



European Trade Union Confederation (ETUC)  
Confédération européenne des syndicats (CES)

**European Commission**

**DG Enterprise & Industry**

**Consultation on the results of the study on the implementation of the Regulation 1435/2003 on  
the Statute for a European Cooperative Society (SCE)**

**Response of :**

**European Trade Union Confederation**

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**Registered no.**

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*1. Name of your legal entity, organisation, or service, its legal form, country of origin, size (if enterprise i.e. micro, small etc) and field of activity. Please indicate your function and why you are interested in the SCE.*

The ETUC was founded in 1973 to defend the interests of workers at European level and to represent them before EU bodies.

(a) Objectives

The European integration process, with the euro, the European Constitution and the growing impact of European legislation on day-to-day life, has changed the setting within which trade unions operate. To defend their members and negotiate effectively on their behalf at national level, they must co-ordinate their activities and policies at European level. To exert an influence on the economy and society at large, they have to speak with a single voice and act collectively at European level. That is why the ETUC exists.

(b) Composition

The ETUC presently counts 81 [member organisations](#) from 36 European countries, along with 12 [European industry federations](#), or over **60 million members**, as well as organisations with observer status in Macedonia and Serbia. Other trade union structures such as [EUROCADRES](#) (Council of European Professional and Managerial Staff) and [EFREP/FERPA](#) (European Federation of Retired and Elderly Persons) operate under the auspices of the ETUC. In addition, the ETUC co-ordinates the activities of the 39 [ITUCs](#) (Inter-regional Trade Union Councils), which organise cross-border trade union co-operation.

The ETUC is one of the European social partners and is recognised by the European Union, the Council of Europe and the EFTA as the only representative multi-sector trade union organisation at European level.

(c) The ETUC is the European social partner that represents workers

At the same time, the ETUC negotiates **with employers** through [“European social dialogue”](#). This translates into sectoral social dialogue in 31 different industrial sectors, co-ordinated by the **European industry federations**. Finally, the ETUC is the only European organisation representing all workers in Europe in the cross-sectoral Social Dialogue Committee. Social dialogue is the cornerstone of the ETUC’s action.

The European trade union federations affiliated to the ETUC are also major players in the social dialogue set up in European sectoral joint committees.

Following formal EU recognition of the social partners’ right to negotiate framework agreements at European level, the ETUC signed three **European framework agreements** with its employer counterparts, which were adopted by the Council of Ministers and implemented as Directives. These concern parental leave (1996), part-time work (1997) and fixed-term contracts (1999). The unions and employers have also implemented European-level agreements concluded under “autonomous” social dialogue on **teleworking** (2002) and

**work-related stress** (2004). Finally, different frameworks have been signed, including **the frameworks of actions for the development of lifelong skills and qualifications** (2002) and **on gender equality** (2005).

The ETUC's objective is to give a strong social dimension to the European Union guaranteeing the welfare of all its citizens.

The European Trade Union Confederation is more specifically mandated to take actions to attain its objectives in areas such as employment, social affairs, macro-economic policy, the Internal Market, industrial policy, regional policy, the environment, enlargement and the European neighbourhood policy. It also has the task of enforcing applicable social standards and rights in the Union. The ETUC also co-ordinates union participation in different advisory bodies, including the European Agencies for Vocational Training (CEDEFOP), for Improvement of Living and Working Conditions (the Dublin-based foundation) and for Safety and Health (in Bilbao).

The ETUC is particularly interested in the SCE because it is concerned with issues that affect European workers. The SCE involves issues of worker participation as well as potentially affecting working conditions due to the dynamic of allowing another company legal form.

*2. Do you agree with the findings of the study on the negative and positive factors affecting the setting up an SCE? (page 143 and 146).*

First of all it is important to note that the SCE should not be seen as an end in itself but rather a means to achieve broader interests in the context of Social Europe. The fact that only 17 SCEs had been established by the time of the study should therefore not be seen as a failure of the SCE legislation, but also possibly of the limited need for a European company form by cooperatives.

