, "Comparing Health Systems in Four Countries: Lessons for the United States," *American Journal of Public Health* 93, no. 1 (2003): 52. As far as the commitment of Member States to ensure an adequate level of health protection is concerned, see: European Commission,

retain a certain degree of autonomy and power.[53] However, their decision is subject to the scrutiny of the courts which, in turn, verify whether a decision taken by a public authority concerning the right to health is in accordance with national and EU laws.[54]

Within this legal framework, SEs carry out their activities to fulfil the principles that are set forth in the EU Charter of Fundamental Rights. In this respect, SEs are regarded as essential partners in performing and implementing all those welfare services, including health care services, that are necessary to fully ensure the right to health.

6. The Legal Recognition of SEs in Italy

In Italy, SEs have long thrived mostly through the legal form of social co-operative.[55] Yet, SGIs can also be pursued through foundations and associations, when these organizations are allowed to carry out economic activities. However, these nonprofit organizations were overtly prevented from doing so for a long time. The lack of a clear-cut legal definition of social enterprise, which could also encompass the possibility for associations and foundations to carry out entrepreneurial activities, triggered a public debate on the need for a law reform concerning SEs. In the early years of the twentieth century,

Expert Panel on Effective Ways of Investing in Health (EXPH), *Access to Health Services in the European Union*, Brussels, 3 May 2016, 4.

53 See: Article 41, paragraph 1 of the EU Charter of Fundamental Rights. See also: CJEU Judgment of 26 February 2013, Åklagaren v. Hans Åkerberg Fransson, Case C-617/10, especially paragraph 21, where the European judges stated as follows: "Since the fundamental rights guaranteed by the Charter must therefore be complied with where national legislation falls within the scope of European Union law, situations cannot exist which are covered in that way by European Union law without those fundamental rights being applicable. The applicability of European Union law entails applicability of the fundamental rights guaranteed by the Charter."

54 Christopher Newdick, "Citizenship, Free Movement and Health Care: Cementing Individual Rights by Corroding Social Solidarity," *Common Market Law Review* 43, no. 6 (2006): 1653.

55 The 1991 Social Co-operatives Act has provided for a special co-operative form through they can create job opportunities for their members and provide welfare services to local communities. In this respect, social co-ops are capable of transforming the traditional internal, mutual character of co-operative societies into positive, economic and social externalities. See: Giulia Galera, "Social and Solidarity Co-operatives. An International Perspective," in *The Oxford Handbook of Mutual, Co-operative, and Co-owned Business*, eds. Jonathan Michie, Joseph R. Blasi, and Carlo Borzaga (Oxford: Oxford University Press, 2017), 170–81.

three different legislative proposals to improve the legal framework relating to SEs were discussed. The first proposal aimed at amending the section of the 1942 Civil Code concerning foundations and associations. According to this proposal, these nonprofit organizations should have then also been allowed to carry out economic activities in order to pursue their social missions. The second option intended to improve the law on corporations so that their purposes also encompassed the pursuit of social aims. Finally, the third proposal was aimed at introducing a cross-cutting legal status that should have allowed for both nonprofit organizations and companies to adopt the legal form of a social enterprise. This inclusive approach to SEs became the legal content of the 2006 Social Enterprises Act. Accordingly, associations, foundations, solidarity co-operatives and companies could be incorporated as a social enterprise upon complying with some legal requirements. In particular, SEs could not distribute any profit among their stakeholders, members, or directors. The 2006 Act also prohibited for-profit companies and public authorities from both exerting any influence in the decision-making process of SEs and from sitting on their boards of directors. Additionally, the Act did not provide for any tax benefits for SEs, which would have been expected as a natural legal provision to be granted according to the specific goals that SEs were to pursue.

The non-distribution constraint, the lack of a tax benefit package and the prohibition on the participation of public authorities and private companies in SEs were regarded as significant hindrances in the development of SEs. Ten years on, a comprehensive reform act, namely the 2017 Third Sector Organisations Reform Act has included a specific regulation on SEs to overcome the previous legal and organisational pattern. The 2017 Social Enterprises Reform Act reaffirms he legal notion of an enterprise whose legitimacy is to pursue a social aim and to carry out services of general interest. The 2017 Act provides for an innovative dimension of SEs, which can be identified in at least three aspects. The first aspect relates to the governance model of the organizations that intend to adopt the social enterprise form. The second aspect is the specific public interest goals that SEs are called upon to achieve. Thirdly, social enterprises are allowed to distribute profits to a limited extent. In terms of governance, SEs must involve different stakeholders in the decision-making process. The 2017 Act considers co-management and the multi-stakeholder dimension as essential features

