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## ‘THERE IS NO PLACE ‘FOR’ HOME’: PRESSING CHALLENGES VIS-A-VIS LEGAL SOLUTIONS FOR THE DEVELOPMENT OF COOPERATIVE HOUSING IN GREECE

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### Abstract

During the last decade, the intensification of housing issues has gone hand in hand with the revived interest in collaborative and cooperative housing. In fact, since 2010 projects have emerged in many European cities experimenting with alternative housing models based on collective ownership, decommodification of housing and democratic self-management. These efforts are often supported by specific institutional frameworks and public policies, as it is increasingly recognized that cooperatives can provide more equitable, inclusive, affordable, environmentally sustainable and democratic housing solutions.

In Greece, cooperative housing has not been historically developed, despite the institutionalization of (civil) building cooperatives as early as in the 1920s. At the same time, an absence is noted of a social or non-profit rental housing model, as public housing policy has over time prioritized the production and promotion of owner-occupied housing (Siatitsa, 2019). Lacking previous experiences and institutional capacities makes it harder to envision and implement similar projects in Greece (Cohab, 2023; Siatitsa and Karagianni, 2022).

Taking into account the above, this paper aims to contribute to the debate on housing cooperatives by exploring the legal dimension of housing cooperatives and their potential for development based on the current cooperative legal forms in Greece. The main rationale is that housing cooperatives constitute a significant instrument within an overall housing policy mix able to confront commodification in the housing market and construct “non-state public” (Ferreri and Vidal, 2022) housing models for those willing to follow this option.

### 1. Introduction: Housing cooperatives as alternative to the housing affordability crisis

The neoliberal policies of the previous decades entailed the shrinking of social housing policies and the weakening of public intervention in the function of housing markets even in countries with strong welfare traditions. Housing financialization and commodification trends have intensified in the post global financial crisis period, and even more after the pandemic and during the recent energy and cost of living-crisis. A growing concern is voiced at European Union level regarding the need to develop policies that can secure access to housing for all (European Parliament, 2020). Collaborative and cooperative housing models are considered part of the alternative housing tenures that could provide decent, affordable and inclusive housing, beyond the private housing markets.

Greece, as most European countries (Dubois and Nivakoski, 2023), is faced with an aggravating housing crisis, evident in the stark disparity between housing costs and local wages and incomes. Households are struggling with unaffordable and often inadequate housing, having very limited alternative options, as the

only available tenures are homeownership and renting. According to Eurostat data (2021), the country scores the highest rates of housing cost overburden (28,8% of the total population, 34,2% in urban areas, and 74,6% for tenants) and of housing related arrears (36,4%). Moreover, overindebtedness, exacerbated during the period of the sovereign debt crisis, is still a threat for thousands of households that risk to lose their first residence and property assets, living on a permanent economic suffocation and anxiety. Housing precarity is even more alarming for low-income populations, young people, migrants and vulnerable populations (Arapoglou et al. 2015; Siatitsa, 2021).

Addressing housing affordability and providing decent and secure housing for all is a big challenge, particularly for countries with little or no previous housing policy tradition such as Greece. Based on a familistic market-oriented and homeownership model, Greece never developed social or public housing as part of its welfare system (Maloutas et al. 2021, Siatitsa 2019). The lack of any social, public and cooperative housing stock, but also the lack of institutional infrastructures and administrative mechanisms for affordable housing are a big hindrance for the development of a more fair, inclusive and democratic housing sector in Greece (Siatitsa 2019). Moreover, there is a growing interest in alternative housing models, following the broader trend since the global financial crisis, and the formation of groups that seek to explore potentials for the development of cooperative forms of housing and collective ownership in Greece, despite the lack of an adequate legal framework and of related experiences within the given context.

Initially, we refer to the different forms of collaborative and cooperative housing in Europe in order to highlight their main characteristics. Then, we focus on their legal dimension in order to examine how the core values and international principles of the cooperative movement are specified in the case of the housing sector. In particular, we construct an analytical framework which relates analytical axes of cooperative legislation with the 7 international cooperative principles and envisaged non-state public dimensions/goals. Based on this analytical framework, we comparatively assess the two more suitable cooperative legal forms that have been introduced under the Greek legal framework in order to highlight the possibilities and difficulties of establishing housing cooperatives. We discuss the results of this comparative assessment along the analytical axes and ground our proposal for an adequate legal form of housing cooperatives in Greece. Finally, in the concluding section we discuss possible legal strategies to develop housing cooperatives in Greece and the necessary preconditions for this type of tenure to actually provide viable and secure alternative solutions to the housing unaffordability crisis.

## **2. Collaborative and cooperative housing in Europe**

A renewed interest in collaborative housing models has emerged as a more democratic and affordable solution to the housing crisis, particularly in light of the global financial crisis. The term collaborative housing has been proposed as an umbrella term in order to include the broad spectrum of forms including cooperatives, community land trusts, co-housing, community-led or self-help housing (Czischke et al. 2020). As such, it includes a broad spectrum of collective and participatory housing experimentations within different societal contexts, with a varying degree of institutional recognition and public support, but also different organizational features (Mullins and Moore, 2018; Hagbert et al. 2020; Ferreri and Vidal, 2022). These experiments can provide a more democratic and affordable solution to the housing crisis by stressing the collaboration among residents, community and stakeholders as their main common

feature (Czischke et al. 2020). There are important variations in terms of motivation, political vision, socio-economic characteristics of participants, institutional framing and state involvement in each of these initiatives, which are context-bound and relate to the different historical pathways of the development of the housing sector at national or even at city level.

