

THE PARTICULARITIES OF THE COOPERATIVE HOUSING SYSTEM IN URUGUAY

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Abstract:

This article initially provides an introductory analysis of public policies and state-institutional frameworks concerning the *right to decent housing* as enshrined in Article 45 of the Constitution of the Eastern Republic of Uruguay. This article further outlines the general legal framework governing cooperatives in Uruguay before delving into a detailed examination of the cooperative housing system.

1. Introduction

This article aims to provide a detailed description and analysis of the legal framework governing housing cooperatives in Uruguay. To provide context, this article first offers an overview of the country's public housing policies, along with a brief historical account of the regulation of housing cooperatives before the enactment of the current General Law of Cooperatives, Law No. 18,407.

Law No. 18,407 is structured into four parts, three of which apply to all types of cooperatives: General Provisions (Title I), Promotion and State Control (Title III), and Special and Transitory Provisions (Title IV). Title II, however, is dedicated to specific types of cooperatives, with each type addressed in separate chapters. Notably, the chapter on housing cooperatives is the most extensive, comprising 44 articles.

This article will focus primarily on the provisions within this specific chapter, offering an in-depth examination of its content. While the other parts of the law will be briefly mentioned to provide context, the central emphasis will be on the legal stipulations that directly affect housing cooperatives.

2. Right to housing and public policies on this subject

Article 45 of the Constitution of the Republic states: *"Every inhabitant of the Republic has the right to enjoy decent housing. This law shall aim to ensure hygienic and affordable housing, facilitating its acquisition and encouraging private capital investment for that purpose."*

This provision was introduced during Uruguay's first constitutional reform in 1917, with the original Constitution dating back to 1830. Along with other social rights, it reflects the belief—using modern terminology—that *"one of the basic needs of human beings is the possession of a physical space in which to live a dignified daily life."* (Louredo Casado, 2020, p. 168).

In line with the framework outlined above, and without prejudice to the freedom to build, sell, and rent housing under general regulatory systems (such as the Civil Code, other laws, or municipal urban planning regulations,) it is important to highlight various public policy instruments designed to fulfill the constitutional mandate. One notable example is the creation of the National Institute for Affordable Housing (INVE) in 1937 through Law No. 9,736, with the purpose of "*constructing affordable housing to be leased or sold to state or private employees, retirees, and pensioners, as well as the necessary facilities for services within the corresponding neighborhoods, such as bathrooms, laundry rooms, dispensaries, dining rooms, nurseries, playgrounds, supply premises, and more*" (Article 2, Law No. 9,736). Additionally, INVE was tasked with promoting private sector housing construction, acquiring real estate necessary for its purposes, constructing housing on behalf of promising buyers or landowners, building housing for private institutions with similar aims, repairing housing not acquired by the Institute, and leasing, selling, and managing the housing it acquired or built.

This state agency was directly connected to the Executive Branch through the Ministry of Public Works and was managed by a five-member Honorary Commission appointed by the Ministry. INVE played a significant role in housing development until 1968, when a new public policy and institutional framework for housing was introduced.

It is also noteworthy that throughout the 20th century, other specific housing systems were implemented by various public entities. Although these initiatives were more limited in scope, they provided housing access for employees of specific agencies, such as police officers, municipal officials, and workers at hydroelectric dams. In some instances, housing was also constructed for the general population, particularly by the departmental local governments, which developed entire neighborhoods of *municipal housing* aimed at low-income individuals who faced challenges accessing the private real estate market. These municipal neighborhoods were often complemented by additional infrastructure provided by local governments, such as retail spaces for essential goods and services, polyclinics, and other community facilities.¹

On December 17, 1968, Law No. 13,728 was enacted, introducing the National Housing Plan (PNV), a comprehensive public housing policy for Uruguay that has been highly regarded² and that could even be considered as a *State Policy*. Its implementation has spanned multiple government administrations, and although it has undergone some modifications with varying emphasis and resource allocation depending on the government in power, the plan remains in

¹ The Uruguayan territory is divided into 19 departments, each governed by a Departmental Governor (executive branch) and a Departmental Board, which consists of 31 council members-legislators (legislative branch). These government bodies are based in the capital city of each department. In addition, since 2010, Uruguay introduced a "third level of government," establishing Municipal Councils in all towns with at least 2,000 inhabitants. Each Municipal Council is composed of five members (councilors), with the most voted member serving as the Municipal Mayor. Like the national authorities, all departmental and municipal officials serve five-year terms.

