THE TAXATION OF COOPERATIVES. A PROPOSAL FOR ITS UNIFORM REGULATION IN CUBA

Dr. C. Orestes Rodríguez Musa[1]
Dra. C. Orisel Hernández Aguilar[2]
MSc. Liana Simon Otero[3]

Abstract

The promulgation of the Constitution of the Republic of Cuba of 2019 supposed the general recognition of the cooperative, overcoming the past distinctions between its different forms and laying down some guidelines for the determination of its legal nature in the socioeconomic system of the country. At the level of ordinary development laws, including legal provisions on tax matters, a full reflection of this transformation has not yet been achieved. Consequently, the objective assumed in this work seeks to argue the premises that should guide the unification of the tax regime of Cuban cooperatives, in accordance with the role constitutionally assigned to them and their identity.

Introduction

The promulgation of the 2019 Constitution of the Republic of Cuba represented the necessary synthesis of a process of transformations that had been developing in Cuban society, in which the decisions to perfect the socialist socio-economic and political model adapted in the last congresses of the Communist Party of Cuba had a decisive impact. These political projections included, as an inherent part of the economic design, an expansion to the non-agricultural sectors of the cooperatives. The corollary of the above is present in the recognition of the institution in the new Magna Carta, in which some guidelines of interest are established for the determination of its legal nature in the national socioeconomic system.

Notwithstanding the aforementioned advances, at the level of legislation, including in tax laws, a full reflection of this transformation has not yet been achieved. In fact, in 2019 new regulations were promulgated that ordered, separately, the two manifestations of national cooperativism: the agricultural[4] and the non-agricultural[5], in an attempt to systematize the

[1] Doctor in Legal Sciences, Titular Professor of the Department of Law, University of Pinar del Río, Cuba, ORCID: https://orcid.org/0000-0002-1401-6500, e-mail: musa@upr.edu.cu
[2] Doctor in Legal Sciences, Titular Professor of the Department of Law, University of Pinar del Río, Cuba, ORCID: https://orcid.org/0000-0003-3533-1646, e-mail: oriselha@upr.edu.cu
[3] Master in Constitutional and Administrative Law, Assistant Professor of Ce-Gesta, University of Pinar del Río, Cuba, ORCID: https://orcid.org/0000-0001-6330-3396x, e-mail: liana.simono@upr.edu.cu
[4] Decreto-Ley No. 365 «De las Cooperativas Agropecuarias» y Decreto No. 354 «Reglamento del Decreto-Ley de las Cooperativas Agropecuarias», de 24 de mayo de 2019
[5] Decreto-Ley No. 366 «De las Cooperativas no Agropecuarias» y Decreto No. 356 «Reglamento de las Cooperativas no Agropecuarias», de 30 de agosto de 2019

organization and operation of the variety of existing typologies within the first[6] and to perfect the experimental practice of the second[7]. This has meant that a separate perception of its tax treatment persists in which, as a consequence of the general state of regulation of the sector, not all the existing potentialities to stimulate these forms of social production are used.

Consequently, this work attempts to propose premises that should guide the unification of the tax regime of Cuban cooperatives, in accordance with the role constitutionally assigned to them. To this end, the antecedents and the current panorama of the identity of the cooperative in the Cuban legal system are examined, in a first moment, in which the provisions of the current Constitution have significant weight. Next, the tax regime that applies to cooperatives in the country is analyzed and some proposals are based on the uniformity of its regulation and to make its coherent tax treatment feasible.

Bearing this intention in mind, it is pertinent to note that the object of study on which this work is focused presents little doctrinal development in the country. Therefore, the sources used will be, in addition to current legislation, official documents from the country's political leadership and other press materials; all of which will be contrasted with criteria established around the cooperative identity and its legal nature.

To achieve these purposes, the following methods were used: legal historical, exegetical-analytical and the legal-doctrinal analyses. The first type, as it allows the logical and evolutionary study of the institutions of law and the scientific constructions that are made in the time around them, facilitated the study of the antecedents treated here. The second method, inasmuch as it focuses its attention on the study of legal texts and the information collected from the way in which the different regulations are drawn up, was used to specify the meaning of the provisions on the subject in the current regulations. The last of the aforementioned methods, since it deals with identifying the theories that support the objects of study, their conceptual tract and the main criteria for their definition and regulation, was used to support the processes of analysis, synthesis, abstraction and generalization that, with the aforementioned perspective, allow projecting the overcoming of the deficiencies detected.

1. The identity of the cooperative in the Cuban legal system: antecedents and current panorama

As has been explained on other occasions[8], the historical antecedents of the legal regulation of the cooperative in Cuba are fundamentally delimited by three stages: the first is characterized by simple recognition, without attributing its own legal regime or legal protection to develop in its double economic and social aspect. A second stage, marked by the Constitution of 1940, which neglects its associative content, protects its character as a company and directs its promotion from the local to favor public services, a mandate that was

[6] Credit and Service Cooperatives (CCS), Agricultural Production Cooperatives (CPA) and Basic Units of Cooperative Production (UBPC), now grouped under the name of Agricultural Cooperatives (CA)

[7] Non-Agricultural Cooperatives (CNA).

[8] RODRÍGUEZ MUSA, O.: *La constitucionalización de la cooperativa. Una propuesta para su redimensionamiento en Cuba*, Coletânea IBECOOP, No. 1, Ed. Vincere Asociados, Brasilia-DF, 2017.

not generalized. The third and last stage, stemming especially from the 1976 constitutional text, produced the dismantling of the previous design through nationalization; reserves the right to associate in cooperatives to small farmers only; distorts the legal nature of the institution towards a form of agrarian property; limits its purposes to agricultural production and obtaining state credits and services; and it configures an institutional environment with high levels of dependency and interventionism from the public administration. Such a panorama conditioned the existence of the three types of cooperative production in Cuban fields, which are still in existence: Credit and Service Cooperatives (CCS), Agricultural Production Cooperatives (CPA) and Basic Units of Cooperative Production (UBPC).

The VIth Congress of the Communist Party of Cuba, held in April 2011 and reviewed five years later in the VIIth Congress, approved the Guidelines for the Economic and Social Policy of the Party and the Revolution with the aim of establishing the necessary guidelines to conduct the process of updating of the socialist economic model in which the country is currently immersed. These Guidelines established the basic aspects for the insertion of cooperatives in a new "Economic Management Model" that planned to expand these associative forms to spheres of the economy other than agriculture[9].

The referred Guidelines for cooperatives were originally developed by a legislative package on an experimental basis. These provisions came into force on December 11, 2012 when the Extraordinary Official Gazette No. 53 was published, containing Decree-Law No. 305, of November 15, 2012, “On Non-Agricultural Cooperatives” and Decree No. 309 of November 28, 2012, "Regulations for Non-Agricultural Cooperatives"; among other regulations that formed the provisional regulatory framework for the new Non-Agricultural Cooperatives in Cuba.

Upon the occurrence of these legislative developments, which immediately had a practical repercussion[10], the following were identified as legal limitations for the cooperative in Cuba[11].

- ✓ *Insufficiencies in its constitutional regulation* (Cuban Constitution of February 24, 1976, repealed), while the Magna Carta does not protect the right of workers other than small farmers to associate in cooperatives and, therefore, does not recognize their existence beyond the agricultural sector of the economy. In addition, it reduces its legal nature to a form of property, thus neglecting the cooperative bond, the purpose of the service that assists it, and the values and principles that are inherent to it. In short, it does not contain an institutionalization of the cooperative as an autonomous figure, in a complementary relationship with other public and private entities, for the satisfaction of the socioeconomic needs of the people.