Housing cooperatives in Europe appeared in several countries in the 19th century parallel to the workers cooperative movement, but they expanded significantly in the early 20th century with the introduction of specific legal frameworks and particularly after World War II as part of massive urban reconstruction programmes. Regardless of the diversity of models and types of self-organized and/or collaborative housing (Mullins and Moore, 2018; Griffith et al, 2022), the question of legislation is of paramount importance as it relates with the design and implementation of housing policies. Even the so-called trans-legal initiatives (i.e. squats) can eventually be formalized through a process of legalization. The legal treatment of existing initiatives and/or more importantly the enactment of a special legal framework may foster or hinder the development of similar initiatives, facilitate housing commodification or push for de-commodification, undermine or safeguard the collective dimension of such initiatives (Balmer & Gerber, 2018).

Our focus on the cooperative legal form does not imply that there is only one type of housing cooperative. On the contrary, very diverse cooperative housing models have been produced internationally on the basis of the cooperative legal form (Ferreri and Vidal, 2022). In particular, Cooperative Housing International mentions the following distinct housing cooperative models as they have been developed in different contexts: a) the non-profit rental, b) the equity ownership, c) the limited equity, d) the mutual aid, e) the mutual home ownership, and f) the rights of use. The institutional trajectories of these models have been very diverse, however in most countries they eventually became an alternative path to private homeownership, or remained a marginal sector in the total housing stock, with few exceptions (see CECODHAS and ICA, 2012; Baiges et al., 2020).

In the context of neoliberalism, the legitimization of housing cooperatives in the housing policy mix is to some extent related to their private character (in comparison with public housing), the cost-effectiveness of the support measures involved (i.e. ground lease) which do not challenge the austerity agenda while they mainly address middle-income constituencies and not low-income groups (leaving intact the dominant competition logic) (Balmer & Gerber, 2018). Still, there is an ongoing debate regarding the political potential of cooperative housing to provide de-commodified, anti-speculative, affordable and inclusive alternatives to the mainstream housing model (Huron, 2018). The control over the collective management and/or ownership of the buildings and the partial de-commodification of individual housing units (limits to the capitalization of surplus exchange values of homes) have been highlighted as two important conditions that can place housing cooperatives into the broader frame of struggles for the construction of the commons or for reclaiming the public beyond the realm of the state (Ferreri and Vidal, 2020).

International comparison of various forms of cooperative housing demonstrates the critical role of the state in shaping the outcomes of housing cooperatives at various phases of their production, evolution and maintenance (Baiges et al., 2020). Throughout these phases, the state can assume various roles in relation to housing cooperative actors. For example, in the case of Belgium and with a special focus on affordable housing, the state acted as facilitator for the development of rental cooperatives during the early phase of

housing policy, then moved to the role of coordinator of both municipal and cooperative housing, and in the context of disinvestment in social housing provision, the state finally assumed the role of regulator (Aernouts & Ryckewaert, 2019).

For the Greek context, and for the scope of this paper, it is important to understand how such models could be proposed as viable responses to the housing affordability crisis and as alternatives to the dominant homeownership ideal and housing production model. On the one hand as a stable alternative to private homeownership through collective and cooperative institutions rather than individual ones, and on the other as part of a social housing strategy that seeks to develop a decommmodified (non- speculative/ not-for-profit), inclusive (not only for people with capital/not only for middle classes) and socially controlled housing stock in the long term.

### **3. International cooperative values and principles and cooperative housing**

In this part, we examine how the international cooperative values and principles forming the distinct cooperative identity could be introduced in the legal and institutional framework of Greece in order to allow for housing cooperatives to develop. The main intention is to develop analytical axes for assessing the suitability of the existing cooperative legal forms in Greece. Towards this end, we also adopt the analytical framework developed by Ferreri and Vidal (2022), according to which housing cooperatives may act as potential non-state public actors able to address the housing question, by providing affordable, accessible and decommmodified housing. From this perspective, we endorse the two important dimensions proposed by the authors: the right of collective management and/or ownership of the premises (the control of members of the cooperative over the usage and management of the housing stock); and the partial decommmodification of housing (the non-saleability of individual units in the open market). Finally, we also explore the provisions that should be in place in order to foster public- cooperative synergies enabling the production of cooperative housing, safeguard open access to diverse social groups and ensure long-term affordability, by limiting (or blocking/prohibiting) the future privatization and capitalization of the housing assets of the cooperative.

As defined by the Cooperative Housing International “*a housing cooperative is a legal association formed for the purpose of providing housing to its members on a continuing basis. It is owned and controlled by its members. A cooperative is distinguished from other housing associations by its ownership structure and its commitment to cooperative principles.*” The provision of adequate housing to its members, which is the principal purpose of a housing cooperative, requires also particular legal provisions to “translate” and safeguard the cooperative identity, and to enable access to public support measures, in accordance to their contribution to broader social and public policy goals, beyond the mutual support to its members. Further complexities may emerge given the articulation of housing production and management with urban planning laws, fiscal policy and financial institutions that directly affect cooperative housing.

