7.12.2012

OPINION

of the Committee on Employment and Social Affairs

for the Committee on Legal Affairs

on the Statute for a European mutual society
(2012/2039(INI))

Rapporteur for the opinion(*): Regina Bastos

(Initiative – Rule 42 of the Rules of Procedure)

(*) Associated committee – Rule 50 of the Rules of Procedure
SUGGESTIONS

The Committee on Employment and Social Affairs calls on the Committee on Legal Affairs, as the committee responsible:

– to incorporate the following suggestions in its motion for a resolution:

1. Points out that the values of mutual societies correspond to the fundamental principles of the European social model; stresses that, as well as being based on values of solidarity, mutual societies are major operators in the social market economy of the European Union and should be given greater recognition, particularly by establishing a European statute;

2. Notes that mutual societies are voluntary groups of persons (natural or legal) whose purpose is to meet the needs of their members rather than achieve a return on investment, they operate according to the principles of voluntary and open membership, solidarity between members and are managed according to democratic principles (such as the one member - one vote principle for mutuals of individual persons), contributing to responsible and sustainable management;

3. Stresses that two main types of mutual societies exist in Europe, which are 'mutual benefit' (or 'health providence') societies and 'mutual insurance' societies. "Mutual benefit" societies provide welfare coverage supplementary, complementary or integrated into statutory social protection systems. "Mutual insurance" societies can cover all types of property and life risks. In some Member States mutual societies can even provide services in other fields such as housing or credit;

4. Points out that mutual societies play a major role in the EU economy by providing health care and social services to more than 160 million European citizens, that they represent more than EUR 180 billion in insurance premiums and that they employ over 350,000 people in the EU; stresses that mutual societies facilitate access to care and social inclusion and participate fully in the provision of services of general interest within the European Union;

5. Notes that in 2010, some 12.3 million European citizens, or 2.5% of the Union’s active population, were working in another Member State;

6. Stresses that with a 25% share of the insurance market and 70% of the total number of undertakings in the industry, mutual societies cannot continue to be forgotten by the single market¹, and that they should be given a European statute to place them on an equal footing with other forms of undertaking in the Union; emphasises that the diversity of forms of entrepreneurship is an asset that should be fully recognised and encouraged;

¹ COM(2011)0206.
7. Points out that mutuals are particularly active in the area of health, long-term care, pensions and social services including ageing population and that the involvement of mutuals as major stakeholders is crucial for the long-lasting future of social protection, considering that population ageing currently poses major challenges in Europe, particularly straining national budget balances, and risk of putting public expenditure on social protection under pressure; stresses that mutual societies can play an important role in proposing socially responsible pension schemes in the private sector, nevertheless they cannot replace a strong first pillar of the pension system;

8. Points out that mutuals offer additional and affordable opportunities for EU citizens;

9. Points out that certain Mutual Societies have a very strong voluntary component and that this volunteer ethos must be preserved and facilitated.

10. Stresses that the increase in expenditure on health care and pensions could have significant consequences for the continuity and cover of the current social protection schemes; underlines that mutual societies promote key values of the welfare state such as solidarity, non-discrimination, equal access and high quality of social services in the private sector; considers that the enhancement of mutual societies’ contribution to the European social market economy should not take place at the expense of Member States’ action on social protection; stresses however that voluntary social protection must not replace statutory social security; stresses that the diversity of social protection systems, some of them borne fully by the state, some by the mutual societies and some on a shared basis between the two, should be respected; considers that the statute for a European mutual society is essential but must not be used to make up for Member States’ deficiencies in terms of social protection;

11. Hopes that it will be made easier for all workers and in particular for workers in small businesses, to join a mutual society, and that they will be encouraged to do so;

12. Hopes, in that case, that a worker’s membership of a system of mutual societies will be encouraged by exemptions from social security contributions or by tax relief;

13. Points out that mutual societies lack the necessary legal instruments to facilitate their development and their cross-border activities within the internal market and given the availability of European statutes for other corporate forms, mutual societies are still at a disadvantage; underlines that, in absence of a European statute, mutual societies are often obliged to make use of inadequate legal instruments for their cross-border activities leading to their demutualisation.

