

Common ETUC-CECOP Opinion
concerning the standards of workers' involvement in SCE
composed of worker cooperatives, social cooperatives or worker owned enterprises,
and/or of worker-members.

First draft by CECOP secretariat

1. General considerations

1.1. Scope

The present Opinion establishes standards of workers' involvement (information, consultation and participation) in European cooperative societies (SCE) composed (totally or in their majority) either:

- of worker cooperatives, social cooperatives or worker owned enterprises,
- of worker-members
- of both.

1.2. Basic documents

The present opinion is fully based on:

- Council Directive 2003/72/CE of 22 July 2003 complétant le statut de la société coopérative européenne pour ce qui concerne l'implication des travailleurs
- Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)
- The World Declaration on Worker Cooperatives, approved by the 2005 General Assembly of the International Cooperative Alliance, and applying to the situation of worker-members (called 'worker ownership') the ICA Statement on the Cooperative Identity, incorporated into ILO Recommendation 193/2002 on the Promotion of Cooperatives.

1.3. Basic standards of cooperative worker ownership

The present Opinion upholds the following basic standards of cooperative worker ownership as stipulated in the afore-mentioned Declaration. In particular, worker cooperatives:

- have the objective of creating and maintaining sustainable jobs and generating wealth, in order to improve the quality of life of the worker-members, dignify human work, allow workers' democratic self-management and promote community and local development (1.1).
- "The free and voluntary membership of their members, in order to contribute with their personal work and economic resources, is conditioned by the existence of workplaces" (1.2)
- "The majority of the workers in a given worker cooperative enterprise are members and *vice versa*" (1.3).
- "Their internal regulation is formally defined by regimes that are democratically agreed upon and accepted by the worker-members" (1.5)
- "They shall be autonomous and independent, before the State and third parties, in their labour relations and management, and in the usage and management of the means of production" (1.6)

- They shall “provide the workplaces with physical and technical facilities aimed at achieving an appropriate functioning and a good organisational climate” (2.3)
- They shall “practice democracy in the decisive instances of the organisation and in all the stages of the management process” (2.5)
- They shall ‘ensure permanent education and training for capacity building of members and information to the latter, in order to guarantee professional knowledge and the development of the worker cooperative model, and to stimulate innovation and good management’ (2.6)
- They shall “combat their being instruments aimed at making the labour conditions of wage-earning workers more flexible or precarious, and from acting as conventional intermediaries for jobs’ (2.8)

Social cooperatives and worker-owned enterprises normally abide by the above provisions as well.

1.4. Definition of workers eligible to take part in workers’ involvement.

The definition of workers eligible to take part in workers’ involvement, in this opinion, is a wide one, including different possible labour statuses (wage-earners, self-employed etc) currently used in different EU member states for permanent workers in worker cooperatives, social cooperatives or employee-owned enterprises

It excludes:

- Temporary workers
- Workers who, because of their mental or civic status (eg mentally disabled, prisoners) are not allowed by law to exercise their ordinary citizens’ rights, even if they are holders of a regular and permanent work contract. Such workers are also not entitled to become worker-members.

According to the provisions of the above mentioned Declaration on Worker Cooperatives, the workers that are non-members are either:

- Workers in their probationary period to become worker-members
- Workers who do not want to become worker-members.

However, according to the SCE Directive and the above paragraph, all permanent workers in a SCE who enjoy their civil rights (members and non members) are included in the provisions of workers’ involvement (information, consultation and participation).

2. Workers-members, and constitution of the special group of negotiation foreseen in the SCE directive

2.1 SCE established by merger or transformation

Existing worker cooperatives, social cooperatives and/or employee-owned enterprises that establish an SCE by merger shall abide by the above mentioned provision that “the majority of the workers are members and vice versa’. The resulting SCE will necessarily be composed of a majority of worker-members.

SCE constituted by transformation of a worker cooperative, social cooperative or employee-owned enterprise and societies that have been its subsidiaries in at least two other EU

countries for at least two years shall offer to the workers from the former subsidiaries the option to become worker-member. As a result, the resulting SCE will also be composed by a majority of worker-members.

In both cases, the special group of negotiation shall be established in abidance with Dir 2003/72 CE: the delegates of the workers shall be elected in proportion to the number of workers (both worker-members and non-member workers) in the national-level legal entities which are at the origin of the SCE. The worker-members shall constitute the majority.

2.2. SCE established ex novo

The SCE are, in this case, constituted totally or in their majority of members that are worker cooperatives, social cooperatives and/or worker-owned enterprises. A special group of negotiation will be established if the SCE itself employs at least 5 workers, even though considerandum 12 of the Directives establishes that the latter needs not apply to SCE established ex novo in which the workers are few. Nevertheless, it shall involve, not delegates from the workers of the legal entities or subsidiaries as foreseen in art 3.2 (a provision which, in fact, is meant to apply to SCE established by merger or transformation), but delegates from the workers of the SCE itself.

3 Specific standards of workers' involvement (information, consultation and participation)

All the provisions foreseen in the Directive shall apply. Furthermore, the present Opinion establishes the following higher standards of information, consultation and participation, as follows:

3.1 Information and consultation

- All worker-members (who are the majority, see above), as co-owners and co-managers of the enterprise, shall enjoy the information and consultation levels enabling them to properly exercise such role.
- All workers in probationary period shall enjoy the same level of information and consultation.
- All other workers eligible to workers' involvement enjoy the information and consultation levels stipulated in the Directive and in the corresponding provisions in national legislation, even if the enterprise workforce is below the threshold foreseen by the latter, and provided it is at least composed of 5 workers.

3.2 Participation

- All worker-members have full participation rights in decision-making and in being elected in general assemblies and boards.
- All workers in probationary periods shall have free access to the general assemblies with a voice but no vote
- The rest of the workers shall not have participation rights in terms of decision making in general assemblies and boards, unless there are provisions in the national legislation stating enabling the participation of worker delegates with full voting rights. In all other cases, provisions shall be made to have one non-voting delegate from the workers (non members) in general assemblies and board meetings.