

An Empirical Investigation of Supportive Legal Frameworks for Social Enterprises in Belgium: A Cross-Sectoral Comparison of Case Studies Concerning Social Enterprises in the Social Housing, Finance and Energy Sector

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Abstract This study aims to investigate how the existing legal framework for social enterprises in Belgium affects the activity of social enterprises in the social housing, finance and energy sector. The focus is thereby on the legal factor of governance and the decision-making power of stakeholders. These matters are examined in respect of one particular type of social enterprises, the so-called company with a social purpose, ‘Vennootschap met Sociaal Oogmerk’ (VSO). The authors conducted three case studies in Belgium. They examined in which way the VSO law has been implemented in three social enterprises which are active in different sectors, i.e. the energy, finance and housing sector and compared the

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results. By comparing the case studies, this article aims to generate (i) a cross-sectoral theoretical analysis regarding the practical application of the legal factor of governance in the three Belgian social enterprises and, (ii) a comprehensive understanding of the involvement of different stakeholders in the social enterprises' governance in these sectors. Useful conclusions were drawn for the improvement of the legal framework for social enterprises in Belgium as well as for the improvement of the social enterprises functioning.

Keywords Social enterprises · Cooperatives · Governance · Stakeholders · Belgium

1 Introduction

An alternative type of entrepreneurial activities has emerged in Europe, the so-called social enterprises. The growth and the activities of social enterprises have contributed substantially to various national economies in Europe. Primarily, social enterprises have provided solutions to the problem of unemployment in a post-crisis environment by employing a significant amount of individuals (over 11 million since 2011). They have also contributed to the sustainable growth and development of the various European Union (EU) member states by adopting and achieving long term financial objectives and social goals that are aimed at finding solutions for major social challenges, such as poverty, social exclusion and stigma. Furthermore, social enterprises take into consideration their environmental impact on society by showcasing a high level of environmental responsibility (EC 2011).

On 25 October 2011, the European Commission (Commission) launched a Communication regarding the Social Business Initiative (SBI), i.e. the SBI Communication. The SBI Communication acknowledges the significant contribution of social enterprises to the national economies of various EU member states. It also endorses the development of an enabling environment with favourable policies and supportive legislation for social enterprises in Europe. The creation of a favourable and enabling legislative environment would entail either the design of appropriate legal forms for social enterprises by the national legislators or the improvement of existing legislative environments for social enterprises in order to alleviate existing obstacles. In the SBI Communication, the Commission introduced uniform criteria for the identification of social enterprises among the different EU member states (EC 2011, pp. 2–3).

In the context of the SBI, the Commission launched a mapping study to explore the ecosystems of social enterprises in 28 member states and Switzerland (EC 2014a). Another objective of the mapping study was the exploration of the legal forms and business models of social enterprises in a national context.

Among many important conclusions, the mapping report showcased that all 29 examined countries (28 EU member states and Switzerland) have organisations that fulfil the uniform criteria for social enterprises that the Commission introduced. Additionally, the report concluded that up to 19 EU member states have introduced legal frameworks for social enterprises. Some of the identified legal frameworks have been introduced as tailor-made legislation for social enterprises, or as legislation offering a specific legal form to social enterprises. Among the 19 EU member states, there are countries with: (i) legislation which introduces the cooperative legal form for social enterprises (mostly in Southern-European countries, e.g. Greece, Italy, Spain, and Portugal); (ii) legislation which introduces the corporate legal form for social enterprises, e.g. the Community Interest Company (CIC), a limited liability company form (in the United Kingdom); and (iii) legislation which introduces a legal label for social enterprises, e.g. the ‘*Vennootschap met Sociaal Oogmerk*’ (in Belgium; hereafter: VSO). This label can be adopted by various legal forms (Lambooy and Argyrou 2014, p. 73). Furthermore, the mapping report illustrated that there are also member states without special legislation, i.e. the Netherlands, Austria, Germany, and member states that are in the process of developing legislation for social enterprises, e.g. Latvia.

The emergence and the development of social enterprises in various EU member states have also attracted the attention of researchers and academics who aim to comprehend the concept of social enterprises. Several studies have been published elaborating on a conceptual definition for social enterprises based on the creation of uniform characteristics or taxonomies (Dees 1998; Dees and Anderson 2003; Kerlin 2006; Alter 2007). Other studies focus on specific aspects of social enterprises such as the governance models of social enterprises (Spear 2004; Low 2006; Campi et al. 2006; Mason et al. 2007; Spear et al. 2009, 2014), the success factors for social enterprises (Sawhill and Williamson 2001; Alvord et al. 2004; Sharir and Lerner 2006; Elkington and Hartigan 2008; Cox and Schmuecker 2010), and the performance of social enterprises (Kaplan 2001; Paton 2003; Austin et al. 2006; Bagnoli and Megali 2011; Lee and Nowell 2014). However, the existing academic literature which elaborates on the concept of social enterprises tends to neglect the discussion regarding the influence of the institutional environment and the influence of legislation on social enterprises (Haugh 2006; Peattie and Morley 2008). Haugh (Haugh 2006, p. 6) points out the necessity for conventional research to examine and compare diverse existing legal forms of social enterprises which differ in terms of ownership and financing. Other scholars have identified more pragmatic reasons which necessitate research on the legal forms of social enterprises. Spear et al. (2009, pp. 261–262) point out that the variety of existing legal forms generates frustration and complexity for social enterprises. Melmoth (2005) notes the disadvantages of choosing an inappropriate legal structure for social enterprises which can be time-consuming, complex and expensive. Cox and Schmuecker (2010, p. 12) showcase with empirical evidence that social enterprises can be hampered by the selection of an inappropriate legal and organisational structure. The lack of information on legal and organisational structures for social enterprises creates confusion amongst entrepreneurs as to whether their organisation is a social enterprise.

In a previous study (Argyrou et al. 2015), we theoretically elaborated on and we empirically examined tailor-made legislation for social enterprises in Greece, which country introduced the *cooperative legal form* for social enterprises. The current study aims to investigate tailor-made legislation for social enterprises in Belgium, which has introduced the *legal label* for social enterprises. Particularly, we aim to examine how the legal provisions regarding governance encourage social enterprises to include stakeholders and employees in the decision-making processes. In a future study, we aim to investigate participatory and inclusive governance schemes in social enterprises in the UK. We will examine to what extent the UK tailor-made legislation concerning the *corporate legal form* for social enterprises (the CIC), stimulates the participation of employees and stakeholders in the decision-making processes.

2 Governance of Social Enterprises

The international academic society has agreed that social entrepreneurship applies to a broad range of diverse organisations which do not share one, but rather various organisational and legal characteristics. From a legal point of view, social enterprises are institutionalised economic entities with a social purpose. They use existing legislation to promote their commercial activities and transactions aiming at achieving social goals as opposed to ordinary commercial enterprises which aim to fulfil solely financial objectives. However, social enterprises constitute a ‘facet’ of social entrepreneurship (Galera and Borzaga 2009, p. 216). They use existing or tailor-made legal forms to promote their mission-based entrepreneurial activities and commercial transactions to achieve a social impact (Defourny and Nyssens 2010, p. 44). Social enterprises do not share unique entrepreneurial or legal characteristics but they are rather hybrid entities using various legal forms that combine for-profit with non-for-profit characteristics (Haugh 2006). The organisational and legal differences between the various types of social enterprises make ‘governance’ in social enterprises a complicated concept. Furthermore, due to the diversity of the organisational and legal forms of social enterprises, research regarding governance in social enterprises has been segmented. It focuses either on the examination of governance in particular legal forms, for instance concerning the cooperative legal form or the UK corporate legal form (CIC) (Spear 2004; Spear 2009; Ebrahim and Rangan 2014), or on the organisational forms of social enterprises, such as Work Integration Social Enterprises (WISE) (Campi et al. 2006). Moreover, various governance theories apply to organisations that belong to different sectors including the for-profit sector and the non-profit sector (Low 2006). Finally, in some studies a specific national context is examined, e.g. the UK national context of social enterprises (Mason et al. 2007). However, Low (2006, p. 337)—elaborating on the governance of social enterprises—emphasises that we need to conduct research on the aspects of governance which at least transcends the discrepancies of social enterprises that belong to different sectors (i.e. for-profit, non-profit, social economy sector).

The issue of corporate and organisation governance has been significantly elaborated in academic literature on social enterprises. Pestoff (2013, p. 56) emphasises the importance of researching the governance of social enterprises in Europe and the underlying values of the social economy sector, which tend to be characterised by a “quest” for democracy. Ebrahim and Rangan (2014) note the importance of research on the challenges of governance that social enterprises encounter when striving to achieve a trade-off between their commercial activities and the fulfilment of their social mission. Spear et al. (2014, p. 138), aiming at generating theoretically grounded foundations for the discussion on governance of social enterprises, suggest a typology of governance structures, including: (1) self-selecting governance models for social enterprises in which the board of directors is the most powerful organ and its members have no ownership rights; (2) governance models in which the decision-making organs are selected by the members following the principle of democracy; and (3) hybrid governance models in which self-selecting governance and membership governance schemes are combined.

