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Literacy in the cooperative sector evaluated through the reserve for cooperative education and training

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ABSTRACT: *This study aims to evaluate the degree of legal-accounting literacy in cooperatives, having as an indicator the reserve for cooperative education and training, since this reserve is exclusive to the legal regime of cooperatives and which, due to its very specific purposes, presented itself as a mechanism that seeks to prevent or eliminate possible phenomena of illiteracy. This reserve –which implements the cooperative principle of education, training and information– addresses members, leaders and workers and aims to contribute to the development of the cooperative, by allowing the education of cooperators, an active membership, the professionalization of the employees and members of the management and supervisory bodies, as well as raising community awareness of the advantages of the cooperative model. The empirical study has shown that, in Portugal, there are cooperatives that do not have established the reserve for cooperative education and training or, despite having established the reserve, admit possibilities that the law does not allow, namely both the destination of the reserve as well as its sources, and even its distribution. In addition, cooperatives are not adequately accounting for this reserve. There is, therefore, a significant degree of legal and accounting illiteracy regarding the reserve for cooperative education and training, which difficult or limits the achievement of its purposes.*

KEY WORDS: Cooperatives, Reserve for cooperative education and training, Literacy, Legal and accounting regime.

ECONLIT DESCRIPTORS: K30, K49, P13, M41.

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RESUMEN AMPLIO

La alfabetización en el sector cooperativo evaluada a través de la Reserva de Educación y Formación Cooperativas

Este estudio pretende evaluar el grado de alfabetización jurídico-contable en el sector cooperativo. Para ello, elegimos como indicador la reserva de educación y formación cooperativas, por tratarse de una reserva que es exclusiva del régimen jurídico de las cooperativas y que, por sus finalidades muy específicas, se presenta como un mecanismo que pretende evitar o eliminar eventuales fenómenos de analfabetismo.

En el ordenamiento portugués, la reserva de educación, formación y información es de constitución obligatoria y está fundada en el principio cooperativo de la educación, formación y la información.

Este principio subraya la importancia vital de la educación y formación en las cooperativas, disponiendo que “las cooperativas promoverán la educación y la formación de sus miembros, de los representantes electos, de los dirigentes y de los trabajadores, de modo que puedan contribuir eficazmente al desarrollo de sus cooperativas”, añadiendo que las cooperativas “deben informar al público en general, particularmente a los jóvenes y los líderes de opinión, sobre la naturaleza y las ventajas de la cooperación”.

De hecho, la educación y la formación dirigidas a la cualificación profesional de los cooperadores, de los miembros de los órganos de administración y fiscalización, y de los trabajadores contribuirán a la mejor comprensión de los modelos de gobernanza y de la estructura financiera de la cooperativa, potenciando la profesionalización de la gestión e induciendo a los cooperadores a participar activamente en su cooperativa, a deliberar correctamente en las asambleas, a elegir conscientemente a sus órganos y a controlar su actuación.

Además, la educación y formación cooperativas, al dirigirse al público en general -para la sensibilización sobre las especificidades del modelo cooperativo, en cuanto a la filosofía e ideales que persigue-, fomentarán nuevas adhesiones y, sobre todo, adhesiones conscientes.

Esta reserva tiene, por tanto, una utilidad social directa que se refiere a los miembros y trabajadores de la cooperativa y una utilidad social indirecta que se proyecta en toda la comunidad. Además, la constitución de este tipo de reserva, con esta finalidad, significa que la cooperativa es no sólo una organización económica, sino también una organización con finalidades pedagógicas y sociales. En

efecto, este fondo de reserva se destinará a costear actividades que superan la satisfacción de los intereses puramente individuales de los miembros, actividades que, no siendo propiamente económicas, podrán producir, directa o indirectamente, inmediata o diferidamente, efectos de alcance económico, tanto para la cooperativa como para la comunidad donde ésta se inserta.

Las fuentes de la reserva de educación y formación cooperativas reflejan la variedad y la complejidad de los resultados y de las fuentes de financiación que son identificables en la estructura financiera de la cooperativa. Así, revertirán a esta reserva: la parte de las joyas que no se vea afectada a la reserva legal; al menos el 1% de los excedentes netos anuales procedentes de las operaciones con los cooperadores; las donaciones y las subvenciones que se destinen específicamente a la finalidad de la reserva; y los resultados anuales netos procedentes de operaciones con terceros que no se vean afectadas por otras reservas.

La reserva para la educación y formación cooperativas, por fidelidad a su vocación legal, sólo responderá por el pago de las deudas contraídas en la actividad a la que está adscrita y no por las restantes deudas de la cooperativa. Además, no es susceptible de cualquier tipo de reparto entre los miembros de la cooperativa, bien en el momento de la baja del cooperador o bien en el momento de la disolución de la cooperativa.

A pesar de su relevancia, esta reserva no está prevista en todas las legislaciones cooperativas. Tomando como referencia a los ordenamientos europeos, además de los portugueses, sólo el ordenamiento español establece esta reserva con carácter obligatorio.

En un reciente proyecto internacional conocido como PECOL - Principles of European Cooperative Law, el primer proyecto desarrollado por el SGECOL (Study Group on European Cooperative Law), se destacó la importancia de esta reserva en las cooperativas y se defendió su constitución obligatoria.

En Portugal, a pesar de que el Código cooperativo dota a esta reserva de un riguroso marco jurídico, desde un punto de vista contable se identifican debilidades y omisiones. En efecto, en el Sistema de Normalización Contable (SNC) no existe una rúbrica específica para el reconocimiento de esta reserva. La normativa contable se pensó sobre todo para las sociedades comerciales convencionales, no teniendo en cuenta, por lo tanto, las especificidades de las cooperativas. Así, en este estudio proponemos una nueva subcuenta, en la línea de las reservas legales, para la contabilización de esta reserva. A pesar de que esta reserva no se considera una reserva legal en sentido estricto, debe integrarse en la partida de las reservas legales, ya que su constitución obligatoria se deriva de la ley.

Con la pretensión de evaluar el grado de alfabetización jurídico-contable, teniendo como indicador la reserva de educación y formación cooperativas, presentamos un estudio empírico en el que utilizamos una metodología cualitativa y cuantitativa, a través de la realización de cuestionarios, teniendo como base una muestra de cooperativas de diversas ramas cooperativas. Los cuestionarios fueron

enviados, para las cooperativas de la muestra seleccionada, a través de correo electrónico, siendo su respuesta anónima.

