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Cooperative work for sustainable development: a Labour law approach to the Seventh Principle of International cooperation

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1. *The cooperative model in the International and European context*

The Covid-19 pandemic emergency and the contingent climate issues have contributed to increasing social, economic, and environmental inequalities¹. New needs and requirements have emerged, which need to be addressed through a collective change aimed at achieving an overall more sustainable country.

In this context, the Green Transition represents an innovative spirit for the initiation of a “process of systemic transformation”², which aims at the sustainable development of the whole community³. As is well known, the expression “sustainable development” is divided into three pillars (economic,

¹ Climate change has mainly affected the most vulnerable causing significant inequalities, see GIUDICI, *Sostenibile per chi? Vulnerabilità sociale e transizione ecologica*, in *RIS*, 2023, p. 1 ff.

² CASANO, *Ripensare il “sistema” delle politiche attive: l’opportunità (e i rischi) della transizione ecologica*, in *DRI*, 2021, 4, p. 997.

³ CARACCILO, *Transizione verde e transizioni occupazionali. Dinamiche di settore, tutele giuridiche, ruolo della rappresentanza - Transizione ecologica: greening skills to greener jobs*, in *DRI*, 2022, 4, p. 969, which highlights how the Green Transition is at the heart of contemporary policies, which aim to “ferry” the world economy towards sustainability.

environmental, social) which are interdependent of each other: this means that no one can “live” without the other for the realization of a balanced, fair and inclusive growth⁴.

The Green Transition can constitute the basis for a new economic and social model, which places the person at the center even before the environment for equity and social cohesion.

The “threefold” concept of sustainability is expressly recognized in the Sustainable Development Goals (SDGs) adopted by the United Nations on 25 September 2015, which introduce, together with the protection of the planet, the eradication of poverty and the guarantee of well-being for all people⁵. In continuity, the European Union, through the financing instrument constituted by the funds of the *Next Generation* EU, to overcome the difficulties imposed by the pandemic, has invested in the Green Transition for a more ecological and inclusive Europe⁶.

In this perspective, the Green Transition must be not only “green”, but also “just” because is based on equity, in order to guarantee a decent work for all⁷. Labour law, therefore, plays an important role, because it must “take care” above all of those subjects who are in a position of economic and social vulnerability⁸. In this regard, it will be possible to combat inequalities through a virtuous process that includes the weakest actors in the labour market so as not to “leave anyone behind”⁹.

We are facing a systemic change comparable to industrial revolutions, which have brought profound changes in the way of living, working and communicating¹⁰.

⁴ BRINO, *Il raccordo tra lavoro e ambiente nello scenario internazionale*, in *LD*, 2022, 1, p. 102.

⁵ See extensively BRINO, *cit.*, p. 106.

⁶ On this point, see extensively GAROFALO D., *Gli interventi sul mercato del lavoro nel prisma del PNRR*, in *DRI*, 2022, 1, p. 114.

⁷ BERNARDO, *Lavoro e ambiente tra sinergia e conflitto*, in *MGL*, 2020, 4, p. 815, which highlights how in the international context, the ILO in recent years has increased attention to Just Transition for a greener and more sustainable economy. For a recognition of the notion of “decent work” see BIASI, *Il Decent Work tra politica e sistema*, in *LDE*, 2022, 1, p. 2 ff.

⁸ CARUSO, DEL PUNTA, TREU, *Manifesto per un diritto del lavoro sostenibile*, in “*Massimo D’Antona*”, 2020, p. 11. For a reconstruction of the notion of Just Transition connected to the Labour law see DOOREY, *The contested boundaries of just Transitions*, in *LLE*, 2022; CENTAMORE, *Una Just Transition per il diritto del lavoro*, in *LD*, 2022, 1, p. 129.

⁹ The 2030 UN Agenda, to combat poverty and put an end to all forms of discrimination and exclusion, expressly refers to the Leave no one behind (LNOB) principle, see <https://unsdg.un.org/2030-agenda/universal-values/leave-no-one-behind>.

¹⁰ MIÑARRO YANINI, *Flexicurity in ambito lavorativo e transizione ecologica giusta: il ricorso agli*

The Green Transition has also stimulated interest in thinking models that question how to reconcile economic activity, social inclusion and sustainable development¹¹. The reflections produced by this vision have led to the promotion at International and European level of an *economy* based on the *social* dimension and not purely capitalist.

In this context, the social economy has developed which represents a tool and a vision for achieving a just and sustainable environment, because it aims to reconcile and integrate economic activities, social development and environmental protection¹². However, it is able to interpret the local contexts and the resources available in order to meet the concrete needs of the community¹³. The social economy provides to civil society the means to meet its own needs, producing goods and services in line with reality, culture and community needs¹⁴. People and local communities are, indeed, the driving force of the social economy and not capital or profit, but the creation of generative and shared value¹⁵.

It should be noted that recently, in June 2022, the 110th ILO International Conference was called to discuss, for the first time, the theme of “Decent Work and the Social and Solidarity Economy”. Broadening our gaze outside the European Union¹⁶, therefore, the social economy acquires a further adjective, as it becomes a social and *solidary* economy. Even at the national level, solidarity has “great legal value” because it finds many references

ERTE e al meccanismo RED nel quadro del Next Generation EU, in *DRI*, 2022, 3, p. 765. To learn more about the changes and new jobs in the green economy see TIRABOSCHI, *Le prospettive occupazionali della economia verde. Le prospettive occupazionali della green economy tra mito e realtà*, in *DRI*, 2010, 4, p. 931.

¹¹ SALVATORI, *Sull'economia sociale nella dimensione globale*, in *ISoc*, 2022, editoriale, p. 5.

¹² For an initial reconstruction of the social economy see extensively DAGNINO, *Diritto del lavoro ed economia sociale: appunti per una ricerca*, in *DRI*, 2021, 4, p. 1058.