[9]*Vid*. VII Congreso del Partido Comunista de Cuba y Asamblea Nacional del Poder Popular: Actualización de los Lineamientos de la Política Económica y Social del Partido y la Revolución para el periodo 2016-2021, abril de 2016, at http://www.cubadebate.cu/wp-content/uploads/2016/09/aqu%C3%AD.pdf, points 15 and 16.

[10] The non-agricultural cooperatives initially approved in the country reached 514. Approximately 88% of these new cooperatives are concentrated in three sectors: Commerce, Gastronomy, and Technical and Personal Services (59%); Construction (19%); and Industry (10%). Oficina Nacional de Estadísticas e Información (ONEI): «Listado de cooperativas no agropecuarias con su código, marzo de 2016, at www.one.cu/ryc/cambian/CNoA.rar

[11]*Vid*. Rodríguez Musa, O.: *Ob. cit.*, 2017, p. 110.

- ✓ *Absence of a harmonizing and unified conception about cooperatives and their legal nature,* which is directly linked to the non-existence of a general unifying and harmonizing legislation for the sector. Current Cuban cooperative law is scattered around in many norms, some with an experimental nature, which divide the sector between the agricultural and the non-agricultural, and present little systematicity and coherence with each other. This is exacerbated by antinomies or contradictions derived from excessive regulation and diversity in the contextual bases to which they respond. In this way, the characteristics and principles of the institution are called into question, as well as the possibility of determining applicable default rules without distorting its nature. All this results in damage to the identity of cooperatives and the empowerment they need to transform their economic-social environment.
- ✓ *Permanence of an absorbing model in the relations of the cooperative with the State,* which, although in recent years it has shown a tendency to become more flexible[12], affects its autonomy from the constitution process to the dissolution, through the determination of its corporate purpose, the planning of its economic activity and the characteristics of its contractual relationships. Added to this is the expansion of public entities that interact with cooperatives, promoting, authorizing, qualifying and controlling them, which have diversified as much as the spheres of the economy in which they operate and, with them, the methods, policies and provisions that apply to them. Such atomization limits the consolidation of the identity of the figure over the sphere of the economy in which it is developed.

In exacerbating the negative effects of these limitations, the generalized lack of cooperative-legal culture has had an impact, which has resulted in the legislator, the applicator of the cooperative norm and society in general, dragging the schemes of the law towards these associative forms, state enterprise or import them from capitalist forms.

As a result of these limitations in the legal-institutional platform, the expansion process of cooperatives to other spheres of the national economy has been affected. Among the officially recognized difficulties is the misappropriation of resources and income; people acting as members of several cooperatives at the same time; deficiencies in accounting records; use of bank loans for different purposes than those for which they were granted; and some acts of corruption. In addition, it has been said that some cooperatives have acted as private companies, where the president acts as if he were the owner, with a minimum of partners, while at the same time carrying out their management mainly by hiring the services of self-employed workers as salaried employees[13].

On this basis, it has been decided, "before continuing to advance in the creation of new cooperatives, consolidate what has been advanced, generalize the positive aspects, which are not few, and resolutely confront the illegalities and other deviations that deviate from the

[12]*Vid*. Rodríguez Musa, O.: "*La autonomía cooperativa y su expresión jurídica. Una aproximación crítica a su actual implementación legal en Cuba",* en *Boletín de la Asociación Internacional de Derecho Cooperativo*, No. 47, Universidad de Deusto, Bilbao, 2013, pp. 142 y ss.

[13] PUIG MENESES, Y.: *«Autoridades explican nuevas medidas respecto a cooperativas no agropecuarias*», La Habana, 9 de agosto de 2017, at http://www.cubadebate.cu/noticias/2017/08/09/autoridades-explican-nuevas-medidas-respecto-a-cooperativas-no-agropecuarias/

established policy"[14]. This guideline has resulted in "making control and inspection more effective"[15] from the State on cooperatives, as well as the decision to dissolve some of the new cooperatives that had been authorized[16].

Within this context, the Cuban Constitution of April 10, 2019 was approved. Its Article 22, paragraph d), recognizes "private property: that which is exercised over certain means of production by Cuban or foreign natural or legal persons ...". Thus comes the appropriate basis to authorize the creation of private companies under legal forms of a lucrative nature. In this way, the need for those who have used cooperatives to cover up this type of economic activity would disappear, as each business form according to its essence, would have its own legal regime.

In addition, Article 22 of the new Carta Magna, in subsection b), recognizes "cooperative property" as "sustained by the collective work of its proprietary partners and in the effective exercise of the principles of cooperativism." A litteral reading implies an evolution with respect to the old Constitution of 1976, as well as other elements that generate uncertainty and various absences that could result in inertia[17], namely:

Inertia: The reduction of the legal nature of the cooperative to a "form of property" persists, neglecting the associative bond that it implies, the corresponding service purpose, the values that are inherent to it and the institutional environment in which - according to its identity - it must be articulated. In addition, the emphatic formulation regarding the “collective work of its proprietary members” as support for cooperatives, could appear as a limitation to establish other types of cooperatives different from work cooperatives, such as consumer or credit cooperatives (nonexistent until now in the country), also inspired by popular socio-economic needs and that could complement / strengthen the Cuban cooperative sector - until now - without uniformity or articulation.

Evolution: In another sense, the agrarian perspective of the old Constitution disappears. Now cooperatives, regardless of the sector of the economy where they develop, will enjoy constitutional protection. In addition, the relevance of some "principles" that should mark the functioning of these institutions is recognized, as they are part of a movement that overcomes and strengthens them all equally.

Uncertainty: However, it is worth asking what “principles of cooperativism” the Constituent Assembly refers to, since in Cuban legislation those raised by the International Cooperative Alliance have never been mentioned, nor has a uniform criterion been used to define them.

---

[14] CASTRO RUZ, R.: «*Discurso pronunciado por el General de Ejército Raúl Castro Ruz, Primer Secretario del Comité Central del Partido Comunista de Cuba y Presidente de los Consejos de Estado y de Ministros, en la clausura del IX Período Ordinario de Sesiones de la VIII Legislatura de la Asamblea Nacional del Poder Popular»*, La Habana, 14 de julio de 2017, Versiones Taquigráficas del Consejo de Estado in Granma Newspaper, 15 July 2017.

[15] PUIG MENESES, Y.: *Ob. cit*.

[16] *Vid*. CUBA DEBATE: *«Cierran temporalmente el mercado mayorista El Trigal», La Habana,* 12 mayo 2016, at http://www.cubadebate.cu/noticias/2016/05/12/cierran-el-mercado-mayorista-el-trigal/, in 12/09/2017 and MINISTERIO DE FINANZAS Y PRECIOS: *«Aprobada extinción de Cooperativa de servicios contables SCENIUS*», La Habana, at http://www.cubadebate.cu/noticias/2017/08/07/aprobada-extincion-de-cooperativa-de-servicios-contables-scenius/#.Wb54j3uR7mM, in 12/09/2017.

