Basic information

2011/2116(INI) INI - Own-initiative procedure	Procedure completed
Statute for a European cooperative society with regard to the involvement of employees **Subject** 3.45.07 Social economy, mutual societies, cooperatives, associations 4.15.10 Worker information, participation, trade unions, works councils	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
EMPL Employment and Social Affairs	GIEGOLD Sven (Verts/ALE)	21/10/2010
	Shadow rapporteur SÓGOR Csaba (PPE) REGNER Evelyn (S&D) HIRSCH Nadja (ALDE) MURPHY Paul (GUE/NGL) HELMER Roger (EFD)	

Committee for opinion	Rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
JURI Legal Affairs	REGNER Evelyn (S&D)	20/06/2011
FEMM Women's Rights and Gender Equality	ESTRELA Edite (S&D)	25/05/2011

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

Key events

Date	Event	Reference	Summary

16/09/2010	Non-legislative basic document published	COM(2010)0481	Summary
09/06/2011	Committee referral announced in Parliament		
23/11/2011	Vote in committee		
02/12/2011	Committee report tabled for plenary	A7-0432/2011	Summary
12/03/2012	Debate in Parliament		
13/03/2012	Decision by Parliament	T7-0071/2012	Summary
13/03/2012	Results of vote in Parliament		
13/03/2012	End of procedure in Parliament		

Technical information

Procedure reference	2011/2116(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/7/06210

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE469.787	30/08/2011	
Committee opinion	JURI	PE470.093	12/10/2011	
Amendments tabled in committee		PE473.786	19/10/2011	
Committee opinion	FEMM	PE472.241	23/11/2011	
Committee report tabled for plenary, single reading		A7-0432/2011	02/12/2011	Summary
Text adopted by Parliament, single reading		T7-0071/2012	13/03/2012	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2010)0481	16/09/2010	Summary
Commission response to text adopted in plenary	SP(2012)387	18/07/2012	

Statute for a European cooperative society with regard to the involvement of employees

2011/2116(INI) - 02/12/2011 - Committee report tabled for plenary, single reading

The Committee on Employment and Social Affairs adopted the own-initiative report drafted by Sven GIEGOLD (Greens/EFA, DE) on the Statute for a European Cooperative Society with regard to the involvement of employees.

Members recall 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.

They view 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 employees. 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.

Employee participation in SCEs: Members welcome the fact that employee participation provisions are considered a **core element in the SCE**. They points out, however, that they should provide for the requirements linked to the special nature of cooperatives. The report 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 participation procedures. They stress the need to remedy this so as to prevent abuse of SCE arrangements.

Members regret the fact that the standard rules on the participation of workers in administrative bodies do not make worker participation a requirement. The Commission is invited to monitor closely the application of Directive 2003/72/EC in order to prevent its misuse for purposes of depriving employees of their rights.

Noting that the Directive should not be revised before the Statute, Members ask to consider the **insertion of the provisions on employee participation directly in the Statute** for the sake of simplification and smarter regulation.

The report 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. It calls on the Commission to develop instruments to facilitate employee and user ownership of cooperatives.

The Commission and the Member States are called upon 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.

The future of the Statute: Members stress that, owing to its complexity, the Statute only partially meets the needs of 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. The report emphasises that **the Statute for a European Cooperative Society should not be made more attractive by reducing standards**.

Members consider 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. They are of the opinion that the review of the Statute must facilitate a furthering of the recognition of this type of society in the EU. They emphasise 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. They insist 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: Members deplore the fact that Parliament's recommendations on cooperatives were largely ignored by the Commission. They recall that in its Communication on the promotion of co-operative societies in Europe, the Commission committed itself to twelve actions but only three have been put into practice, with no significant results.

The report 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. Member States should foster **more favourable conditions for cooperatives**, such as access to credit and tax incentives.

Whilst welcoming the fact that the Single Market Act recognises the need to promote the social economy, Members urge the Commission to:

- launch the much anticipated **'Social Business Initiative'** based on cooperative principle;
- come up with an **open method of coordination for the social economy** including cooperative enterprises 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;
- take the **financial structure** of cooperatives into account in connection with capital requirements legislation and accounting and reporting standards;
- consider a **European Year** of Social Economy.