¹³ FILI, *Il ruolo del welfare privato nel sistema di sicurezza sociale*, in *RDSS*, 2022, 4, p. 598, which stresses that the social economy is of fundamental importance, because it is able to support and replace public protections in those areas not covered by public intervention due to the limited public resources available or the particularity of the needs.

¹⁴ BORZAGA C., SALVATORI, BODINI, *L'Economia Sociale e Solidale e il Futuro del Lavoro*, ILO, 2019.

¹⁵ GUERINI, *Cooperative e lavoro per la ripresa. Investire in un'Europa più sociale e inclusiva*, in *LDE*, 2021, 3, p. 3.

¹⁶ Solidarity in European Union law is already based on the Charter of Fundamental Rights, as it becomes the heading of Title IV, but at the same time new limits arise for social rights, see ZOPPOLI, *Solidarietà e diritto del lavoro: dissolvenza o polimorfismo?*, “Massimo D’Antona”, 2018, pp. 1–20.

already in the Italian Constitution¹⁷. The theme of solidarity is based on the concept of democracy as a result of collective action by the same citizens.

The importance of the role of the social economy had already been affirmed at European level with the approval in 2021 of the Action Plan for the Social Economy¹⁸ aimed at creating an economy at the service of people.

The relevance of the person is the focus of the Action Plan, because the social economy is an economy “on a human scale” and represents a complementary organizational model capable of integrating the different dimensions: health, society, environment, economy for an inclusive and sustainable global, national and local development¹⁹.

The adoption of the Action Plan shows that dealing with complex issues such as the ecological transition or the (re)generation of decent jobs cannot do it without the contribution of the organizations that make up the social economy sector.

According to the Action Plan, the social economy contributes to the realization of the Green Transition by providing sustainable goods and services. This can be possible through the adoption of participatory and democratic models used by the organizations that make part of it taking into account the needs of the community, workers and stakeholders²⁰. With this in mind, the social economy contributes to achieving the 17 Sustainable Development Goals (SDGs) of the UN 2030 Agenda, increasing the employment rate and reducing the number of people at risk of poverty and social exclusion.

At this point it is important to understand which are the subjects that are part of this system and the distinctive characteristics compared to the “traditional” model.

The Action Plan identifies fundamental common principles to these organizations as “the primacy of people, as well as the social and/or environmental purpose, over profit; the reinvestment of most profits and surpluses

¹⁷ See ZOPPOLI, *cit.*, p. 155.

¹⁸ COM(2021) 778 final (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions).

¹⁹ DI MEGLIO, VUUREN, *L'Economia Sociale e Solidale: una prospettiva internazionale*, in *ISoc*, 2022, 1, p. 57.

²⁰ SIMONAZZI, Review to CARUSO, DEL PUNTA, TREU, *Manifesto per un diritto del lavoro sostenibile*, 2020, in *DLRI*, 2020, 168, p. 822.

to carry out activities in the interest of members (collective interest) or society at large (general interest) and democratic and/or participatory governance". These characteristics explain the functioning of the entities that are part of it and highlight the differences, compared to other economic actors, in terms of "economic behavior" and management models²¹.

To delineate the perimeter of the social economy, it is also necessary to take note of the pluralism of legal and organizational forms that characterize the various European countries²².

The definition of "social economy" adopted by the Action Plan includes five categories of entities: cooperatives, mutual benefit societies, associations (including all non-profit organizations), foundations and social enterprises, that produce goods, services and knowledge while pursuing both economic and social ends by promoting solidarity. In these cases, solidarity equals sociality (or social dimension), and it can be a source of workers' rights²³.

Among the considered entities, cooperatives represent a well-established form of business model of the social economy as stated in the Action Plan. They are the "first actors" of the social and solidarity economy, whose aim is to satisfy the common needs of the community. Cooperatives represent an alternative business model capable of tackling economic, social and environmental problems by combining efficiency and productivity with fairness and democracy²⁴.

It cannot be forgotten that the UN (with its Resolution of 8 December 2009) claimed 2012 as the International Year of Cooperatives with the slogan "Cooperative enterprises build a better world", inviting all Member States to seize this opportunity to promote cooperatives. These realities can make an important contribution to the social and economic development of the country by reducing poverty, increasing employment and promoting social integration²⁵.

The UN Resolution recognized an important role in cooperation, be-

²¹ BORZAGA C., CALZARONI, FONTANARI, LORI, *L'economia sociale in Italia. Dimensioni, caratteristiche e settori chiave*, ISTAT-EURICS Research Report, 2021, p. 5.

²² SALVATORI, *cit.*, p. 11.

²³ ZOPPOLI, *cit.*, p. 157.

²⁴ HOYT, MENZANI, *The international cooperative movement: a quiet giant*, BATTILANI, SCHRÖTER (ed.), *The cooperative business movement 1959 to the present*, Cambridge University Press, 2012, p. 57.

²⁵ POLAT, *Key role for cooperatives in poverty reduction efforts*, in *BW*, 2003.

cause it can promote the maximum participation of all people, including women, young people, the elderly, people with disabilities. An *ad hoc* recurrence is therefore established for cooperatives that is unprecedented in other forms of enterprise.

Cooperatives from all over the world are represented and united by the International Cooperative Alliance (ICA). It is an authority, which was founded in 1895 in London on the initiative of the English cooperative movement, which brings together the various unions and cooperative organizations of the various national movements with the aim of creating greater collaboration between them²⁶.

In 1995, on the 31st World Cooperative Congress of the ICA in Manchester, the *Statement on the Cooperative Identity* was approved, which aims to outline the common identity of all cooperatives. It contains, for the first time, a universal definition of “cooperative” based on the satisfaction of people’s common economic, social and cultural needs and aspirations²⁷. It also covers a range of cooperative values (such as self-help, self-responsibility, democracy, equality, equity and solidarity) and ethical values (such as honesty, openness, social responsibility and care for others), which are an important complement to the seven cooperative principles such as: *i*) voluntary and open membership; *ii*) democratic members control; *iii*) members economic participation; *iv*) autonomy and independence; *v*) education, training, and information; *vi*) cooperation among cooperatives; *vii*) concern for the community²⁸. Values and principles relate to each other and play an important role in defining the legal identity of cooperatives.

