The suitability of Luxembourgish law to B Corp

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Luxembourg is famous for its financial centre and does not look like B Corp friendly. Worse, it has been considered like a tax paradise and suspected of laundering, remains on some black lists notably of its practice of tax ruling. Therefore, it may be surprising to inquire its relationships with B corps. At least two reasons justify that interest. First of all, it may be very fruitful to look at a B Corp situation into a difficult context. But there is a second reason, very different, related to Luxembourg itself: this will be a good opportunity to discover another aspect of its legal framework, far more favourable to B Corp than expected.

At a first glance, the reality confirms the prior assumption, since there are very few companies labelled B Corp in Luxembourg.

Figure 1 : Table of B Corp companies : name, date of label, sector of activity

Name	Date of Label	Sector of Activity
Innpact	November 2015	Service with Minor Environmental Footprint
FARAD Group	January 2017	Service with Minor Environmental Footprint
Ramborn Cider Co.	June 2020	Manufacturing

However, that observation is not very meaningful, for several reasons. The first one is the size of the country: with less than 650.000 inhabitants and 3 companies, the number of labelled B Corp cannot be compared to most of other European countries. A second reason is also important and we will develop it along that chapter: instead of being hostile to B Corp, the Luxembourgish legal framework offers other possibilities for enterprises wishing to emphasize their concern for social and environmental matters. In one hand, the general Luxembourgish context is likely to welcome such companies (1); in the other hand, a special legal status has been created to allow them to make their engagement more visible and secure (2).

1. The Luxembourgish framework

Geographically situated between Germany, France and Belgium, the Grand-Duchy of Luxembourg is culturally at the crossroad of German and French culture. Historically[1], Luxembourg was bigger, with notably a part of the present Belgium, so that it kept some strong connexions with that neighbouring country. Created by several steps between 1815 and 1867, the Grand-Duchy is, from the legal perspective[2], part of the Napoleonian area, with France and Germany. Part of the German Zollverein, a custom territory, till 1919, Luxembourg has no longer relation with German law, except for a part of its tax law established during the German occupation of the second world war. Because of its size and the limits of its human resources, Luxembourg has not generally established original legislations but copied abroad ones, with some adjustments. Its main sources of inspiration are France and Belgian: France for civil law, commercial law and administrative law, Belgium for constitutional law, criminal law and company law. Therefore, for our topic, Luxembourgish law is very close to Belgian law, even if some more distance occurred with recent Luxembourgish and Belgian reforms.

1. The general company law framework

During the French revolution and the Napoleonian Empire, Luxembourg was a French Department. Therefore, the Napoleonian codes were applicable and Luxembourg was submitted to French company law. No evolution occurred during the two first thirds of the 19th century. But the obsolescence of that legislation was the same here than in France, and in 1982 the Luxembourgish government asked to Prof. Nyssens from the University of Louvain to draft a reform inspired by the most recent Belgian act on commercial companies. That first draft appeared too innovative and was not adopted but a second draft was ordered to another Belgian Professor and the text was adopted in 1915.

For sure, Luxembourgish company law is mainly inspired by Belgium legislation, starting with the law of 1915, mainly a copy paste of the Belgium act of 1873. Therefore, Belgian authors and case law remains commonly used in Luxembourg on that topic. Nevertheless, Belgium law and Luxembourgish law have evolved separately. Luxembourg went on paying attention to Belgian reforms and duplicated sometimes them, but it developed also its own agenda, notably when the development of the financial sector became a strategy, since the establishment of a suitable company law was part of the strategy. That observation is reinforced with the recent major reforms in Luxembourg in 2016 and Belgium in 2019[3]. Belgium has established a new code of enterprises, regulating not only companies. This Luxembourgish general redrafting of the act of 1915 consisted mainly in its restructuration and rewording, but it also introduced some changes considered as useful. Some critics have been addressed to it[4], notably the multiplication of reports required from executives, but also the generalization of provisions maybe suitable for large international enterprises but severely detrimental for small and medium enterprises; in other words, the legislator paid more

[1] G. Trausch, Histoire du Luxembourg, Hatier, 1989.
[2] A. Prüm, P. Ancel, V. Bolard et line, Droit du Luxembourg, LGDJ, 2016.
[3] Loi du 19 juillet 2019 “De simplification, de clarification et d’actualisation du droit des sociétés”.
[4] For a summary: J.-P. Winandy, op. cit., p. 9 f.

attention to the financial sector than to traditional companies running their activities inside the country.