of social enterprises.[56] This involvement is not only provided for in the Act, but must also be implemented through some specific provisions in the SEs' articles of association. Accordingly, workers and all the other stakeholders must find their own way of being heard, consulted and called upon to vote, especially when the decisions to be taken affect work conditions and the quality of goods and services. The internal organizational process by which SEs carry out their activities is then recognized by the Italian legal system as a distinctive characteristic of these legal forms. As regards the general interest goals, Section 2 of the 2017 Act lists as many as twenty-two (22) different areas of activity to be performed by SEs, from health care to social tourism. This choice is to be read in the light of the Italian Government's intention to entrust SEs with the performance of almost all activities that may have a significant impact on local communities.[57] Finally, as opposed to the 2006 Act, the 2017 Social Enterprises Reform Act has breached the non-distribution constraint "taboo." Consequently, like in other MSs, also Italian SEs are potentially appealing to investors that might be willing to support their activities and services.[58]

The 2017 Social Enterprises Reform Act made it possible to overcome the traditional divorce between efficiency and solidarity, and between effectiveness and ideal motivations. This Act strikes a balance between two constitutional rights: on the one hand, it strengthens the importance of solidarity as a characteristic of SEs; on the other hand, it recognizes individuals' freedom to set up entrepreneurial organizations.[59] However, the

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56 On this issue, see: Zoe Adams and Simon Deakin, "Enterprise Form, Participation, and Performance in Mutuals and Co-operatives," in *The Oxford Handbook of Mutual, Co- operative, and Co-owned Business*, eds. Jonathan Michie, Joseph R. Blasi, and Carlo Borzaga (Oxford: Oxford University Press, 2017), 228–33.

57 In this respect, the Italian Parliament has acted in line with the approach of the European institutions. See: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Social Business Initiative. Creating a favourable climate for social enterprises, key stakeholders in the social economy and innovation, Brussels, 25 October 2011 (COM(2011) 682 final.

58 In the European economic and legal systems, where social enterprises can distribute profits only to a certain given extent, these organizations have developed. See: Fici, "Funzione e modelli di disciplina," 314–5.

59 This approach is clearly rooted in Section 41 of the Italian Constitution, which provides for freedom of private enterprise. See: Fabio Cintioli, "L'art. 41 della Costituzione tra il paradosso della libertà di concorrenza e il 'diritto della crisi'," Astrid-online, accessed May 15, 2024, https://www.

distinguishing nature of this Act lies in its ultimate purpose. It is aimed to increase and enforce individuals' social and civil rights.[60] In this respect, social aims and activities of general interest warrant the tax deductions granted to this particular typology of nonprofit organizations. In particular, the tax benefits include a "tax-free" area for any profit that is re-invested in the organization's activities.

Overall, the 2017 Act provides for an enabling legal and institutional framework, which is intended to favor the development of SEs in Italy and to nudge their performance and their development as economic and social operators. At the same time, the Act respects the different legal forms under which SEs may carry out their activities. This approach helps to overcome the differences between the legal entities that have long defined the Italian legal system for nonprofit organizations, thus making them leave their historical unproductive role.

7. Some Concluding Remarks

The article sought to prove that SEs are legally recognized as independent health care providers. Through their entrepreneurial organization, SEs have developed a specific multi-stakeholder character and a democratic structure

astrid-online.it/static/upload/protected/Cint/Cintioli-F_Incontro_fondazione-Magna-Carta_15_06_10.pdf; Giuseppe Di Gaspare, "Costituzionalizzazione simbolica e decostituzionalizzazione di fatto dell'articolo 41 della Costituzione," Amministrazione in Cammino, May 3, 2011, accessed May 2, 2024, https://www.amministrazioneincammino.luiss.it/2011/05/03/costituzionalizzazione-simbolica-e-decostituzionalizzazione-di-fatto-dell%E2%80%99articolo-41-della-costituzione-2/; Ignazio Musu, "Gli aspetti economici della Costituzione italiana: è superato l'art. 41?," accessed April 28, 2024, https://www.astrid-online.it/static/upload/protected/MUSU/MUSU_art-41.pdf; Roberto Romei, "Chi ha paura dell'art. 41 Cost.?," in *Nelmerito*, June 25, 2010; Filippo Zatti, "Riflessioni sull'art. 41 Cost.: la libertà di iniziativa economica privata tra progetti di riforma costituzionale, utilità sociale, principio di concorrenza e delegificazione," Forum di Quaderni Costituzionali – Rassegna, no. 8 (2012): 1–18.

