Comparison between Spanish and Italian Regulations on Cooperative Firms: Traditional or Hybrid Model?

IDANA SALAZAR TERREROS*, GIULIO MALORGIO**, CARMEN GALVE GÓRRIZ***

Jel classification: Q130, L220

Abstract

This paper analyses the differences between the regulations on agrarian cooperatives set up in Spain and Italy. Some of these aspects are related to the solutions proposed and used by cooperatives belonging to the hybrid model to solve problems faced by the cooperatives belonging to the traditional model. The main differences in the calculation of returns and reserves and in the fiscal aspects involved have also been analysed. Although in both countries there exist regulations referring to the hybrid model, the lack of conditions required for their implementation and the absence of professional management makes cooperatives of both countries fall within the traditional model. Several differences have been found in terms of the calculation of returns and reserves and of the fiscal aspects involved.

Key words: *agrifood cooperatives, management, Italy, Spain, organisation model.*

Résumé

Ce document analyse les différences entre la loi espagnole et la loi italienne sur les coopératives agricoles. Certaines différences relèvent aux solutions que les coopératives hybrides proposent et mettent en œuvre afin de résoudre les problèmes auxquels les coopératives traditionnelles font face. Même les différences principales en ce qui concerne aussi bien le calcul de la rentabilité économique et des réserves que les aspects fiscaux impliqués ont été investiguées. En réalité, aussi bien les coopératives espagnoles que les coopératives italiennes appartiennent au modèle traditionnel, même si dans les deux pays il existe un règlement concernant des aspects du modèle hybride. L'ennui c'est qu'il y a le manque de conditions requises et de staff professionnel adéquat pour la mise sur pied du modèle hybride. Bon nombre de différences ont été trouvées en matière de calcul de la rentabilité économique et des réserves et des aspects fiscaux impliqués.

Mots-clés: cooperatives agroalimentaires, gestion, Italie, Espagne, model d'organisation.

1. Introduction

There is no doubt about the important role that agrarian cooperatives play in the agricultural markets. Over the years, these cooperatives have changed some of the features of the traditional model or have redefined the aim for which they were traditionally created, giving rise to the new models of cooperatives where participation, capitalisation, management, governance and market orientation have been adapted to comply with the new economic conditions of the food system. Although these new models help to overcome some of the problems of the traditional model and allow obtaining rents at different levels, the traditional model remains the most used in European countries.

Regardless of the country where they are located, cooperatives belonging to the traditional model share values and traditional principles which give them a common behaviour pattern. In addition to these common values and principles, cooperatives as any other organization should respect and abide by the standards set by the law of each country.

Any difference in the legal framework between two countries can affect many aspects such as management and financing decisions. These decisions are influenced by the characteristics of the model to which they belong, but it is also necessary to know the influence of the legal aspects and possible differences between countries, because these variations in the legal frame could explain the differences between cooperatives belonging to the same model.

Therefore, the objective of this paper is to analyse the differences in the regulations of two countries, Spain and Italy, and the influence of these differences on financial and management aspects. In order to achieve this objective, the main laws controlling different aspects of cooperatives in both countries have been analyzed. The study on agricultural cooperatives has been chosen given the social and economic importance of this type of cooperative in Spain and Italy. The analysis is not only important because it explains how the differences between cooperatives belonging to the traditional model can be based on regulation aspects, but also because it sets up a framework which can be taken into account in future studies of international comparisons and reveals some organizational and juridical-economic aspects to be considered for the development and efficiency of cooperation.

This paper is organized as follows. Section 2 contains a description of the three types of cooperation. In Section 3 we describe the importance of agricultural cooperatives in Spain and Italy. Section 4 presents the comparison of regulations for cooperatives in both countries. Finally, in section 5, the main conclusions derived from the comparison are shown.

2. From the traditional cooperative model to the collective entrepreneurship

The cooperative is defined as an autonomous association of persons voluntarily united to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise (International Co-operative Alliance). Although this has traditionally been a generally

* Department of Economy and Business, University of La Rioja.
** Department of Agricultural Economics and Engineering, University of Bologna.
*** Department of Economy and Business Management, University of Zaragoza.

accepted definition, the appearance of organizational innovations, which modify the characteristics of the traditional cooperative principles, makes it very difficult to establish a single definition of cooperative. Over recent years, a growing body of economic literature has described and analysed these organizational innovations introduced in agrarian cooperatives. This literature is in agreement with the theory that there is not a single homogeneous cooperative structure; in fact the most recent literature identifies three forms of cooperation: traditional, hybrid, and collective entrepreneurship.

The traditional model is characterized by using the traditional cooperative principles such as democratic control, distribution of the surplus to the members in proportion to their volume of activity in the cooperative and the principle of open doors. Moreover, member's shares are not transferable; however, when they leave the cooperative, they recover the amount of capital they contributed. The traditional model is made up of user-controlled, user-owned and user-benefited cooperatives, where the main objective is to obtain individual benefits through a joint action (Cook *et al.* 2008).

These cooperatives tackle several problems arising from the characteristics of their property rights. Some of these problems have been identified by previous authors such as Jensen and Meckling (1979), Vitaliano (1983) or Hansmann (1988), whereas Cook (1995) describes all the problems cooperatives face, as summarised below.