The committee supports business-support measures, in particular **business-consultancy and employee training**, and access to funding for cooperatives, especially for employee or customer buyouts, as they are an underrated tool for saving enterprises at times of crisis and for the transfer of family enterprises. It also stresses the growing importance of cooperatives in the area of social services and public goods.

The report 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.

Lastly, Members stress the need to ensure cooperatives' input in the social dialogue at the EU level.

Statute for a European cooperative society with regard to the involvement of employees

2011/2116(INI) - 13/03/2012 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on the Statute for a European Cooperative Society with regard to the involvement of employees.

European Union Cooperatives: Members recall 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. They view 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 employees. 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.

Parliament welcomes the Commission communication on the application of Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society (SCE). In particular, it 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.

Employee participation in SCEs: Members welcome the fact that employee participation provisions are considered a **core element in the SCE**. They points out, however, that they should provide for the requirements linked to the special nature of cooperatives. The resolution 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 participation procedures. They stress the need to remedy this so as to prevent abuse of SCE arrangements.

Members regret the fact that the standard rules on the participation of workers in administrative bodies do not make worker participation a requirement. The Commission is invited to monitor closely the application of Directive 2003/72/EC in order to prevent its misuse for purposes of depriving employees of their rights.

Noting that the Directive should not be revised before the Statute, Members ask to consider the **insertion of the provisions on employee participation directly in the Statute** for the sake of simplification and smarter regulation.

The resolution 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. It calls on the Commission to develop instruments to facilitate employee and user ownership of cooperatives.

The Commission and the Member States are called upon 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.

The future of the Statute: Members stress that, owing to its complexity, the Statute only partially meets the needs of 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. The report emphasises that **the Statute for a European Cooperative Society should not be made more attractive by reducing standards**.

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Increasing employment in cooperatives and SCEs and strengthening cooperatives as core elements of the social economy: Members deplore the fact that Parliament's recommendations on cooperatives were largely ignored by the Commission and call for the specificities of social economy enterprises to be recognised and taken into account in European policies. They recall that in its Communication on the promotion of co-operative societies in Europe, the Commission committed itself to twelve actions but only three have been put into practice, with no significant results.

Parliament 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. Member States should foster **more favourable conditions for cooperatives**, such as access to credit and tax incentives.

Whilst welcoming the fact that the Single Market Act recognises the need to promote the social economy, Members urge the Commission to:

- launch the much anticipated **'Social Business Initiative'** based on cooperative principle;
- come up with an **open method of coordination for the social economy** including cooperative enterprises 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;
- take the **financial structure** of cooperatives into account in connection with capital requirements legislation and accounting and reporting standards;
- consider a **European Year** of Social Economy.

Support measures: Parliament supports business-support measures, in particular **business-consultancy and employee training**, and access to funding for cooperatives, especially for employee or customer buyouts, as they are an underrated tool for saving enterprises at times of crisis and for the transfer of family enterprises. It also stresses the growing importance of cooperatives in the area of social services and public goods.

The resolution 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.

Lastly, Members stress the need to ensure cooperatives' input in the social dialogue at the EU level.

Statute for a European cooperative society with regard to the involvement of employees

2011/2116(INI) - 16/09/2010 - Non-legislative basic document

PURPOSE: to present a report on the review of Council Directive 2003/72/EC supplementing the Statute for a European cooperative society with regard to the involvement of employees.

CONTENT: the Commission presents a report on the review of Council Directive 2003/72/EC supplementing the Statute for a European cooperative society with regard to the involvement of employees. Council Regulation (EC) No 1435/2003 establishes a Statute for a European Cooperative Society ("SCE") with a view to creating a uniform legal framework enabling cooperatives from different Member States to plan and carry out the reorganisation of their business on a Community scale. Council Directive 2003/72/EC ("the Directive") supplements the Regulation as far as the involvement of employees is concerned, with the aim of providing for arrangements for the involvement of employees in every SCE, thereby ensuring that the establishment of an SCE does not entail the disappearance or reduction of practices of employee involvement that exist within the entities participating in its creation.

In preparation for this review, the Commission commissioned studies by independent experts and consulted with the Member States and the European Social Partners on these studies and the draft report.

