



**Policy and Regulatory
Framework for
Cooperative
Development
on the basis of the 2002
ILO Recommendation
No. 193 on the
Promotion of
Cooperatives**

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Outline



1. Preliminary Remarks: ILO and cooperatives
2. Cooperative Legislation in the light of 2002 ILO Recommendation No. 193
 - Rationale for promoting cooperatives through policy and law (*the 'economic argument', the 'sustainable development argument', the 'legal argument'*)
 - Evolution of cooperative law at national and regional levels
3. Conclusion



The ILO and cooperatives



- Objective of the International Labour Organization: to contribute to peace in the world through the adoption and implementation of labour standards which further social justice (Preamble of the ILO Constitution).
- Core activity of the International Labour Office: Assisting in implementing and monitoring the implementation of labour standards in the broadest sense of the meaning.
- ILO 2002 Recommendation R. 193 is seen as part of the labour (employment) standards of the ILO → recognition of the contribution of cooperatives to employment and income generation.



The ILO and cooperatives



- Standards of the ILO: conventions and regulations
 - In general: conventions become legally binding upon a member state once ratified by that state.
 - Recommendations are not ratified, but may nevertheless be legally binding. → Case of ILO R. 193.
- ILO R. 193 = nucleus of public international law
- Obligations created through conventions and recommendations are obligations of the ILO Member States, not obligations of the Office. The Office merely assists ILO constituents and others in their implementation.



ILO and cooperatives



- ILO is the only organization within the UN system which has an explicit constitutional mandate and an instrument to promote cooperatives = ILO R. 193.
- Since 1920, the ILO has had a unit working on cooperatives (Cooperative Branch, EMP/COOP).
- Cooperative Branch: assists ILO constituents and representative cooperative organizations in the development of cooperatives of all types and sizes.
- Close collaboration with COPAC and ICA.



The ILO and cooperatives

Based on Rec. 193 and the MoU between ICA and ILO , the Cooperative Branch works especially in the following four areas:



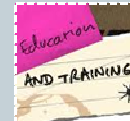
1 Policy dialogue

- COPAC (Committee for the Advancement and Promotion of Cooperatives: UN, FAO, ICA, IFAP and ILO)
- 2012: UN Int'l Year of Coops



2 Statistics & data

- Develop methodology
- Assess & measure the impact of coops (employment; GDP; income generation) etc.



3 Education & training

- Education for coops (training)
- Education on coops (general curricula)
- Education by coops (cooperative educational institutions)
- Training
- Research



4 Policy & Law

- Core activity.
- ILO R. 193 @ core of public intern'l coop law.
- Regions: South America (« Ley marco »), Africa (OHADA) , EU.
- Countries: assistance to over 65 countries in the past 15 years!



Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



- UN General Assembly declared 2012 as the International Year of Cooperatives 2012 (GA Res. A/RES/64/136).
 - will coincide with the **20th anniversary** of the 1992 Rio de Janeiro Declaration on environment and development and with the **10th anniversary** of the 2002 ILO Recommendation No. 193 on the promotion of cooperatives (ILO R.193).
- Future of cooperatives depends ...
 - ... on how successful we are in embedding the rationale for adopting a cooperative policy into wider policy aims
 - ... on how well the cooperative law translates the policy ...
 - and on how well the law creates and maintains the characteristics of cooperatives.



Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



- Why support the idea of promoting cooperatives?
 - the “economic argument”
 - the “sustainable development argument”
 - the “legal argument”.
- The “economic argument”
 - Cooperatives should be promoted because they have a comparative/competitive advantage in the production which is already leading over that of goods and services, namely the production of knowledge.
 - This comparative *advantage* must be weighed against the comparative *disadvantage* of cooperatives.



Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



- The “sustainable development argument”:
 - The source of sustainable development is diversity in its two aspects, namely biological diversity and cultural diversity. The one cannot be preserved without the other. While the principle of diversity does not call for the preservation of real types, it calls for the possibility of a diversity of types to exist and evolve.
 - Genuine cooperatives contribute considerably to the four aspects of sustainability: Economic security, ecological balance, social justice, political stability.
- The legal argument:
 - Despite of its classification as a “recommendation”, ILO R. 193 constitutes legally binding (public international) law.



Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



- Contents of ILO Recommendation 193:

- A short recall of where we stood at the eve of the adoption of ILO R. 193 in 2001/2002 (Quote from Report V(1) from the International Labour Office to the ILC, 89th session 2001):

“... Cooperatives in all *industrialized countries* are struggling to be economically successful in a highly competitive environment while remaining close to their members. This is why contemporary cooperative legislation in these countries is getting closer to general company law, so that cooperatives operate on an equal footing with other types of private enterprises. Recent cooperative legislation in industrialized countries ... seeks to find a compromise between management for service and management for profit. “



Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



“... When the *centrally planned* economies ... began their *transition to a market* economy, their governments faced the immense challenge of elaborating a totally new legal, administrative and institutional framework for all aspects of life, including cooperative organization and management. ... Contemporary cooperative legislation ... generally recognize the universal principles of cooperation and provides for a large degree of cooperative autonomy. However, these laws are not always fully adapted to local conditions and the local legal system, since they had to be formulated under great time pressure and (very often) under the strong influence of Western European law. ...”

Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



“... The majority of the *developing countries* in Africa, Asia and Latin America have been confronted since the mid-1980s with the effects of economic liberalization, globalization and structural adjustment. ... especially in those countries where cooperatives were considered part of the government structure or an arm of the ruling party. As a result, the cooperative legislation of many developing countries has been subject to profound reform ... all cooperative laws adopted in the developing world since 1990 have reduced state influence over, and state sponsoring of, cooperatives, increased cooperative autonomy and self-reliance, and cut any links that might have existed between cooperatives and political organizations.”



Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



- **Main contents of ILO R. 193:**
 - applies to all Member states of the ILO;
 - applies not only to the governments of these states, but also to employers' and workers' organizations, as well as to cooperative organizations;
 - recognizes the economic and social importance of cooperatives;
 - defines cooperatives as associations of persons satisfying their needs through the operation of an *enterprise*;
 - reaffirms the cooperative identity/distinctiveness;
 - applies to all sectors and separates the activity from the way that activity is organized;
 - lays emphasis on the autonomy of cooperatives;
 - calls for an equal treatment of cooperatives;
 - calls for a solution to the potential conflict between labor law and cooperative law.
- ILO R. 193 does not prescribe the details of a supposedly “good” cooperative law.

Cooperative legislation in the light of the 2002 ILO Recommendation No. 193



- The evolution of cooperative law at national and regional levels and its effects:
 - The evolution of the cooperative law since the adoption of ILO R. 193 in 2002 has been somewhat contradictory:
 - ✦ On the one hand: Trend towards more respect for the cooperative values and principles.
 - ✦ On the other hand: Highly capital intensive productions are increasingly taking the lead. → Process of approximating cooperative law with the law applicable to capital-centered companies.
 - Effects of the current evolution of cooperative law:
 - ✦ Effects of the unification of special laws at national level
 - ✦ Effects of the unification and harmonization of cooperative laws across national borders
 - ✦ Effects of the alignment of cooperative law on company law (and *widen notion of cooperative law*).



Conclusion



- 5 challenges with which those who want to promote cooperatives are faced:
 - an accelerated urbanization and industrialization;
 - a change of our living conditions resulting in demographics which vary and differ from country to country and within countries mainly as a result of urbanization;
 - the globalization of all aspects of life;
 - migrations; and
 - a double shift of emphasis in the production pattern
 - ✦ from the international trade of products to the globalization of the production itself and
 - ✦ from the production of goods and services to the highly capital intensive production of knowledge.



Conclusion



- We need therefore
 - new ways of financing cooperatives which do not imitate the financing mechanisms of capitalistic companies;
 - rethink worker cooperatives;
 - consider that many of these and other new cooperatives will be virtual enterprises.
- Challenge of globalization for law-makers, but: laws which give a legal structure to genuine cooperatives are possible.

Conclusion



Please visit us @ www.ilo.org/coop

