

Statute for a European Cooperative Society with regard to the involvement of employees

European Parliament resolution of 13 March 2012 on the Statute for a European Cooperative Society with regard to the involvement of employees (2011/2116(INI))

The European Parliament,

- having regard to Articles 4, 54, 151 to 154 of the Treaty on the Functioning of the European Union,
- having regard to ILO Recommendation 193 of 3 June 2002 concerning the promotion of cooperatives,
- having regard to Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company¹,
- having regard to Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)²,
- having regard to the Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees³,
- having regard to the Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees⁴,
- having regard to the Commission Communication of 23 February 2004 on the promotion of cooperative societies in Europe (COM(2004)0018),
- having regard to the Commission Communication of 3 March 2010 entitled ‘Europe 2020 - A strategy for smart, sustainable and inclusive growth’ (COM(2010)2020),
- having regard to the Commission Communication of 27 October 2010 entitled ‘Towards a Single Market Act - For a highly competitive social market economy - 50 proposals for improving our work, business and exchanges with one another’ (COM(2010)0608),
- having regard to the Commission Communication of 16 December 2010 entitled ‘The European Platform against Poverty and Social Exclusion: A European framework for social and territorial cohesion’ (COM(2010)0758),
- having regard to the Commission Communication of 13 April 2011 entitled ‘Single Market Act - Twelve levers to boost growth and strengthen confidence - Working together to create new growth’ (COM(2011)0206),

¹ OJ L 294, 10.11.2001, p. 1.

² OJ L 207, 18.8.2003, p. 1.

³ OJ L 294, 10.11.2001, p. 22.

⁴ OJ L 207, 18.8.2003, p. 25.

- having regard to the Synthesis Report on Directive 2003/72/EC supplementing the Statute for a European Cooperative Society with regard to the involvement of employees¹,
 - having regard to the Study on the implementation of Council Regulation (EC) No 1435/2003 on the Statute for European Cooperative Society (SCE)²,
 - having regard to the United Nations International Year of Cooperatives 2012³,
 - having regard to the ILO report entitled ‘Resilience of the Cooperative Business Model in Times of Crisis’⁴,
 - having regard to the Opinion of the European Economic and Social Committee on ‘Diverse forms of enterprise’⁵,
 - having regard to its resolution of 19 February 2009 on Social Economy⁶,
 - having regard to its resolution of 19 February 2009 on the implementation of Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community⁷,
 - having regard to its resolution of 5 June 2003 on a framework for the promotion of employee financial participation⁸,
 - having regard to the Commission report of 16 September 2010 on the review of Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees (COM(2010)0481),
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Legal Affairs and the Committee on Women’s Rights and Gender Equality (A7-0432/2011),
- A. whereas cooperative enterprises promote the interests of their members and users as well as solutions to societal challenges, and seek both to maximise benefits to members and ensure their livelihood by means of a long-term and sustainable business policy and to put the well-being of clients, employees and members in the entire region at the centre of business strategy;
- B. whereas cooperative enterprises, by their nature, are structurally linked to the area in which they are based and therefore play an important part in accelerating local development, which is a decisive factor in generating genuine social, economic and territorial cohesion;

¹ Carried out by Fernando Valdés Dal-Ré, Prof. Labour Law, Labour Asociados Consultores, 2008.

² Carried out by Cooperatives Europe, European Research Institute on Cooperative and Social Enterprises, EKAI Center, 2010.

³ United Nations, A/RES/64/136.

⁴ Johnston Birchall and Lou Hammond Ketilson, International Labour Organisation, 2009.

⁵ OJ C 318, 23.12.2009, p. 22.

⁶ OJ C 76 E, 25.3.2010, p. 16.

⁷ OJ C 76 E, 25.3.2010, p. 11.