The listed cooperative principles “identify a type of business organization characterized by the particular aims pursued and by a particular governance structure”, where the purpose (meant as “purpose-end” and

²⁶ VERRUCOLI, *I “principi” dell’Alleanza Cooperativa Internazionale e la loro applicazione nella legislazione italiana*, in *Rcoop*, 1980, 5, p. 137.

²⁷ In accordance with the *Statement on the Cooperative Identity*, the cooperative is “an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise”. See MORI, *Economia della cooperazione e del non-profit*, Carocci, 2008, pp. 35 e 36, which, retracing the definition of cooperative, highlights affinities with the character of mutuality typical of Italian cooperatives and the democratic principle.

²⁸ The first cooperative representing the cooperative principles of the *Statement on the Cooperative Identity* was founded by Rochdale in England in 1844, see BUONOCORE, *Diritto della cooperazione*, il Mulino, 1997, p. 27 ff.

“purpose-means”) and governance are determining elements for qualify a company as a cooperative²⁹.

The analysis of cooperative identity is however very complex in light of the fact that the cooperative phenomenon presents different configurations and disciplines within the individual states³⁰, but the ability of the cooperative model to be applied in different contexts and for the realization of different activities is significant³¹. The declination of ICA principles, in fact, may depend on the nature and type of cooperative³².

The cooperative principles have been incorporated into the recommendation of ILO No. 193/2002 on the promotion of cooperatives, which is a source of international public law³³. For the first time, the universal cooperative standards adopted by the ICA are included in full in the official text of an organization of the United Nations system. The Recommendation contains detailed proposals on how it promotes cooperatives and the designated entities to implement all this³⁴. In fact, it governs specifically: scope, definition and objectives; policy framework and role of governments; implementation of public policies for the promotion of cooperatives; role of employers' and workers' organizations and cooperative organizations, and relationships between them; international cooperation. The objective of the Recommendation is to recognize the importance of cooperatives, because they are able to create stronger forms of human solidarity and a fair distribution of wealth.

The ILO has seen cooperatives as an important tool for improving the living and working conditions of both women and men³⁵. The Recommen-

²⁹ FICI, *L'identità delle società cooperative, i Principi dell'Alleanza Cooperativa Internazionale e le legislazioni nazionali europee*, in *RDSociet*, 2012, p. 432.

³⁰ HOYT, MENZANI, *cit.*, p. 23.

³¹ MACPHERSON, *What Is the End Purpose of It All?: The Centrality of Values for Cooperative Success in the Marketplace*, BATTILANI, SCHRÖTER (ed.), *The Cooperative Business Movement, 1850 to the Present*, Cambridge University Press, 2012, p. 107 ff.

³² OCZKOWSKI, KRIVOKAPIC-SKOKO, PLUMMER, *The meaning, importance and practice of the cooperative principles: Qualitative evidence from the Australian cooperative sector*, in *JCOM*, 2013, p. 1 ff.

³³ HENRY, *International Guidelines for Cooperative Policy and Legislation: UN Guidelines and ILO Recommendations 193*, Geneva, 2012, p. 47 ff., which identifies eleven points in support of the view that the ILO Recommendation is a source of public international law.

³⁴ HENRY, *The relevance of ILO Recommendation no. 193 concerning the promotion of cooperatives for cooperative legislation*, 2012, p. 22.

³⁵ LEVIN, *ILO Recommendation no. 193 on the promotion of cooperatives*, in *RIES*, 2003.

dation has had an important impact and influence on member states, because they, in some cases, have reviewed the internal discipline on cooperatives and, in others, adopted policies or laws that affect them³⁶.

Finally, in March 2016, the ICA entered into a partnership with the European Commission (known as #coops4dev) opening a new phase of collaboration to strengthen the cooperative movement. The aim is to strengthen the “voice” of cooperation and in international development programs and policies. The partnership is based on increasing visibility, sharing and strengthening the cooperative development network³⁷.

The reading of the International and European context shows how the cooperative model represents an important slice for the sustainable (and solidarity) development of the economic and social system worldwide.

2. *The Seventh Principle of the Statement on the Cooperative Identity*

The cooperative model fits perfectly into the Green Transition process to achieve economic, social and environmental sustainability starting from the local context in which the cooperative itself operates. In fact, the attitude of cooperatives to (co)operate for sustainable development finds its highest recognition within the Seventh Principle of the 1995 Statement on the Cooperative Identity, entitled “concern for the community”, according to which “cooperatives work for the sustainable development of their communities through policies approved by their members”. Before entering into the merits of this principle, it is necessary to retrace the historical evolution that led to the adoption of this (new) principle³⁸.

The current Statement on the Cooperative Identity of 1995, containing cooperative principles and cooperative and ethical values, is the result of the revision of the two previous formal statements dating from 1937 and 1966³⁹.

³⁶ STIRLING, *Promoting cooperatives: an information guide to ILO Recommendation No. 193*, ILO, Geneva, 2014, p. 26.

³⁷ The initiatives promised by the partnership can be consulted online <https://coops4dev.coop/en/coops4dev>.

³⁸ The historical evolution, which is proposed below with regard to the adoption of the Seventh Principle, has been drawn from the writings of MACPHERSON, *Cooperative's concern for the community: from members towards local communities' interest*, Euricse Working Papers, 2012.