Governance of social enterprises is also characterised by the ‘internalisation’ of stakeholders in the decision-making processes and their active participation as internal components of the social enterprise, which ultimately lead to more open and democratic decision-making processes (Campi et al. 2006, p. 35; Mason et al. 2007, pp. 288–289). Stakeholders can either participate in the organisational decision-making processes as formal members and co-owners of the social enterprises, or they can influence informal processes of decision-making (Campi et al. 2006, p. 36).

The stakeholder theory elaborates on the influence of various stakeholders on the decision-making processes of a social enterprise. Stakeholders have been widely defined by Freeman and Reed (1983, p. 91), to contain any group or individual who can affect or is affected by the activities of an organisation to achieve its purpose. Di Domenico et al. (2010, pp. 695–696) emphasise the active participation of stakeholders in the social enterprises’ governance and management as a prerequisite for social enterprises to generate social benefits such as social capital. Spear et al. (2009, p. 256) stress that it is an advantage for multi-stakeholder organisations to bring together and balance different perspectives and interests, however, there are also disadvantages towards achieving a clear purpose and coming to an agreement. Campi et al. (2006, pp. 40–42) finally, elaborate on the advantages of multi-stakeholder governance such as ensuring organisational stability, providing better access to resources including legitimacy and reducing external constraints.

However, the use of the stakeholder theory has been criticised to have direct implications in the governance of social enterprises. The underlying foundation of the stakeholder theory is the responsibility of the decision-making organs to give attention to the legitimate interest of stakeholders and to reconcile the conflicts of interest that occur between the organisation’s interests and the interests of the various stakeholder groups (Di Domenico et al. 2010, p. 682; Donaldson and Preston 1995; Phillips et al. 2003). Thus, directors and managers become accountable to a

large variety of stakeholders with diverse interests that need to prioritise (Ebrahim and Rangan 2014). However, Mason et al. (2007, p. 289) argue that the stakeholder theory is incompatible with corporate governance of social enterprises because the theory envisages accountability of directors towards multiple stakeholder groups which might not directly be the case in respect of social enterprises. Furthermore, Mason et al. (2007, p. 289) point out that the inclusion and participation of stakeholders in the decision-making processes of social enterprises can be doubtful if it is not transparent, well-established and subject to external scrutiny. In this respect, the Lambooy and Argyrou (2014) study, which elaborates on tailor-made national legislation for social enterprises in Belgium, the UK and Greece, showcases that legal concepts such as governance, transparency and accountability have been addressed and regulated differently from legal regimes available for ordinary companies. Tailor-made legislation for social enterprises in various national contexts, i.e. in the UK and Belgium, imposes legal duties on the directors of social enterprises concerning the fulfilment of the enterprises' social purpose. Particularly, the Belgian legislation for social enterprises provides legal rights to stakeholders to that end. They can request the dissolution of a social enterprise by court decision if the social enterprise's Articles of Association (AoA) do not comply with the applicable legal obligations that protect the social purpose of the enterprise. Another example is the tailor-made legislation in the UK for social enterprises which imposes obligations on CIC directors to adopt formal stakeholder consultation processes. Annually, they must report on this in detail in a social report. The social enterprise is obliged to submit the social report to an external institution. Thus, the examination of tailor-made legislation for social enterprises, and the examination of the legal rights and duties that such legislation confers to the governing organs of social enterprises, can contribute to the academic discussion, as well as to the effective and efficient implementation of stakeholder governance in social enterprises.

2.1 The Legal Factor of Governance in Tailor-Made Legislation for Social Enterprises and the Development of Legal Theory

Lambooy and Argyrou (2014, p. 74), elaborating on the legal factors that characterise tailor-made and enabling legislation for social enterprises, identified that the legal factor of governance is a crucial one. They revealed that governance has a particular meaning within the existing tailor-made legislation. Primarily, governance reflects the decision-making power of participants in the function of the social enterprise which is not *per se* based on capital ownership (Lambooy and Argyrou 2014; Argyrou et al. 2015). Most importantly, governance entails the role and the legal rights of the various categories of stakeholders in the decision-making processes of the tailor-made legal forms for social enterprises (Lambooy and

Argyrou 2014; Argyrou et al. 2015; Borzaga and Defourny 2001; Campi et al. 2006).

Legislation provides particular rights and obligations to decision-making bodies in social enterprises. We note, however, that there are various tailor-made legal forms for social enterprises in the different EU member states. Thus, the rights and obligations for the governance organs of social enterprises vary in the different national contexts. The emergence of tailor-made legislation for social enterprises is a milestone in the development of social enterprises. However, legal theory regarding the governance of the newly introduced tailor-made legal forms for social enterprises is still underdeveloped. In its definition for social enterprises in the SBI Communication, the European Commission mentions a uniform criterion that applies to the governance of social enterprises. According to this criterion, social enterprises are “managed in an open and responsible manner and, in particular, involve employees, consumers and stakeholders affected by its commercial activities” (EC 2011, pp. 2–3). However, according to the mapping report on the ecosystems of social enterprises “important differences remain, especially with respect to the interpretation and relevance of the ‘governance dimension’”, even in countries with tailor-made legislation for social enterprises (EC 2014a, p. vi). Thus, we hypothesise that the rights and obligations that tailor-made legislation for social enterprises provides to the governance organs of social enterprises primarily vary on a national level, and secondarily differ from ordinary governance schemes for commercial enterprises in the sense that they safeguard open, transparent and participatory decision-making processes. The various rights and obligations that national tailor-made legislation confers to the decision-making organs of social enterprises, as well as to the different types of stakeholders, need to be theoretically elaborated and empirically examined. Theoretical elaboration will generate the foundations for the development of legal theory relevant to the newly introduced tailor-made legislation for social enterprises whereas empirical examination will contribute to the existing theoretical discussion regarding the governance of social enterprises and the participation of stakeholders.

2.2 The Necessity for Empirical Research in the Governance of Social Enterprises

Mason et al. (2007, p. 297) point out the need for more empirical research concerning the governance of social enterprises. Campi et al. (2006) while looking at the functioning of stakeholders in the governance of Belgian WISEs, examine the importance of stakeholders as members of the organisation thereby taking into consideration the legislation regarding stakeholder participation and the influence of stakeholders within the decision-making formal processes. In the Campi et al. (2006, p. 43) study, it is also emphasised that deeper analysis is needed of the real

influence of stakeholders in decision-making processes, especially regarding informal processes such as informal coalition building and the access to information.

Campi et al. (2006, pp. 38–39) also conclude that the legal status constitutes a weak indicator of whether a WISE has a single or multi-stakeholder nature. They state that the choice of a multi-stakeholder status “*tends to depend on the autonomous decision of its founders (more generally, members/owners) within legal frameworks that often permit -explicitly or implicitly- but do not require the involvement of more than one category of stakeholders*”. We note that this conclusion may however vary depending on the specific rules provided in the tailor-made legislation for social enterprises in the various countries. For example, in the UK, the CIC Regulation 2005 *requires* the involvement of more than one category of stakeholders in the decision-making processes of the CIC. The CIC Regulation 2005 considers stakeholders to be all the ‘persons affected by the company’s activities’(Article 14 (b), CIC Regulation 2005); a definition which entails the involvement of various types of stakeholders.

In the following sections, we examine by means of the case study method (see Sect. 5 below) how the Belgian VSO legal provisions are implemented in practice. We assess how specific provisions stimulate cooperatives with a social purpose in different sectors to include, primarily, employees, and subsequently, other stakeholders in the decision-making processes. The legal form of the cooperative was chosen because it is the dominant legal form adopted by Belgian VSO social enterprises. Subsequently, we provide a cross-sectoral explanation of the involvement of employees and other stakeholders in the decision-making processes of three Belgian cooperatives with a social purpose in different sectors. We compare the incentives for employees to acquire membership rights, which provide formal access to decision-making processes as it is prescribed by law, with the incentives for other categories of stakeholders, which can only participate indirectly in decision-making processes using informal processes and means of communication. If we take into consideration the Campi et al. (2006) conclusion, that the legal provisions applicable to VSOs permit but do not require the participation of employees in the decision-making processes, we can hypothesise that the concept of employee participation will differ in the various VSO social enterprises in the different sectors, depending on the autonomous decisions of their founders. Furthermore, by examining the Belgian VSO legislation which contains only enabling provisions for the participation of one category of stakeholders in the decision-making processes of the governing bodies, i.e. only for employees (See Sect. 3 below), we hypothesise that other types of stakeholders are less incentivised to participate in the decision-making processes of the social enterprises. By comparing the incentives for employees with the incentives for other categories of stakeholders, we also aim to contribute to the discussion on whether the VSO legislation should be revised and improved.

Furthermore, the empirical examination of the practical implementation of the Belgian tailor-made legislation by social enterprises will enrich the theoretical

framework of governance for these types of social enterprises. The discussion will ultimately lead to conclusions that will improve the understanding of social enterprises' organisational function and corporate activity (Argyrou et al. 2015).

The following section elaborates on the existing tailor-made legislation for VSO social enterprises in Belgium, which allows the participation of employees in governance and in decision-making processes. The position of other types of stakeholders in the VSO decision-making processes will be also discussed later in the article. The sections that follow contain our findings derived from the empirical examination of the implementation of the Belgian legislation on the issue of participation and influence of employees and other types of stakeholders in the governance of these social enterprises.