Initially enshrined in the ICA Statement of the Cooperative Identity in 1995, cooperative values and principles have been acknowledged by the Recommendation 193 of the International Labour Organization (ILO) concerning the promotion of cooperatives in 2002 (ILO R. 193/2002). This increased their legal value, as they went from being formulated by a non-governmental association (ICA) to being embraced by a tripartite transnational organization (ILO) (Henry, 2012). The latter has also strengthened their legal relevance when aiming at establishing a supportive legal framework for cooperatives. Although the ILO

R. 193/2002 does not focus explicitly on housing cooperatives, it includes them as it states in Paragraph 1 that *'it applies to all types and forms of cooperatives'*. Thus, the following guidelines may be of relevance when reflecting on an adequate legal framework for cooperatives that are active in the housing sector.

A key concept highlighted in the ILO R. 193/2002, as stipulated in Paragraph 6, which is the building block for any general and special cooperative law, is its consistency with the cooperative values and principles. Furthermore, housing cooperatives, as is the case of any other type of cooperatives, should receive adequate treatment compared to other organizations and enterprises as well as receive support measures for the activities that meet specific and social and public policy outcomes (e.g. tax benefits for housing cooperatives offering affordable housing to vulnerable groups) (Paragraph 7.2, ILO R. 193/2002). The latter is also reflected in its Paragraph 5, according to which special measures should be applied to cooperatives that respond to the needs of their members and of the society, including those of disadvantaged groups to achieve their social inclusion. Furthermore, the ILO R. 193/2002 calls on governments to encourage the development of cooperatives as autonomous and self-managed enterprises, particularly when they provide services that otherwise would not have been provided, as it would be the case of housing cooperatives addressing unmet social, environmental and broader community needs (Paragraph 6.e). The latter is also interrelated with access to investment finance and credit, as stipulated in Paragraph 12.

Based on the above analysis, we propose the following analytical axes for the assessment of the Greek cooperative legislation in the housing sector. A modified version of analytical axes has been elaborated for the comparative assessment of Social and/or Solidarity Economy laws in selected European countries by Adam & Douvitsa (2022).

Analytical Axes	Cooperative Principles	Non-state public dimensions/goals
Objectives and activity	1: Open & voluntary membership 7: Concern for the Community	Accessibility
Number of initial founding members, entry and exit provisions.	1: Open & voluntary membership 7: Concern for the Community	Accessibility
Equity and/or profit distribution constraints.	3: Member Economic Participation	Affordability/decommodification & Accessibility
Autonomy and democracy	2: Democratic Member Control, 4: Autonomy and Independence, 5: Education, Training and Information	Control and collective management, State-Cooperative-Community Synergies
Public policies and measures	Mutual Benefit (equal treatment)	Social Benefit (specific support measures)

a. *Objective and activities (ref. Cooperative Principles 1: Open and Voluntary Membership and 7: Concern for the Community)*

The legal form should explicitly foresee the satisfaction of common housing needs through renting and/or ownership of any type of premises. The objective is inextricably linked with two cooperative principles: open and voluntary membership and concern for the community.

An important distinction in the objectives pursued is between mutual and social interest/benefit. The first relates to collective benefit of members, whereas the latter refers to the explicit pursuance of a more general social objective. Acknowledging that the boundaries between collective (mutual) and general (social) interest are indeed blurred, especially in light of the 7th cooperative principle (concern for the community), this distinction might prove useful in delineating different types of cooperative housing. For example, the explicit social purpose may refer to granting access to low-income and vulnerable social groups (possibly in certain percentages of total membership). This type of regulation safeguards against the insularity of housing cooperatives as middle-class enclaves through favouritism waiting lists for family members and friends (Aernouts & Ryckewaert, 2019) and/or actually leading to the gentrification of certain areas and the expulsion of low-income communities (Vidal, 2019). This demarcation line reminds us of the distinction between cooperatives in general and social cooperatives in particular (Borzaga & Galera, 2016). From this perspective, the law should allow both for the formation of social housing cooperatives as well as housing cooperatives based on the affiliation of members. The concern for the community (indirect social benefit) in this latter case may refer to the construction of accessible and environmentally friendly buildings, provision of services and infrastructure for the local community or a strategy to intervene in the local housing market (i.e. by acquiring building stock into the cooperative / by taking parts of the building stock out of the market).

b. *Required number of initial founding members, entry and exit provisions (ref. Cooperative Principles 1: Open and Voluntary Membership and 7: Concern for the Community)*

The legal form should safeguard the collective character of these initiatives without imposing a required number of initial founding members which hinders the development of housing cooperatives. In addition, the entry provisions should enable the openness of the cooperative without jeopardizing the ability to offer convivial living conditions for its members. Exit provisions reflect the potential of members to leave the cooperative following personal life changes and/or dissatisfaction with cooperatives rules without placing inexorable threats to the sustainability of the housing cooperative (reimbursement of initial capital and/or financial contributions in a timely manner and not reflecting market fluctuations).

c. *Equity and/or profit distribution constraints (ref. Cooperative Principle 3: Member Economic Participation).*

One of the core cooperative principles refers to member economic participation. Members contribute equitably to the cooperative's resources. The differentiation between rental and ownership cooperatives is significant in this regard.