60 This commendable horizon for SEs must be confronted with the reduction of public funds for welfare services, which defines the Italian health care system as well as many European Member States. See: Renato Balduzzi, "Livelli essenziali e risorse disponibili: la sanità come paradigma," in *La tutela della salute tra garanzie degli utenti ed esigenze di bilancio*, eds. Carlo Bottari and Fabio A. Roversi Monaco (Rimini: Maggioli, 2012), 88. See also: Michele Belletti, "I 'livelli essenziali delle prestazioni' alla prova del 'coordinamento della finanza pubblica'. Alla ricerca della 'perequazione' perduta," in *L'erogazione della prestazione medica tra diritto alla salute, principio di autodeterminazione e gestione ottimale delle risorse sanitarie*, ed. Michele Sesta (Rimini: Maggioli, 2014), Part I, First Section, Chapter 4.

of their governing boards, which are common to almost all European welfare and legal systems. All of these are factors that give SEs certain specific comparative advantages and open up wider possibilities for action than the traditional non-distribution constraint.

Public support for SEs consists less of tax relief than of the recognition and consistent definition of legal forms, especially those adapted to the management of social activities on business principles.

SEs can also help create new job opportunities and primary employment in the sector of personal and social care services despite the limited availability of public resources. They can attract private resources, such as capital investments, donations and payments by service users. The particular areas in which SEs are engaged could boost competition among different kinds of organizations providing health care services. SEs also contribute to develop new products, new productive processes, new relationships with users and patients and, accordingly, new services. One of the chief advantages of SEs is their ability to attract not only workers and volunteers but also investors who are ethically motivated and not exclusively interested in monetary rewards.

Several European MSs and the European Union itself have already taken some steps to promote and regulate SEs. In this respect, the 2017 Social Enterprises Reform Act may prove innovative at the European level. The combination of legal certainty regarding the legal form, the involvement of different stakeholders and the granting of a set of tax benefits geared towards the pursuit of a wide range of services of general interest may be construed as a regulation that could actually represent a valuable benchmark for other national jurisdictions.

References

Adams, Zoe, and Simon Deakin. "Enterprise Form, Participation, and Performance in Mutuals and Co-operatives." In *The Oxford Handbook of Mutual, Co-operative, and Co-owned Business*, edited by Jonathan Michie, Joseph R. Blasi, and Carlo Borzaga, 227–45. Oxford: Oxford University Press, 2017.

Addicott, Rachael. *Social Enterprise in Health Care*. The King's Fund, August 2011.

Ambrosini, Maurizio. "NGOs and Health Services for Irregular Immigrants in Italy: When the Protection of Human Rights Challenges the Laws." *Journal of Immigrant & Refugee Studies* 13, no. 2 (2015): 116–34.

Balduzzi, Renato. "Livelli essenziali e risorse disponibili: la sanità come paradigma." In *La tutela della salute tra garanzie degli utenti ed esigenze di bilancio*, edited by Carlo Bottari and Fabio A. Roversi Monaco, 79–93. Maggioli, Rimini, 2012.

Barlow, James, and Martina Köberle-Gaiser. "The Private Finance Initiative, Project Form and Design Innovation: The Uk's Hospitals Programme." *Research Policy* 37, no. 8 (2008): 1392–402.

Belletti, Michele. "I 'livelli essenziali delle prestazioni' alla prova del 'coordinamento della finanza pubblica'. Alla ricerca della 'perequazione' perduta." In *L'erogazione della prestazione medica tra diritto alla salute, principio di autodeterminazione e gestione ottimale delle risorse sanitarie*, edited by Michele Sesta, 101–44. Rimini: Maggioli, 2014.

Beveridge, William. "Social Insurance and Allied Services." *Bulletin of the World Health Organization* 78, no. 6 (2000): 847–55.

Bovaird, Tony. "Efficiency in Third Sector Partnerships for Delivering Local Government Services: The Role of Economies of Scale, Scope and Learning." *Public Management Review* 16, no. 8 (2014): 1067–90.

Brakman Reiser, Dana. "Theorizing Forms for Social Enterprise." *Emory Law Journal* 62 (2013): 681–739.