3 The Belgian *Vennootschap Met Sociaal Oogmerk* (VSO) Legal Label for Social Enterprises

In Belgium, in 1995, the legal label for social enterprises, the so-called 'VSO' label, was included in the Belgian Companies Code 1999. The VSO legal label was introduced to increase the marketability and recognition of existing social enterprises such as cooperatives and mutual societies. Furthermore, it provided an alternative entrepreneurial type to commercial enterprises with for-profit objectives that wish to shift to social purpose seeking activities (Coates and Van Opstal 2009; Cafaggi and Iamiceli 2009). However, in Belgium, the VSO legislation has not been widely used (EC 2014a, p. i). Defourny and Nyssens (2008) reported that the VSO label has only had little success over the years. Cafaggi and Iamiceli (2009)–based on the research results of Defourny and Nyssens (2001, p. 47)–also argued that the evolution of the company with a social purpose was unsuccessful “due to the burden of the requirements imposed by the law or the lack of substantial tax incentives.” (Cafaggi and Iamiceli 2009, p. 42). Additionally, in a country-specific empirical research project implemented by the Belgian King Baudouin Foundation in 2013, it was pointed out that “the dedicated legal form ‘with a social purpose’ (*met sociaal oogmerk/avec finalité sociale*) has so far not widely spread across the sector of social enterprises. This finding raises some doubts on the adequacy and added value of this legal form for social enterprises.” (King Baudouin Foundation 2013, p. 15). It has been reported that up to 700 organisations have adopted the VSO legal label so far (EC 2014b, p. 3).

In an earlier legal study, Lambooy and Argyrou (2014, p. 75) provided an overview of the legal regime for the VSO label. It appeared that the VSO label can be adopted by all types of business organisations with legal personality, including companies, regulated by the Belgian Companies Code 1999. Article 661 in conjunction with Article 2 §2 of the Belgian Companies Code 1999 provide the rules on the VSO label. Article 661 contains a list of cumulative requirements that all forms of business organisations with a share capital, and established

under Belgian law, can adopt if they wish to acquire the VSO label. These are the private limited liability company, the limited liability cooperative and the unlimited liability cooperative, the public limited liability company, and the European economic interest groups. The Article 661 requirements have to be included in the business organisation's AoA either prior to incorporation or by amending the existing AoA. The most characteristic requirements include: (i) explicit reference in the AoA that the shareholders only seek limited profit or no profit; (ii) a description of the social purpose; (iii) a policy for the distribution of profits according to the social purpose; and (iv) a voting cap which cannot exceed one tenth of the votes deriving from all shares represented in the general assembly (i.e. the imposition of a 10 % voting cap to each shareholder). Additionally, legal entities with the VSO label are required to annually issue a special report which explains the means that the business organisation has undertaken to implement the statutory social purpose. The special report must be in the form of an overview that showcases how investments, operating expenses, rewards and remuneration have been allocated towards the fulfilment of the social purpose.

Article 661 does not contain provisions that create a special corporate governance regime for social enterprises with the VSO legal label. Thus, the corporate governance is subject to the pertinent rules provided by the Belgian Companies Code 1999 for the specific legal type of such VSO social enterprise. However, Article 661 (viii) of the Belgian Companies Code 1999 introduces the obligation for VSO social enterprises to include provisions in the AoA which permit employees to acquire membership rights/shares after the completion of one working year and to lose this capacity a year after the employment relationship has been terminated (Cafaggi and Iamiceli 2009, p. 43; Coates and Van Opstal 2009, p. 38; EC 2014a, pp. i–ii; Breesch and Coekelberg 1995 cited in Coates and Van Opstal 2009, p. 38). The purchase of shares, either existing or new, and the entrance into the organisation as members/shareholders, is also subject to the approval of the competent governing body of the VSO; either the general assembly or the board of directors.

Furthermore, various rights are conferred to employees who acquire membership rights/shares in an organisation that has adopted the VSO label. These include: (i) administrative rights; (ii) voting rights; (iii) rights to profits and dividends; and (iv) rights to acquire information. Regardless of the number of shares which an employee is allowed to purchase, Article 661 requires that each VSO include in its AoA a provision with respect to the exercise of voting rights attached to such membership rights/shares. According to this provision, everyone who takes part in a vote at the general assembly, can exercise only a certain number of votes which cannot exceed the maximum of one tenth of the votes deriving from all the shares represented. The percentage is reduced to one twentieth if employees are members/shareholders. Legislation imposes only this maximum rate of voting rights that can be exercised by the members/shareholders. However, VSO social enterprises are also allowed to stipulate in their AoA more stringent restrictions to further reduce the voting rights of the members/shareholders. This can ultimately result in the application of the democratic 'one man, one vote' rule, which is usually applicable to cooperatives (Coates and Van Opstal 2009, p. 38).

As regards the rights of members/shareholders to profits and dividends, Article 661 (v) allows members/shareholders to participate in the enterprises' profits, by receiving dividends only to the limited extent prescribed by law. Currently, the regulations provide for a cap of 6 %.

Finally, the right to information entails the rights of members/shareholders to particular information concerning the company's operations, financial situation, access to books and other documentation. With respect to these rights, different rules may apply depending on the type of legal entity that has adopted the VSO label.

4 Method

The research that has been employed is partly theoretical and partly empirical. We did desk research regarding the application, interpretation and implementation of the Belgian legal requirements to the governance structure of VSOs. This research was complemented by the conduct of three case studies concerning Belgian social enterprises that have adopted the VSO legal requirements in their AoA. According to the report published by the Belgian King Baudouin Foundation, the majority of social enterprises in Belgium have activities that belong to more than one industrial sector (King Baudouin Foundation 2013, p. 16). We selected VSO social enterprises from three random sectors, i.e. the energy sector, the financial sector, and the social housing sector.

Based on the results of the three case studies and the subsequent comparison, we aim to formulate cross-sectoral theoretical statements (Eisenhardt 1989) regarding the practical application of the legal factor of governance in social enterprises. In addition, we aim to develop a comprehensive baseline theory-generated inductively- regarding the involvement of various stakeholders in the organisational structure of social enterprises in different sectors (Eisenhardt and Graebner 2007). Finally, the three case studies aim to highlight the various ways in which Belgian VSO provisions can be implemented in practice and how this affects the activity of the social enterprise to enable the involvement of stakeholders in the decision-making processes. The development of the case studies and their comparison will also contribute to the discussion regarding the legal forms of social enterprises in Belgium. Moreover, the comparison of the case studies will generate cross-sectoral suggestions for improving the organisational functioning of social enterprises in different sectors in Belgium.

4.1 *Semi-structured Interviews, Interview Topics and the Approach Used*

The development and execution of the research project was conducted between May 2014 and July 2015. For the collection of data, various methods were

employed. Primarily, we examined the Belgian legislation regarding VSO and we collected legal data concerning the three social enterprises such as their AoAs, annual reports and other documents produced and published by them. We also collected empirical data using the method of semi-structured interviews and developing subsequent transcriptions of the interviews. In total, we conducted 14 semi-structured interviews with three social enterprises in Belgium that have adopted the VSO label, i.e. CORE, Microstart, and Volkshuisvesting. A minimum of four interviews were conducted with each social enterprise. From every social enterprise in our sample, we interviewed at least four persons who represented four corresponding organisational layers. These layers were: (a) shareholders; (b) external stakeholders, i.e. client or beneficiary; (c) directors; and (d) employees. Different questionnaires were developed for the respondents per organisational layer. With CORE we conducted two additional interviews, i.e. with a stakeholder and an employee, to enrich our data. In that way we achieved collecting responses from at least one respondent per organisational layer from every social enterprise while collecting at least three interviews per organisational layer in total. By means of selecting respondents from different and various organisational layers, we achieved plurality in the responses and variety in the representation of various angles and perceptions. We also achieved to validate and cross-examine the existing data.

The interviews were of a broad nature and had a semi-structured character. Draft tables and memos were used to systemise the methodological, observational and theoretical input during the analytical process, whereas during the interview stage interview reports were also used and coded. Interview transcriptions were supplemented with observations and information that was retrieved from the relevant legal documents. All interviews were transcribed by professional transcribers in the original language in which the interview was conducted, i.e. English or Dutch. All transcriptions were translated by professionals in the English language.

