



LEGAL COOPERATIVE FRAMEWORK ANALYSIS

Within the ICA-EU Alliance

NATIONAL REPORT of Uruguay

I. Introduction

This report was produced within the investigation of the Legal Cooperative Framework Analysis initiated by the International Cooperative Alliance (ICA) and its regional offices. The investigation is carried out in the framework of an alliance signed between the European Union and the ICA for the 2016-2020 period, which aims to strengthen the cooperative movement and its capacity to promote international development.

The analysis of the legal framework seeks to improve the knowledge and evaluation of cooperative legislation, with the aim of ensuring that legal regulations recognize the specificities of the cooperative model and ensure equal conditions, compared to other forms of association. This analysis will also serve ICA members as input into their advocacy and recommendations regarding the creation or improvement of legal frameworks, to document the implementation of cooperative laws and policies, and to monitor their evolution.

In line with the objectives set out in the ICA-EU Project, this report aims to provide a general understanding of Uruguayan cooperative legislation and an assessment of the degree of its ability to promote the development of cooperatives. Recommendations are also made for the improvement of legislation in order to overcome some difficulties that cooperatives are currently facing.

The document has been prepared by the doctor of law Sergio Reyes Lavega, professor at the University of the Republic of Uruguay. In order to create this document, the contributions made by national cooperative organizations affiliated to Cooperatives of the Americas have been taken into account.

Contributions from the expert and Uruguayan organizations members of Cooperatives of the Americas were collected through a questionnaire prepared by the International Cooperative Alliance and its regional offices. The questionnaire was sent in its entirety to all members in Uruguay and completing it was voluntary.



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II. National Cooperative Legislation of Uruguay

i. General Context

In Uruguay, the General Cooperative Law (LGC, for its acronym in Spanish) No. 18.407 (LGC), published in the Official Journal on 11/11/2008, unified the legal regime for all kinds of cooperatives. Through law 19.181, published on 01/20/2014, some amendments were made to the LGC. Likewise, the provisions of the Commercial Companies Law 16,060 are applied in a supplementary manner to cooperatives, in that which is not provided under the Cooperative Law and as long as said provisions are compatible, as determined in Article 4 of the LGC.

Titles I, III and IV of the LGC apply to all types of cooperatives and respectively refer to the general part, the promotion and State control respectively and the special and transitional provisions; and Title II contains the rules applicable to each type of cooperative. Likewise, the LGC is regulated today by Decree 183/018, and the legislative framework is completed with other tax related laws, which will be detailed in section II.ii.c of this report. As for the universal cooperative principles, the LGC fully compiles them, as mentioned later.

The Uruguayan Constitution does not include programmatic clauses or ones that may be of interest regarding cooperatives, there is only one marginal reference in paragraph 3 of Article 188, affirming that the State may "*participate in industrial, agricultural or commercial activities of companies made up with worker, cooperative or private capital contributions.*"

ii. Specific Elements of the Cooperative Law

a) Definition and Objectives of Cooperatives

Article 4 (inc. 1)¹ states that "cooperatives are autonomous associations of persons who voluntarily unite on the basis of self-effort and mutual assistance, to meet their common economic, social and cultural needs, through a jointly owned and democratically managed company." This is the definition given by the ICA in 1995, with the aggregate "on the basis of its own effort and mutual help", which adequately completes the concept.

The LGC expressly gathers the cooperative principles and describes the essential characteristics. The former "will have the scope and sense recognized by the global cooperative movement" and the latter are listed, resulting in several of them being reiterative with the principles.

¹Hereafter all mentions of articles without specifying the law, refer to the LGC.



Regarding open and voluntary membership, it is established that "entry is free but may be subject to the conditions derived from its social purpose" and comprises non-discrimination due to nationality, social class or race and gender equality.

Concerning democratic control, equal rights and member's² obligations are established. A single vote is granted to each member in first-degree cooperatives and allows weighted voting for second- or subsequent grade cooperatives.