⁸ OJ C 68 E, 18.3.2004, p. 429.

whereas, in cooperative societies, the financing of continuing training in the fields of social responsibility and entrepreneurship, which are two areas not fully covered by other instruments of social participation, is of fundamental importance;

- C. whereas, in cooperative enterprises, the participation of the enterprise's members has to take precedence and be reflected in the governance and ownership structure of the cooperative;
- D. whereas cooperatives are an important pillar of the European economy and a key driver for social innovation, and thus in particular preserve infrastructure and local services specifically in rural areas and conurbations, and whereas Europe has 160 000 cooperatives, owned by more than a quarter of all Europeans, which provide work for around 5.4 million employees;
- E. whereas cooperatives compete with investor-driven companies in many economic areas, whereas cooperative enterprises have considerable economic power on globalised markets and even multinational cooperatives often remain linked to local needs;
- F. whereas cooperative banks have shown high levels of sustainability and resilience during the financial crisis, thanks to their cooperative business model; whereas thanks to their cooperative business model they increased turnover and growth during the crisis with less bankruptcies and redundancies; whereas cooperative enterprises also provide high-quality, inclusive and crisis-resilient employment, often with high ratios of female and migrant employment and contribute towards the sustainable economic and social development of an area by providing local, non relocatable jobs; whereas cooperatives can be seen as a successful and contemporary approach to the social economy and can contribute to providing secure employment prospects and allow employees to plan their life flexibly at their place of origin, especially in rural areas;
- G. whereas the financial and economic crisis has shown that the issue of the attractiveness of a legal form cannot be answered from the sole point of view of the shareholders; whereas it should be noted that, as a social organisation, an enterprise has responsibilities towards shareholders, employees, creditors and society and this fact should be taken into account in such evaluations;
- H. whereas legislation regarding cooperatives and employee participation varies substantially across the EU;
- I. whereas the statute for a European Cooperative Society (SCE) is so far the only social economy legal form available at EU level, following the withdrawal of the Commission proposals for a European Association and a European Mutual Society in 2003 and given that the statute for a European Foundation is still under development;
- J. whereas the establishment of an SCE statute aims at encouraging the development of the internal market by facilitating the activity of this type of company at EU level;
- K. whereas the introduction of the statute for an SCE is a milestone in the recognition of the cooperative business model at EU level, also in those Member States where the concept of cooperatives has been discredited for historical reasons;
- L. whereas, in SCEs, the transnational involvement of employees, including their right to participate on administrative boards, is an asset;

- M. whereas the EU 2020 strategy calls for an economy based on high levels of employment, delivering economic, social and territorial cohesion, whereas this includes a strong social economy;
- N. whereas the United Nations International Year of Cooperatives 2012 provides an excellent opportunity to promote the cooperative business model;

Cooperatives in the EU context

1. Recalls that cooperatives and other social economy enterprises are part of the European social model and the single market and therefore deserve strong recognition and support, as provided for in the constitutions of some Member States and various EU key documents;
2. Recalls that cooperatives could constitute another step in the completion of the EU internal market and aim to reduce existing cross-border obstacles and enhance its competitiveness;
3. Points out that Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE) (hereinafter the Statute) and Directive 2003/72/EC supplementing the Statute for a cooperative society with regard to the involvement of employees (hereinafter the Directive) are closely interlinked;
4. Welcomes Commission communication COM(2012)0072; welcomes the Commission's intention to simplify the Statute while strengthening the cooperative-specific elements, and the fact that this will be accompanied by a stakeholder consultation; asks for Parliament's position on the SCE to be taken into account in this process;
5. Views with regret the fact that the SCE is not yet a success given its scarce use - until 2010 only 17 SCEs had been established, with a total of 32 employees¹; emphasises that these stark figures show the Statute to be poorly suited to the specific circumstances of cooperative societies in Europe even though entrepreneurs have expressed an interest in setting up an SCE ; welcomes that an in depth assessment of the Statute has been conducted in order to ascertain why it has proven unattractive, has had such little impact and what can be done to overcome lack of experience in implementation and other obstacles;
6. Notes that the use of the SCE is often restricted to second-degree cooperatives consisting of legal persons only, by mutual societies, which lack a European statute but wish to use a legal status associated with the social economy, and by large companies; notes that it remains difficult for small cooperative societies, - which constitute a major part of cooperative movement in Europe - to access the SCE;