4.2 Procedure

The validity of the collected data and the analysis were tested with the technique of qualitative data triangulation. Triangulation entails the use of a plurality of methods to validate data which describe various facets of the same social phenomenon (Yin 2013, p. 119). Initially, some data were retrieved from applicable regulation and each social enterprise's legal documents, whereas empirical in-depth data were collected with the conduct of semi-structured interviews. Data accuracy and validation were achieved primarily with follow-up questions and through the thorough revision of the interview transcriptions and the interview reports by the respondents. Subsequently to data collection, the constant comparison method (coding) was used for the data analysis, according to which codes were created to constantly compare and contrast the text ideas collected in the interviews. By using codes, all data were sorted, grouped, subdivided and matched to categorised themes. Even though some

pre-selected codes were used deductively, which emerged from the legal analysis of the topic, i.e. governance and stakeholder participation, the majority of the codes were extracted from the existing data inductively. We used an *a priori* framework with a list of the definitions of the selected concepts and contrasted these definitions with codes emerging from the data. The codes emerged from the content of the interview transcription. The process consisted of creating codes using open in-vivo coding with the use of software for qualitative analysis, i.e. ATLAS t.i. The emerging codes from the interview transcriptions were: influence, board of directors, decisions of directors, stakeholder participation, stakeholders meeting, informal meetings, shareholder types, trust, voting process, general assembly process, social report, voting rights, consensus, services, stakeholder information, and values. Following the completion of the interviews, we processed the data further by refining the already existing codes to directly relate them to the research question of this article; we created the following themes, i.e. decision-making processes, employee participation, membership rights, incentives for membership, incentives for employment, profit distribution, formal participation, informal participation, voting cap, and incorporation. Template analysis was the main analytical method (King 2004; Crabtree and Miller 1999). By applying template analysis we contrasted pre-existing concepts with emergent concepts from the data and we integrated them into patterns with respect to stakeholder and employee participation in the governance of social enterprises (Corbin and Strauss 2014). In the following section, we will discuss the results of the empirical investigation.

5 Results: Cooperatives with a Social Purpose (VSO Label) in the Renewable Energy, Financial and Housing Sector

In Europe, special types of cooperatives with new organisational and operational aspects have emerged, i.e. social cooperatives, WISE (Huybrechts and Mertens 2014, p. 195; Yildiz et al. 2015, p. 62), and multi-stakeholder cooperatives (Spear 2004). Cooperatives by definition are organisations which are owned by their members rather than by investors (Huybrechts and Mertens 2014). They are characterised by democratic ownership and (equal) representation in the decision-making processes. Cooperatives also tend to involve a variety of stakeholders in decision-making by assigning ownership and membership rights to stakeholders (Spear 2004). The governance of cooperatives involves different types of stakeholders, such as producers, consumers, investors, etc. In contrast, the various interests of the different groups of stakeholders in traditional commercial for-profit companies will not always be taken into account in the decision-making processes by the governing bodies. For example, decisions can favour particular members/shareholders over other stakeholders. In cooperatives, equality, democratic governance and the involvement or participation of stakeholders in

decision-making converge the interests of stakeholders towards the achievement of a common mission. Huybrechts and Mertens (2014) elaborate on pragmatic legitimacy that cooperatives enjoy from stakeholders when they offer them options for ownership and membership. Additionally, they address normative legitimacy that cooperatives enjoy as an alternative organisational form, which differs substantially from for-profit organisational entities. Campi et al. (2006), examined stakeholder participation of various categories of stakeholders in WISE and other social enterprises in Belgium. His study indicates that the dominant type of stakeholders, which participates in decision-making, is employees (24 %). However, the study concludes that (i) none of the different categories of stakeholders has an overwhelming influence at boards of directors, and that (ii) the participation and the existence of stakeholders is not only reflected on the board level but it means actual sharing of voting power (Campi et al. 2006).

According to the Belgian legislation, cooperatives and other business organisations, i.e. public and/or private limited liability companies can adopt the VSO label. A cooperative can become “a cooperative with a social purpose” by reforming its AoA to include all the cumulative requirements that have been introduced in Article 661 of the Belgian Companies Code (1999). Spear (2004, p.105), and subsequently Coates and Van Opstal (2009), stress that the majority of VSOs in Belgium have the legal form of a cooperative. However, the introduction of the VSO legal requirements into the cooperatives’ AoA will not suffice. The legal requirements need to be implemented in practice too. Belgian legislation contains sanction mechanisms in Article 667 applicable to VSO social enterprises that do not implement the legal requirements. The lack of implementation can ultimately lead to the termination of the VSO-status by court decision. Members/shareholders, interested third parties and the public prosecutor can assert a legal claim that an organisation declares itself as a VSO, while not having its AoA in line with the VSO legal requirements. They can also claim that although a VSO meets the legal requirements in its AoA, it does not act in practice accordingly. In both cases, the court has the competence to judge whether a termination of the VSO-status is reasonable in relation to a particular breach. In the following part, we will examine how the three social enterprises of our case studies have implemented the VSO legal requirements in practice. We will start with introducing the cooperatives which are the subjects of the three case studies.

5.1 Cooperatives with a Social Purpose in the Renewable Energy Sector—First Case: Cooperative Enterprise in Rational Energy (CORE)

The number of social enterprises in the Belgian renewable energy sector has recently increased (EC 2014b, p. 24). Huybrechts and Mertens (2014) justify the emergence of cooperatives and social enterprises in the Belgian renewable energy

sector by exhibiting the emergent motivation of consumers to better control the production and the supply of energy with positive effects to the environment and the community. Belgian energy social enterprises have been developed to raise awareness concerning the necessity to reduce energy consumption, climate change issues, and other current environmental challenges.

The Cooperative Enterprise in Rational Energy (CORE) is a cooperative with a social purpose, located in Leuven, Belgium. CORE was incorporated as a cooperative with a social purpose to bridge social entrepreneurship and education with the promotion of technical projects and social awareness for rational energy consumption in society. In its educational programmes, CORE also introduces the values of a cooperative, social entrepreneurship, and of sustainable development to students.

CORE has been operating and executing technical projects since 2012. The projects of CORE are either designed or commissioned by members/shareholders or they are developed by CORE to supply other cooperatives and social enterprises. The managing director of CORE mentions “If they [clients] ask us to do projects, we first ask them ‘can you become a shareholder’ [...]. We invite them, we don’t force them and it’s also that they might say no [...]. If they become a shareholder, the price for the services will be lower.” [Interview with SJ, 16 February 2015]. Hence, CORE has promoted the creation and development of technology solutions for rational and sustainable use of energy which can be used by other cooperatives and social enterprises, and by the members/shareholders of CORE [Interview with SJ, 16 February 2015]. In that way, CORE, promotes to its clients and potential stakeholders the idea of social and cooperative entrepreneurship.

CORE is not operated by employees with a typical employment relationship with the organisation. The development of CORE’s projects as well as the operationalisation of the daily business is performed by students-volunteers who attend the ‘Postgraduate Innovative Entrepreneurship Programme’ for engineers at the Katholieke Universiteit in Leuven (KU Leuven). Students-volunteers are mainly involved in the execution of the projects in exchange of student credits for the provision of part-time services. Subsequently, CORE’s deliverables are communicated by the involved students-volunteers to the academic world in the form of classes, courses, academic outcome (i.e. student theses), and in student events focused on raising awareness regarding rational and sustainable energy consumption through social entrepreneurship and cooperative membership [Interview with YG&G, 13 November 2014].

CORE is a limited liability cooperative with a social purpose which has adopted three types of shares that correspond to three different types of members (AoA, Article 7). The categories include: (i) type A shares for CORE’s founders and structural partners, either legal or natural persons; (ii) type B shares for legal or natural persons. Type B shares are offered to CORE’s clients and other stakeholders, for instance community partners; and (iii) type C shares for students. Students are only allowed to purchase one share each. Type C shares are offered to: (1) students-volunteers who participate in the operationalisation of CORE; (2) any individual who is a student enrolled in an accredited public institution of higher

education in Belgium and wishes to participate in CORE's projects; and (3) student alumni or former CORE volunteers who maintain their share; they constitute a very important part of CORE type C members/shareholders with the responsibility to promote and communicate the idea of CORE in the business society [Interview with YG&G, 13 November 2014]. All the shares of CORE have the same nominal value of € 100.

CORE is governed by a board of directors which is composed of 14 members and a general assembly which meets yearly. The board of directors has been appointed to be the organ with the most extensive powers at CORE towards the achievement of the social purpose of the organisation and the management of the daily business. In the board of directors, each type of member/shareholder ought to be represented as follows: (i) a minimum of three directors from the members/shareholders with type A shares, i.e. founder/structural partners. CORE has appointed four directors to represent type A members/shareholders; (ii) a maximum of three directors from the members/shareholders with type B shares, i.e. clients and community. CORE has appointed three directors to represent type B members/shareholders; and (iii) a maximum of three directors from the members/shareholders with type C shares, i.e. students-volunteers. CORE has appointed three directors to represent type C members/shareholders. A total of 10 out of 14 directors are also CORE members/shareholders. Additionally, the board comprises external directors who are not members/shareholders of CORE. This is the case for the managing director, the director of legal support, the director of financial support, and the secretary who is a student with the responsibility to check and control the organisation [Interview with SJ, 16 February 2015]. The board of directors is the competent organ to decide on the acceptance, the resignation, and the exclusion/dismissal of members/shareholders, and on the provision to employees of membership/shareholdership rights [Interview with SJ, 16 February 2015]. Each member/shareholder must act in compliance with CORE's AoA and with the decisions that are taken by the general assembly and the board of directors.