In regard to the economic participation of the members, the articles of the economic regime provide all terms related to the integration of member capital, the social shares regime, the various economic assets, mandatory and non-distributable reserves and the possibility of also making voluntary reserves, as well as the distribution of surpluses according to the operations or work carried out in first degree cooperatives or ones with provided capital or services used in second or subsequent grades.

As far as education goes, the principle is also reinforced by establishing that first-degree cooperatives should form an education, promotion and cooperative integration commission (Art. 43), and that in the case of surpluses, at least 5% should be allocated for said activities (Art. 70).

Without prejudice to the possibility of partnering with entities of another legal nature (Art. 81), inter-cooperation is regulated, incorporating some innovative figures: cooperative corporation and mixed cooperative; and one particular element is the possible integration of legal persons of another nature or natural persons into second or subsequent grade cooperatives, up to a maximum of 20% of the capital.

The unlimited quality and variability of the number of members and capital, and the unlimited duration of cooperatives is also determined. And in regards to the minimum elements that their statutes must contain the following are stipulated, among others: name or title, initial capital amount and value of social shares, designation of the social purpose, liability regime (limited or supplemented, Art.20), date of financial year, procedure for statute reform and the fate of assets in the event of a dissolution (compulsorily INACCOOP).

The LGC determines the difference between cooperatives and commercial companies, thus in these organizations, capital determines the organizational function of power (votes are distributed according to capital) and profits are distributed with the same criteria, the reserves are shareable, and capital only increases by decision of the partners. However, it should be kept in mind that whatever is not determined in the LGC, alternatively and if compatible, the law of commercial companies is applicable to cooperatives.

² The LGC opts for the term "partner" to refer to the members of cooperatives. This term or "member" will be used interchangeably in this report.



The operations that the members carry out with the cooperative, in compliance with the social purpose, are called "cooperative acts" (Art. 9), such operations are voluntary on behalf of the member. However, in the case of agricultural cooperatives, the statute may assign authority to the General Assembly to establish the obligation the members maintain of sending their production in whole or in part to the cooperative.

At the same time, cooperatives are able to carry out operations with non-members, provided that they are "of social interest or when necessary for the better development of their economic activity, provided it does not jeopardize their autonomy", that it is not done under more favourable conditions than with the members and that a reserve fund of 10% of the surpluses is established whenever there is activity with non-partners (Art. 70).

The LGC states that cooperatives can engage in any lawful economic activity. However, other specific laws have set some limitations, as was the case with provisional savings managers and insurers.

b) Establishment, Cooperative Membership and Government

In Uruguay, in order to obtain the registration of a statute and consequently, the legal personality, cooperatives only go through a review of legality, but not merit or opportunity. However, it should be noted that in some sectors of activity, an authorization must be obtained after the registration of the statute in order to operate. For example, financial intermediation savings and credit cooperatives and insurance cooperatives must be authorized by the relevant authority.

They should be set up in an Assembly in which the Statute must be approved, subscribe and integrate the minimum shares and select the members of the social bodies, and the corresponding document, prior to a notarized intervention, must be registered into the Registry of Legal Persons.

The cooperative acquires the legal personality with the aforementioned registration, and until this is in force it can function as a "cooperative under formation", having to add that term to its name and being able to hold legal acts, for which the cooperative's partners will be responsible, unless they are necessary for inscription or are ratified once the cooperative is inscribed.

As a general rule, five is the minimum number of members to form a first-degree cooperative, except for housing cooperatives whose minimum is 10 or 6 for housing recycling, and savings and credit cooperatives whose minimum is 50. Reducing the number of members below the legal minimum for a period longer than one year is grounds for dissolution. And in the case of second or later-grade cooperatives the minimum is 2 partners.



Both natural and legal persons may be members of first-degree cooperatives. In the first case they must be persons of legal age (18 years), or minors or persons without legal capacity through their legal representatives. In the second case they may be private or public legal persons, provided that they have the corresponding legitimacy and are rightfully represented, in accordance with other rules of common law.

Membership is acquired by adhesion in the constituent act or, subsequently, by acceptance of entry resolved by the Board of Directors at the request of the applicant. The denial of the Board of Directors can be challenged and ultimately, the General Assembly will decide, and if the refusal remains the person who determines that a cooperative principle has been violated, may go before Ordinary Court. As for the appeals procedure, the law delegates its regulation to the statutes.