Along this evolution, Luxembourgish legal thinking was not immune to debates ongoing in its neighbouring countries but they were very muffled, the Luxembourgish law being generally considered to be essentially pragmatic[5]. The Maxime of Luxembourgish company law has been well sum up as « Freedom for shareholders, legal certainty for third parties » (« *Liberté pour les associés, sécurité pour les tiers* ») : used for the first time in 1882 by Prof. Nyssens, quoted by J.-P. Winandy[6]. This is meaningful, nonetheless because it states clearly the tension into company law, but also since it does not refer at all to any social aspect. Indeed, the tension appears to be only patrimonial, the interest of third parties, that we can assimilate to stakeholders, are not considered into the company; the only concern is to ensure that the behaviour of the company and its executives is reliable for third parties. Moreover, the Luxembourgish legislator had a constant concern a wide freedom for shareholders[7] ; this is presently explicit into article 100-1 of the act on commercial companies which states that these companies are regulated by the contracts between parties. The contractual and institutional theories were not discussed in Luxembourg since the doctrine at that time was very poor. The debates are now evoked by the authors, but with distance, and with the attempt to establish a synthesis. Alain Steichen represents perfectly that tendency. He starts by concluding his presentation by a peremptory statement: « Finally, it must be concluded that the institutionalist theory is both imprecise and useless »[8]. But when he comes into the technical details, his opinion appears far more nuanced. Undoubtedly in his opinion, the company is managed with company's interest as a target, but this interest is understood differently depending on the emphasis put on the patrimonial interest (of shareholders) and entrepreneurial interest (of all the stakeholders)[9]. In case of conflict, the patrimonial interest has to be preferred, notably because of the legal definition of company but in practice these two sides of the company's interest do not conflict but converge. Jean-Pierre Winandy proposes another synthesis, meaningful as well, since it goes back to the tension observed at the very beginning of Luxembourgish company law. Actually, he conciliates the opposition between the contractual and institutional theories of company by referring to the division established in the general Maxime of 1882 quoted above. The contractual dimension would apply for internal relationships whereas the institutional one would concern external relations[10].

All these debates don't impact directly the general definition of company. It remains into the civil code, and is rooted into the common Napoleon code: A company may be created by two or several

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[5] P. Kinsch, « *Le droit commun et l'avenir du droit luxembourgeois* », in. Actes de la Section des Sciences Morales et Politiques, Vol. XXI, Hengen Print & More Luxembourg, 2018, pp. 36 f.
[6] J.-P. Winandy, op. cit., p. 1.
[7] A. Steichen, op. cit., n°17. J.-P. Wianady, op. cit., ps. 27 f.
[8] A. Steichen, op. cit., pp. 24: « En définitive, il faut considérer que la théorie institutionnelle est à la fois imprécise et inutile ».
[9] A. Steichen, op. cit., ns°260-261.
[10] J.-P. Winandy, op. cit., p. 89.

persons who agree to bring together something in order to share the profit that may occur or, in the cases stated by law, by the unilateral will of a person which affects some goods to undertake a determined activity[11]. Whereas France and Belgium have substantially amended that definition, directly or indirectly, Luxembourg did not modify the definition of 1804 except to make possible unilateral companies. Like in its neighbouring countries, the opposite legal entity of company is association, and the opposition relies on the presence or absence of profits for members. But Luxembourgish law still refers to a strict conception of profits, excluding notably spares, and does not hesitate to refuse the qualification of company to entities that don't comply with the legal definition. This has been expressed explicitly about cooperatives, since they are commercial companies[12] : consumer cooperatives planning to restrain its business to its members and to sell at a cost price could not do through a cooperative, since it could make no profit[13]. And an analogous opinion is still defended about mutuals[14], even if the author regrets the generality of the solution.