[17] *Vid*. RODRÍGUEZ MUSA, O. y HERNÁNDEZ AGUILAR, O.: *Unificación del sector cooperativo cubano. Apuntes críticos a la luz de los principios cooperativos*, CIRIEC-España, Revista Jurídica de Economía Social y Cooperativa, No. 37, 2020, pp. 81-103.

Therefore, different interpretations of the Constitution may be made by the legislator, which transcends the legal regime of these associative forms.

Against this background, where the role of the ordinary legislator is decisive to promote the articulation of a national cooperative movement coherent with the cooperative identity, new legal norms stand out, published in the Official Gazette No. 37 Ordinary of May 24, 2019, containing the Decree-Law No. 365 "On Agricultural Cooperatives" and Decree No. 354 "Regulation of the Decree-Law on Agricultural Cooperatives", and Ordinary Official Gazette No. 63 of August 30, 2019, which includes Decree- Law No. 366 "On Non-Agricultural Cooperatives" and Decree No. 356 "Regulations for Non-Agricultural Cooperatives".

However, contrary to what could be expected, the new regulations did not come to unify the sector, nor to establish the general and definitive bases that can contribute to its consolidation in accordance with the universally recognized cooperative identity. On the contrary, these norms did not emanate from the National Assembly of People's Power, despite the fact that in some cases they repeal others that do have this hierarchy[18]; they preserve the division between agricultural and non-agricultural cooperatives; grant important powers to State institutions that were expected to disappear with the implementation of the new 2019 Constitution (V.gr .: Provincial Administration Councils[19]); and, in the case of Decree-Law 366/2019 and its Regulations, aimed at non-agricultural cooperatives, they do not exceed the experimental nature of the regulations that repeal (Article 1), despite the more than eight years that have elapsed in this state of legal uncertainty.

Taking into account this panorama, a reflection of the distorted conception that the Cuban legislator still maintains regarding the institution under study and towards which the 2019 constitutional text offers new expectations, let us proceed to assess the fiscal regime of each of the forms of cooperatives recognized in Cuba.

2. Cuban cooperative forms: assessment of their tax regime

Within the aforementioned context, a tax regime has been established for cooperatives, whose evolution has been limited by the limitations and deviations that its constitutional and legal regulation has determined.

"This special type of taxation has its original source of law in the regulations of the Fourth Final Provision of Law no. 73, of the Tax System, of August 4, 1994"[20], which established certain precepts within which the Ministry of Finance and Prices (MFP) had broad powers to

[18] The Decreto-Ley 365/2019 repeals, among other provisions, the Ley No. 95 "Ley de Cooperativas de Producción Agropecuaria y de Créditos y Servicios", en Gaceta Oficial No. 72 Ordinaria, 29/11/2002.

[19] The Provincial Administration Councils, empowered by Decreto-Ley 366/2019 to present to the Permanent Commission for Implementation and Development, requests for the creation of cooperatives (article 14, section 1), as well as to authorize their constitution (Article 13, subsection b), disappeared with the implementation of the Constitución de la República de Cuba of April 10, 2019 (Articles 170 to 184).

[20] VALDÉS LOBÁN, E.: *La imposición sobre el consumo en Cuba. Valoración crítica y propuesta de reforma,* Publicaciones Universidad de Alicante, Alicante, 2002, p. 435.

dispose of the essential elements of the tax regime. This was reinforced in the fifth final provision, which in terms of incentives practically did not establish limits.

According to the law[21], the CPA and UBPC were obliged to pay the taxes that were established in general, with certain adjustments in taxes on profits and on the workforce, not to mention that all kinds of incentives could be established for any tax. From the very text of the aforementioned provision, it was assumed that the incentives were intended to promote production. Therefore, they were not intended to promote other behaviors that favored cooperative interests.

Based on the bases established by the aforementioned Law No. 73 and the analysis of all the provisions that came to develop said precepts, we can identify the following limitations in the tax regime:

1. *Doubtful constitutional protection and consequently lack of ordering principles of the highest order.* It should be taken into account that, in the matter that concerns us, the Cuban Constitution of February 24, 1976 was the reflection of economic policies that did not consider taxes as an essential source of income for the State, nor as an instrument of economic policy, a situation that did not change significantly with the 1992 reform[22].

2. *The implementation of the tax regime depended almost entirely on subsequent regulatory developments*. Law No. 73, in its general part, as a rule, did not regulate the essential elements of taxation, hence its direct application was impossible. This resulted in the issuance of a number of resolutions, many times casuistic, which in cooperative matters strengthened the differences and not the common elements of the sector[23].

3. *Excessive powers in the hands of the MFP*. The excessive regulation of the provisions of Law No. 73/1994 are the direct result of the lack of constitutional principles that guarantee the justice of the tax system. In the absence of the principle of reserve of law, the MFP freely provided, even empowering its vice minister, in charge of the Directorate of Revenues, so that, through Instruction, it could implement the requirement of the Income Tax that regulated Resolution No. 21 / 1998 to the CPA and UBPC.

[21]From this moment on, future cooperative regulations would recognize the payment of taxes as one of their obligations. *Vid*. Ley No. 95/1992, article 16 l) and the current Decree Laws No. 365/2018, article 40.2 and No. 366/2018, article 6 d), which provide it as a principle, making other references to tax legislation in several of their articles.

[22] It was only introduced in Chapter III "Foreigners", in its article 34 third section, that foreigners residing in the territory of the Republic were equated with Cubans in the obligation to contribute to public expenses in the form and amount that the law states.

[23]*Vid*. Resolutions no. 30/1995, 33/1995, 21/1998, mainly for the CPA (not always exclusively) and Resolutions no. 36/94, 21/95, 21/1996, basically for the UBPCs, all of the MFP; clear examples of excessive legislative production and lack of prevailing systematicity.

4. *Marked normative dispersion*. There could be no other result when adding the need to implement the legal provisions with the excessive powers of the executive, came to regulate the tax regime by type of cooperative, and within it by productive sectors.

5. *Absence of a unitary and harmonizing tax treatment.* As has been seen, the cooperative tax regime resulted in a regulatory framework lacking defined objectives, lacking systematicity and an absolute reflection of the theoretical and legal deficiencies that both the cooperative sector and the tax system possessed. According to Valdés Lobán "we are in the presence (…) of the establishment of a tax regime - of a special nature - in which it has not been possible to establish a general regulation thereof, or at least one for each case[24]".

In cooperative matters, the legislative developments of 2012 were accompanied by the enactment of a new Tax Law, Law No. 113, Tax System Law[25], dated July 23, and therefore the new non-agricultural cooperatives, like their predecessors, the agricultural cooperatives, were included in these new fiscal regulations.

Now, beyond expanding the fiscal regulation to the new non-agricultural cooperatives, the approval of this law brought significant changes in the status quo, although with the limitations that its range establishes and without actually solving all the problems exposed. From the analysis, the following elements can be specified:

Inertia: taking into account that in this period there was no constitutional modification, this law could not overcome the limitations in terms of its constitutionality that had been dragging the general and cooperative tax system in particular[26]. Nor was it able to establish a unitary and harmonizing tax regime, since it divided the cooperatives into agricultural and non-agricultural, in line with the general provisions that regulate the sector.

Evolution: there is a certain coding and reservist tendency, this law, unlike the previous one, establishes the taxable events, tax bases, tax rates and subjects of all taxes, in addition to the rules for determining the debt, which transcends the cooperative sphere, although not with the desired intensity.