Específicamente, el estudio empírico pretendía: (i) Evaluar en qué medida la interpretación incorrecta o el desconocimiento de la legislación influye en la constitución de la reserva de educación y formación cooperativas; (ii) Analizar si las cooperativas que tienen la reserva de educación y formación cooperativas constituida, tienen la noción de lo que revierte para la constitución de la misma; y (iii) Verificar el nivel de conocimiento acerca de la irrepartibilidad de la reserva en el momento en que el cooperador se se dé de baja y en caso de disolución / liquidación de la cooperativa.

El estudio empírico demostró que existen cooperativas no tienen la reserva constituida, o, a pesar de tener la reserva constituida, admiten tanto en relación al destino de la reserva, como en cuanto a sus fuentes, o bien en cuanto a la irrepartibilidad, posibilidades que la ley no permite. Además, las cooperativas no están contabilizando de forma adecuada esa reserva, lo que tiene implicaciones en sus estados financieros.

En este contexto, el estudio concluye que existe un significativo grado de analfabetismo jurídico-contable en cuanto a este indicador: “reserva de educación y formación cooperativas”. El desconocimiento o la incomprensión del régimen de esta reserva dificulta o limita la educación de los miembros de la cooperativa y la garantía de una afiliación activa, la profesionalización de sus trabajadores y miembros de los órganos de gestión y fiscalización, así como la sensibilización de la comunidad sobre las ventajas del modelo cooperativo.

PALABRAS CLAVE: Cooperativas, reserva de educación y formación cooperativas, alfabetización, régimen jurídico y contable.

1. Framing the problem

This study intends to evaluate the degree of legal-accounting literacy in the cooperative sector and it is a pioneering study. For that purpose, we have chosen as an indicator the reserve for cooperative education and training, since it is exclusive to the legal regime of cooperatives and which, due to its very specific purposes, stands as a mechanism that seeks to prevent or eliminate possible phenomena of illiteracy.

In general, we can affirm that cooperative education and training should provide members of the cooperative with a knowledge of cooperative principles and methods, namely:

- Induce them to participate actively in their cooperative, deliberate properly in the assemblies, consciously elect its bodies and control its performance;
- Teach the leaders to properly guide and expand the common activities;
- Provide the employees with the technical and doctrinal knowledge for correct performance;
- Promote the sense of solidarity and responsibility of the wide population.

Thus, resorting to a qualitative and quantitative methodology, using a questionnaire, an empirical study was carried out, in order to assess the degree of knowledge, of the actors of the cooperative sector, on cooperative legislation, more specifically:

- Ascertain to what extent the incorrect interpretation or the lack of knowledge regarding the legislation influences the establishment of the reserve for cooperative education and training;
- Evaluate if the cooperatives know what should revert, from the cooperative results, to the establishment of the reserve for cooperative education and training;
- Assess the level of knowledge about the indivisibility of the reserve at the time the cooperator resigns, as well as under the dissolution/liquidation of the cooperative.

In a broader sense, literacy consists of the ability to understand and interpret information correctly. Applying this concept of literacy to the legal and accounting fields, literacy will mean the degree of knowledge and understanding of the specificities of the legal and accounting regimes that frame a particular entity, more specifically a cooperative.

Branco (2008) refers to an operational definition of legal literacy, which bases itself on the idea that those who use the legal system must be able to understand it. This way, they should clearly identify their rights and obligations in order to exercise them, to assume them properly and in due time, as well as being able to recognize a legal problem or conflict and whether there will be a legal solution to solve it.

It follows that the legal literacy, in its ability to manage the legal information, is one of the components of informational literacy, which ultimately entails a right to an understanding. Adequate legal literacy also foresees that the language used by the legislator is understandable, since a clear, transparent and coherent legislation is an essential condition for society to function in accordance with the principles of the rule of law. In this sense, the legislator should use correct technical formulations, trying to avoid double meaning, gaps and contradictions.

In the Portuguese legal system, there are several legal instruments containing language not easily perceived by the general population, regardless of their degree of schooling. Sometimes even the professionals themselves, who in the performance of their duties need to make such an interpretation, have difficulties in understanding it, in defining its meaning and scope. The word 'literacy', even used correctly, often generates different interpretations, because normative language does not have univocal meanings (Delfino, 2000).

In the accounting field, in Portugal, professionals have to interpret some accounting regulations that sometimes refer to other legal instruments. With the entry into force of the Accounting Standardization System ("*Sistema de Normalização Contabilística– SNC*")¹, on January 1, 2010, accounting professionals faced a new accounting standard that aims to bring closer the national accounting legislation of the several countries of the European Union, in order to create uniformity and comparability of the financial information. The *SNC* is a translation of the Anglo-Saxon international law, the *International Financial Reporting Standards (IFRS)*, which can hamper the interpretation and, consequently, the applicability of this normative².

The difficulty in interpreting laws by accounting professionals can be a problem in the disclosure of financial information, especially when the professional does not interpret properly and, consequently, does not apply the law correctly. This implies that it will not present a reliable representation of the entity's assets and performance.

However, §33 of the *SNC* Conceptual Framework states that "in order to be reliable, the information must faithfully represent the transactions and other events that it intends to represent or can reasonably be expected to represent." This implies that if the accounting professionals do not correctly interpret the law and not being able to determine its meaning and scope, consequently they will not reflect in the financial report a true and proper picture of the entity's assets and performance.

1.- Decree-Law no. 158/2009 of 13 July.

2.- Decree-Law no. 158/2009 of 13 July.

2. Framework for the reserve for cooperative Education and training

2.1. Foundation and purpose of the reserve for cooperative education and training

Article 97 of the Portuguese Cooperative Code (*Código Cooperativo Português – CCoop*)³ regulates the reserve for cooperative education and training, and is mandatory by law.

In the first line, this reserve bases itself on the cooperative principle of education, training and information. The legislator says that “cooperatives shall promote the education and training of their members, elect representatives, leaders and workers so that they can contribute effectively to the development of their cooperatives. They should inform the general public, particularly young people and opinion leaders, about the nature and advantages of cooperation” (article 3 of *CCoop*). This principle highlights the vital importance of education and training in cooperatives (Namorado, 1995). Following Ian MacPherson’s thinking, ‘education’ will mean, rather than distributing information, “to engage the minds of members, elected leaders, managers, and workers in the full understanding of the complexity and richness of cooperative thought and action.” In turn, ‘training’ will mean ensuring that everyone involved in cooperatives will have the skills required to carry out their responsibilities effectively (MacPherson, 1996: p. 33).