The horizon problem. This problem stems from the restrictions on transferability of participations and the reimbursement of only the contributions to social capital in the case of members who leave the cooperative. This results in the preference of short-term investments due to the fact that the members can only receive benefits from their investments during the horizon of their ownership (Nilsson, 2001; Dow and Putterman, 2000; Vitaliano, 1983).

The common ownership problem. This problem represents the low incentive of current members to invest in the cooperative due to the lack of a competitive market which does not establish proportionality between the amount of capital contributed by the new partners and the amount of benefit they can obtain from the cooperative.

The portfolio problem. The limitation of transferability leads to members making non-Pareto optimal decisions because there is no possibility of satisfying individual preferences in terms of risk (Jensen and Meckling, 1979). This problem is especially important in the cooperative where transferability is conditioned by the acquisition of the condition of partner conferred by the Governing Council and is subject to the limitations imposed by the by-laws.

The control problem and the influence problem. The definition of these problems is the same as in the non cooperative firm[1]. However, costs incurred by these problems may be higher in the cooperative because of the divergence of interests between the principals; the horizon problem; the voting system used or the restrictions on the transferability.

Despite these problems, the cooperative is a form of government of transactions which unites a large number of farmers. These farmers find several advantages when they decide to join a cooperative, i.e. savings on transaction costs and access to economies of scale. Farmers jointly own the cooperative and, with this horizontal association, they have access to economies of scale in processing and marketing activities which they could not obtain on their own (Valentinov, 2007; Sexton and Iskow, 1988). Therefore, it is well known that cooperatives achieve coordination of the activities in the value chain which decreases transaction costs classified by Williamson (1985) as *ex ante* and *ex post* transaction costs (Valentinov, 2007; Hendrikse and Oijen, 2004; Olilla and Nilsson, 1997; Sexton and Iskow, 1993; Shaffer, 1997). When a partner joins a cooperative, he/she has the commitment to deliver the product obtained from the farm and the cooperative saves the *ex ante* cost of locating a trading partner, collecting information, negotiating and drafting the agreement. But the cooperative also economizes on the *ex post* transaction cost of monitoring and the on the cost of ensuring that the other party fulfils the obligations established in the agreement. The defensive perspective, as a characteristic of the traditional model, denotes that the main objective of the traditional model is to protect the economic position of the patrons in the upstream and downstream transactions to avoid opportunist behaviour (Cook et *al.*, 2008; Cook and Plunkett, 2006). This function is very important to the farmers as the concentration of offer within the cooperative protects its members from a disadvantageous situation in comparison with their upstream and downstream trading agents (Hansmann, 1988). Therefore, the cooperative organizational form helps to mitigate the inherent risk in agricultural markets through the internalisation of transactions of an uncertain nature and therefore offers members a degree of assured revenue (Valentinov, 2007).

Because of this defensive origin, the traditional cooperative is also known as the defensive model. These advantages are consistent with the original purpose of the traditional model which is to dissipate monopoly rents[2] that permits maximisation of economic rents at the member patron level[3]. This original purpose of the traditional model and problems it faces that affect the incentive to invest or the efficiency obtained once the investments are made, are the arguments used in the literature to explain production market orientation of this model. Cooperatives with this orientation have the following tendencies: avoidance of innovation and risky activities, poor strategic planning and absence of professional management (Kyriakopoulos *et al.*, 2004; Royer, 1995; Staaz, 1984; Vitaliano, 1983).

Over the years, some of these traditional cooperatives have invested in processing and distribution activities and intangible assets, which have changed their perspective to an offensive model to adapt it to new market orientations. These investments increase the product added value and allow the cooperative to achieve market orientation, i.e. competitor and customer orientation, and inter-functional coordination (Narver and Slater, 1990).

[1] The control problem stems from the relationship with Agents, in which the possible opportunistic behaviour of Agent could mean that their actions must be controlled to ensure that said actions are compatible with the objectives of the Principal (Jensen and Meckling, 1976). The influence activities in the decisions due to individual interests present two clear consequences: time taken in the execution of influence activities and, in cases where influence activities have an effect, decisions taken will be inefficient and result in residual losses (Milgrom and Roberts, 1992).

[2] The extraction of monopoly rents in the upstream and downstream transactions due to opportunistic behaviour can be dissipated as cooperative members participate in both sides of transaction.

[3] These transaction cost savings are transferred to members by increasing the payment of their products. This transference allows members to maximize the returns at farm level.

Cooperatives with this market orientation are consistent with a more in-depth strategic planning and professional management. This orientation requires investments in transformation and commercialisation activities which in the traditional cooperative are difficult to make due to the problems and aims of this model. In order to increase the incentive to invest and the possibilities of financing the cooperative, these cooperatives introduced several organizational innovations[4] and have formed the so called hybrid model. Most of the cooperatives belonging to the hybrid model were defensive in origin and with these innovations facilitate investments in order to improve their position with a market orientation in complex and competitive environments. Thus, the original purpose of these cooperatives has changed from the dissipation of monopoly rent (defensive origin) to the generation of the Ricardian rent owing to competitive pressure (offensive behaviour). Chaddad and Cook (2004) describe these new organization models, called hybrids, which include innovations such as acquisition and redemption of equity proportional to contributed activity, voting rights proportional to the volume of activity in the cooperative, tradable shares connected with delivery rights, or the acquisition of equity through the participation of capitalist partners[5].

