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PERSPECTIVES ON SOCIAL COOPERATIVES

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In general, cooperatives pursue a “mutual purpose”, which consists in satisfying the interests of the members as consumers, providers or workers of the cooperative enterprise. This institutional goal has been typical of cooperatives since the origins of the movement. In the declaration of the objects of the Rochdale Society of Equitable Pioneers it was stated that the Society acted “for the pecuniary benefit, and improvement of the social and domestic condition of its members”, beginning with “the establishment of a store for the sale of provisions”.

At the same time, it is almost universally recognized that cooperatives, all cooperatives, perform a social function. This is explicitly stated in the Italian Constitution and underlined, with different words, in many other constitutional charters around the world.

The pursuit of the interest of the cooperative members is therefore compatible with the social function. In other words, while running a business in the interests of their members, cooperatives also pursue social or general interests. This is the consequence of the particular nature of the mutual relationship with the cooperative members (for example, providing basic foodstuff to the poor or jobs to the unemployed), or of the typical cooperative governance, since cooperatives are member-driven and democratic organizations.

If this is true, then it does not surprise that “concern for the community” is one ICA principle of cooperative identity. Nor that people and legislators looking for an

organizational form to house the social phenomenon of social enterprises have decided to resort to the cooperative legal form.

This is the reason why, over the past three decades, “social cooperatives” have flourished in many European and non-European jurisdictions.

The process began in 1991, when a law on social cooperatives was promulgated in Italy. Under Italian Law no. 381/1991, social cooperatives “pursue the general interest of the community in the human promotion and social integration of citizens through: (a) the management of social-health and educational services; or (b) the carrying out of various activities – agricultural, industrial, commercial, or service – for the work integration of disadvantaged people”. Therefore, unlike “mutual” cooperatives, Italian social cooperatives do not act in the interest of their members as such, but in the general interest of the community. Their driving force and guiding principle is not mutuality but altruism and solidarity, as clearly emerges from their legal definition. This also explains why social cooperatives are automatically recognized by law as social enterprises (and consequently as third sector organizations): see Legislative Decree no. 117/2017 on the Code of the Third Sector.

Portugal was the first country in Europe to follow the Italian example, with Law no. 78/98 on “social solidarity cooperatives”. In virtue of their social function, social solidarity cooperatives are eligible for the status of Private Institutions of Social Solidarity and the benefits thereof: see Decree-Law n. 119/83 (amended and republished by Decree-Law no. 172-A/2014).

Spanish state cooperative law recognises “social initiative cooperatives”, that is “non-profit cooperatives which irrespective of the class to which they belong have as their objects either the provision of welfare services through health, education, cultural or other activities of a social nature, or the conduct of any economic activity with the purpose of integrating those who suffer any kind of social exclusion into the labour market and, in general, meeting social needs that are not being attended to by the market” (art. 106(1)).

In France social cooperatives assume the legal denomination of “collective interest cooperatives” (art. 19*quinquies* ff., introduced in 2001 and last modified in 2014).

The above mentioned are only some of the most traditional examples.

In certain cases, social cooperatives are considered in the framework of a broader national legislation on social enterprises. There are different models of such legislation.

Laws on social enterprises that allow the establishment of social enterprises also in the cooperative form.

Laws on social enterprises that award social cooperatives better treatment than social enterprises established in other legal forms. This is the case of Italian law, where social cooperatives are *ex lege* social enterprises and recipients of most favourable rules than other social enterprises.

And laws on social enterprises that admit only social enterprises in the cooperative form (and not in other forms). This is the case of Belgium where the Code of companies and associations of 2019 has replaced the company with social purpose with the cooperative accredited as social enterprise. Therefore, only cooperatives, and no longer shareholder companies, may now be recognized as social enterprises in Belgium.

This testifies that due to their characteristics cooperatives are considered the “natural” social enterprises or the “most virtuous” social enterprises.

On the other hand, it must be underlined that there are countries in Europe in which *ad hoc* legislation on social enterprise allows only shareholder companies to assume this status.

Another manifestation of the process of attribution of a specific social role to social cooperatives and of the qualification of these cooperatives as social enterprises, and consequently as social economy/third sector organizations, is found in the new United Nation’s “Handbook on Satellite Account on Non-profit” of 2018. In this Handbook, social cooperatives are included among the “related institutions” which, together with traditional non-profit organizations, form the “third or social economy sector”.

Three conclusions may follow from the analysis conducted thus far.

Social cooperatives are increasingly recognized at the legislative level and it is opportune that they continue to be so even more.

Social cooperative should receive a specific legal treatment as they are a special type of cooperative, which should not be entirely regulated like ordinary mutual cooperatives.

Social cooperatives should be specifically considered within the national legislation on social enterprises.

For greater details see

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