In rental cooperatives, members rent a space from the cooperative which they collectively own (as a cooperative). Regulations may be imposed on the level of rents or monthly quotas so that they keep their

regulatory role in the housing market. For example, in Quebec (Canada), rents for new cooperative developments must not exceed 75-95% of the area mean price (Ferreri & Vidal, 2022). In general, rents should reflect the expenses of the housing cooperative and not the fluctuation of market prices. Additional regulations place controls on renting to non-members in order to ensure collective and democratic control of the cooperative and/or on subletting.

In ownership cooperatives, there is a distinction between direct and indirect home-ownership. In direct home-ownership, members have individual property rights including the right to transfer their individual property to another person. In this case, provisions should be put in place in the form of limited equity in order to clearly assign financial contribution while also enhancing the de-commodified nature of the housing cooperative. In indirect home-ownership, such as in the case of Sweden and Norway, members do not own their homes individually but obtain shares of the cooperative (Sørvoll & Bengtsson, 2018). Normally, regulations impose limits on the level of cooperative shares which are expected to reflect the cost of initial purchase or construction costs and not the market value which is subject to speculative forces (Balm & Gerber, 2018; Ferreri & Vidal, 2022). Further restrictions should safeguard against the conversion of collective into individual property as well as against the speculative dissolution of housing cooperatives (i.e. assets should remain within the cooperative sector).

In cooperative legislation, there is an important distinction between surplus and profit. Surplus is derived from transactions with members whereas profit is derived from transactions with non-members. Surplus may accrue to the indivisible reserves, be distributed to members in conjunction with their transactions with the housing cooperative and/or further the development of the cooperative. The legislation could foresee a ceiling in transactions with non-members (for example, renting flats of a housing cooperative to non-members) because that resembles a for profit private provider and reduces the democratic control of the enterprise. In any case, profits should not be distributed to members in order to safeguard the distinctiveness of the cooperative identity in comparison with a profit-maximizing enterprise. Non-profit social housing cooperatives also exist and they mainly operate on stable financial support by the state.

d. *Democracy and autonomy (ref. Cooperative Principle 2: Democratic Member Control, Cooperative Principle 4: Autonomy and Independence, Cooperative Principle 5: Education, Training and Information)*

Democracy is the defining feature of cooperatives. The rule one person-one vote indicates their distinctiveness in decision-making processes since the voting power rests with the status of the member and is not dependent on the number of cooperative shares as is the case in profit-maximizing capitalist enterprises. Justified exceptions to the strict adherence to this voting rule may apply upon justified specifications in the articles of association. Therefore, there are certain provisions with regard to the general assembly of members, the management board which is elected by members as well as supervisory boards beyond a certain size (usually calculated on the basis of total membership and/or economic size).

The main attribute of a member in the housing cooperative should reflect the status of user rather than investor. This can be implemented with provisions stating that the articles of association could envision ranging from the prohibition of the entry of legal persons in housing cooperatives to the imposition of a ceiling on the entry of legal persons as a percentage of total membership and/or restriction on their voting

rights. As mentioned with regard to profit-distribution above, non-profit social housing cooperatives are usually formed and maintained thanks to the stable financial assistance provided by the state. It is important to note that the participation of a private legal person (i.e. a non-profit association) and/or a public legal person (i.e. municipality) may actually reflect the adherence to a general social interest purpose in the form of housing provision to less privileged social groups. Even in cases where housing cooperatives receive constant support from the state in its different levels (national, regional, local) and/or other private legal persons (i.e. civil society organizations), there must be provisions which ensure the autonomy of the housing cooperative.

Democracy necessitates adequate education and training of members. Housing cooperatives necessitate methods and tools in order to ensure effective participation and control by their members in terms of registrars, expenses monitoring and clear allocation criteria, timely submission of payments, techniques for collective decision making and conflict resolution, transparent housing rules, etc. In addition, it is significant to explore the potential of assisting members in energy saving and recycling through the implementation of relevant training courses. This latter dimension strengthens the positive environmental impact in conjunction with the positive social impact.

e. *Public policies and measures*

Public support measures can get various forms in articulation with the regulation of housing production mechanisms, urban planning laws and regulations, property taxation laws, welfare and social housing policies. As proposed by Balges et al. (2020), these can be classified according to different phases of the life cycle of a housing cooperative, namely policies and measures that are available during the production, management and maintenance phase. For example, during the production phase, state support is critical in reducing initial costs and scaling-up the reproduction of the model. Measures can enable access to land and existing buildings, finance and economic resources (direct and indirect subsidies) and technical support. Besides legal provisions that regulate access to and management of housing cooperatives (membership, administrative structures etc), public policies can improve their long-term affordability and accessibility by providing subsidies to cover housing costs for low-income and vulnerable members. Subsidies can be useful also to support maintenance, repair and improve the building stock in the long run, as very often cooperative members with low-incomes cannot invest in upgrading works.

All in all, the previous analysis highlighted crucial dimensions (resumed in five analytical axes) against which a legal form for housing cooperatives should be assessed.

In the following section, we will apply this analytical framework to explore the various legal forms of the Greek cooperative legislation in terms of their suitability for accommodating collective housing initiatives.

