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# From informal to formal jobs: the contribution of cooperatives in Colombia



# From informal to formal jobs: The contribution of cooperatives in Colombia

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Labour informality remains a critical challenge for Colombia with over 60% of workers in informal jobs with no access to social security benefits, except health. To address the inherent challenges posed by a large informal sector, this paper explores the role that cooperatives can play in driving formalisation in Colombia. It presents the negative impacts of informality on the economy and how the social and solidarity economy, and cooperatives in particular, could offer an important model for informal workers to transit towards formalisation, when used for their primary purpose (Section 1). It provides facts and figures about the cooperative sector as well as factors contributing to its development and barriers that hinder its expansion (Section 2). It considers the benefits and challenges of the compliance based approach to supervise cooperatives and provides policy orientations to strengthen the sector (Section 3).

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**This paper was originally published in July 2022 and was revised in September 2023. Revisions in Section 1 provide additional context on informality in Colombia, Latin America and beyond as well as present the different types of cooperatives recognised by the law in Colombia, with a specific focus on associated work cooperatives. In Section 2, revisions mainly provide updated figures on Colombian cooperatives with data from 2021 and further explore impacts of the misuse of associated work cooperatives, as well as measures taken by the Government to address such misuse. Revisions in Section 2 also provide more information on the various labour relationships available in Colombian cooperatives (see Table 1) and updates Table 2 with the main legislations governing cooperatives in the country. Finally, in Section 3, revisions introduced a specific policy orientation focused on working with the cooperative sector to ensure it fulfils its primary purpose and that it is not diverted to evade worker's rights in the future.**

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# Executive summary

**Labour informality remains a critical challenge for Colombia despite considerable efforts over the years to address it.** Over 60% of workers have informal jobs, driven by both formal and informal firms partially looking to evade supervisory, regulatory and fiscal authorities. While evasion may confer some short-term advantages to informal firms, it also acts as a barrier to longer-term growth, competitiveness and productivity. For workers, similar incentives may also drive behaviours such as ‘cash-in-hand’ salaries (even if the evidence does not suggest that they benefit significantly from such arrangements), but this also comes at a cost such as reduced health, safety and well-being, limited training and skills development, as well as the inability to access social security benefits (except health) and labour rights more broadly. In addition, informality has broader and significant economic and social consequences for the Colombian economy more generally, with lower tax revenues, limiting the scope for government expenditures, including on social protection systems (which may in turn help fuel informality).

**The social economy, in particular cooperatives, could help tackle labour informality if not misused and deviated from their primary purpose.** Addressing the many challenges of formality is not trivial as the policy levers cut across many domains and the mechanisms that motivate informality are not always driven purely by a desire to evade taxes and regulatory standards. Often the drivers can be a reflection of regulatory complexity, for example the administrative procedures required to register an activity or new employees, as individuals seek what they consider to be the path of least resistance to firm creation. Notwithstanding the fact that pathways are often mapped with a short-term perspective, the selected routes also often reflect a lack of awareness around alternative paths, especially for the self-employed and, indeed, informal employees. The social economy provides one, perhaps less well-trodden, pathway that can deliver both short and long term benefits (not just for the workers but for the economy as a whole).

**Cooperatives can contribute to address issues such as poverty, unemployment and the informal economy (activity and labour).** The ILO Transition from the Informal to the Formal Economy Recommendation (204) adopted in 2015, formally acknowledged cooperatives as a form of entrepreneurship which can contribute to the transition from the informal to the formal economy. Depending on the local context, cooperatives are often easier to set up due to lower entry barriers and regulatory burdens. Moreover, they also deliver pathways to training (which are typically embodied in their mission) and also to social security safety nets, and, in doing so, avenues to growth, to finance, to new markets, to business support services, as well as better working conditions, and in turn profits and pay. In some countries, cooperatives have also proven to be successful tools for informal workers to organise and formalise their activity or sector (delivering, in addition, important economies of scale to the benefit of all members in the cooperative) and integrate into formal value chains, as observed in the recycling sector in many countries (e.g. Argentina, Brazil, India and South Africa).

**Colombia has identified a specific role for cooperatives and more broadly for the social and solidarity economy, to support transition to formal labour.** The social and solidarity economy accounts for 4% of Colombia’s GDP, with 7 million members. Cooperatives alone account for 64% of social economy organisations, generate around 140 000 direct jobs and include almost 6.3 million members. The National Development Plan 2022-2026 acknowledges that strengthening the National Plan for the Promotion of

Solidarity Economy and Rural Cooperative will contribute to decent work and rural employment in Colombia. Legislation introduced in 2020 to reduce the minimum number of people required to establish a cooperative from twenty to three, has made them even more accessible and easy to establish. Unlike for-profit enterprises, cooperatives are required to allocate at least 20% of their surplus to invest, through an education fund, in education, training and capacity building for their members and communities. In addition to the simplified process to create a cooperative compared to other firms, they also benefit from a specific 20% income tax regime compared to 35% for traditional enterprises. These factors, in addition to better working conditions and access to social security benefits, are important magnets towards formality.

**Misuse of cooperatives in the past calls for very close attention to compliance with the legal framework.** In the 2000s, associated work cooperatives in Colombia were frequently used to evade workers' labour rights, for instance to carry out labour intermediation activities (i.e., subcontracting people through cooperatives to reduce labour costs) or to take advantage of the regulatory benefits offered to cooperatives compared to for-profit businesses. People working in this type of cooperatives would typically not benefit from labour rights, such as equal economic compensation, the employers' contribution to the social security scheme or the right to join unions and collective bargaining. Colombia's strong action to address this misuse led to a drastic drop in the number of associated work cooperatives.

**Unleashing the full potential of cooperatives, including to tackle informality, requires strengthening their capacity to comply with regulations.** Colombia implements a compliance-based supervision that mostly involves detecting non-compliance after it has occurred and enforcing sanctions. As such, this approach does not encourage preventive actions to address risks of non-compliance, which could be more effective and less costly, in particular for small cooperatives. Reinforcing supervision efforts can contribute to strengthen the cooperative sector, limit the risk of failure or misuse of cooperatives, thereby positioning these entities as a high-value added model to address informality, among other goals. Generating more trust and interest in cooperatives from the public, government, various economic actors and informal workers entails strengthening their capacity not only to comply with regulation but also to assess risks of non-compliance and take preventive actions to reduce these risks. It also entails strengthening the capacity of supervisory bodies to better understand cooperatives' governance challenges and to implement compliance measures in line with cooperative principles (i.e. best serve the needs of members and engage in economic activity while pursuing societal objectives).

**The compliance-based supervision could be complemented with a risk-based approach, for more efficient cooperatives and supervision entities.** Risk analysis helps to identify emerging areas of risk and intervening before the risk becomes a real threat. It is particularly important in Colombia, where only 189 financial and savings cooperatives account for 85% of the total loan portfolio of the cooperative sector, 42% of the equity of all cooperatives in the country, 52% of all assets, and almost 60% of all members in the sector. Mixing compliance-based supervision with a risk-based approach could help cooperatives to take preventive actions (e.g., cooperatives taking unwise financial decisions that could undermine the rights of their members and not working for their interests) through capacity building and improved governance and self-monitoring. Supervisory bodies could prioritise action on risks that could harm the interests of members and supervised entities. These improvements would increase compliance, make supervision more efficient, strengthen cooperatives, and contribute to their stability and long-term sustainability.

**Colombia can rely on multiple strengths to implement a mixed compliance and risk-based supervision approach.** The separation of public entities that supervise and those that promote the social and solidarity economy would help to promote this mixed approach. Supervision entities already apply a degree of proportionality and optimisation of resources through different supervision levels, setting higher requirements for riskier organisations. Nevertheless, challenges remain such as the lack of coordination in supervision efforts. The Superintendence of the Solidarity Economy implements supervision of cooperatives. However, cooperatives that pursue specific economic activities (e.g. transport cooperatives) are also under the scope of the specific superintendence overseeing their activity. The various



superintendencies do not work in an articulated manner, nor do they have harmonised criteria for supervision. Other challenges are linked to the lack of tools for cooperatives to monitor themselves, the need to increase the number of public officers in charge of supervision as well as develop their knowledge of the cooperative sector, the necessity for cooperative members to develop skills and knowledge on supervision, and the dispersion of information on supervised entities.

**Colombia could further strengthen reforms to avoid illegal labour informality, including through associated work cooperatives.** The government repealed the Decree 583 of 2016, which had been highly criticised because it allowed for labour intermediation including through associated work cooperatives. Moreover, the Resolution 2021 of 2018 established guidelines on Inspection, Surveillance and Control in labour intermediation processes, by specifying that only temporary services companies are allowed to intermediate labour services under a specific regulation respectful of workers' rights. These efforts led to a drastic drop in the number of associated work cooperatives from 430 with 36 000 associates in 2017 to 204 with 11 000 associates in 2020, and 295 with 12 000 associates by June 2021.

**Colombia could further harness the potential of cooperatives, in particular in response to the broad socio-economic challenges posed by informality.** This could be achieved by combining compliance-based supervision with risk-based analysis and by considering policy options to:

- **Work with the cooperative sector to ensure it fulfils its primary purpose and that it is not misused.** The cooperative sector provides many jobs across sectors (over 120 000 direct jobs according to Confecoop) and regions as well as cities in Colombia. It has strong potential to support peacebuilding, revitalise communities and formalise labour and activities. Therefore, it is important for the government and the cooperative sector to work together to prohibit all forms of abusive subcontracting and intermediation through the use of cooperatives in general and associated work cooperatives in particular. Cooperatives can support government policies to reduce informal labour by providing access to training, education and also work as well as entrepreneurship opportunities, in particular for groups in vulnerable situations such as waste pickers, domestic workers, migrant workers, street and market vendors, and home-based workers. Another measure to assess how cooperatives contribute to the formalisation of work is to gather information on registration in the social security system and/or contribution to the pension system of workers in cooperatives. This could be achieved through a survey among cooperatives in collaboration with umbrella organisations such as Confecoop.
- **Support cooperatives in overcoming governance challenges and develop new skills of supervisors.** Cooperative governance challenges could be overcome by developing self-assessment tools, investing in capacity-building and advising members to overcome their lack of knowledge on supervisory functions and internal controls. At the same time, well-trained supervisors with a solid understanding of the cooperative sector can provide better and more useful advice to cooperatives to prevent risks of non-compliance, in particular through risk-based analysis. For example, in the United Kingdom, a reform required public officers in charge of supervision to work in collaboration with and advise supervised entities, which involved developing a set of skills related to risk-based regulation and regulatory delivery. Furthermore, the risk-based approach can allow small SSE entities as illustrated by the example of small member-owned mutual companies in Australia, to operate under simpler regulation compared to larger and higher-risk companies.
- **Modernise inspection system, build capacities and develop new skills of supervisors.** Well-trained supervisors will be better equipped to provide useful advice to cooperatives and promote risk management and compliance with regulations. Providing supervisors and labour inspectors with sufficient resources and clear guidance to realise their missions is critical to enforce labour law, reinforce control of cooperatives, identify abusive situations and implement sanctions. The inspection system more widely would benefit from modernisation, the increase of inspections and inspectors, and the use of new tools (such as virtual inspections).