Brenna, Elenka. "The Lombardy Health Care System." Università Cattolica del Sacro Cuore – Milan, Quaderni dell'Istituto di economia dell'impresa e del lavoro, n. 63 – maggio 2011.

Brown, Lawrence D. "Comparing Health Systems in Four Countries: Lessons for the United States." *American Journal of Public Health* 93, no. 1 (2003): 52–6.

Calò, Francesca, Simon Teasdale, Cam Donaldson, Michael J. Roy, and Simone Baglioni. "Collaborator or Competitor: Assessing the Evidence Supporting the Role of Social Enterprises in Health and Social Care." *Public Management Review* 20, no. 12 (2017): 1790–814.

Caruso, Giovanni Maria. "Diritti sociali, risorse e istituzioni: automatismi economici e determinismo politico di un sistema compless." Federalismi.it, no. 4 (2016). Accessed May 31, 2024. https://federalismi.it/nv14/articolo-documento.cfm?artid=31442.

Chesterman, Michael. "Foundations of Charity Law in the New Welfare State." In *Foundations of Charity*, edited by Charles Mitchell and Susan R. Moody, 249–69. Oxford: Hart Publishing, 2000.

Cintioli, Fabio. "L'art. 41 della Costituzione tra il paradosso della libertà di concorrenza e il 'diritto della crisi'." Astrid-online. Accessed May 15, 2024. https://www.astrid-online.it/static/upload/protected/Cint/Cintioli-F_Incontro_fondazione-Magna-Carta_15_06_10.pdf.

Clayton, Richard, and Jonas Pontusson. "Welfare-State Retrenchment Revisited: Entitlement Cuts, Public Sector Restructuring, and Inegalitarian Trends in Advanced Capitalist Societies." *World Politics* 51, no. 1 (1998): 67–98.

Coston, Jennifer M. "A Model and Typology of Government-NGO Relationships." *Nonprofit and Voluntary Sector Quarterly* 27, no. 3 (1998): 358–82.

Cova, Alberto. "La situazione italiana: una storia di non profit." In *Il Non Profit Dimezzato*, edited by Giorgio Vittadini, 29–47. Milan: Rizzoli, 1997.

Dart, Raymond. "Being "Business-Like" in a Nonprofit Organization: A Grounded and Inductive Typology." *Nonprofit and Voluntary Sector Quarterly* 33, no. 2 (2004): 290–310.

Devillé Walter, Tim Greacen, Marija Bogic, Marie Dauvrin, Sónia Dias, Andrea Gaddini, Natasja Koitzsch Jensen, Christina Karamanidou, Ulrike Kluge, Ritva Mertaniemi, Rosa P. i Riera, Attila Sárváry, Joaquim J. F. Soares, Mindaugas Stankunas, Christa Strassmayr, Marta Welbel, Stefan Priebe. "Health Care for Immigrants in Europe: Is There Still Consensus among Country Experts about Principles of Good Practice? A Delphi Study." *BMC Public Health* 11 (2011): 699.

Di Gaspare, Giuseppe. "Costituzionalizzazione simbolica e decostituzionalizzazione di fatto dell'articolo 41 della Costituzione." Amministrazione in Cammino, May 5, 2011. Accessed May 2, 2024. https://www.amministrazioneincammino.luiss.it/2011/05/03/costituzionalizzazione-simbolica-e-decostituzionalizzazione-di-fatto-dell%E2%80%99articolo-41-della-costituzione-2/.

Dubois, Hans, and Robert Anderson. *Impacts of the Crisis on Access to Healthcare Services in the EU*. Dublin: European Foundation for the Improvement of Living and Working Conditions, 2013.

European Center for Non-Profit Law. "Legal Regulation of Economic Activities of Civil Society Organizations." Policy paper, Budapest, February 2015.

European Commission. *A Map of Social Enterprises and Their Eco-Systems in Europe*. Brussels 2015.

European Commission. Expert Panel on Effective Ways of Investing in Health (EXPH). *Access to Health Services in the European Union*. Brussels, 3 May 2016.

European Commission. *Second Biennial Report on Social Services of General Interest*. Publications Office, 2011.

European Commission. *Social Economy and Social Entrepreneurship, Social Europe Guide*, vol. 4. March 2013.

Fici, Antonio. "Funzione e modelli di disciplina dell'impresa sociale in prospettiva comparata." In *Diritto dell'economia sociale*, edited by Antonio Fici, 241–65. Naples: Editoriale Scientifica, 2016.