It is also established in its First Final Provision that the essential elements of the tax can only be modified by the Annual Budget Law of the corresponding year, so that, without talking about a principle of legal reserve, at least these matters are no longer in the hands of the MFF.

Even so, the Second, Third, Fourth and Fifth Final Provisions continue to grant broad powers to the Ministry of Finance and Prices and the Council of Ministers (in other words, the executive branch), which has been expanded through the laws of the budget. An example is

[24] VALDES LOBAN, E.: *Op. cit.*, p. 436.
[25] Gaceta Oficial No. 053 Ordinaria de 21 de noviembre de 2012.
[26] However, the Law in its terms refers, in addition to the necessary formal foundation - article 75 subsection b) of the constitutional text - to the duty to contribute as necessary material support, which shows a certain corrective vocation with respect to the previous regulations, and that heralded a future constitutionalization of the duty to contribute.

Law No. 137 "On the State Budget for the year 2021"[27], which in its Third Special Provision empowers the provincial councils and municipal administration councils, as appropriate, to grant total or partial bonuses in the payment of taxes on sales and services to non-state management forms.

On the other hand, we could observe some first steps towards a future harmonization of the cooperative tax regime, at least within the agricultural field, since a special regime was established for the entire agricultural sector, where agricultural cooperatives were included.[28] And a special regime for the non-agricultural cooperative sector[29], but that only made reference to income taxation, leaving it to the complementary legislation to determine what taxes the non-agricultural cooperatives (CNAs) were subject to[30].

Within this apparently favorable context, a new Constitution was finally approved in 2019, which clearly and concisely established a positive aspect that we must highlight, the duty to contribute to the financing of public expenditures in the manner established by law. Therefore, in this way, Law No. 113/12 is an investiture of constitutionality, legitimizing our entire tax system.

Taking into account the validity of these regimes, with only minor subsequent modifications, one might wonder how far one is from a future unitary regime.

“In a general sense, the special regime for cooperatives should tend to simplify the requirements in tax regulation and it translates into a set of tax incentives, basically exemptions, bonuses and reduced tax rates (type bonuses) that cover if not all, at least to most of the taxes to which cooperatives are subjected, which must be clear and easy to interpret. We are not talking then about exclusive taxes for the cooperative sector, but about those classic taxes that tax both income, assets and consumption, but especially aimed at encouraging this specific economic sector "[31].

The first issue to be analyzed is precisely the facts subject to taxation. “Perhaps the most important and most discussed effect of the Cooperative Act occurs in the filed of taxation, since the transactions between the cooperative and its partners, not being acts of commerce, they do not constitute a tax-generating event "[32]. In this sense, the Cuban tax regime, also influenced by the general regulations that drive cooperatives towards a profit-making spirit in their operations, above meeting the needs of their partners, taxes all their commercial acts, which in the end, due to the distortions analyzed, they are taking precedence over cooperative acts.

[27] Gaceta Oficial No. 2 Extraordinaria de 11 de enero de 2021.
[28] Ley No. 113/2012, article 105 and fifth book.
[29] Idem, articles 106 to 108.
[30] The Resolution No. 427/2012 first and Resolution No. 124/2016 later. The latter supplemented by Resolution No. 136/2016 and later modified by Resolution No. 486/2016 all of the MFP. Resolution No. 361/2019 is currently in force, repealing the previous ones.
[31] SIMÓN OTERO, L. y CARBALLO MOYA, A.: “Tributación y cooperativismo: el régimen fiscal de las cooperativas no agropecuarias (CNA) en Cuba”, en Revesco. Revista de Estudios Cooperativos, vol. 134, e65489, Madrid, 2020, p. 5.
[32] NARANJO MENA, C.: El acto cooperativo: Concepto estratégico para el desarrollo cooperativo. Incorporación y tratamiento en los países de América Latina, Ecuador, 2019, at https://www.aciamericas.coop/IMG/pdf/carlosnaranjo.pdf

The tax on the income of cooperatives was established based on the specificities that were configured in the Income Tax, which, in its general regulation, recognizes that increases in equity that are produced by non-financial acts are not taxed by this tax lucrative (could be cooperative acts), provided that the purpose of these is not their commercialization.[33]

The CPAs and UBPCs are subject to this obligation, contributing a minimum amount of 5% of the total income obtained from the sales of agricultural products and an additional payment based on per capita net income, which is made at the end of the fiscal year.

The CCS must also contribute to this tax applying a rate of 17.5% on the taxable net profit, provided that more than 50% of their income comes from the commercialization of agricultural products and / or from the provision of services related to this sector. Otherwise they apply the tax rate capped at 35%, generally established for the payment of this tax.

The CNAs pay this tax based on the taxable income per capita, which is made up of the income minus the established discounts, divided by the number of cooperative members.

Apparently, each subject pays the tax in a similar way. However, there are key differences.

1. We are not looking at a uniform tax base.

The per capita net income that constitutes the tax base in the case of CPA and UBPC is calculated by discounting from gross income:

- the exempt minimum,
- the authorized expenditure items,
- taxes paid (with exceptions),
- the minimum amount of tax already paid.

To which result the income paid as advances to its members is added, divided by the number of partners.

The net taxable income from which the CCS is taxed, taking into account the general provisions of the law, is calculated by subtracting from income:

- deductible expenses,
- the proportion of the tax loss from previous years,
- the reserves authorized to create before the tax.

The tax base for CNAs is formed by subtracting from income:

- minimum exempt for each member,

[33] Ley No. 113/2012, article 102 subsection b).

- the expenses associated with the activity, which meet the conditions established by Resolution No. 361/219 of the MFP,
- taxes paid, except for payments on account for profit tax,
- the leasing of movable and immovable property to entities duly authorized to do so, which are exonerated or subsidized, when they undertake repairs in the state premises they lease, which must be justified by documentary evidence,
- a remuneration per member, consisting of the average salary of the province, or where appropriate, in the special municipality of Isla de la Juventud, where the cooperative is established or operates,
- other amounts destined to the creation of reserves to cover contingencies[34].

The result is divided by the number of members of the cooperative.

Similarities in this subject between CPAs, UBPCs and CNAs are evident. However, there is a difference in discounts.

2. The tax rate varies from being progressive to being proportional.

In the case of CPAs, UBPCs and CNAs we are talking about a progressive percentage tax rate, which is, however, not uniform, since the sections of the scale vary and the percentages to be applied do not increase to the same extent. The CCSs, for their part, pay taxes according to a tax rate of 17.5% (understanding that by their nature it is normal that more than 50% of their income comes from the commercialization of agricultural products and / or the provision of services related to this sector), its regime being closer to assigning to the state enterprise than to that corresponding to the cooperative sector itself.

3. The incentives, on the one hand, are aimed at favoring an economic sector and on the other, they try to promote the development of cooperatives.

In the case of the CCS, a deduction is established in the tax rate in order to boost agricultural production, while for CPAs, UBPCs and CNAs what is intended is to benefit this form of management above others. Every year the budget law establishes payment exemptions for some type of cooperative or by economic sectors (example: non-sugarcane cooperatives), almost always seeking greater productivity.

From the analysis carried out above on the elements for calculating the tax, it can be seen that no deduction has been made from the tax base, intended to promote cooperative funds or to encourage the assumption of social responsibilities inherent to the principles it defends.

