

The Story of Social Economy in the Basque Country

Direction

Marta Enciso Santocildes
Aitor Bengoetxea Alkorta
Leire Uriarte Zabala

Publisher

Aitziber Mugarra Elorriaga

eman ta zabal zazu



GEZKI

UPV/EHUko Gizarte
Ekonomia eta Zuzenbide
Kooperatiboaren Institutua

Instituto de Derecho
Cooperativo y Economía
Social de la UPV/EHU



MONDRAGON
IKERKETA KUDEAKETAN
INVESTIGACIÓN EN GESTIÓN
INNOVATION & KNOWLEDGE



Deusto

Facultad de Derecho
Zuzenbide Fakultatea



Mondragon
Unibertsitatea

Humanitate eta Hezkuntza
Zientzien Fakultatea
LANEKI Kooperatibismoaren Ikertegia



**EUSKO JAURLARITZA
GOBIERNO VASCO**

LAN ETA ENPLEGU
SAILA
DEPARTAMENTO DE TRABAJO
Y EMPLEO

Dykinson, S.L.

***Story of social economy
in the Basque Country***

Direction

Marta Enciso Santocildes
Aitor Bengoetxea Alkorta
Leire Uriarte Zabala

Publisher

Aitziber Mugarra Elorriaga

Story of social economy in the Basque Country

Direction

Marta Enciso Santocildes

Aitor Bengoetxea Alkorta

Leire Uriarte Zabala

Publisher

Aitziber Mugarra Elorriaga

Saioa Arando Lasagabaster
Francisco Javier Arrieta Idiakez

Aitor Bengoetxea Alkorta

Marta Enciso Santocildes

Ane Etxebarria Rubio

Enekoitz Etxezarreta Etxarri

Mónica Gago Garcia

Josune López Rodríguez

Gonzalo Martínez Etxeberria

Jon Morandeira Arca

Aitziber Mugarra Elorriaga

Aratz Soto Gorrotxategi

Ainara Udaondo Alberdi

Leire Uriarte Zabala



UPV/EHUko Gizarte
Ekonomia eta Zuzenbide
Kooperatiboaren Institutua

Instituto de Derecho
Cooperativo y Economía
Social de la UPV/EHU



MONDRAGON
IKERKETA KUDEAKETAN
INVESTIGACION EN GESTION
INNOVATION & KNOWLEDGE



Humanitate eta Hezkuntza
Zientzien Fakultatea
LANKI Kooperatibismoaren Ikertegia



LAN ETA ENPLEGU
SAILA
DEPARTAMENTO DE TRABAJO
Y EMPLEO

Dykinson, S.L.

No está permitida la reproducción total o parcial de este libro, ni su incorporación a un sistema informático, ni su transmisión en cualquier forma o por cualquier medio, sea este electrónico, mecánico, por fotocopia, por grabación u otros métodos, sin el permiso previo y por escrito del editor. La infracción de los derechos mencionados puede ser constitutiva de delito contra la propiedad intelectual (art. 270 y siguientes del Código Penal).

Dirijase a Cedro (Centro Español de Derechos Reprográficos) si necesita fotocopiar o escanear algún fragmento de esta obra. Puede contactar con Cedro a través de la web www.conlicencia.com o por teléfono en el 917021970/932720407

Este libro ha sido sometido a evaluación por parte de nuestro Consejo Editorial
Para mayor información, véase www.dykinson.com/quienes_somos

© Copyright by
Los autores
Madrid, 2021

Editorial DYKINSON, S.L.
Meléndez Valdés, 61 - 28015 Madrid
Teléfono (+34) 915442846 - (+34) 915442869
e-mail: info@dykinson.com
<http://www.dykinson.es>
<http://www.dykinson.com>

ISBN: 978-84-1377-937-9
DOI: 10.14679/1328

Preimpresión:
Besing Servicios Gráficos, S.L.
besingsg@gmail.com

Mutual companies in the Basque Country: narrative*

Francisco Javier Arrieta Idiakez

Gonzalo Martínez Etxeberria

Josune López Rodríguez

Instituto de Estudios Cooperativos (Institute of Cooperative Studies) (IEC)
Deusto University

Francisco Javier Arrieta Idiakez, Gonzalo Martínez Etxeberria, Josune López Rodríguez

8.1. INTRODUCTION

Law 5/2011 of 29 March on Social Economy expressly recognises the nature of mutual companies as a Social Economy entity (see article 5.1). Based on this recognition, and the lack of specification in this regulation as to the definition of mutual companies, we should state that both Mutual Insurance and Mutual Provident Societies are considered mutual companies (PANIAGUA, 2011, p.195; PAZ CANALEJO, 2012, p.102; ARRIETA, 2014, p.43).

Thus, Mutual Insurance Companies are defined pursuant to articles 9 and 10 of Royal Legislative Decree 6/2004 of 29 October, which approves the restated text of the Private Insurance Supervisory Act, as a “private social insurance entity, specific to the area insured, characterised by being not-for-profit and the reflexive nature of its coverage, orientated toward members, natural persons, and legal persons” (*Diccionario del Español Jurídico* (Dictionary of Legal Spanish), 2016)

This being said, pursuant to the information provided by the *Dirección General de Seguros y Fondos de Pensiones* (Directorate General for Insurance and Pension Funds), of the Mutual Insurance Companies operating in the Autonomous Community of the Basque Country, the following are of note:

* Part of this research was published by the authors under the title “*Las mutualidades en Euskadi como entidades de la economía social* (Mutual Companies in the Basque Country as Social Economy Entities)”, in *GIZAEKOA -Revista Vasca de Economía Social*, 2020, num. 17, p. 181-196.

(a) PAKEA, fixed-premium *Mutualidad de Seguros* (PAKEA, Mutual Insurance Company), (b) ASEMAS-*Mutua de Seguros y Reaseguros* (ASEMAS-premium Mutual Insurance and Reinsurance Company) (with supplementary contribution), (c) *Mutua de Riesgo Marítimo* (Maritime Risk Mutual Insurance), fixed-premium Insurance Company (MURIMAR), (d) *Sociedad de Seguros Mutuos contra incendios de edificios rurales de Álava* (Mutual Insurance Company against rural building fires in Alava, fixed-premium Mutual Insurance Company, and (e) SURNE, fixed-premium *Mutua de Seguros y Reaseguros* (Mutual Insurance and Reinsurance Company). Notwithstanding, it would be desirable to provide an updated list of all Mutual Insurance Companies operating in the Autonomous Community of the Basque Country, in order to better assess their weight in economic and social terms.

Regarding Mutual Provident Societies, in the case of the Autonomous Community of the Basque Country, the particularity lies in the fact that they are shaped by Voluntary Social Welfare Entities (EPSV, in Spanish).

The importance of Voluntary Social Welfare Entities (EPSV) in the Autonomous Community of the Basque Country (ACBC) mainly lies in their complementary role to Social Security System benefits. In this fashion, ideal coverage and well-being of ACBC citizens can be quantitatively and qualitatively increased. In this case, EPSVs cover personal contingencies.

Yet there are also EPSVs designed to protect goods, such as homes, household items, work instruments, livestock, harvests, forests, and watercraft.

This all connects to what might be called the Basque people's communitarian spirit, which takes shape in the country's typical institutions, true civil societies established under the traditional forms of associations, brotherhoods, or mutual companies, and that have existed since the Middle Ages.

In actuality, all these institutions are the projection of a way of understanding and feeling life, conditioned by the country's orography, and highly influenced by Christian thought.

As progress is made in social organisation, different forms of social protection are developed. This is how the incipient protection granted by Provincial Law through family and succession institutions (UNAMUNO, 1902, p. 43 and following; ARRIETA IDIAKEZ & LÓPEZ RODRÍGUEZ, 2012, 194-198), gave way to new forms of social solidarity, such as shared mountain use (VICARIO & DE LA PEÑA, 1901, p. 92-106; UNAMUNO, 1902 p. 50 and following), shared work contributions under the barter system, or *auzolan* work, (UNAMUNO, 1902, p. 54), and material or animal contributions called *lorrak* (UNAMUNO, 1902, p. 55-56).

This is how we reached forms of association that were fully mutualist, such as brotherhoods against fires, also called mutual insurance companies against fires (VICARIO AND DE LA PEÑA, 1901, p. 234-245), mutual insurance brotherhoods for livestock or against livestock risks (VICARIO & DE LA PEÑA, 1901, p. 246-259; Unamuno, 1902, p. 56-63), fishermen's or seafarers' associations (VICARIO & DE LA PEÑA, 1901, p. 260-312), and mutual funeral associations (VICARIO & DE LA PEÑA, 1901, p. 314-317).

All these mutualist institutions were governed by their own regulations, under a system of self-governance and self-management. In the provinces of Álava, Biscay, and Gipuzkoa, they remained even after the abolition of guilds in 1836. The enactment of the Associations Act of 1887 extended its application to them, since it expressly referred to guilds, mutual aid societies, and welfare societies.

Notwithstanding, with the regulation of social insurance in Spain, as the direct antecedent to the Social Security System, a different kind of regulation for mutualism arose, attributing powers in a different way to both aspects between the State and autonomous regions.