The LGC states that the duties of members are: to comply with social and economic obligations; for those elected to perform their duties; to respect and comply with the statute, regulations and resolutions from the various bodies; participate in activities that fulfill their social purpose; and be responsible for the use and destination of the information of the cooperative. And the main rights include the following: participate with a voice and vote in assemblies; be elector and be eligible to hold positions within the bodies of the cooperative; participate in all cooperative activities; utilize social services; request information on the cooperative's progress from the Board of Directors or the Audit Commission; report any non-compliance of the law, statutes or regulations before the Audit Commission; voluntarily resign; along with a number of members greater than 10%, request to convene for an extraordinary assembly; and appeal any resolutions by the Board of Directors. There are also dispositions relating to economic rights, such as reimbursement of shares and the net surplus of the financial year.

The disengagement by exclusion of the member may be decreed by a) grounds expressly provided in the statute, b) the loss of requirements necessary to be a member, or c) serious breach of their obligations. The resolution must be adopted by the Board of Directors and can be appealed before the General Assembly. The procedure of the suspension itself is governed by the same rules as the exclusion and implies the impossibility of exercising the rights as a member. The LGC does not provide for the application of other minor disciplinary sanctions such as observation and reprimand, so these issues must be regulated in the statute of each cooperative.

The governing structure consists of the following mandatory and elective bodies: the General Assembly, the Board of Directors, the Audit Commission and the Electoral Commission; and the eventual bodies in existence are: the Executive Committee, the Resources Committee and the Auxiliary Committees.

The General Assembly is the highest entity of the cooperative, in which every active partner has the right to participate with a voice and a vote. Members may be represented by another



member, through a power of attorney in writing. There is an ordinary meeting once a year to discuss the annual report, accounting statements and the distribution project for surpluses or absorption of losses; and extraordinary meetings are held as many times as considered necessary to deal with the order of the day for which the meetings are summoned. This summons must be made by the Board of Directors through certain routes and in a certain time frame in advanced, and in case of omission to do so, authority lies on the AC or even 10% of the members.

The Board of Directors is a collegiate body (it must have at least three members) and is responsible for management and administration. The following aspects are regulated in the LGC: concept, powers, attributions, composition, election, removal, rules of operation, representation and responsibility of its members. When the number of partners is less than 10 and is provided for in the Statute, the General Assembly may designate a "Sole Administrator" instead of the Board of Directors. The president and secretary represent the cooperative (or the sole administrator where applicable), unless the statute determines otherwise.

The Audit Commission is the mandatory body "responsible for monitoring the economic and social activities of the cooperative", and its fundamental role is to "ensure that the Board of Directors complies with the law, statute, regulations and the resolutions of the General Assembly", being allowed to attend meetings of the Board of Director (with a voice and without a voice) and having to comply with the tasks established in the LGC, which includes at least one annual report to the General Assembly regarding meeting minutes and accounting statements.

The Electoral Commission is responsible for organizing and controlling elections and proclaiming elected authorities. Both the Electoral Commission and the Audit Commission are collegiate bodies (at least three members), although if the cooperative has fewer than 15 members they can be made up of a single person.

The remaining bodies determined by the LGC are: the Executive Committee, a facultative body to "look after the cooperative's ordinary management" and made up of members of the Board of Directors; the Resources Committee, also a facultative body "delegate of the General Assembly" to process and resolve the appeals presented by partners or aspiring partners regarding resolutions made by cooperative bodies; the Auxiliary Commissions that may be appointed by the Board of Directors, being mandatory for first-degree cooperatives to form a Commission on Education, Development and Cooperative Integration (CEFIC, for its acronym in Spanish).