There is an indisputable polyvalence in the Principle of education, training and information, since education and training are directed first and foremost to the professional qualification of cooperators, representatives, leaders and non-member workers. In addition, cooperative education directs at the general public, in order to raise awareness about the special socio-business form that the cooperative has, as regards the philosophy and ideals it pursues, aiming to foster new adhesions, and above all ‘conscious adhesions’ (Leite, 2012). It is also important to emphasize the importance of ‘information’ within the cooperative, and this ‘information’ has two levels: internal and external. The first level addresses the special participatory structure on which this peculiar type of organization is based, and the proper use of the right to information, given by law to the cooperators, will be a determining factor in the good organization, functioning and results of the cooperative’s results. At the external level, the information will be directed to the community, in which the cooperative is inserted, aiming to sensitizing it regarding the nature and benefits of the cooperation and once again fostering new adhesions. It is in this context that the purposes of the education and training reserve must be understood. According to Article 97 of *CCoop*, we will be faced with a mandatory reserve “for cooperative education and cultural and technical training of cooperators, cooperative workers and the community” (Meira, 2017).

3.- Law no. 119/2015, of August 31.

The establishment of this type of reserve, for this specific purpose, means that the cooperative is not only an economic organization, but also an organization with pedagogical and social purposes. This reserve fund will therefore be used to fund activities that exceed the satisfaction of the purely individual interests of its members, activities that, although not being purely economic, may produce effects of economic scope, directly or indirectly, immediately or on a deferred basis, for the cooperative or for the community in which it operates.

In fact, education and training aimed to the professional qualification of the cooperators, the members of the board and supervisory bodies and employees will contribute to a better understanding of the governance models and the financial structure of the cooperative, enhancing the professionalization of management and inducing the cooperators to participate actively in their cooperative, to deliberate properly in the assemblies, to consciously elect their bodies and to control their performance. In addition, cooperative education and information by targeting the general public –in order to raise awareness regarding the specificities of the cooperative model and the philosophy and ideals it pursues– will foster new adhesions and, above all, conscious adhesions.

In short, this reserve has a direct social utility that refers to the members and workers of the cooperative but also an indirect social utility who projects itself throughout the community (Macias, 2015; Server & Villalonga, 2008).

Despite its relevance, the reserve for cooperative education, training and information is not envisaged in all the legal systems (Cracogna, Fici & Henry, 2013).

Taking into account the European regulations, it is noted that, in addition to the Portuguese legal system, only the Spanish legal system recognize the mandatory nature of this reserve. Article 58 of the Spanish Law 27/1999 require cooperatives to assign part of their surpluses and profits to training and educating their members. For this purpose, cooperatives must constitute a reserve fund called *Fondo de educación y promoción*.

In a recent international project known as PECOL - Principles of European Cooperative Law, the first project developed by the SGEVOL (Study Group on European Cooperative Law), the relevance of this reserve in cooperatives was recognized and, therefore, its mandatory nature was defended (Fajardo et al., 2017).

2.2. The establishment and the sources of the reserve for cooperative education and training

Under the terms of Article 97(2) of the *CCoop*, there will revert to this reserve: the part of the admission fee that is not tied to the legal reserve; at least 1% of the annual net surpluses from the operations with cooperators (this percentage may be higher if the statutes or the general meeting so agree); grants

and subsidies, which are specifically intended for the purpose of this reserve; and net annual results from operations with third parties that are not tied to other reserves.

The sources of the reserve for cooperative education and training reflect the variety and complexity of the results and sources of funding that are identifiable in the cooperative's financial structure.

As far as the admission fee is concerned, under the terms of the Portuguese Cooperative Code, the statutes of the cooperative may require the payment of an admission fee, payable as a lump sum or in instalments (Article 90(1)). It is a non-refundable contribution, without the cooperator receiving any right in return. In addition, in the financial structure of the cooperative, the admission fee enters in the assets of the cooperative and not in the social capital, so the cooperator will not be entitled to recover it in case of dismissal. Thus, Article 90(2) of the *CCoop* provided that the amount of admission fee "reverts to compulsory reserves, as stated in the statutes, within the limits of the law." A minimum of 5% of the value of the admission fees will revert to the legal reserve until it reaches an amount equal to the maximum capital of the cooperative [Article 96(2)(3) of *CCoop*]. The remaining value of the admission fees should be reverting to the *reserve for cooperative education and training* [subparagraph (a) of paragraph 2 of Article 97 of *CCoop*]. The requirement of the admission fee, at the time of admission of the cooperator, will function as: (i) a contribution to the fund lost, demanded to each cooperator and motivated by the expenses that their entry implies, which will be borne by the cooperative (expenses of installing new instruments of labour, increased maintenance costs, and others); (ii) a way of compensating, in part, the contribution of previous cooperators to the common assets of the cooperative (Fajardo, 1997; Bonfante, 1999).

With regard to surpluses, which correspond to the positive results of the economic activity carried out between the cooperative and its members (the before mentioned cooperative activity), the legislator determines that a percentage of the exercise surplus resulting from operations with the cooperators will revert to the cooperative legal reserve (Article 96(2) of the *CCoop*) and to the reserve for cooperative education and training [subparagraph (b) of paragraph 2 of Article 97 of the *CCoop*], as well as for the possible payment of interests on capital securities (Article 100(1) of the *CCoop*). As regards this source of the reserve, the legislator set a percentage, which "cannot be less than 1% of net annual surpluses", and therefore the law is satisfied if that percentage is used. However, this percentage was referred to as 'not lower', being understood that the statutes of the cooperative or the General Assembly may stipulate a percentage higher than that.

The results from operations with third parties that are not allocated to other indivisible reserves may also revert to this reserve. It should be noted, in this regard, that Article 2(2) of the *CCoop* establishes the possibility that cooperatives, in pursuit of their objectives, may "carry out operations with third parties, without prejudice to any limits established by the laws of each branch" (Bandeira, Meira & Alves, 2017).

Although law does not define what is meant by 'third parties', it seems to be a settled doctrine that, in the wake of Rui Namorado's teachings, "third parties, from a cooperative point of view, are all those

who maintain with a cooperative any relations that could fit in the pursuit of their principal object, as if they were members, although in fact they are not.” (Namorado, 2005: p. 184). This means that the activities with third parties, referred by the legislator, will relate to activities of the same type as the activity developed with the cooperators, so operations with third parties are still included in the cooperative’s social object⁴ (Meira, 2009; Fajardo et al., 2017).

However, in order to preserve the mutualistic scope –taking care of a camouflaged transformation of a cooperative into a commercial society– the cooperative legislator prevents the results from operations with third parties from being shared between the cooperators, either during the life of the cooperative or at the time of its dissolution (Article 100(1) and Article 114 of the *CCoop*), being transferred in full to indivisible reserves.