Employee participation in SCEs

7. Welcomes the fact that employee participation provisions are considered a core element in the SCE; points out, however, that they should provide for the requirements linked to the special nature of cooperatives;
8. Points out that several Member States have not transposed articles of the directive concerning employees' rights, including the gender specific provisions, and that this has led to a number of gaps regarding the monitoring and the implementation of worker

¹ COM(2010)0481.

participation procedures and stresses the need to remedy this so as to prevent abuse of SCE arrangements; views with regret the fact that the standard rules on the participation of workers in administrative bodies do not make worker participation a requirement;

9. Is satisfied, however, that some Member States have not only correctly transposed the Directive, but have in fact gone further than the Directive's requirements;
10. Nevertheless, calls on the Commission to monitor closely the application of Directive 2003/72/EC in order to prevent its misuse for purposes of depriving employees of their rights; urges the Commission to adopt the measures necessary to ensure the correct transposition of Article 13 of the Directive;
11. Notes that Article 17 of the Directive requires the Commission to assess its implementation and, if needed, revise it; stresses that the modest use of the Statute impedes proper evaluation of the Directive;
12. Notes that the Directive should not be revised before the Statute, asks to consider the insertion of the provisions on employee participation directly in the Statute for the sake of simplification and smarter regulation;
13. Stresses that a revision of the Directive should address the specific needs of employees in cooperatives, including the option to be both owner and employee of the same enterprise; calls on the Commission to develop instruments to facilitate employee and user ownership of cooperatives; aims for employee participation in enterprises to be taken for granted in all Member States of the European Union; advocates greater employee participation in cross-border forms of enterprise rather than remaining at the level of the lowest common denominator;
14. Welcomes the conclusions of the study on the implementation of Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society (SCE)¹, particularly as regards the measures proposed to promote the SCE by increasing awareness of it through educational programmes addressed to advisors in cooperative law and social actors, and by promoting cooperation between cooperative societies at cross-border level;
15. Calls on the Commission and on the Member States to encourage cooperatives to increase the participation of women in the SNB and to implement diversity policies in order to guarantee gender equality in professional and private life and, in particular, increase women participation in senior management positions; calls on the Commission to take into account the gender perspective when monitoring the correct implementation of the Directive, as well as in the future revision of the SCE regulation;
16. Urges the Commission to include SCEs in the possible European regulations in order to guarantee that women are better represented at senior management levels and on the boards of public and listed companies, in the event that companies do not voluntarily achieve the targets of 30% by 2015 and 40% by 2020;

The future of the Statute

17. Stresses that, owing to its complexity, the Statute only partially meets the needs of

¹ Contract No SI2.ACPROCE029211200 of 8 October 2009.

cooperatives and that it should be simplified and made intelligible to all to make it more user-friendly, easily understood and better applicable, thus ensuring the rights of information, consultation and participation of all employees without losing quality;

18. Draws attention to the diversity of traditions and laws on cooperatives across the EU; stresses that the Statute should provide for an autonomous legal framework for SCEs alongside existing national law on cooperatives and that direct harmonisation is thus not taking place;
19. Emphasises that the Statute for a European Cooperative Society should not be made more attractive by reducing standards; is of the opinion that the review of the Statute must facilitate a furthering of the recognition of this type of society in the EU; emphasises that the economic weight of cooperative societies, their crisis resilience and the values on which they are based clearly show them to be relevant in the EU of today and justify a revision of the Statute; stresses that future European SCE initiatives and measures must be centred on transparency, protection of stakeholders' rights and respect for national customs and traditions; points out that for certain national cooperatives the incentive to use the Statute is unfortunately limited, because of their existing holding structure; stresses that the option of merging national cooperatives from different Member States should be strengthened;
20. Insists on the involvement of all stakeholders in the revision process, especially social actors involved in the cooperative and trade union movement, while also highlighting the need to complete the process in a timely manner;