What is missing from the study is a thorough needs assessment for the SCE. One of the basic question marks is not touched upon: is there a concrete need to develop this kind of EU legislation? Given the small number of SCEs and the fact that the phenomenon of SCEs is unknown to the broader audience this question is legitimate.

The ETUC takes note of the fact that the related Directive has not been assessed. The contract was entitled -Study on the implementation of the Regulation 1435/2003 on the Statute for European Cooperative Society (SCE) but, notwithstanding its title, it had a wider scope and further objectives. In fact, the exact aim of the call for tenders was -to award a contract for a study on the implementation of the Regulation 1435/2003 on the Statute for European Cooperative Society (Societas Cooperativa Europaea - SCE) in the EU Member States and EEA countries (Norway, Iceland and Liechtenstein), rules applied to the SCE, national legislation on cooperatives, and the impact of the Statute on the national legislation and the promotion of cooperatives in EU countries. However, in the study rather strong statements are made about the negative effect of worker participation provisions in different countries on the use of the SCE. However, if we examine the list of consulted experts, it is striking that there was neither input from the side of the trade unions nor from other workers representatives.

*3. Do you agree with the study's assessment that the initial minimum capital requirement is a considerable cost for the setting up of SCEs? (page 148)*

One of the requirements of setting up a serious company is that adequate capital be set aside as a buffer for unfavorable economic developments. Banks and certain suppliers and customers will not do business with a company if it doesn't have adequate capital to absorb unforeseen losses. Therefore, a substantial capital requirement should not be seen as a barrier to establish a serious SCE with a long-term perspective.

*4. Do you believe that the complexity of the Regulation, particularly due to the hierarchy of various legal rules, is a negative factor for the start up phase of SCE? (p.160).*

A certain degree of complexity is needed to prevent the avoidance of national laws and rules designed to protect the interests of stakeholders and national traditions and practices. Some administrative obligations are not only useful, but can also be indispensable to monitor legality; or they serve other purposes than direct business benefits.

*5. Are you of the view that the cross-border requirement for the creation of an SCE (two founders from at least two Member State -MS) may be changed, in order to allow the creation of SCEs also by operators of a single MS and under which conditions?*

SCEs should have a true European dimension, therefore this requirement should not be changed.

*6. Do you agree with the statement of the study that the system of reference to national laws (with a distinction between cooperative legislation and national public limited liability company law) should be simplified and even reduced? (p.160)*

As mentioned in the response to questions 2 and 4, simplification in the interests of increasing the number of SCEs should not be seen as an end in itself. Rather, simplification should always be seen in the context of its impact on the goal of protecting stakeholders and on national culture and traditions. Areas for possible reform and simplification have to be tackled without jeopardising essential guarantees for transparency.

*7. Do you think that SCEs should be given more autonomy from national laws, in the sense that SCEs should be allowed to include in their articles of association rules which may deviate from national legislation applied to national cooperatives? (p.160)*

See answer to question 6 above – the impact of greater autonomy must always be balanced against the interests of stakeholders and national culture.

*8. Do you believe that the number of options allowing the application of national laws should be limited to certain issues and what are these issues (e.g. areas where the matter at stake is crucial in the light of the cooperative identity like rules on voting rights, investor non user members, surpluses' distribution, etc)*

See answers to questions 6 and 8 above – the impact of options should be balanced against these broader interests.

*9. Do you have any suggestions for amendments of the SCE Regulation that would increase its attractiveness for businesses and particularly for small enterprises?*

*10. What are in your view the most important legal issues to consider for entrepreneurs when deciding to create either a national cooperative or an SCE, or when assessing in which country to place or transfer the head office of an SCE? (e.g. are they of fiscal, company or labour law nature?)*

*11. Can you provide examples of practical problems you have encountered in the course of setting up or running of a national cooperative or of an SCE? Or any difficulties you had with respect to the objectives or the sector activities that a cooperative is allowed to pursue, or if there are sectors where cooperatives cannot operate?*

*12. Do you have any comments on the national report of your country? (Part II)*  
This does not apply – we are a European confederation.

Brussels  
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