- **Better coordinate the work of the six superintendencies and public entities collecting data on cooperatives to build joint information systems.** A joint and harmonised information system gathering all the relevant information about supervised entities could help improve risk-based analysis, support supervision efforts, increase compliance with regulations, enhance efficiency and reduce administrative costs. For example, Slovenia made efforts to implement shared supervision management solutions across control entities, including improved identification and follow-up on risks as well as increased quality and effectiveness of inspections.
- **Consider delegating supervision for certain entities to concentrate public efforts on the implementation of the risk-based approach.** Working in collaboration with external entities could potentially improve supervision of small and medium-sized cooperatives. It would also allow the Superintendence of the Solidarity Economy to fully implement the risk-based approach and focus resources on the largest and/or most risky organisations. For example, an organisation in Brazil called “Central Cooperatives” performs some supervisory duties on behalf of the Central Bank of Brazil, thereby offering a more efficient and less costly supervision.
- **Complement compliance and risk analysis efforts with an external audit of cooperatives.** External audits can support ongoing supervision efforts and ensure that cooperatives fulfil the established rules and norms, while upholding cooperative principles and working in the best interest of their members. These external audits could be required for all cooperatives, or restricted to those of a certain size or active in certain sectors, such as the financial sector. These external audits are mandatory for all cooperatives in France, Italy and Poland, where non-compliance can imply the ban on operating or legal consequences for cooperatives’ management boards.

# 1 Tackling informality through cooperatives and the social economy

**Informal employment poses a persistent challenge globally, including in Colombia, where high levels are still prevalent.** Informal employment poses a significant and enduring challenge for many countries. Globally, almost 60% of workers lack the protections granted to formal employees (OECD, 2023<sup>[1]</sup>; ILO, 2023<sup>[2]</sup>). In low-income countries, informal employment comprises 89% of total employment, accounting for 81.6% in lower-middle-income countries, 49.7% in upper-middle-income countries, and 15.9% in high-income countries (OECD, 2023<sup>[1]</sup>; ILO, 2023<sup>[2]</sup>). Colombia has experienced high levels of informal employment, with over 60% of workers having informal jobs and no access to social security benefits except health (OECD, 2022<sup>[3]</sup>). However, there has been a slight improvement between February and April 2023, resulting in a decrease in the employment informality rate to 57.5% (DANE, 2023<sup>[4]</sup>). Furthermore, in 2018, 70% of informal workers lived in rural areas while 30% were living in urban areas (OECD, 2021<sup>[5]</sup>). The percentage of informal employment is also higher among less-educated segments of the population (OECD, 2021<sup>[5]</sup>).

## Informality is associated with negative economic and social outcomes

**Informal employment occurs when an employment relationship is not subject to national labour legislation, income taxation, social protection, or entitlement to certain employment benefits** such as paid annual or sick leave (OECD/ILO, 2019<sup>[6]</sup>). Informal employees lack social security coverage and some or all of the protections provided by labour contracts (i.e. minimum wages, occupational health and safety standards, or a written contract) (OECD, 2008<sup>[7]</sup>; Jütting and de Laiglesia, 2009<sup>[8]</sup>; OECD, 2020<sup>[9]</sup>). It can also refer to self-employed who do not pay social security contributions or who fail to declare some or all of their income for tax purposes (OECD, 2018<sup>[10]</sup>; OECD, 2020<sup>[9]</sup>).

**In Colombia, formal work implies a decent income and social protection for workers and their families** (Ministry of Labour, n.d.<sup>[11]</sup>). The National Administrative Department of Statistics of Colombia (DANE) identifies multiple criteria to determine informal employment, including the absence of health and pension contributions in the worker's employment arrangement or working in unregistered businesses (DANE, 2023<sup>[12]</sup>).

**Informality can negatively affect both the competitiveness and productivity of countries.** Lower tax revenues resulting from informality reduce the public sector's ability to invest in infrastructure that can boost overall competitiveness and indeed the quality and quantity of public services. High levels of informality also create challenges to the formal sector, through unfair competition, that can also weigh down on investment. Informality also discourages businesses growth, since informal businesses need to stay small to evade enforcement agencies (OECD, 2022<sup>[3]</sup>; OECD et al., 2021<sup>[13]</sup>; Ministry of Treasury and

Public Credit, 2011<sup>[14]</sup>). Informality also weakens the social protection system and labour rights, and can contribute to increasing underemployment and reducing decent working conditions.

## The social and solidarity economy can be a stepping stone out of informality

**The social and solidarity economy (SSE)<sup>1</sup> has been identified by Colombian authorities as a strategic tool to promote decent work and peacebuilding.** The SSE represents around 4% of Colombia's GDP, and nearly 7 million Colombians are members<sup>2</sup> of SSE organisations<sup>3</sup> such as pre-cooperatives,<sup>4</sup> cooperatives, cooperative auxiliary institutions,<sup>5</sup> mutual associations, and employee funds<sup>6</sup> (Superintendence of the Solidarity Economy, 2017<sup>[15]</sup>). The National Development Plan 2022-2026 acknowledges that strengthening the National Plan for the Promotion of Solidarity Economy and Rural Cooperative (PLANFES) will contribute to decent work and rural employment in Colombia. At the same time, it also recognises the role of the social and solidarity economy in peacebuilding, integrating and revitalising socio-economic development in territories, and improving the quality of life for rural communities. Lastly, the Plan also proposes that workers in the popular economy will have access to health, occupational risk and elderly protection systems (National Planning Department of Colombia, 2023<sup>[16]</sup>).

**The SSE holds great potential to reduce informality, given its ability to reach disadvantaged groups, facilitate access to training and decent work, and support collective entrepreneurship.** The SSE can both help informal workers transition to formal jobs and provide tools to formalise activities through collective entrepreneurship. It benefits from more favourable income tax regime in some countries (e.g. 20% vs 35% for other firms in Colombia) as well as easier start-up and administrative processes.

**The SSE is also driven by broader non-monetary benefits such as better working conditions and the delivery of social goals, reflecting its prioritisation of social impact.** This is achieved for example through re-investment of some of its surpluses/profits to on social goals, including those that directly benefit workers such as training and working opportunities for vulnerable groups. Conducive policy frameworks and ecosystems for the SSE, such as legal frameworks, public procurement, financial support and capacity building, are required so the SSE delivers its strategic goals, including shaping inclusive economies (OECD, 2022<sup>[17]</sup>) and supporting the formalisation of workers and businesses.

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<sup>1</sup> In Colombia, the social economy is referred to as the "solidarity economy". It is also linked to the term 'popular economy'.

<sup>2</sup> Associations, mutual societies and cooperatives are typical member-based entities. Members of these entities participate in the general assembly and as such collectively decide on the strategic orientations. For example, individuals can adhere to a mutual society to share risks or in an association to support common interests (e.g. in a non-governmental organisation active in international solidarity). They can also engage in a cooperative to fulfil their common economic, social, and cultural needs and aspirations (ICA, n.d.<sup>[18]</sup>). In cooperatives, members are both co-owners and users, meaning that they own the capital of the cooperative and participate in making decisions while benefitting from the cooperatives' activities.

<sup>3</sup> The framework law on the solidarity economy (Law 454 of 1998) defines solidarity organisations as "any legal entity that carries out non-profit activities, operates using participatory governance, and serves its members and community" (Ministry of Justice, 1998<sup>[77]</sup>). The solidarity economy organisations can take a broad range of legal forms.

<sup>4</sup> Pre-cooperatives are organisations that lack economic, educational, administrative or technical capacity to organise as a cooperative. They are allowed to carry out cooperative activities for five years to address capacity issues and to establish as a cooperative. This process must be done under the guidance and with the assistance of a promoting entity (Ministry of Justice, 1988<sup>[21]</sup>).

<sup>5</sup> Cooperative auxiliary institutions are organisations set up by a cooperative or a group of cooperatives to carry out activities aimed at providing support and assistance to the cooperative sector to facilitate its achievement of economic and social objectives (Ministry of Justice, 1988<sup>[21]</sup>).

<sup>6</sup> As per decree 1481 of 1989, employee funds are non-profit associations composed by employees of a company. They provide savings and credit services exclusively to their members, who in turn are required to make permanent contributions.

## Cooperatives can facilitate the formalisation of labour and activities while benefiting individuals and communities

### ***Cooperative principles and specific features contribute to the transition to formal work***

**Cooperatives (Box 1) are open to all persons willing to join and accept the responsibilities of membership, without discrimination** (ICA, n.d.<sup>[18]</sup>). This openness helps cooperatives to be embedded in their local community. As a result, they often provide services that communities otherwise would not have access to, offer job opportunities locally, help maintain wage levels, and keep or attract capital in the local economy. This community-embeddedness could help to incentivise informal economy workers to join them and become members and thereby undergo the transition together (CICOPA, 2015<sup>[19]</sup>). The ILO Transition from the Informal to the Formal Economy Recommendation (204) adopted in 2015, formally acknowledged cooperatives as a form of entrepreneurship which can contribute to the transition from the informal to the formal economy (ILO, 2015<sup>[20]</sup>).

**They are jointly owned and democratically controlled enterprises.** Their purpose is to address the common needs of their members and re-invest surpluses in the cooperative's mission (ICA, n.d.<sup>[18]</sup>). Cooperatives put member economic participation principles into practice, as members contribute in equal parts to the capital of their cooperative (ICA, n.d.<sup>[18]</sup>). Members also actively participate in setting the policies and strategic decisions of their cooperative through the "one-member, one-vote" principle. The joint ownership and democratic control ensure that all members' needs and aspirations are kept at the very heart of the cooperative's purpose and operations. This implies that the cooperative members can decide to allocate resources to the provision of training opportunities and thereby facilitate the transition of informal workers into their cooperative, or to securing safe and decent working conditions.

**Colombian law recognises various types of cooperatives based on their economic activities, as well as associated work cooperatives.** The Law 79 of 1988 defines different types of cooperatives, according to their number of activities, degree of specialisation as well as the economic activities they perform (Ministry of Justice, 1988<sup>[21]</sup>). Cooperatives can include consumer, production, transport, education, housing, insurance, or savings and credit cooperatives. Article 70 of the law also introduces "associated work cooperatives", which bring together the workforce of their members to produce goods, execute works, or provide services across any economic activity (Ministry of Justice, 1988<sup>[21]</sup>).

**Work in cooperatives can include direct employment, self-employment and associated work, depending on their type.** All types of cooperatives can offer direct employment to individuals, being members or non-members. For example, a producer cooperative active in the fishing sector or a cooperative supermarket may hire administrative or logistical staff to run their activities. Traditional worker cooperatives also provide direct employment to their members who are both co-owners and workers of the cooperative. Some countries have introduced specific statuses for these workers-members, such as the "associated worker" (*trabajo asociado*) in Colombia or "associated employee" (*salarié associé*) in France. Other types of cooperatives support economic activities of self-employed producers, entrepreneurs or workers, which can be referred to as shared service cooperatives. Although these cooperatives do not necessarily provide direct employment, many studies indicate that they can play an important role in supporting and representing these workers as they provide them with a formal framework through which their activities are recognised and can negotiate with public authorities to introduce appropriate social security and protection (Eum, 2017<sup>[22]</sup>). The different types of labour relationships provided by cooperatives in Colombia are further explained in the next section.