CORE's general assembly is annually convened with the responsibility to authorize the board of directors to continue activities for the following year. In compliance with the VSO legal requirement, every member/shareholder participates in the voting. The voting power per member/shareholder is however limited to a maximum of 10 % of the total voting power of all the shares represented in the general assembly [Interview with SJ, 16 February 2015]. The 10 % voting cap differs from the democratic rule of 'one man one vote' but it results in a better balance and democracy at CORE according to the managing director. He explains "one of the reasons why we don't go for one share-one vote, is because type A and B shareholders are companies, they can only be represented by one person in the general assembly while the students-shareholders in five years or ten years time can grow to a group of 200 shareholders. Then, you will have a different balance." [Interview with SJ, 16 February 2015]. However, as of today, decisions in the general assembly of CORE have been taken unanimously [Interview with YG, 13 November 2014]. The voting power of members/shareholders can be diluted

further down to 5 % on the occasion of employees-members/shareholders participating in the voting process. However, there are no persons with a traditional employment relationship at CORE.

5.2 Cooperatives with a Social Purpose in the Financial Sector-Second Case: Microstart

Microfinance has been defined as the provision of direct or intermediate financial services to marginalised individuals, entrepreneurs and communities that have no access to commercial financial banking services (Morduch 1999; Périlleux 2015; Périlleux et al. 2011). Microfinance services are provided by a variety of microfinance institutions in Belgium among others, cooperatives and non-profit organisations, with double bottom line objectives which aim at creating not only financial but also social returns (Périlleux 2015). Microfinance institutions in Belgium are considered social enterprises (Périlleux 2015; Périlleux et al. 2011). Many microfinance social enterprises have been incorporated as cooperatives and are accredited by the Belgian National Cooperative Council (CNC) that they fully comply with the cooperative principles (Périlleux 2015). Other cooperatives have adopted the VSO social purpose label by introducing the legal requirements in their AoA (Münkner 2004).

Microstart is a microfinance social enterprise which is located in Brussels, Belgium. Microstart was incorporated in 2011 by the French non-profit organisation ‘Association pour le droit à l’initiative économique’(Adie) and the bank ‘BNP Paribas Fortis’ with the financial endorsement of the European Investment Fund (EIF). Adie is the founder of Microstart, and one of the largest microfinance institutions in Europe. It provides microcredit and microfinance to French micro-entrepreneurs. With the establishment of Microstart, Adie aimed at the extension of its successful microfinance practice to Belgium [Interview with LH, 16 June 2015].

Microstart’s organisational structure combines the operating and financing aspects of two legal entities and corresponding organisations, i.e. Microstart, a limited liability cooperative with a social purpose, and Microstart Support, a non-profit organisation. Microstart has been assigned with the task to provide microcredit and microfinance to clients who are excluded from the traditional Belgian banking system, such as unemployed people, jobseekers, recipients of welfare support and self-employed persons. Microstart Support is a non-profit organisation with the task to provide coaching and business development services to clients who receive microcredit and microfinance.

Microstart is a cooperative that has adopted the social purpose and accordingly it should comply with the VSO legal requirements. The members/shareholders of Microstart are not allowed to strive for any pecuniary gain (profit) (AoA, Article 1). The cooperative is required to act both financially and commercially, directly or

indirectly, in accordance with the social purpose mentioned in its AoA. Microstart is a for-profit legal entity. However, according to Microstart's AoA, the distribution of dividends to its members/shareholders is not allowed (AoA, Article 29). On the contrary, profits are used for the development of new agencies, the design of new projects, the elimination of costs, and rewards to employees (AoA, Article 29).

Adie and BNP Paribas Fortis have purchased the majority of Microstart shares. The AoA of Microstart provide for three types of shares: (i) type A shares that are reserved for Adie; (ii) type B shares that are reserved for BNP Paribas Fortis; and (iii) type C shares that can be purchased by other legal and natural persons. In Microstart, all types of shareholders ought to be represented in the board of directors. Microstart Support is also represented with one member in the board of directors. The general assembly has the competence to appoint additional directors if the capital of the cooperative exceeds a certain amount (€ 1,210,000) (AoA, Article 17). The president of the board is an independent director elected and appointed by the general assembly.

Microstart is governed by a board of directors. The board is appointed as the competent organ to exercise the broadest powers and activities necessary for the cooperative to achieve the social purpose. The board of directors has been elected directly by the general assembly. At Microstart the general assembly is convened annually to decide on issues of major importance for the continuation of Microstart's activity, i.e. to review and accept the annual accounts, to decide on the use of profits, and to discharge the liability of directors (AoA, Article 21). Decision-making processes at a general assembly level are subject to the VSO legal requirement according to which no one is allowed to participate in the voting procedure with more than 10 % of the total number of votes. However, as of today, all Microstart decisions in the general assembly have been taken unanimously [Interview with LH, 16 June 2015]. Finally, even though Microstart has adopted the majority of the legal VSO requirements, its AoA exclude the provision of membership rights/shares to employees and other stakeholders. A member of the board of directors mentioned that "we don't give membership rights to employees and so I would be surprised if that particular aspect would be in the statutes." [Interview with LH, 16 June 2015].

5.3 Cooperatives with a Social Purpose in the Social Housing Sector—Third Case: Volkshuisvesting

Social housing is a regional competence in Belgium for the various different regional governments, i.e. the Flemish region, the Walloon region, and the Brussels-capital region. Each regional government has the competence to generate and implement its own housing and social housing policy. In the Flemish region, the Flemish Housing Code 1997 has been introduced to regulate the Flemish social housing policy (Decree for the Flemish Housing Code 1997—Decreet houdende de

Vlaamse Wooncode 1997). The Flemish Housing Code 1997 constitutes the primary legislative source for the housing policy in the Flemish region. Furthermore, the Flemish government has the competence to recognise organisations with a social purpose as social housing corporations which can implement the objectives that the Flemish government aims to fulfil with respect to the social housing policy. In the Flemish region, social housing corporations are not public organisations but independent legal entities. They are obliged to execute the tasks prescribed by the Flemish Housing Code 1997 and its supporting regulations. Social housing organisations are operated in the Flemish region under the supervision and monitoring of the thereto established supervision and monitoring organisations (Flemish Housing Code 1997, Article 40 §1). Social housing corporations are also allowed to benefit from favourable loans and subsidies.

However, due to their public task, social housing corporations are highly regulated. According to the Flemish Housing Code 1997, social housing corporations are obliged to take the legal form of either a cooperative or a public limited company and to adopt the VSO legal label. Therefore, social housing corporations are in principle subject to the provisions of the Belgian Companies Code 1999. However, the provisions of the Belgian Companies Code 1999 only apply in so far as the Flemish Housing Code 1997, or the AoA designed by the Flemish government for social housing corporations, do not deviate from the Belgian Companies Code 1999 (Flemish Housing Code 1997, Article 40 §2).

One deviation, which emanates from the Flemish Housing Code 1997 is the following: social housing VSO organisations cannot provide membership rights/shares to employees (Flemish Housing Code 1997, Article 40 §2). Thus, the 10 % voting cap on the exercise of the voting rights does also not apply to the public members/shareholders in social housing corporations (Flemish Housing Code 1997, Article 40 §3).

‘Volkshuisvesting’ is a social housing cooperative in the Flemish region of Belgium. It provides renting and social housing facilitation services to people requiring social housing according to income or (eligibility to dispose of) property. The enterprise was incorporated in the early 1920s as a private limited liability company whereas in 2009 it converted into a cooperative with a VSO label.

Volkshuisvesting has adopted a tripartite social objective to fulfil the regional housing policy (AoA, Article 4). Primarily, it aims to improve the living conditions of families and individuals in need of social housing, such as low-income families and individuals, the elderly, and people with disabilities. Secondly, Volkshuisvesting aims to realise social housing neighbourhoods by purchasing property. Finally, Volkshuisvesting aims to contribute to society by renovating or otherwise improving the quality of existing old houses.

In Volkshuisvesting’s AoA, it is explicitly mentioned that the members/shareholders are allowed to seek pecuniary (capital) gain only to a limited extent (AoA, Article 5). In principle, profits are not distributed to the members of Volkshuisvesting. Members can only receive dividends subject to the regulated cap, i.e. currently 6 % (AoA, Article 21).

Volkshuisvesting has different types of members/shareholders: 23 from the public domain and 49 from the private domain [Interview with MP, 18 February 2015]. However, the classification of members/shareholders is not explicitly mentioned in Volkshuisvesting's AoA. According to Volkshuisvesting's AoA (Article 11), public institutions that are allowed to acquire the shares of Volkshuisvesting are the Flemish government, any province, any community, and any public institutions for social welfare. Private institutions that own Volkshuisvesting shares are banks and insurance companies (Interview with MP, 18 February 2015).

The social cooperative is managed by a management committee of seven members. According to Volkshuisvesting's AoA, the board of directors can entrust the day-to-day management to a management committee assigned for that purpose (AoA, Article 14). The management committee takes the decisions regarding the daily management and operations. However, these decisions can be subject to the approval of the board of directors.

Volkshuisvesting is governed by the board of directors, which is the competent organ to decide on any matter that concerns the cooperative including all matters that are not reserved to the competence of the general assembly (AoA, Article 14). It decides with a unanimous majority but if unanimity cannot be reached, simple majority applies. The board of directors is also the competent organ to decide on the issuance of new shares (AoA, Article 8). In such case, only the members/shareholders of the cooperative are in principle allowed to purchase newly-issued shares. A person or entity can however be nominated by two existing members/shareholders, after which the board of directors decides in a confidential meeting on the allowance of such new member/shareholder. The regular transfer of shares between members/shareholders is also subject to the approval of the board of directors (AoA, Article 9).