³⁹ WARING, LANGE, CHAKRABORTY, *Institutional adaptation in the Evolution of the “cooperative principles”*, in *JEE*, 2022, pp. 340 e 341, which recalls the principles provided for by Statement

In fact, starting from 1980 the need arose to reconsider and renew the principles of 1966 given the changes in the economic and political order at world level. The ICA is therefore called upon to re-evaluate the 1966 principles and to identify useful guidelines for the future. The 1995 Statement on the Cooperative Identity, therefore, reaffirms and expands the principles of 1966 with the aim of guiding the cooperatives of the twenty-first century.

The main novelty introduced by the Statement 1995 is the adoption of the Seventh Principle titled “concern for the community”, with the attempt to make the cooperative the engine for economic prosperity.

The first opportunity to reflect on this principle came with the “Cooperatives in the year 2000” project prepared by *Alex Laidlaw* for the Moscow Congress of the International Cooperative Alliance of 1980. For the first time, the need arises to build a “conservative society” to address the environmental issue through the development of communities based on cooperation.

Later, at the Stockholm Congress in 1988, the then president of the ICA *Lars Marcus* invited the international cooperative movement to reflect on the value of “taking care of others”⁴⁰, then on how cooperatives relate to the community and if this could be considered a hallmark of this model. The answer was clear, because according to the ICA Committee, chaired by *Sven Åke Bööck*, the common concern for communities represents the “cooperative spirit”. Indeed, in the subsequent report entitled “Cooperative values in a changing world”, written by the same chairman of the Committee and presented at the 1992 ICA Congress in Tokyo, it is stated “the importance of the role of cooperatives in the fight for the social and economic emancipation of people [...] and a greater commitment to social responsibility”⁴¹. In addition, he highlights how “all fundamental cooperative values are perme-

of 1937, which are: open membership; democratic control; dividend paid based on the activity carried out; limited interest on capital; political and religious neutrality; money trading; promotion of education. Instead, those contemplated in the 1966 Statement are: voluntary membership; democracy; surplus distribution; limited interest on capital; provision for education; cooperation among cooperatives.

⁴⁰ For One reconstruction of values cooperatives see MACPHERSON, *What Is the End*, cit., p. 110 ff.

⁴¹ On the subject of social responsibility and sustainable development see SALOMONE, *La responsabilità sociale dell'impresa: riflessioni a margine di una strategia europea sullo sviluppo sostenibile*, in *DRI*, 2004, 2, p. 379.

ated by responsibility for the community as a whole in the perspectives of social and economic justice” and goes on to recognize an important role for cooperatives to achieve a better society, because thanks to their organization they are able to “take care of others” and, therefore, of the community. It should also be noted that the debate on this principle focuses on environmental protection and sustainable development. Some of the contents of the subsequent Statement on the Cooperative Identity can be found in this report.

A few years later, at the Manchester Congress in 1995, the Statement on the Cooperative Identity was adopted, which includes “concern for the community” as one of the cooperative principles. This principle therefore has an autonomous configuration and definition, because before 1995 it was only part of the Sixth Principle “cooperation among cooperatives” of 1966⁴².

A first reading of the Seventh Principle brings out the cooperative interest in contributing to a better society, because the members of the cooperative through their policies can meet their own needs and those of the community in which it operates⁴³. In fact, the purpose of a cooperative is “to unite and involve its members in an economic and social community”⁴⁴. They have not only a purely entrepreneurial or mutualistic character, but the task of contributing to solving the social and economic problems of the community⁴⁵.

The call made to “sustainable development of (their) communities” has connections with the environment even if not expressly mentioned. In fact, the cooperatives have a strong sense of responsibility for environmental protection in the community in which they operate⁴⁶. However, “cooperative sustainability” is not only environmental, but also social and economic. For this reason, cooperatives can be considered an innovative model in the context of the Green Transition. Cooperatives cannot, therefore, ignore the social consequences of their actions so they must be transparent in carrying out

⁴² LAUNIO, SOTELO, “Concern for community”: Case of cooperatives in the Cordillera region, Philippines, in *JCOM*, 2021, p. 9.

⁴³ HOYT, *And then there were seven: Cooperative Principles Updated*, in *COOPG*, 1996.

⁴⁴ NOVKOVIC, PUUSA, MINER, *Cooperative identity and the dual nature: From paradox to complementarities*, in *JCOM*, 2022, p. 10.

⁴⁵ DEPEDRI, TURRI, *Dalla funzione sociale alla cooperativa di comunità: un caso studio per discutere sul flebile confine*, in *ISoc*, 2015, 5, p. 67.

⁴⁶ OCZKOWSKI, KRIVOKAPIC-SKOKO, PLUMMER, *cit.*, who highlights as the sustainability environmental strength be included inside of the principle “concern for the community”.

their activities and strive to work with others to contribute to the well-being of the community. In fact, the Seventh Principle is based on the cooperative values of “self-help and self-responsibility” and the ethical values of “honesty”, “openness”, “social responsibility” and “care for others”. Moreover, it is the expression of a “way of doing business” which characterizes cooperative entrepreneurship and no other business model⁴⁷.

Shifting attention to the last part of the Seventh Principle, the cooperatives develop community projects in accordance with “policies approved by (their) members”. This clarification is intended to prevent third parties to the cooperative from distorting its activity to meet its own ends. The aim is to stimulate discussion among members on how to relate to the community for sustainable development.

The members have an important and different role within the cooperative unlike the “traditional” companies because they are linked by a strong feeling of belonging. This translates into participation and desire of the members to be directly involved in the business activity⁴⁸. In fact, the strategy for decision-making and project planning within the cooperative follows a bottom-up logic⁴⁹.

Further insights into cooperative principles were offered by the document “Let’s examine our cooperative identity”, which was prepared for the 33rd ICA World Congress of Cooperatives held in Korea in December 2021. The document has been drafted taking into account the “Guidance Notes on Cooperative Principles” (ICA 2015)⁵⁰ and aims to deepen the cooperative identity of the 1995 Statement, to define more clearly the values and cooperative principles.