² See: https://institutojuanpablotertra.org.uy/wp-content/uploads/2019/12/Vivienda-Concurso-Juan-Pablo-Terra-2da-edicio%CC%81n_compressed.pdf

force currently.

The National Housing Plan (PNV) introduced several mechanisms to promote the construction and acquisition of housing, including loans to public housing developers, loans to private developers for resale, loans to entrepreneurs building housing for their employees, loans for new non-residential premises, loans for the acquisition of used housing, construction loans for families, systems for public housing construction, a cooperative housing system (as detailed in Chapter X of the law), and funds (a union solidarity system to support housing acquisition.) This law also established key components of public policy, including general principles, beneficiary classifications, housing conditions and types, credit terms, an adjustment system (including the creation of the Re-adjustable Unit as a unit of value), subsidies, and the creation of the National Housing Fund, which constituted a tax where all formally employed individuals contributing to social security became taxpayers. A savings and loan system was also introduced. The PNV led to the creation of the National Housing Directorate (DINAVI) within the Ministry of Public Works, which today is part of the Ministry of Housing and Land Management (MVOT); and it also expanded the role of the state-owned Banco Hipotecario del Uruguay (BHU) within the public housing support framework.

Law No. 18,125, enacted on April 27, 2007, introduced a new state framework for housing, establishing a coordinated system involving three distinct agencies, collectively known as the "Public Housing System." The MVOT, responsible for designing and implementing public policies regarding housing; the National Housing Agency (ANV), which executes these policies; and Banco Hipotecario del Uruguay (BHU), which serves as the banking entity for issuing mortgage loans for family housing and handling the financial operations of the entire system.

3. Housing cooperatives and their first legal regulation

Law No. 13,728 was the first law to incorporate housing cooperatives into Uruguay's legal framework.³ However, it's worth noting that a few years earlier an initiative led by a private entity, *Centro Cooperativista Uruguayo* (CCU), had already established three housing cooperatives in the cities of 25 de Mayo, Fray Bentos, and Salto, which resulted in the construction of three housing complexes. For this development, it was necessary to rely on cooperative law No. 10,761 (1946), which originally applied to consumer and production cooperatives. It was accepted that in the absence of specific legislation for a particular type of cooperative, this law could govern their operations.

Since then, the housing cooperative system has experienced significant growth. As of February

³ This law, pertaining to housing cooperatives, was regulated by Executive Decree No. 633/69—a comprehensive regulation that, in certain aspects, led to multiple interpretations (such as the valuation of shares in housing cooperatives).

2024, there were 2197 housing cooperatives across the country.⁴ The system's evolution can be divided into several phases: an initial period of rapid development between 1970 and 1972, during which "*more than 40% of state resources for housing were allocated to financing cooperatives*;" a subsequent period of decline from 1973 to 1985, during which cooperatives were deprioritized; a resurgence beginning in 1989, marked by initiatives such as the creation of *land banks* by the local government of Montevideo and other local governments to address a critical need for cooperative formation; and another significant boost starting in 2005.⁵ Throughout these phases, the legal framework governing housing cooperatives has largely remained consistent, with only minor modifications over time.