In opposition, associations that do not pursue a profitable purpose association (*sans but lucratif*) are so defined: The not-for-profit association is the one which does not undertake industrial or commercial business, or which does not aim at providing its members with a material advantage. Like the act of 1915 on commercial companies was a copy paste of Belgian act of 1873, the act of 1928 was copied from the Belgian act of 1921.[15] The Luxembourgish legal thinking is very poor about associations and one can find no debate about the interpretation of article 1 of the act and the definition of association like in Belgian law. However, the orientation seems to be similar and legal uncertainty is felt by associations which undertake economic activities. The only clear decision has been held by the administrative court about public procurements, and it held that associations were not allow to tender to such a public procurement[16]. Nevertheless, many enterprises with a social purpose have adopted the form of a not-for-profit association and meet the risk of legal uncertainty. Alternatively, some of them chose to be cooperatives[17].Whereas their number remains very low, some creations occurred in the last ten years.[18]

The rigor with which the definition of company is considered was visible again when a special regulation has been drafted for social purpose companies (see below). Whereas the adoption of such a legislation could have been considered like an implicit derogation to the general definition of article

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[11] C.civ., art. 1832.
[12] L. 1915, arts. 811-1 f.

[13] Ibidem, ps. 237-239. Dans le même sens, A. Steichen, *Précis de droit des sociétés*, n° 597.
[14] J.-P. Winandy, op. cit., p. 84. The solution is not questionable, only the reasoning about the definition of company is interesting.
[15] N. Majerus, *Les associations sans but lucratif et les établissements d'utilité publique au Grand-Duché de Luxembourg*, imprimerie Saint-Pol, 1938.
[16] Cour administrative, 2010, n° du rôle 24416C 24427C.
[17] L. 1915, arts. 811-1 f.
[18] D. Hiez, *« L'économie sociale et solidaire au Luxembourg »*, forthcoming, Annales de droit luxembourgeois , Larcier, 2020.

1832 of the civil code, the legislator felt the necessity to state explicitly the derogation in a special provision[19].

That rigor combined with the liberal orientation of Luxembourgish company law seems incompatible with B Corp values. However, if company law provides with the liability of executives, none author refers to hypothesis of liability because of the pursuit of social goals aside profitability, and no case occurred about such a situation. Moreover, Luxembourg strongly impulse corporate social responsibility.

1.2. The national involvement into the corporate social responsibility

Apart from the strict legal framework, the question of B Corp takes place into a context of growing interest for corporate social responsibility and official recognition of social and solidarity economy. From the capitalist enterprises perspective, the corporate social responsibility is not a Luxembourgish specificity and the European Commission has supports that focus. In Luxembourg, the government early assessed its support to this orientation,[20] and the enterprises union of Luxembourg impulse the creation in 2007 of a national institute for sustainable development and social responsibility (INDR).[21] So far, INDR has labelled 170 enterprises for their social responsibility. That public impulsion and support, relayed by the economic sector and notably the Chamber of Commerce, has been successful. In 2020, there are not less than 180 enterprises labelled by INDR.

Figure 1 : Table of INDR labels per year in Luxembourg

Years	N°
2010	11
2011	14
2012	14
2013	3
2014	14
2015	21
2016	32

[19] L. 2017, art. 2.
[20] Speach of the Ministry of employment before the employee Chamber, 2003: https://gouvernement.lu/fr/actualites/toutes_actualites/discours/2003/07-juillet/03-biltgen-responsabilite-sociale-entreprises.html last access the 20th of December 2019.
[21] https://www.indr.lu

2017	23
2018	12
2019	21
2020	15

The number of labelled enterprises is impressive, far higher than the number of enterprises labelled as B Corp in the neighbouring countries if we take into account the size of the country. Therefore, one may wonder if the labelling process is less exigent. It is difficult to answer this question and only a strict inquiry would give a full answer. However, apparently, it does not seem to be the case; The procedure to get the label is similar to the one of B Corp: a questionnaire of about one hundred questions to assess the CSR performance is filled online. Each item may receive five different marks: no action, sensitivity, implementation, reporting, sharing. The enterprise receives a personalized reply and, if it did not succeed, is invited to implement an action plan. When a sufficient level is reached, an expert visits the enterprise to control the documents that have been provided to prove the answers to the questionnaire. Obviously, the diverse steps have a cost. Luxembourg did not only consider CSR, but involved as well into social and solidarity economy.