#### **4. Cooperative legal forms and housing in Greece**

Nowadays there is no special legal form for housing cooperatives in Greece. Early attempts in the interwar period included provisions for the creation of housing cooperatives as a special purpose cooperative (based on the first cooperative law of 1915) for particular professional groups - such as civil servants and army officers - as part of the first law for low-cost state housing provision, but produced limited outcomes (Kafkoulas, 1994). The legal framework was updated in 1967 and defined as the main purpose of



construction cooperatives the provision to its members of access to urban or rural land for building a house or any other form of housing support. As in other southern European countries, they were conceived mainly as low-cost housing promoting vehicles for owner occupation. In Greece, they concentrated on acquiring land on which to build and provided the necessary urban infrastructure while private houses were built mainly through self-promotion (Allent et al. 2004:53). In the 1980s construction cooperatives were included in the planning laws for private urbanization and were distinguished between those aiming to provide main residence (civil construction cooperatives) and vacation homes (vacation construction cooperatives) (Presidential Decree 93/1987). The post-dictatorship constitutional protection of forestal areas since 1975 and subsequent laws for the protection of natural resources limited the advantages provided for cooperatives to access cheap land and created a deadlock for those that had already bought and approved urban plans in such areas. The legal framework was abolished in 2014 (by law 4280/2014). Subsequent legal provisions have focused on addressing the unresolved matter of approved yet pending urban plans by cooperatives.

The current legal landscape in Greece consists of an ever-growing number of special laws applicable to particular types of cooperatives, with conflicting or/and converging provisions, while a general framework for all cooperatives is absent (Douvitsa, 2020). Thus, our quest for an adequate legal form for housing cooperatives takes the form of a search among the special cooperative legal forms that currently exist. In this regard, we shall mainly focus on two legal forms: the civil cooperative of L.1667/1986 and the Social cooperative enterprise of mutual and social benefit (SCE) of L.4430/2016, as the rest of the legal forms seem unfitting due to the particular goal or activity they have to pursue by law (e.g. agricultural cooperatives, energy communities, worker cooperatives, forest workers cooperatives, social cooperatives of limited liability etc.).

Table 1 ‘Comparison of the main traits of civil cooperatives and SCEs’.

Analytical axes	Civil cooperatives	SCEs
a) Objective and activity	Mutual benefit	Mutual & social benefit
b) Required number of initial founding members, entry and exit provisions	$\geq 15$	$\geq 5$
	obligatory stay $\leq 3$ years of withdrawing member	obligatory stay $\leq 1$ year of withdrawing member
c) Equity and/or profit	Acquisition of voluntary shares with capital	Acquisition of voluntary shares with capital/work/property

distribution constraints	Possibility to distribute profit	Profit distribution constraint
	Lack of clarity between surplus and profit and their subsequent legal treatment	
	The remainder after liquidation may be distributed to members	
	Return of the capital of withdrawing member $\leq$ 3 months	
d) Democracy and autonomy	1 member – 1 vote	
	Simplified governance structures	
	The adherence of legal persons as members may be permitted in bylaws	Legal persons-members $\leq$ 1/3 of total number of members Legal persons of public law - members: prohibition by law  Cap of income generated from transactions with the public sector
e) Public policies and measures	Subject to all support measures of SSE actors under the condition of being acknowledged as SSE actor	Being de jure SSE actors, SCEs are subject to all SSE support measures and additional measures, explicit for SCEs (e.g. exemption from business tax)
	If acknowledged as SSE actors, civil cooperatives with an annual turnover above a specific threshold, have to allocate $\geq$ 25% of the preceding years' turnover as annual payroll	As de jure SSE actors, SCEs with an annual turnover above a specific threshold have to allocate $\geq$ 25% of the preceding year's turnover as annual payroll

a) *Objective and activities*

With regard to the objective, art. 1 defines a civil cooperative as ‘*a voluntary association of persons with an economic purpose, which, without developing agricultural economic activities, aims, in particular through the cooperation of its members, at the economic, social and cultural development of its members and the improvement of their quality of life in general within a*

*common enterprise*'.

From the above it is evident that the legislator obligates any kind of civil cooperative to pursue a mutual purpose (*'aims, in particular through the cooperation of its members, at the economic, social and cultural development of its members'*); in other words a civil cooperative is bound by law to address the common needs of its members through the cooperative enterprise.

In this light, a housing cooperative established under the legal form of a civil cooperative is obligated by law to pursue a mutual purpose, covering the common needs of its members, be it by renting or owning a house through the cooperative. Such a housing - civil cooperative is neither prevented nor encouraged by law to pursue - as an additional objective - the social benefit of third parties or of the community overall, which may be stipulated in its bylaws.

Furthermore, in art. 1.2 L. 1667/1986, the legislator provides an indicative list of activities that a civil cooperative may undertake, in which housing is not mentioned.<sup>1</sup> Nevertheless, the indicative nature of the list, as well as the definition of a civil cooperative in art. 1.1 as being able to undertake any kind of activity as long as it is not related to agriculture, implies that a civil cooperative active in the housing sector is permitted by law to be established without facing any obstacles in this regard.