Over recent years, a new agrarian cooperative model has emerged, known as collective entrepreneurship. This model uses most of the organizational innovations of the hybrid model, but the main difference with respect to the hybrid model is based on their original purpose. This model is characterized by having its exclusively offensive origin and the willingness to take advantage of new or entrepreneurial opportunities (Cook et *al.*, 2008; Cook and Punkett, 2006). Thus, the collective entrepreneurship model is primarily focused on the generation of entrepreneurial rents, although it can also generate the Ricardian rents.

3. Agri-food cooperatives in Italy and Spain

The traditional cooperative is a form of governance of transactions of great social significance in Europe, not only because it contributes to social wealth, but also for the number of jobs created. Table 1 shows general socio-economic data on the agrifood cooperatives in Spain and Italy (Spain: 2007 data; Italy: 2006 data). These figures show that, in absolute terms, in Spain the total number of cooperatives is lower than in Italy, but in percentage there are more farmers who decide to join a cooperative than that in Italy. However, the total turnover and the number of employees in Italian agrarian cooperatives are greater than the total of its Spanish counterpart. However, if we analyse these data per member and per cooperative, Spanish cooperatives have more partners and employees per cooperative than their Italian counterparts; whereas Italian cooperatives obtain a greater turnover per member and per cooperative. Therefore, as the turnover of the cooperative is directly related to the size of the farm, we can infer that Spanish cooperatives unite a greater number of farmers who own smaller-sized farms.

Table 1 – *General Data on Spanish and Italian agrifood cooperatives (2007 and 2006 respectively).*

	Spain (2007)	Italy (2006)
Number of Cooperatives	3996	3479
Number of members (including membership in several cooperatives) (thousand)	1160.34	666.6
Number of employees (thousand)	95.89	90.77
Turnover (billion €)	17.65	30.33
Turnover/member (thousand €)	15.21	50.00
Turnover/cooperative (million €)	4.42	8.28
Members/cooperative	290	151
Employees/cooperative	24	16

Source: Cooperativas Agro-alimentarias (Spain) and Osservatorio sulla Cooperazione agricola italiana (Italy)

These figures, classified by the main sectors of activity (see Table 2), show that in Spain the fruit and vegetable and the olive oil sectors have the greatest number of cooperatives and the highest turnover. In Italy, the fruit and vegetable sector has also the greatest number of cooperatives followed by milk and dairy sector which generates higher turnover than the fruit and vegetable sector. In both countries, the number of cooperatives in the wine sector is very similar; however, the turnover in this sector in Italy is almost three times higher than in Spain.

Table 2 – *General data on Spanish[6] and Italian cooperatives by mani agri-food sectors (2007 and 2006 respectively).*

Sector	Number of cooperatives		Turnover (million €)	
	Spain (2007)	Italy (2006)	Spain (2007)	Italy (2006)
Fruits and Vegetables	949	1151	4011	8032
Olive Oil	827	341	2105	220
Wine	573	582	1164	3164
Milk & Dairy Products	196	975	431	6734

Source: Cooperativas Agro-alimentarias (Spain) and Osservatorio sulla Cooperazione agricola italiana (Italy)

The social and economic importance of the agri-food cooperatives in Spain and Italy shown in the previous figures demonstrates that a lot of farmers, workers and other agents involved in the cooperative trust in a model shaped by the principles of the traditional model. In spite of the common characteristics that Spanish and Italian cooperatives share, the law which regulates the functioning of the cooperatives in each country could influence management and financial activities. These differences in the law and their influence on these aspects are described in the following points.

4. Main elements of comparison

This section describes the main differences between Spanish and Italian regulations. The compared and analyzed aspects are

4 These organizational innovations are based on changes in the characteristics of the property rights in the traditional model such as the voting system, acquisition and redemption of equity, allocation of surplus, or transferability of participations.

5 The acquisition and redemption of equity proportional to volume of activity is based on an equity management technique called Base Capital Plan. This technique is used to calculate and maintain the individual contributions to capital in proportion to the volume of activity of each member long term. Cooperatives which include this innovation are named Proportional Investment Cooperatives.
Share transferability provides appreciation and liquidation through a valuation in a secondary market that are connected with delivery rights (kilograms, cattle, etc.) that are tradable. The success of this innovation depends on the competitiveness and the regulations governing the delivery rights market. Cooperatives whose shares are tradable are known as New Generation Cooperatives.
Participation of capitalist partners increases possibilities for the acquisition of equity. These partners receive a dividend proportional to the capital invested. These cooperatives are known as Investor Share Cooperatives.
The democratic control based on the principle "one-member, one-vote" is replaced with a voting system which takes into account the volume of the members' activity of. All cooperatives belonging to this hybrid model do not apply the proportional system.

6 These figures include information referring to Cooperativas Agro-alimentarias that unites over 70% of the total number of Spanish cooperatives.

relevant to the finance and management of the cooperative. To be more specific, these aspects are the social capital, the possible financing of the cooperative activity by capitalist partners, the voting system adopted, the returns calculation and the fiscal advantages accessible to the cooperatives.