Fici, Antonio. *The Law of Third Organisations in Europe. Foundations, Trends and Prospects*. Rome: Springer – Giappichelli, 2023.

Figueiras, Josep Ray Robinson, and Elke Jakubowski, eds. *Purchasing to Improve Health Systems Performance*. European Observatory on Health Systems and Policies Series, Open University Press, UK, 2005.

Galera, Giulia. "Social and Solidarity Co-operatives. An International Perspective." In *The Oxford Handbook of Mutual, Co-operative, and Co-owned Business*, edited by Jonathan Michie, Joseph R. Blasi, and Carlo Borzaga, 171–83. Oxford: Oxford University Press, 2017.

Gambino, Silvio. "Livello di protezione dei diritti fondamentali (fra diritto dell'Unione, convenzioni internazionali, costituzioni degli Stati membri) e dialogo fra le Corti. Effetti politici nel costituzionalismo interno ed europeo." Federalismi.it, no. 13 (2014). Accessed April 28, 2024. https://www.federalismi.it/nv14/articolo-documento.cfm?artid=26474.

Gautier, Arthur, Anne-Claire Pache, and Valérie Mossel. "Giving in France: A Philanthropic Renewal after Decades of Distrust." *Research Center ESSEC Working Paper* 3 (2018): 137–54.

Golle, Jean-Pierre. "The Contribution of NGOs to the Fight against Poverty and Social Exclusion in Europe." Document presented at the Conference of INGos of the Council of Europe, September 2007.

Grieco, Cecilia, Laura Michelini, and Gennaro Iasevoli. "Measuring Value Creation in Social Enterprises: A Cluster Analysis of Social Impact Assessment Models." *Nonprofit and Voluntary Sector Quarterly* 44, no. 6 (2015): 1173–93.

Hansmann, Henry B. "The Role of Nonprofit Enterprise." *Yale Law Journal* 89, no. 5 (1980): 835–901.

Harrison, Steven, and Gerald Wistow. "The Purchaser/Provider Split in English Health Care: Towards Explicit Rationing?." *Policy and Politics* 20, no. 2 (1992): 123–30.

Hazenberg, Richard, and Kelly Hall. "Public Service Spin-Outs in the UK: Towards a Theoretical Understanding of the Spin-Out Process." Paper presented at the 4th EMES European Research Network International Research Conference on Social Enterprise, University of Liege, Belgium, 01–04 July 2013.

Jenkins, Craig J. "Non Profit Organizations and Political Advocacy." In *The Non Profit Sector. A Research Handbook*, edited by Walter W. Powell and Richard Steinberg, 2nd ed., 307–32. Yale University Press, 2006.

Jiménez, Dolores, and Peter Smith. "Decentralisation of Health Care and Its Impact on Health Outcomes." *Discussion Papers Centre for Health Economics* 5/10 (2005).

Jones, Gareth. *History of Charity Law 1530–1827*. Cambridge: Cambridge University Press, 1967.

Krupa, Terry, and Shu-Ping Chen. "Psychiatric/Psychosocial Rehabilitation (Psr) in Relation to Vocational and Educational Environments: Work and Learning." *Current Psychiatry Reviews* 9, no. 3 (2013): 195–206.

Le Grand, Julian. "Quasi-Markets and Social Policy." *The Economic Journal* 101, no. 408 (1991): 1256–67.

Levaggi, Rosella, and Peter Smith. "Decentralization in Health Care: Lessons from Public Economics." Paper Prepared for Conference on Economics and Health Policy Centre for Health Economics, University of York, 16 December 2003.

Lewis, Jane. "Reviewing the Relationship between the 'Voluntary Sector' and the State in Britain in the 1990s." *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 10, no. 3 (1999): 255–70.

Maarse, Hans. "The Privatization of Health Care in Europe: An Eight-Country Analysis, in Journal of Healh Politics." *Policy and Law* 31, no. 5 (2006): 981–1014.

Macaulay, Bobby, Micaela Mazzei, Michael J. Roy, Simon Teasdale, and Cam Donaldson. "Differentiating the Effect of Social Enterprise Activities on Health." *Social Science & Medicine* 200 (2018): 211–7.

Musu, Ignazio. "Gli aspetti economici della Costituzione italiana: è superato l'art. 41?." Accessed April 28, 2024. https://www.astrid-online.it/static/upload/protected/MUSU/MUSU_art-41.pdf.