On the other hand, the legislator in art. 14.1 L. 4430/2016 defines SCEs as 'civil cooperatives of L. 1667/1986, which have as their statutory purpose the collective and social benefit'. The collective benefit is stipulated in the law as *'the joint service of the needs of the members of the SCE, through the formation of equal relations of production, the creation of stable and decent jobs, the reconciliation of personal, family and professional life'* and the social benefit as *'the meeting of local or wider social needs by harnessing social innovation through "sustainable development" or 'social services of general interest' or 'social inclusion activities'*.

The way in which 'sustainable development' and 'social services of general interest' are defined in the law are of interest for our discussion. In particular, 'sustainable development' includes *'economic activities, whether commercial or exchange, that promote environmental sustainability, social and economic equality, as well as gender equality, protect and develop common goods and promote intergenerational and multicultural reconciliation, emphasizing the specificities of local communities'*. It is worth noting that in the indicative list of activities of sustainable development provided in the law, the legislation makes an explicit reference to two topics relevant to housing: the environmental upgrading of settlements and the building stock, as well the management of real estate in accordance with social and environmental criteria.

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<sup>1</sup> Art. 1.2 L. 1667/1986: *'(Civil) cooperatives are in particular producer, consumer, supplier, credit, transport and tourism cooperatives. The activities of (civil) cooperatives include in particular: (a) the joint organization of production; (b) the supply of goods to meet the professional, living and other needs of their members; (c) the provision of technical or organizational assistance to members for the purpose of increasing or improving their production; (d) the processing or marketing of the products of their members; (e) the provision of loans, guarantees, insurance or other financial facilities to their members; (f) vocational, cooperative and cultural training; (g) the satisfaction of social and cultural needs'*.

Furthermore, ‘*social services of general interest*’, are defined as ‘*services that are accessible to all, promote quality of life and provide social protection to groups such as the elderly, infants, children, people with disabilities and chronic diseases and include education, health, social housing, social nutrition, childcare, long-term care and social assistance services, without, however, substituting for the general obligations of the state in the exercise of social policy*’.

The above indicates the intent of the legislator to introduce SCE as an adequate legal form to pursue the mutual and social benefit associated with the improvement of housing conditions not only of the cooperative members, but also of third parties, within the context of sustainable development activities or/and social services of general interest. Thus, the legal form of a civil cooperative is fitting for a housing initiative mainly focused on covering the needs of their members, whereas the SCE fits better with initiatives aiming not only to pursue mutual but also a social benefit.

*b) Required number of initial founding members, entry and exit provisions*

The minimum founding members in a civil cooperative is considerably higher (at least 15 persons- art. 1.3 L.1667/1986), compared to the case of SCEs (at least 5 persons – art. 15.2 L. 4430/2016). In this regard, the legal form of a civil cooperative may hinder small size housing initiatives from being established, for which a more suitable option would be that of a SCEs.

Concerning the entry provisions, the legislation provides flexibility to both legal forms, so that the bylaws may introduce appropriate conditions of entry to candidate members.

However, the issue of exit is regulated in the law and not left in its entirety to the bylaws. In the case of civil cooperatives, bylaws may stipulate an obligatory stay of up to three years of the withdrawing member (art. 2.7 L.1667/1986), whereas in the case of SCEs, the member may leave in the following year (art. 17.1& 17.4 L.4430/2016). In this regard, the three-year obligatory permanence of members may be more adequate for housing cooperatives compared to the shorter period stipulated in the case of SCEs.

With regard to the returned capital, in the civil cooperatives’ case, the return of the cooperative share to the withdrawing member is either under the nominal or actual value, depending on which is lower (art. 2.9 L.1667/1986), whereas in the SCE case, the actual value is returned but cannot exceed three times the nominal value (art. 17.4 L.4430/2016). Despite the above divergences, in both cases, the cooperative is obligated to return the above capital in a period of three months, which may be considered as short in the case of a housing cooperative.

*c) Equity and/or profit distribution constraints*

Apart from the mandatory cooperative share, members may contribute to the cooperative in other ways. In this regard, the SCE provisions enable its members to contribute to the cooperative by acquiring voluntary cooperative shares by providing work or/and property (art. 16.4 L.4430/2016), and not only by capital, as it is the case in civil cooperatives (art. 3.3 L.1667/1986), renders the latter form as more flexible and closer to the particularities of a

housing cooperative.

Concerning the distribution of the positive economic result, the systems prescribed in each legal form under study are radically different. In the case of civil cooperatives, the distribution of profit to the members is not prohibited and can be prescribed in the bylaws (art. 9.4 L.1667/1986), whereas in the case of SCEs there is a non-distribution constraint of profit to members who are not workers (art. 21 L.4430/2016).<sup>2</sup>

Although the SCE's system of distribution is closer to the housing cooperative concept, as defined previously, the fact that in both legal forms there is a lack of differentiation between surplus and profit indicates the inadequacy of both legal forms, as they are currently in force. Also, the remainder after liquidation is not protected in the two legal forms after a dissolution of the cooperative for self-interest purposes (art. 10.2 L.1667/1986; art. 35.3 L.4430/2016).

