

Spain Legal Framework Analysis: Key Highlights

This one-pager aims to provide a brief overview of the most notable features of Spain's national cooperative legal framework, based on the work of the national legal expert.

The approval of the **Spanish Constitution of 1978** entailed an explicit recognition of the duty of public authorities to promote cooperatives and a new organisation of the State that affected cooperatives, in particular the jurisdiction over their regulation, which passed from the State to the Autonomous Communities. As a result, each Autonomous Community in Spain has its own cooperative laws.

In Spain, most cooperative laws make explicit, and in any case implicit, reference to the ICA Principles, but not all of them give it the same relevance. For example, the Valencian and Catalan Laws recognise regulatory and interpretive value in the cooperative principles, while in the Basque law that regulatory value is weakened because the principles are subordinated to what the Law states.

Cooperative Friendliness: The national expert concludes that legislation in Spain is, overall, fairly friendly to cooperatives. Examples of best practices include, but are not limited to, the constitutional recognition and mandate for promoting cooperatives, the existence of specific tax and accounting rules for cooperatives and public procurement measures. However, barriers to cooperatives in Spain are also highlighted and these include, among others, measures that hinder the incorporation of cooperatives in some economic sectors, exclusion of cooperatives from tax legislation applicable to non-profit entities, and the plurality of cooperative laws in Spain.

Key recommendations for improvement: The national expert supports a simplification of the legal framework for cooperatives, in addition to harmonisation of its basic characteristics, at both the Spanish and European levels and on the basis of the cooperative principles of the ICA. Also recommended is better developed associationism with greater autonomy, competencies and integration at the state level, which would contribute to improving oversight and promotion of cooperatives. In response to the current plurality of cooperatives in Spain, the national expert supports a basic and common legal framework for cooperatives, which must have its own legal model for its incorporation and should not resort to other legal models or contractual instruments to organise cooperative activities.

Conclusions: The national expert believes that if the cooperative ceases to be used in Spain, it is because its legal regime has become very extensive and complicated and because it is not sufficiently understood. Therefore, everything that contributes to simplifying its regime and disseminating the model will be good for its development.