1.3 The establishment of a legal framework for social and solidarity economy

Even if B Corp differs essentially from social and solidarity economy, they share at least the wish not to put the profitability and the distribution of profits as the only purpose of the enterprise. Therefore, the situation of social and solidarity economy in a country may impact B Corp: the development of social and solidarity economy offers a legal status and a decreasing need to obtain the B Corp label. Therefore, it is important to describe this development of social and solidarity economy in Luxembourg. From the social and solidarity economy side, the last decade has been the years of recognition. In the governmental coalition agreement of 2005-2009, the Ministry of Family was appointed as the responsible body for solidarity economy. In 2009 a new Department of Solidarity Economy was established within the Ministry of Economy and Commerce alongside a separate post of Minister for the Solidarity Economy. **The department's creation was symbolically important, as it was the only one of its kind in Europe at that time.**[22] One of its principal goals was to better define the boundaries of SSE and stimulate the creation of a platform for all of its actors. **In 2013 the Department of Solidarity Economy was adopted by the Ministry of Labour,**

[22] See http://alternatives-economiques.fr/blogs/abherve/2010/08/24/la-vision-du-ministre-en-charge-de-leconomie-solidaire (Last accessed on 7 November 2019).

Employment and Social and Solidarity Economy (MLESSE) and, as a result, was renamed the Department of SSE.

The social and solidarity economy union of Luxembourg (ULESS) was established in 2013,[23] with an official support of the state since a convention was immediately concluded between the ULESS and Ministry in charge of social and solidarity economy. ULESS aims at the grouping of the enterprises of the sector, follow-up and information on the legal news, lobby in the legislative process… ULESS contains nowadays 300 members, employing 20 thousand employees. In 2016, that recognition made one more step with the adoption of a legislative definition of social and solidarity economy[24]:
The social and solidarity economy is a way of undertaking to which take part private legal persons that meet the cumulative following conditions:

(1) To pursue a continuous activity of production, of distribution or exchange of goods or services.
(2) To meet at least one of the two following conditions:
    a) They aim at bringing, through their activity, a support to persons in a vulnerable situation, either because of their social or economic situation, or because of their personal situation, notably their health or their need of social or medico-social accompaniment. These persons may be employees, clients, members or beneficiaries of the enterprise;
    b) they aim at contributing to the preservation and development of social cohesion, to the struggle against exclusions and the sanitary, social, cultural and economic inequalities, to the gender parity, to the continuation and strengthening of territorial cohesion, to the protection of environment, to the development of cultural or creative activities and to the development of initial training and lifelong learning activities.

(3) They have an autonomous management, that is to say that they are fully able to choose and remove their management organ as well as to control and organize all their activities
(4) To apply the principle that at least half of their profits are invested in the continuation and development of the activity of the enterprise.

This creation is important for the question of benefit corporation, since the existence of social and solidarity economy establishes a possible attraction for social enterprises, which otherwise could be naturally integrated among capitalist enterprises. This is particularly meaningful for societal impact companies.

[23] https://www.uless.lu.
[24] Act of 2016 on the creation of societal impact companies.

2. The societal impact company

The societal impact company (SIS) has been created by the same act which defined social and solidarity economy.[25] As such, this is already meaningful. Technically, the societal impact companies have duplicated several features from the Belgian social purpose company, and the parliamentary proceedings testify it.[26] They are companies. Therefore, they constitute a derogation to the general definition of a company. However, in opposition to Belgian legislation, the Luxembourgish legislator did not amend article 1832 of the civil code. In the contrary, it stated the derogation into the act of 2016 itself (art. 2). This reinforces the exceptional feature of the derogation, since it is stated out of the general provision. In other words, the adoption of the societal impact company does not appear as a moment in a long-term evolution of rethinking of the notion of company.[27]

However, the societal impact company is fully a company, that is to say that they are not close to associations. They are not a new kind of company, but as social purpose companies, they are a modality of pre-existing companies. It is a legal scheme partially inspired by the Belgian example of social purpose company (« société à finalité sociale »), submitted to a form of accreditation that can be given to organisations fulfilling a number of specific conditions under the following legal forms: public limited liability companies operating as sociétés anonymes (SAs)[28]; private limited liability companies operating as *Sociétés à responsabilités limitées* (SARLs)[29]; and cooperatives[30]. Although associations are not eligible, they can pursue part of their activities under the scheme if they establish a subsidiary company that can be accredited. Of course, the SIS is an opposition to the general definition of a company, since it does not refer to the distribution of profits, and we will even see that the SIS may state that it will not distribute any. Therefore, the legislator stated explicitly that derogation[31]; we may only observe that the derogation has not been included in the general provision of the civil code but strictly limited to the validity of the SIS. The SIS is surely on line with the new trend of social impact orientation and this is visible both through the conditions required for its accreditation (2.1) and through its subsequent control (2.2). That description will ; allow a short assessment (2.3).