In this fashion, if the Spanish Constitution of 1931 granted the Spanish State legislation on the general and social insurance system, notwithstanding that autonomous regions were responsible for executing this legislation, to the extent of their political capacity, in the opinion of the Parliament (see art. 15.8), the Basque Statute of 1936, pursuant to provisions in articles 16 and 17 of the Spanish Constitution, set forth that the exclusive legislation and direct execution of mutual societies fell under the Basque Country's authority (see art. 2. e.).

During the Francoist regime, traditional institutions were regulated by the State. On one hand, social protection of Association members, which had begun to be nationalised with the regulation in 1919 of social insurance for ocean accidents (ARRIETA IDIAKEZ, 2007, p. 71-79) continued to be protected, first by different social insurance, professional mutual societies, and different mutualist institutions of a special nature (ARRIETA IDIAKEZ, 2007, p. 119-130), and then by the Social Security System (ARRIETA IDIAKEZ, 2007, p. 151-158). On the other hand, the Law of Mutual Societies of 1941 regulated the provision with an "eminently social and private spirit, to which end entities that interpret it always adopt the mutualist or civil-association form" (see Memorandum). Article 1 of this regulation left no doubt that it included brotherhoods and mutual funerary associations within its scope of application, and even fishermen's associations in the event that they wished to complement their compulsory social benefits with private and voluntary benefits. Pursuant to this precept, "mutual societies or assistance funds, for the purposes of this Law, are associations who, under this name

or any other, and that are not-for-profit, conduct some modality of social or charity welfare, oriented toward protecting their members or their goods from circumstances or events of a fortuitous and foreseeable nature to which they are exposed by direct contributions from members or from other protective entities or persons.” However, it was established that these associations needed to be governed by their own Bylaws or Regulations, adapted to applicable law, subject to approval by the Ministry of Labour (see art. 2). This is how they remained.

With the establishment of democracy, the Spanish Constitution of 1978 was limited to establishing in article 41, at the end, that aid and benefits complementary to the Social Security System shall be free.

On the other hand, in the Statute of the Basque Country of 1979, exclusive authority is given to the ACBC on mutual societies not integrated into Social Security (see art. 10.23).

Indeed, pursuant to this granting of authority, Law 25/1983 of 27 October on Voluntary Social Welfare Entities was approved. As set forth in the Memorandum, this law seeks to establish a new legislative framework for mutual societies, adapting it to the peculiarities of the Country and modernising the Administration’s actions, seeking to prioritise efficacy, development, and progressivism in the Administration-Mutual Society relationship. For this reason, with a desire to organise and develop such a broad field, the concept of a mutual society was replaced by Voluntary Social Welfare Entity (EPSV, in Spanish), with a will to encompass, but not make uniform, the multiple experiences and institutions of different kinds, whose ultimate not-for-profit objective is to protect members from events that can pose a hazard to their lives, resources, or activity.

In fact, the current Law 5/2015 of 25 June on Basque Civil Law, in referring to its inspiring principles (see Section II, Preliminary Section), after affirming that “the Basque concept of property is modulated by the social role of property and by the principle of solidarity,” establishes that “the laws shall uphold different forms of community, family, and social property, unique to Basque Civil Law, such that they adapt to the social reality of the period in which they must be applied.” In regulating the principles of patrimony law (see Section I9, it refers to “civil societies constituted under one of the tradition forms of associations, brotherhoods, or mutual societies” to subject them to Law 5/2015 and determine that they shall regulate themselves with their own Bylaws and internal regulations, provided that their content does not contravene Law 5/2015, the regulations set forth for its implementation, and supplementary legislation (see art. 16).

With it all, Law 25/1983 was replaced by current Law 5/2012 of 23 February, considering the important events in the European Union (EU) and the country, which advised an in-depth reform (see Memorandum, section I). Events that, at the same time, became challenges.

As such, given the demographic evolution of European society, the EU insisted on the need to seek out formulas to complement and reinforce the classic, inalienable public Social Security Systems, so they represent an instrument to achieve inter-generational solidarity and social cohesion. Moreover, they encouraged boosting and developing complementary formulas under the framework of economic-activity companies or sectors, fomented by collective negotiation (see Memorandum, Section II).

Moreover, in terms of the State, of note is the emergence of national legislation on pension plans and funds that was different from the law to regulate and supervise private insurance. The importance of this lies in the fact that the EPSVs can be considered the ACBC's pension funds, with the particularity that the EPSVs were regulated 5 years earlier and have important specificities, thanks to which, as of 31 December 2019, and pursuant to the information provided by the Federation of EPSVs of the Basque Country, in terms of the EPSVs which are a part of this Federation, have 25,939,000,000 euros, which accounts for over 32.72% of the ACBC's GDP. This percentage is much greater than the percentage of State pension funds and other complementary systems (8.8%).

In short, the current law seeks for EPSVs to adapt to the utmost to the new challenges stemming from evolution of the demographic, social, economic, and financial context, and to strengthen collective pension systems, mainly employment systems (see Memorandum, Section II).

8.2. CURRENT REALITY OF VOLUNTARY SOCIAL WELFARE ENTITIES IN THE AUTONOMOUS COMMUNITY OF THE BASQUE COUNTRY

In order to portray the current reality of EPSVs in the ACBC, as follows, we analyse four of their aspects that help us to understand their *raison d'être*.

Embodiment of Principles of Social Economy

Currently, EPSVs, a proper name given to social welfare mutual societies, as seen, beginning with Law 25/1983, constitute a Social Economy entity, pursuant to Law 5/2011 of 29 March on Social Economy (see art. 5.1).

Consequently, they fully embody the general principles that inspire the behaviour of these entities, of which the objective of providing service to members more than obtaining profit, autonomous management, democratic decision-making processes, and prioritising people and work over capital in profit distribution are of note. This is all set forth in the current Law 5/2012 (PÉREZ URALDE, 2012, p. 88) when article 2 establishes the following informative principles of the voluntary social welfare system, to which EPSVs must adapt in their constitution and operations:

- a) Equal rights and obligations for all associates, notwithstanding that contributions and benefits have the relationship that the bylaws establish according to each of their concurrent circumstances.
- b) A not-for-profit status, it being impossible to distribute dividends or amounts to cover a simulated commercial business, nor compensation for the mediation of intermediators or agents in seeking new members.
- c) Transparency at entity management, providing members and beneficiaries with the necessary information, pursuant to provisions in applicable regulations.
- d) Democratic structure and composition of governing bodies, determining that election of these bodies shall be representative of the social collective, and that members shall have access to the information necessary to conduct their roles.
- e) No compensation for participating in governing bodies, notwithstanding that, if executive roles are truly conducted and this is provided for in the entity's bylaws, the assembly may approve provision of compensation.
- f) No limitations of any sort to become a member, pursuant to provisions in the entity's own bylaws in concordance with its purposes.
- g) Efficacy, efficiency, and innovation in managing resources.

Additionally, all these principles are reinforced by other characteristics that are typical of certain Social Economy entities, set forth in articles both in Law 5/2012 and Decree 203/2015 of 27 October, which approves its Regulation. Specifically, its status as not-for-profit (see art. 5 of the Law) and the importance given to the training of members of boards of governance of EPSVs (see art. 55 of the Law) and information to members and beneficiaries (see art. 46 through 50 of the Regulation).

Definition of the Voluntary Social Welfare Entity and classes

Based on the idea that an EPSV is an institution which is not-for-profit and conducts pension activities designed to provide pertinent coverage to

its ordinary members and beneficiaries for the contingencies set forth in law 5/2012 (see art. 5 of Law 5/2012), there are different classes (see art. 7 of Law 5/2012).

On one hand, considering covered contingencies, we can differentiate between the following EPSVs:

- (a) Those that cover *personal contingencies* (see article 24 of Law 5/2012). Specifically, the following contingencies, based on the definitions and characteristics set forth in the Law and in the Regulation:
 - (a.1) Retirement.
 - (a.2) Permanent disability and invalidity for work.
 - (a.3) Death.
 - (a.4) Dependency.
 - (a.5) Long-term unemployment.
 - (a.6) Serious illness.
 - (a.7) Temporary disability.
 - (a.8) Employment support.
 - (a.9) Birth and adoption.
 - (a.10) Marriage or domestic partnerships based on current legislation.
 - (a.11) Medical expenses.
 - (a.12) Official studies.
 - (a.13) Healthcare, surgery, and stays at healthcare centres.
 - (a.15) Other similar aspects related to social welfare.
- (b) Those that cover *other contingencies*, to wit (see article 25 of Law 5/2012)¹:
 - (b.1) Goods: housing, household items, work instruments, livestock, harvests, forests, watercraft, or any other kind of good linked to employment or professional activity.
 - (b.2) Expenses and services stemming from burial.

On the other hand, considering the nature and bond between members, we can differentiate between the following EPSVs (see art. 7.b of the Law 5/2012):

(a) *Individual voluntary social welfare entities*. These are entities whose members or protectors are financial institutions, who conduct activities to cover personal contingencies, set forth in this law, for ordinary members of them who are natural persons, with no prior link between them that is the deciding, determining factor for their joining said entities.