4. The current cooperative legal framework: the approval process and a summary of Law No. 18,407

Just as housing cooperatives had their own legal regulation (Chapter X of the aforementioned Law No. 13,728), all branches of cooperativism in Uruguay were governed by specific laws dedicated to each one. Thus, when the General Law of Cooperatives 18,407 was enacted in 2008, there were already specific laws for agricultural cooperatives, consumer cooperatives, production cooperatives (now referred to as worker cooperatives), housing cooperatives, savings and credit cooperatives, and social cooperatives.⁶

Faced with this fragmented and unharmonized legislative context, the cooperative movement led by the Uruguayan Confederation of Cooperative Entities (CUDEOOP) undertook intense efforts and various proposals to unify the legal framework for cooperatives in the country. After a long struggle, they succeeded in having the Legislative Branch consider a bill entirely drafted by cooperative organizations. This process was finalized in 2008 with the approval of the General Law of Cooperatives No. 18,407.⁷

Nowadays, this law is regulated by three Executive Decrees: 183/018, 208/020, and 113/022. The most comprehensive of these regulatory bodies, which generally governs Law 18,407, is the first. The second decree pertains to virtual meetings of cooperatives, while the third contains provisions related to savings and credit cooperatives.

Law 18,407 is divided into four parts, or Titles: Title I (Articles 1 to 97) comprises seven chapters covering general provisions, incorporation, members, organization and administration, economic regime, association, merger and incorporation, economic collaboration modalities,

⁴ Retrieved August 5, 2024, from <https://www.inacoop.org.uy/datosyestadistica>

⁵ Raúl Zibechi, retrieved August 5, 2024, from <https://www.alainet.org/es/articulo/122689?language=es>

⁶ Similarly, there were other types of cooperatives, such as those for insurance, tourism, and reciprocal guarantee funds, which, despite lacking their own specific legislation, were regulated by the Law of Consumer and Production Cooperatives (Law No. 10,761), as it was indeed the law with the broadest applicability. These types of cooperatives were also addressed by Law No. 18,407.

⁷ The fully updated Law No. 18,407 can be read at: <https://www.impo.com.uy/bases/leyes/18407-2008>

and dissolution and liquidation. Title II (Articles 98 to 184) regulates the specificities of each type of cooperative: Worker, consumer, agrarian, housing, savings and credit, insurance, reciprocal guarantees, social cooperatives, and cooperatives for artists and related trades (a non-exhaustive list, according to the law itself). Title III (Articles 185 to 214) addresses the promotion and public encouragement of cooperatives as well as state control over them. Title IV (Articles 215 to 224) includes provisions necessary to facilitate the transition of cooperatives to the new legal regime. Within this structure, Title II, Chapter V (Articles 117 to 161) specifically addresses housing cooperatives, which is the focus of this paper.⁸

Law No. 18,407 draws its primary inspiration from the "Draft of Framework Law for Latin America" and various Spanish laws, particularly the Basque Country Law in effect at that time. Such law also incorporates a concept of cooperatives directly inspired by the definition provided by the International Cooperative Alliance at the 1995 Manchester Congress, fully reflecting the cooperative principles in their final formulation. Additionally, it introduces the distinctive Latin American legal concept of the "*cooperative activity*," a *sui generis* figure designed to define and regulate the legal relations between members and their cooperatives.

The law explicitly defines Cooperative Law and establishes that in the event of legal gaps or omissions, the provisions of the Commercial Companies Law shall apply subsidiarily, provided they are compatible with cooperative law.

An expedited procedure is established for the incorporation of cooperatives, requiring only the registration of the Articles of Association that was approved during the incorporation meeting—with the Registry of Legal Entities, Cooperatives Section, which conducts a legality check. Cooperatives may be formed at the first, second, or subsequent degree.

Generally, the law requires a minimum of five persons to form a cooperative, although for housing cooperatives, the minimum is ten persons, or six members if the cooperative intends to rehabilitate existing buildings.

The law outlines the main rights and obligations of cooperative members, leaving the specification of additional rights and obligations to each cooperative's articles of association. Furthermore, these articles of association must establish the minimum requirements for membership, stipulate penalties for non-compliance, and define the grounds for member exclusion.

Regarding the organization and management of cooperatives, the law adheres to a classic structure: General Meeting, Board of Directors, Fiscal Commission, and Electoral Commission, with detailed regulations on their composition, competence, powers, and operations. The

⁸ It is worth noting that a significant portion of Executive Decree No. 183/018 is dedicated to housing cooperatives. Out of the 122 articles in the Decree, 49 specifically address these cooperatives (from Article 42 to Article 91).

possibility of establishing an Executive Committee is also provided.