The election and appointment of the members of the Board of Directors, the Audit Commission, the Electoral Commission and the Resources Committee can take place in the General Assembly itself or separately, according to the procedure and during the periods established by the statute. The members of the Executive Committee emerge from the Board





of Directors and those from the Auxiliary Commissions are appointed by the Board of Directors. The LGC does not set the duration of the terms or re-election limits, thus those aspects are regulated by the statutes. All members of the social bodies can be compensated for their tasks, according to what is resolved by the General Assembly.

c) Cooperative Financial Structure and Taxes

Assets are categorized as follows: (i) equity capital, (ii) special assets funds, (iii) legal, statutory and voluntary reserves, (iv) donations and legacies, (v) instruments of capitalization (vi) adjustments from monetary restatements or valuation and (vii) cumulative results.

Share capital is composed of mandatory or voluntary contributions from the members, which are represented as "shares". The law does not establish a figure for a minimum amount of capital for the constitution of cooperatives, however it is required to be determined in the statute. The same goes for the value of each share and the minimum amount that each member must integrate. For some types of cooperatives, the requirements for certain minimum amounts of capital arise from specific activity legislation (e.g. insurance and financial intermediation cooperatives). The law also delegates unto cooperatives the regulation within their statutes the term and manner of integration of minimum shares, which can be done in money, in kind or in work.

Members may make differential capital contributions "in proportion to the actual or potential use of social services, the work or other conditions presented by members in relation to the cooperative".

Shares must be nominative, indivisible and of equal value, represented through documentation, and may be transferred "to persons who meet the conditions required by the statute to be a member, subject to approval by the Board of Directors".

Regarding the economic responsibility entailed when integrating a cooperative, there are two possibilities, the statutes must opt for one of them: (1) limited to the contribution of integrated and subscribed capital and (2) supplemented, in which case the contribution is answered to as many times subscribed, but not more than 20, as established by the statute. In agricultural endeavors the limit of 20 times can be exceeded and in consumer endeavors, supplemented liability is not allowed.

Cooperatives may provide for the possibility of emitting "subordinate shares" and "shares with interest". These are instruments that raise capital qualified as an asset in nature, are subject to management risk and their holders may be members or non-members. The first pay interests in case the cooperative has surpluses and the latter pay regardless. Titles containing such holdings have the following characteristics: nominative; transferable, with prior authorization from the Board of Directors and if the statute determines it; they do not award political or social rights to their holders, except for the possibility of joining the





Auditing Commission if the statute determines it so; cannot exceed 50% of the cooperative's assets. They are placed in the same collection priority that corresponds to the members in the event of dissolution; the possibility of issuance should be determined in the statute; and the resolution on issuance and conditions correspond to the General Assembly. It should be noted that cooperatives may also issue negotiable obligations or assume other forms of liabilities.

With regard to the distribution of surpluses, the LGC establishes the following: (i) to pay the interest on subordinated shares (if issued), (ii) to mend assets if they have been affected in order to absorb losses in previous years, (iii) issue reserves of a non-distributable nature, and (iv), after that, the remainder may be returned to partners, pay interest to the shareholders up to the maximum of interest in place or to constitute voluntary reserves, provided that the sum returned to the members is not less than 50% of that remainder. The return to the partners must be carried out in proportion to the operations carried out or to the work carried out in first-degree cooperatives, or in proportion to the share capital provided or the services used, as established by the statute, in the cooperatives of a second or other grade. The law also authorizes the GA to capitalize on that destined to returns or payment of interest to members.

The reserves mentioned must be made according to the following detail: a) at least 15% minimum until matched, in the course of the years, to the amount of the share capital, then reduced to 10% and ending when tripled, b) 5% for the cooperative education and training fund, c) 10% for a reserve for non-member operations, and (d) voluntary reserves. It should be noted that the reserves mentioned in a), b) and d) are of a patrimonial and a non-distributable nature, but those referred to in c) should be applied in cooperative education plans (they are not strictly a reserve).

In regard to the reimbursement of shares in the event of the resignation or exclusion of a member, possible limitations are established, as a way of promoting the continuity of the cooperative. Shares must be reintegrated at nominal value or, if the statute so provides, in adjusted values (with roughly the corresponding amount of surpluses or losses that are pending). There are three kinds of limitations on repayment that may be set out in the statute which include: (i) (in amount) a cap per financial year of up to 5% of the share capital, (ii) (in time) a suspension for up to two years in case of losses in a given financial year; and (iii) (operational) a cap linked to the minimum capital requirements of the cooperative's economic activity.