¹ If the EPSV covers these other contingencies, it cannot cover personal contingencies (see article 25.2 of the Law 5/2012).

(b) *Employment voluntary social welfare entities.* These are entities whose members have or have had an employment relationship with the patron, or a service relationship for civil or statutory staff, or who are worker-members or a work relationship for cooperative and labour enterprises, with the agreements reached in collective bargaining, company pacts, or a unilateral employer decision being the determining, decisive factor for them to join.

Moreover, voluntary social welfare entities shall be considered employment modality when their ordinary members have some bond related to the practise of their profession.

(c) *Associated voluntary Social Welfare Entities.* These are entities whose members have a non-employment associative bond that is not related to professional practise.

(d) *Undifferentiated Individual voluntary social welfare entities.* These are entities whose members have non-employment bonds and conduct activities to cover non-personal contingencies.

Members and beneficiaries of Voluntary Social Welfare Entities

There can be different classes of members within EPSVs (see art. 16 of Law 5/2012):

- a) Promoting members: natural or legal persons, of all types and kinds, who participate by establishing and making initial contributions for the creation and constitution of an EPSV, and who are a part of their bodies of governance as established in bylaws pursuant to applicable law.
- b) Patrons: legal or natural persons who, with their activity and contributions, participate in the development and maintenance of an EPSV or social welfare plan, without obtaining direct profit, but participate in their bodies of governance pursuant to bylaws.
- c) Numbered or ordinary members: natural persons who can obtain a benefit for themselves or their beneficiaries, pursuant to Law 5/2012. In the event of risk for items, those who hold rights or legitimate interest in the goods that are at risk.

The following modalities for ordinary members may exist:

- (c.1) Active members: persons with the right to a benefit for themselves or their beneficiaries by means of economic contributions they themselves make, or that a third party makes on their behalf.
- (c.2) Passive members: people who, having been active members, become direct holders of the benefit as protected subjects after the contingency occurs.

- (c.3) **Suspended members:** those who, having been active members, hold a status as non-contributors, both in terms of contributions made by themselves and by third parties on their behalf.

In addition to members, EPSVs care for beneficiaries, who are natural persons who, due to their relationship with the originator, hold the benefit after the contingency occurs (see art.16 of Law 5/2012).

Both members and beneficiaries are entitled to participate or be represented in the EPSV'S bodies of governances, as a clear manifestation of the principles that inspire EPSVs, consisting of equal rights and obligations and the democratic structure and composition of their bodies of governance and, consequently, also the first guiding principle of Social Economy entities that sets forth prioritising people and the social purpose over capital, in terms of democratic and participatory management (see art.4.a of Law 5/2011).

Definition of social welfare plans and modalities

Social welfare plans are defined as agreements which, without their own legal personality, bear contractual, associative, establishment, or regulatory form, with the objective of implementing and regulating both the system for regular contributions and benefits and conditions for acknowledgement of rights, for the contingency of retirement, as well as, if applicable, death, dependency, invalidity, long-term unemployment, or serious illness. They must be formalised with benefit regulations, and financial and individual actuarial capitalisation systems shall be applied to determine these (see art. 8 of Law 5/2012).

Based on this definition, we can differentiate between different social welfare plan modalities (see art. 9 of Law 5/2012).

On one hand, based on the bond between the members, the plans can be:

- a) *Individual social welfare plans:* those that merely require membership, without any prior bond between members.
- b) *Employment social welfare plans:* plans that require an employment, civil, or statutory bond, or worker-members or work within the scope of cooperative and worker-owned companies between their members. For applicable purposes, a social welfare plan may also be classified as an employment plan when its members belong to self-employed workers who have constituted themselves through professional associations, chambers of commerce, or other representative entities who act as promoting members or patrons. Additionally, different

patrons may join an employment social welfare plan and its collective, respecting the characteristics of the welfare plan.

- c) *Associated social welfare plans*: those that require an associative bond between members.

On the other hand, depending on the contribution and benefit system, plans can be:

- a) *Defined contribution social welfare plans*: plans where the contribution of members or how to determine the amount is predetermined, without this having a direct and immediate relationship with the specific contribution that may be received in the future, and without guaranteeing, a priori, the amount of the benefit. Notwithstanding, there may be plans of this type with an external guarantee of the specific amount of each percentage of equity, which in this case are called guaranteed social welfare plans.
- b) *Defined benefit social welfare plans*: plans that specify the amount or how to determine the benefits to be received by passive members or beneficiaries, in the event that, in the event causing pay-out of benefits, the requirements and conditions set forth to this end are fulfilled.
- c) *Blended social welfare plans*: plans that simultaneously combine characteristics of the two previous options.

8.3. SCOPE OF VOLUNTARY SOCIAL WELFARE ENTITIES

After showing the reality and *raison d'être* of EPSVs in the previous section, in this section, we offer their true scope in quantitative and qualitative terms, all while highlighting, when applicable, the driving notions revolving around them, or aspects to be improved.

To this end, we consider data taken from questionnaires provided to the two EPSV federations that currently exist in the ACBC, meaning the Federation of EPSVs of the Basque Country, which represents the majority of EPSVs designed to cover personal contingencies, and the Sutareo Federation, which represents EPSVs designed to cover or protect goods.

Voluntary Social Welfare Entities federated to the Federation of EPSVs of the Basque Country

Definition of their legal nature and main differences with Pension Funds

Federated EPSVs conduct pension activity, mainly designed to complement the public pensions of associates so that the public pension,

along with the complementary pension, is as close as possible to the last salary received while actively working.

EPSVs and State Pension Funds have the same purpose: to complement the public pension. However, there are some differences between them, since EPSVs are:

- a) The Basque Country's own specific instrument that is regulated by Basque regulations from the Basque Parliament and Government.
- b) EPSVs have their own legal personality and do not require a managing entity to administer their equity.
- c) They are not-for-profit.
- d) Governance bodies consist of their own members and their composition is democratic.
- e) They are supervised and controlled by the Basque Government, and not by the State Administration.

Organisation of the Federation of EPSVs of the Basque Country and federated EPSVs therein

One of the basic principles of voluntary social welfare systems is that, in their establishment and operations, EPSVs must adapt the structure and democratic composition of their governance bodies, stipulating that the election of these bodies shall be representative of the social collective, and their members must have access to the information necessary to conduct their roles.

The social collective is represented in employment system governance bodies by at least 50%.

The board of governance, the body responsible for administering, managing, and representing the Entity, must have balanced representation between men and women, considering the percentage of their presence in the entity.

Bodies of governance of EPSVs have immediate and direct access to all information available on the Entity, with transparency being one of the information principles in their management.

The Entity's bylaws may set forth assignation of remuneration or compensation of expenses for members of the board of governance exclusively when conducting executive or administrative functions. In any event, this shall require the express approval of the general assembly.

For the Federation of EPSVs of the Basque Country, all Entities are entitled to information on the operation and status of the Federation and its services and may use an expert's services if they deem doing so pertinent.

The Federation is structured into sections. These sections are work groups that represent the interests of the different groups of federated entities in order to preserve their identity. There are currently 4 sections: employment EPSV, individual EPSVs, associated EPSVs, and undifferentiated EPSVs.

Voluntary Social Welfare Entities federated with the Federation of EPSVs in the Basque Country in data and the most relevant aspects of their daily dynamic

(A) Voluntary Social Welfare Entities federated with the Federation of EPSVs of the Basque Country

On 31 December 2019, 60 EPSVs were federated with the Federation of EPSVs of the Basque Country: 1 under the undifferentiated, 2 under the associated, 26 under the employment, and 31 under the individual modalities.

Pursuant to data provided by the Federation of EPSVs of the Basque Country, contributions made to federated EPSVs during fiscal year 2019 exceeded 853 million euros. This amount is broken down as follows:

- (a) Associated EPSV section: 247,000 euros.
- (b) Employment EPSV section: 428 million euros.
- (c) Individual EPSV section: 425 million euros.

On the other hand, benefits received by federated EPSV members exceeded 884 million euros in 2019.

Benefits are received as income, capital, or a blend (capital-income combination, or vice-versa). Notwithstanding, the Federation of EPSVs of the Basque Country indicates that an effort must be made to provide incentive to collect as income, given that the social objective of EPSVs is to complement, with a sufficient amount, periodical pensions paid out by Social Security.

This must all be cross-checked with the information set forth on the Basque Government's Office of Financial Policy's Complementary Social Welfare Report 2018, "*La Previsión Social Complementaria en Euskadi-resumen* (Complementary Social Pensions in the Basque Country-A summary) (second and third section)"².

² The report from fiscal year 2019 is not expected until October or November 2020.

Thus, according to this Report, 77 EPSVs were operating in the ACBC in 2018, providing benefits complementary to Social Security. Of these EPSVs, 2 were associate, 44 were employment, and 31 were individual.

Of the 44 employment EPSVs, 40 have welfare plans whose scope of action is the company, and 4 are sectorial, given that their welfare plans encompass a set of companies (one EPSV for cooperative enterprises belonging to the Mondragón Corporation, another for companies that fall under certain collective provincial conventions in Gipuzkoa, and two EPSVs for workers in the public sector, one for workers at the General Administration of the ACBC, and the other for the Provincial and Local Administration).