### Box 1. What is a cooperative?

A cooperative is an autonomous association of persons and/or legal entities united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise (ILO, 2018<sup>[23]</sup>; ICA, n.d.<sup>[18]</sup>). As defined by the International Cooperative Alliance (n.d.<sup>[18]</sup>), the cooperative principles include: voluntary and open membership; democratic member control; member economic participation; autonomy and independence; education, training and information; cooperation among cooperatives; and, concern for the community. A cooperative includes one or more kinds of users or stakeholders. There are four main types of cooperatives, namely producer cooperatives, worker cooperatives, consumer/user cooperatives, and multi-stakeholder cooperatives (ILO, 2018<sup>[23]</sup>).

### ***They can advocate for informal workers' rights and facilitate access to social protection***

**Colombia has adopted legal provisions to guarantee access to social protection for cooperative workers, whatever the type of work relationship they are engaged in.** Work in cooperatives can include direct employment, self-employment and associated work, all these labour relationships providing some guarantees on compliance with established standards of formal employment, such as affiliation to health, pension, and occupational risk systems. Associated work cooperatives have been extensively misused to carry out labour intermediation activities (i.e., subcontracting people through cooperatives to reduce labour costs) in the 2000s, which extensively undermined labour rights of workers involved (OECD, 2016<sup>[24]</sup>). This tarnished the reputation of cooperatives in general and undermined their potential as vehicles that could provide decent working conditions and formalise work. However, actions carried by the Ministry of Labour, including an improved legal framework and clear guidelines for labour inspectors, successfully contributed to reduce the number of associated work cooperatives (OECD, 2022<sup>[25]</sup>). Section 2 provides detailed information on the labour relationships and protections available to cooperative workers.

**Cooperatives can promote access to social protection for their members and workers.** They can do so by negotiating with governments, as well as by assisting members with registration and providing them information about their rights and entitlements, as well as raising awareness about the benefits of social protection in general (ILO, 2022<sup>[26]</sup>). For instance, in the city of Medellín, the Recuperar Cooperative has signed a contract with the local authorities to be legally in charge of waste collection. As a result, members of the cooperative are covered by the public medical care system and have access to scholarships to continue their studies, as well as life and accident insurance, through the cooperative (ILO, 2019<sup>[27]</sup>).

**Cooperatives can also strengthen informal workers' collective representation to advocate for their rights.** An example of how cooperatives give a voice to informal workers is the Cooperative Association of Recyclers of Bogotá (ARB), a secondary-level federation of 19 cooperative organisations representing around 2 100 waste pickers in Bogotá. Formed in the 1990s by three waste picker cooperatives that protested the closure of three open dumps, ARB actively defended waste picking as a profession, especially by using writs of protection of fundamental rights in the Constitutional Court of Colombia (ILO, 2019<sup>[27]</sup>). The Constitutional Court's decisions played an instrumental role in negotiating an inclusive waste management policy and introducing a new remuneration scheme to compensate waste pickers for their services (ILO, 2019<sup>[27]</sup>).

***They can help to scale up activities through collective entrepreneurship and contribute to formalising activities in other parts of their value chain***

**Cooperatives provide a tool for individuals to formalise collective and community supported solutions that ultimately structure economic activities.** Informal work can be a starting point for entrepreneurship for individuals, working either alone or in groups. Cooperatives can help formalise these activities in a second step, which can provide opportunities to support business growth as the cooperative integrates into formal value chains. This was for example observed in the circular economy where cooperatives and other social economy organisations have helped informal waste pickers to organise into cooperatives and provide front-end waste management services (OECD/European Commission, 2022<sup>[28]</sup>; ILO, 2019<sup>[27]</sup>).

**The cooperative form can improve workers' conditions as well as the economic viability and productivity of their activity.** Formalisation through a cooperative can help improve working conditions and salaries (e.g., increased revenues, access to services and infrastructures). As further discussed in Section 2, cooperatives adopt mechanisms to ensure that formal employment criteria are met in all labour relationships they establish. Joining or establishing a cooperative can also secure access to a variety of resources, such as finance, information, inputs, technology and business support services (ILO, 2017<sup>[29]</sup>) as well as increase economic viability through economies of scale and risk-averse investments. Their collective nature gives members greater access to market opportunities and bargaining power than they would have individually, and more so if they remained informal. Cooperatives can also boost their incomes through an increased level of production based on the collective efforts of their members and the diversification of product lines. Lastly, being part of a legally recognised organisation gives informal workers access to public institutions and their services, enables them to enter into contracts or to own property (ILO, 2019<sup>[30]</sup>).

***They offer a relevant model due to lower entry barriers and reduced costs***

**Cooperatives are an easily accessible type of enterprise as capital requirements for registration are minimal.** Joining or setting up a cooperative is relatively easy and provides many benefits for informal workers. Focus groups with Colombian stakeholders from the government and social and solidarity economy networks and organisations<sup>7</sup> confirmed that setting up a cooperative is not difficult. With exceptions established in special norms,<sup>8</sup> the Law 2069 of 2020 further eased the creation of cooperatives by reducing the minimum number of people required to establish a cooperative from 20 to 3 members (Ministry of Justice, 2020<sup>[31]</sup>). This Law also contributed to enhancing the legal recognition of cooperatives, by highlighting their business nature and classifying them as MSMEs (Ministry of Justice, 2020<sup>[31]</sup>).

**Cooperatives benefit from a special tax regime and tax benefits compared to for-profit enterprises and are treated on equal footing relative to labour cost reductions.** Cooperatives benefit from a 20% income tax regime on their surpluses compared to 35% for traditional enterprises (Ministry of Justice, 2016<sup>[32]</sup>). This regime was established by the Law 1819 of 2016. Other tax benefits apply to cooperatives in specific economic activities. For example, the Law 1943 of 2018 created a new temporary tax for financial institutions, consisting of a 4% surtax, which decreases annually by 1% point for the following three years. This does not apply to savings and credit cooperatives but applies to the commercial banking sector (Gamboa Saavedra, 2020<sup>[33]</sup>). Cooperatives and for-profit enterprises benefit, on equal footing, from reduced labour costs for contributions due to the Colombian Institute of Family Welfare (ICBF), the National

<sup>7</sup> As part of the OECD/Colombia Co-operation Project 'Social protection and tackling informality: building on the social and solidarity economy in Colombia', two focus groups and three workshops were organised between December 2021 and March 2022. Refer to [Colombia's Workshop Highlights](#) presenting the main takeaways of these events.

<sup>8</sup> Special norms determine that the minimum number of founders is 10 for associated work cooperatives and agricultural and mining cooperatives, and 5 for pre-cooperatives.

Training Service (SENA) and the health system (up to 13.5% of non-wages costs) for workers earning less than 10 times minimum wages as stipulated by the Law 1943 of 2018 (Ministry of Justice, 2018<sup>[34]</sup>).

***They address skills deficits by facilitating access to training and education opportunities***

The Law 79 of 1988 states that cooperatives must allocate at least 20% of their surpluses to the education fund, and the committee or body in charge of guiding and coordinating cooperative education activities must present a plan for the use of this fund each year (Ministry of Justice, 1988<sup>[21]</sup>). Resources of the education fund, which is compulsory for cooperatives but not for for-profit enterprises, have helped to invest in training and capacity building for cooperative members and their community in general on topics such as economics, savings, finance, solidarity economy and entrepreneurship (Gamboa Saavedra, 2020<sup>[33]</sup>). Joining cooperatives can facilitate access to skills development for their members including those with limited skills, thus providing an effective tool to help them transition to formality (ILO, 2019<sup>[30]</sup>). For example, in Rionegro (Colombia), the waste picker cooperative Planeta Verde offered opportunities of education and skill development for their members. The cooperative focused on literacy education and waste picker training. In 2018, almost all of their members (98%) could read and write, 70% had completed their elementary education, and 24% had finished their secondary school. Additionally, members received training on topics such as cooperative management, personal finance, and gender equality (ILO, 2019<sup>[27]</sup>).



## 2 The cooperative sector in Colombia

**Colombia has a very large cooperative sector that brings many contributions to the economy. However, it faces a variety of challenges to its development.** Such challenges include the lack of education and awareness of cooperativism at all levels of government and among the general public, as well as governance issues within cooperatives. These challenges relate to some of the nine building blocks identified in the [OECD Recommendation on the Social and Solidarity Economy and Social Innovation](#), in particular ‘Supporting the production of data’, ‘Fostering a social economy culture’ and ‘Strengthening skills and business development support’. Another challenge is that different entities collect data and produce information about cooperatives. The lack of harmonised data and information limit the possibilities of generating and using reliable statistics on cooperatives that could better inform public policies. This section focuses on the strengths and challenges that impact the development of cooperatives in the country.

**While the number of cooperatives has declined, their overall membership and assets have grown**

**The Confederation of Cooperatives of Colombia, Confecoop, monitors cooperatives. It has revealed significant growth in both cooperative membership and other key indicators.** Confecoop tracks trends among cooperatives, in particular the number of organisations, size of cooperatives, number of members, assets, equity, revenues and surpluses (Box 2). The figures show that the cooperative sector has been gradually growing and getting stronger. For example, the number of members increased by 13.5% from 5.5 million in 2012 to 6.3 million in 2018 (Figure 1).

### Box 2. Facts and figures about cooperatives in Colombia

According to Confecoop's Economic Research Unit, the cooperative sector in Colombia reported the following figures at the end of 2021:

- **3 104 cooperatives were active**, of which approximately 450 were associated work cooperatives, while the remaining were non-associated work cooperatives. Cooperatives are engaged in various economic activities, with two thirds active in credit, transport and communication, and business, social, and personal services.
- **6.3 million Colombians were members of cooperatives**, with financial cooperatives (3.9 million), credit cooperatives (1.6 million) and commercial and consumption cooperatives (0.4 million) having the largest share of members.
- **120 879 direct jobs were generated by cooperatives.** Of this, over 86 000 jobs are occupied by dependent workers while about 34 000 jobs are associated workers. The cooperatives providing more jobs are active in the following sectors: business, social and personal services (19%), transport and communications (16%), and commercial and consumption (15%).
- **Cooperative assets reached 52.8 trillion Colombian pesos.** Almost 75% of the total assets are concentrated in financial cooperatives (57%) and credit cooperatives (19%). More than half

of the cooperative assets are held by only 184 organisations, which represent 6% of the total number of active cooperatives. In 2018, cooperatives assets accounted for 44.5 trillion Colombian pesos, representing 79% of the total assets of the social and solidarity economy.

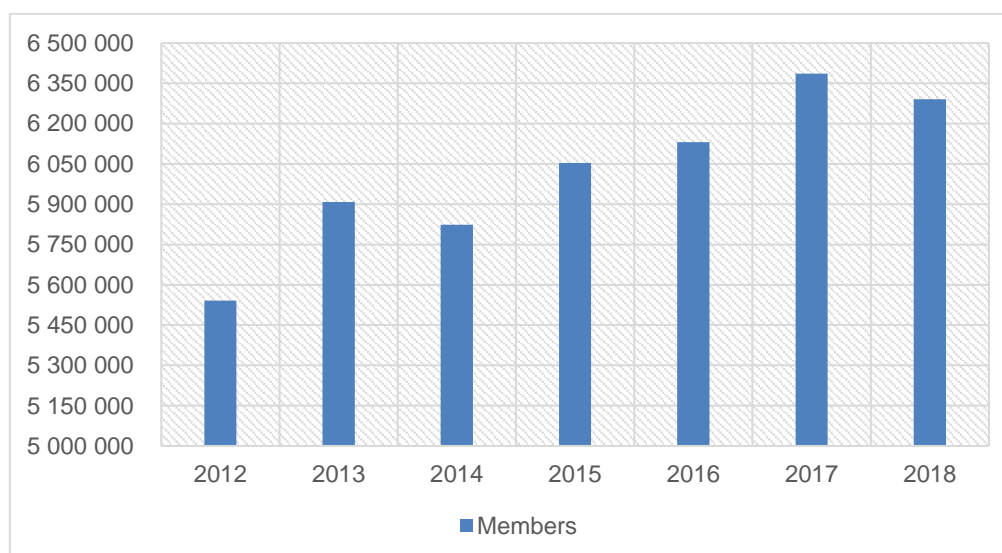
- **Four economic activities concentrate most of the assets, jobs created, members and number of entities of the cooperative sector.** Financial cooperatives, credit cooperatives, agriculture and food industry cooperatives, and commercial and consumption cooperatives comprise over 85% of the cooperative sector's total assets, contribute to more than 50% of employment, have 97% of cooperative and encompass 55% of the cooperatives in Colombia.