Sales tax is another of the taxes that has received special treatment[35]. The CNAs are exempt from their payment for the commercialization of agricultural products to the population,

[34] *Vid*. Twenty-fourth section of Resolution No. 361/2019 of the MFP, which complements the provisions of the Tax Law.
[35] It has been regulated every year by the Budget Law.

while the agricultural cooperatives have been paying the 10% provided in the general regime. So it is a benefit that does not seek to encourage the cooperatives themselves, but agricultural production.

Other tributes have enjoyed some kind of benefit each year. In the Labor Force Tax, it is the agricultural cooperatives that receive special treatment, since they are exempt from payment by personnel hired directly to agricultural production. In the Land Transport Tax a 50% discount is granted to the owners or holders of tractors, trailers and semi-trailers, used in the agricultural and forestry sector. Therefore, agricultural cooperatives are also beneficiaries, as in the case of the fee for the Filing of Advertisements and Advertising, since they are exempt from paying for advertisements that identify their headquarters or address, provided they do not contain commercial messages.

The rest of the taxes, including the Territorial Tax and the Property Transfer Tax, do not enjoy a differentiated treatment.

In terms of incentives, one of the clearest is the one that first granted to the CNAs that start their activity three months' exemption from the payment of tax obligations for taxes on profits, on sales, on services, for the use of the workforce and the territorial contribution for local development, which was later extended to six months, with the enactment of the aforementioned Resolution No. 124/2016 of the MFP, because it was considered that three months was a very short time so that a new cooperative could recover the investment, especially for those that were of private origin. In the current Resolution No. 361/2019 of the MFP, this exemption was maintained, which can be extended to almost 7 months, taking into account that the term begins to run from the month following the registration of the CNA in the Taxpayers Registry.

A benefit common to all members of the CPA, UBPC and CNA is that which refers to the exemption from income tax, called in Cuba "Personal Income Tax", for the income that the members of these cooperatives obtain from them, when they are taxed with the Income Tax in the per capita profit modality.

In summary, we could affirm that even though there are certain similarities in the tax regime of the CPA, UBPC and to a lesser extent of the CNA, there are many differences that persist in the face of the possibility of a future uniform regime.

In this regard, it would then be possible to ask: could the future tax law, provided for in the Cuban legislative schedule for the month of July 2022, be able to harmonize a cooperative tax regime that responds to the need to encourage this economic subject while respecting its *sui generis* nature?

3. Proposals to standardize the tax regime of Cuban cooperatives

Based on the preceding analyzes, it is possible to specify three fundamental lines to guide the process that leads to a uniformity of the tax regime of Cuban cooperatives. Although in the following exposition they are treated separately, for the purposes of their better understanding, it is the opinion of the authors that there is a logical relationship between them that provides them with unity.

- Assume the constitutional reference to the "principles of cooperativism" as the basis for the common identity of all cooperatives according to their sui generis nature according to the theory of the "cooperative act".

As has been stated, the allusion to the "principles of cooperativism" in the Constitution of the Republic of Cuba could be accompanied by greater precision. However, the mere presence of this precept has potentialities yet to be explored.

As stated in article 7 of the aforementioned legal text, the Constitution is “the supreme legal norm of the State” and, consequently, “everyone is obliged to comply with it. The provisions and acts of the organs of the State, their directors, officials and employees, as well as of the organizations, entities and individuals are adjusted to what this has". This treatment of the Constitution exceeds its limited understanding as a political program or minimum standard, reaching the entity of a true legal standard. The first consequence that this entails is that its provisions do not need any mediation to be applied[36].

The direct applicability of the Constitution supposes, in particular in the case of article 22, paragraph b) of the great legal body, an exercise of interpretation by the operators. In this sense, action must be taken in accordance with what is established in the entire constitutional text, ensuring the harmony of what is interpreted with the rest of the postulates and with the nature of the institution in question. In this way, it is relevant to assume a position in this regard that ensures the correspondence between the nature of the cooperative and the socialist purpose of the Cuban socio-economic and political system, an issue that cuts across the provisions of the law of laws and the rest of the legal system.

To be consistent with the foregoing, the nature of the institution must adhere to the theory of the "cooperative act"[37]. This act constitutes the main means or instrument for the practical realization of the cooperatives’ *raison d'être.* Salinas Puente refers to it as "the legal assumption, absent of profit and intermediation, carried out by the cooperative in fulfillment of a preponderantly economic purpose and of social utility"[38]. In the same direction, Cracogna explains, the essential and consubstantial notes to these acts that allow to affirm that they do not have a civil or commercial nature or any other, but one that is their own and

[36]*Vid*. MEDINACELI ROJAS, G.: *La aplicación directa de la Constitución*. Universidad Andina Simón Bolívar, Sede Ecuador Corporación Editora Nacional, Quito, 2013.

[37] This theory is of Latin American invoice and that has among its main exponents Salinas Puente in Mexico, Bulgarelli in Brazil and Cracogna in Argentina, in addition to being specified in the Framework Law for Cooperatives in Latin America and in the legislation of at least 14 countries in the region.

[38] SALINAS PUENTE, A.: *Derecho Cooperativo*, Ed. Cooperativismo, México, 1954, p. 2.

that distinguishes them, given the very purpose of the institution: a) intervention of member and cooperative; b) object of the act identical to the object of the cooperative; and c) spirit of service, where there is a corpus (the material or immaterial object it is about) and an animus (the spirit of service that informs the relationship)[39].

Therefore, in the cooperative "… the end is not profit, but service to the member; it is not profit, but the satisfaction of their needs, then, those needs are what united the members to form the cooperative and through mutual contribution and effort, self-provide their source of work, services, supply or marketing of their products, according to the type of cooperative "[40]. For example, in a work cooperative, the economic activity that is developed (*V. gr.*: gastronomy, transportation, accommodation management, etc.) is only a means that serves the higher purpose of satisfying the need for a decent job and optimally remunerated to its associates[41]. Business activity is not an end in itself, but a means to achieve a certain social objective. Capital serves man and not vice versa.

Therefore, the cooperative act is the cornerstone to sustain the peculiar nature of the social relations that result within what Bulgarelli calls[42] the "closed circle" of these associative forms, that is, that between it and its associates, and also in the cooperative sphere, that is, between entities of this type that collaborate with each other in fulfillment of their social objective[43].

Therefore, given the socialist character assumed by the Cuban State[44], this must be the meaning given to the constitutional provisions, since understanding the cooperative from

---

[39] CRACOGNA, D.: *Estudios de Derecho Cooperativo,* INTERCOOP Ed. Cooperativa Ltda., Buenos Aires, 1986, p. 21.

[40] NARANJO MENA, C: "*La naturaleza jurídica de la cooperativa y el acto cooperativo",* SIBULE, Asesores Legales, 2014, at http://www.sibule.com/#!La-Naturaleza-Jur%C3%ADdica-de-la-Cooperativa-y-el-Acto-Cooperativo/c104m/1.