Regarding the "disinterested fate of asset surplus", it has been established that, in the event of dissolution and liquidation, and after payment of debts and the return of contributions to the members, the remnant will be given to the National Institute of Cooperativism (INACOOB, for its acronym in Spanish).

Cooperatives must keep legal books (of minutes of the General Assembly, Board of Directors, Audit Commission and Member Registry) and accounting books indicating the norms in this area.





In tax matters, the LGC determined that "the existing tax regime applicable to cooperatives, including the corresponding exonerations, shall be maintained". Likewise, in the last tax reform implemented by Law 18.083 of 12/27/2006, the previous legislation on cooperatives had not been modified either. It is thus apparent from the legislation preceding these norms that they are exempt from estate tax (on property and capital) and from the tax on corporate income (company profits) and are subject to the value added tax (classic consumption tax).

One aspect that affects cooperatives - and for which the cooperative movement has raised the need for its modification - is the inclusion of reimbursement of share capital and of the amounts distributed due to surpluses as taxable matter of the IRPF (Income Tax of Physical Persons), since neither strictly constitutes an income. The issue is mitigated only in the cases of housing and savings and credit cooperatives.

As for the taxes linked to the social security regime (retirements, pensions, unemployment insurance, etc.) and the national health system, so-called "special social security contributions", cooperatives are included within the general regime, with the exception of labor and consumer cooperatives which are exonerated from the contribution which corresponds to the business ("employer contribution"), and only social cooperatives "are exempt from all national taxes, including any employer contributions toward social security, and that corresponding to the National Health Fund.

Finally, the LGC created the "Coercive Provision for Cooperative Promotion, Development and Education", which is intended for the activities to which its own name refers, which must be provided by cooperatives at the rate of 0.15% of total income for the year, with social cooperatives and work cooperatives being exempt with a taxable amount of no more than 500,000 indexed units.

d) Other Specific Characteristics

Title II of the LGC contains the specific regulation of each type of cooperative. In some cases, it contains only the definition (complementary to the general definition in Art. 4) and in other cases a more comprehensive regulation. The classification determined (without limitation) for cooperatives is as follows: work, consumption, agriculture, housing, savings and credit, insurance, mutual guarantees, social and artists and related trades.

Work cooperatives are intended to provide jobs for their members, they must respect all norms that protect labor and social security legislation (except severance pay in the case of termination of members) and have the ability to hire people in a dependency relation, with a 20% limit on the number of partners.

Consumer cooperatives aim to "meet the consumption needs for goods and services of their members, being able to carry out all kinds of acts and contracts". This type only allows for



the option of being limited liability, meaning, the alternative of supplemented liability is excluded.

Agricultural cooperatives are created to perform or facilitate any operation concerning agricultural activity, carried out jointly or individually by their members, and have the possibility of providing in its statutes the conversion of member debts into executive titles and in the case of supplemented liability, the 20 times integrated capital cap, established in the general part, does not apply.

Housing cooperatives are constituted in order to provide adequate and stable housing for their members, by building housing for mutual assistance or prior savings, and to provide complementary services for housing. There are three different types: a) Matrices and Units, b) Users and Owners and c) Mutual Aid and Prior Savings.

Savings and credit cooperatives "are intended to promote the savings of its members and provide them with credit and other financial services." There are two subclasses: financial intermediation and capitalization. The former may have full banking operations and are subject to the regulation and control of the Central Bank of Uruguay (BCU, for its acronym in Spanish), and the latter operate with the systematic capital savings of their members, they cannot receive bank deposits and are not subject to the control of the BCU.

Insurance cooperatives are engaged in insurance and reinsurance activities in any of their branches and are governed by the LGC and the relevant insurance regulations, and are controlled by the BCU.

Mutual guarantee cooperatives were established for the provision of guarantee or endorsement or bond services to support the operations of their members, and also provide consulting services.