The economic regime is comprehensively addressed, beginning with a listing and definition of various equity resources: (i) capital stock, (ii) special equity funds, (iii) legal, statutory, and voluntary reserves, (iv) donations and bequests, (v) capitalization instruments, (vi) adjustments from monetary or valuation changes, and (vii) retained earnings. The law also includes provisions on capital reimbursements, surplus distribution, and activities involving non-members. It should be noted that almost all these points have specific provisions and solutions tailored to housing cooperatives.

In terms of the documentary and accounting regime, all cooperatives must comply with "*the legal provisions in force and the standards and criteria issued by the Internal Audit Office of the Nation or other relevant agencies.*"

A key innovation introduced by Law No. 18,407 is the creation of the National Cooperative Institute (INACOOOP), a parastatal entity⁹ with a management structure that includes representatives from both the government and the cooperative movement. INACOOOP is financed by resources from the state and the cooperatives themselves and is responsible for supporting cooperative development through various programs.

Finally, state oversight was centralized under the Internal Audit Office of the Nation, a decentralized body of the Ministry of Economy and Finance. However, subsequent amendments to the law have transferred oversight of housing cooperatives to the Ministry of Housing and Land Management (MVOT).

5. The special regime for housing cooperatives

As previously mentioned, Chapter V of Title II of Law No. 18,407 governs housing cooperatives. Before delving into its specifics, it is worth noting that Article 98 of the law provides that, in cases of discrepancies between the general part of the law and the specific chapter pertaining to each cooperative, the provisions of the specific chapter shall prevail.

The following description and commentary are based exclusively on Law No. 18,407, and all articles referenced hereafter pertain to this law. Any references to articles from the law's regulatory decrees will be explicitly identified.

⁹ Although not explicitly provided for in the Constitution of the Republic, many "parastatal" entities exist in Uruguay. These entities, while serving public purposes, are governed by private law in terms of personnel regulations, hiring practices, and other aspects. Generally, they are funded primarily by public funds, though private funds may also be involved in some cases. They are managed by Boards of Directors with a mixed composition, including both State representatives and representatives from trade associations relevant to the sector in which the entity operates.

5.1. Concept and Purpose

Article 117, which complements the general concept outlined in Article 4 of such law¹⁰, defines housing cooperatives as follows: "*(Definition and Purpose).- Housing cooperatives are those whose primary purpose is to provide adequate and stable housing to their members through the construction of housing by their own efforts, mutual aid, direct administration, or contracts with third parties, and to offer services that are complementary to housing.*"

The main objective, therefore, is to "*provide adequate and stable housing for its members through the construction of housing.*" The article further specifies the methods by which housing may be constructed for this purpose: Own Effort¹¹: Although the law is somewhat vague on this concept, it is generally understood to mean that members contribute labour to the construction of their own housing (this method has not yet been implemented). Mutual Aid¹²: This involves cooperative members working together in solidarity to build the housing complex. Each member will be allocated a house, with allocation determined by a draw at the end of the construction process. Families will be categorized according to their bedroom requirements prior to the draw. Direct Administration or Contracts with Third Parties: These categories pertain to the administrative and financial management of the construction work. They refer to whether the cooperative directly manages the work and its registration with the social security agency or contracts the work out to a third-party contractor.

Additionally, Article 117 provides that housing cooperatives are also tasked with "*providing services that are complementary to housing.*" These services are crucial as they contribute to the living environment of the residents. In practice, cooperatives often construct shared facilities such as common use rooms, kindergartens, schools, polyclinics, gymnasiums, and libraries. These amenities not only benefit cooperative members but also serve the broader neighborhood and surrounding community.