The basis of this regime is that the results generated in the operations of the cooperative with third parties are profits (objectively); although, due to the fact that they are not distributable by the cooperators, it is not possible to speak of a profitable scope, since there is no subjective profit (Abreu, 2015; Fajardo, 2015).

As for the other source of the reserve, corresponding to the grants and subsidies that are specially destined to the purpose of the reserve, we cannot fail to highlight those coming from public entities, due to the principle of protection of the cooperative and social sector [subparagraph (f) of Article 80 of the Portuguese Constitution (*CRP - Constituição da República Portuguesa*)]. This principle bases itself on both the positive discriminations of this sector in relation to others and the provision of material measures for its development. As a result of this principle, Article 85(1) of the *CRP* provides for encouragement and support for the creation and activity of the cooperatives by the State, ensuring in paragraph 2 that “the law shall define the fiscal and financial conditions of cooperatives, as well as more favourable conditions for obtaining credit and technical assistance.” The ‘stimulus’ will be mainly the result of measures of a legislative nature which give rise to an interest in the exercise of the cooperative activity, whereas ‘support’ will essentially come from measures of an administrative nature intended, in particular, to facilitate this exercise. This positive discrimination of the cooperatives *vis-à-vis* the private sector will imply, in particular, the definition of ways to promote the creation and activity of cooperatives, imposing on the legislator the definition of tax and financial benefits, as well as the establishment of privileged conditions for access to credit and technical assistance (Namorado, 2005).

Finally, it should be pointed-out that the legislator does not set either a minimum amount or a ceiling for the establishment of this reserve, from which the reversals to the reserve are no longer compulsory. Thus, throughout the life of the cooperative, there will be a legal obligation to allocate the reserve for cooperative education and training, regardless of the amount or time elapsed.

4- *The Cooperative Code prohibits the conversion of the cooperative into a commercial company. Article 111 dispatches that “the conversion of a cooperative into any type of commercial company shall be null and void as are all acts that contravene or deceive this legal prohibition.”*

2.3. Ownership of the reserve management

It shall be incumbent upon the General Meeting, both the definition of the basic guidelines for the application of this reserve and the subsequent control of its application, and it shall be incumbent on the Board of Directors of the cooperative to integrate a training plan for the application of this plan each year. (Article 97(4) of the *CCoop*).

The General Meeting may allow the Board of Directors to deliver all or part of the amount of this reserve to a higher degree cooperative, provided that it pursues the purpose of the reserve in question and has an activity plan in which the cooperative is involved. Let us not forget that the competences of federations and confederations include the promotion of cooperative training and education, and for this purpose, they can manage the education and training reserves of members (Article 97(5) of the *CCoop*).

The Cooperative Code also allows the possibility of part or all of this reserve being allocated to education and training projects which, jointly or separately, involve the cooperative in question and: (i) one or more public legal persons; (ii) One or more entities of the social economy; (iii) Another or other cooperatives (Article 97(6) of *CCoop*) (Meira 2011).

2.4. Legal nature of the reserve

From a legal-technical perspective, the reserve is an account that appears on the balance sheet side where the liability is recorded and includes the equity of the cooperative. Thus, they will be values that, due to the fact that they appear in the liabilities of the balance sheet, will be represented by the goods registered in the asset. However, this correspondence is global and abstract, that is, there is no concrete part of the asset tied to a particular reserve, unless otherwise provided for in the Law. This means that reserves are not sets of goods that stand out from the global property, presenting them as an autonomous asset, allocated to a certain purpose. The reserves are “accounts, in the accounting sense, of the equity,” without the legislator making any distinction between reserves in this regard, considering the purposes of those reserves.

It follows that, unlike other legal systems, in the Portuguese cooperative legislation, the reserve for cooperative education and training was not defined as a special fund, constituted as an autonomous asset, but only as an account, in the accounting sense of equity capital. However, we believe that assets allocated to this reserve, in fidelity to their legal vocation, will only be met by the payment of debts incurred in the activity to which it is attached and not by the remaining debts of the cooperative. For the latter purpose, there is a legal reserve in the assets of the cooperative, which is exclusively used to cover possible losses of the financial year [Article 96(1) of the *CCoop*]. It should be noted that when the legislator states that the legal reserve can only be used to cover the part of the loss for the financial year that cannot be covered by the use of other reserves, or that part of the losses carried over

from the previous year that cannot be covered by the result of the financial year or the use of other reserves [subparagraphs (a) and (b) of paragraph 4 of Article 96], is not including in the expression 'other reserves' the reserve for cooperative education and training.

Our understanding is based on the fact that this reserve is aimed at pursuing purposes linked to the cooperative movement, namely the promotion of the teaching of cooperative principles and techniques which, when confronted with the interests of creditors of the cooperative, overlap them. The public interest evidenced in stimulating and supporting the activity of cooperatives (article 85, paragraph 1, of the *CRP*) is at stake here [Article 85(1) of the *CRP*].

Therefore, in line with the purposes of this reserve, the legislator, in the 2015 reform, explicitly stated that this reserve is not responsible for the cooperative's debts to third parties, but only for the obligations incurred in the activity to which it is attached [Article 97(7) of *CCoop*] (Meira & Ramos, 2014).

2.5. The indivisibility of the reserve for education and training

The reserve for cooperative education and training, as well as the legal reserve and the reserves established with results from operations with third parties, shall be insusceptible of any type of distribution among members of the cooperative (Article 99 of the *CCoop*).

At the time of the liquidation of the assets of the cooperative, Article 114(3), provides that "where no new cooperative entity takes place in the cooperative in liquidation, the application of the balance of mandatory reserves shall be paid back to another cooperative, preferably from the same municipality, to be determined by the federation or confederation representative of the main activity of the cooperative." This impossibility of distributing residual assets, in the event of liquidation, derives from the social function that the cooperative is called upon to full-fill and which implies that its destination, after liquidation, is the promotion of cooperativism (the so-called Principle of disinterested distribution) (Llobregat Hurtado, 1990; Fajardo et al., 2017).

In addition, any distribution of reserves between the cooperators would be incompatible with the principle of voluntary and open membership. In fact, this principle could only be applied in cases where all the members of the cooperative renounced part of the net surplus of the asset. Otherwise, cooperators who remained in the cooperative until liquidation would be the only ones to benefit from the obligatory reserves generated with the effort of the cooperators who have since left the cooperative. Even on the assumption that no cooperator had resigned from the cooperative until the liquidation, any distribution of these obligatory reserves by the cooperators, in the absence of analytical accounting evidence of their contribution to the formation of these reserves, would cause harm to the founding cooperators regarding those who joined later the cooperative.