As far as the 31 individual EPSVs are concerned, it should be noted that five of them have numbers on the balance sheets above 300 million euros and more than 25,000 members.

Below are the numbers from the balance sheets of all EPSV modalities in 2018:

Illustration 70. Data according to EPSV type (I)

MODALIDAD	Número de Entidades	Cifra Balance	%/Total
EPSV con Planes de Previsión			
Asociada	2	21.228.524,55	0,09%
Empleo	44	13.409.480.995,84	54,01%
Individual	31	11.395.309.176,57	45,90%
TOTALES	77	24.826.018.696,96	100%

Fuente: Dirección de Política Financiera

The number of people in EPSVs with welfare plans in 2018 was 1,135,778. When analysing from a gender perspective, men account for 56% and women account for 44% of total members.

Illustration 71. Data according to EPSV type (II)

MODALIDAD	Nº de Entidades	Socios Hombres	%Total	Socios Mujeres	% Total	Total Socios/as
EPSV con Planes de Previsión						
Asociada	2	1.267	85,15%	221	14,85%	1.488
Empleo no preferente	44	279.881	57,60%	206.055	42,40%	485.936
Individual	31	353.880	54,58%	294.474	45,42%	648.354
TOTALES	77	635.028	55,91%	500.750	44,09%	1.135.778

Fuente: Dirección de Política Financiera

From the perspective of the size or dimension of EPSVs with welfare plans, the Report indicates that the average number of members per EPSV in 2018 was 14,750; 20,915 on average for individual EPSVs, 11,044 on average for employment EPSVs, and 744 on average for associated EPSVs. That being said, these relatively high averages conceal a high number of “smallholdings” in the EPSV collective, especially with employment. This means that most employment EPSVs, 68% of them, have fewer than 1,000 members and only 6 entities have more than 5,000 members. This “smallholding” is also to be observed in EPSV equity. Indeed, many small entities, almost 86% of EPSVs with welfare plans, have equity lower than average (322 million) and a small number of them are large. And the same happens both with employment EPSVs and with individual EPSVs. 13% of EPSVs (those with more than 25,000 members) hold 80% of equity.

In terms of contributions and benefits of EPSVs with welfare plans during 2018, please see the table below, which is contained in the aforementioned report³:

Illustration 72. Data according to EPSV type (III)

MODALIDAD	Número	Aportaciones	%/Total	Prestaciones	%/Total
EPSV con Planes de Previsión					
Asociada	2	294.791,13	0,04%	287.430,01	0,05%
Empleo	44	318.631.762,68	43,82%	418.939.071,80	65,98%
Individual	31	408.281.272,49	56,14%	215.696.771,01	33,97%
TOTALES	77	727.207.826,30	100%	634.923.272,82	100%

Fuente: Dirección de Política Financiera

The average amount that people contributed on 31 December 2018 was 1,405.10 euros (1,463.21 euros for men, and a bit lower, 1,327,34€, for women).

In terms of benefits, please see the table below, which is contained in the aforementioned report:

³ For EPSVs with welfare plans, this table shows contributions and benefits for retirement contingencies, as well as death, dependency, permanent disability, long-term unemployment, or serious illness, meaning the benefits that may be paid out by means of welfare plans. As such, contributions and benefits to grant other social benefits such as temporary disability, employment assistance, or certain medical benefits, etc., given by certain employment EPSVs are not included. These benefits do not fall under the second or third pillar.

Illustration 73. Data on benefits

JUBILACION					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
28.573	12.937	41.510	355.954.424,97 €	124.319.642,28 €	480.274.067,25 €
INCAPACIDAD PERMANENTE					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
4.987	1.667	6.654	34.649.685,26 €	11.013.534,27 €	45.663.219,53 €
DEPENDENCIA					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
11	10	21	1.028.003,04 €	135.097,72 €	1.163.100,76 €
DESEMPLEO LARGA DURACION					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
540	394	934	2.647.985,27 €	1.298.542,08 €	3.946.527,35 €
ENFERMEDAD GRAVE					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
32	29	61	204.076,27 €	233.968,01 €	438.044,28 €
TOTAL SOCIOS/AS PASIVOS					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
34.143	15.037	49.180	394.484.174,81	137.000.784,36	531.484.959,17
FALLECIMIENTO					
Número de beneficiarios/as			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
4.263	14.375	18.638	25.141.536,54 €	78.296.777,11 €	103.438.313,65 €
TOTAL SOCIOS/AS PASIVOS/BENEFICIARIOS					
Número de Asociados			Importes		
Hombres	Mujeres	Total	Hombres	Mujeres	Total
38.406	29.412	67.818	419.625.711,35 €	215.297.561,47 €	634.923.272,82 €

Fuente: Dirección de Política Financiera

As concluded in the report, of the total expense in benefits for all EPSVs with welfare plans in 2018, 76% was for the retirement contingency, and 16% was received by beneficiaries as a result of an ordinary member's death. Additionally, 66% of total benefits (419,625,711.35 euros) were received by men, while women received 34% of benefits (215,297,561.47 euros). The average amount of benefits received was 9,362.16 euros. That being said, when we analyse by gender, the average amount received by women (7,320.06 euros) is significantly lower than the amount received by men (10,926.05 euros).

In terms of how benefits were collected, considering employment and individual EPSVs, the Report calls our attention to the fact that practically 50% of benefits received were in the form of capital. In this regard, please see the table below, contained in the report:

Illustration 74. Data on benefits

Forma de cobro	Nº socios/as pasivos	Importe	Importe medio anual	Importe medio mensual
Renta actuarial	31.091	232.421.499	7.475,52	623
Renta financiera	13.137	72.559.176	5.523,27	460
Capital	16.392	294.836.165	17.986,59	
Total	60.620	599.816.840,01		

Fuente: Dirección de Política Financiera

However, it should be clarified that, for employment EPSVs, the majority collect by means of actuarial income, which falls more in line with the EPSVs' social purpose, which is to complement, with a sufficient amount, the periodical pensions paid out by Social Security.

In any event, the Report calls our attention to the fact that, in 2018, it is clear that members of individual EPSVs gradually began requesting to collect their benefit as actuarial income.

(B) Promoting members and patrons, and numbered or ordinary members

As stated by the Federation of EPSVs in the Basque Country, it is difficult to calculate the number of promoting members and patrons, given that they may range from 1 to 8,700 (number of companies belonging to 20 sectors that had the sectorial EPSV that forms part of the Federation of EPSVs in the Basque Country, meaning Geroa EPSV, in 2019).

Additionally, on 31 December 2019, considering the number of accounts or positions, since it is very difficult to determine how many are duplicate or members with suspended contributions, there were 1,141,811 numbered or ordinary members, according to the information provided by the Federation of EPSVs in the Basque Country.

Pursuant to the Complementary Social Welfare Report 2018 by the Basque Government's Office of Financial Policy, "*La Previsión Social Complementaria en Euskadi-resumen* (Complementary Social Welfare in the Basque Country-A summary) (second and third section)," ordinary members older than 65 account for only 10.7% of all members. If we only consider the collective with people younger than 65, the average age of associates with welfare plans is 48. This average is identical, both for women and for men. It should be noted that employment EPSVs allow people to join at an earlier age.

From a gender perspective, pursuant to the aforementioned Report, in 2018, women accounted for 44% of total members, and made 40% of contributions. The Report's conclusion in this regard is clear: the

contributions of women as a whole are 4 percentage points lower than the percentage of the number of members.

(C) Information for members

In general, federated EPSVs that have welfare plans must provide ordinary members and beneficiaries with the following information:

- a) The Entity's Bylaws and the Regulation for the plan they have joined and the composition of the bodies of governance.
- b) Amendments to bylaws and regulations and amendments in the composition of the bodies of governance.
- c) The Statement of Principles of Investment, which must include the risk profile (high, medium, or low) due to the assets in which they invest, or the techniques used to manage them.
- d) Specification of the percentage to apply in each welfare plan, for administrative expenses, as well as the percentage out of the plan's equity taken by intermediation expenses for the purchase-sale of transferable securities and the rotation ratio in the portfolio of said securities.
- e) Identity of Entity auditors.
- f) Historical evolution of the welfare plan's equity, annual profitability objectives, and the profitability achieved by the plan, in each one of the past three fiscal years, or the fiscal years that have been completed since the plan has been in existence, if lower than three.
- g) Information on the applicable tax system, both for contributions and for benefits for different contingencies.
- h) Information on estimating future pension rights pursuant to the Basque Government's ministry responsible for social welfare entities (currently, this is the Ministry of Treasury and Economy).
- i) If the EPSV bears social, environmental, ethical, and corporate-governance considerations in mind in its investments. If it does not, it must provide the reasons why it does not.

For welfare plans in the defined benefit system, at least annually, the Entity must send each ordinary member and beneficiary a certification with the direct or allocated contributions from each period, the value at the end of the period of their economic rights, if any, and the amount of benefits paid out during the period. Additionally, they shall send an abbreviated management report, except when they have a telematic relationship with members.