5.2. Applicable legal regime

Article 118 of the law provides that housing cooperatives are governed by Law 18,407, — which might appear redundant, — but also specifies that they are subject to the provisions of Law No. 13,728. This seeming contradiction is resolved as follows: Law No. 18,407 governs

¹⁰ The general concept of a cooperative as defined in Article 4 of the Law states: "*Cooperatives are autonomous associations of individuals who voluntarily unite based on their own efforts and mutual assistance to meet their common economic, social, and cultural needs through a jointly owned and democratically managed enterprise.*"

¹¹ In Article 54 of Decree No. 183/018, "own effort" is referred to as "*individual self-construction,*" and cooperatives are defined as "*those in which the work contributed by the member and their family is dedicated to the construction of the family's housing.*"

¹² Mutual aid is defined in Article 124 of the law as follows: "*Mutual aid is the communal work undertaken by members for the construction of cooperative housing units and under the technical direction of the cooperative.*" In Article 54 of Decree No. 183/018, mutual aid cooperatives are described as "*those in which the work contributed by members and their families is carried out communally for the construction of the members' housing units.*"

all aspects related to the operation of the cooperative as such. However, Law No. 13,728 applies to matters that, while not strictly within the purview of Cooperative Law, pertain to housing more broadly. For instance, Law No. 13,728 established the Re-adjustable Unit and sets forth general principles applicable to housing issues as these regulations shall also apply to housing cooperatives.

5.3. Cooperative Principles for Housing Cooperatives

Article 119 redundantly states that these cooperatives must adhere to the principles outlined in Article 7 of the law. However, it further stipulates the application of additional rules, also referred to as principles, which are as follows:

Subparagraph A) provides that "*They shall provide housing at cost, not admitting any type of speculative practice.*" This clearly emphasizes the prohibition of profit motives within the cooperatives.

Subparagraph B) states that these cooperatives' "*surpluses shall not be capitalizable in the shares of the members, nor may they be distributed among them.*" This provision reinforces the earlier principle by ensuring that any surpluses resulting from efficient management are not distributed or capitalized for the benefit of individual members but are instead reinvested in the cooperative.

Subparagraph C) addresses the concept of co-ownership, specifying that "*In the same cooperative, there may be members with sole ownership of the shares and the derived right of use and enjoyment over the dwelling, as well as members with shared ownership of the shares with the right of use and enjoyment over the same dwelling.*" This provision, introduced by a 2017 amendment to Law No. 18,407 specifically for housing cooperatives, will be discussed in detail below.

5.4. Classifications (or classes) of housing cooperatives

Thus far, we have systematically addressed the contents of the first three articles of the chapter on housing cooperatives. However, we will now diverge from this approach. To enhance understanding of the chapter and the context of this work, it is pertinent at this point to discuss the various classifications of housing cooperatives outlined in the chapter we have been examining.

5.5. Parent cooperatives and cooperative housing units

In the initial categorization outlined in Article 126, we identified, on the one hand, parent cooperatives, which are defined as "*those that openly accept members through a commitment to systematic savings contributions and are dedicated to assisting them in organizing*

cooperative housing units. They support in decision-making and execution of programmes related to obtaining credit, acquiring land, planning, constructing, and awarding housing, as well as performing functions delegated to them by the affiliated cooperative units" (Article 148). Historically, these cooperatives were known as *cooperative factories*. Although this model is now rarely used, it was quite prevalent in the early days of the system, particularly during the 1970s and 1980s, and was especially common among certain unions such as those for construction workers, transportation employees, and municipal workers. In practice, individuals would often start their cooperative experience within the parent cooperative before transitioning to their own cooperative units. The parent cooperatives played a role in fostering the establishment of new cooperative units and provided various services to them, thereby enhancing efficiency through economies of scale. For example, the parent cooperative might produce building materials like bricks and reinforced concrete sheets for multiple cooperatives.

This law (Articles 148 to 151) further establishes specific operational rules for parent cooperatives. They must operate within a defined guild or territorial area and cannot exceed 1,000 members who do not yet have adjudicated housing. Additionally, the cooperative units they organize—considered their subsidiaries—must remain affiliated with the parent cooperative until they have fully adjudicated housing and settled any outstanding debts.