Hence, just as cooperators will not have the right to claim a share of mandatory reserves when they resign from the cooperative, it must be prevented the distribution of the net assets among cooperators, on the moment of dissolution of the cooperative. In this context, the indivisibility regime will avoid speculative resignations.

A further argument against the possibility of distribution is based on the particular nature of those reserves and, in particular, on the fact that they are also made up of results from operations with third parties which, if distributed among the cooperators, would constitute a dividend, compromising the non-profit scope of the cooperative (Münckner, 2015, Fajardo et al. 2017).

3. Accounting regime of the reserve of cooperative education and training

On the 1st of January of 2010, the entry into force of the SNC revolutionized accounting in Portugal. This accounting normative is based on the international accounting standards issued by the *International Accounting Standards Board* (IASB) and has significantly altered the preparation, presentation and disclosure of the financial report, “what changes is a set of concepts and technical procedures that are currently in place with the application for the first time of the *SNC* and consisting of a different ordering of accounts, the arrangement of the balance sheet and the other financial statements, the effects of the new terminology and a new conceptual framework” (Azevedo, 2010, p. 11).

The *SNC* is composed of a Conceptual Framework, whose purpose is to establish concepts that are interrelated with the preparation and presentation of the financial statements for external users, either by the entities that prepare a complete set of financial statements, or by small entities (§ 2 of the Conceptual Framework foreseen in the *SNC*).

In the *SNC* Conceptual Framework, §65 states that it is sometimes required to create reserves by statutes or other legislation so that, in case of losses, a measure of protection is created for the entity and its creditors. The possibility of creating further reserves is also added if national legislation grants exemptions or reduction in tax liabilities when transfers are made to the respective reserves. The existence and size of these legal, statutory and tax reserves are information that may be relevant to the decision-making of the stakeholders.

Cooperatives, such as commercial companies, are engaged in the pursuit of an economic activity, “provided they respect the law and cooperative principles. In addition, cooperatives can freely exercise any economic activity” in accordance with Article 7, paragraph 1 of the *CCoop*.

In the balance sheet, the reserves are presented in the group of items that are included in equity. The Conceptual Framework of the *SNC* defines, in the subparagraph (c) of §49, that equity is “residual interest in the assets of the entity after deducting all its liabilities.”

As for reserves they can be defined as values that the partners, by legal or contractual imposition, cannot or do not want to distribute.

We have already mentioned that reserves may be divided into legal reserves (mandatory reserves), statutory reserves (imposed by the articles of association) or free reserves (resulting from a General Meeting resolution, based on prudent management).

The legal reserves, as the name implies, are the reserves imposed by law. The *SNC* refers to the legal reserves as being those established in Articles 218, 295 and 296 of the *Código das Sociedades Comerciais (CSC)*. Article 218 of the *CSC* is intended for private limited companies and, in paragraph 1, refers to the obligation to establish a legal reserve. Article 295 of the *CSC* is for public limited companies and, in accordance with paragraph 1, this reserve must be established at a percentage of not less than 20% of the company's profits, and in the articles of association, the minimum amount for the establishment of this reserve may be set at a higher percentage. Finally, in accordance with Article 296 of the *CSC*, the legal reserve can be used for the following: “a) to cover the part of the loss accrued in the balance sheet for the year that cannot be covered by the use of other reserves; b) to cover the part of the losses carried over from the previous year that cannot be covered by the profit for the year or by the use of other reserves; c) for incorporation into the capital.”

Cooperatives may freely exercise any economic activity, provided that the cooperative principles and the law are respected. Therefore, based on Article 7, paragraph 1 of the *CCoop*, the cooperatives to respect the law and principles should establish the legal reserve and the reserve of cooperative education and training.

The *SNC* regarding legal reserves in the cooperative sector presents a gap, because it does not mention that these must be established in accordance with Article 96 (legal reserve) and Article 97 (reserve of cooperative education and training) of the *CCoop*. It is possible to verify that the *SNC* is standardized for commercial companies because it does not refer to cooperatives. Another aspect worth noting is the fact that the *SNC* refers to the *CSC* and thus refers, in accordance with Article 295, that the reserve must be established at a percentage of not less than 20% of the profits.

When we are facing the cooperative sector, unlike commercial companies, the typical results are not the profits, they are the surpluses and, only if activities with third parties are developed, the results from these are considered profits that revert obligatorily for indivisible reserves, meaning that they cannot be shared among the cooperators (Meira, 2011).

According to the *SNC*, the account code 55 is associated to the reserves. This account is used to recognize the reservations of a mandatory nature (legal, statutory, etc.) and of a voluntary nature (free reserves) (Almeida, *et al.*, 2010).

Table 1 shows the classification of the reserves, which may be mandatory (by law, contract or statutes) or free (depending on the willingness of the cooperators expressed in the General Meeting, when deciding to apply the results).

Table 1. Classification of reserves

| |
|--|
| 551 - Legal Reserves |
| 5511 - % of profits |
| 5512 - Reserve for Cooperative Education and Training* |
| 552 - Other Reserves |
| 5521 - Statutory Reserves |
| 5522 - Contractual Reserves |
| 5523 - Free Reserves |

SOURCE: Own elaboration, with adaptation of the Conceptual Framework of the *SNC*.

In the *SNC* nothing is indicated as to the heading in which the reserve for cooperative education and training should be included. In view of the foregoing, we consider that the reserve for cooperative education and training, although not being a legal reserve in the strict sense, it should be included in the item of legal reserves (551), since its mandatory establishment derives from the law. To do this, we suggest that, for the accounting of this reserve, a subaccount should be created within the legal reserve heading, sub-account * 5512 – Reserve for Cooperative Education and Training (referred to in Table 1).

Thus, in terms of the accounting framework, the cooperative legal reserve (Article 96 of the *CCoop*) and the reserve for cooperative education and training (Article 97 of *CCoop*) correspond to the two sub-accounts within the item of legal reserves: the first corresponds to the legal reserve in the strict sense, whose purpose is to cover losses; and the second is, with very specific purposes, related to education, training and information.

4. Empirical Study

4.1. Research objectives

The main objective of this study is to ascertain the degree of legal-accounting (i)lteracy in the cooperative sector, using as an indicator the reserve of cooperative education and training.