[41] The same occurs in consumer or provision cooperatives, where "the cooperative does not produce its own income because when it carries out its activity it charges the service at a price that is estimated to be in line with the market. But that price is provisional, whether the cooperative distributes items, for example, a consumer or provision cooperative, whether the cooperative markets the production of its members. In the first case, the cooperative overcharges the associate when they collect consumer items, to cover their expenses. In the other case, it withholds a sum when paying for its production, also to cover its expenses, because it does not know exactly what its costs are. It therefore charges an approximate market price, and at the end of the year, the balance sheet and income statement are made, then the true and definitive determination of the service price appears. There it is determined whether what the associate was charged in the consumer cooperative is more than the price that should have been charged, and in the marketing cooperative, if what was paid is less than what should have been paid. Then an adjustment is made that results from the distribution of the surplus by way of return. Consequently, in the cooperative there are no profits, no rents, no profits because what was overcharged in consumption or what was underpaid in marketing, is returned to the associate by way of the return pro rata". CRACOGNA, D.: *Problemas actuales del Derecho Cooperativo,* INTERCOOP Ed. Cooperativa Ltda., Buenos Aires, 1992, p. 171.

[42] He distinguished the existence of two types of relationships in cooperatives: one derived from the acts that the cooperative practices with its associates in fulfillment of its corporate purpose, and another derived from the acts that it carries out with third parties that are not members. The former, which are carried out internally, in a "closed circle" he called cooperative acts. *Vid*. BULGARELLI, W.: *Elaboração do Direito Cooperativo*, Ed. Atlas S.A., São Paolo, 1967, p. 107.

[43]*Vid*. Article 7, ACI-AMÉRICAS: *Ley Marco para las Cooperativas de América Latina*, San José, 2008, at www.aciamericas.coop.

[44] Article 1. Cuba is a socialist State of law and social justice, democratic, independent and sovereign, organized with all and for the good of all as a unitary and indivisible republic, founded on work, dignity, humanism and the ethics of its members. citizens for the enjoyment of freedom, equity, equality, solidarity, well-being and individual and collective prosperity.
Constitución de la República de Cuba. Gaceta Oficial de la República de Cuba, Edición Extraordinaria Nº 5, La Habana, 10/4/2019.

these premises offers the necessary support so that it can manifest itself as a counter-capitalist associative space (counter-speculation; counter-intermediaries; counter-patronage; counter-profit) ideal for the practice of the values and principles that adorn the legal nature of the phenomenon such as voluntariness, solidarity, honesty, independence, democratic control, equitable economic participation, cooperative education and social responsibility, among others generally present in the legal or political definitions of the country and that their content and scope are not always sufficiently determined[45].

In addition, consolidating these foundations, giving them constitutional status, would help to avoid confusion or misrepresentation of the legal nature of the institution, would favor its conception and unitary legal development in a special law for the sector and the other norms that refer to said institution included those that inform their tax treatment.

- Promulgate a special law that unifies the Cuban cooperative sector and that functions as a guarantee of its *sui generis* identity

To explain this proposal, it is necessary to begin by admitting that it is not possible for the Constitution to fully develop each of the aspects it addresses. Furthermore, since the promulgation of the Cuban Magna Carta is so recent, it is not realistic or desirable to think of a reform to deal with issues related to the cooperative figure, especially when the legal system has other resources to seek, with general effects, the precision of the questions that still require it.

It is at this point, although the potentialities of systemic interpretation have already been exposed, that it becomes relevant to consider the enactment of a law. This is because it is not suitable to operate exclusively and for an indefinite time on the basis of interpretations, however successful these may be, at least in our system of law in which the normative act is privileged as a source[46].

As a consequence of the above, the feasibility of promulgating a specific law for the entire cooperative sector must be evaluated. A first argument in defense of this demand results from the effects that it would have, if it were a formal law, to clarify those essential points of the identity of cooperatives and, as a result, contribute to their empowerment.

Secondly, it must be taken into account that this would mean the end of the evils that have afflicted the national legal experience in terms of antinomies and gaps derived from excessive regulation and diversity in the contextual bases to which they have responded in their moment. The balance left by the system followed to date, of particular rules for each figure, without a previous and superior provision, has led to the fact that, on some occasions, the characteristics and principles of the institution are called into question. All of this can easily be construed with a general law that regulates the essential elements common to existing typologies.

[45]RODRÍGUEZ MUSA, O. "La cooperativa en la Constitución cubana". En FAJARDO GARCÍA, G. y MORENO CRUZ, M.: *El cooperativismo en Cuba. Situación actual y propuestas para su regulación y fomento.* Ciriec, 2018, p. 43.
[46]*Vid*. FERNÁNDEZ BULTÉ, J.: *Teoría del Estado y el Derecho.* Tomo II Teoría del Derecho, Editorial Félix Varela, La Habana, 2002, p. 78.

The suggestion in favor of a general law to order cooperatives seeks to achieve logical uniformity, not homogeneity. The point is to recognize that, regardless of the sector of the economy in which it is developed, or the qualities of the associated subjects, the identity of the cooperative is the same and, therefore, its legal treatment must have a unity. This does not in any way detract from the fact that it is necessary to resort to regulatory norms to establish the peculiarities of certain typologies, since these, due to their nature within the framework of the system, have a unique function to fulfill.

Finally, it must be considered that this legal development of the constitutional content must also serve as a guideline to harmonize the rest of the rules of the legal system that deal with the cooperative. In other words, the cooperative law would not only have effects to harmonize the regulations of the sector, but would also allow guiding the development of others related to other activities, but with relevance for this area. In this case, the norms that establish the tax treatment of this figure would be found, which would initially have a clear reference on the peculiar nature of these actors and could then better support the adjustments to be applied to them.

The viability of this proposal results from the current legislative situation in which the country finds itself as of the constitutional reform[47]. Even so, it should be noted that a law of these characteristics has not been contemplated in the planned period for the moment, which covers until 2022. This does not prevent it from being inserted in the future, but it does draw attention to the incidence that it may be absent when assessing the demands derived from the *sui generis* nature of the cooperative in view of the issuance, in July 2022, of a new Tax Law.

- Conceive a tax treatment of cooperatives according to their sui generis legal nature

The tax treatment that is applied to cooperatives must be congruent with the legal nature that has been assumed. Based on this same logic, the cooperative requires its own tax treatment that does not violate its essence. It, in its essence, "has no taxable matter because it constitutes the tool that the partner uses to carry out his economic activity, it does not have autonomous profit, a benefit that can be taxed. If it were taxed, its capital would be reduced or it would be transferred to the associates and, ultimately, they would be paying twice, once in their own tax balance and another in that of the cooperative "[48], thus there would be double taxation.

Therefore, a more scientific public policy does not confuse the mere "Privilege Regime" or "Promotional" provided by many States for the institution, with the exemptions or lacks of application that its typical acts deserve with respect to some taxes. This position has important support in cooperative doctrine as will be seen below.

[47] *Vid*. Cronograma legislativo en Acuerdo Número IX-49 de la Asamblea Nacional del Poder Popular, Gaceta Oficial de la República de Cuba, Ordinaria, No. 2, 13/01/2020, modified by Acuerdo Número IX-76 de la Asamblea Nacional del Poder Popular, Gaceta Oficial de la República de Cuba, Extraordinaria, No. 6, 27/01/2021.
[48] CRACOGNA, D: *Problemas actuales del…, ob. cit.,* p.171.

Following Pastorino, it must be admitted that there is no "taxable event in the operation carried out by the cooperative with its associate on which the value added tax may fall, and when the Treasury collects it, it is subjecting the cooperators to double taxation: The associates pay when they go to the market in the form of a cooperative, and they pay again when the same merchandise they brought from the market is distributed. According to what has been seen, there is only one contributor: the associates gathered in a cooperative; and a single taxable event: the purchase made by those associates gathered in a cooperative"[49].