	% of cooperative sector's total assets	% of jobs in the cooperative sector	% of members of the cooperative sector	% of total number of cooperatives
Financial cooperatives	57%	12%	62%	6%
Credit cooperatives	19%	9%	26%	35%
Agriculture and food industry cooperatives	7%	14%	2%	9%
Commercial and consumption cooperatives	5%	15%	7%	5%

Source: Confecoop's Economic Research Unit

Note: There was a slight increase in membership in cooperatives between 2018 (6 290 927) and 2021 (6 351 474). Both figures are approximated to 6.3 million.

Figure 1. Progression of members joining cooperatives (2012-2018)



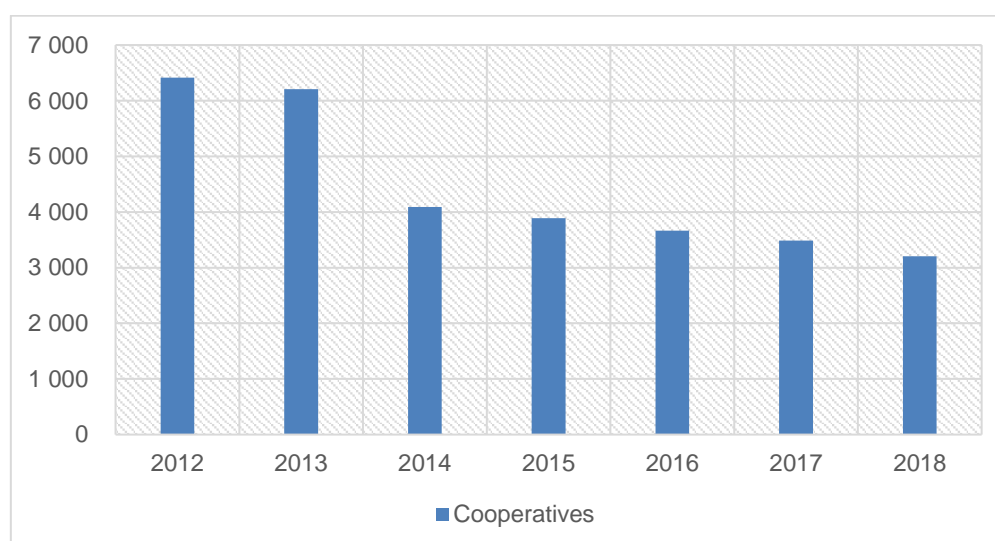
Source: Authors' elaboration based on (Confecoop, 2019<sup>[35]</sup>)

**Despite the growth in membership, the number of cooperatives declined due to the closure of organisations misusing the cooperative model.** Figure 2 shows a drop in the total number of cooperatives, which can be explained by the closure of entities that were set up as cooperatives but did not follow the principles and objectives of cooperativism. Such entities used the associated work cooperative model<sup>9</sup> to carry out labour intermediation activities (i.e., subcontracting people through cooperatives to reduce labour costs) or to take advantage of the regulatory benefits offered to cooperatives compared to for-profit businesses. This situation is also the result of major companies formally employing workers and putting them under a cooperative with a service contract to reduce costs. Workers still could be considered as ‘formal’ given that they have a (service) contract, but not under labour law.

**Supervisory bodies and the Ministry of Labour implemented policy measures to address this misuse and the overall situation of the cooperative sector.** Public authorities implemented reforms and improved legal frameworks and guidelines to labour inspectors. For example, the government repealed Decree 583 of 2016, which faced substantial criticism because it allowed labour intermediation, including through associated work cooperatives. In addition, Resolution 2021 of 2018 provided guidance on Inspection, Surveillance, and Control in labour intermediation processes. This resolution specifically outlined that only temporary service companies are allowed to intermediate labour services under a specific regulation respectful of workers’ rights (OECD, 2022<sup>[25]</sup>).

**The measures implemented established mechanisms to improve compliance.** Due to public authorities’ actions, the number of associated work cooperatives declined from 430 with 36 000 associates in 2017, to 204 with 11 000 associates in 2020, and 295 with 12 000 associates in 2021 (OECD, 2022<sup>[25]</sup>). Further actions resulted in legal adjustments to prevent misuses of the cooperative model, including the creation of the Superintendence of Solidarity Economy (Law 454 of 1998), the regulation and reinforced control on worker cooperatives and pre-cooperatives (Decree 4588 of 2006, Law 1233 of 2008), and the prohibition and sanction of worker cooperatives acting as labour intermediation entities (Decree 2025 of 2011). Additional taxes and more scrutiny on their activity were also introduced. The misuse of the cooperative model has severely affected the cooperatives’ reputation. The remaining cooperatives tend to carry out activities in accordance with the regulations and their principles (Confecoop, 2009<sup>[36]</sup>; 2022<sup>[37]</sup>).

**Figure 2. Drop in the number of cooperatives (2012-2018)**



Source: Authors’ elaboration based on (Confecoop, 2019<sup>[35]</sup>)

<sup>9</sup> Over a span of nine years, the number of associated work cooperatives grew from 710 in 2001 to 4 300 in 2010 (OECD, 2016<sup>[24]</sup>).

## Cooperatives can provide different labour opportunities

In Colombia, cooperatives can be categorised into worker cooperatives and non-worker cooperatives, which determines the types of labour relationships that are possible. Worker cooperatives aim to provide employment opportunities to their members while non-worker cooperatives, such as producer and consumer cooperatives, prioritise their members' productive activity and consumption needs respectively.

Several legal provisions pertaining to different work relationships have established mechanisms to guarantee the minimum standards of formal employment in cooperatives. Dependent and independent work relationships are prevalent in Colombia. Dependent work is regulated by labour laws and is used in traditional employer-employee relationships. On the other hand, independent work regulated by administrative, civil, or commercial law, and is commonly used by the self-employed or for short-term and specialized tasks. Colombia also recognises a third option, the associated work, to accommodate with the specific status of workers-owners in worker cooperatives. Although associated work is not regulated by labour law, legal provisions guarantee minimum protection for associated workers and compliance with the established standards of formal employment. Table 1 describes the various labour relationships available in cooperatives and the entitlements for workers engaged in such arrangements.

**Table 1. Labour relationships available in Colombian cooperatives**

Labour relationship	Types of cooperatives	Description and entitlements
Dependent work	Consumer, production, transport, education, housing, insurance, or savings and credit cooperatives (among other economic activities), that are not constituted as associated work cooperatives.	<ul style="list-style-type: none"> <li>Dependent work is regulated by the Substantive Code of Labour and entails a contract, salary, and affiliation to health, pension and occupational risks systems. Dependent workers also receive employment benefits such as service bonus, severance fund, interest on severance fund, and paid annual leave, among others.</li> </ul>
	Associated work cooperatives (in exceptional and duly justified cases)	
Independent work	All cooperatives, as long as they comply with the rules governing this type of employment relationship	<ul style="list-style-type: none"> <li>Independent work is regulated by administrative, civil or commercial law, depending on the service provided. Independent workers have a contract and receive a fee for their services. Additionally, independent workers must show proof of affiliation to health, pension, and occupational risks systems as a requirement of the contracting party to pay for the service.</li> </ul>
Associated work	Associated work cooperatives (which can specialise in any economic activity)	<ul style="list-style-type: none"> <li>Associated work is regulated by a special regime that includes the own statutes of the associated work cooperative, the cooperative agreement and the associated work and compensation regime.</li> <li>Associated workers have a contract, compensation, affiliation to health, pension, and occupational risks systems, along with other benefits that derive from the compensation and work regimes.</li> </ul>

Note: Annex B provides further details regarding the legal frameworks and regulations that guarantee workers' rights across different types of cooperatives and labour relationships, encompassing contracts, minimum remuneration, affiliation with health, pension, and professional risk systems, and other benefits.

Source: Authors' elaboration

## Factors contributing to the development of the cooperative sector

### ***Colombia has a longstanding tradition of cooperativism***

**Following the approval of the first cooperative law in the 1930s, cooperatives rapidly developed in the country.** Later, in the 1960s, integration movements of cooperativism emerged with the creation of umbrella organisations such as the Colombian Association of Cooperatives (Ascoop). The consolidation of cooperativism culminated in 1988 with the adoption of the current institutional structure between public bodies for the promotion, supervision, financing, and control of the cooperative sector. Cooperatives provide goods and services in almost all of the 32 departments of the country. They are active in a variety of economic activities such as financial, savings, and credit activities; agriculture, livestock, and food industries; retail commerce; insurance; transport; social services and health activities (Confecoop, 2019<sup>[35]</sup>).

### ***Cooperatives benefit from strong political recognition and support***

**Legal texts recognise the potential of cooperatives in contributing to social and economic development.** The Law 79 of 1988, also known as the Cooperative Law (Table 2), recognises the cooperative sector as “a fundamental part of the national economy” (Article 1). The law also stipulates that the promotion, protection, and exercise of cooperativism is of public interest (Article 2) as it is “an effective system for contributing to economic development, the strengthening of democracy, the equitable distribution of property and income, the rationalisation of all economic activities and the regulation of tariffs, rates, costs and prices, in favour of the community and especially the popular classes” (Ministry of Justice, 1988<sup>[21]</sup>).

**The Colombian Political Constitution of 1991 also acknowledges the government's role in promoting, protecting and strengthening the associative and solidary forms of property.** Other OECD countries promote cooperatives, or the social economy at large, in their constitutions (OECD, 2022<sup>[38]</sup>). For example, the Constitution of 1978 in Spain highlights the importance of cooperatives “(...) as a specific type of business that must be promoted by public authorities (...) by appropriate legislation” (article 129) (OECD, 2020<sup>[39]</sup>).

### ***A rich body of cooperative legislation facilitates the establishment and development of cooperatives***

**Law 79 of 1988 establishes cooperative sector regulations, with additional laws and decrees improving regulations to prevent misuse and provide tax exemptions.** The Law 79 of 1988 sets a legal basis for the cooperative sector. It defines cooperatives and establishes different types of cooperatives per economic activity.<sup>10,11</sup> There are additional laws and regulatory decrees aiming at the formalisation, growth, and monitoring of the cooperative sector. Following extensive misuse of the cooperative model, legislations have been improved to better regulate specific forms of cooperatives, such as associated work cooperatives, reinforce protection of workers and strengthen control and sanction to prevent misuse of cooperative forms (including Law 454 of 1998, Decree 4588 of 2006, Law 1233 of 2008,

<sup>10</sup> These include insurance cooperatives (articles 72 to 74), transport cooperatives (article 75), agriculture and livestock, agro-industrial, fish and mining cooperatives (Articles 84 and 85), specialized cooperatives (article 62), multi-active cooperatives (article 63), integral cooperatives (article 64), consumer cooperatives (articles 66 and 67), education cooperatives (article 68), and housing cooperatives (articles 76 to 83). It is important to note that health cooperatives and workers cooperatives are governed by different laws, namely Law 100 of 1993 and Decree 4588 of 2006.