For that purpose, we seek to evaluate whether cooperatives apply the set of rules established by the *CCoop* regarding the legal regime of this reserve and how they frame this reserve in the light of the *SNC*. Thus, we have established the following specific objectives:

- Assess to what extent the misinterpretation or lack of knowledge of the legislation influences the establishment of the reserve of cooperative education and training;
- Analyse if the cooperatives that have the reserve of cooperative education and training established, have the notion of what reverts to the its establishment; and
- Check the level of knowledge about the indivisibility of the reserve at the time the cooperator resigns as well as in case of dissolution/liquidation of the cooperative.

4.2. Research Methodology

When it comes to legislation and its applicability, no one is very comfortable in revealing the reality and, in order to get answers with some truth, to reach the objective of the study, we elaborated a questionnaire with multiple anonymous questions, following thus a qualitative and quantitative research methodology.

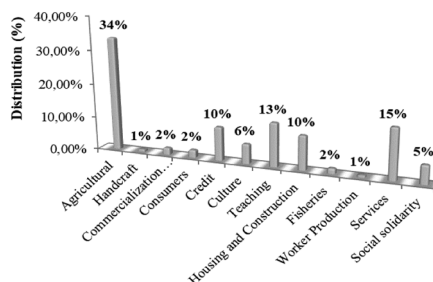
4.3. Data collection

The questionnaire was the only research tool used. To analyse the data obtained with the questionnaire we used the *Microsoft Excel* program, which we used for the graphical construction of the results of the questionnaire.

4.4. Sample

Given the number of cooperatives in Portugal, we decided to define a base population made up of 889 cooperatives, representing the different branches of the cooperative sector.

Figure 1. Distribution of cooperatives sampled per cooperative branches



SOURCE: Own elaboration.

In Figure 1, it is possible to verify that the base population of the selected sample is, in different proportions, constituted by the cooperative branches, being the agricultural branch the most representative of the sample (34%). Of the remaining cooperative branches, we have the following stand out: services (15%), education (13%), housing and construction (10%), and credit (10%).

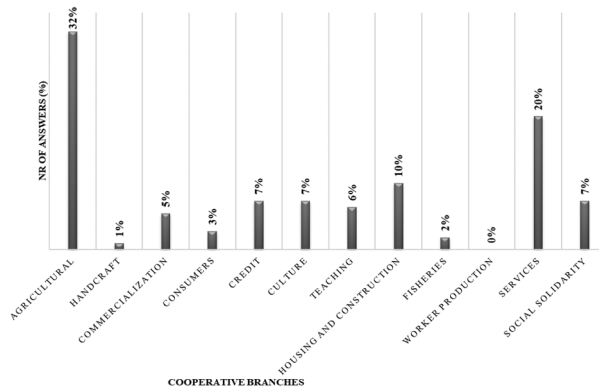
The questionnaire was sent to the 889 cooperatives by electronic mail, and having been addressed to the accounting professionals of the cooperatives. Although the base population had some expression, due to the difficulty of obtaining answers, only 112 questionnaires were validated, which constituted the study sample.

The process of collecting questionnaires began on May 1, 2018 and ended on June 12, 2018. During this period, the cooperatives were contacted by electronic mail, requesting the filling of the questionnaire with the objective of obtaining a significant sample. This questionnaire was created using the *Google Forms* tool and through e-mail, the cooperatives accessed the link to fill it online.

The fact that we obtained approximately 12,6% of answers contributes to the fact that the study is not a close representation of reality, but due to the difficulties in obtaining answers by the accounting professionals, it was only possible to work with 112 answers.

It is important to highlight that the 112 responses obtained are from the different branches of the cooperative sector, as can be seen in figure 2.

Figure 2. Distribution of the number of answers by cooperative branches



SOURCE: Own elaboration.

From the answers obtained, the agricultural cooperative branch stands out (32%), followed by services (20%), and housing and construction (10%). The volume of responses obtained by cooperative branch, may be influenced by the number of questionnaires sent to each cooperative branch.

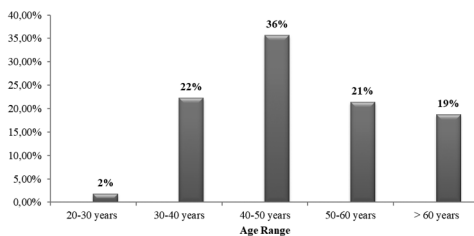
Table 2. Number of answers per cooperative branch and number of questionnaires sent

| Cooperative Branches | Nr. of answers | Nr. of questionnaires sent |
|--------------------------|----------------|----------------------------|
| Agriculture | 36 | 297 |
| Handcraft | 1 | 6 |
| Commercialization | 6 | 18 |
| Consumers | 3 | 20 |
| Credit | 8 | 89 |
| Culture | 8 | 52 |
| Teaching | 7 | 115 |
| Housing and Construction | 11 | 90 |
| Fisheries | 2 | 14 |
| Worker Production | 0 | 6 |
| Services | 22 | 133 |
| Social Solidarity | 8 | 49 |

SOURCE: Own elaboration.

In Table 2, we can verify that the cooperative branch with the greatest number of responses is the agricultural one, which also competed in a greater proportion for the definition of the base population. For the study, we also wanted to outline the profile of those who answered the questionnaire by age group, gender and educational level.

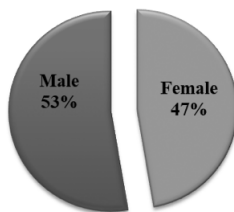
Figure 3. Age Group



SOURCE: Own elaboration.

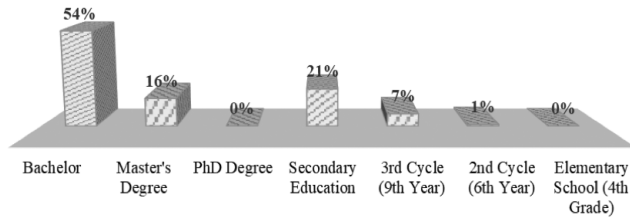
In Figure 3, we can see that accounting professionals in the cooperative sector are mainly in the age group between 40-50 years (36%) and the age group with the lowest representation are individuals between 20-30 years old (2%). In the sample we also found that 53% of the members are male and 47% are female (figure 4).

Figure 4. Distribution by Gender



SOURCE: Own elaboration.

The main aspect we wanted to know about, was the degree of schooling and, as can be seen in figure 5, the population of our study consists mainly of professionals with a bachelor degree (54%). Nevertheless, 21% have a secondary education level and 16% have a master's degree.

Figure 5. Degree of Education

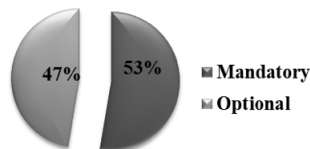
SOURCE: Own elaboration.