The board of directors is required to comprise of at least 11 members in order to represent both the private and the public members/shareholders, i.e. five directors from the public domain and five directors representing the private members/shareholders (AoA, Article 11). Volkshuisvesting has a board of directors, which consists of 13 members. At Volkshuisvesting, the board of directors prepares and publishes an annual social report in which it is showcased how the cooperative's activities pursue the social purpose. The social report particularly indicates in which way the expenditures on investment, operating costs and salaries have contributed to achieving the social purpose of the cooperative. The report is integrated in the annual report of Volkshuisvesting (AoA, Article 13, Interview with MP, 18 February 2015).

At the top of the governance hierarchy, Volkshuisvesting is also governed by the general assembly of the members/shareholders. The general assembly is assigned to convene annually to decide on any proposals regarding amendment of the AoA and/or on proposals formulated by the board of directors (AoA, Article 26). However, Volkshuisvesting, and any other recognised social housing corporation in the Flemish region, is not allowed to amend the AoA without the permission of the Flemish minister responsible for housing (Decision of the Flemish Government

2010, Article 8 §1). This provision does not apply to several designated minor changes (Decision of the Flemish Government 2010, Article 8 §2).

The general assembly is entitled to appoint and dismiss the members of the board of directors (AoA, Article 12). According to Volkshuisvesting's AoA, members/shareholders from the public domain, i.e. Flemish government, any province, any community, and any public institution for social welfare, can exercise their voting rights with as many votes as are attached to the membership rights/shares which they own. The remaining members/shareholders from the private domain are subject to the VSO legal requirement, according to which no one is allowed to participate in the voting procedure with more than 10 % of the total number of votes (AoA, Article 24).

However, in practice, according to the managing director of Volkshuisvesting, "the cooperative strives for a unanimous majority in the general assembly, which has worked out fine so far." [Interview with MP, 18 February 2015].

Furthermore, employees are not allowed to become a member/shareholder of Volkshuisvesting. Article 40 §2 Flemish Housing Code 1997 explicitly excludes the application of Article 661 (vii) and (viii) of the Belgian Companies Code 1999, which regulates the legal right of employees to acquire membership/shareholdership rights. Volkshuisvesting's AoA mention in this context that the employees cannot become members/shareholders (AoA, Article 9). The same rule applies vice versa to Volkshuisvesting's members/shareholders. They can only become an employee of Volkshuisvesting provided that they dispose of their shares. Due to the exclusion of membership rights/shares, the employees of Volkshuisvesting do not have a direct access to the decision-making processes of the cooperative.

In the section that follows, we will elaborate on the cross-sectoral comparison and synthesis of our findings.

6 Discussion

6.1 Governance

CORE, Microstart and Volkshuisvesting are cooperatives with a social purpose, which operate in three different industrial sectors, respectively, in the energy sector, the financial sector and the social housing sector. All of the examined cooperatives with a social purpose have adopted the VSO legal label by incorporating the VSO legal requirements into their AoA. The VSO legal label can be adopted by social enterprises operating in different sectors. However, in particular industrial sectors, e.g. the housing sector, the VSO legal label has been prescribed for organisations that implement the regional public policy regarding social housing.

The governance of cooperatives is characterised by a standard correlation between membership/shareholdership and decision-making. The general

assembly of the members/shareholders is the competent organ to elect the board members. Therefore, we contend that the traditional self-selecting governance models, which are employee participation often applied in for-profit organisations and which models are characterised by a powerful board of directors comprised mainly of directors who are not also members/shareholders, is not the prevailing model in cooperatives with a social purpose. In the governance models of cooperatives with a social purpose, the decision-making organs are closely associated with the rights that membership/shareholdership confers. However, they are not characterised by the principle of democracy *per se* as it is expressed by the concept of ‘one man, one vote’. Contributing to the taxonomy of Spear et al. (2014), we argue that cooperatives with a social purpose in Belgium, showcase hybrid governance models in which self-selecting governance and membership governance schemes are combined (Spear et al. 2014, p. 138). Thus, we identify the following types of cooperatives with a social purpose that apply hybrid governance schemes:

- (1) Cooperatives with a social purpose that apply a regulated 10 % cap on the exercise of voting rights of the cooperative members/shareholders according to the VSO legal requirements. The reduction of the voting rights of the members/shareholders in the form of a regulated cap is required by the VSO legislation. Even though, the voting cap differs from the principle of democratic participation embodied in the ‘one man, one vote’ rule, it introduces a hybrid decision-making model which allows members/shareholders to achieve balance and democracy in the decision-making processes of the general assembly. At CORE, the voting cap incorporated in the AoA reduces the ordinary voting rights that are attached to the cooperative shares to a certain extent, i.e. one tenth. This 10 % voting cap ensures a balance between the voting power of type A and B shareholders-which are legal persons that can be only represented by one person at the general assembly-with the voting power of type C shareholders, i.e. the growing number of students-volunteers who represent themselves personally at the general assembly. At Volkshuisvesting, the 10 % voting cap only applies to members/shareholders of the private domain, whereas the members/shareholders of the public domain may always exercise their voting rights in full. Resuming, with respect to the implementation of the legal VSO requirement which imposes a 10 % voting cap to the exercise of the voting rights, we identify: (i) cooperatives with a social purpose which apply a 10 % cap to the exercise of voting rights but which cap is reduced to 5 % for employees-members/shareholders (CORE); (ii) cooperatives with a social purpose, which do not allow employee participation, but which do apply a 10 % voting cap to the exercise of voting rights of members/shareholders (Microstart); and (iii) cooperatives with a social purpose, which do not allow employee participation, and where the 10 % cap only applies to members/shareholders belonging to the private domain (Volkshuisvesting).
- (2) Cooperatives with a social purpose that strive for unanimity. Even though the implementation of the 10 % voting cap has been introduced in the AoA of the

examined cooperatives with a social purpose, it follows from the interviews that at the board level and general assembly level, the board members and the members/shareholders strive for unanimity and consensus. At CORE, a director mentions “We try to vote as few times as possible, I think we almost never really vote [...]. We vote that we all agree, we discuss the problem and we go for reaching consensus. Until now we didn’t have situations in which we had to really vote.” [Interview with YG, 13 November 2014]. Both Microstart and Volkshuisvesting also strive for a unanimous majority in the general assembly [Interview with MP, 18 February 2015; Interview with LH, 16 June 2015].

- (3) Cooperatives with a social purpose that appoint directors who represent various types of members/shareholders. In addition, the general assembly can appoint independent directors to either (i) supervise and control the board of directors; (ii) provide expertise with respect to legal, financial and management issues, or with respect to the fulfilment of the social purpose; or (iii) represent any supportive organisations to the operation of the cooperative with a social purpose.

6.2 Employee Participation in the Decision-Making Processes of Cooperatives with a Social Purpose

Employee participation in the decision-making processes of cooperatives with a social purpose is required by the Belgian VSO legislation. The legal requirement imposes on the VSO social enterprise to provide a right to the employees to become a member/shareholder and to participate in the decision-making processes in the general assembly. As noted above, according to Article 667 of the Belgian Companies Code 1999, the lack of implementation of the cumulative VSO legal requirements in the AoA can lead to sanctions. Claims submitted by a member/shareholder, interested stakeholders, or the public prosecutor could cause the termination of the VSO label. However, in practice, there is no great pressure on a VSO social enterprise to implement the employee co-ownership legal requirement. Apparently, there is no monitoring public institution/body with the competence to validate the compliance of the VSO social enterprise with the legal requirements of the VSO regime.

Furthermore, the implementation of the legal requirement regarding employee membership/shareholdership may be also barred by later and more specific legislation. The latter can derogate the earlier and less specific legislation (*lex specialis derogat legi generali and lex posterior derogat legi priori*). We noted that this is the case with respect to social cooperatives in the housing sector.

Subsequently, as regards employee participation in the decision-making processes, based on our interview data, we can distinguish various attitudes in social cooperatives:

- (1) *Cooperatives with a social purpose which are keen to allow employee participation and to provide membership rights/shares to employees.* At CORE, even though the AoA allow the provision of membership rights/shares to employees, there are no ‘regular’ employees to purchase such shares. In this social cooperative, students-volunteers design, operate and execute CORE’s projects for as long as they are students. In return they receive study points and they acquire knowledge in the field of social cooperative entrepreneurship and sustainable energy innovation, working experience, and a big network in industrial engineering. Working at CORE is also part of their education. Student-volunteers are considered the “real employees” at CORE and that is why they are invited to become members/shareholders by purchasing one type C share [Interview with SJ, 16 February 2015; Interviews with YG&G, 13 November 2014; Interview with PO, 16 February 2015]. As members/shareholders, they participate in the decision-making processes in the general assembly, they exercise voting rights, they elect and appoint representatives at the board of directors, and they influence the daily decisions that are taken at CORE. Students-volunteers who graduate are allowed to maintain their membership rights/shares but they are not allowed to provide services at CORE anymore [Interview with YG&G, 13 November 2014]. They however still constitute a very important sub-category of type C members/shareholders as they promote the values and the idea of CORE to the market, attract new projects and new members/shareholders. They also share with the new students-volunteers their experiences by coaching and mentoring [Interview with YG&G, 13 November 2014].
- (2) *Cooperatives with a social purpose which are not keen to allow employee participation nor do they provide membership rights/shares to employees.* At Microstart, employees are not allowed to purchase shares. The VSO legal requirements to that end have not been introduced in Microstart’s AoA. The involvement of employees in the decision-making processes and the provision of membership rights/shares is perceived to be related with risks in governance due to the fact that the organisation is in the start-up phase. [Interview with LH, 16 June 2015] An employee at Microstart mentions “we are still at the first steps, so we first have to make the company very stable and then maybe we will open the shares to old clients and maybe to employees and some volunteers.” [Interview with CO, 16 June 2015].
- (3) *Cooperatives with a social purpose which are excluded from offering membership rights/shares to employees.* Volkshuisvesting, is a cooperative with a social purpose in the housing sector and is subject to the regional social housing policy of the Flemish region. The Flemish Housing Code 1997, forbids the provision of membership rights/shares to employees. Hence, Volkshuisvesting cannot provide membership rights/shares to employees. Furthermore, members/shareholders of this social cooperative can only become employees after they have disposed of their shares.