In neither of these cases, Cracogna warns, "is there a taxable matter with income tax because what constitutes the difference between the cost and the price of the service goes to the associates, who are the ones who generated that difference with their respective operations; from which it follows that taxing cooperatives with income tax is inappropriate "[50]. In this regard, Torres Morales maintains that "The same criterion should be applied in the case of worker cooperatives, since the income that the cooperative obtains and which is paid by" third parties "does not belong to the cooperative, but it must be delivered to each one of the partners in proportion to the work done "[51].

Finally, with regard to the Transfer Tax, "instead of declaring its exemption, it is conceived that it is inapplicable for cooperatives since they are not intermediaries but agents or representatives of their partners. The fact that they use usual procedures in commercial companies or sales contracts in certain cases does not modify the reality itself. The tax legislation then begins to see the substance of the cooperative act without having to fall into the simplistic vision of judging by the forms"[52].

The foregoing supports that, in the tax treatment of the cooperative, two different aspects should be followed, one regarding its commercial acts and the other regarding its relationships with its members. The foregoing allows agreeing with García Müller that "the cooperative act does not create a tax base, which is why cooperatives are not subject to tax when they practice them"[53].

In the case of commercial acts, which are subject to taxation, it must be assessed that these have a relevant projection in the stimulus, survival and quality of the performance of the cooperative. If it is assumed, from the proposed constitutional interpretation, that the peculiar non-profit nature of this associative form and its special projection towards the partners, their families and society is common to all the existing forms in the country, it becomes clear that the collective benefit that they generate, and that they must financially sustain with the business activity that is part of their existence, justify a uniform and tailored tax regime.

The question then would be to design tax incentives according to the *sui generis* nature of this figure. They must start from a clear knowledge of the dimensions of cooperative action,

[49] PASTORINO, R.: *Impuesto a las Transacciones Cooperativas*, INTERCOOP, Ed. Cooperativa Ltda., Buenos Aires, 1981, p. 79.
[50] CRACOGNA, D.: *Problemas actuales del…, ob. cit.,* p. 172.
[51] TORRES MORALES, C: "*Reconocimiento del acto cooperativo en la legislación peruana*", at http://www.teleley.com/articulos/art_221013a.pdf
[52] *Ibid*, p. 7.
[53] GARCÍA MÜLLER, A.: *El acto cooperativo, construcción latinoamericana*, at www.aidcmess.com.ar

in order to influence the stimulation of those aspects that the legislator considers desirable. Thus, the incitement to the entities of the sector to create social funds for educational purposes - internally and externally -, sociocultural, or of any other type that result in a manifestation of Cooperative Social Responsibility can be valued[54]. Additionally, to be consistent with a promotion policy, benefits for investment funds that ensure the sustainability of economic activity and its strengthening, which logically impacts the growth of enterprises in this regard.

Within the Tax Law, to achieve these results, there is a set of known mechanisms. These include tax holidays, preferential tax rates, income exemptions, and deductions [55]. In any case, the selection of one or more of these resources is a strategic decision, which must be motivated by dual reasoning, which takes into account the scope of the chosen mechanism and the uniqueness of the cooperative action in which it will have an impact.

Conclusions

As a synthesis of the above, it can be argued that:

1. In Cuba, the legal regulation of the cooperative has historically not been consistent with its identity, insofar as it has been defined from reductionist conceptions that have not favored its development in accordance with the satisfaction of social needs. Despite this, the cooperative has expanded into other spheres of the national economy, based on an experimental legislative framework that still exists. This process has presented difficulties that have distorted the associative nature of the institution and its purpose of service, but the new Constitution of 2019, despite the inertia of reducing the legal nature of the cooperative to a "form of property" and the parsimony that it manifests regarding the purposes of the institution and the principles that should guide its operation, opens a door for the legislator to institutionalize a socioeconomic movement that overcomes the limitations presented so far.

2. The tax system of Cuban cooperatives is a reflection of the distortions, which in terms of the nature and essence of these associative forms, are presented in the constitutional and legal sphere. Law No. 113/2012, the current tax law, established a special tax regime for agricultural cooperatives and another for non-agricultural cooperatives. These two tax regimes have in common the obligation to pay income tax and the presence of some tax incentives. Above all, the tax authorities show the diversity in the treatment of each

[54] *Vid*. ALFONSO ALEMÁN, J. L., RIVERA RODRÍGUEZ, C. A.; LABRADOR MACHÍN, O. "Responsabilidad y balance social en las empresas cooperativas". En *Revista de Ciencias Sociales*, v. 14, n. 1, 2008. At http://ve.scielo.org/scielo.php?script=sci_arttext&pid=S1315-95182008000100002&lng=es&nrm=iso.

[55] *Vid*. ATXABAL RADA, A. "*Las medidas fiscales para favorecer el emprendimiento por las cooperativas". REVESCO. Revista de Estudios Cooperativos,* 133, 2020 y RUIZ GARIJO, M.: "Incentivos fiscales a cooperativas y entidades sin fines lucrativos. ¿Paradigma de las políticas de promoción de la responsabilidad social de las organizaciones?". *CIRIEC*, Nº 19, 2008. At http://ciriec-revistajuridica.es/wp-content/uploads/019-004.pdf

cooperative, since there are significant differences in the main elements of the income tax and the tax benefits are not always aimed at achieving cooperative purposes.

3. In order to standardize the tax regime of Cuban cooperatives, the constitutional reference to the "principles of cooperativism" can be assumed as the basis for the common identity of all cooperatives according to their sui generis nature according to the theory of the "cooperative act". This should lead to the enactment of a special law that unifies the Cuban cooperative sector and that functions as a guarantee of its identity and, on such entries, a tax treatment of cooperatives must be conceived according to their singularities. However, in the event of a reform of the tax law before the legal uniformity of the cooperative sector in the country, the existing constitutional foundation to sustain the unitary tax regime of this figure in the two aspects of its activity should be considered.

Bibliography:

1. ACI-AMÉRICAS: *Ley Marco para las Cooperativas de América Latina*, San José, 2008, consultado en www.aciamericas.coop, el 18 de diciembre de 2009.
2. ALFONSO ALEMÁN, J. L., RIVERA RODRÍGUEZ, C. A.; LABRADOR MACHÍN, O. "Responsabilidad y balance social en las empresas cooperativas". En *Revista de Ciencias Sociales*, v. 14, n. 1, 2008. Consulado en http://ve.scielo.org/scielo.php?script=sci_arttext&pid=S1315-95182008000100002&lng=es&nrm=iso, el 27 marzo 2021.
3. ASAMBLEA NACIONAL DEL PODER POPULAR: *Cronograma legislativo.* Acuerdo Número IX-49. Gaceta Oficial de la República de Cuba, Ordinaria, Número 2, de 13 de enero de 2020, modificado por el Acuerdo Número IX-76 de la Asamblea Nacional del Poder Popular, Gaceta Oficial de la República de Cuba, Extraordinaria, Número 6, de 27 de enero de 2021.
4. BULGARELLI, W.: *Elaboração do Direito Cooperativo*, Ed. Atlas S.A., São Paolo, 1967.
5. CASTRO RUZ, R.: "*Discurso pronunciado por el General de Ejército Raúl Castro Ruz, Primer Secretario del Comité Central del Partido Comunista de Cuba y Presidente de los Consejos de Estado y de Ministros, en la clausura del IX Período Ordinario de Sesiones de la VIII Legislatura de la Asamblea Nacional del Poder Popular"*, La Habana, 14 de julio de 2017, Versiones Taquigráficas del Consejo de Estado en Periódico Granma, 15 de julio de 2017.
6. CRACOGNA, D.: *Estudios de Derecho Cooperativo*, INTERCOOP Ed. Cooperativa Ltda., Buenos Aires, 1986.
7. CRACOGNA, D.: *Problemas actuales del Derecho Cooperativo*, INTERCOOP Ed. Cooperativa Ltda., Buenos Aires, 1992.
8. CUBA DEBATE: *"Cierran temporalmente el mercado mayorista El Trigal", La Habana,* 12 mayo 2016, recuperado de http://www.cubadebate.cu/noticias/2016/05/12/cierran-el-mercado-mayorista-el-trigal/, el 12 de septiembre de 2017.