4.5. Analysis and discussion of results

4.5.1. The mandatory establishment of the reserve for cooperative education and training

Cooperatives, in the exercise of their activity, are obliged to establish the legal reserve (Article 96 of the *CCoop*), such as private limited companies (Article 218 of the *CSC*) and public limited companies (Article 295 of the *CSC*), as well as the cooperative education and training reserve [Article 97(1) of the *CCoop*], based on the cooperative principle of education, training and information (Article 3 of the *CCoop*).

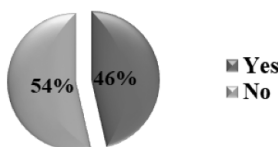
The first question of research (the reserve for cooperative education and training is mandatory or optional?) intended to evaluate the degree of knowledge about the legislation that regulates the cooperative sector. After analysing the results, we found out that 53 (47%) were unaware of the reserve requirement in a mandatory basis and 59 (53%) answered correctly to the question, according to Figure 6.

Figure 6. The reserve for Cooperative education and training is

SOURCE: Own elaboration.

Thereafter, with the second research question, we wanted to find out whether cooperatives have a cooperative education and training reserve, and that, out of a total of 112 responses, 52 (in percentage, 46%) are complying with the law and 60 (in percentage, 54%) do not have the reserve set up.

Figure 7. Does the cooperative has a reserve for cooperative education and training?



SOURCE: Own elaboration.

In the first research question, we found that 52 cooperatives are unaware of the obligation to establish a reserve for cooperative education and training and, as far as the answers to the second question are concerned, we have 60 cooperatives that do not have the reserve established. This shows that among those who recognize that this reserve is mandatory, some reveal that they did not established this reserve in the cooperative to which they belong.

The fact that the accounting professionals of the cooperatives who replied to the questionnaire indicate that this reserve is not established reveals that the possibility that these professionals can be strongly influenced by the corporate staff and apply to the cooperatives the same regime of commercial companies.

Since commercial companies are not obliged to establish a reserve for cooperative education and training, accountants prepare the financial information without realizing this specificity of the cooperative sector.

The following research questions refer only to cooperatives that have the reserve of cooperative education and training established. Thus, through the second research question, we selected the cooperatives that were still under study, that is, those who answered that they have the reserve established continue to fill out the questionnaire (52 cooperatives) and the remaining ones that said that they did not have the reserve established were eliminated (60 cooperatives).

4.5.2. The establishment of the cooperative education and training reserve

Since *CCoop* obliges to establish the cooperative education and training reserve, it is worth mentioning what competes for the formation of this reserve. As we have seen, according to Article 97(2)

of the *CCoop*, to the establishment of the cooperative education and training reserve reverts: the part of admission fees that are not tied to the legal reserve; a percentage equal to or greater than 1% of net annual surpluses, arising from operations with cooperators; grants and subsidies destined to the purpose of this reservation; and net annual results from operations with third parties that are not allocated to other reserves. Based on what Article 97(2) 2 of the *CCoop* states, we were able to verify if the remaining 52 cooperatives still under study have the reserve constituted according to the *CCoop*.

In the third research question, we wanted to find out the percentage of net annual surpluses from operations with cooperators competing for the formation of the reserve and, in accordance with Article 97(2) of the *CCoop*, the percentage reverting to the reserve for cooperative education and training might not be less than 1%.

Figure 8. What is the percentage of surpluses that the cooperative allocates annually to this reserve?

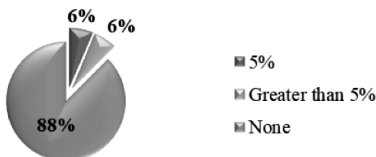


SOURCE: Own elaboration.

As can be seen in figure 8, only 20 cooperatives (38%) allocate 1% of the net annual surpluses from cooperative operations to the establishment of the cooperative education and training reserve and 32 (62%) allocate another percentage.

According to the legislation (Article 97, paragraph 2 of the *CCoop*), the part of admission fees not allocated to the establishment of the legal reserve contributes also to the formation of this reserve. With the following question, we found that in 88% of cases, as can be seen in Figure 9, they do not allocate any percentage of these fees to the establishment of the reserve.

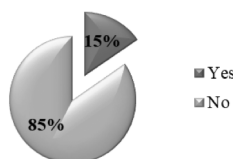
Figure 9. What is the amount of admission fees allocated to this reserve?



SOURCE: Own elaboration.

As the legislation itself indicates, to the establishment of the reserve for cooperative education and training, it does not only allocate a percentage of net annual surpluses from operations with cooperators and the share of admission fees not allocated to the establishment of the legal reserve, but others are also contributing to the establishment of this reserve. Therefore, we did a fourth question to find out if they allocated other items. We found that 8 cooperatives (15%) allocated grants, legal reserves, net results and results of economic activity. However, 44 cooperatives (85%) did not allocate other items to the establishment of the reserve for cooperative education and training, as we can see in figure 10.

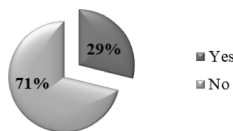
Figure 10. Does the cooperative allocate other items in the establishment of this reserve?



SOURCE: Own elaboration.

After verifying the degree of knowledge about the items that contribute to the formation of the cooperative education and training reserve, we also intend to ascertain if the population of the sample was aware of the existence of a maximum limit for its establishment. Once again, we intended to ascertain the degree of knowledge of the legislation, since the *CCoop* does not establish any maximum limit for the establishment of this reserve.

Figure 11. Is there a maximum limit for the constitution of this reserve?



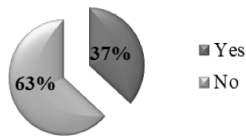
SOURCE: Own elaboration.

When we asked the population of the sample about the existence of a limit on the establishment of the cooperative education and training reserve, only 29% said that there is an established limit, as we can see in figure 11.

4.5.3. The annual plan for the implementation of the reserve for cooperative education and training

CCoop, in Article 97(4), states that the management body must prepare annually an activity plan for the application of the reserve for cooperative education and training. In drawing up the annual plan for the application of the cooperative education and training reserve, the Board of Directors shall take into account the purpose of the reserve. In order to verify whether the cooperatives have an annual plan for the application of the reserve, we asked the fifth research question.

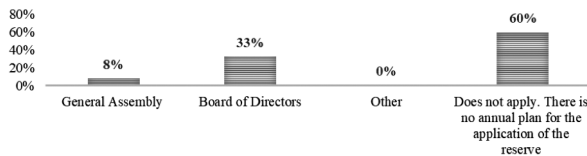
Figure 12. Is there an annual plan for the implementation of this reserve?