14. Notes that national laws on mutual societies vary considerably within the EU and that the European statute could allow the creation of transnational mutuals thus strengthening the European social protection model;

15. Stresses that mutual societies do not exist in all Member States; underlines that this creates market distortions; points out that a European statute could remedy this and that it could inspire the creation of mutuals in these Member States;
16. Regards as regrettable that the Commission, after having withdrawn its proposal for a statute for a European mutual society in 2006, has not brought forward any new proposals which would give mutual societies a suitable legal instrument to facilitate their cross-border activities;

17. Calls on the European Commission to submit a new proposal for a Statute for the European mutual societies;

18. Is pleased that the Commission has recognised the need for a statute and that it is committed to delivering better legislation for social economy organisations (including mutual societies), while stressing that mutual societies must be able to operate across borders as a contribution to the European effort to ‘boost growth and strengthen confidence’ in the European Economic Area;

19. Hopes, therefore, that this European statute will be ambitious and innovative with a view to protecting workers and their families when they move within the European Union;

20. Welcomes the study commissioned by the European Commission on the current situation and prospects of mutual societies in the EU, which explores the difficulties mutuals have due to the lack of existing legal frameworks in some Member States, for the creation of new mutuals due to capital requirements and the lack of solutions for grouping; calls on the Commission to propose adequate solutions to resolve these problems in order to better recognize the contributions of mutuals to the social economy, including a Statute;

21. Points out that mutual societies play or should play an important role in the Member States' economies, given that they contribute to the EU's strategic objectives of ensuring inclusive growth with access to basic resources, to social rights and services for all and to high-quality health care for all on the basis of solidarity, affordability, non-discrimination and non-exclusion;

22. Reminds that a Regulation on European Cooperative Statutes (SCE) was adopted in 2003 and that the European Commission presented on 8 February 2012 a proposal for a European Foundation Statute.

23. Stresses that the social economy – and mutual societies in particular – plays an essential role in the EU economy, by combining profitability with solidarity, creating high-quality jobs, local jobs, strengthening social, economic and regional cohesion, generating social capital and promoting active citizenship, solidarity-based social welfare and a type of economy with democratic values which puts people first and supports sustainable development and social, environmental and technological innovation;

24. Points out that mutual societies have a role to play in meeting these challenges alongside the private sector, and that in order to do so they must be able to compete on equal

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terms with other forms of undertaking in the EU; underlines that the existing European statutes like the European Cooperative (SCE) or the European Company (SE) are not suitable for mutual societies due to the differences between their governance models;

25. Regards as regrettable the gap in EU legislation, as mutual societies are not specifically mentioned in the treaties and respect for their business models is not covered by any secondary legislation, which refers only to public and private enterprises, which undermines the status of mutual societies, their development and the establishment of cross-border groups;

26. Points out that the European statute for a mutual society is essential for achieving better integration in the single market, for enhancing awareness of their specific qualities and for enabling mutual societies to make a greater contribution to achieving the growth and employment objectives of the 2020 strategy; stresses that a European statute would also facilitate the mobility of European citizens by enabling Mutual Societies to provide services in several Member States and thus create more continuity and coherence in the single market;

27. Points out that the European statute for mutual societies would provide a way of promoting the mutualist model throughout an enlarged Europe, especially in the new Member States, where it is not covered by some legal systems. A European regulation, which would naturally be applicable throughout the whole of the European Union, would have the dual advantage of providing these countries with a European reference statute and of contributing to the status and public profile of this kind of undertaking.