Increasing employment in cooperatives and SCEs and strengthening cooperatives as core elements of the social economy

21. Expects from the Commission to take appropriate measures in order to ensure a full implementation of the directive;
22. Deplores the fact that Parliament's recommendations on cooperatives were largely ignored by the Commission; recalls that the resolution¹ called for:
 - the specificities of social economy enterprises to be recognised and taken into account in European policies,
 - steps to be taken to ensure that the European Observatory of SMEs includes social economy enterprises in its surveys,
 - the dialogue with social economy enterprises to be stepped up,
 - the legal framework for such enterprises in the Member States to be improved;
23. Recalls that in COM(2004)0018 the Commission committed itself to twelve actions, including:
 - supporting stakeholders and organising a structured exchange of information,
 - disseminating best practice to improve national legislation,

¹ OJ C 76 E, 25.3.2010, p. 16.

- collecting European statistics on cooperatives,
 - simplifying and revising European legislation on cooperatives,
 - initiating tailored education programmes and including references to cooperatives in EIF financial instruments;
24. Deplores the fact that, of this list of commitments, only three have been put into practice, with no significant results; stresses that such shortcomings limit the development potential of cooperatives;
 25. Points out that a lack of resources leads to a lack of results; stresses the need for urgent improvements within the Commission in terms of organisation and the resources devoted to the social economy, given the current dispersion of competences and staff resources working on social economy inside the Commission;
 26. Stresses that EU policies in all areas need to recognise the specificities and added value of social economy enterprises, including cooperative enterprises, through adapting legislation on public procurement, State aid and financial regulation accordingly;
 27. Calls on the Member States to foster more favourable conditions for cooperatives, such as access to credit and tax incentives;
 28. Calls on the Commission to take the financial structure of cooperatives into account in connection with capital requirements legislation and accounting and reporting standards; points out that all cooperatives, and cooperative banks in particular, are affected by legislation concerning the redemption of cooperative shares and indivisible reserves;
 29. Points to the specific challenges created by the digital revolution which face the media sector, and particularly publishers operating as cooperatives;
 30. Urges the Commission to come up with an open method of coordination for the social economy including cooperative enterprises, which are key players in this sector, involving both the Member States and stakeholders in order to encourage exchanges of best practices and bring about for a gradual improvement in the Member States' taking account of the nature of cooperatives, in particular in the areas of taxation, loans, administrative burdens and business-support measures;
 31. Welcomes the fact that the Single Market Act recognises the need to promote the social economy, and urges the Commission to launch the much anticipated 'Social Business Initiative' based on cooperative principles¹;
 32. Calls on the Commission to consider a European Year of Social Economy;
 33. Supports business-support measures, in particular business-consultancy and employee training, and access to funding for cooperatives, especially for employee or customer buy-outs, as they are an underrated tool for saving enterprises at times of crisis and for the transfer of family enterprises;
 34. Stresses the growing importance of cooperatives in the area of social services and public

¹ <http://www.ica.coop/coop/principles.html>.

goods; stresses the need to ensure decent working conditions and to address the health and safety related issues in this sector regardless of the status of the employer;

35. Stresses the need to ensure cooperatives' input in the social dialogue at the EU level;
36. Highlights the potential of the SCE for promoting gender equality through the implementation of policies and programmes at various levels, paying particular attention to education, vocational training, action to promote entrepreneurship and ongoing training programmes; notes that gender equality in decision-making at various levels is economically beneficial and also creates favourable conditions enabling skilled and talented people to carry out management and supervisory duties; stresses, further, that some aspects of cooperative work provide flexibility that makes it easier to reconcile family and professional life; calls on the Commission to design a mechanism for the exchange of best gender equality practices between the Member States;
37. Stresses that the SCE can respond to women's needs, improving their standard of living through access to decent work opportunities, savings and loan institutions, housing and social services, education and training;
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38. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.