<sup>11</sup> The Cooperative Law also presents guidelines for the establishment and recognition of cooperative organisations; provisions on members, administration, and supervision; considerations on the economic, labour, promotion, and exemptions regime; observations on education and cooperative integration; and rules for mergers, dissolution, and liquidation.

and Decree 2025 of 2011). Specific legislation provides regulation for financial savings and credit cooperatives and tax exemptions. For example, the Law 1819 of 2016 establishes a special tax regime for cooperatives that are monitored by a superintendence or supervisory agency (Table 2).

**Table 2. Main legislations governing cooperatives in Colombia**

Year	Law/Policy	Overall objective
1988	Law 79 of 1988	Provides regulations for the cooperative sector, highlighting its importance for the development of the national economy.
1989	Decree 1333 of 1989	Establishes the regime for the constitution, recognition, and operation of pre-cooperatives.
1993	Law 100 of 1993	Creates a comprehensive social security system and designates cooperatives as health promoting entities (article 181).
1998	Law 454 of 1998	Determines the conceptual framework that regulates the solidarity economy, creates the Superintendence of the Solidarity Economy, the Guarantee Fund for Cooperatives, establishes rules on the financial activity of cooperative entities and issues other provisions.
1998	Decree 2206 of 1998	Creates the guarantee fund for cooperative entities (Fogacoop) to protect depositors and savers of cooperative institutions.
2004	Decree 186 of 2004	Establishes specific functions of the Superintendence of the Solidarity Economy regarding cooperatives.
2006	Decree 4588 of 2006	Regulates the cooperative associated work, specifies its nature, and establishes the basic rules for its organisation and operation.
2008	Law 1233 of 2008	Determines the elements of social security contributions in cooperatives and creates the special contributions to be paid by cooperatives and pre-cooperatives of associated work.
2011	Decree 2025 of 2011	Establishes prohibited acts and corresponding sanctions pertaining to the improper use of worker cooperatives and pre-cooperatives.
2016	Law 1819 of 2016	Establishes a special tax regime for cooperatives that are monitored by a superintendence or a supervisory agency, are taxed on their net profits or surplus at the special single rate of 20% percent.
2019	Decree 704 of 2019	Amends the Decree 1068 of 2015, relative to the management and administration of liquidity risk of savings and credit cooperatives, multi-active cooperatives and other cooperatives.
2023	Law 2294 of 2023	Issues the National Development Plan 2022-2026, which establishes that the popular and cooperative economy will be enhanced to promote productive inclusion. It also mentions that the National Plan for the Promotion of Solidarity Economy and Rural Cooperative (PLANFES) will be strengthened to contribute to decent work and rural employment. It further states that support will be provided for the training, financing, and sustainability of economic units in the popular economy, including cooperatives. It establishes the implementation of the PLANFES for peacebuilding.

Source: Authors' elaboration (based on (Ascoop, n.d.<sup>[40]</sup>; Ius Cooperativum, 2022<sup>[41]</sup>))

### **Multiple umbrella organisations, networks, and federations support cooperatives**

The Confederation of Colombian Cooperatives (Confecoop) and the Colombian Association of Cooperatives (Ascoop) are the two main umbrella organisations for cooperatives (Box 3). Their mission is to represent and defend the interests of the Colombian cooperative sector at national and international level, as well as to connect cooperatives that carry out different types of economic activities. Both organisations also provide services to their members such as training programmes and technical assistance for the creation and management of cooperatives (Ascoop, n.d.<sup>[40]</sup>; Confecoop, n.d.<sup>[42]</sup>). Organisations such as Confecoop ensure that their federation is only composed of cooperatives that comply with the regulatory frameworks governing their creation and operation. For example, in the case of associated work cooperatives seeking to join Confecoop's regional networks, the acceptance and membership process includes verification of compliance with the government's regulatory framework for registration and supervision. Other organisations support specific types of cooperatives, such as the

Specialised Federation of Savings and Credit and Financial Cooperatives of Colombia (Fecolfin) and the National Federation of Cooperatives in the Educational Sector (Fensecoop).

### Box 3. Confecoop and Ascoop, supporting cooperative development in Colombia

**Umbrella organisations can bring great benefits for cooperatives.** One of the greatest benefits of umbrella organisations as representatives of the cooperative sector, is that they can advocate with government bodies, academia, economic associations, and the general public. For example, the work of these umbrella organisations has led to benefits such as remaining in the special tax regime for cooperatives, exemption from the qualification process required for non-profit organisations, exclusion from paying wealth tax, and exemption from paying parafiscal taxes, among others (Ascoop, n.d.<sup>[43]</sup>).

**Confecoop and Ascoop also perform other actions for the development of the cooperative sector in the country.** For example, Confecoop contributes to data collection and statistics production. Between 2005 and 2018, Confecoop compiled information to produce the Performance Report, a document that provides valuable information on cooperatives. The report includes data on the number of organisations and associated members, their distribution across the country, sectors of the economy in which cooperatives are operating, the number of jobs generated, and the size of cooperatives in the country, among other data (Confecoop, n.d.<sup>[44]</sup>). Confecoop also has a Cooperative Observatory, which produces quarterly financial information on cooperatives, macroeconomic reports and analysis relevant to the cooperative sector in Colombia (Confecoop, n.d.<sup>[45]</sup>). Likewise, Ascoop, as an organisation for the integration of the cooperative sector, develops an agenda of events and activities for business support, artistic, cultural and sports exchanges, and fosters the integration of cooperatives and the well-being of their members and collaborators (Ascoop, n.d.<sup>[46]</sup>). Furthermore, Ascoop seeks direct dialogue with associated and non-associated entities in order to strengthen their cooperative identity, reinforce their cooperative spirit and improve their cooperative organisation, thus helping to resolve challenges associated with the governance of cooperatives (Ascoop, n.d.<sup>[47]</sup>).

## Addressing challenges would enable the expansion of cooperatives and enhance their positive impacts

### *A significant amount of information is collected on cooperatives, but this information is dispersed*

**Multiple public and private institutions collect information on cooperatives, often with overlapping scopes, causing available information to be dispersed among several entities.** In Colombia, the Superintendence of the Solidarity Economy is in charge of collecting information from cooperatives, except when the economic activity of the cooperative falls under the competence of another superintendence, which therefore does the data collection. There are also public-private collaborations to compile data on the SSE, such as the Statistical Registry of Non-Profit Entities (ESALES) and the Solidarity Economy Registry, both of which collect information on cooperatives registered in chambers of commerce. Private initiatives such as Confecoop's Cooperative Sector Performance Report and the Cooperative Observatory also provide information on cooperatives in Colombia.

**Statistics production is not centralised, hampering information availability and decision-making in a timely manner for cooperative development.** As discussed during the focus groups sessions with Colombia, data are collected by different sources, which generate dispersed and somehow inconsistent

datasets on cooperatives. This limits the possibility of producing and using reliable statistics that could inform public policies. Centralisation of data collection and production of statistics could help to tackle this challenge. The production of information through a centralised entity that uses harmonised methodologies could also help to better capture the size and impact of cooperatives and offer more recognition to this sector. The country has made important progress over the last 15 years in data collection. National institutions, such as DANE,<sup>12</sup> are expected to take a leading role in the centralisation of such data.

### ***Education and awareness of cooperativism are still limited***

**There is not enough knowledge and insufficient training on the social economy and cooperativism, both among the general public and public servants** (National Council for Economic and Social Policy, 2021<sub>[48]</sub>). Misuse of the cooperative model has significantly reduced engagement with this alternative model, which calls for rebuilding trust to leverage the cooperatives' potential to provide solutions for formalising labour as well as business activities. This lack of awareness and understanding about the cooperative sector directly affects its development, as state officials such as supervisors or policy makers are not sufficiently equipped to take the appropriate measures. During the focus group with policy makers and social and solidarity economy actors, participants indicated that some state officials do not consider cooperatives as enterprises, which has negative implications on applicable policies and benefits. For example, a tax reform in 2012 granted benefits to reduce labour cost for employers. However, cooperatives, and in particular associated work cooperatives, were not covered by this benefit. After six years, a legal reform was achieved to allow cooperatives to benefit from the reduction of labour costs. This example illustrates how the lack of knowledge and the limited awareness of cooperatives (in addition to other factors such as the generalised mistrust due to the misuse of the cooperative model in the past) pose a challenge to advance in their development.

### ***Governance challenges hamper the development of the cooperative sector***

**The lack of knowledge, capacities and skills of members leads to governance challenges in cooperatives.** A recent analysis of the governance of the cooperative sector in Colombia highlights challenges such as the lack of suitable skills in senior positions appointments and insufficient financial and non-financial information and knowledge for decision-making. Poor participation and trust of members in internal regulatory bodies, and scant instruments for self-monitoring of management are also identified as challenges (Fundación Universitaria María Cano et al., 2020<sub>[49]</sub>). This analysis stresses that governance challenges lead to a lower sense of ownership within cooperatives, affecting their development. The National Council for Economic and Social Policy (2021<sub>[48]</sub>) also identified these challenges and notes that the governance capacities of cooperatives are limited.

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<sup>12</sup> <https://www.dane.gov.co/>.



# 3 Improving the supervision of cooperatives in Colombia

**Promoting compliance of cooperatives can keep them true to their principles and purpose, strengthen their operating modalities, and unleash their full potential in tackling informality.** To reach this goal, supervision needs to be designed and implemented not only for regulatory compliance, but also to anticipate potential harmful situations for the supervised entities to help them take timely action before risks materialise. This section analyses the current supervision model and provides possible solutions to enhance its effectiveness and capacity to contribute to the development of the cooperative sector.

## The supervision of cooperatives has historically been based on a compliance-based approach

**Colombia's longstanding history of cooperativism along with the impact and weight of cooperatives led to a growth of these organisations in the 1990s.** However, the weak institutional structure of supervision allowed illegal groups to use cooperatives as legal forms while engaging in money laundering activities. This generated mistrust among the public and businesses, and led to a crisis in the sector due to the government's withdrawal of their deposits in cooperatives (ILO, 2019<sup>[50]</sup>).

**The Colombian government sought to regain the public confidence in the cooperative sector.** Since the cooperative sector was considered a "fundamental part of the national economy" (Ministry of Justice, 1988<sup>[21]</sup>), the government developed the Law 454 of 1998 which outlines the framework that regulates the solidarity economy. This law also created the Superintendence of the Solidarity Economy and the Guarantee Fund for Cooperative Entities, and transformed the National Administrative Department of Cooperatives into the National Administrative Department of the Solidarity Economy.<sup>13</sup>

**Supervision can help prevent misuse or diversion of a cooperative's purpose, thus protecting the rights and interests of their members while safeguarding the sector and promoting cooperative development.** The Superintendence of the Solidarity Economy is the national entity that supervises cooperatives and other social and solidarity organisations in Colombia. For this public institution, supervision follows a compliance approach (Box 4) which involves three main functions: monitoring, inspecting and controlling.