Regarding the information that they must provide to members during the phase prior to retirement, in addition to the information on estimated

future pension rights, entities must provide each member, at least two years before their legal retirement age, or at the request of the member, with information on the options available to members to receive their retirement benefit.

Lastly, the information that must be provided to passive members and beneficiaries during the phase of receiving the pension is:

- a) Entities shall provide information on benefits owed and pertinent payment options.
- b) When passive members and beneficiaries undertake a significant level of investment risk during the phase of receiving the pension, the EPSV shall clearly inform of this circumstance.

(D) Fiscal or tax benefits

EPSVs and their members have tax treatment that can be classified as favourable, since its purpose, to wit, complementing the public pension, is considered an important issue for a section of society that deserves beneficial tax treatment.

Specifically, in terms of the content of the tax system applicable to EPSVs, please see the contents of the Federation of EPSVs on the Basque Country's website (<https://epsv.org/fiscalidad/#page-content>).

In this regard, we must specify that the Federation of EPSVs in the Basque Country understands that the current tax system applicable to EPSVs must be revised by observing the current limits to reduction of contributions, or otherwise, by establishing a tax benefit comparable to the existing one, as well as by improving taxation for the revenue paid out as income, so that it is at least as attractive as other forms of collecting payment. Moreover, they consider that tax treatment for preferential employment EPSVs must be improved, insofar as they are an ideal vehicle to generalise Complementary Social Protection in the Basque Country.

(E) Redemption feature for economic rights charged to accumulated reserves

Members of federated EPSVs may collect the total or partial amount of their economic rights from contributions made to social welfare plans in the individual or associated modality earlier when they have been members for more than ten years. On the other hand, employment EPSVs stipulate the possibility for early withdrawal only in plans that had this redemption feature when Law 5/2012 went into force, and for the economic rights existing on that date.

Reasons for redemption are normally related to need.

Regarding the number and amount of redemptions, we have referenced the Basque Government's Office of Financial Policy's Complementary Social Pension Report 2018.

Illustration 75. Data on redemptions

	EPSV Asociadas	%	EPSV Empleo	%	EPSV Individuales	%	Total EPSV
Número Rescates	7	0,03%	113	0,47%	24.026	99,50%	24.146
Importe de los Rescates	10.203,03	0,01%	2.215.570,07	1,44%	152.120.347,64	98,56%	154.346.120,74

Fuente: Dirección de Política Financiera

From a gender perspective, the percentage of men who cashed in redemption in the year 2018 was 57%, and the percentage received was 62%.

Regarding the special situation stemming from Covid-19, the Director of Financial Policy of the Basque Government handed down the Resolution of 25 March 2020, which authorises collection of unemployment benefits for EPSV members who had been furloughed by force majeure due to the impact of Covid-19.

Pursuant to statements by the Federated Entities, the impact of Covid-19 was greater in terms of requests for information than in actually exercising the right to collect the benefit.

(F) Efficacy, efficiency, and innovation of EPSVs in managing their resources

Pursuant to statements by the Federation of EPSVs in the Basque Country, the following aspects should be highlighted in terms of the efficacy, efficiency, and innovation of EPSVs in managing their resources:

- a) Investments are only made in the interest of ordinary members and beneficiaries, and the majority on markets organised by the OECD.
- b) Assets are allocated in an adequate fashion that is sufficiently stable over time, notwithstanding their correction or permanent rebalancing, within defined margins, based on evolution of the markets.
- c) An adequate diversification policy is enacted, both between different kinds of assets in the portfolio and the different securities within each kind of asset, as a basic element to hedge risk.

- d) The different portfolios are actively managed by means of appropriately selecting securities and taking advantage of different opportunities continuously presented by the markets.
- e) The fund's liquidity is adequately managed, providing for rapid liquidation of assets to handle potential pay-outs.
- f) Strict policies are enacted to manage risks, for internal audits, and if applicable, for actuarial and externalisation purposes (Good Governance).
- g) Investments are managed in a socially responsible fashion that places a very positive value on an active, transparent voting policy, in order to promote Good Corporate Governance, as well as considering the social and environmental effects of company activity.
- h) If applicable, a life-cycle investment strategy is implemented.

(G) Socially responsible investment

Federated EPSVs and the Federation itself have undertaken a clear and firm commitment to Socially Responsible Investment, which almost unanimously takes shape in the Declaration of Investment Principles (DPI, in Spanish) of Federated Entities.

Investments by EPSVs and their welfare plans must be governed by the following principles:

- a) EPSVs' assets shall only be invested in the interest of their ordinary partners and beneficiaries. In the event of a possible conflict of interest, the Entity must ensure that the investment is made only in defence of the interest of associates.
- b) The majority of EPSVs' assets shall be invested on regulated markets. The criteria that EPSVs must follow in the implementation of investments shall be security, profitability, liquidity, diversification, spread, currency matching, and adequate timeframes for their purposes.
- c) The EPSVs must hold ownership and free disposal of goods and rights from investments.

Moreover, EPSVs must report to their numbered members and beneficiaries if the Entity has taken social, environmental, ethical, and corporate-governance considerations into account in their investments. If it has not, it must provide the reasons for doing so. When they have a policy in this regard, they must describe it, at least briefly, specifying their exclusion, integration, or engagement strategies. They must also mention the assets to

which this applies and how to verify, if applicable, application of this socially responsible investment policy.

In any event, EPSVs must exclusively invest in assets declared apt by the EPSV regulation (see art. 11.3 of Decree 92/2007), with the investment's purpose being to achieve the best yields possible to adequately honour pension commitments they have entered into with associates and beneficiaries.

(H) Educating members

Pursuant to the information provided by the Federation of EPSVs in the Basque Country, within the scope of education, it should be noted that in March 2019, the tenth basic face-to-face training course on Complementary Social Welfare was held, promoted by the Basque Government and organised by the Federation with the collaboration of Deloitte. Additionally, the Federation periodically organises practical courses on managing EPSV investments.

In 2019, the Federation of EPSVs in the Basque Country promoted the publication of educational videos for open viewing in 2020, as well as, with the collaboration of the Basque Government, the publication of a book of collaborations on the 35th anniversary of the first Law on EPSVs, which was also free to access in 2020 on the Federation's webpage (www.epsv.org).

(I) Educating members of Boards of Governance of EPSVs in the Federation and of the Federation itself

Members of Boards of Governance of EPSVs in the Federation and of the Federation itself must hold professional qualification and adequate knowledge and experience to guarantee healthy and prudent management of the entity.

(J) Improvements that the Federation of EPSVs in the Basque Country brings to the operation of its federated EPSVs

The duties practised by the Federation and that bring clear advantages to federated entities are:

- a) Representation of federated entities to all kinds of bodies and offices in issues related to the general interests of pensions.
- b) Representation of the Complementary Social Pension sector at the Basque Social Pension Council.

- c) Fomenting promotion and education in voluntary social welfare.
- d) Defence of general interests of Federated Entities.
- e) Technical and legal assistance.

Moreover, the Federation has been legally assigned, if applicable, to act to reconcile conflicts that arise between associated entities or between the entities and their members, although it should be mentioned that all conflicts that have arisen as of today were slight and easily resolved.

(K) Fomenting and promoting voluntary social welfare

In terms of fomenting voluntary social welfare, the Basque Government collaborates with the Federation on education and dissemination (training courses, workshops, and seminars, etc.), contributing to funding these initiatives.

Pursuant to the information provided by the Federation of EPSVs in the Basque Country, the promotion and dissemination of voluntary social welfare is basically channelled by organising workshops and seminars, regular participation in national and international forums, the intensification of institutional and media relations, and educational work (courses, videos, books, etc.).

Additionally, Federated Entities conduct advertising activity through all kinds of media and advertising formats.

(L) Confederation with state and international bodies

The Federation of EPSVs in the Basque Country is a noteworthy member of the *Confederación Española de Mutualidades de Previsión Social Voluntaria* (Spanish Confederation of Voluntary Social Welfare Mutual Societies), it has a representative at PensionsEurope, which is the most important pension association in Europe, and is an observing member of EAPSPI, the European pension association in the public sector.

(LL) EPSV as a mechanism to prevent social exclusion

Although promoting employment, and especially people who are socially excluded, is not the EPSVs' purpose, it is also true that EPSVs' protective action includes long-term unemployment as a contingency, this meaning loss of employment or cessation of activity for self-employed workers, who meet the conditions set forth by regulations under the following criteria:

- a) Hold legal status as unemployed, collecting a contributory benefit for a year, unless this benefit ended before a year.
- b) In the event that they are not collecting unemployment benefits at their contributory level, they may receive the pertinent benefit before this deadline has passed.