On the other hand, cooperative housing units are defined by their direct purpose: *providing housing and complementary services* directly to their members “*by constructing for that purpose a building or a housing complex, or by acquiring it in the cases provided for in article 131*” (article 127). Today, housing cooperative activities are absolutely concentrated in this model. The State, through the Ministry of Housing and Land Management (MVOT), has set up administrative regulations detailing the requirements for cooperatives to apply for loans.

5.6. User cooperatives (use and enjoyment) and homeowner cooperatives (ownership).

Both this classification (Article 128) and the one described in the following section pertain specifically to cooperative housing units, not parent cooperatives. The classification criteria are based on the nature of the members' legal rights to the dwellings, essentially defining the rights assigned to members over their residences.

User Cooperatives: In these cooperatives, members are granted the right of use and enjoyment of the housing, while the cooperative retains ownership of the property. Each member receives a "document of use and enjoyment" once they occupy the housing. This document outlines the primary obligations and rights of both the member and the cooperative (Article 135).¹³

¹³ In Chapter X of Law No. 13,728, this document was referred to as a "contract of use and enjoyment." However, to distinguish it from the concept of a "contract," the term was changed to "document." Furthermore, Article 135 specifies that the "document of use and enjoyment" is signed "in the exercise of the cooperative act."

Homeowner Cooperatives: These cooperatives confer individual ownership of the dwellings to the members, operating under the horizontal property regime (Article 130). However, even though ownership is granted, members cannot freely dispose of the property; they “*shall use the dwelling solely as their own and their family's residence and are prohibited from renting or selling it without justified cause and prior authorization from the financing agency*” (Article 147).

Homeowners' cooperatives are categorized into two sub-classes. The first subclass consists of cooperatives that provide *immediate delivery* of the property, while the second subclass comprises those with *deferred delivery*. In the case of immediate delivery, the property is transferred to the members “*immediately*” after the construction and adjudication of the housing units. Concurrently, a novation is granted for the change of debtor on the mortgage loan¹⁴, meaning that the member directly assumes the debt associated with their housing unit, and the cooperative exits the credit relationship. Conversely, in cooperatives with *deferred delivery*, the cooperative retains ownership of the property and delays its transfer to the members until the mortgage loan is fully repaid. During this period, the member’s relationship with the cooperative is governed by the regulations applicable to users.¹⁵

5.7. Mutual aid cooperatives and pre-savings cooperatives.

This classification criterion aligns with the one described in the previous section. Accordingly, a User Cooperative will be categorized as either a mutual aid cooperative or a pre-savings cooperative. Similarly, a homeowners' cooperative may also be classified as either a mutual aid cooperative or a pre-savings cooperative.

Mutual aid cooperatives are those in which members contribute their initial share through labour directly on the land and/or housing complex under construction, under the technical supervision of the cooperative (Art. 124). The collective working hours of all members constitute the *community work* or *mutual aid* provided.¹⁶ These contributions can be made either directly by the member or by members of their family unit, valued in Re adjustable Units, and included in the cooperative's capital. According to Article 54 of Decree 183/018, this contribution must represent at least 10% of “*the appraised value of the completed houses, as*

¹⁴ Notably, all housing cooperatives in Uruguay are constructed through a mortgage loan provided by the State.

¹⁵ In any case, even if the debt has been restructured, the homeowners may continue the existence of the cooperative if the articles of association so provide. However, once all members have approved the restructuring of the mortgage loan, and if the housing units are governed by the legal regime of horizontal property (which covers all aspects related to the administration of the building or housing complex, the use and maintenance of common spaces and assets, etc.), there seems to be little incentive to keep the cooperative “alive.”

¹⁶ Indeed, the articles of association of each cooperative must specify the type of cooperative it is. However, the regulation of mutual aid work is outlined in an internal regulation of each cooperative.

specified in Articles 23 and 24 of Law No. 13,728 of December 17, 1968."¹⁷

It is crucial to highlight that “neither self-construction nor mutual aid... will result in any contributions to social security and welfare organizations” (Article 124). This is almost a direct consequence of the fact that communal work is not categorized within the capital-labor relationship (wage labour), and thus it is not counted towards an individual's retirement benefits in the social security system.¹⁸

In contrast, pre-savings cooperatives involve members providing prior savings instead of working hours. These savings must also amount to at least 10% of the appraised value and are included in the cooperative's capital stock.

