

Expanded abstract

Regulatory purposes on equality gender in cooperative management

Objectives

The objective proposed with this work is the examination of the principle of democratic and participative management in the cooperative entity in relation to the principle of equality. That is, the absence of inequality or discrimination among the members of the cooperative. Regardless of the gender of the person, the member is entitled to participate in the cooperative activity and in its organizational structure.

The structure of the work is divided into three clearly differentiated parts that are preceded by an introductory section in which the object of study and the main data and information on the subject are presented. The first part specifies the fundamental aspects of the form of representation and governance of cooperative companies, focusing on the composition and functioning of the Governing Board of the cooperative. Next, we examine the principles of corporate governance of capital companies in relation to gender equality and the approximation of certain autonomous regulations of cooperatives with them. Finally, we focus our attention on the reform proposal for the promotion of the social economy (Preliminary draft of the Integral Law for the Promotion of the Social Economy) and the repercussions that its content has on gender equality. The review presented here concludes with some final considerations on the subject.

The methodology followed begins with the study of the Principles formulated by the International Cooperative Alliance (ICA) and other autonomous cooperative regulations that recognize equality between men and women as one of the general and transversal principles in the cooperative sphere. And it concludes with the approach of the current proposal for regulatory reform to promote the social economy (Preliminary draft of the Integral Law for the Promotion of the Social Economy). A text which, unlike the national cooperative regulation, recognizes the effectiveness of the principle of equality between men and women and, in particular, as regards its significance in the management of the cooperative entity.

The existing imbalance between the presence of women and men in the cooperative sector; we understand that the current social base of cooperatives, in which the representation of women is lower than that of men, must be overcome. These data are confirmed in the latest reports carried out by various institutions. The aforementioned circumstances lead us to state the need to promote the increase in the presence of women cooperative members and, consequently, the equitable inclusion in the management bodies of these entities. As is recognized in some of the autonomous regulations and in the reform proposal mentioned above. It is also necessary to compare the management body of cooperatives with that of capital companies.

Their approximation is more than evident. The effective equality in the access of women to the management bodies in capitalist companies corresponds to the equality of all the partners, but at present it will be necessary to adapt to the community guidelines contained in Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November on improving the gender balance among directors of listed companies and related measures. In this regard, our domestic legislation has approved the Draft Organic Law on Equal Representation and Balanced Presence of Women and Men. This regulation aims to ensure the application and observance of the principle of equal opportunities between women and men and to achieve a balanced representation in senior management positions.

The main limitations in analyzing this matter derive from the lack of express recognition of the aforementioned principles in the current regulations. This absence will mean that both in capital companies in general, and in cooperative companies in particular, it will be necessary to adapt the regulations. In one case, with the aim of transposing to our legislation the requirements of Directive (EU) 2022/2381 on improving the gender balance among directors of listed companies and related measures. On the other hand, the final approval of the Preliminary draft of the Integral Law for the Promotion of the Social Economy.

Regarding the subject matter of this analysis, the Draft Bill aims at ensuring equal treatment and opportunities among members in terms of corporate and entrepreneurial activities, without discrimination, and with the same economic and political rights. As regards the organic scope of cooperative companies, the Draft Bill formulates the effectiveness between men and women and, with special attention, its significance in the management and governance of cooperative companies. That is, the balanced composition between men and women of the social bodies and the possible creation of the special equality commission. This body is responsible for developing actions to promote and encourage gender equality in order to achieve equality between men and women. The lack of attention to equality conditions can be considered a cause for disqualification of the cooperative society.

The purpose of the Preliminary draft of the Integral Law for the Promotion of the Social Economy is also reflected in the reinforcement of the cooperative principle of education, training and information. In other words, the mandatory economic fund for education and promotion of the cooperative society must be earmarked for the promotion of culture and knowledge on gender equality. This issue is of relevance in the cooperative sector and is already applicable at the autonomous community level in some cases.

Although of the advantages of this initiative, which must be assessed positively in practice, its provisions are not rigorously specified in the regulatory content. For it will be up to the autonomy of the will of the members to determine them in the bylaws of the cooperative. Despite the fact that giving statutory freedom can be beneficial for improving compliance with gender equality in the representation of men and women in the composition of the cooperative's social bodies, there are matters that raise doubts in practice. We refer, among others, to the functioning and competencies of the equality commission or the approval of actions to reconcile work, family and personal life.

In conclusion, the characteristics of cooperative companies and the Principles and Values that govern them observe gender equality. However, the national norm lacks express recognition of gender equality between men and women. This lack has made us study with an original criterion the equality in the participation of women members in the cooperative society and the presence of women as members of the management body. In this sense, the female member of the cooperative can participate in the cooperative activity and be part of the social management. The analysis of the set of autonomous community regulations leads to the conclusion that some regulations recognize equality between men and women as a general and informing principle of cooperatives and cooperativism.

Overcoming the situation of inequality indicated above requires respecting the content of various initiatives and of the recent proposal for regulatory reform. The basic Sustainable Development Goals of the 2030 Agenda will also be fundamental.

The final approval of the Preliminary draft of the Integral Law for the Promotion of the Social Economy will entail the modification of the law to ensure equal treatment and opportunities among members, without discrimination, and with the same economic and political rights. In addition to the effectiveness between men and women and in the management of cooperative companies. That is to say, the balanced composition between men and women in the social bodies and the possible creation of a special equality commission. However, the final text should specify certain aspects to a greater extent.