Voluntary Social Welfare Entities federated to the Sutearo Federation

Their definition to differentiate them from traditional insurance companies

While EPSVs federated with the Sutearo Federation are similar to traditional insurance companies in that they respond for possible damages that may be caused to the insured goods as a result of the cases set forth in the contract entered into with the pertinent EPSV, such as fire, explosion, lightning, rain, wind, theft, and loss, and they also manage civil liability arising from damages potentially caused to third parties, their main difference lies in that:

- a) *Sutearos* or brotherhoods federated with the Sutearo Federation are not a company or commercial entity, but rather entities, associations, or groups of mutual aid comprised of, and managed by members.
- b) The decisions of *sutearos* federated with the Sutearo Federation are in the hands of members, who decide conjointly and as an assembly on the scope of aid and standards for operations that govern their day-to-day.
- c) The social purpose of *sutearos* federated with the Sutearo Federation is not to obtain profit, but rather to use the contributions of associates to pay expenses for accidents that may occur and to manage them; the surplus remains in the “market” of each associated person, under their own name.
- d) *Sutearos* federated with the Sutearo Federation are focused on protected farms or homes in the rural environment, firstly due to the fact that this is the area where the first brotherhoods were established, and secondly, because the solutions offered by traditional insurance companies did not meet the needs of this kind of home.

Certainly, this all demonstrates loyal compliance with the first guiding principle of Social Economy entities, regarding prioritising people and the social purpose over capital, insofar as these EPSVs are managed democratically and in a participatory fashion.

The following section delves further in depth into this principle, regarding the organisation of the Federation and each federated *sutearo*.

Organisation of the Sutearo Federation and each federated sutearo

As follows, we differentiate between the eight management bodies in the Sutearo Federation's organisation and each one of the EPSVs federated with it, called *sutearos* or brotherhoods.

(A) Federation General Assembly

The Federation General Assembly consists of electors of all federated *sutearos* (one per *sutearo* and another for each 50 associates; as such, at least two per *sutearo* and also a maximum of 6).

The General Assembly is the highest body to address and decide on matters.

(B) General Assembly of each *sutearo*

The General Assembly, consisting of all associates, is the highest body of governance of the entity. This is where all matters are addressed, and its decisions are binding for all associates.

Since each *sutearo* is federated, they answer to the Federation on management issues entrusted to it, as well as decisions made by the majority of federated *sutearos*. Each *sutearo* takes part on the Federation General Assembly through representatives or electors in proportion to their affiliation.

(C) Board of Directors

This consists of representatives of six *sutearos*, people who hold the presidency and vice-presidency of the Federation, a representative of the Supervisory Board and another representative of the Promotion Board.

Management and a representative of the Office participate, carrying out presentation and secretarial tasks.

The Federation's Management amongst Assemblies lies with the Board of Directors. Their work consists of complying with and enforcing compliance with the General Assembly's decisions and taking responsibility

for proper Federation management and associates in compliance with bylaws and the law.

At least once per year, a broader Board of Directors' meeting is held, consisting of representation for each *sutearo*.

(D) Board of Directors of each *sutearo*

This consists of one person to represent each neighbourhood or zone, submitted by alphabetic order. This number may vary based on the number of affiliates and the division of neighbourhoods or zones. Currently, the number of people on the Board for each *sutearo* varies between 2 and 13.

The responsibility for managing everything that is not the responsibility of the Federation falls on the Assemblies.

In turn, when applicable, they take part in the Federation's Board of Directors.

They attend regional meetings, the broader Federation Meeting, and its Assembly, with the number of representatives for each *sutearo* based on their affiliation numbers.

(E) Board of Promotors

Consisting of eight people, one person per brotherhood or promoting *sutearo*. Their task is to ensure that *sutearos* remain true to their philosophy. If they observe that there is a change in course, they may call an extraordinary General Assembly.

(F) Supervisory Board

This consists of the last three people who held the presidency and the current president and vice-president, one to represent the Board of Promotors and the Manager. Their mission is to supervise the daily operations of the Federation and of *sutearos*, and to act as support and provide assessment to the Governing Board.

(G) Disciplinary Commission

Consisting of five people representing five *sutearos*, whose mission is to resolve conflictive relationships between associates.

(H) Federation Management and Office

This is also the management team for each *sutearo*, since they have transferred management to the Federation, so all missions entrusted to the Federation's office are also jobs conducted on behalf of each *sutearo*. As such, this is also their management body.

Sutearos in numbers and the most relevant aspects of their daily dynamic

(A) *Sutearos* in numbers

The total number of members grouped under the Federation is 4,194, and they have signed 5,069 contracts.

These members are grouped into *sutearos* or brotherhoods, which in turn form part of the Sutareo Federation. It should be noted that all members are active members.

In recent years (2015, 2016, 2017, 2018, 2019), 269 cancelled their membership, for basically the same three reasons: sale of home, moving to the competition, and no interest in continuing.

Regarding the contributions made by *sutearo* members associated with the Sutareo Federation, the average contribution is estimated in relation to the value of the home, which is around 900-1000€ per one million insured.

In terms of benefits received by *sutearo* members federated with the Sutareo Federation, in 2019, the amount received was 1,030,000€. This money was received by direct payment.

(B) Information for members

Regarding the Sutareo Federation channelling information toward its members, it should be noted that the Federation provides its accounts for the Federation and brotherhood on an annual basis, as well as all accounting items that generate expense. They also provide all information that affects rights and obligations and preventive measures.

(C) Lack of fiscal or tax benefits

Sutareo Federation members receive no tax or fiscal benefits for being such, nor for signing their contracts.

(D) Cooperation, solidarity, and localness as values

The main corporate values of the Federation and different *sutearos* are cooperation, solidarity, and localness, meaning principles for action and elements that set them apart from other traditional insurance companies.

Sutearos directly manage disasters. Precisely for this reason, in managing their resources, the greatest example of efficacy, efficiency, and innovation lies in localness, both in the entity's inward management and in managing disasters outward.

We can also see this local aspect with the participation instruments in the Federation and the *sutearos*: participation through the General Assembly and members' contributions via the website, email, and other channels, such that channels for participation are always provided.

(E) Investments that are not socially responsible

The investments that the Federation makes are through FINECO and are not socially responsible.

(F) Lack of training

There is no specific training for its members beyond the aforementioned prevention education, and this even affects the aforementioned bodies of governance, which at this time is creating a great conflict in legal approaches, forcing professionalised boards of governance meetings to be held.

(G) Existing conflicts

Existing conflicts mainly arise as a result of disasters and application of housing-dwelling regulations.

(H) Fomenting and promoting voluntary social welfare

The way that the Sutareo Federation foment and promotes voluntary social welfare is basic, through "word of mouth" and the tradition of keeping homes insured, even if they are transferred.

The only advertising actions that the Federation carries out are intended exclusively for its members and to maintain them.

Public authorities have not provided measures to foment, support, or promote *sutearos* in the Sutearo Federation; more to the contrary, they are encountering increasing difficulties in pursuing their social objectives. The Federation is speaking of the “danger of homogenisation” with the new EPSV Law.

(I) Lack of confederation with state and international organisations

The Federation is not confederated or associated with any organisation, neither nationally nor internationally

8.4. CHARACTERISATION

In this section, we analyse four cases that we consider paradigmatic or worthy of consideration as good practises in terms of the guiding principles for Social Economy entities.

Entities and preferential voluntary social welfare plans

Under EPSVs and their social welfare plans, of note is the new aspect of Law 5/2012 on EPSVs and preferential social welfare plans, which are set forth as a fundamental element to develop and spread complementary social provision schemes in the future (see Memorandum, section VI).

We can see the intent to spread complementary social provision amongst ACBC’s citizens in the fact that their origin and constitution comes from collective bargaining or company pacts. Moreover, non-discrimination against members joining is a governing principle.

Additionally, we must highlight that they prioritise social aspects above economic aspects. Indeed, banking on this EPSV modality and its social welfare plans means guaranteeing greater replacement income in the event that the protected contingencies occur, as a complement to the benefits paid out by the Social Security System, thereby providing sufficient benefits, and increasing well-being. In this regard, the benefit is preferentially provided as income, redemption for contributions is avoided, and the mobility of economic rights is limited. In short, the benefits have a social purpose and a destination that is clearly defined.

All this is related to the third guiding principle of Social Economy entities, regarding promotion of internal solidarity and solidarity toward society, in that guaranteeing benefits complementary to those received from

the Social Security System not only benefits members and beneficiaries of the preferential EPSV, but also leads to savings in public expenses for social protection, helps in local development, and is a clear example of quality employment.