- **The monitoring function** involves the review of reports and information that supervised entities must periodically send to the Superintendence, which examines the compliance with the obligations defined in regulations.
- **The inspection function** entails direct action towards the supervised entity (e.g. a visit to its offices) in order to understand in detail their situation and detect irregularities.

<sup>13</sup> The decree 4122 of 2011 would later transform the National Administrative Department of Solidarity Economy, into the Special Administrative Unit of Solidarity Organisations (JAEOS).

- **The control function** is the highest degree of intervention. In this role, the Superintendence can directly intervene in supervised entities and ask for more in-depth requirements, establish sanctions, order the removal of managers and even liquidate organisations in the event of non-compliance with regulations (Superintendence of the Solidarity Economy, 2013<sup>[51]</sup>).

**The benefits of supervision are manifold, including enhanced confidence and interest in the cooperative model, support in tackling governance issues, and improved economic performance for the country.** The fact that a cooperative is supervised and complies with regulations generates trust among its members and the sector in general. This fosters growth and more interest in these organisations. For example, in the case of savings and credit cooperatives, supervision protects depositors' savings, preserves the integrity of the financial system, and reduces the risk of cooperatives, making them more attractive and stable. Supervision by an external body can also help to solve governance issues that some organisations may face through control mechanisms, such as sanctions or in-depth information requirements (DGRV, 2021<sup>[52]</sup>). Supervision also brings major benefits to authorities since it compels supervised entities to comply with regulations that aim to strengthen their financial and organisational structure. This helps to ensure that these organisations pay taxes, generate income, create jobs, and enhance competitiveness over time. (ILO, 2019<sup>[50]</sup>). Consequently, better supervision helps the economy to grow by strengthening the cooperative sector and its ability to deliver the impact of the cooperative model to tackle pressing issues such as informality.

#### Box 4. What is compliance-based supervision?

**Compliance-based supervision refers to verifying that the supervised entities meet the minimum standards set out in the corresponding regulation.** This traditional approach to supervising entities includes ongoing reviews and analysis of indicators, reports and other available data to identify possible violations of norms and rules, focusing on more “sanctions-oriented” inspections and enforcement (OECD, 2021<sup>[53]</sup>). For example, if a social and solidarity economy organisation in Colombia does not comply with submitting financial information on time, it will be sanctioned with a penalty interest of the annual contribution fee that they should pay to the Superintendence of the Solidarity Economy (n.d.<sup>[54]</sup>).

**Various factors may explain that organisations do not comply with specific regulations, such as lack of knowledge, misinterpretation or excessive control measures.** Although non-compliance can be considered as deliberate, it is not always the case. For example, the OECD Regulatory Policy Outlook 2021 highlights how non-compliance 'is highly likely to result from lack of knowledge, incomprehension, wrong interpretation, or technical and/or financial incapability to comply with rules' (OECD, 2021<sup>[53]</sup>). The report also suggests that too much control can reduce compliance since organisations and individuals 'can end up resisting when they face very high burden, that they perceive as unfair, thus reducing voluntary compliance' (OECD, 2021<sup>[53]</sup>).

**Complementing compliance-based approaches with early detection and risk analysis could help public officers in charge of supervision take timely corrective measures.** Compared to the compliance-based approach, the risk-based analysis approach allows the supervision body to take action in advance of a failure to comply with regulation by one of the supervised entities. It enables supervisors to identify emerging areas of risk and intervene early before the risk becomes a real threat (Banks Superintendence of Guatemala, n.d.<sup>[55]</sup>). It is particularly important in the Colombian context where there are more than 7 000 registered social and solidarity economy organisations, but less than 3 350 of these organisations report information, 126 of which accounting for 70% of the total assets reported, and 552 of which accounting for 90% of them (National Council for Economic and Social Policy, 2021<sup>[48]</sup>). The case of financial and savings cooperatives in Colombia is significant, as of 2018, 189 organisations accounted for 85% of the total loan portfolio of the cooperative sector, 42% of the equity of all cooperatives in the

country, 52% of all assets, and almost 60% of all members in the sector (Confecoop, 2019<sup>[35]</sup>). The high concentration of assets, equity and members in a small number of entities and the large number of organisations not reporting information pose a risk for the cooperative sector. This situation calls for a mixed approach of compliance with rules and risk analysis in order to improve supervision and reinforce the sector's long-term sustainability.

**Implementing a risk-based approach could allow supervision entities to allocate resources more efficiently.** This approach allows supervision bodies to prioritise and focus on the risks that could cause more damage to members and supervised entities, facilitating the taking of action on elements that could most affect the stability of the sector (Toronto Centre, 2018<sup>[56]</sup>). A risk-based approach helps to allocate resources based on proportionality, which means that supervision efforts and the amount of resources devoted to them will be proportional to the level of risk identified (OECD, 2018<sup>[57]</sup>). For example, the Australian Prudential Regulation Authority (APRA) supervises financial organisations, such as member-owned mutual companies, that are authorised as deposit-taking institutions. Following a risk-based approach to supervision, APRA assesses the risk of each organisation and allows small member-owned mutual companies to operate under simpler regulation compared to larger and higher-risk companies (Financial Stability Institute, 2019<sup>[58]</sup>). In Colombia, the Superintendence of the Solidarity Economy does have different levels of supervision, but based on amount of assets and economic activity, not on risk analysis.

**Using risk-based analysis generates multiple benefits for cooperatives, such as a reduced likelihood of risks materialising, improved governance and increased self-monitoring.** Supervision complemented by risk analysis can reduce operational risks for the supervised cooperatives and allow them to develop mitigation plans for the risks identified. It can also help to solve governance issues that some organisations may face through mechanisms, such as sanctions or in-depth information requirements, or through preventive actions (DGRV, 2021<sup>[52]</sup>). Lastly, by combining these approaches, supervised entities become more aware of their risks, and can address them promptly by developing new internal capacities and processes, which would improve their self-monitoring and compliance. These benefits strengthen cooperatives and keep them engaged with their principles and main purposes.

## Various strengths facilitate complementing compliance-based supervision with risk-based analysis

**The Superintendence of the Solidarity Economy is aware of the benefits that a risk-based analysis would produce.** The Superintendence included risk-based analysis as an objective in their strategic framework 2019-2022: “to define and implement a supervisory model based on risk analysis, prospective, participatory and effective, which will result in the sustainability and advancement of the solidarity economy” (Superintendence of the Solidarity Economy, 2019<sup>[59]</sup>). This approach is considered as a way to improve governance and to create incentives for better self-monitoring by supervised entities (Superintendence of the Solidarity Economy, 2019<sup>[60]</sup>). These strategic objectives were reflected in the Public Policy for the Development of the Solidarity Economy, known as CONPES 4051. The Policy includes a line of action that explicitly seeks to strengthen the Superintendence supervisory model and institutional structure through a plan to implement the risk-based analysis approach to complement the compliance-based supervisory model (National Council for Economic and Social Policy, 2021<sup>[48]</sup>).

**Public institutions and officials support the implementation of risk-based analysis to complement the compliance-based supervision model.** Colombia benefits from multiple public initiatives aiming to promote the social and solidarity economy in the country. Similar support to implementing risk-based analysis can be found. During the event ‘Regulation as a Management Tool in the Cooperative Sector’ in 2021, the former Solidarity Economy Superintendent highlighted the importance and positive contribution that the risk-based analysis approach could bring to the sector (Confecoop, 2021<sup>[61]</sup>). Other institutions

have also decided to implement the same approach, such as the Superintendence of Health that released their guidelines for a risk-based supervision framework (Superintendence of Health, n.d.<sup>[62]</sup>). This kind of public support has been instrumental in other OECD countries seeking to implement a risk-based approach. For example, In Lithuania, the support of the Prime Minister and the Ministries of Economy and Justice helped to move forward with an 'Inspections Reform'. Their support was essential to introduce risk-based regulations (OECD, 2021<sup>[53]</sup>).

**The separation of public entities that supervise and promote social and solidarity organisations avoids potential conflicts of interest.** In Colombia, the Superintendence of the Solidarity Economy is the public entity that supervise social and solidarity economy organisations, while the Special Administrative Unit of Solidarity Organisations (UAEOS) is the public entity that promotes, protects, strengthens and develops these organisations. Separating functions through two entities helps to avoid conflicts of interest that could occur when the same entity is in charge of both functions. Separating the supervisory function contributes to technical rather than political decision-making and maintains the independence of the institution from possible interference by third parties (DGRV, 2021<sup>[52]</sup>). As noted by the Toronto Centre (2018<sup>[56]</sup>), this is relevant for the implementation of risk-based analysis, since it must be applied consistently for this approach to produce the expected results.

**The Superintendence of the Solidarity Economy implements proportionality, to some degree, to the supervised entities through different levels of supervision.** The Superintendence defined three levels of supervision that determine “the frequency and forms of financial information reporting, the amount to be paid for the contribution fee, and the application of accounting and financial standards” among others (Superintendence of the Solidarity Economy, n.d.<sup>[54]</sup>). This practice is also implemented by other countries, like in South Africa, where larger financial cooperatives must submit monthly reports while smaller financial cooperatives must report quarterly (Financial Stability Institute, 2019<sup>[58]</sup>). Table 3 describes the different levels of supervision implemented in Colombia.

**Table 3. Supervision levels implemented by the Superintendence of the Solidarity Economy**

Supervision Level	Criteria	Type of organisations covered
First level (Highest)	<ul style="list-style-type: none"> <li>All social and solidarity economy organisations engaged in financial activity</li> </ul>	<ul style="list-style-type: none"> <li>Specialised savings and credit cooperatives</li> <li>Multi-active or integral cooperatives with a savings and credit section</li> <li>Social and solidarity economy organisations that the Superintendence places in this level by administrative act</li> </ul>
Second level (Medium)	<ul style="list-style-type: none"> <li>Not being involved in financial activity</li> <li>Assets as of 31 December 2011 are equal to or greater than COP 3 116 939 012 (almost USD 800 000 at the exchange rate at the time of elaboration of this document in June 2022)</li> </ul>	<ul style="list-style-type: none"> <li>Cooperatives without a savings and credit section</li> <li>Pre-cooperatives</li> <li>Cooperative public administrations</li> </ul>
Third level (Lowest)	<ul style="list-style-type: none"> <li>Not being involved in financial activity</li> <li>Assets as of 31 December 2011 are less than COP 3 116 939 012 (almost USD 800 000 at the exchange rate at the time of elaboration of this document in June 2022)</li> </ul>	<ul style="list-style-type: none"> <li>Employee funds</li> <li>Mutual associations</li> <li>Auxiliary institutions</li> </ul>

Source: Authors' elaboration based on (Superintendence of the Solidarity Economy, n.d.<sup>[54]</sup>).

## Several challenges still need to be overcome to fully leverage mixed supervision approaches

**Supervision is dispersed among multiple superintendencies, making a risk-based approach difficult to implement.** The Superintendence of the Solidarity Economy mainly implements supervision of cooperatives, but cooperatives that pursue specific economic activities (e.g. transport cooperatives) are under the scope of the specific superintendence overseeing their activity.<sup>14</sup> Although a specialised supervision according to the cooperative's activity has valuable benefits, superintendencies that supervise cooperatives in Colombia do not work in an articulated manner, nor do they have harmonised criteria for supervision. The lack of articulation between supervisory entities leads to missing organisations that should be overseen, passing over potential damaging situations for the supervised entities and their members, and increasing the risk for the cooperative sector in general (National Council for Economic and Social Policy, 2021<sup>[48]</sup>).

