

SGECOL

Study Group on European Cooperative Law

**PRINCIPLES
OF EUROPEAN COOPERATIVE LAW**

1

- PECOL -

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*Please note that this is only a preliminary and incomplete draft, subject to major changes also in light of the results of the other chapters of PECOL.
It only comprises the first chapter and is published without the comments that will accompany each chapter and section of PECOL in their final version.
Readers' comments and feedback are welcome (please email to antonio.fici@euricse.eu).*

The Study Group on European Cooperative Law (SGECOL) is a group of cooperative law scholars from different European countries which aims to conduct comparative research on cooperative law in Europe, with a view of promoting increased awareness and understanding of cooperative law within the legal, academic and governmental communities at national, European and international level

(see Fajardo et al, New Study Group on European Cooperative Law: “Principles Project”, Euricse WP, n. 24/2012, in www.ssrn.com)

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List of abbreviations

FCA	=	Finnish Cooperatives Act n. 1488/2001
FrCA	=	French Cooperation Act n. 47-1775 of 10 September 1947
FSA Notes	=	UK Financial Services Authority's details of registration
GCA	=	German Cooperative Act of 1889
ICA P	=	International Cooperative Alliance's Principles of 1995
ICC	=	Italian Civil Code of 1942
IPSA	=	UK Industrial and Provident Societies Act of 1965
PCC	=	Portuguese Cooperative Code n. 51/1996
SCE	=	European Cooperative Society
SCE R	=	Council Regulation n. 1435/2003 on the Statute for an SCE
SCA	=	Spanish Cooperatives Act n. 27/1999 of 16 July 1999

CONTENTS

INTRODUCTION

CHAPTER 1: DEFINITION AND OBJECTIVES OF COOPERATIVES

- Section 1.1 *(Definition and objectives of cooperatives)*
Section 1.2 *(Law applicable and cooperative statutes)*
Section 1.3 *(Membership)*
Section 1.4 *(Cooperative transactions, cooperative surplus and cooperative refunds)*
Section 1.5 *(Non-member cooperative transactions)*

CHAPTER 2: GOVERNANCE

- Section 2.1 *(***)*
Section 2.2 *(***)*

CHAPTER 3: FINANCIAL STRUCTURE

- Section 3.1 *(***)*
Section 3.2 *(***)*

CHAPTER 4: EXTERNAL CONTROL

- Section 4.1 *(***)*
Section 4.2 *(***)*

CHAPTER 5: INTERCOOPERATION

- Section 5.1 *(***)*
Section 5.2 *(***)*

CHAPTER 1

DEFINITION AND OBJECTIVES OF COOPERATIVES

SECTION 1.1

(Definition and objectives of cooperatives)

(1) Cooperatives are legal persons of private law that carry on any economic activity without profit as the ultimate purpose and

(a) mainly in the interest of their members, as consumers (“consumer cooperatives”), providers (“provider cooperatives”) or workers (“worker cooperatives”) of the cooperative enterprise (“mutual cooperatives”), or

(b) mainly in the general interest of the community (“general interest cooperatives”).

(2) “Profit purpose” means carrying on business with the objective of making profits mainly for the payment of interest, dividends or bonuses on money invested or deposited with, or lent to, the cooperative or any other person.

(3) For the purpose in preceding paragraph (1)(a), “cooperative enterprise” includes an enterprise carried out by the cooperative through a subsidiary.

(4) Cooperatives shall include in their registered name the word “cooperative”, “coop”, or similar. The words “cooperative”, “coop”, or similar, may not be included in the name of entities not formed and managed as cooperatives in accordance with cooperative law and its principles.

SECTION 1.2

(Law applicable and cooperative statutes)

(1) Cooperatives regulated by special laws for their type of cooperative are subject to the general cooperative law only to the extent that it is compatible with their particular nature.

(2) As autonomous organizations, cooperatives are free to govern themselves by their statutes within the limits of the applicable cooperative law. For this purpose, “statutes” includes both the instrument of incorporation and the statutes when they are the subject of a separate document.

(3) In the case of matters not regulated or partly regulated by cooperative law and cooperative statutes, other appropriate laws, notably company law, apply to cooperatives only to the extent that they are compatible with their particular nature.

SECTION 1.3
(Membership)

(1) A cooperative shall always comprise no fewer than two cooperators as members.

(2) In mutual cooperatives “cooperators” are natural or legal persons who engage in cooperative transactions as consumers, providers or workers of the cooperative enterprise.

(3) If their statutes so provide, mutual cooperatives may admit to membership non-cooperators, such as investors.

(4) In general interest cooperatives “cooperators” may be any natural or legal persons, including consumers, providers, workers, investors, volunteers, or public bodies, interested in the pursuit of the cooperative objective.

(5) The statutes of the cooperatives may make membership subject to reasonable conditions related to their particular type or objective, without gender, social, racial, political or religious discrimination or artificial restriction of membership.

SECTION 1.4

(Cooperative transactions, cooperative surplus and cooperative refunds)

(1) Mutual cooperatives pursue their objective mainly through cooperative transactions with their cooperators for the provision of goods, services or jobs.

(2) In the conclusion and execution of cooperative transactions cooperatives shall observe the principle of equal treatment of cooperators.

(3) Cooperative statutes shall include provisions about the participation of cooperators in cooperative transactions, with particular regard to the minimum extent and/or level of such participation.

(4) Without prejudice to any other legal remedy, failure by the cooperator or by the cooperative to engage in cooperative transactions is a justified condition respectively for member expulsion and for member withdrawal.

(5) “Cooperative surplus” is

(a) in consumer cooperatives, the difference between revenues and costs of cooperative transactions with cooperators, and

(b) in producer and worker cooperatives the part of the difference between revenues and costs which arises from cooperative transactions with cooperators. This provision also applies to general interest cooperatives to the extent that they undertake cooperative transactions with their cooperators.

(6) “Cooperative refunds” are parts of the cooperative surplus returned to cooperators in proportion to the quantity and/or quality of their participation in cooperative transactions.

SECTION 1.5

(Non-member cooperative transactions)

(1) “Non-member cooperative transactions” are transactions between cooperatives and non-members for the provision of goods, services or jobs of the same kind as those provided to cooperators.

(2) Without prejudice to section 1.4(1), mutual cooperatives may engage in non-member cooperative transactions unless their statutes provide otherwise.

(3) Mutual cooperatives engaging in non-member cooperative transactions shall give those non-members an option to become cooperators and inform them about it.

(4) Profits from non-member cooperative transactions are allocated to indivisible reserves.

(5) When mutual cooperatives carry out non-member cooperative transactions they shall keep a separate account of such transactions, and general interest cooperatives may do so.