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[25] For more details: D. Hiez, *« Société d'impact sociétal: première reconnaissance de l'économie sociale et solidaire »*, J.T.L., Larcier, 2017, p110.
[26] Parliamentary proceedings, issue n°6831.
[27] We may notice that an important reform of the commercial companies act of 1915 happened in 2016: Act of 10 August 2016 modernizing the amended act of 10 August 1915 concerning commercial companies and amending the Civil Code and the amended act of 19 December 2002 concerning the trade and companies register as well as the accounting and annual accounts of companies, (Memorial A n°167, August, 23rd 2016); but it does not concern at all any conceptual aspect nor consider a substantial change of definitions.
[28] L. 1915, arts. 410-1 f.
[29] L. 1915, arts. 810-1 f.
[30] L. 1915, arts. 811-1 f.
[31] L. 2016, art. 2.

2.1 The conditions for the creation of a social impact company

Firstly, SIS requires a ministerial accreditation[32], that may be asked both by an existing company or a company to be created. The decision of accreditation is held by the Minister competent for social and solidarity economy, but he is supported in this mission by the consultative committee for SIS[33]. The commission is composed of four members, chosen in one hand among representatives of social and solidarity economy sector, in the other hand among highly qualified persons competent on social entrepreneurship, social investment or corporate social responsibility[34]. A public servant in charge of social and solidarity economy takes part to its meetings, without any voting right. The Minister may take part as well. We may notice that this commission is not only competent to give opinions on the ministerial decisions but also to make any proposal to improve the legal framework for SIS[35]. To achieve its mission about the accreditation, the committee may access all the documents provided to the Minister by the SIS and may also ask for any additional information[36].
Second, it is defined by the conditions it has to meet.

(1) Any public limited liability company, any private limited liability company, any cooperative society which meets the principles of social and solidarity economy may be approved by the Ministry in charge of social and solidarity economy as societal impact company if their by-laws meet the following requirements:

1. to define precisely the social object it pursues in application of article 1 (2);
2. provide performance indicators unabling to control in an effective and reliable way the achievement of the social object;

At a first glance, therefore, the requirements are quite light, even if the provision of indicators for social performance engages for the future. But apart from these prerequisite, some more substantial obligations are applicable to the SIS. The most exigent obligation concerns the remuneration of the employees: the average maximum remuneration paid to employees may not exceed six time the minimum social wage[37].

In addition to this first obligation, another constraints is put on the financial structure of the SIS, more important. A limited profitability principle needs to be respected. The SIS's capital can only be composed of two classes of shares: '**impact shares**', which do not give rights to the distribution of dividends nor share appreciation; and '**profit shares**', which give entitlement to a

[32] L. 2016, art. 3.
[33] L. 2016, art. 10.
[34] Règlement grand-ducal 20 January 2017, art. 1 (1).
[35] L. 2016, art. 10 line 4.
[36] L. 2016, art. 10 line 3.
[37] L. 2016, art. 5.

portion of the dividends[38]. At any given time, the SIS's capital must be composed of a minimum of 50% impact shares (up to a maximum 100%). In addition, dividends can only be distributed after verification that the social goal has been achieved by controlling performance indicators. **If a SIS's capital is composed of 100% impact shares, no dividend can be distributed to the shareholders.** In return, the SIS benefits from tax exemptions[39] and donations or gifts presented to the SIS are tax-deductible for the donor[40].