Net Worth

One feature of the traditional model is the maintenance of the principle of the *open doors*. This principle ensures membership, regardless of race, creed, gender, political persuasion and social status, to all those able to use its services and willing to accept the membership responsibilities. Although this principle guarantees membership, this participation is not free and new partners joining the cooperative have to make some financial contributions to the social capital in order to finance the cooperative activity.

These contributions to the social capital are referred to as participation by the Spanish law, and as shares by the Italian law, as in non cooperative firms. The Italian legislation establishes the nominal value of shares which has to be less than five hundred euros and in excess of twenty five euros, and it also establishes the maximum amount of capital contributed by each partner that can not exceed one hundred thousand euros[7]. If the number of partners in the cooperative is more than five hundred, the maximum amount of capital per partner can be increased by two per cent of the cooperative social capital (Art. 2525 of Civil Code). In Spain, social capital is made up of participations with no nominal value and the law states that the cooperative by-laws have to indicate how to credit the participation of each partner and the minimum social capital of the cooperative (art 45.2 and 45.3 of Law 27/1999). The accreditation of the participation and any possible variation in the amount of capital contributed to the cooperative are usually noted down in the Nominative Register.

As the amount of capital must be redeemed when the partner leaves the cooperative, the Italian law establishes the maximum limit of capital which can be contributed by each partner. This is of prime importance as it rules out financial dependence on one individual member and avoids problems of solvency. Regardless of the terms used for contribution to capital, there is no trading market for the participations or shares in either country. Although the main purpose of participating in the cooperative is to maximize the income gained from the products delivered to the cooperative, and not to profit form the sale of shares, the absence of a competitive market in these countries increases the costs generated by the horizon and portfolio problem (Holmes *et al.*, 2001; Cook and Iliopoulos, 1999).

When the amount of capital contributed to the cooperative is insufficient to finance its activities, it may be necessary to increase the social capital. Existing partners are not willing to increase the amount of capital contributed due to the free rider, horizon and portfolio problems and this lack of incentive can generate financial constraints (Chaddad *et al.*, 2005). In order to avoid these constraints, the regulations have provided for two possibilities: capitalist partner participation and increased capital with returns.

In both countries, the regulation for capitalist partners is very similar[8]. The main difference between the two regulations is that the Spanish law limits the maximum capital contributed by this type of partner to 45% of the total social capital (Art. 14 of Law 27/1999). This is an important aspect as it discourages economic dependence on capitalist partners. Although the participation of the capitalist partner may solve financial problems, it could also increase social heterogeneity and conflicts of interest between partners. In fact, the individual objectives of each partner are in direct opposition because the objective of the member patrons is to increase the price of the products supplied (in accordance with the defensive model), whilst the capitalist partner's interest is maximizing the value of returns and dividends paid. For this reason, capitalist partners are unusual in both countries.

A method of achieving compatibility between these two objectives, is to recognize the right to share returns of both capitalist and ordinary partners. For ordinary partners, this right is recognized by the prevalent mutuality of Italian cooperatives with a rate which cannot be higher than the interest paid for postal title plus 2.5 points (Art. 2524 of Civil Code). In Spain, the General Assembly establishes this rate which cannot be higher than the legal interest plus 6 points (Art. 48.2 of 27/1999 Law of Cooperatives). However, although both Italian and Spanish law recognize this right, agricultural cooperatives rarely distribute dividends from the provided capital and this amount is usually included in the payments for received products and therefore the cooperative obtains a minimal, almost equal to zero, return[9]. This behaviour means that the amount of reserves generated and tax paid is insignificant, and there is also an insufficient margin of returns to remunerate capitalist partners. As for the dividend obtained by the capitalist partner, the Italian law dictates that these partners can be remunerated by maximum 2 points more than those established for the ordinary members. In Spain, this remuneration has to be approved by the General Assembly (Art. 2524 of Civil Code and Art. 14 Law 27/1999).

Another possibility to increment the amount of capital is to increase the statutory capital contributed by existing partners, by using the obtained returns (Art. 3 of Civil Code and Art. 58 Law 27/1999). This is an interesting possibility because revaluation of members' capital diminishes the financial constraints without increasing the heterogeneity and number of members.

Furthermore, Italian and Spanish laws permit cooperatives to enter the financial market by the issue of bonds and also to participate in commercial companies (Art. 3 of Civil Code and Art. 24 Law 27/1999). These possibilities allow ordinary members to participate in a less defensive, and more direct and responsible manner. This could be the first step in developing the partnership between the ordinary members and the cooperative, a step which takes into account not only the contributed social capital but also the participation in all activities, such as the ones performed within the cooperative and funded by commercial companies.

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[7] This limit is not applied in cases of non monetary contributions or non individual partners' contributions to capital.

[8] They both establish the maximum number of votes which cannot exceed 30% or one third of the total present or representative votes in the General Assembly in Spain and Italy respectively, with a maximum of five votes per capitalist partner (Art. 14 of Law 27/1999 and 2542 Civil Code).

[9] We have to take into account that in traditional cooperatives there is no professional management and it is up to partners to decide for their products' payments. For this reason, the obtained return is almost always equal to zero.