9. FERNÁNDEZ BULTÉ, J.: *Teoría del Estado y el Derecho.* Tomo II Teoría del Derecho, Editorial Félix Varela, La Habana, 2002.
10. GARCÍA MÜLLER, A.: *El acto cooperativo, construcción latinoamericana*, consultado en www.aidcmess.com.ar, el 12 de marzo de 2016.
11. MEDINACELI ROJAS, G.: *La aplicación directa de la Constitución*. Universidad Andina Simón Bolívar, Sede Ecuador Corporación Editora Nacional, Quito, 2013.
12. MINISTERIO DE FINANZAS Y PRECIOS: *"Aprobada extinción de Cooperativa de servicios contables SCENIUS*", La Habana, 7 agosto 2017, recuperado en http://www.cubadebate.cu/noticias/2017/08/07/aprobada-extincion-de-cooperativa-de-servicios-contables-scenius/#.Wb54j3uR7mM, el 12 de septiembre de 2017.
13. NARANJO MENA, C: "*La naturaleza jurídica de la cooperativa y el acto cooperativo",* SIBULE, Asesores Legales, 2014, recuperado de http://www.sibule.com/#!La-Naturaleza-Jur%C3%ADdica-de-la-Cooperativa-y-el-Acto-Cooperativo/c104m/1, el 15 de mayo de 2016.
14. _____: *El acto cooperativo: Concepto estratégico para el desarrollo cooperativo. Incorporación y tratamiento en los países de América Latina*, Ecuador, 2019, disponible en https://www.aciamericas.coop/IMG/pdf/carlosnaranjo.pdf
15. OFICINA NACIONAL DE ESTADÍSTICAS E INFORMACIÓN (ONEI): "Listado de cooperativas no agropecuarias con su código, marzo de 2016, recuperado de www.one.cu/ryc/cambian/CNoA.rar.
16. PASTORINO, R.: *Impuesto a las Transacciones Cooperativas*, INTERCOOP, Ed. Cooperativa Ltda., Buenos Aires, 1981.
17. PUIG MENESES, Y.: *"Autoridades explican nuevas medidas respecto a cooperativas no agropecuarias*", La Habana, 9 de agosto de 2017, recuperado en http://www.cubadebate.cu/noticias/2017/08/09/autoridades-explican-nuevas-medidas-respecto-a-cooperativas-no-agropecuarias/, el 12 de septiembre de 2017.
18. RODRÍGUEZ MUSA, O.: "*La autonomía cooperativa y su expresión jurídica. Una aproximación crítica a su actual implementación legal en Cuba",* en *Boletín de la Asociación Internacional de Derecho Cooperativo*, No. 47, Universidad de Deusto, Bilbao, 2013, pp. 129-155.
19. _____: *La constitucionalización de la cooperativa. Una propuesta para su redimensionamiento en Cuba*, Coletânea IBECOOP, No. 1, Ed. Vincere Asociados, Brasilia-DF, 2017.
20. _____: "La cooperativa en la Constitución cubana", en FAJARDO GARCÍA, G. y MORENO CRUZ, M.: *El cooperativismo en Cuba. Situación actual y propuestas para su regulación y fomento*, CIRIEC, 2018.
21. RODRÍGUEZ MUSA, O. y HERNÁNDEZ AGUILAR, O.: *Unificación del sector cooperativo cubano. Apuntes críticos a la luz de los principios cooperativos*, CIRIEC-España, Revista Jurídica de Economía Social y Cooperativa, No. 37, 2020, pp. 81-103.
22. SALINAS PUENTE, A.: *Derecho Cooperativo*, Ed. Cooperativismo, México, 1954.
23. SIMÓN OTERO, L. y CARBALLO MOYA, A.: "Tributación y cooperativismo: el régimen fiscal de las cooperativas no agropecuarias (CNA) en Cuba", en REVESCO. Revista de Estudios Cooperativos, Vol. 134, e65489, Madrid, 2020.

24. TORRES MORALES, C: "*Reconocimiento del acto cooperativo en la legislación peruana*", consultado en http://www.teleley.com/articulos/art_221013a.pdf, el 15 de mayo de 2016.
25. VALDÉS LOBÁN, E.: *La imposición sobre el consumo en Cuba. Valoración crítica y propuesta de reforma*, Publicaciones Universidad de Alicante, Alicante, 2002.
26. VII CONGRESO DEL PARTIDO COMUNISTA DE CUBA Y ASAMBLEA NACIONAL DEL PODER POPULAR: Actualización de los Lineamientos de la Política Económica y Social del Partido y la Revolución para el periodo 2016-2021, abril de 2016, disponible en http://www.cubadebate.cu/wp-content/uploads/2016/09/aqu%C3%AD.pdf.

Legislation:

1. Constitución de la República de Cuba, en Gaceta Oficial No. 5 Extraordinaria de 10 de abril de 2019.
2. Ley No. 113 "Ley del Sistema Tributario", en Gaceta Oficial No. 053 Ordinaria de 21 de noviembre de 2012.
3. Ley No. 137 "Del Presupuesto del Estado para el año 2021", en Gaceta Oficial No. 2 Extraordinaria de 11 de enero de 2021.
4. Decreto-Ley No. 305 "De las Cooperativas No Agropecuarias" en Gaceta Oficial Extraordinaria No. 53 de 11 de diciembre de 2012 (DEROGADO).
5. Decreto-Ley No. 365 "De las Cooperativas Agropecuarias", en Gaceta Oficial No. 37 Ordinaria de 24 de mayo de 2019.
6. Decreto-Ley No. 366 "De las Cooperativas no Agropecuarias", en Gaceta Oficial No. 63 Ordinaria de 30 de agosto de 2019.
7. Decreto No. 309 "Reglamento de las Cooperativas no Agropecuarias", en Gaceta Oficial Extraordinaria No. 53 de 11 de diciembre de 2012 (DEROGADO).
8. Decreto No. 354 "Reglamento del Decreto-Ley de las Cooperativas Agropecuarias", en Gaceta Oficial No. 37 Ordinaria de 24 de mayo de 2019.
9. Decreto No. 356 "Reglamento de las Cooperativas no Agropecuarias", en Gaceta Oficial No. 63 Ordinaria de 30 de agosto de 2019