6.3 Stakeholder Participation

In the context of social enterprises, a ‘stakeholder’ can entail any group or individual who can affect or is affected by the achievement of a social enterprise’s purpose. The emphasis is put on the external stakeholders of a social enterprise, such as supporters, clients and beneficiaries (Freeman and Reed 1983). According to the VSO legal regime, cooperatives with a social purpose, are not required to include in their AoA provisions regarding stakeholders (other than employees); e.g., which allow stakeholder participation or provide membership rights/shares to various kinds of stakeholders. Based on our interview data, we can identify cooperatives with a social purpose with the following attitudes as regards stakeholder participation in the decision-making processes.

- (1) *Cooperatives with a social purpose, which are keen to allow stakeholder participation in the decision-making processes by implementing provisions regarding membership rights/shares in the AoA as well as by allowing stakeholder participation through informal processes.* It has been already explained how student-volunteers have access to decision-making processes at CORE. In addition, to student-volunteers, clients and customers are invited to purchase type B shares [Interview with SJ, 16 February 2015]. For CORE, it is important that the projects that are executed either stem from clients, or are directed to clients, which are or aim to become a member/shareholder [Interview with SJ, 16 February 2015]. Upon a request for a new project, CORE invites the new client to join the cooperative as a member/shareholder. Membership/shareholdership confers to such client formal power to participate in the decision-making processes because it will have the right to vote in the general assembly and to elect and appoint representatives for the board of directors.

Furthermore, both students-volunteers and clients, besides being allowed to participate in formal decision-making processes, can also participate in informal meetings. Students-volunteers and alumni at CORE can participate in monthly type C member/shareholder meetings to discuss ideas, problems, strategies or claims with their representatives in the board [Interview with YG&G, 13 November 2015]. Existing clients or prospective clients at CORE can participate in monthly thematic events organised by CORE’s students-volunteers. During the thematic-events the progress of CORE’s projects is explained with reference to the specific social mission that CORE’s projects address, e.g. rational energy consumption, mobility or sustainable energy in housing. Hence, knowledge is shared between the existing and potential clients and the cooperative’s members/shareholders. They all are interested in adopting a multi-stakeholder approach and support the social mission of CORE [Interview with JW, 13 November 2013]. At CORE, the application of democratic procedures between shareholders, directors and employees/volunteers is a crucial issue. The principle of democracy is not only reflected in the application of the 10 % voting cap but also in the open and participatory

decision-making processes, in which employees and stakeholders can equally contribute. Furthermore, the communication between the members/shareholders is open and informal [Interview with GY&G, 13 November 2014; Interview with SJ, 16 February 2015]. A student-volunteer at CORE was allowed to attend the meeting of the board of directors as a visitor in order to finally decide on the advantages of becoming a member/shareholder [Interview with G, 13 November 2014]. Stakeholders perceive that they influence decision-making both directly and indirectly by sending emails, by reporting on projects, by voting, and by communicating directly with directors. At CORE, there is no decision taken either by the board of directors or the general assembly that remains secret from employees or stakeholders [Interview with SJ, 16 February 2015]. The managing director of CORE mentions “when a meeting is finished, I don’t mind to tell everything. Before a meeting, I’m always trying to ask everybody what their opinion is.” [Interview with SJ, 16 February 2015; Interview with YG&G, 13 November 2015]. Between the members/shareholders, this is a feeling of trust and respect because communication is open.

- (2) *Cooperatives with a social purpose which are keen to allow informal stakeholder participation or self-selecting representation of stakeholders in the decision-making processes but which are not keen to allow in the AoA for the provision of membership rights/shares to any type of stakeholders.* Those cooperatives with a social purpose, have stakeholders who cannot influence the decision-making formally, e.g. by the exercise of voting rights. However, they can do so in an indirect way through informal means of communication, e.g. by the involvement of intermediaries, such as managers or self-selected representatives/directors who are not members/shareholders. We found an example thereof at Microstart, where employees and volunteers have never attended physically any meeting of the board of directors. However, they communicate their interests to intermediaries and trust their representatives at the board level [Interview with CO & Interview with LH, 16 June 2015]. They also feel that they actually influence decision-making. For instance, Microstart employees contributed substantially in the decision-making process regarding the modification of Microstart’s business plan. Initially, Microstart’s business plan was perceived by Microstart employees to be ambitious including very high objectives in terms of numbers of microcredit and returns [Interview with CO, 16 June 2015]. The business plan was transplanted from the French practice and was not really adapted to the Belgian context. Microstart employees managed to communicate with the board of directors that it was not feasible to achieve the objectives in the due time. Furthermore, employees and volunteers at Microstart indicate that they trust the members of the board of directors because governance decisions comply with the social objectives of the operational part of the cooperative [Interview with CO, 16 June 2015; Interview with E, 13 November 2014]. The board of directors serves its role to equally guarantee the social and the financial objectives of the cooperative:

(i) the financial objectives are safeguarded by directors who represent the main financiers of Microstart, i.e. BNP Paribas Fortis and the EIF; and (ii) the social goals of Microstart are safeguarded by directors who are representatives of the non-profit organisation Adie. Even though physical contact between the board of directors and employees or volunteers is not regular, meetings and informal discussion take place between volunteers, employees, managers and directors [Interview with CO, 16 June 2015; Interview with LM, 13 November 2014]. One Microstart employee mentioned that although employees, volunteers and managers are invited to meet and discuss with the board members, there is however still the perception that in respect of certain information and decisions, the board members are not allowed to disclose any information. But generally, communication at Microstart between the board members, managers and employees is relatively open. Information in the form of a newsletter is distributed weekly to employees and managers regarding the operational activities of Microstart [Interview with CO, 16 June 2015]. Annually employees are provided with access to financial information. Other information is disseminated to employees and other managers, e.g. decisions that have been taken by the board of directors and/or the general assembly. One Microstart employee mentions “if there is a decision which involves everybody, everybody is going to receive the information.” [Interview with CO, 16 June 2015]. The Microstart website also contains information accessible for stakeholders, including newsletters, annuals reports, financial statements and organograms. Besides employees and volunteers, also customers can influence indirectly the decision-making processes at Microstart. Annually, Microstart organises a client satisfaction survey. Questions are submitted to clients with respect to (i) their level of satisfaction with the services that Microstart provides in terms of microcredit and support; (ii) the level of satisfaction with the interest rate that Microstart applies to its microcredits; and finally (iii) the level of satisfaction concerning the contact with Microstart’s advisors and consultants. Additionally, Microstart organises informal events where clients are invited to evaluate and discuss Microstart’s services and activities. For example, a Microstart employee mentions that meetings are organised with clients in the same sector. It is also common practice at Microstart to involve clients in the operational decisions [Interview with CO, 16 June 2015].

At Volkshuisvesting, both the employees and the tenants of the social housing units are not allowed to acquire membership rights/shares nor to participate in the decision-making processes. The reason hereof lies in the provisions of the Flemish Housing Code 1997, which bar the issuance of employee and stakeholder membership rights/shares [Interview with MP&S, 18 February 2015; Interview with IGT, 19 February 2015]. The Flemish government, any province, any community, and any public institutions for social welfare are considered the only stakeholders that are allowed to participate in the decision-making processes through the exercise of membership rights/shares. Even though specific types of stakeholders, i.e. employees and tenants are not

allowed to participate formally and directly in the decision-making processes, they can still participate in informal meetings [Interview with MP&S, 18 February 2015]. At Volkshuisvesting, employees can participate in staff meetings. The outcome there of is communicated informally with the managing director of Volkshuisvesting and the President of Volkshuisvesting [Interview with MP&S, 18 February 2015; Interview with IGT, 19 February 2015]. Furthermore, Volkshuisvesting also organises meetings with the tenants of the social housing units—directly or via the tenants committee. The tenants and their representatives are allowed to propose ideas for the improvement of the housing units. They can also submit claims and complaints. The tenants' committee comprises at least four members. A delegate from Volkshuisvesting participates as a member of the committee. The tenant committee is allowed to make proposals and submit requests. The managing director of Volkshuisvesting has the responsibility to forward these to the Volkshuisvesting governing committee, which will deal with such proposal, claims and complaints.