Social cooperatives are a sub-type of integrated cooperatives where at least 75% of the people are in socially vulnerable situations and are subject to the dispositions of work cooperatives, with the following particularities: non-distribution of surpluses; free of administrative charges; member retribution cannot exceed the retribution corresponding to their branch of activity; they are exonerated from all taxes, including employer contributions to social security and the National Health Fund; and they can be hired by the State, directly, up to a certain amount.

Artist cooperatives and related trades constitute another subtype of work cooperative, which must be composed of artists, performers and/or persons who carry out related activities (the definitions of these categories arise from Law 18.384), all of which must be entered in the National Registry of Artists and Related Activities of the Ministry of Labor and Social Security.

After obtaining the legal personality, cooperatives must be registered with other public entities, namely: a) **National Internal Audit (AIN, for its acronym in Spanish)**, competent





body that monitors the operation of cooperatives; **b) General Taxation Directorate (DGI, for its acronym in Spanish)**, which shall deal with all tax matters (tax payments applicable to them, affidavits and annual settlements). **c) Social Security Bank (BPS, for its acronym in Spanish)**, which will deal with the payment of social security contributions and obtaining the corresponding social benefits (both those provided during the course of working life as well as passivity: retirement, pensions). Registration in DGI and BPS is done simultaneously (a single window); **d) National Institute of Cooperativism (INACOOP, for its acronym in Spanish)**, to the effect of the payment of the "Coercive Provision for Cooperative Promotion, Development and Education", as well as to request incorporation into support plans or programs administered by this entity.

Control of the operation of cooperatives is assigned to the National Internal Audit, to whom they must regularly report on their social activities (assemblies, statute reforms, etc.) and their economic and financial operations (accounting statements, annual report, etc.). It may practice a thorough audit and has sanctioning authority, however in order to intervene or request dissolution and liquidation, it must be brought before the Court, which has the competency to determine a course of action in these cases. The AIN issues a Certificate of Regularity with annual validity, which is required in other state units for certain formalities or to present itself in public calls and tenders and/or to enter into contracts with the State. On the other hand, housing cooperatives are controlled by the Ministry of Housing, Land Management and Environment (MVOTMA, for its acronym in Spanish), and social cooperatives are controlled by the Ministry of Social Development (MIDES, for its acronym in Spanish).

INACOOP was created through the LGC (Arts. 185-210) a non-state public entity, with the aim of "promoting the economic, social and cultural development of the cooperative sector and its insertion into the development of the country". Its Board consists of 5 members: 3 from the State and 2 from the cooperative sector, and its operation and activities are financed by budget state funds, of the Provision for cooperative promotion, development and education, and any external support that can be obtained (international cooperation, donations, etc.). Likewise, through law 19.337 of 09/20/2015, INACOOP was assigned to the administration of the Development Fund (FONDES, for its acronym in Spanish), which constitutes an independent affliction heritage constituted from some of the profits of the state-owned "Bank of the Eastern Republic of Uruguay", in order to support self-managing productive ventures. Its Board of Directors consists of the same three members of the Executive Branch and a representative of the cooperative sector and another proposed by the workers' headquarters (Worker's Interunion Plenary – National Worker's Convention) and companies recovered by workers (gathered at the National Worker-Recovered Association).

Cooperatives cannot be transformed into entities of a different legal nature, with any resolution to the contrary being void, with one exception: when economic and financial circumstances indicate that it constitutes the only viable alternative to maintaining continuity





of the production unit and the jobs and they must have prior authorization from the AIN and INACCOOP.

Cooperatives are free to make up or join the federations they deem relevant. Likewise, a way to stimulate Federation affiliation was established by allowing the deduction of contributions they need to make for such memberships from the Provision that must be taxed to INACCOOP.

III. Degree of Ease of National Legislation for Cooperatives

This chapter includes the views provided by CUDECOOP, a member organization of ACI in Uruguay, with whom there is complete agreement, however, all the while a few more are added without differentiating them, the author assumes responsibility for all of them.