*d) Democracy and autonomy*

In both legal forms, one-member one-vote is the mandatory rule for the decision-making processes in the general assembly, which guarantees the democratic governance of the cooperative (art.4.2 L.1667/1986, art.16.3 L.4430/2016). Furthermore, in both legal forms, simplified governance structures are prescribed in the law (e.g. for civil cooperatives with less than twenty members, the formation of a supervisory board is not mandatory (art.8.1 L.1667/1986), for a five-member SCE, instead of board of directors, a member is elected as the administrator (art. 20.1 L.4430/2016).

With regard to the preservation of the autonomy, in the case of civil cooperatives such an issue is mainly left to the bylaws to be regulated, as the latter may permit the adherence of legal persons as members (art.2.2 L.1667/1986), whereas in the case of SCEs the law stipulates that legal persons may not exceed 1/3 of total membership and there is also a prohibition of legal persons of public law becoming members (art. 14.4 &.5 L.4430/2016). In addition, to prevent SCEs from being mainly state-driven and state- supported, the law introduces a cap to the income generated by transactions with the public sector (art.14.8 L.4430/2016).<sup>3</sup> In this regard, the law on SCEs seems to provide more guarantees to enhance their autonomy with mandatory provisions.

*e) Public policies and measures*

One of the most significant measures in favour of SSE (Social and Solidarity Economy) actors is the free use of immovable property and movable property of the municipality (albeit for five

<sup>2</sup> Art. 21.4 L. 4430/2016: '1. The profits of the SCE shall not be distributed to its members, unless they are employees, in which case paragraph 2 shall apply. 2. The profits shall be allocated annually as follows: a. 5% for the formation of a mandatory reserve, b. 35% shall be distributed to the employees of the SCE, unless two-thirds of the members of the General Assembly of the SCE decide, with reasons, to allocate part or all of this percentage to the activities referred to in point c), c. the remainder shall be allocated for the creation of new jobs and the general expansion of its productive activity.'

<sup>3</sup> The percentage of the gross income from the activities of the joint venture that comes from legal persons of public law and local authorities may not exceed 65% of the total income of the enterprise, calculated on a three-year basis.

years, with potential extension, a timespan which is not suitable for a housing cooperative), as well as the signing of programmatic agreements between SSE actors and the public sector aiming at the social benefit.

SCEs enjoy the latter measures without any further evaluation process, as they are acknowledged in the law as SSE actors. On the other hand, civil cooperatives that wish to benefit from the above measures need also to comply with a set of conditions, so that they are acknowledged as SSE actors. In addition, in the case of SCEs, additional measures are also promulgated, such as the exemption from business tax.

Apart from the above mentioned support measures, the law also introduces a horizontal constraint in the investment policy of all SSE actors, as the Ministry of Labour who drafted the SSE law prioritized labour creation and protection even to the detriment of the SSE actors' own viability. In particular, according to art. 3 par. 4 L. 4430/2016, SSE actors with a high annual turnover<sup>4</sup> are obliged, from the second year of operation, to present an annual payroll expenditure at least equal to 25% of the turnover of the previous financial year. The above obligation applies not only to SCEs as de jure SSE actors but also to those civil cooperatives that acquire the SSE actor status, by fulfilling specific conditions.

This constraint introduces a serious blockage to set up housing cooperatives, either as SCEs or civil cooperatives (acknowledged as SSE actors). Irrespective of their legal form, housing cooperatives are expected to have a high annual turnover (including any potential grant income) in order to cover the high infrastructure costs without the need to create paid vacancies to fulfill their objective. Thus, from this point of view, the dilemma on choosing between SCEs or civil cooperatives (acknowledged as SSE actors) becomes redundant, as both legal forms seem unfitting for the development of housing cooperatives.

## 5. Discussion: The need for an adequate legal form for cooperative housing in Greece

By focusing on housing cooperatives, our study seeks to highlight and further explore their potential to act as non-state public actors and providers of affordable, de-commodified housing solutions accessible to all (Ferrerri and Vidal, 2022). More specifically, through the establishment of housing cooperatives, the right of collective management and/or ownership of the premises is exercised (the control of members of the cooperative over the usage and management of the housing stock); along with the partial de-commodification of housing (the non-saleability of individual units in the open market). In addition, potential public-cooperative synergies may emerge for the production of cooperative housing, safeguarding open access to diverse social groups and ensuring long-term affordability, by limiting (or blocking/prohibiting) the future privatization and capitalization of the housing assets of the cooperative.

As the legislation plays a paramount importance in hindering or enabling housing cooperatives to unleash their potential vis-à-vis the housing crisis, we examined the Greek cooperative

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<sup>4</sup> This obligation applies to SSE actors with a turnover in the preceding year of more than 300 % of the annual wage bill of a full-time employee, based on the minimum statutory wage excluding bonuses.

legislation to identify suitable legal forms for establishing housing cooperatives based on the following analytical axes: a) the type of activity and objectives foreseen (mutual or social benefit), b) the required number of initial founding members, entry and exit provisions, c) constraints on equity and/or profit distribution, d) the autonomy and democratic governance and, e) relevant supportive public policies and measures.

Our comparative study is limited to the examination of two legal forms: the civil cooperative of L.1667/1986 and the social cooperative enterprise of mutual and social benefit (SCE) of L.4430/2016, as the rest of the existing cooperative legal forms seemed unfitting due to the particular goal or activity, they are obliged to pursue by law.