Voting system

A voting system being proportional to the activity is another instrument that could help to resolve or reduce some managerial constraints and costs of the traditional model. The ownership of any asset provides the owner with two fundamental rights, the residual control and the residual claim (Milgrom and Roberts, 1992). Traditionally, the residual control has been exercised in cooperatives by using the democratic principle of «one man, one vote», which distinguishes it from other organizations.

The implementation of a democratic voting system does not give rise to conflicts of interest if all partners are of the same age and have the same interests (exploitation size, horizon, etc.). If there is heterogeneity in preferences, control through a democratic voting system can increase costs as a result of problems caused by vaguely defined property rights, i.e. the heterogeneity in the members' preferences can affect willingness to invest (Cook *et al.,* 2008; Nilsson, 2001; Dow and Putterman, 2000), and investment decisions can be blocked, thereby increasing the costs resulting from the horizon problem. The heterogeneity in the members' preferences can also increase the divergence of interests of principals, thereby increasing costs stemming from the control problem (Hansmann, 1988); and the influence costs which increase when there is a wider variety of interests among group members and when potential gains are greater (Sykuta and Cook, 2001).

Furthermore, the democratic voting system and the absence of professional management (characteristics found in the majority of traditional cooperatives) could bias the decision-making process in favour of the approval of production market orientation and could lead to time-consuming discussions (Kyriakopoulos *et al.,* 2004; Henehan and Anderson, 1994; Staaz, 1987; Vitaliano, 1983).

In order to avoid increasing costs caused by the traditional voting system, Spanish and Italian legislators have introduced the possibility of choosing a proportional voting system. Spanish law permits this type of voting system when other companies own a participation in the cooperative as in the Italian law, but it also allows the proportional voting system in the case of individual partners in certain types of cooperatives, such as the agricultural ones[10].

Although the participation of an independent company in the cooperative is unusual in Italy and Spain, both law systems allow it and they also establish the maximum number of votes per company. The number of votes must be distributed in proportion to the contributed capital or to the number of workers and maximum five votes per partner in Italy and 30% of the total votes in Spain (Art. 2538 Civil Code) are permitted.

In 1999, the last reform of the Spanish law provided for another possibility in which the proportional system can be applied in agricultural cooperatives. In these cooperatives, partners can choose whether they prefer a democratic system or a voting system in which the number of votes is proportional to the activity contributed or amount of products delivered to the cooperative. After applying the proportional voting system, no individual member can have more than five votes or 30% of total votes. This limit ensures that the cooperative will not be dominated by a minority of partners. Although it is a very interesting system, not all Spanish cooperatives have approved the proportional voting system, as its approval requires the modification of by-laws (Art. 28 of law 27/1999). This modification can only be done if two-thirds of the partners are in favour, something that is very difficult to achieve.

Calculation of Returns and Reserves

There are several aspects related to the calculation and distribution of returns in which there are marked differences between Spanish and Italian legislation. One important difference is that the Spanish legislation distinguishes three types of return: cooperative, extra-cooperative and extraordinary returns. The cooperative returns or *excedente* are principally obtained from the main activity of the cooperative[11]; the extra-cooperative returns are generally obtained from non partner transactions[12]; and any returns which are not cooperative or extra-cooperative are considered as extraordinary.

It is very difficult to separate partners' income and costs from those of non partners, as in the productive process several assets and resources of the two types of returns are shared. For this reason, the Spanish law permits cooperatives to choose how to register the cooperative and extra-cooperative returns in the ledger, i.e., in separate, or non-separate accounting. Law 27/1999 justifies this possibility when referring to "the difficulty and the costs involved in the use of separate accounting for the extra-cooperative returns". The choice of how these returns are recorded has two important implications: the amount of the returns transferred to reserves and the amount of taxes to pay in the corresponding period[13].

Spanish cooperatives have to create two obligatory reserves, The Obligatory Reserve Fund (*Fondo de Reserva Oligatorio)*[14] and The Training and Promotion Fund (*Fondo de Educación y la Promoción)*[15]. If the cooperative chooses the separate accounting system, the following funds must be assigned to: a) The Obligatory Reserve Fund*:* 20% of cooperative returns and 50% of extra-cooperative and extraordinary returns; b) The Training and Promotion Fund: 5% of cooperative returns. However, if the

[10] Service, sea and transport cooperatives can also choose the option of the proportional system.
[11] Other income which must be classified as cooperative returns are: a) Income from investments or financial participation in cooperative or non cooperative firms carrying out preparatory, additional or subordinate activities to the cooperative activity; b) Capital gains on sale of the fixed assets used in the main activity when reinvested in new fixed assets with the same activity during the following three years.
[12] Other income which must be classified as extra-cooperative is that obtained from: a) investments or financial participation in cooperative or non cooperative firms; b) capital gains on sale of fixed assets different from those considered as cooperative returns.
[13] Lejarriaga (2000) and Lejarriaga and Fernandez (2004) analyse the influence of the accounting system on the taxes paid.
[14] The function of The Obligatory Reserve Fund is to contribute to the consolidation, development, and guarantee of the cooperative and cannot be distributed (Art. 55 of law 27/1999). This reserve cannot be distributed and it is equivalent to the legal reserve of non cooperative firms.
[15] This reserve can not be distributed and can be used to finance all activities related to: a) training and education of workers and their partners, cooperative values and principles, corporate labour and other cooperative activities; b) the cooperativism diffusion, as well the promotion of inter-cooperative relationships; c) the professional cultural diffusion and environmental protection actions. This reserve cannot be distributed and embargoed (Art. 56 of Law 27/1999).

cooperative chooses non-separate accounting, the assignment is as follows: a) The Obligatory Reserve Fund: 20% of cooperative and extra-cooperative returns and 50% of extraordinary returns; b) The Training and Promotion Fund: 5% of cooperative and extra-cooperative returns.