The tax regime is not the same for the different types of cooperatives and is not based on the specificity of the cooperative, which is reflected in the so-called cooperative act. In general, the figure used is the tax exemption, since in many cases the figure of non-tax liability would correspond. In addition, in the specific case of housing cooperatives the inability to deduct the Value Added Tax (VAT) makes it difficult to "optimize the resources applied to the processes of construction for housing solutions."

The National Constitution has not included programmatic provisions for the recognition and development of cooperatives.

While there are some preferential regimes in government procurement (national industry, SMEs, family-based agriculture and artisanal fishing), there are no provisions that specifically favor cooperatives.

The procedures for the legal recognition and approval of statutes, as well as for their adaptations to the new regime contained in the LGC, were somewhat difficult in the first years, but have been quite improved in recent years, on the basis of the use of "type statutes".

Regarding the regular functioning of cooperatives and State control, there are different realities. Larger cooperatives in general are adequately compliant, and smaller cooperatives with fewer resources (especially work cooperatives) find it more difficult to comply regarding time and form.

In cooperatives of larger contingents of members (mostly in savings and credit and consumer cooperatives), although members use the services, they do not actively exercise their social rights. And while cooperatives and federations often take actions to reverse this situation, in matters of legislation it might be interesting to explore the possibility of including some mechanisms that tend to validate new ICTs to favor long-term participation.

Confusion between cooperative legislation and labor law still exists, assimilating the relationship of the work cooperative and its members with the figure of the employment contract. This occurs, above all, due to the lack of cooperative education, ignorance regarding



the Cooperative Law and on occasions is sometimes promoted by the lack of internal documentation. The absence of a special jurisdiction and a fast and expedited procedural routine also contributes to this problem within the cooperative field (like there is in the work field).

In recent years the legislation has helped to consolidate the institutionalism of the cooperative movement, by planning its participation with INACOOIP, in the National Institute of Employment and Professional Training (INEFOP, for its acronym in Spanish), in the Fondes-Inacoop and in the National System of Productive Transformation and Competitiveness.

In general, there is agreement as to the merits of the LGC and that the legislation is in favor of cooperatives (this is the opinion given in the questionnaire by Cudecoop, for example), but there are still areas where they are not recognized as fully valid actors (especially in the political and bureaucratic areas); this would be the case with financial activities in general.

IV. Recommendations to Improve the National Legal Framework

- Recognition of the cooperative act as the axis for the treatment of cooperatives in tax matters, as well as in general for the different instruments related to cooperatives.
- Recognition of cooperatives as not subject to Income Tax (IRAE, for its acronym in Spanish), rather than being considered exempt, as this condition only means a legal concession. And review that related to taxation with the IRPF the return of social shares and the distribution of surpluses.
- Incorporate the recognition and support of the cooperative movement and the social economy in a constitutional reform.
- Simplify the public control regime for low-resource cooperatives.
- Analyze a simplified accounting regime for small cooperatives.
- Implementation of ICTs in the participation regime of partners in elections and social bodies.
- Consider establishing a relatively abbreviated process for resolving conflicts between members and cooperatives.
- Review the chapter of social cooperatives with the aim of establishing a transition outline toward the labor cooperative regime.
- Study ways to legally stimulate cooperation between cooperatives.
- Incorporate work cooperatives into a public purchasing promotional regime.



V. Conclusions

As stated, CUDECOOP's response was taken into account, as well as its August 2019 Programmatic Proposals.

It should also be noted that a social and solidarity economy bill was recently approved in the House of Representatives, with its fundamental basis being a Preliminary Project presented to the public by INACCOOP in mid-2017, in compliance with that determined in lit. M) of Article 187 of the LGC: "Promote the study and research of other forms of the social and solidarity economy and make proposals within its scope and regulation". The half-sanction project recognizes cooperatives as the main legal figure and, at the same time, refers to the application of the universal principles of the cooperative movement contained in Article 7 of the LGC.

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The legal frameworks analysis is a tool developed under the ICA-EU Partnership #coops4dev. It is an overview of the national legal frameworks at the time of writing. The views expressed within are not necessarily those of the ICA, nor does a reference to any specific content constitute an explicit endorsement or recommendation by the ICA.



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