

# Chapter 20

## Reflections on the Accounting Framework of Public Interest Cooperatives in Portugal

**Ana Maria Bandeira**

*Polytechnic Institute of Porto, Portugal*

**Deolinda Meira**

*Polytechnic Institute of Porto, Portugal*

**Brízida Tomé**

*Polytechnic Institute of Porto, Portugal*

### ABSTRACT

*The purpose of this chapter is to determine whether the current accounting standards of public interest cooperatives in Portugal are adequate, taking into account the social object, particularly the pursuit of furthering public interest and the nature of the subjects that integrate it. Thus, through the methodology of content analysis, the authors analyze the various policies and accounting legislation as well as the literature available on this topic. Through the classification and analysis of the main characteristics of these cooperatives, the authors conclude that they should be subject to the Public Administration's accounting regime in order to respond to the needs of different users of information.*

### INTRODUCTION

Given the ambiguities that arise regarding the legal framework of public interest cooperatives in Portugal, also known as *Régies Cooperatives*, this study intends to reflect on the adequacy of the current accounting regime applied to them.

This study focuses on the *régies cooperatives*, or cooperatives considered to be mixed or of public interest, characterized by the majority participation of the State or other legal persons governed by public law, with immediate impacts both in the formation of their social capital and in their management. Given their cooperative nature, these entities are part of the social economy sector (Meira, 2015).

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The authors start by presenting the framework of this legal figure through comparison with the common cooperative, establishing an analysis of the specificities leading to the adoption of special solutions.

Article 85, paragraph 1 of the Constitution of the Portuguese Republic (CPR) delineates the encouragement and support for the creation and activity of cooperatives, stating that the State stimulates and supports the creation and activity of cooperatives, and paragraph 2 guarantees that the law *will define the tax and financial benefits of cooperatives as well as more favorable conditions for obtaining credit and technical assistance*. The stimulus will mainly come from measures of a legislative nature that give rise to an interest in the exercise of the cooperative activity, whereas the support will essentially come from measures of an administrative nature intended, in particular, to facilitate this same exercise.

Thus, the State will determine the legislative framework that will regulate the function of these entities. In particular, the law should define the fiscal and financial benefits as well as the establishment of privileged conditions for access to credit and technical assistance, among others (Meira, 2011).

Considering that cooperatives are the most robust arm of the social economy, law No. 30/2013 of May 8, the Law on the Bases of Social Economy (LBES - acronym in Portuguese for *Lei de Bases da Economia Social*), should also be mentioned, which establishes that the State, in its relationship with these entities, should stimulate and support their creation and activity [al. a) of Art. 9 of the LBES] *to ensure the principle of cooperation, particularly considering the planning and development of public social systems; the material, human, and economic installed capacity of the social economy entities; and their levels of technical competence and the general integration into the economic and social structure of the country* [al. b) of art. 9 of the LBES]. Finally, the State *must ensure the necessary stability of the relations established with the social economy entities* [al. d) of art. 9 of the LBES].

In the same regard, Art. 10, No. 1 of the LBES provides for the *promotion of the social economy by the public authorities*, based on the fact that it is considered *of general interest to stimulate, enhance and develop the social economy, as well as organizations that represent it* (Meira, 2011).

In short, the State should stimulate the social economy sector but not protect it.

However, in the particular case of public interest cooperatives, the State appears in a *sui generis* position, given its membership of the cooperative.

There are two main objectives in this study:

First, this study seeks to understand the singularities of the legal discipline of the *régies cooperatives*, namely the reasons that underlie its constitutional framework in the cooperative and social sector.

Secondly, in view of the object of these cooperatives, which is translated into the pursuit of public interest purposes, and also of the legal nature of its subjects who occupy a majority position in it (the State or other collective legal parties governed by public law), is it not reasonable to argue that these entities should follow the accounting regime applicable to the public sector?

To achieve these objectives it is necessary a brief and succinct course by the legal discipline applicable to the *régies cooperatives*. Then, the specificities of their social object, as well as the legal nature of the subjects that integrate it, will be outlined.

Finally, authors will reflect on the need for change within the accounting regime used by these cooperatives, which, given their specific characteristics, lead to conclude that they should use the normative of public institutions, the Accounting Standardization System for Public Administrations (SNC-AP - acronym in Portuguese for *Sistema Nacional de Contabilidade das Administrações Públicas*), which will come into force on January 1, 2018.

The main conclusions will be presented at the end.

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