

## NATIONAL REPORT. SPAIN

In Spain, a distinction must be made between civil societies and third sector organizations.

Firstly, we explain what the third sector platform is, which groups together non-profit organizations.

Secondly, we explain what a civil society is and how it is constituted in Spain, which entails a private contract of collaboration with a profit motive.

### 1. Third Sector Platform

The Third Sector Platform was formed in January 2012 to defend, through a unified voice, the rights and social interests of citizens, mainly those of people living in poverty or at risk of exclusion. With this objective in mind, the seven most representative organizations in the social sector joined forces: the Spanish Volunteer Platform (PVE), the European Network to Combat Poverty and Social Exclusion in Spain (EAPN-ES), the NGO Platform for Social Action (POAS), the Spanish Committee of Representatives of People with Disabilities (CERMI), the Spanish Red Cross, Caritas and the ONCE - Spanish National Organization of the Blind (Organización Nacional de Ciegos Españoles).

These have subsequently been joined by collaborating entities and Third Sector Platforms at regional level. Today, the Platform is made up of twenty organizations and represents nearly 28,000 Third Sector entities, with 577,000 workers and 1.5 million volunteers.

In December 2023, the Third Sector Platform was declared a Public Utility Association by the Ministry of the Interior, a distinction that recognizes the social work of Non-Profit Organizations in Spain.

The data on the Third Sector in Spain are as follows:

| THIRD SECTOR. DATA             |                              |
|--------------------------------|------------------------------|
| 28.000 ORGANIZATIONS           | 1,44% GDP                    |
| 47.7 M EUROS ON DIRECT SERVICE | 3,22% OF NATIONAL EMPLOYMENT |
| 3.3 MILLION VOLUNTEERS         |                              |

The Third Sector Platform pursues the realization of a joint action project by the most representative platforms and organizations of the Third Sector, to coordinate their activities and act with internal cohesion, common strategy and a real capacity for dialogue, influence and co-responsibility to ensure equality and social justice in our country.

The Third Sector Platform seeks to represent the unitary voice of the multiple entities that make up the Third Sector of Social Action, for the effective defense of the interests of the sector framework for the ultimate benefit of people who are in poverty, social exclusion and vulnerability.

In order to fulfill this mission, the Third Sector Platform has set the following strategic objectives:

- Generate proposals in favor of people, especially those at risk of exclusion, poverty or vulnerability.
- To ensure social dialogue and political advocacy with the General State Administration and other public and private institutions.
- Promote a regulatory development that strengthens the Third Sector.
- Propose public policies that favor equality and inclusion.
- Promote citizen participation and encourage volunteerism.
- To deepen the internal cohesion of social entities.
- To articulate the associative fabric at the territorial level.

In addition to the achievement of the objectives set, the main achievements are directly linked to the institutional support obtained, the increase in external and internal visibility, the deepening of the sector's cohesion and closeness to the entities and greater territorial articulation and cohesion. As regards institutional support, it should be noted that the entire 10th anniversary celebration, but specifically the three events, received institutional support at the highest level.

On the other hand, in terms of visibility, the analysis shows that during the weeks in which the activity related to the celebration was agglutinated, the Third Sector Platform significantly increased its visibility and notoriety in the different channels and spaces of dissemination. From the media to social networks, but also internally within the sector. The Platform has made proposals to be included in the general state budgets, articulated in seven areas: Taxes, no regression, no discrimination, education, housing, international cooperation and sustainability for the third sector.



The report with all the data on the work of the Platform can be found at the following link:

<http://www.plataformatercersector.es/sites/default/files/MEMORIA%202022%20-%20PLATAFORMA%20DEL%20TERCER%20SECTOR%20%282%29.pdf>

## 2. Civil society

A civil partnership is the establishment of a private contract of collaboration between at least two persons who intend to carry out a lucrative activity together.

The partners may choose between two options:

- To contribute goods or money, and thus be capitalist partners.
- Or to work, which makes them industrial partners.

The purpose of creating a civil society is to generate a system of common patrimony among the partners, taking advantage of the benefits of the lucrative activity exercised by its partners.

The incorporation of a civil society is a highly recommendable alternative for small businesses that do not require a significant level of investment, since it does not require a minimum capital.

The civil society is one of the ideal formulas for entrepreneurship for several reasons:

- It does not require an initial capital.
- It can be dissolved very easily and cheaply.
- If the business is doing well, it can be easily converted into a commercial company.

What are the requirements to create a civil society in Spain?

The conditions that the civil society in our country must meet are the following:

- It must be formed by a minimum of two partners.
- A private contract of civil society must be established in which there must be, at least: the activity to which it is going to be dedicated, the contributions of each partner, the percentage of participation with respect to the losses and the profits and the system of administration and representation.
- The partners will have unlimited and joint and several liability for the debts of the company once the assets of the company have been liquidated.
- It will be subject to corporate income tax.
- The partners must be registered as self-employed workers (we must remember that they can take advantage of the flat rate and contribute at the minimum rate), except in exceptional cases. They can contribute to the same one contributing so much work, which turns the partner into industrial, or capital (money and/or goods as machinery and such and such and such) and to be a capitalist partner.
- It can have a termination date, as established in the contract. It can be for time or end of purpose.
- It is governed by the Code of Commerce in mercantile matters, and by the Civil Code regarding rights and obligations.