On the one hand, civil cooperatives primarily pursue a mutual purpose and are established by a large number of founding members. Furthermore, the law allows them to distribute their profits to their members, who may acquire voluntary shares only with capital. Thus, civil cooperatives appear to be suitable for large-scale, for-profit, housing initiatives benefiting mainly their members.

On the other hand, SCEs (Social cooperative enterprises) can be established by a small minimum number of founding members to pursue both mutual and social objectives. They also allow the acquisition of voluntary shares not only with capital but also with work and property. In addition, they are subject to profit constraints and guarantees safeguarding their autonomy from the public sector. Most of the above traits encourage initiatives towards applying non-speculative, inclusive housing cooperative solutions to address the current housing crisis, potentially allowing the establishment of small-scale, independent initiatives that could act as potential non-state public actors.

Nevertheless, both legal forms face certain practical (e.g., the three-month window to return capital to a withdrawing member) and substantial (e.g., distribution of remainder after liquidation to the members) shortcomings if used to set up housing cooperatives. Additionally, although both legal forms may be subject to the measures prescribed for in L. 4430/2016 on SSE, a closer examination of such measures reveals their inadequacy either due to the terms that they establish on SSE actors activity (e.g. a limited duration of 5 years for the free concession of municipal immovable property to them) or on their investment policy (e.g. at least 25 % of their turnover of the preceding year needs to be allocated as wages). The latter shows how unfitting the existing general measures are when applied to housing cooperatives. For instance, the large initial capital required to produce cooperative housing or the overall high value of real estate throughout the cooperative's operating cycle, which makes it impossible to set up such cooperatives without the existence of special financial tools and programs.

Based on the above observations, we may conclude that the existing cooperative legal forms and overall legislation do not enable the development of housing cooperatives in Greece. A closer examination of some key shortcomings that were brought to the fore above also reveals key pathologies of the Greek cooperative legislation on cooperatives. In particular, the co-existence of civil cooperatives and social cooperative enterprises that could both potentially

undertake housing activities is part and parcel of the plethora of cooperative legal forms in Greece. Both of these legal forms are part of the Greek legal landscape which consists exclusively of special cooperative laws applied to different cooperative categories in the absence of a general cooperative law. Thus, the focus of the Greek legislator is on the differences among the various types of cooperatives, while no law or policy acknowledges a minimum core of elements that should be common in all cooperatives, irrespective of the category that cooperatives belong to. Thus, shortcomings associated with specific organization traits as they were identified above (e.g. civil cooperatives' possibility to distribute profit to their members, civil cooperatives and social cooperative enterprises' capacity to distribute the remainder after liquidation to their members) are not only inadequate for housing cooperatives, revealing the Greek legislator's lack of consideration for the housing sector, but are also indicative of the cooperative legislation's misalignment with the cooperative identity.

#### **6. Conclusions: Can the current cooperative legislation in Greece address the housing question?**

With the 2008 crisis, followed by the pandemic and currently the ongoing cost-of-living crisis, the already severe housing inadequacy, unaffordability, as well as over-indebtedness in Greece have been exacerbated, making it a mission-impossible to rent, let alone own a house. However, as the housing crisis has deepened, so has the search for viable, democratic and inclusive housing solutions, which has intensified, attracting a growing interest in the public discourse. Taking into account the above, the present article aspires to shed light on collaborative housing models and in particular on housing cooperatives as an alternative solution to the ongoing housing crisis that has affected severely not only Greece but other European countries as well, albeit in different degrees.

Following recent developments in the production of alternative collaborative and cooperative housing across Europe, and the proliferation of public-cooperative or public-community partnerships aiming to provide affordable, democratic and inclusive housing solutions, we see such alternative housing forms as an integral part of a much-needed social housing policy mix in Greece. It was beyond the scope of this paper to discuss in detail the various dimensions and priorities of an integrated social housing policy mix, that would need to address more broadly the multitude of housing hardships and unmet needs, such as the disproportionate increase of housing prices relative to local wages, the lack of adequate and affordable housing, the weak support and care mechanisms for vulnerable populations at the local level, and the residual nature of housing policies within the welfare system, to name just a few.

However, given the current total lack of a non-profit social housing sector in the country, it is clear that the potential of housing cooperatives to emerge, depends on broader reforms related to housing production and property management, that would acknowledge the social and common good purpose of housing and allow for social, cooperative and public actors to play an active role in its provision.



Furthermore, we argue that establishing a special legal form in line with the cooperative identity, and adapted to the particular needs of housing cooperatives, would allow for social dynamics and collective bottom-up initiatives to take an active role in this direction. This could facilitate experimentation and the introduction of social innovations in housing, in collaboration with municipal authorities willing to support such endeavours. Nevertheless, simply introducing a special housing cooperative legal form should not be seen as a panacea that would automatically lead to the creation of housing cooperatives capable of addressing the housing crisis. Specific reforms in urban planning, taxation and credit policy will be also needed, along with suitable financing mechanisms and tools, and provisions to ensure their long-term maintenance and sustainability.

In conclusion, we need to stress, once more, that the institutionalization of specific support measures for cooperative housing production requires a broader, comprehensive and long-term strategy to promote affordable and social housing, encouraging not only housing cooperatives but involving also other forms of de-commodified housing and social providers as a viable and effective response to the pressing housing crisis which affects most strata of the Greek population.

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