Let us now see what the salient and most significant features of these documents are limiting the analysis to the Seventh Principle.

In general, cooperatives are concerned with the health and well-being of people within their community, so they must strive to be ethical and socially responsible in the activities they carry out. Cooperatives are able to understand the needs coming from outside and their presence allows the economic and social development of the country.

⁴⁷ MACPHERSON, *Cooperative’s concern for the community*, cit.

⁴⁸ MACPHERSON, *Cooperative’s concern for the community*, cit.

⁴⁹ BORZAGA, SALVATORI, BODINI, cit.

⁵⁰ The guidelines are useful for reading the cooperative principle see WARING, LANGE, CHAKRABORTY, cit., p. 338.

The formulation of the Seventh Principle emphasizes the concern for the sustainable development of their communities, therefore, first of all the local communities. This principle demonstrates how cooperatives are successful sustainable enterprises that can create benefits not only for their members, who democratically control and own the cooperative, but also for the community where they operate. In fact, they are able to achieve positive “externalities” and, therefore, beneficial effects on the community⁵¹. Starting from these deep (local) roots, the concern for the sustainable development of the community even extends at national, regional and global levels. The link between concern for sustainable local and global development is clear.

As stated in the guidelines, the reference to the notion of “sustainable development” within the principle stems from the debate that took place during the 1992 United Nations Conference on Environment and Development (known as the Rio de Janeiro Earth Summit). In fact, the Seventh Principle was adopted in 1995, incorporating the interest in environmental protection under the heading “sustainable development”.

Another important intervention that reaffirmed the importance of sustainable development in the world is the 2030 Agenda prepared in 2015 by the UN, which includes 17 sustainable development goals. Compared with the activities carried out by cooperatives, these make an important contribution to achieving the eighth objective namely that of “stimulating growth [...] inclusive and sustainable, full and productive employment and decent work for all”.

Cooperatives “contribute to sustainable development” in triple form: social, economic and environmental and all three of these profiles have the same value, the same importance and are (inter)dependent on each other.

With regard to the first profile, cooperatives are able to meet economic needs through affordable goods and services and create fair and inclusive jobs. Cooperatives are aware that sustainable social development requires maintaining a harmonious relationship between material growth and response to the immaterial and social needs of the community, such as: culture, art, education, health, social services, assistance, integration of disadvantaged people. Social sustainability is also understood as peace and social justice,

⁵¹ CAPO, *Le cooperative di comunità*, in *GCom*, 2021, 4, p. 616 ff. To consult the guidelines in full <https://www.ica.coop/en/media/library/research-and-reviews/guidance-notes-cooperative-principles>.

protection and respect for the worker who carries out his work and, finally, support and promotion of the youth.

From the point of view of economic development, cooperatives are able to support the communities in which they operate by combating inequalities between rich and poor and the unequal distribution of wealth. This forecast is confirmed by the final report Rio+20 of 2012, which recognized the actual and potential role of cooperatives in contributing to the achievement of sustainable development, poverty reduction and job creation. The concrete implementation of economically sustainable development can take place through the application of ethical values to trade and exchange “Coop2Coop”.

No less important is the last part of the Seventh Principle which recalls the “policies approved by their members”, which means that policies and programs for the sustainable development of the community must be approved by the general assembly of members. In addition, the latter must ensure the balance between self-interest and concern for the community.

In this perspective, cooperatives have a direct influence on the sustainable development of a country, because the members, through the policies adopted, care for the community and determine the objectives (and priorities) considering the concrete needs of individuals who are part of it.

Understanding the Seventh cooperative Principle means identifying an innovative and sustainable business model capable of facing the changes produced by the pandemic and the climate emergency. The triple bottom line of cooperatives: economic, social and environmental makes the cooperative enterprise fit to meet these challenges.

3. *The participatory model of the cooperatives*

The Seventh Principle established at the international level can be declined in the Italian legal system taking into consideration the model of participatory governance of cooperative members-workers⁵².

Maintaining a Labour law approach to the problem, we can analyze the figure of the member-worker in cooperatives, which make use of the work

⁵² For a reconstruction of worker cooperatives and associative and employment relationship see BIAGI, *Cooperative e rapporti di lavoro*, Franco Angeli, 1983.

of the members themselves (art. 2512, par. 2 C.C.). These are cooperatives in which “the mutual relationship relates to the provision of work activities by the member” (art. 1, par. 1, l. no. 142/2001), for this reason the member is not a member, but a member-*worker*⁵³.

The second paragraph of the aforementioned rule defines the *status* of the working member by attributing to it a “collaborative stability”⁵⁴ because it has the possibility to: participate in the corporate bodies, to define the structure of management and governance of the company, to participate in development programs and decisions relating to strategies, to carry out production processes, to contribute to the formation of social capital, to participate in business risk, results and their destination and, finally, to make available their professional skills.

It can be deduced a participatory governance system where members and workers have an active role in the management of the cooperative, because both participate in business decisions⁵⁵. In fact, cooperatives represent an original model of business, because the ownership belongs directly to the workers involved in the production activity⁵⁶. The participation and involvement of members (and) workers represent in the long term an advantage in terms of quality of the organizational atmosphere and productivity⁵⁷.

The third paragraph of art. 1 provides that “the worker-member of the cooperative establishes with his membership or after the establishment of the associative relationship a further employment relationship [subordinate, autonomous, collaboration or other form] with which he contributes to the achievement of social goals”. In this regard, the member-worker establishes with the cooperative a working relationship in addition to the associative. The two relationships (associative and labor) are connected because the lack of the labor relationship does not allow the full achievement of the purpose of the cooperative society.

The “specialty” of the relationship of the member-worker in a cooperative has undergone important changes by Law no. 30/2003 (so-called

⁵³ VITALI, *Il concetto di mutualità alla luce della legge n. 142/2001: profili di diritto societario*, in *VTDL*, 2017, p. 297 ff., which notes how art. 1, par. 1 of Law no. 142/2001 is applicable also for social cooperatives in addition to the worker cooperatives and production cooperatives.