According to these figures, when a cooperative chooses non-separate accounting, it transfers a lesser amount of funds to reserves, but also receives less fiscal relief; since when calculating taxes, the cooperative is able to deduct from the taxable base the total transfer to The Training and Promotion Fund and 50% of the transfer to The Obligatory Reserve Fund. Another important implication stemming from the accounting system is the possibility of obtaining fiscal advantages if the cooperative chooses the separate system. On the other hand, if the cooperative chooses the non-separate system it cannot obtain the same fiscal advantages as the protected and specially protected cooperatives (this issue is analyzed in the following point).

These two obligatory reserves also have to be transferred by Italian cooperatives, but their names, and the percentage applied, are different from those established by the Spanish law. Tables 3, 4 and 5 show main differences between the two countries. The reserve equivalent to The Obligatory Reserve Fund is called Legal Reserve as in non cooperative firms, and the equivalent to The Training and Promotion Fund is The Mutual Fund. The main differences in comparison with the Spanish regulation are that the percentage applied is always the same because Italian cooperatives obtain a single return and that the reserves are fully deductible. The Civil Code establishes the obligation to apply a percentage of the returns after taxes to The legal reserve and The Mutual Fund with the objective of the promotion and development of cooperation. To be exact, at least 30%, and 3% of the net income have to be transferred to The Legal Reserve and Mutual Fund respectively (Art. 2545 Civil Code and Decree law 63/2002). After having deducted The Legal Reserve and The Mutual Fund, from the remaining 67%, an amount has to be assigned to an Indivisible Reserve (39% for generic cooperatives and 60% for agricultural cooperatives). According to Art. 6 of the Decree law 63/2002 which regulates the tax deduction of the returns transferred to indivisible reserves, the total amount of these reserves are tax deductible.

Fiscal Regime

In 2003, the last reform of the Italian company law separated cooperatives which have prevailing mutuality (i.e. those which carry out their activity mainly for the benefit of members, customers and users of goods and services and receive from them the majority of goods and services necessary to do their business), from those that do not fulfil the conditions. Cooperatives distinguish themselves by their social commitment and enjoy greater fiscal advantages when they have prevailing mutuality. Article number 2513 of the Italian Civil Code establishes the conditions to be satisfied by cooperative in order to acquire the condition of prevalence. To be specific, agricultural cooperatives acquire the status of prevalence when the value of goods supplied by the partners represents over 50% of the total value of goods supplied to the cooperative. Cooperatives with prevailing mutuality have about a 75% tax rebate on the taxable base but cooperatives without prevailing mutuality also have fiscal advantages in comparison with non cooperative firms as they also have a 30% tax rebate of the taxable base (Art. 12 of Law 904/1977). Article 2514 of the Civil Code also stipulates the prohibitions and obligations which should be established in the by-laws of the cooperative[16].

The Spanish Law 20/1990 on taxation of cooperatives, divides cooperatives into three groups: protected cooperatives, specially protected cooperatives and other cooperatives. Fiscal advantages can be obtained for protected cooperatives and specially protected cooperatives when the accounting system used is the separated system previously described. The group of protected cooperatives is made up by those cooperatives that are consistent with the principles and provisions of the state and autonomic law and do not incur any grounds (causes) for exclusion laid down in Article 13 of the Law 20/1990[17]. The limit established for Spanish protected cooperatives is the same as that for Italian prevalence mutuality, whereas in normal circumstances, Spanish agrarian cooperatives, as opposed to Italian cooperatives, cannot purchase goods over this limit from non partners (Article 93 of the Law 27/1999). The Ministry of Labour and Social Affairs can only increase this limit in extreme circumstances where there are doubts about the economic viability of the cooperative (Article 4 of the Law 27/1999). This increase depends on a previous request by the cooperative. The fiscal advantage for this type of cooperative is obtained by applying a lower tax rate. Whilst the general tax rate is 30%, the cooperative returns for protective cooperatives stands at 20%. For extra-cooperative and extraordinaire returns, the general tax rate of 30% is applied (Art. 33 of the Law 20/1990).

Protected cooperatives receive certain tax concessions which could be even higher if the cooperative were classified as specially protected. In order to qualify for fiscal concessions, cooperatives are not permitted to carry out transactions with non partners for more than 5% of the market price obtained for their own products in each fiscal year, or 40% if established in the by-laws. Specially protected cooperatives are eligible for the same concessions but differ in the fact that they can obtain 50% tax relief

[16] The by-laws of the cooperative must prohibit the distribution of dividends of more than two and a half points in relation to the interest on the postal profitable bonds (this remuneration is established by ministerial decree); the remuneration of the financial entitlement of more than two points over the rate established for dividends; and the distribution of reserves among the members. The by-laws also have to establish the obligation to assign the equity resulting from the liquidation of the cooperative (of assets are deducted capital and dividends accrued so far) to mutuality fund for the promotion and development of cooperation.