What types of civil partnership exist in Spain?

Civil partnerships can have legal personality or not, depending on whether their agreements can be known or are secret among the partners, respectively.

They can also be private, if they have a specific object (for example, a company or the exercise of a certain profession) or universal (of all present assets or of all profits).

In addition, they can be private, if they are made by private contract (in which case they will not have legal personality), or public, in cases where they are made through a public deed (these partnerships do have legal personality).

## Liability in the civil partnership

The great problem of the civil society is that the partners will have unlimited and joint responsibility for the debts of the society, once the patrimony of this one is liquidated. The positive part is that as a self-employed person, you keep your social security benefits.

Returning to the responsibility of each partner towards the society, each one of them becomes with respect to the contribution stipulated in the contract, as well as of the possible interests derived from faults, delays and others in these contributions.

For its part, the civil society also responds before its partners for the contributions made, as well as for the obligations that have been contracted.

Advantages and disadvantages of setting up a company in the form of a civil society.

The advantages of the civil partnership are the following:

- Self-employed partners, can take advantage of the flat rate and other bonuses.
- It is also possible to use the capitalization of the unemployment or unique payment for its creation.
- There is no need for a public deed before a notary or registration in the mercantile registry.
- There is also no minimum capital.
- The accounting is simple: Book-register of invoices issued, received and investment goods.

On the other hand, the truth is that the disadvantages of the civil society are few:

- I would highlight the unlimited liability of the partners against the debts of the civil partnership, i.e.: the partners have to respond with their personal assets once the partnership's assets have been exhausted.
- On the other hand, for businesses with a high volume of profits, more taxes would be paid than with other types of partnerships.

## How to incorporate a civil society

What are the steps to create a civil society:

- Before carrying out any type of activity, provision of goods or services, hiring of personnel, payments or collections, you must apply for registration in the Census of Entrepreneurs, Professionals and Withholders, as well as the Tax Identification Number (NIF) of the company at the Tax Agency.
- The incorporation procedures are carried out by means of a private contract when the partners do not contribute real estate or rights in rem. The nature of the contributions and the level of participation of each of the partners involved, both in losses and profits, must be detailed in the same.
- In the event that the partners contribute with real estate or real rights, they are obliged, when creating a civil partnership, to carry out the process in a public deed before a notary, within a period of 6 months from the date of obtaining the provisional NIF.
- When the public deed is executed before a notary, the Transfer Tax and Stamp Duty (ITPAJD) must be paid, which corresponds to 1% of the total value of the capital (assets) contributed to the company, in the event that they are contributed.
- Next, the registration in the Social Security must be managed: registration in the RETA (Special Regime of Self-Employed Workers) and request of the employer's number (this last one, only if the company intends to hire personnel).

- Finally, registration in the provincial Commercial Registry must be carried out, by applying for the Visitors' Book, the Inventory Book and the Annual Accounts. The legalization of the books must be carried out within the 4 months following the closing of the fiscal year.
- Finally, the registration at the City Hall will be processed, with the obtaining of the opening license if necessary.

Where are civil societies registered in Spain?

Regarding the place where civil companies are registered, let's remember that the registration takes place in the Commercial Registry of the province.

Examples of civil companies

Among the possible examples of companies that are incorporated in the form of a civil company, we can cite workers' associations, regional or local sports clubs, professional associations, private educational centers, charitable institutions, etc.

With all that we have seen so far, you probably have some idea of whether it is in your best interest to create a civil company.

## Annex

### Entities Members of the Third Sector Platform, Spain

#### MEMBERS:



**Plataforma de ONG de Acción Social (POAS)**

-



**Plataforma del Voluntariado de España (PVE)**

-

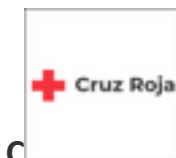


**Red Europea de Lucha contra la Pobreza y la Exclusión Social en España (EAPN-ES)**

-



**Comité Español de Representantes de Personas con Discapacidad (CERMI)**



**Cruz Roja Española**



**Cáritas Española**

-



**Organización Nacional de Ciegos Españoles (ONCE)**



**La Coordinadora de ONGD**



**Plataforma de Infancia**

## **COLLABORATING ENTITIES**



**Lares Federación**



**Instituto para la Calidad de las ONG (ICONG)**



**Fundación Lealtad**

## **PARTNERSHIPS \_**



### **Confederación Empresarial Española de la Economía Social (CEPES)**

The Social Economy and the Third Sector of Social Action (TSAS) share converging and coinciding spaces in which they defend the interests of people, so that mutual collaboration is an opportunity to strengthen the Third Sector and the Spanish Social Economy as a whole, based on common fields of action and the establishment of collaborative lines of work.



### **Consejo General del Poder Judicial**

Both the General Council of the Judiciary and the Third Sector Platform intend to intensify the work they do from their respective fields of action, to meet social demands and needs of general interest. The parties wish to collaborate in all matters that, being objective and of common interest between both institutions, contribute to the development of a strategic alliance.



### **Consejo General de la Abogacía Española**

The General Council of Spanish Lawyers and the Third Sector of Social Action defend under different modalities humanitarian and social causes, paying special attention and care to those citizens who are most unprotected. Therefore, it is understood that mutual collaboration would be an opportunity to strengthen both parties, with common fields of action and lines of work.