2.2 The continuous control on the social impact company

The control upon the SIS takes several forms. The most obvious one consists in the possibility to remove the accreditation of the SIS. No delay is foreseen for the accreditation, but the Minister is charged of the oversight of SIS, and he must ensure that they still comply with the conditions required for accreditation but as well that they comply with the provisions of the act on SIS[41]. The Minister removes the accreditation to the SIS which does not meet anymore the legal conditions[42]. The letter of this last provision is a little bit confusing, since the word « condition » refers to the previous word « condition » on the second line about the conditions required to be accredited. If so, the accreditation could only be removed if such a condition is not anymore met, but not if the SIS does not comply with its legal obligations. We don't think that this restrictive interpretation is the right one; in such a case, there would be no sanction to the infringement of its obligations by a SIS. As such, the removal of the accreditation does not provoke the dissolution of the accredited company, but the Minister may appeal to the court, through the public prosecutor, which will state dissolution and winding-up of the company (art. 11). In addition, the winding-up of the company is substantially regulated by the act : the net assets shall be allocated either to another SIS pursuing a similar goal, or to a Luxembourgish foundation or not-for-profit association accredited for its public interest. This is a strong complement to the limited profitability of the SIS mentioned above.

But this administrative control is not the only one. As its name indicates clearly, one of the specificities of the societal impact company is both its social impact and the use of indicators to measure its achievement. The company has to establish an annual extra-financial report[43], communicated to the Ministry (« 3)), and from the conclusion of the report flows the possibility (or impossibility) to allocate dividends to performance shares[44]. Moreover, societal impact companies have to adopt a salary policy that ensures that the maximal salary is not higher than six times the

[38] L. 2016, art. 4.
[39] L. 2016, art. 14.
[40] L. 2016, art. 14.
[41] L. 2016, art. 9 line 2.
[42] L. 2016, art. 9 line 3.
[43] L. 2016, art. 6 (2).
[44] L. 2016, art. 7.

social minimum salary as define by law[45] and the auditor will have to assess yearly the compliance with that obligation[46]. These reports are at first addressed to the members for the general meeting, and the prohibition of any distribution of dividends in case the social purpose has not been reached has been established as the best insurance for the pursuit of these goals. Actually, no SIS issued any profit shares, so that any distribution of dividends is impossible and the above control mechanism is inapplicable.

2.3 An assessment of the social impact company

The SIS can adopt mixed business models: SISs are allowed to carry out commercial activities and participate in public procurement tenders on the one hand and receive public funding from the State of the other[47].

The SIS' emphasis on a social goal and social impact assessment appears to fit the EU operational definition of social enterprise. It is considered both suitable for social and solidarity economy enterprises and social enterprises, most notably due to its limited profitability and obligation to invest at least half of its profits back into the enterprise[48]. The only potential gap in compliance regards governance, and yet, as that dimension is rather loosely defined by the EU, the SIS does not strongly deviate from this requirement. Although it is very difficult to assess whether or not organisations that are considered social enterprises in Luxembourg correspond exactly to those described by the European definition, the flexibility evident within both definitions suggests that they are compatible.

We have said that the societal impact companies were distinct from associations. The assessment must be nuanced, since in practice one should strictly distinguish the societal impact companies whose capital is composed of 100% of impact shares and those whose capital contains both impact shares and performance shares[49]. We must precise that these are the two possible shares that the company may run. The difference between the two situations does not concern the functioning of the company as such, but their tax treatment[50]. Whereas the societal impact company are in principle taxed exactly like any other company, it is taxed like a not-for-profit association when its capital is composed only of impact shares. Indeed, in that case, the societal impact company will not be able to distribute any dividend. This was not the initial solution of the bill, but ULESS obtained it, in order

[45] ibid., art. 5.
[46] L. 2016 art. 5 line 2.
[47] Meaningfully, two years after the adoption of the act of 2016, a new act has been enacted to ensure for the SIS the same possible public funding by the allowance to be contractor of several ministers like not-for-profit associations: L. 31 August 2018.
[48] Articles 3 and 7.
[49] L.2016, art. 4.
[50] Ibid., art. 14.

to meet the need of associations of legal certainty. It must be observed that, in practice, all the societal impact companies established so far are 100% impact shares.

After that short research on B-Corp into the Luxembourgish law, it appears that this act is ambivalent. In one hand, the importance of the financial sector is not without any consequence on company law: freedom remains the key feature of company law, and the model of large companies tends to influence the general regulation. In the other hand, the national solutions to show a social engagement are rich: a national label comparable to B-Corp, a legal recognition for social and solidarity economy, and specially the adoption of a new form of company with the societal impact company.

Therefore, we observe a situation apparently contradictory : a legal landscape friendly for B Corp, and very few labelled enterprises. However, the explanation is not difficult to find, and reminds that a legal environment open to an institution is not necessarily the guarantee of its success.

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