[17] These causes include: non transference to The Training and Promotion Fund; distribution of reserves to the partners; use of the training and promotion fund for different purposes other than those prescribed by law; rewarding of members' shares with interest above the maximum permitted; distribution of returns in different proportion to the cooperative activity; non imputation of economic losses of exercise or of economic losses breaching the law; social capital exceeding authorized limits; non-cooperative participation in an amount exceeding 10% of the share capital, to expand to 40% when these companies carry out preparatory activities being complementary or subordinate to those of the cooperative; operations with non partners to an amount 50% more of cooperative activities undertaken; hiring employees in a number exceeding the established legal rules; gathering a number of partners inferior to that prescribed by law for more than a period of six months; the reduction of social capital in an amount lower than those set out in the by-laws, without being restored for six months; cessation of cooperative activity for two years without just cause; fulfilment of the objectives; and lack of external audit in cases laid down by legal standards.

on the amount due after the application of 20% tax rate on cooperative returns and that of 30% on the extra-cooperative and extraordinaire returns (Art. 34 of the Law 20/1990).

Thereby, the fiscal advantages for Italian and Spanish cooperatives can be obtained if the cooperatives exercise their activity in favour of their members. These limits ensure that partners will be the main beneficiaries of the cooperative activity, in spite those factors out of the control of the cooperative, such as plant pests or climatic conditions, may represent a constraint on one of the main advantages of the cooperatives, i.e. the economies of scale. In these situations, the use of concurrent sourcing, i.e. internal and external sources, can help cooperatives to achieve the minimum scale of efficiency in times of uncertainty (Parmigiani, 2007). As in any firm, the cooperative has to choose the source of goods which minimizes the total costs made up of production and transaction costs (Williamson, 1985). In these cases, the decision is made by comparing the lower production cost due to increased production with subsequent disadvantages: the increase in the transaction cost due to the market, the increase in the coordination cost derived from the increase in heterogeneity in the cooperative, and the loss of fiscal advantages. With reference to this comparison, if a Spanish cooperative obtains permission to exceed the maximum of 50% stated by the law, it signifies that the Ministry reckons that there are doubts about its economic viability, and in these circumstances tax savings may be the least important issue.

Table 3 – *Tax Calculation with Separate Accounting System in Spain.*

Return before tax	Cooperative Return CR	Extra-coop Return ER	Extraordinary Return EXR	Total Return CR+ER+EXR = TR
- Taxes				
Non protected	30%(CR+ER+EXR-50%(ORF)-TPF)			- $Taxes_{NP}$
Protected	20%(CR-50%(ORF$_{CR}$)-TPF)+30%(ER+EXR-50%(ORF$_{ER}$+ORF$_{EXR}$))			- $Taxes_{P}$
Specially Protected	50%20%(CR-50%(ORF$_{CR}$)-TPF)+30%(ER+EXR-50%(ORF$_{ER}$+ORF$_{EXR}$))			- $Taxes_{SP}$

The following reserves must be assigned using this Accounting System in Spain:
Obligatory Reserve Fund =ORF= ORF$_{CR}$ + ORF$_{ER}$ +ORF$_{EXR}$=
Training and Promotion Fund =TPF=5%(CR)=
Where:
ORF$_{CR}$=20%(CR)= assignment to Obligatory Reserve Fund from the Cooperative Returns
ORF$_{ER}$=50%(ER)= assignment to Obligatory Reserve Fund from the Extra-Cooperative Returns
ORF$_{EXT}$=50%(EXT)= assignment to Obligatory Reserve Fund from the Extraordinary Returns

Table 4 – *Tax Calculation with non Separate Accounting System in Spain.*

Return before taxes	Cooperative and Extra-coop Return (CR+ER)	Extraordinary Return EXR	Total Return (CR+ER)+EXR = TR
- Taxes	30%(CR+ER+EXR-50%(ORF$_{(CR+ER)}$+ORF$_{EXR}$)-TPF)		- Taxes

The following reserves must be assigned using this Accounting System in Spain:
Obligatory Reserve Fund = ORF= ORF$_{(CR+ER)}$+ ORF$_{EXR}$=
Training and Formation Fund = TPF = 5%(CR+ER)
Where:
(ORF$_{(CR+ER)}$)= 20%(CR+ER)= assignment to Obligatory Reserve Fund from Ordinary and Extra-Cooperative Returns
ORF$_{EXR}$ = 50%(EXR)= assignment to Obligatory Reserve Fund from the Extraordinary Returns

Table 5 – *Tax calculation in Italy.*

Return before taxes	EBT
- Taxes	
Non-Prevailing Mutuality: 33% 70% (EBT-LR-FM-IR)	-$Taxes_{NPM}$
Prevailing Mutuality: 33%25%(EBT-LR-FM-IR)	-$Taxes_{PM}$

The following reserves must be assigned in Italy
Legal Reserve=30%
Mutual Fund= 3%
Indivisible Reserve= 70% (67% for generic cooperatives)
Indivisible Reserve=80% (67% for agricultural cooperatives)

5. Conclusions

This study describes the main aspects of agrifood cooperatives and remarks the social and economic importance of traditional model in Spain and Italy. This work also makes a comparison between the laws on cooperatives existing in both countries.

