

Expanded abstract

The exercise of trade union rights in cooperatives: a study of their regulation in collective bargaining

Objectives

Cooperatives are characterized by their social values and, in particular, by guaranteeing internal democracy in the decision-making processes of cooperative members. Although the maximum expression of internal democracy in the cooperative takes place in the assemblies, it can have other forms of expression, such as the participation of salaried workers in the governing bodies of the cooperatives, the provision of information and consultation mechanisms through the representative bodies and, especially, the processes of collective bargaining and the signing of collective agreements. The research presented in this paper aims to analyse the collective agreements signed between employee representatives and the respective cooperative as a concrete evidence of democracy in the enterprise.

More specifically, the aim of the study is the regulation of trade union rights through collective bargaining in cooperatives, based on the premise that the exercise of trade union rights represents the effective exercise of workers' democratic participation in enterprises in general and in cooperatives in particular. Therefore, the first part of the paper presents the legal framework applicable to cooperatives in regard to collective labour rights. Thus, it introduces the analysis of the right to freedom of association as a fundamental right recognised by the Spanish Constitution and developed by the Organic Law on Freedom of Association. With regard to the configuration of the right to freedom of association as a fundamental right, the subjective scope of this right is outlined, in respect of which the Constitutional Court has proclaimed that worker-members of worker cooperatives are covered by it. Furthermore, the value of the essential content of the right, which includes the right to collective bargaining, is highlighted. As regards the development of the right to freedom of association through the Organic Law, the regulation of the different forms of representation of trade union organisations within the company –i.e. trade union sections (“secciones sindicales”) and trade union delegates (“delegados sindicales”)– is analysed, as well as the competences and guarantees of these forms of representation.

Methodology

The hypothesis of the article is that cooperatives are an optimal scenario for the signing of collective agreements that enhance legally recognised trade union rights, given that democratic participation is a common element of cooperative values and of the legal institution

of collective bargaining. As the study highlights, the scientific approach to collective bargaining in cooperatives is very scarce. Although there are important studies on existing collective agreements in multiple sectors of economic activity, cooperatives have not been the subject of such studies. Therefore, the methodology followed is the direct analysis of existing collective bargaining.

For this purpose, research is carried out on a sample of 59 collective agreements obtained from the central database of the Registry of Collective Agreements of the Ministry of Labour and Social Economy. For its composition, the search for collective agreements was conducted taking into consideration, among other criteria, that the collective agreements were in force (i.e. that the collective agreements had not lost their legal effectiveness because they had exceeded their temporary scope of application) and that they were collective agreements signed at the company level, so that collective agreements signed at the sectoral level were excluded from the sample analysed.

The collective agreements in the sample were analysed from two perspectives. First, the characteristics of the collective agreements were analysed in order to obtain the main features of collective bargaining. In this way, it has been possible to characterise collective bargaining in cooperatives from the point of view of the functional and territorial scope of the collective agreements, the percentage of women and men included in the scope of application of the collective agreement and the sector of economic activity in which the cooperative operates. Furthermore, they have also been analysed in terms of the workers' representatives who have signed each collective agreement, distinguishing, on the one hand, between unitary representation and trade union representation, and on the other, the participation of trade union organisations.

Secondly, the clauses in collective agreements that recognise trade union rights have been analysed. The study of these clauses has been divided into those that improve legally provided rights or recognise new rights for trade union sections and trade union delegates and those clauses that recognise the right to freedom of association beyond trade union sections and trade union delegates, i.e. that recognise the right to freedom of association for all workers.

Results

Three important results emerge from the analysis. First, in relation to the general characteristics of collective bargaining in cooperatives, it is possible to detect the main trends found in the structure of collective bargaining in Spain, i.e. the prevalence of collective agreements covering the company (or all the workplaces of a company) and of collective agreements whose territorial scope is the province. The analysis shows that the collective agreements analysed affect more women than men when their functional scope is the company, while collective agreements signed at company group level affect more men than women due to the cooperatives signing the latter type of collective agreements operate in male-dominated sectors. It is also noteworthy that collective agreements signed at provincial or inter-regional level affect women more than men, while collective agreements signed at regional level affect men more than women. Finally, the cooperatives that have signed the collective agreements analysed mainly

operate in group G (“Wholesale and retail trade; repair of motor vehicles and motorbikes”) and in group C (“Manufacturing industry”).

Secondly, the analysis of the signatory parties to collective agreements shows that, as in the structure of collective bargaining in Spain at the company level, the works councils and staff representatives (“delegados de personal”), play a leading role. It is also in line with the general trend that works councils and staff representatives who sign collective agreements are mostly composed of unionised members, with an important role for the most representative trade union organisations at state level, such as the Comisiones Obreras (CCOO) and the Unión General de Trabajadores (UGT).

And thirdly, the result of the analysis of the content of the articles provides very relevant aspects on the role of collective bargaining in promoting and protecting freedom of association as a mechanism to favour internal democracy in cooperatives. Following the same order of analysis of the clauses, the following can be highlighted: on the one hand, it is noteworthy that the collective agreements analysed pay special attention to the ability of the trade union sections to hold workers’ assemblies, so that there is a direct connection with the democratic process and the dialogue between representatives and represented workers; on the other hand, collective agreements have especially regulated the ability to elect trade union delegates, improving the legal provisions, and the regulation of time credit (“crédito horario”), thus providing the trade union sections with greater human and material resources to carry out their representation functions. And finally, as a special feature of collective agreements, the analysis has detected a type of clause that proclaims and recognises the right to freedom of association in a generic way for all workers, beyond the trade union sections and delegates.

Conclusions

The conclusions are limited to the study of the collective agreements that are part of the sample, which was designed on the basis of a keyword search in the database of the Register of Collective Bargaining Agreements. It is therefore possible that there are other collective agreements for cooperatives that have not been included in the sample. Furthermore, the study of the information obtained from the statistical sheets of the collective agreements reflects the considerations of the social partners when they register the collective agreement, without having been checked against the actual content of the agreement.

The analysis carried out is unprecedented because it offers a first insight into the characteristics of collective bargaining in Spanish cooperatives. As a result, it is possible to analyse the participation of trade unions in the signing of collective agreements in cooperatives in comparison with general trends in the Spanish collective bargaining system. Moreover, in direct connection with the hypothesis put forward, the results of the study offer a first conclusion: that collective bargaining in cooperatives is characterised by the inclusion of clauses that reinforce the right to freedom of association of all workers, independently they are trade union representatives.

In conclusion, the article identifies two possible actions that collective bargaining can take the promotion of internal democracy and the exercise of trade union rights, especially in

worker cooperatives: on the one hand, explore new internal channels for the effective participation of workers who are not members of the worker cooperative on similar grounds as worker-members in the governance of the cooperative. On the other hand, the regulation of the working conditions of worker-members and non-member workers in worker cooperatives through mixed agreements, in order to align them and avoid dysfunctionalities.