⁵⁴ CAVAZZUTI, *Il socio lavoratore fra disciplina speciale e codice civile*, in *GCom*, 2004, 2, p. 229 ff.

⁵⁵ BUONOCORE, *cit.*, pp. 124 e 125.

⁵⁶ GENCO, *Rassegna di giurisprudenza società cooperative (2018-2019)*, in *GCom*, 2019, 2, p. 227 ff.

⁵⁷ COLLOCA, *La governance partecipativa nelle imprese cooperative*, il Mulino, 2012, 2, p. 372.

Biagi Law), which amended art. 1, paragraph 3 of Law no. 142/2001 by eliminating the term “distinct”. This led to consider the employment relationship instrumental with respect to the corporate relationship, but that keeps its autonomy as shown by the adjective “further”. The mutual relationship has an “ancillary” function with respect to the associative one, therefore, the associative relationship takes precedence over the employment relationship⁵⁸.

All this has implications, because the termination of the employment relationship does not entail the automatic extinction of the associative relationship, while the termination of this inevitably also involves the extinction of the labour constraint: the cooperative member may no longer be a worker and remain a member, but if he loses the *status* of member he is no longer even a worker (art. 5, par. 2, l. no. 142/2001)⁵⁹.

To confirm, the circular of the Ministry of Labour and Social Policies, 18 March 2004, no. 10, precisely following the amendments made by law no. 30/2003, clarified that the associative relationship is considered preminent with respect to the employment relationship, therefore, when the *status* of member of the cooperative is lost, the *status* of worker is also lost⁶⁰. On the other hand, the situation in which the person no longer carries out work within the cooperative is different, because in this case only the employment relationship and not the corporate one is lost.

The figure of the cooperative worker member connotes a system of participatory governance inclusive and democratic, because “it puts the person in the foreground as a heritage to be protected and safeguarded”⁶¹. In confirmation, the Civil Code recognizes the democratic participation of the working members in articles: 2516, 2527, 2528 and 2538.

Art. 2516 C.C. provides that the principle of equal treatment must be respected in the establishment and implementation of mutual relationships,

⁵⁸ SPEZIALE, *Socio lavoratore: evoluzione normativa e giurisprudenziale*, in *DPL*, 2003, 43, p. 2493.

⁵⁹ The rule, as subsequently amended by the l. no. 30/2003, provides that “the employment relationship is extinguished with the resignation or exclusion of the member”. The associative relationship prevails, therefore the employment relationship is instrumental. This means that when the associative relationship ceases there is automatic termination of the employment relationship. See Cass. 20 November 2017 no. 27436.

⁶⁰ SPEZIALE, *cit.*

⁶¹ COLLOCA, *cit.*, p. 367.

which means that discrimination against the member is prohibited⁶². The constraint of equal treatment in the phase of “establishment” of the mutual relationship for the purpose of choosing the members (i.e. with whom to establish a “further” employment relationship) implies a reduction in the cooperative’s discretion (or “controlled” discretion)⁶³. In fact, the same instrument of incorporation is required to establish the conditions for the admission of members “according to non-discriminatory criteria consistent with the mutual purpose and the economic activity carried out” (art. 2527, par. 1, C.C.)⁶⁴. However, reference is made to “mutual relationships” excluding from the scope of application of the principle the corporate relationship and the activity carried out by the cooperative with third parties pursuant to art. 2521, par. 2 C.C., with the consequence that the cooperative is not required to equate members with third parties in the activity carried out with the latter⁶⁵. In fact, the instrument of incorporation must provide for the “rules for the development of mutual activity” and may also allow the exercise of activities with third parties, but only if expressly indicated (art. 2521, par. 2 C.C.).

In addition, in order for a cooperative to have an inclusive governance, it is necessary that this is accompanied by the so-called principle of open-door *ex art. 2528 C.C.* (entitled “Admission procedure and open character of the company”). It allows to enter into the cooperatives to all those who are bearers of the same needs and interests⁶⁶. According to the rule, the admission of the member takes place by decision by the board of directors and if this rejects the request, the interested party may request that the shareholders’ meeting pronounce on the application⁶⁷. It is a particular procedure not provided for other companies and which is aimed at protecting the person interested in entering the cooperative. The cooperative is therefore “the

⁶² On that principle, see extensively CUOMO, *Gestione mutualistica e parità di trattamento nelle cooperative*, in *RDSociet*, 2013, 5, p. 905 ff.

⁶³ TULLINI, *Mutualità e lavoro nelle recenti riforme della società cooperativa*, in *DRI*, 2005, 3, p. 711 ff.

⁶⁴ GENCO, *Il governo dell’impresa cooperativa*, in *GCom*, 2006, 4, p. 603 ff.

⁶⁵ BONILINI, CONFORTINI, GRANELLI, *Codice civile commentato*, Utet Giuridica, 2012.

⁶⁶ RIVOCSECCI, *Profili di costituzionalità della disciplina delle società cooperative tra diritto interno e diritto dell’Unione europea*, in *RIDPC*, 2004, 1, p. 199.

⁶⁷ BUONOCORE, *La società cooperativa riformata: i profili della mutualità*, in *RDC*, 2003, 5, p. 10507.

entrepreneurial instrument with which a community organizes itself to meet its social needs and the open structure of society tends to encourage this function by facilitating the admission to membership of all those subjects who are bearers of these needs”⁶⁸.

The corporate structure, which is expressed through the variability of the share capital, is closely connected with the social purposes of the cooperative even outside the structure allowing a continuous comparison with the needs of local communities. In fact, the cooperative does not consider only the interests of the members, but also those of its internal subjects (workers) or external (suppliers, customers, local communities), who are involved (more or less directly) in the entrepreneurial activity and with whom it is necessary to dialogue⁶⁹.