5.8. Regulation of various aspects

The following is a succinct enumeration of various aspects regulated for *User Cooperatives*, as the law primarily focuses on this type of cooperative. The minimal regulation of homeowners' cooperatives—limited to just two specific articles (146 and 147)—can be attributed to the likelihood that they will eventually fall under the general regime of horizontal property, which is extensively regulated under Common Law. It should also be noted that as long as these cooperatives have not transferred ownership of the dwellings to their members, they will be governed by the User Cooperative regime. Lastly, it is evident that the legislature of the time¹⁹ showed a clear preference for regulating the User Cooperative regime in greater detail.

As previously mentioned, in a users' housing cooperative, holding shares grants the right to use and enjoy one of the cooperative housing units, as specified in the *document of use and enjoyment* (Art. 135). The member shall use the assigned housing unit as a residence for themselves and their family, and may not lease or assign it (Art. 136).

The grounds for the withdrawal of a member (by an inter vivos transaction) are common to all types of cooperatives: resignation or exclusion. In both cases, the member must vacate the dwelling within 90 days from the day following the resolution date (acceptance of resignation or exclusion). The cooperative then has 12 months from the restitution of the dwelling to reimburse 50% of the member's capital stock. The remaining 50% must be reimbursed after a new member is appointed to replace them, but no later than 48 months from the restitution of

¹⁷ Here is an application of Law No. 13,728 to cooperatives: since it concerns issues applicable to all housing, regardless of the construction method used, the construction and appraisal values referred to in Articles 23 and 24 of this law primarily relate to (or serve as the basis for) the loans that the State will provide for the construction of the housing.

¹⁸ It is worth noting that the contribution in the form of "self-construction" has not been utilized in housing cooperatives in Uruguay. Instead, the alternative of "mutual aid" has been widely used.

¹⁹ It should be noted that while Cooperatives Law No. 18,407 was enacted in 2008, the origins of the housing cooperative system can be traced back to 1968, as established in Chapter X of Law No. 13,728.

the dwelling (Art. 137).

In the event of a withdrawal due to resignation, the member is entitled to a refund equivalent to the appraised value of their share, minus any outstanding debts and minus 10% of the resulting value. If the withdrawal is deemed unjustified, the deduction increases to 25% of the resulting value. This applies within 10 years of the adjudication of the dwelling; however, withdrawals occurring more than 10 years after the adjudication cannot be considered unjustified (Art. 138).

In the case of a member's exclusion and subsequent resistance or delay in vacating the dwelling, two different procedures are established: (a) during the period from admission to the adjudication of the dwelling, an internal procedure applies (Art. 140, subparagraph A); and (b) after the adjudication of the dwelling, a judicial process is required (Art. 140, subparagraph B). In this latter case, the cooperative's articles of association may stipulate a reduction in the member's reimbursements ranging from 50% to 75% (Art. 140, subparagraph B).

In the event of a member's death, the heirs may choose between: (a) continuing with the holding of the shares (and the use and enjoyment of the dwelling), in which case they must designate one of them as the full member, or (b) withdrawing from the cooperative and receiving the value of the shares.

In the event of the dissolution of marriage or other judicially recognized cohabiting union, the spouse or cohabitant who retains custody of the children will have preference to continue using and enjoying the property, without prejudice to the corresponding compensations (Art. 141). The most recent amendment to this rule (in 2017) also included a preference for the person who has been subjected to gender violence by their partner.

The main obligations of the cooperative include: constructing the dwellings, granting members material possession of them, defending members against third-party disturbances, and paying loans, interest, contributions, repairs, and other common obligations and services (Art. 143). The cooperative is responsible for repairs resulting from normal use of the dwelling, provided they are not caused by the fault of the user, during the first five years (Art. 144). To regulate relations between the cooperative and its members (users), the provisions of the Civil Code and other laws related to leasing must be applied, as long as they do not conflict with Law No.18,407 (Art. 145).