That said, for an EPSV to be classified by the competent administrative body as preferential, the EPSV in question must be for employment, be established pursuant to Law 5/2012 (see art. 12), and only have preferential social welfare plans (see article 11 of Law 5/2012). Specifically, social employment welfare plans are classified preferential when created pursuant to the procedure set forth in Law 5/2012 (see art. 42) and that meet the following requirements (see art. 14):

- a) **Principle of non-discrimination:** In preferential social welfare plans, the possibility of membership must be guaranteed to all staff employed at least for one year, including staff with a special employment relationship, to all worker-members, or all worker-owners, in the case of cooperatives and worker-owned companies, or the entire collective when self-employed workers are in question.
- b) **Minimum protective action:** This shall cover, at minimum, contingencies for retirement, death, and invalidity or permanent disability that lead to termination of the employment relationship or its equivalent.
- c) **Shared contributions:** Contributions are determined by collective bargaining and must be shared between patron members and numbered members. Notwithstanding, contributions made to a social welfare plan by self-employed or worker-members or worker-owners for cooperatives and worker-owned companies shall be set forth by plan regulations.
- d) **Mobility:** Economic rights can only be moved to other preferential social employment welfare plans.
- e) **Impossibility of redemption:** Coverage shall only be provided for contingencies set forth in regulations, with no possibility of advance return on economic rights.
- f) **Benefits:** Benefits for retirement, death, and invalidity or permanent disability leading to the termination of the employment relationship, shall be received pursuant to bylaws or regulations, and they must be acknowledged and paid as a life annuity, with the possibility of financial income provided they have a minimum duration of fifteen years, barring cases of benefits for orphan's pensions. Exceptionally, these benefits may be received as capital in the situations set forth by bylaws or regulations or when the amount of the benefit as income does not reach the percentages

- or amounts established in regulations. Other benefits shall be received as set forth in the plan's regulations.
- g) Monitoring commission: The agreements that structure a social employment welfare plan that seek to be classified as preferential must establish a monitoring commission with equal composition of parties, unless it is a plan integrated into a preferential EPSV with that single plan and with the equal board of governance. Equality in the monitoring commission, or if applicable, the board of governance, shall not be required for plans or entities for the self-employed or worker-members or worker-owners for cooperatives and worker-owned companies.
 - h) Name: Social employment welfare plans that meet the requirements in this article must add the additional title of “preferential” to their original name.

Transparent, democratic, and participatory management in governing bodies of Social Voluntary Welfare Entities

The management of EPSVs' governing bodies perfectly falls under the guiding principle for Social Economy entities on prioritising people and the social purpose above capital, which takes shape, amongst other aspects, as transparent, democratic, and participatory management (see art.4 of Law 5/2011).

Therefore, EPSVs must have internal control procedures in terms of their organisation and operations, as well as established procedures to control risk management for investments. They must also have structures for participation in controlling their management and solvency. In any event, on an annual basis, the general assembly must take a position on the suitability of internal control mechanisms established by the EPSV by approving the external audit report drawn up for this purpose (see art. 56.1 of Law 5/2012).

In the same fashion, the EPSVs' bylaws shall guarantee effective participation of representatives of welfare plans in governance bodies. To establish the number of representatives and their condition, they shall consider the volume of their equity, number of members, or any other reasonable circumstance or characteristic for representation (see art. 56.2 of Law 5/2012).

It should be noted that, due to the equality principle, individual EPSVs must assign an advocate for associates through the general assembly who, in a professional manner and independent from the patron or promoting member, ensures the rights of ordinary members and beneficiaries, resolving

claims voluntarily submitted to them (see art. 57.2 of Law 5/2012). These advocates shall be independent entities or experts of recognised prestige with economic-financial or legal knowledge of the matter, and expenses for appointment, operation, and compensating these advocates under no circumstances shall be paid by claimants, nor shall this affect the equity in the social welfare plans (see art. 53, sections 2 and 3 of Decree 203/2015).

Additionally, transparency in EPSV management, as a guiding principle of the voluntary social welfare system (see art. 2.c of Law 5/2012) consists of providing members and beneficiaries with necessary information. Moreover, in order to provide the utmost guarantee of this transparency, when there are repeated, serious signs of an EPSV's failure to comply with regulations on transparency and protection of associates or good practises, the Ministry of Treasury and Economy of the Basque Country shall take pertinent measures under the framework of a supervision procedure (see art. 54.4 of Decree 203/2015).

Socially responsible investments of funds established by Social Voluntary Welfare Entities

The EPSVs' board of governance must approve and periodically review a written declaration of investment principles, which shall include the policy on socially responsible investments or the reasons why there is no such policy. However, this obligation is waived for EPSVs with a small volume of funds or due to certain characteristics of their activity (see art. 60.2 of Law 5/2012). In any event, the board of governance must always invest funds prudently, professionally, and responsibly (see art. 54.e of Law 5/2012).

Consequently, this is clearly in harmony with the third guiding principle of Social Economy entities, on promotion internally and with society, favouring commitment to local development, equal opportunity between men and women, social cohesion, integration of people at risk of social exclusion, creating stable and quality employment, a personal-family-work life balance, and sustainability (see art. 4.c of Law 5/2011).

Moreover, in coherence with the aforementioned, pursuant to Decree 92/2007 of 29 May, regulating EPSVs' practise of certain activities, certain EPSVs have the obligation to provide ordinary members and beneficiaries with information on whether the EPSV bears social, environmental, ethical, and corporate-governance considerations in mind in their investments. Moreover, when they do not, they must explain the reasons why they do not. On the other hand, when they have a policy in this regard, they must describe it, at least briefly, specifying their exclusion, integration, or engagement strategies. They must also mention the assets to which this applies and how

to verify, if applicable, application of this socially responsible investment policy (see art. 4.1.i).

Specifically, the following EPSVs are in question (see art. 1, sections 1 and 2):

- a) Those that have social welfare plans, as well as for death, permanent disability, long-term unemployment, or serious illness, whose members have or have had an employment relationship with the patron or are worker-members or worker-owners for cooperatives and worker-owned companies (employment modality) or who, if this is not the case, paying into any kind of Social Security modality or mutual societies alternative to the public system, hold a professional or associated relationship between themselves (associated modality).
- b) Any EPSV whose patron or promotor member is a financial entity that conducts the coverage activities described in the previous section, for ordinary members and beneficiaries who are natural persons (individual modality).

In this regard, the most important EPSVs in the country are committed to Principles for Responsible Investment (PRI). Therefore, they value the inclusion of Environment (E), Social (S), and Governance (G) issues in the fundamental analysis, both in internal management and in selecting external managers, contributing the achieving World Sustainable Development Goals (SDGs). This is the case of the Lagun Aro, Elkarkidetza, and Geroa EPSVS.

As an example, as follows we share the EPSV Geroa's PRI policy for the year 2019 (<http://www.geroa.eus/userfiles/file/docs/ESTATUTOS/PRI.pdf>).

Its policy for fund investment, considering environmental, social, and governance aspects (ESG) has taken shape by banking on companies with a better mid-long term profitability/risk ratio. To this end, it uses ESG rankings, as well as different extra-financial indicators and information on the companies to track their evolution and compare them with competitors. Based on this, EPSV Geroa excludes from its investments companies with severe controversy⁴ or who do not comply with the 10 Principles of the United Nations Global Compact of 1999 on human rights, labour, the environment, and anti-corruption.

⁴ Severe controversies are incidents related to factors that have to do with the environment, social responsibility, and corporate governance and that affect the companies. In this regard, EPSV Geroa considers controversies rated as level 5 by the agency Rating ASG Sustainability as severe.

Every year, it conducts a quarterly examination to verify the portfolio's ESG rating. Additionally, it analyses whether any company has been involved in a severe controversy related to these aspects and ensures compliance with the 10 principles of the United Nations Global Compact. In the event of an incident, the Investments Committee may enter into active dialogue with the company to understand and assess the situation, giving them a deadline to resolve it or declare it unsuitable to be kept in the portfolio. In this vein, during fiscal year 2019, two companies were declared unsuitable, so holdings in them were dropped. In the same fashion, EPSV Geroa monitors certain companies which, while not at a severe controversy level and while still complying with Global Compact principles, it keeps under surveillance.

Lastly, Management Entities that have the best PRI practises are selected: companies that have ESG criteria in their investments, prioritising signatories of the 6 Principles for Responsible Investment.

Looking toward the future, in fiscal year 2019, EPSV Geroa has worked to evolve in the PRI field, testing different tools to improve analysis and control over its portfolios. This testing period served to create a more exhaustive policy for the upcoming 2020 year, in which EPSV Geroa commits to keep making progress. In this regard, it has hired the services of an ESG information supplier who is developing a tool to reinforce analysis and control over different ESG aspects in its investment portfolio.

Future improvements include development of a climate module to monitor the portfolio's carbon emissions, as well as risks and opportunities related to climate change to which EPSV Geroa is exposed. In turn, they are creating modules to monitor the impact of their investments on society and the alignment of these investments with the United Nations 17 SDGs.