The Civil Code also re-enforces the democratic nature of the voting system, whereby each participant expresses a power identical to any other member regardless of the amount of the economic contribution made to the cooperative⁷⁰. This principle is expressed in art. 2538 C.C., which recognizes each member one vote regardless of the value of the share, therefore “one member, one vote”⁷¹. In this way, the members are given equal decision-making power in spite of the shares of capital subscribed⁷².

The Seventh Principle is therefore applied in the Italian system if considering the position of the worker member of a cooperative and the model of participatory governance, which makes the cooperative model sustainable and peculiar with respect to profit enterprises.

⁶⁸ GENCO, *Note sui principi di corporate governance e sulla riforma del diritto societario nella prospettiva delle società cooperative*, in *GCom*, 2000, 2, p. 277.

⁶⁹ GENCO, *cit.*

⁷⁰ DELL’UTRI, *Recesso individuale e potere nei gruppi*, in *GI*, 2018, 8–9, p. 2035; FICI, *La nozione di impresa sociale e le finalità della disciplina*, in *ISoc*, 2006, 3, p. 40.

⁷¹ SALAMONE, *Cooperative sociali e impresa mutualistica*, in *RVDSOC*, 2007, 2–3, p. 500, which highlights how this principle was already present in the Commercial Code of 1982, which recognized the one member one vote also called “democratic vote”.

⁷² DEPEDRI, TURRI, *cit.*, p. 67.

4. *The community cooperatives: the missing piece of the puzzle? Closing remarks*

The Seventh Principle of the Statement on the Cooperative Identity can be read at national level through the phenomenon of the so-called community cooperatives or public benefit cooperatives⁷³, whose explicit purpose is the pursuit of the general interest. They support all society, through activities aimed not only at the pursuit of the mutual purpose but also at the satisfaction of the needs of the local community to promote social and economic development⁷⁴.

Within cooperatives, it emerges “a new collective consciousness in which people choose to cooperate and share the resources available to improve the well-being of their community”⁷⁵. Community cooperatives must potentially include an entire community, i.e. all those who are potentially interested in the good provided by the cooperative. Therefore, everybody should be allowed to become member, in accordance with the “open door” principle.

Then, community cooperatives are those that meet three requirements: *i)* they are controlled by citizens (communities); *ii)* they offer or manage community goods; *iii)* they guarantee non-discriminatory access to all citizens⁷⁶.

From a regulatory point of view, the inertia of the Italian national legislator on the recognition of community cooperatives is well known. In fact, this phenomenon has found concrete expression thanks to the regions that have intervened⁷⁷. There are regional laws which are entirely devoted to the regulation of community cooperatives, while others regulate community co-

⁷³ Second MORI, *cit.*, p. 37, the application of the Seventh Principle finds legal recognition only for social and community cooperatives while for the generality of the cooperative it remains an ideal goal.

⁷⁴ MORI, *Comunità e cooperazione: l'evoluzione delle cooperative verso nuovi modelli di partecipazione democratica dei cittadini alla gestione dei servizi pubblici*, Euricse Working Papers, 2015, 77, p. 8, which highlights how the general interest of the community does not replace the traditional mutualistic purpose, but complements it.

⁷⁵ SFORZI, *Quando la cooperazione riscopre la comunità*, C. BORZAGA (ed.), *Cooperative da riscoprire. Dieci tesi controcorrente*, Donzelli Editore, 2018, p. 119.

⁷⁶ MORI, *Comunità e cooperazione*, *cit.*, p. 15.

⁷⁷ DELLA CROCE, *Cooperative di comunità: la legislazione regionale vigente e la prospettiva di una normativa generale*, in *OSSCost*, 2021, 4, pp. 101-106.

operatives within the framework of social cooperation or promote cooperative development.

The first block includes the regional laws by: Liguria⁷⁸, Abruzzo⁷⁹, Sardegna⁸⁰, Sicilia⁸¹, Toscana⁸², Umbria⁸³, Campania⁸⁴, Lazio⁸⁵, Puglia⁸⁶. The second group, for example, includes Friuli-Venezia Giulia, which, like Emilia-Romagna⁸⁷, does not have an *ad hoc* law on community cooperatives. The “Rules on social cooperation” Regional Law no. 20/2006 shows how social cooperation is closely connected to community cooperatives, because “the Region recognizes social cooperation as a form of self-management and direct participation of citizens in the solidarity processes of economic development and growth of the social heritage of the *communities* regional local areas, emancipation and support for the weaker sections of the population, the construction of civic networks and projects and interventions aimed at achieving good governance and the well-being of local *communities*” (art. 1). The term “community” is expressly referred to in the regional law on social cooperatives. In the normative act considered, the discipline of community cooperation tends to be configured as “regulation of a peculiar role assumed by a more general and formal legislation dedicated to social cooperatives”⁸⁸.

The motivation that led some regions to regulate community cooperatives within the *species* social cooperatives is inherent in the content of

⁷⁸ R.L. 7 April 2015, no. 14, “Regional actions in support of community cooperatives”.

⁷⁹ R.L. 8 October 2015, no. 25, “Discipline of Community Cooperatives”.

⁸⁰ R.L. 2 August 2018, no. 35, “General actions in support of community cooperatives”.

⁸¹ R.L. 27 December 2018, no. 25, “Rules for the promotion, support and development of community cooperatives in Sicily”.

⁸² R.L. 14 November 2019, no. 67, “Community cooperation. Amendments to the R.L. 73/2005”.

⁸³ R.L. 11 April 2019, no. 2, “Regulation of community cooperatives”.

⁸⁴ R.L. 2 March 2020, no. 1, “Provisions on community cooperatives”, amended by R.L. 24 June 2020, no. 12, “Amendments to the Regional Law 2 March 2020, n. 1 (Provisions on community cooperatives)”.