Newdick, Christopher. "Citizenship, Free Movement and Health Care: Cementing Individual Rights by Corroding Social Solidarity." *Common Market Law Review* 43, no. 6 (2006): 1645–68.

Newdick, Christopher. "Global Capitalism and the Crisis of the Public Interest – Sleepwalking into Disaster." In *Research Handbook on Disasters and International Law*, edited by Susan C. Breau and Katja Samuel, 23–45. Cheltenham, UK: Edward Elgar, 2016).

Nicholls, Alex. "Institutionalizing Social Entrepreneurship in Regulatory Space: Reporting and Disclosure by Community Interest Companies." *Accounting, Organizations and Society* 35, no. 4 (2012): 394–415.

Oostenbrink, Jan B., and Frans F.H. Rutten. *Cost Assessment and Price Setting in the Dutch Healthcare System A contribution to Work Package 6 of the EU funded research project 'HealthBASKET': Approaches for Cost/Price Assessment in Practice*. Rotterdam: Institute for Medical Technology Assessment (iMTA), 2005.

Palier, Bruno. "A Long Good Bye to Bismarck? The Politics of Welfare Reforms in Continental Europe." Paper presented at the RC19 conference on Social policy in a globalizing world: developing a north-south dialogue. 6–8 September 2007–07–18 Florence University, 9.

Palmisano, Giuseppe, ed. *Making the Charter of Fundamental Rights a Living Instrument*. Leiden-Boston, 2014.

Peers, Steve, Tamara Hervey, Jeff Kenner, and Angela Ward, eds. *The EU Charter of Fundamental Rights: A Commentary*. Oxford: Hart Publishing, 2014.

Powell, Martin, and Robin Miller. "Privatizing the English National Health Service: An Irregular Verb?." *Journal of Health Politics, Policy and Law* 38, no. 5 (2013): 1051–9.

Romei, Roberto. "Chi ha paura dell'art. 41 Cost.?." In *Nelmerito*, June 25, 2010.

Roy, Michael J., Rachel Baker, and Susan Kerr. "Conceptualising the Public Health Role of Actors Operating outside of Formal Health Systems: The Case of Social Enterprise." *Social Science & Medicine* 172 (2017): 144–52.

Santuari, Alceste. *Le ONLUS*. Padova: Cedam, 2012.

Sauter, Wolf. "The Impact of EU Competition Law on National Healthcare Systems." *Tilburg Law School Legal Studies Research Paper Series*, no. 12 (2012).

Teasdale, Simon. "What's in a Name? Making Sense of Social Enterprise Discourses." *Public Policy and Administration* 27, no. 2 (2012): 99–119.

Ter Meulen, Ruud, Wil Arts, and Ruud Muffels, eds. *Solidarity in Health and Social Care in Europe*. Springer, 2001.

Thynkkynen, Liina-Kaisa, Ilmo Keskimäki, and Juhani Lehto. "Purchaser–Provider Splits in Health Care—the Case of Finland." *Health Policy* 111, no. 3 (2013): 221–5.

Toebes, Birgit. "International Health Law: An Emerging Field of Public International Law." *Indian Journal of International Law* 55, no. 3 (2015): 299–328.

Union, Committee of the Regions. "The Management of Health Systems in the EU Member States – The Role of Local and Regional Authorities," 21 July 2011.

Van de Gronden, Johan, and Erika Szyszczak. "Introducing Competition Principles into Health Care through EU Law and Policy: A Case Study of the Netherlands." *Medical Law Review* 22, no. 2 (2014): 238–54.

Verga, Ettore. *Storia della vita milanese*. Milan: Casa Editrice Nicola Moneta, 1931.

Vidal, Isabel. "Social Enterprise and Social Inclusion: Social Enterprises in the Sphere of Work Integration." *International Journal of Public Administration* 28, no. 9–10 (2007): 807–25.

Withey, Alun. "Medicine and Charity in Eighteenth-century Northumberland: The Early Years of the Bamburgh Castle Dispensary and Surgery, c. 1772–1802." *Social History of Medicine* 29, no. 3 (2016): 467–89.

Zatti, Filippo. "Riflessioni sull'art. 41 Cost.: la libertà di iniziativa economica privata tra progetti di riforma costituzionale, utilità sociale, principio di concorrenza e delegificazione." *Forum di Quaderni Costituzionali – Rassegna*, no. 8 (2012): 1–18.