Given the major similarities between the Directive and Council Directive 2001/86/EC on the involvement of employees in the European Company (the SE Directive) and the fact that certain Member States have transposed the Directive in the same instrument or by amendments to the legislation transposing Directive 2001/86/EC, the Commission refers to its review of the latter (see COM(2008)0591).

On horizontal issues relating to information and consultation rights, such as protection and guarantees to employee representatives or confidential information, the Commission also refers to its review of Directive 2002/14/EC establishing a general framework for informing and consulting employees (see COM(2008)0146).

Transposition: the report notes that the Directive has been transposed in all Member States only since March 2009. There is therefore a lack of experience in the practical application of the Directive. Furthermore, it is not a stand-alone piece of legislation. It complements the SCE Regulation and shows striking similarities with other directives governing the involvement of employees, such as the SE Directive. The Commission considers that the outcome of the evaluation of these directives and of the Regulation needs to be taken into account before launching any future revision process.

These conclusions are shared by all Member States and social partner who have expressed their views in the consultation process to draw up this report. It is necessary to inquire into the reasons for the very low take-up of the EU legal framework for cooperatives, before considering any moves towards a revision of the Directive.

The report has identified **some issues that merit further consideration**. These are as follows:

Absence of experience: as far as the Commission is aware, only seventeen SCEs had been established by 8 May 2010, none of which had a significant number of employees. Even if, according to organisations representing cooperatives, other SCEs were to be established, experience of both the implementation and the application of the Directive is lacking.

Complexity of the provisions: understanding the national implementing provisions of both the Regulation and the Directive may present a challenge to smaller organisations. As for the Directive, the existence of two different routes governing the involvement of employees in the SCE – negotiation or national rules - as well as the specific provisions on the participation in general assemblies needs to be properly understood. However, as Member States have quite literally transposed the Directive in specific laws, the implementation does not add to complexity. Moreover, social actors involved in the cooperative movement and in the trade union movement stress that the complexity lies instead in the statute, and they have taken actions since 2006, often with the financial support of the Union, designed to prepare the setting up of mechanisms for information, consultation and participation in SCEs.

Specificities of cooperatives: cooperatives differ from limited companies in several respects. They have their own legislation, which is different from company law in some Member States, and they may even be qualified as civil associations rather than companies under national law, with some specific laws applying to certain types of cooperatives (agricultural, housing, credit or health). As regards individual employment relationships, there are no apparent differences for the most relevant aspects. However, there are some specific features as regards collective relations, to account for the difference between workers who are members of the cooperative and those who are not. While these specificities raise no particular problems as regards information and consultation, they do present a more complex picture with regard to collective agreements or board-level participation. Some concerns have been raised by national cooperative movements that SCE may undermine the cooperative principles, but these concerns focus on the statute itself, not on employee involvement. Independent experts have identified a positive impact of the transposition of the Directive on labour law and on cooperative law.

Common issues on transnational involvement of employees: some issues are common to the various directives dealing with transnational involvement of employees and in particular to the Directive 2001/86/EC (the SE Directive). As to the **misuse of procedures**, the independent experts point out that several Member States have not transposed Article 13 of the Directive which requires Member States to take appropriate measures with a view to preventing the misuse of an SCE for the purpose of depriving employees of rights to employee involvement or of withholding such rights. As it had been the case for the SE Directive, the Commission deems this to be a potential cause of concern. The **protection of participation rights** where a European company or cooperative society converts into a company or cooperative of national statute has been raised in the context of the review of the SE Directive. To address this issue, Directive 2005/56/EC on cross-border mergers obliges the company to adopt a legal form that allows for the exercise of participation rights. Independent experts point to the absence of provisions in the Directive as regards the enforceability of the agreement on employee involvement. The recast of the Directive on European Works Councils led to fresh approaches in this area, as employee representatives will have the means required to apply the rights arising from the Directive to collectively represent the employees' interests. Issues relating to the key definitions of the Directive, such as "employees' representatives", "involvement of employees", "information", "consultation", "participation", and “participating legal entities" are raised in the same way as for other directives, particularly the SE Directive 2001/86/EC. There is a case for a more coherent approach to these definitions across the directives.

The Commission will continue monitoring the correct implementation of the Directive, and promoting capacity-building of stakeholders.