The main indicators used by EPSV Geroa are set forth in the table below:

Illustration 76. EPSV GEROA Main Indicators

Principales indicadores

CLASE DE ACTIVO	POLÍTICA	OBJETIVO	RESULTADO 31/12/2019
Renta fija de deuda pública y organismos gubernamentales	Países con puntuación superior a 70 en ranking "ESG Country Risk"	Min 95%	100%
Renta fija corporativa, renta variable y convertibles	Países con puntuación superior a 70 en ranking "ESG Country Risk"	Min 95%	99,87%
	ASG Ranking de Sustainalytics o RobecoSAM: Puntuación superior a 70.	Min 50%	72,72% (de los que tienen ranking)
	MEDIO AMBIENTE	Informativo	73,22% (Ranking Sustainalytics/RobecoSAM:70) 98,01% (CDP Climate Score = 4)
	SOCIAL	Informativo	72,68% (Ranking Sustainalytics/RobecoSAM:70)
	BUEN GOBIERNO	Informativo	66,97% (Ranking Sustainalytics/RobecoSAM:70) 68,96% (CDP Climate Score = 4)
	Exclusión por comportamiento: Posiciones de aquellas compañías que incumplan alguno de los principios de Global Compact y/o los que tienen una controversia de nivel 5.	0% (salvo que deshacer posiciones sea perjudicial para el socio)	2 Compañías declaradas NO APTAS durante el ejercicio
	Controversias de nivel 4 o valores en vigilancia.	-	26 Compañías en vigilancia
Bonos Verdes/Bonos Sostenibles.	-	5 Bonos (10.000.000€)	
Fondos (Renta fija, Renta variable...) ETF o Inversiones a través de sociedades Capital Riesgo	Las entidades gestoras deben incorporar criterios ASG	Min 75%	97,70%
	Las entidades gestoras signatarias de UNPRI	Min 75%	96,96%
	Exclusión por comportamiento.	0	0 gestoras afectadas
Depósitos, cuentas corrientes, IPF, divisas...	Calificación ASG por Sustainalytics o RobecoSAM.	Min 75%	88,09% *El 91,61% tiene una puntuación superior a 70
Productos estructurados y derivados	Calificación ASG por Sustainalytics o RobecoSAM.	Min 75%	Estructurados 91,82% *El 100% tiene una puntuación superior a 70 Futuros y opciones 100% *El 100% tiene una puntuación superior a 90

*Ranking de Sustainalytics o RobecoSAM. Puntuación de 0 a 100, siendo 100 mejor puntuación. Mide posicionamiento de las empresas en términos de ASG (Medio ambiente, social, Buen gobierno)
 *CDP Climate Score (1-5) siendo 5 el mejor. Mide nivel de compromiso de la empresa con la mitigación, adaptación y transparencia del cambio climático.
 *ISS QualityScore: (1 a 10) siendo 1 el mejor. Es el Rating general asignado por el Institutional Shareholder Services (ISS) a las prácticas de gobierno de la compañía.
 Los porcentajes que se muestran se han calculado sobre las compañías de las que disponemos dato.

Social provision schemes for the disabled

The possibility of EPSVs with social provision schemes for individuals with a certain degree of physical or sensory disability, as well as disabled persons with legally-declared disability, regardless of the degree (see Additional Third Provision of Law 5/2012), perfectly connects to the third guiding principle of Social Economy entities regarding internal promotion and promotion with society to encourage commitment to local development, equal opportunity between men and women, social cohesion, integration of people at risk of social exclusion, creating stable and quality employment, personal-family-work life balance, and sustainability.

Moreover, contributions can be made to these plans, both to the actual person with disability and to the individuals who are directly related to them up to the third degree, as well as the spouse or individuals for which the disabled person is legally guardian or fostering (see art. 4.c of Law 5/2011).

Lastly, as highlighted by the Federation of EPSVs in the Basque Country, we must not forget that the EPSVs' protective action includes contingencies for permanent disability and dependency, whose beneficiaries normally tend to be disabled.

8.5. FUTURE CHALLENGES

EPSVs are a suitable instrument and more than capable of spreading Voluntary Social Welfare in the ACBC far and wide. Especially preferential EPSVs. This is their great challenge, although to overcome it, public authorities and social agents must be firmly involved.

An effort must be made to provide incentive for collecting individual EPSV benefits as income, given that the social objective of EPSVs is to complement, with a sufficient amount, periodical pensions paid out by Social Security.

We must boost creation of employment EPSVs that are larger in size or dimension, in order to increase their equity, diversify investments, and obtain greater and better distribution of funds amongst members and beneficiaries.

The current tax system applicable to EPSVs must be revised by observing the current limits to reduction of contributions, or otherwise, by establishing a tax benefit comparable to the existing one, as well as by improving taxation for the revenue paid out as income, so that it is at least as attractive as other forms of collecting payment. Moreover, we must consider that tax treatment for preferential employment EPSVs must be improved, insofar as they are an ideal vehicle to generalise Complementary Social Protection in the Basque Country.

Greater visibility must be given to EPSVs that do not protect personal contingencies, promoting them and fomenting them because they are a Social Economy entity. Moreover, they must adapt, to the extent possible, to EPSVs that protect personal contingencies, in aspects such as fiscal or tax benefits, socially responsible investments, educating members, and opening up to other similar associations that may exist in the country or internationally, in order to exchange and implement good practises and defend shared interests.

8.6. CONCLUSIONS

EPSVs are an updated manifestation of the Basque people's communitarian spirit, whose social purpose is to achieve sufficient protection for members and beneficiaries for events that may put their lives, resources, or activity in danger. Specifically, they are an updated version of social welfare mutual societies and mutual institutions who had this practise in the past.

EPSVs find their legal basis in article 41, *in fine* of the Constitution, in article 10.23 of the Basque Country Statute, in Law 5/2012 and Decree 203/2015.

EPSVs are Social Economy entities because they adapt to the general principles that inspire their behaviour and that are set forth in Law 5/2011 of 29 March on Social Economy.

EPSVs are Basque Pension Funds that are different from said funds pursuant to the particularities set forth in their regulation.

Employment, and especially preferential EPSVs, are the ones that best fulfil the social purpose inherent to all EPSVs, insofar as they allow members to join at an earlier age, with what this entails in terms of contributions, and because mainly, they grant benefits as income, which from a wealth-distribution perspective provides a monthly complement to Social Security benefits. Indeed, the sum of both concepts, meaning private and public, means that obtaining sufficient protection is feasible, with a substitution rate as comparable as possible to income no longer received as a result of the occurrence of the pertinent contingency. Consequently, this EPSV modality must be fomented.

EPSVs that do not protect against personal contingencies have low visibility in society, despite their important social purpose. They are similar to insurance companies in that they answer to damages suffered by insured parties' to their goods but are different from them in how they manage and their not-for-profit nature. We must also highlight their inherent values of cooperation, solidarity, and localness. The Sutearo Federation and its federated *sutearos* are a good example of all this.

While EPSVs that do not protect against personal contingencies are characterised by their democratic organisation and management and by the transparent information they provide to their associates, just like EPSVs that do protect personal contingencies, they lack tax or fiscal benefits, they do not conduct socially responsible investments, there is not adequate training for their associates, they lack institutional support to foment and promote them, and they are not confederated with national and international organisations. This is why, in all these aspects, they differ from EPSVs that protect against personal contingencies.

8.7. REFERENCES AND SOURCES

- ARRIETA IDIAKEZ, F. J. (2007). La Seguridad Social de los trabajadores del mar en el Derecho español. Vitoria-Gasteiz: *Servicio Central de Publicaciones del Gobierno Vasco* (Basque Government Central Publication Service).
- ARRIETA IDIAKEZ, F. J. and LÓPEZ RODRÍGUEZ, J. (2012). Euskal Herriko Gizarte-Ekintza. Iraganeko oinarrietatik etorkizuneko ahalbideetara. In *Jado: Boletín de la Academia Vasca de Derecho*, (23).
- ARRIETA IDIAKEZ, F. J. (2014). Concreción de las entidades de la Economía Social. *REVESCO*, (116) 33-56. https://doi.org/10.5209/rev_REVE.2014.v116.45717
- BASQUE GOVERNMENT OFFICE OF FINANCIAL POLICY (2018). Report on Complementary Social Welfare 2018 “*La Previsión Social Complementaria en Euskadi-resumen* (Complementary Social Welfare in the Basque Country-A summary) (second and third section)”.
- ETXEBARRIA ETXEITA, I. (2006). La evolución de la previsión social en Euskadi: situación actual y perspectivas de futuro. Las nuevas propuestas normativas y fiscales. *Boletín de Estudios Económicos*, LXI(187) 75-90.
- PANIAGUA ZURERA, M. (2011). *Las empresas de la economía social. Más allá del comentario a la Ley 5/2011, de Economía Social*. Barcelona: Marcial Pons.
- PAZ CANALEJO, N. (2012). *Comentario sistemático a la Ley 5/2011, de Economía Social*. Valencia: Tirant lo Blanch.
- PÉREZ DE URALDE, J. M. (2012). Ley 5/2011, de 29 de marzo, de Economía Social: ¿su aplicación es cosa de todos? (pregunta retórica). *Deusto Estudios Cooperativos*, (1) 79-92.
- SÁEZ FERNÁNDEZ, F. J., SÁNCHEZ MARTÍNEZ, M. T. & LÓPEZ CASTELLANO, F. (2006). El mutualismo de previsión social y los sistemas de protección complementarios. Madrid: Civitas.
- UNAMUNO, M. (1902). Aprovechamientos comunes; Lorra; Seguro mutuo para el ganado, etc. In *Derecho consuetudinario y economía popular de España* (COSTA and MARTÍNEZ, J.). Barcelona: Manuel Soler.
- URRUTIA, J. R. & MANRIQUE, F. (2011). Evolución y retos de la previsión social voluntaria en Euskadi. En VVAA. *El Estado de bienestar en la encrucijada: nuevos retos ante la crisis global* (pp.180-191). Vitoria-Gasteiz: Federación de Cajas de Ahorros Vasco-Navarras (FCAVN).
- VICARIO & DE LA PEÑA, N. (1901). *Derecho consuetudinario de Vizcaya*. Madrid: Imprenta del Asilo de Huérfanos del Sagrado Corazón de Jesús.