**The implementation of a risk-based approach requires a new mind-set and the development of new skills.** Complementing the compliance-based supervision model with risk-based analysis requires collaboration between the supervisor and the supervised entity. This entails changing the mind-set by developing a mutual understanding of the conditions of better performance of cooperatives, and an acknowledgement of the responsibilities, capabilities and roles of each involved party (Banks Superintendence of Guatemala, n.d.<sup>[55]</sup>). Compliance-based supervision focus on reviewing reports and indicators, not on advising cooperatives. Therefore, supervisors need to develop a new set of skills such as a comprehensive understanding of cooperatives specifically about the environment in which their business models operate and the causes and drivers of risks that can affect their activity (Superintendence of the Solidarity Economy, 2022<sup>[63]</sup>).

**Cooperatives do not have the tools to assess and monitor their own compliance with regulations on a voluntary basis. Self-monitoring capacities are under-developed.** As mentioned above, the Superintendence of the Solidarity Economy is in charge of supervisory functions while the Special Administrative Unit of Solidarity Organisations (UAEOS) is responsible for promotion activities. According to analysis by the National Council for Economic and Social Policy (2021<sup>[48]</sup>), there is a misalignment in the strategy relative to self-monitoring between the superintendence and the UAEOS. This led the former to not sufficiently promote good practices (e.g. guidelines, tools) for cooperatives to help them assess and monitor their own compliance with regulations, while the latter is not delivering sufficient capacity building that could help cooperatives to be aware of their weaknesses and potential risks.

**Available information on supervised entities is not used to its full extent.** A significant amount of information is collected on cooperatives but this information is dispersed among entities, particularly the superintendencies that supervise cooperatives. As a result, the current model of compliance-based approach is not able to use all the information that is available as input for supervision (National Council for Economic and Social Policy, 2021<sup>[48]</sup>). Risk-based analysis is harder since the data from other entities on their supervised entities is not available to the Superintendence of the Solidarity Economy. This is a weakness, given that organisations tend to be non-compliant in several areas and that multiple risk dimensions are therefore co-related. (OECD, 2018<sup>[57]</sup>).

**The institutional structure of the Superintendence of the Solidarity Economy is not adapted to the implementation of a risk-based analysis.** The Superintendence has limited capacity in terms of human resources, with considerably fewer supervisors compared to other superintendencies. This has three main consequences:

- It hampers the Superintendence from having a local and regional coverage;

<sup>14</sup> This includes the Superintendence of Finance, Superintendence of Ports and Transport, Superintendence of Health, Superintendence of Surveillance and Private Security and Superintendence of Domiciliary Public Services.

- It makes it difficult to supervise the large number of social and solidarity economy organisations in the country; and,
- It prevents the implementation of risk-based supervision, while fulfilling other functions and activities for the operation of the Superintendence (National Council for Economic and Social Policy, 2021<sup>[48]</sup>).

## Policy orientations

**Colombia can make the most of the cooperative sector to tackle high levels of informality.** To reach this strategic objective, some challenges need to be addressed. Colombian authorities can act across several policy areas to enable better supervision through a mixed approach of compliance-based supervision and risk-based analysis. Such a combination of approaches will strengthen both supervisory entities and cooperatives and help to unleash the positive impacts of cooperatives.

***Work with the cooperative sector to ensure it fulfils its primary purpose and that it is not diverted to evade worker's rights***

**Prevent misuse of the cooperative model by facilitating information on the governance of cooperatives including on working conditions and by efficient supervision.** The cooperative sector has strong potential to support peacebuilding, revitalise communities and formalise labour. It is important for the government and the cooperative sector to work together to ensure all forms of abusive use of cooperatives is prohibited. This includes subcontracting and intermediation through the use of associated work cooperatives. Cooperatives need to be supervised also to protect them and their membership from many abuses such as the fraudulent misuse of cooperative funds; the misuse of the name and identity of cooperatives for non-cooperative activities or simply to attract governmental funding; or as a cover for business activity that is on the boundaries of legitimacy.

**An important measure could be to collect data and information to assess if/how cooperatives contribute to the formalisation of work, in conjunction with compliance efforts.** Data collection could focus on registration in the social security system and/or contribution to the pension system of workers in cooperatives. This could be achieved through a survey designed and circulated to all types of cooperatives in collaboration with umbrella organisations such as Confecoop.

***Support cooperatives in overcoming governance challenges***

**Developing self-assessment tools, investing in capacity-building and advising cooperative members could help to address their governance challenges.** A self-assessment tool could help to enhance cooperative governance by identifying opportunities for improvement, detecting potential risks early and developing action plans accordingly (National Council for Economic and Social Policy, 2021<sup>[48]</sup>). This would also help cooperatives to understand the advantages of risk-based supervision and implement it, leading them to monitor their own compliance with regulations and build capacities to mitigate risks (Confecoop, 2021<sup>[61]</sup>). In addition, the lack of sufficient knowledge and internal controls need to be addressed. In some countries, cooperatives have solved these governance challenges by pooling resources and putting them into a well-funded higher-level body that invests in capacity building and advises its members on governance issues. These initiatives allow cooperatives to collaborate and coordinate between themselves on issues to improve the organisations, such as implementing risk-based analysis on internal controls or developing self-monitoring capacities. For example, the National Association of Co-operative Financial Institution of South Africa (NACFISA) provides training for staff and board members. In Australia, financial cooperatives are part of the Customer Owned Banking Association

(COBA) or the Business Council of Co-operatives and Mutuals (BCCM), which provide their members with policy advice and training events (Financial Stability Institute, 2019<sup>[58]</sup>).

### ***Modernise inspection system, build capacities and develop new skills of supervisors***

**Well-trained supervisors will be better equipped to provide useful advice to cooperatives and promote risk management and compliance with regulations.** Increasing the number of supervisors and labour inspectors dedicated to cooperatives, providing them with sufficient resources and clear guidance to realise their missions and building their capacities is critical to enforce labour law, reinforce control of cooperatives, identify abusive situations and implement sanctions. Clear guidelines to labour inspectors have already helped reduced the number of associated work cooperatives carrying out labour intermediation activities (OECD, 2022<sup>[25]</sup>). More widely, the inspection system would benefit from modernisation, the increase of inspections and inspectors, and the use of new tools (such as virtual inspections).

**Experiences in various countries show that capacity building and skills development facilitate the understanding and adoption of risk-based enforcement systems into inspection models.** Supervisors provide better advice to supervised entities and reduce the number of non-conformities (OECD, 2021<sup>[53]</sup>). For example, the Netherlands created the Academy for Supervision with a risk-based approach at the core of the standard programme taught to supervisors. The latter can thereby have access to critical knowledge to understand, respond and handle risks. In the United Kingdom, a reform required supervisors to work in collaboration and advise supervised entities, which involved developing a set of skills related to risk-based regulation and regulatory delivery. This includes “risk assessment”, “understanding those you regulate”, “checking compliance”, “supporting compliance”, and “responding to non-compliance”, among others (OECD, 2021<sup>[53]</sup>).

### ***Better coordinate work of superintendencies and public entities to build joint information systems***

**Gathering all the information available on cooperatives in a unified system could improve risk-based analysis and supervision efficiency.** A joint information system could provide more data on cooperatives and support the supervision efforts of the Superintendence of the Solidarity Economy. It will also reduce costs for supervisory bodies by sharing expenses instead of each managing separate budgets for data collection. For example, Slovenia made efforts to implement shared supervision management solutions across control entities with various levels of success. Successful implementation of such shared information system produces several benefits, including improved targeting through a better identification and follow-up on risks as well as increased quality and effectiveness of inspections. Ultimately, this leads to better regulatory compliance, and improved internal efficiency as well as reduced administrative cost for governments (OECD, 2018<sup>[57]</sup>).

### ***Consider delegating supervision for certain entities to concentrate public efforts on the implementation of the risk-based approach***

**Federations and other similar institutions can improve the efficiency of the supervisory process and perform certain supervision duties on behalf of the Superintendence of the Solidarity Economy.** This was already considered in the past and was shared by the Superintendent of the 2018-2021 term during the event 'Regulation as a Management Tool in the Cooperative Sector', a proposal that was also mentioned by two former Mexican supervisors at the same event (Confecoop, 2021<sup>[61]</sup>). Furthermore, the Public Policy for the Development of the Solidarity Economy expressed interest “(...) in developing a collaboration mechanism so that, within pre-established limits and conditions, the sector's business integration bodies, auxiliary institutions of the solidarity economy and specialised companies that

are willing, collaborate with certain activities for supervision” (National Council for Economic and Social Policy, 2021<sup>[48]</sup>). This could help reduce the workload of supervisory bodies that can free up time to develop risk-based approaches. It could also potentially improve supervision of small and medium-sized cooperatives, allowing supervisory bodies to focus resources on the riskiest organisations. For example, an apex organisation in Brazil called “Central Cooperatives” performs some supervisory duties on behalf of the Central Bank of Brazil concerning Cooperative Financial Institutions (CFIs). It is not mandatory for CFIs to join “Central Cooperatives”, but it is very beneficial as they offer complementary services to the members while receiving a more efficient and less costly supervision than if it were done by the central supervision entity (World Bank, 2021<sup>[64]</sup>).

### ***Complement compliance and risk analysis efforts with an external audit of cooperatives***

**Cooperative supervision by enforcement agencies could be complemented by an external audit that certifies compliance with rules and processes and suggests corrective actions.** This external audit exercise aims to ensure that cooperatives comply with established national regulations, follow the principles of cooperativism and work for the interest of all their members. This also serves to verify cooperatives’ fulfilment of economic, social and cultural goals, identify threats and provide assistance to address them (CECOP, 2020<sup>[65]</sup>). External audits could be required for all cooperatives or restricted to those of a certain size or active in certain sectors, such as the financial sector. For example, in France, external audits for cooperatives are mandatory and must be performed by an independent evaluator certified by the government. In Italy and Poland, the external audit also concerns all cooperatives. Non-compliance can lead to severe implications, such as losing the right to operate legally or legal consequences for the cooperative's board of management (CECOP, 2020<sup>[65]</sup>). These examples are relevant in the context of Colombia since the external audit could be conducted in cooperatives regardless of which superintendence is in charge of supervision, providing essential information to supervisory bodies, strengthening supervised entities, and complementing supervision efforts for the compliance and risk-based approach.



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## Annex A. Examples of mechanisms to create formal jobs, including through cooperatives

### Box A.1. Mobilising various social and solidarity economy models to reduce unemployment and informality: the example of Spain

A reform introduced in 2015 by the Law 31/2015 for the Promotion of Self-Employment expanded possibilities of using unemployment benefits to support cooperative entrepreneurship by the unemployed. Subsequent to this Law, a maximum of 24 months unemployment benefits can be paid in a single payment (*pago único*) in order to establish or join a **worker cooperative** or a **sociedad laboral**. The amount received is exempt from income tax as long as the business activity is carried on for at least five years.