⁸⁵ R.L. 3 March 2021, no. 1, “Provisions on community cooperatives”.

⁸⁶ R.L. 20 May 2014, no. 23, “Provisions on community cooperatives”.

⁸⁷ R.L. 17 July 2014, no. 214, “Rules for the promotion and development of social cooperation”, which repeals the R.L. 4 February 1994, no. 7 “Rules for the promotion and development of social cooperation, implementation of the L. 8 November 1991, no. 381”.

⁸⁸ This approach is also found in the regional law of Emilia-Romagna, see DELLA CROCE, *cit.*, p. 108.

Law no. 381/1991⁸⁹, which recognizes the latter as an explicit purpose that of “pursuing the general interest of the community in the human promotion and social integration of citizens”⁹⁰. This purpose is implemented through “the management of social, health and educational services, including the activities indicated in article 2, paragraph 1, letters a), b), c), d), l), p) of Legislative Decree n. 112/2017 (type A cooperatives); while carrying out of various activities – agricultural, industrial, commercial or service – aimed at the employment of disadvantaged persons (type B cooperatives)”⁹¹.

Within social cooperatives, therefore, the (mutualistic) interest of the social structure is combined with the pursuit of the more general interest of the community in which they operate⁹². They are defined as “social” because they have positive effects for the society in addition to the advantages procured towards the individual members.

The social benefit produced by social cooperatives derives from externalities and promotion of social justice⁹³. For example, educational and social welfare services directly affect the people who benefit from them, but they also have positive external effects on the well-being of society, because they increase productivity and promote social justice. Even the employment of disadvantaged people produces externalities because it promotes the person’s professional and personal development within society as well as bringing satisfaction to the person who has an occupation.

In this perspective, social cooperatives can be considered the destination, which led to the transition from the “traditional” model of cooperation to that of “public benefit” or “community”⁹⁴. The question is whether it is really necessary to have a specific law for community cooperatives or it is suf-

⁸⁹ FERLUGA, *Il lavoro nelle cooperative sociali*, in *VTDL*, 2019, n. straordinario, p. 1711, which recognizes the form of social cooperation as a *species* of the *genus* cooperatives. BANO, *Il lavoro senza mercato*, Il Mulino, 2001, p. 199 ff.

⁹⁰ MORI, *Comunità e cooperazione*, *cit.*, p. 9, which states that social cooperatives represent one of the most important examples in the world of public benefit cooperatives. The law on social cooperatives recognized, for the first time in Italian legislation, that the purpose of a cooperative can be the promotion of the interests of community.

⁹¹ See extensively SARTORI, *Le cooperative sociali. Profili giuslavoristici*, in *VTDL*, 2017, 2, p. 408 ff.

⁹² CAPO, *cit.*

⁹³ MORI, *Comunità e cooperazione*, *cit.*

⁹⁴ CAPO, *cit.*

ficient to use the existing legal forms⁹⁵. This is also because the term “community” is often part of the mission of cooperatives, regardless of their status.

On the opposite, however, there is an element of distinction between social cooperatives and community cooperatives: in the first case the cooperative shows “interest in” the community; in the second it is “constituted by” the community⁹⁶. This means that for cooperatives with a social function, the prevailing objective is the well-being of the members and the (indirect) product of the activity is the well-being of the community, while for community cooperatives the primary objective is to respond to the needs of the community.

Although there is no specific reference to “community cooperatives” in national provisions, the relevance of the phenomenon has prompted the national legislator to legislative proposal: no. 28/2018 entitled “Discipline of community cooperatives”.

The proposal is structured in only three articles: art. 1, which defines the community cooperatives; art. 2, which gives the regions the task of adopting the relevant implementing rules and establishing the regional register of community cooperatives and their consortia; art. 3, which recognizes economic support measures.

The proposal, therefore, delegates the regions to provide for the detailed discipline, bearing in mind that the regions already in possession of legislation on the subject will only have to comply or adapt to the legislation, while the rest will have to fully transpose the national discipline.

Another regulatory intervention that followed is the draft law no. 1650/2019, whose *ratio* is to assimilate community cooperatives to social enterprise, introducing community social enterprise into the legal system. The proposed interventions, however, to date have not yet become law, even if they show a first openness to this reality on the part of the national legislator.

In light of the above, community cooperatives are an expression of the Seventh Principle of the Statement on the Co-operative Identity, because they contribute to the sustainable development of the community in which they operate and allow the realization of a just and inclusive Green Transition.

⁹⁵ See SFORZI, BORZAGA C., *Imprese di comunità e riconoscimento giuridico: è davvero necessaria una nuova legge?*, in *ISoc*, 2019, 13, p. 17.

⁹⁶ DEPEDRI, TURRI, *cit.*, p. 67.

The puzzle of “sustainable” cooperation is then composed of cooperation, social cooperation, and community cooperation, which restore the sense of working together with truly participatory legal instruments.

Abstract

The paper analyses cooperative work for sustainable development as a tool for a just and inclusive Green Transition, deepening the relevance of the Seventh Principle of the Statement on the Cooperative Identity adopted by the ICA in 1995, according to which cooperatives, through policies approved by members, work for the sustainable development of the community. This principle is realized in the Italian system if we consider the participatory, inclusive and democratic governance adopted by the cooperative model and directly involving the member (also) worker. In this regard, community or public benefit cooperatives, which aim to pursue the general interest, fully realize this principle, because they contribute to the sustainable development of the community in which they operate thanks to the work of the members-workers, allowing the realization of a fair and inclusive Green Transition. Cooperatives therefore play a fundamental role both internationally and nationally for the economic, social and environmental sustainability of the country. In this regard, the cooperative model is opposed to the profit enterprise, because it considers as priority the needs of the person and the community.

Keywords

Green Transition, Social economy, Seventh Principle of the Statement on the Cooperative Identity, Participatory governance, Sustainable development, Cooperatives, Community.