In this comparison we have identified some specific differences concerning the amount of contributed capital and the number of votes for type of partner. Despite these differences, the conditions and limits imposed by the laws of both countries seek the welfare of ordinary partners by ensuring that decision-making remains in the hands of said partners (see Table 6).

Table 6 – *Comparison between Italian an Spanish regulation of cooperatives.*

Aspect	Italy	Spain
Regulation	Civil Code: Book V, Title VI	Laws 27/1999 on cooperatives and 20/1990 on taxation of cooperatives
Contribution to Social Capital	Share; Nominal value: [25-500] €; Maximum per partner: 100,000 €	Participation; Social Capital is credited as indicated in the by-laws of each cooperative
Capitalist Partner	Yes "Soci finanziatori"; Maximum capital: no limit; Maximum number of votes: one third or five votes	Yes "Socio colaborador"; Maximum capital: 45%; Maximum number of votes: 30% or five votes
Control Right (vote)	Non proportional; Individual partner: one man, one vote; Other companies as partner: proportional (max. five votes)	Optional; Individual partner*: one man, one vote or proportional (Max. five or 30% votes); Other companies as partner: proportional (max. 30% of total)
Calculation of Returns and Reserves	One single Return; Three obligatory reserves: Legal Reserve, Mutual Fund and Indivisible Reserve; Reserves are completely deductible	Three types of Returns and two obligatory reserves: Obligatory Reserve Fund and Formation Fund and Promotion Reserves are not completely deductible and the transferred percentage depends on the accounting system
Fiscal Regime	Two types: prevailing mutuality and non prevailing mutuality	Three types: protected, specially protected and non protected cooperatives

*Permitted system for agricultural, services, sea and transport cooperatives
Source: Our own elaboration

Some efforts to change or improve governance and management of cooperatives are highlighted by new laws of both countries. In order to overcome some of the problems that could arise as result of the characteristics of the traditional model, the law allows for some financial change, or an improvement in organisational efficiency through elements found in the hybrid model, such as the proportional voting system, funding received from capitalist partners, and the distribution of a little part of income to all members. Despite these efforts, the extent of these changes in these countries is limited. Two aspects which explain this lack of application of said changes are described as follows.

The first aspect is the regulation of the approval process provided for by the laws of each country. These restrictions or limitations are important because they prevent the control of the company from falling into the hands of a minority of partners, and protect the interests of ordinary members as a priority. However, this regulation could also affect the degree of application. For example, the required majority of two thirds in the implementation of the proportional voting system in Spain is very difficult to achieve due to the characteristics of the partners, i.e. small farms and part-time dedication to agriculture. The second aspect which could affect their application within the cooperative is the absence of professional management. The absence of professional management signifies that partners decide to obtain the maximum payment for their products and, therefore, there is no provision for distribution of profits to capitalist partners. The cooperative system in Italy and Spain needs more transparency related to participation of members into the cooperative activities, i.e. evident trend of products prices paid to members, services supplied to members and a clear amount of reallowance recognized to products conferred by members. In that way, the advantage deriving from the adhesion to a cooperative become manifest.

After taking the two previous aspects into consideration, we can conclude that Spanish and Italian laws include some of the elements of the hybrid model. Anyway, in practice, the aforementioned aspects imply that cooperatives actually fall within the traditional model. Although these innovations are not frequently applied, the possibility of their application exists within the law and its availability is of major importance. With relation to the third type of collaboration, i.e. the collective entrepreneurship, its existence does not currently seem to be viable in any of the two countries. This model is of defensive origin and its main purpose is to search for Entrepreneurial Rent, despite it has common ground with the hybrid model in that they both require the existence of a different business culture based on professional management which is far away from zero-profit practices.

The elimination of zero-profit practices would not only result in a greater transparency but also provide a real measure of the financial benefits which can be obtained by acquiring membership status in a cooperative, which not only depends on social capital as in non-cooperative firms but also on the cooperative activity of its members. However, the absence of this culture is also the reason explaining the orientation of this model towards production. In order to change this orientation, new methods of organization and management need to be developed. With regard to these methods, in both countries this law attempts to facilitate the participation of the cooperative in commercial companies to improve the commercialisation of products.

Another immediate consequence of zero-profit practices is the payment of less tax. This is a common subject of discussion in any country when comparing cooperatives to non cooperative firms. However, when comparing Spain and Italy important differences have been found. The amount assigned to reserves before taxes and the deduction of reserves from the taxable base is greater in Italy than in Spain, in fact over 70% of the profit before taxes is transferred to reserves and the total assignment to reserves is deductible. Furthermore, after this deduction only 20% is taxable for prevailing mutuality cooperatives. After analysing these differences, we can conclude that if we compare two cooperatives with the same return before taxes, the assignment to reserves will be greater and amount of taxes paid will be lower in Italy than in Spain.

Finally, we can say that, despite the problems found in these models have not been solved yet, the mutuality objectives and the characteristics of its governance mean that cooperatives are a socially-superior form of firm. Inherent cooperation could maintain a social partnership between people and avoid the risk of individualistic behaviour based on the consumer model.

Acknowledgement: The authors would like to express their thanks for the financial support received from the MCYT (SEJ2006-146859.

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