The following special features regarding organization and administration should be noted: (i) elections of members of the Board of Directors and the Fiscal Commission must always be conducted by secret and compulsory ballot, and if a list system is used, the principle of proportional representation must be applied; (ii) the honorary nature of the members of the corporate bodies, meaning that, unlike other types of cooperatives (savings and credit, consumer, agricultural, insurance, etc.), the directors may not be remunerated; (iii) the possibility for a member of the family unit to act on behalf of the member in corporate bodies;

(iv) members may be represented at meetings by another member (similar to the general rule) and also by a member of the family unit (Arts. 120 and 121); (v) cooperatives with fewer than 20 members may reduce their governing bodies to just the General Meeting and the Board of Directors. In such cases, the functions of the Fiscal Commission and the Commission for Cooperative Education, Promotion, and Integration shall be carried out by the General Meeting itself (Art. 132).

Regarding the equity aspects, it is worth noting that the capital contributions made by the members (shares) must be recorded in indexed units, ensuring their continuous adjustment. Each capital contribution must not be less than two indexed units. Additionally, the cooperative may charge fees for administration, maintenance, and common services, which are not part of the capital contributions and therefore are non-refundable in the event of a member's withdrawal (Articles 123, 139, and 142).

A particularly significant aspect of the cooperative housing system is the role of Technical Assistance Institutes (IAT). These institutes are required to *"provide legal, cooperative education, financial, economic, and social services at cost to the cooperatives... and may also include technical services for project and construction management"* (Art. 156). IATs must be legal entities, being constituted under corporate, cooperative, or associative forms (Art. 157), and they are prohibited from distributing surpluses if obtained; instead, any surpluses *"must be used exclusively for achieving their corporate purpose"* (Art. 160). The cost of IAT services may not exceed 10% of the total value of the works (Art. 159). The mandatory requirement for housing cooperatives to hire an IAT during the construction stage (Art. 9, Decree 183/018) has been crucial for the proper development of the system. Initially, IATs were exclusively intended to serve housing cooperatives, but a legal amendment in 2020 extended their competence to include *"other non-profit entities"* (Art. 156).

Finally, we address the issue of co-ownership, which refers to the possibility within a housing cooperative for *"members with shared ownership of their shares with the right of use and enjoyment of the same dwelling."* This is the latest innovation introduced in the chapter on housing cooperatives, arising from recent movements and advances in gender equality. The law allows two individuals who *"permanently reside together, are responsible for the family unit, and are in a marriage, a recognized de facto union [concubinage], or a de facto union without judicial recognition, regardless of their gender and marital status, to constitute shared ownership and simultaneously be members"* (Art. 119).

This law provides that each member shall exercise their shareholder rights independently, and *"when a housing cooperative includes both sole owners and members with shared ownership, the vote of the former shall be weighted twice"* (Art. 119).

Additionally, couples with co-ownership are prohibited from jointly participating on the Board

of Directors and the Fiscal Commission or simultaneously serving on both bodies (Art. 119).

6. **Brief final comments**

This paper introduces the institutional framework on housing and the legal framework of cooperatives in Uruguay, with a focus on Chapter V of Title II of Law No. 18,407 concerning housing cooperatives. This chapter has its roots in a comprehensive regulatory body of public housing policies (Law No. 13,728 of 1968), which includes the *National Housing Plan*, some of whose provisions remain in effect currently.

Undoubtedly, as a Uruguayan author (Nahum, 2004) has observed, the cooperative housing system in the country is based on three pillars: (i) participation and management (or self-management) by the people, (ii) the accumulation of technical knowledge within the Technical Assistance Institutes (IATs), and (iii) the legal-institutional-state framework that supports it.

The focus here is on sharing the essence of this third pillar, which, while it may require some adjustments or improvements, has undoubtedly played a significant role in the development of the cooperative housing system in Uruguay.

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