

Germany Legal Framework Analysis: Key Highlights

This one-pager aims to provide a brief overview of the most notable features of Germany's national cooperative legal framework, based on the work of the national legal expert.

German cooperative legislation is amongst the oldest in the world and has served as inspiration for other countries, particularly in Europe and Asia. In Germany, all registered cooperatives fall under the **Co-operative Societies Act of 1889**.

This law has been amended many times over the years, most recently in 2006 in order to reflect the introduction of the EU's Cooperative Society Regulation of 2003. At the same time, special rules apply to certain forms of cooperative. For example, cooperative banks are subject to banking law, whilst housing cooperatives benefitted from a law granting tax exemptions until this law was revoked in 1990 (though existing housing cooperatives can apply for extensions of their tax-exempt status).

The ICA cooperative principles are not expressly mentioned in the German Co-operative Societies Act, yet the definition contained in §1(1) contains reference to the first two principles: voluntary and open membership and democratic member control. Implicitly, the ICA principles are underlined in several articles of the law.

However, certain legislative amendments have allowed for deviations from the ICA principles to take place. For example, organisations are allowed to set a minimum capital under §8a, and plural voting is permitted under §43(3).

Cooperative Friendliness: Germany's law on cooperatives is notable for its flexibility which allows for innovation and for new forms of cooperatives to develop. Auditing requirements also ensure that cooperatives are integrated into a strong vertical network, protected against hostile takeovers, and rarely go bankrupt.

Key recommendations for improvement: Efforts should be concentrated on maintaining the clear profile of cooperative societies as self-help organisations for the promotion of their members in accordance with ICA's cooperative principles. Whilst it is recognised that the auditing requirements lead to high legal and organisational costs for the formation of smaller cooperatives, changes to the auditing requirements are not recommended. Furthermore, cooperatives in Germany would benefit from greater visibility, which could be achieved by including cooperatives within the university curricula.

Conclusions: Overall, cooperatives in Germany benefit from a strong and comprehensive legal framework, yet efforts should ensure the profile of cooperatives remains distinct from other types of enterprise.