Guest Editorial

Special Issue on Cooperatives

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While in academia and legal practice investor-owned firms are at the centre of attention, the cooperative as an economic and legal construct to organize producers, consumers or workers has been treated as a more ‘exotic’ business form. Its development around the world is quite unique for its historical roots, and the ways that different legislators have addressed the phenomenon of cooperatives are quite different.¹ Yet, cooperatives developed over a period of one and a half century steadily and have become the dominant business organizational format to organize business activities notably in the field of agriculture and – to a lesser extent – in the field of banking. Other types of cooperatives like consumer, and retail cooperatives and worker cooperatives evolved as well. The different types of cooperatives in practice put legislators before the challenging situation as to how to regulate cooperatives, and this forces them to pinpoint their nature and legal character.² The cooperative is both an economic³ and sociological concept; the legal definition of the cooperative must take this into account. In between, the legal definition of the cooperative has to be set. According to Dunn,⁴ all cooperatives are characterized by three principles: the user-owned principle, the user-benefit principle and the user-control principle. Yet, some policy-makers and legislators emphasize the economic nature of the cooperative, while others focus on the social identity and dimension of the cooperative.⁵

All this being said, through decades the cooperative has provided for economic, sociological and legal answers to societal questions and is here to stay. In the words of

Hansmann:⁶ “There is (...) nothing quaint, old fashioned, or local about agricultural producer cooperatives. They find their most extensive development in those economies that have the most sophisticated and competitive agricultural sectors, and the cooperatives themselves are often large, complex and dynamic firms.” The question, however, is whether cooperatives are able to contribute to the enhancement of producers’, consumers’ and workers’ joint activities in less developed economies and regions. This is the primary focus of the International Cooperative Alliance, the International Labour Organization and the United Nations in the 2012 Year of the Cooperative and – to some extent – of the European Union and several national legislators.⁷

The contributions in this Special Issue of *The Dovenschmidt Quarterly* all reflect on the prospects of the future advancement and development of cooperatives. The question is not to cooperate or not to cooperate but *how* to cooperate and whether the cooperative as an economic and legal construct is helpful in this respect. Cordially, I would like to express my gratitude to my co-contributors to this special issue: Antonio Fici; Jos Bijman, Perttu Pyykkönen and Petri Ollila; and Constantine Iliopoulos for delivering their excellent articles papers. I thank the Editorial Board of *The Dovenschmidt Quarterly* for the kind invitation to guest-edit this Special Issue on Cooperatives.

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Bibliography

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- 1. Cracogna 2013, providing a global comparative overview of cooperative law.
- 2. Van der Sangen, this issue (analyzing the business organizational law developments in law-making with respect to cooperatives in view of the harmonization of EU company law and identifying structure as well as rules driven patterns of path dependency).
- 3. This is the primary focus of Bijman, Pyykkönen & Ollila, this issue (analyzing the economic and organizational drivers for cross-border activities and cross-border membership) as well as Iliopoulos, this issue (analyzing the necessary changes in the attribution of ownership rights and the effects on the governance in case cooperatives partially depart from self-financing while attracting risk capital for investments).
- 4. Dunn 1988, pp. 83-89.
- 5. Fici, this issue (analyzing the legal nature of the cooperative and its distinct legal features vis-à-vis investor-owned firms).
- J. Bijman, P. Pyykkönen & P. Ollila, *Transnationalization of Agricultural Cooperatives in Europe*, this issue.
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- 6. Hansmann, 1996, p. 122.
- 7. Fici, this issue, referring to case law of the Court of Justice of the European Union and to legislation on Cooperatives in Italy.

G. van der Sangen, *How to Regulate Cooperatives in the EU? A Theory of Path Dependency*, this issue.