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& ΜΕΛΕΤΩΝ (ΙΣΕΜ)

Title of abstract: Cooperative law and cooperative principles. Will they meet at last? If so, how?

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Abstract:

More and more regional and national legislators make cooperative principles part of their law. The paper tries to find answers to the questions whether and how legislators should do this.

In its introduction the paper limits its scope in two respects. Out of the numerous elements of cooperative law it only deals with the organizational laws on cooperatives and only with those which relate somehow to the cooperative principles as enshrined in the 1995 ICA Statement on the cooperative identity or in the 2002 ILO Promotion of Cooperatives Recommendation No. 193 or which relate to either one of these texts, but add autonomously set principles.

The discussion of the first question considers two aspects of the ICA Statement: its reflection of the self-identification of cooperatives and its legal ramifications, internal to the ICA and beyond, especially as far as it has become part of international legal instruments.

The discussion of the second question addresses two issues: To who's cooperative principles do legislators refer to when they "make [them] part of their law" and, secondly, how should they translate the cooperative principles into legal rules? The first issue is relevant because the authorship of the cooperative principles (the ICA, the ILO and/or the legislator itself) influences their interpretation, which is a necessary first step for their translation into legal rules. Furthermore, to what extent the interpretation of heteronomous principles is relevant for the legislator will depend on the relationship between the ICA Statement, respectively the ILO R. 193, and the regional or national laws in question. As concerns the second issue, the paper suggests a multi-step approach, a translation of the cooperative principles into cooperative legal principles, of those into existing legal principles, where possible, and finally the derivation of legal rules from these principles, avoiding as far as possible and for the sake of sustainable development to pass uniform laws (in the case of intra-national harmonization or regional laws).

Keywords: cooperative principles, national law, cooperative legal principles