6.4 Incentives for Formal Versus Informal Participation of Employees and Stakeholders

In this section we will compare (i) the incentives that stimulate employees and stakeholders to acquire membership rights/shares, which provide them formal access to decision-making processes, with (ii) the incentives that stimulate other categories of stakeholders to participate indirectly to decision-making using informal processes and means of communication. With this part we aim to contribute to the theoretical discussion that was initiated by Campi et al. (2006; see Sect. 2.2.)

6.4.1 Employees and Stakeholders with Membership Rights/Shares

Employees and stakeholders can formally participate in the decision-making processes of social enterprises by exercising their voting rights at the general assembly and by electing representatives at the board of directors. The provision of membership rights/shares to employees is a legal requirement under the VSO legal regime that applies to cooperatives with a social purpose. It can be implemented by including this right in the AoA. A variation is to introduce a special type of shares for employees. The VSO legal regime does not require the provision of membership rights/shares to other type of stakeholders like clients, supporters and beneficiaries. Although not legally required, a VSO can provide membership rights/shares to other type of stakeholders. Some have formalised this by creating a special category of shares for stakeholders, e.g. CORE. The existence of provisions regarding

membership rights/shares to both employees and stakeholders in the AoA generates an enabling environment for employee and stakeholders' participation. At CORE, all students-volunteers who operate the cooperative have purchased type C shares [Interview with YG&G, 13 November 2014]. They perceive the possession of membership rights/shares as a means to acquire insights as to how the organisation functions and how the legal framework can be used to safeguard their interests (which are of a non-financial character) in decision-making [Interview with YG&G, 13 November 2014]. In respect of the purchase of one share of 100 euro, a student-volunteer mentions "I immediately filled in the information form to become a shareholder type C [...]." [Interview with G, 13 November 2014]. The underlying idea behind CORE's success and development is that participation, membership/shareholdership, and the communication of the social mission, will on a continuous basis generate new projects with a social purpose and new clients (who will also become a member/shareholder) [Interview with SJ, 16 February 2015]. CORE is a for-profit cooperative with a social purpose, which aims to bridge entrepreneurship with education. Profits cannot be distributed to the cooperatives' members/shareholders. They are rather reinvested in the cooperatives' social purpose and growth in the form of new projects. A part of CORE's mission is the promotion of social and cooperative entrepreneurship for the fulfilment of social objectives, which ultimately leads to the execution of projects and to decision-making processes, which is influenced substantially by values of equality, democracy and participation. Thus, students-volunteers are incentivised to participate and become members/shareholders. Simultaneously, they are educated and they acquire professional experience in industrial engineering aimed at promoting rational energy use, sustainable mobility and social entrepreneurship. They also build up a strong network, which allows them to communicate and promote further the idea of sustainable energy use in all aspects of daily life and social entrepreneurship [Interview with YG&G, 13 November 2014].

Clients and stakeholders also purchase CORE shares to support the cooperative financially and to have access to the decision-making processes by voting. A type B member/shareholder, who is an academic scientist, mentions "I'm not interested in getting that money back, so for me that money is gone, but it is well-spent." [Interview with JW, 13 November 2014]. He believes that investing in human capital, i.e. students-volunteers who work together with stakeholders and members/shareholders on projects concerning rational energy use in mobility, is very valuable, especially because in the current business landscape, the major business players have not yet developed solutions in this area [Interview with JW, 13 November 2014]. Another example is the Belgian company Pantarein, also a type B member/shareholder of CORE. Pantarein designs the construction and operation of factory plants. In collaboration with CORE students-volunteers, they advise on energy optimisation for the consumption of water in factory plants such as textile factories [Interview with FM&PO, 16 February 2015]. Even though the representatives of Pantarein are invited to participate in all the decision-making processes of CORE, they have only been engaged in a few of them. They feel that they contribute to the fulfilment of the social mission by influencing the

decision-making processes, directly or indirectly, by sending emails and by reporting on existing and new projects to the board of directors [Interview with FM&PO, 16 February 2015].

6.4.2 Employees and Stakeholders Who Informally Participate in the Decision-Making

If a cooperative with a social purpose does not offer to employees and/or to other stakeholders the chance to buy membership rights/shares, they thus have no formal power to participate in the decision-making processes. In that situation, the only way of exercising influence is through informal participation. Interests, suggestions and ideas communicated to managers, directors and to self-selected representatives. The contribution by employees and stakeholders to the fulfilment of the social purpose is in that situation restricted to the operational side of the cooperative while decisions and information are communicated indirectly, and only to those parties that need to be involved. At Microstart, employees are sceptical about whether they would purchase shares or acquire membership rights/shares even if the opportunity of acquiring membership rights/shares was offered to them. [Interview with CO, 16 June 2015]. Personal interests and motivations generally have not yet been aligned with the fulfilment of the social purpose that the cooperative serves. An employee mentions “[...] it is very important where I put my money and I like my independence, so in my opinion I would probably put my money somewhere else [...]. Maybe for symbolic purposes I would put some money [in Microstart shares] to be able to have more power in the decision-making. Just for personal interest, I would be very interested to see how the decisions are taken in the board.” [Interview with CO, 16 June 2015]. Even though the employees trust the decisions that are taken by the board of directors and the general assembly, they feel the urge to participate in a more direct way in the decision-making processes.

It is perceived by Microstart’s employees that if Microstart would provide membership rights/shares to employees and clients, the mix of such different types of members/shareholders could improve the decision-making processes because the operational side of the social enterprise would then be formally represented. Furthermore, our interview data suggest that informal communication between the board, management, employees and stakeholders has generated the impression that there is asymmetry of information between the Microstart branches in Brussels and outside Brussels.

Finally, our interview data indicate that at Volkshuisvesting, employees and stakeholders have no urge to be involved in the cooperatives’ affairs nor are they actually aware of the opportunities that exist to informally participate in the decision-making processes [Interview with MP&S, 18 February 2015].

7 Conclusions

Social enterprises have contributed substantially to the promotion of sustainable development and inclusive growth in Europe. This chapter elaborated on tailor-made legislation regarding social enterprises. We particularly examined how the VSO tailor-made legislation for social enterprises in Belgium influences the participation of employees and other types of stakeholders in the decision-making processes. We tested this question by conducting three case studies relating to three cooperatives with a social purpose, each in another sector; respectively, the renewable energy sector, the microfinance sector, and the social housing sector. Main achievements, from an academic perspective, are (i) the contribution to the emerging legal theory with respect to the VSO tailor-made legislation and (ii) the generation of empirical findings which build on and contribute to existing theoretical foundations regarding the participation of stakeholders in the governance of social enterprises.

Primarily, our findings in the three case studies confirmed that even though the Belgian tailor-made legal framework regarding social enterprises is conducive to *employee participation* in the decision-making processes, the concept of employee participation differs in the examined cooperatives with social purpose in the three sectors. In some cases, the direct and formal participation of employees in the decision-making processes of the social enterprise came with the acquisition of a legal right, i.e. membership right/share. The acquisition of membership rights/shares allows employees to participate in a direct way in the decision-making processes of VSO social cooperatives, by (i) exercising voting rights in the general assembly, subject to a regulated cap, i.e. 10 %, and indirectly by (ii) electing the members of the board of directors. Additionally, we found indirect participation of employees via informal and unregulated participation settings in all three cases in the different sectors. In one sector, employee participation was excluded by special sectoral legislation.

From a practical point of view, this chapter also contributes to a social entrepreneur's understanding of the substance and the implementation of the VSO legislation in Belgium. The enrichment of the discussion with empirical findings of current best practices will also induce Belgian social entrepreneurs to consider creating more inclusive and participatory models in governance and decision-making.

In this chapter we limited our research and focused mainly on the examination of the formal participation of employees and stakeholders in the decision-making processes of social enterprises and the effects of tailor-made legislation for social enterprises. We provided only limited references to informal means of employee and stakeholder participation as a more elaborated examination is required to test the informal and noninstitutionalised dynamics that take effect in the absence of enabling legislation.

Furthermore, even though the participation of other types of stakeholders is not supported by the VSO legislation, cooperatives with a social purpose have in practice independently developed both formal and informal means to include stakeholders in the decision-making processes. One example of stimulating formal stakeholder participation is the creation of a specific category of shares for certain types of stakeholders. The opportunity to purchase membership rights/shares enhances the incentives for stakeholders to participate in the decision-making processes, either directly by (i) exercising voting rights in the general assembly, often subjected to a regulated cap, i.e. 10 %, and indirectly by (ii) electing members-representatives in the board of directors. We also found examples of informal stakeholder participation in the decision-making processes in the examined case studies. Taking into consideration the existing legal framework, the theoretical framework regarding governance, and the criticism regarding the application of stakeholder theory to the governance of social enterprises, there are additional issues that future research can address. What needs to be further examined is how formal and informal participation of stakeholders can improve (i) the accountability of the decision-making organs within social enterprises and (ii) the transparency of the decisions towards stakeholders and the society. The empirical findings of this chapter indicate that employees and stakeholders have better and direct access to information in the cooperatives with a social purpose which are keen to encourage formal participation of stakeholders and employees in the decision-making.

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