- **Worker cooperatives** are organisations where workers are the owners of the enterprise and have representation and a vote on the board of directors. In these organisations, workers participate in their financial success according to their labour contribution to the cooperative (The Democracy at Work Institute, n.d.<sup>[66]</sup>). Worker cooperatives have shown resilience in periods of crisis and a remarkable capacity to provide high quality and stable employment.
- **The Sociedades Laborales** are corporate entities in which workers own the majority of the capital. These models help to create or preserve jobs, either through the set-up of new entities or by supporting the transformation of entities in crisis or those with business transfer challenges (e.g. due to lacking a new generation taking over the enterprise). There are currently more than 8 500 worker-owned companies in Spain, generating over 60 000 jobs (LABORPAR, n.d.<sup>[67]</sup>).

Spain also promotes work integration enterprises as a tool to formalise work. These enterprises are owned by a non-profit entity with a share of 51% and are legally required to reinvest 80% of their income. They produce goods and services and facilitate the transition to formal employment of disadvantaged groups (CEPES, n.d.<sup>[68]</sup>).

In addition to SSE organisations, Spain has specialised entities that provide training and complementary services to support their creation and growth. For example, LABORPAR (*Federación Empresarial de Sociedades Laborales y Empresas Participadas de España*) is an independent, non-profit business organisation that represents *Sociedades Laborales*. It promotes this model in Spain and offers training and support to its associates (LABORPAR, n.d.<sup>[67]</sup>). FAEDEI (*Federación de Asociaciones Empresariales de Empresas de Inserción*) aims to promote, strengthen, and raise awareness of the work integration enterprise model as the best tool for social and work integration through training, support, advice, and visibility of these entities in Spain (FAEDEI, n.d.<sup>[69]</sup>).

### Box A.2. Social vouchers: formalising jobs and businesses

**Social vouchers can be effective tools to formalise work by enabling access to particular goods and services and targeting specific groups, thus promoting formal businesses.** Implemented in 40 countries with 100 million users, social vouchers improve transparency by allowing government to

trace transactions. They also help governments to collect more tax revenues (OECD, 2021<sup>[70]</sup>). In Italy, job vouchers help regulate undeclared work in seasonal professions, especially in agriculture. In the tourism sector, vouchers encourage employers to formalise employment through contracts in order to benefit from tax advantages offered by holiday vouchers. They also encourage tourism businesses to declare their income by including them in the network affiliation, implicitly declaring the amount of holiday vouchers used and paying taxes, as is done in Romania.

For example, in 2005, a major reform was launched to tackle informality in the personal and household services sector in France. Impact assessment studies showed that after five years of social voucher use, 500 000 informal jobs were formalised, thus leading to a 10% reduction in undeclared jobs (European Commission, 2012<sup>[71]</sup>).

### Box A.3. Worker buyouts (WBOs) through cooperatives: examples from Argentina, France and Italy

Worker buyouts occur when employees pool resources to purchase the firm they work for and transform it into a worker owned and managed enterprise. In some OECD countries and beyond, they have proven to be an effective way to offset job losses during economic crises when business closures peak. They provide alternative structures for collective entrepreneurship and the consolidation of formal economic activities. In Europe, policy measures supporting worker buyouts can be found in several countries, in particular in France, Italy and Spain. In 2020, Belgium's recovery and resilience plan mentions the creation of the first *coopérative de repreneuriat*.

#### Argentina: the experience of *empresas recuperadas*

In Argentina, structural reforms implemented during the 1990s and subsequent economic and social crises had severe repercussions for the economy, in particular for SMEs in the industrial sector. This led to the collapse and bankruptcy of many industrial units. Workers resorted to the bankruptcy law which allowed them to continue with production in a failed enterprise if a majority of workers agreed, giving rise to the phenomenon of *empresas recuperadas*, mainly formed as worker-owned cooperatives.

The recovery of a company was preceded by either total or partial abandonment by its owners. Recuperation implied a transition to a new legal form in which workers take over responsibility for production, establish relationships with suppliers and customers, and fix worker salaries.

The prominence of cooperatives, as the main legal form for recuperation, was linked to legal benefits associated with their formation. Setting up a cooperative took 30 days. Cooperatives were not responsible for previous debts, and bankruptcy laws made it mandatory to take into account demands of workers united in a worker cooperative, to favour the continued existence of the company. Some companies came to the conclusion that forming cooperatives was the most viable option for recuperation, enabling workers to resume production with little or no capital as well as benefiting from tax exemptions (Howarth, 2007<sup>[72]</sup>).

#### France: the rise of the *société coopérative et participative (SCOP)* model

The 2014 Law on Social and Solidarity Economy introduced provisions that facilitate worker buyouts and provisions for worker cooperatives. For example, the Law created transitional cooperatives, whereby external members (who are not cooperative members) can own over 50% of the cooperative's capital for a period of 7 years in the case of a company being transformed into a cooperative. Workers

have seven years to obtain the majority of the capital. In exchange, external members are bound to sell their shares to workers to reach the 50% ownership. This provision is a direct response to the difficulty to access capital during takeovers. The Law also stipulates that cooperatives should have audits every five years that focus on compliance with cooperative principles and legal provisions (rather than conventional financial audits).

Enterprises that undergo worker buyouts in France typically adopt the *Société coopérative et participative (SCOP)* model. In this model, worker-members own at least 65% of votes at the shareholders' meeting (i.e. control rights) and 51 % of the capital.

In 2020, there were 4 122 cooperative societies accounting for more than 81 000 employees. Approximately 64% of the SCOPs are new creations, 16.5% transmissions of healthy companies, 15.3% transformations of associations and 4.4% takeovers of companies in difficulty (Confédération générale des SCOP, 2022<sup>[73]</sup>).

### Italy: a collaborative approach to workplace conversions

In Italy, worker buyouts peaked following the 2008 global financial crisis and grew by 60% between 2007 and 2014, when 131 successful buyouts were initiated. Italy's experiences with worker buyouts is specific: it is mainly the result of the *Legge Marcora* framework (L. 49/1985). Underpinned by a robust policy and financing environment, this framework facilitates business conversions of firms to cooperatives. Most of the country's worker recuperated firms are "negotiated WBOs".

The Italian collaborative approach to workplace conversions occurs via three broad notions and practices:

- **the right-of-first refusal for employees** seeking to buy out companies in crisis and that are undergoing liquidation or bankruptcy procedures;
- **the use of workers' own entrepreneurial initiative and resources** for investing in new cooperatives, including the possible use of lump-sum payments of unemployment benefits to employees of closing firms intending to convert their employers' businesses to worker cooperatives; and
- **saving jobs and the production capacity** via cooperatives while minimising burdens to state's budget (Euricse, n.d.<sup>[74]</sup>).

In 2021, Italian cooperative apex organisations<sup>15</sup><sup>16</sup> signed an agreement with Italian trade union organisations<sup>17</sup> to promote the establishment and consolidation of cooperative worker buyouts. The new agreement foresees the creation of a new permanent national monitoring committee to follow current industrial crises in order to advise stakeholders on the benefits of setting up a worker cooperative. Furthermore, they have also developed together an explanatory guide to support the initiatives (CICOPA, 2021<sup>[75]</sup>).

Source : (Confédération générale des SCOP, 2022<sup>[73]</sup>) (CICOPA, 2021<sup>[75]</sup>) (Euricse, n.d.<sup>[74]</sup>) (Howarth, 2007<sup>[72]</sup>).

<sup>15</sup> Apex organisations refer to cooperatives coming together and forming larger, overarching bodies that can perform different functions, including promoting and supporting the development of cooperatives, mobilising them towards risk management frameworks or performing supervision activities (World Bank, 2020<sup>[76]</sup>).

<sup>16</sup> The apex organisations were the General Association of Italian Cooperatives (AGCI), the Confederation of Italian Cooperatives (Confcooperative) and the National League of Cooperatives and Mutual Societies (Legacoop).

<sup>17</sup> The agreement was signed with the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers' Unions (CISL) and the Italian Labour Union (UIL).



## Annex B. Formal employment criteria and legal frameworks in Colombian cooperatives

**Table 4. Legal framework and regulations that safeguard workers' rights across different types of cooperatives and labour relationships**

Labour relationship	Types of cooperatives	Formal employment criteria and legal frameworks
Dependent work	Consumer, production, transport, education, housing, insurance, or savings and credit cooperatives (among other economic activities), that are not constituted as associated work cooperatives.	<p><b>Contract:</b> Article 23 of the <a href="#">Substantive Code of Labour</a>.</p> <p><b>Salary:</b> Article 127 &amp; 132 (legal minimum wage) of the <a href="#">Substantive Code of Labour</a>.</p> <p><b>Affiliation to health system:</b> Article 155 &amp; 157 of <a href="#">Law 100 of 1993</a>.</p> <p><b>Affiliation to pension system:</b> Article 13 of <a href="#">Law 100 of 1993</a>.</p> <p><b>Affiliation to occupational risks system:</b> Article 2 of <a href="#">Law 1562 of 2012</a>.</p> <p><b>Employment benefits:</b> many of the benefits are included in the <a href="#">Substantive Code of Labour</a>, such as the paid annual leave (article 186), severance fund (article 249) and the service bonus (article 306). The additional benefit of interest on severance fund is found in article 1 of <a href="#">Law 52 of 1975</a></p>
	Associated work cooperatives	According to Article 59 of <a href="#">Law 79 of 1988</a> , only in exceptional and duly justified cases may associated work cooperatives employ occasional or permanent non-associated workers; in such cases, these relationships are governed by the rules of the labour legislation in force (i.e., dependent worker).
Independent work	All types of cooperatives can hire independent workers, as long as they comply with the rules governing this type of employment relationship.	<p><b>Contract:</b> Could be administrative, civil or commercial contract. Most common figure is the civil contract called "Service provision contract". Definition of a contract can be found in Art. 1495 of <a href="#">Law 84 of 1873</a>.</p> <p><b>Fee:</b> on agreement.</p> <p><b>Affiliation to health system:</b> Article 157 of <a href="#">Law 100 of 1993</a>.</p> <p><b>Affiliation to pension system:</b> Article 13 &amp; 15 of <a href="#">Law 100 of 1993</a>. For the health and pension affiliation, article 26 of <a href="#">Law 1393 of 2010</a> establishes that the execution and fulfilment of the obligations derived from contracts for the provision of services shall be conditional upon the verification by the contracting party of the affiliation and payment of contributions to the social protection system, in accordance with the regulations issued by the National Government for this purpose.</p> <p><b>Affiliation to occupational risks system:</b> Article 2 of <a href="#">Law 1562 of 2012</a>.</p>
Associated work	Associated work cooperatives (which can specialise in any economic activity)	<p><b>Contract:</b> Article 11 of <a href="#">Decree 4588 of 2006</a>.</p> <p><b>Compensation:</b> Article 25 of <a href="#">Decree 4588 of 2006</a> &amp; Article 3 of <a href="#">Law 1233 of 2008</a> (compensation shall in no case be less than one (1) legal monthly minimum wage in force).</p> <p><b>Affiliation to health and pension systems:</b> Article 26 of <a href="#">Decree 4588 of 2006</a>.</p> <p><b>Affiliation to occupational risks system:</b> Article 2 of <a href="#">Law 1562 of 2012</a>.</p> <p><b>Other benefits:</b> depend on the compensation and work regimes of each cooperative. The <a href="#">Joint Administrative Order 0048 of 2021</a> suggests some potential benefits such as paid annual leave or economic support for commuting.</p>

Source: Authors' elaboration based on the laws mentioned in the table

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