28. Underlines that the statute could provide opportunities for mutual societies to create economies of scale in order to maintain competitiveness in the future and it would increase recognition of the value of mutual societies within European policy making;

29. Stresses that mutual societies are solid and sustainable organisations which have well withstood the financial crisis in all economies and have contributed to a more resistant, diversified market, particularly in the area of insurance and social protection; points out that mutual societies are particularly active in the area of population ageing and social needs, and that the involvement of mutual societies in the area of pensions offers additional opportunities for EU citizens and that mutual societies have a role to play in preserving the European social model;

30. Underlines that mutual societies have no shares but are owned jointly and that surpluses are reinvested rather than distributed to the members, stresses that this has helped mutual societies to resist the crisis better than other private sector entities;

31. Notes that a European Statute would be a voluntary tool additional to existing national legal provisions applying to mutual societies and would thus not affect the already existing statutes, but would rather be a "28th" system facilitating mutuals to have cross-border activities;

32. Calls on the Commission to take into account the specific characteristics of mutual societies so as to ensure a level playing field, with a view to avoiding additional
discrimination and ensuring that any new legislation is proportionate as well as guaranteeing a fair competitive and sustainable market.
‘- to incorporate the following recommendations in the annex to its motion for a resolution:

33. Considers that the diversity of enterprises should be clearly anchored in the EU Treaty and proposes to include mutual societies in the article 54 of the EU Treaty;

34. Considers that a legal proposal for a Regulation on a European Mutual Society should comprise legal provisions in order:
   - to allow the existence of European Mutual Societies on the basis of individual or legal persons;
   - to allow Mutuals to freely operate in the European Single Market thus strengthening the principles of the Single Market itself;
   - to allow Mutuals to take the advantages stemming from a European Group of Mutuals in particular in the context of Solvency 2 for the mutuals societies providing insurance;

35. Considers that a combination of strategies and measures is required to establish a level playing field for mutual societies, including a European Statute, which gives them equal possibilities to add a European dimension to their organisation and activities and to provide mutual societies with adequate legal instruments to facilitate their cross-border and trans-national activities. In this respect, Mutuals societies could operate across EU according to their specific governance;

36. Calls on the Commission to take into account that making available such an optional Regulation in Member states' legislation should embody mutual societies' governance characteristics and principles;

37. Calls on the EU Commission to introduce into the proposed regulation, based on Article 352 of the Treaty on the Functioning of the European Union, the main characteristics of Mutual societies’ person-based societies namely the principle of non-discrimination as far as risk selection is concerned and the democratic orientation by their members, with a view to improving social conditions of local communities and of wider society in the spirit of mutuality;

38. Underlines the importance of the solidarity principle in mutual societies where clients are also members and thus share the same interests; recalls the principle of common ownership of the capital and its indivisibility; stresses the importance of the principle of disinterested distribution in case of liquidation, that is to say that assets should be distributed to other mutual societies or to a body having as object the support and promotion of mutual societies;

39. Stresses that a European Statute for mutual societies should not affect national systems for statutory social security managed by mutual societies;
RESULT OF FINAL VOTE IN COMMITTEE

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<th><strong>Date adopted</strong></th>
<th>6.12.2012</th>
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| **Result of final vote** | +: 38  
                        | -: 3  
                        | 0: 1 |
| **Members present for the final vote** | Regina Bastos, Edit Bauer, Heinz K. Becker, Jean-Luc Bennahmias, Phil Bennion, Pervenche Berès, Philippe Boulland, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Minodora Cliveti, Marije Cornelissen, Emer Costello, Frédéric Daerden, Karima Delli, Marian Harkin, Nadja Hirsch, Danuta Jazłowiecka, Martin Kastler, Ádám Kósa, Jean Lambert, Veronica Lope Fontagné, Elisabeth Morin-Chartier, Csaba Öry, Siiri Oviir, Sylvana Rapti, Licia Ronzulli, Nicole Sinclaire, Jutta Steinruck, Andrea Zanon, Inês Cristina Zuber |
| **Substitute(s) present for the final vote** | Georges Bach, Françoise Castex, Edite Estrela, Sven Giegold, Jan Kozłowski, Svetoslav Hristov Malinov, Anthea McIntyre, Evelyn Regner, Birgit Sippel, Csaba Sógor |
| **Substitute(s) under Rule 187(2) present for the final vote** | Jens Nilsson |