SOURCE: Own elaboration.

With the answers to this question, we find that in 33 cooperatives (63%) there is no annual reserve implementation plan. Only 19 (37%) cooperatives comply with the provisions of Article 97(4) of the *CCoop*, as can be seen from the data in figure 12. Article 97(4) of the *CCoop* indicates that the entity responsible for drawing up the plan of activities for the application of the reserve for cooperative education and training is the Board of Directors. Thus, through the sixth research question, we wanted to verify whether cooperatives were complying with this legal requirement.

Figure 13. Who prepares this annual plan?



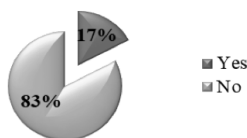
SOURCE: Own elaboration.

As we can see in figure 13, this question does not apply to 60% of the sample, because there is no annual plan for the application of the reserve. According to the answers obtained, 63% of the respondents stated that there is no annual plan for the implementation of this reserve. Here is evidenced that some of the respondents are answering to the questionnaire without correctly interpreting the questions. In the cooperatives where this plan exists, 8% indicate that it is prepared by the General Assembly and 33% correctly state that it is done by the Board of Directors.

4.5.4. The purpose of the reserve for cooperative education and training

In order to evaluate the knowledge regarding the purpose of the reserve for cooperative education and training, we wanted to place the question in terms of the possibility of using the reserve to pay and cover the cooperative's debts. As we have seen, the *CCoop*, in Article 97(7), establishes that the reserve for cooperative education and training is not responsible for the debts to third parties. The next research question seeks to measure the knowledge of cooperative members about the purpose of the reserve for cooperative education and training.

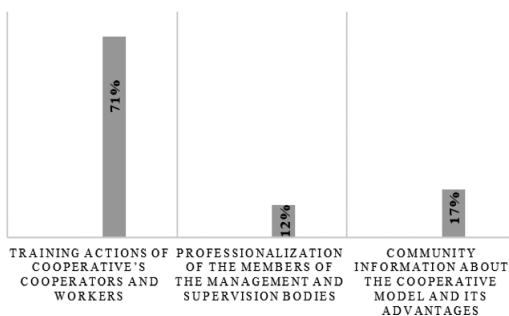
Figure 14. Can this reserve be used to pay/cover the cooperative's debts?



SOURCE: Own elaboration.

In Figure 14, we can see that 17% reveal ignorance about the purpose of this reserve and indicate that it can be used to pay/cover debts of the cooperative. The purpose of the reserve for cooperative education and training, in accordance with Article 97(1) of the *CCoop*, consist of cooperative education and cultural and technical training of cooperators, cooperative workers and the community. So, with the eighth research question, we wanted to analyse what the members consider more relevant in the context of the purpose of this reserve.

Figure 15. Within the purpose of the reserve for cooperative education and training, which do you consider the more relevant?



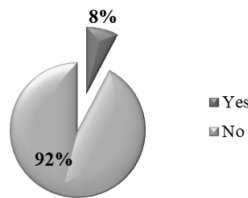
SOURCE: Own elaboration.

As we can see in Figure 15, the majority (71%) considers that the training actions of cooperative's cooperators and workers are more relevant and devaluate the purpose of community information about the cooperative model and its advantages (17%), being the professionalization of the members of the management and supervision bodies the less quoted component (12%).

4.5.5. The issue of indivisibility of the reserve for cooperative education and training

According to Article 99 of the *CCoop*, the mandatory reserves are insusceptible of any type of division. That is the reason why, the moment the cooperator resigns from the cooperative, he will not be entitled to the share of this reserve. With the tenth research question, we intend to verify the knowledge of the members of the cooperative regarding the possible right of the cooperator to the share of the reserve for cooperative education and training in the case of resigning.

Figure 16. If the cooperator resigns from the cooperative, will he be entitled to his share of the reserve for cooperative education and training?



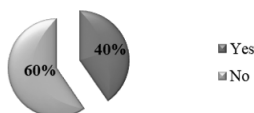
SOURCE: Own elaboration.

According to figure 16, we find that 8% (4 out of 52) still do not know that the cooperator is not entitled to his share of this reserve in case of dismissal.

In order to finalize the study on the knowledge about the indivisibility of the reserve for cooperative education and training, the eleventh research question asks the members of the cooperative about the possibility that the reserve may be shared in case of dissolution and liquidation.

According to Article 114(2) of the *CCoop*, the value of the reserve may be transferred to a new cooperative, established following the merger or split-up of the cooperative in liquidation, and provided that it has the same purpose. If such does not happen, it shall move to another cooperative by means of what is determined by the federation or confederation that represents the main activity of that cooperative. As can be verified, the legislator does not allow, in case of dissolution and liquidation of the cooperative, the distribution of the reserve among cooperators.

Figure 17. In case of dissolution and liquidation of the cooperative, can the amount of the reserve for cooperative education and training be distributed among the cooperators?



SOURCE: Own elaboration.

As we can see in figure 17, 60% state that the reserve for cooperative education and training cannot be shared among cooperators, but 40% still admit that the reserve can be divided in case of dissolution and liquidation of the cooperative.

5. Conclusions

With the intention of evaluating the degree of legal-accounting literacy, having as an indicator the reserve of cooperative education and training, we present an empirical study, in which we use a qualitative and quantitative methodology, through questionnaires, based on a sample of cooperatives of various cooperative branches. The questionnaires were sent to the cooperatives of the selected sample, by electronic mail, for anonymous filling.

The empirical study has shown that there are cooperatives that do not have the reserve established, or, despite having the reserve established, they admit both the destination of the reserve, as well as its sources, and even its distribution, possibilities that the law does not allow.

In addition, cooperatives are not adequately accounting for this reserve, which has implications in their financial statements. In this context, the study concludes that there is a significant degree of legal-accounting illiteracy regarding this indicator: 'reserve for cooperative education and training.'

The lack of knowledge or misunderstanding of this reserve's regime makes it difficult or limits the education of the members of the cooperative, restricting the guarantee of an active membership, the professionalization of its employees and members of the management and supervisory bodies, as well as raising community awareness of the advantages of the cooperative model.

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Legislation:

- Decree-Law no. 158/2009 of 13 July (Decreto-Lei 158/2009 de 13 de julho. Diário da República n.º 133/2009, Série I. Ministério das Finanças e da Administração Pública).
- Decree-Law no. 158/2009 of 13 July (Decreto-Lei 139/2015 de 7 de setembro. Diário da República n.º 174/2015, Série I. Assembleia da República)
- Law no. 119/2015, of 31 August (Lei n.º 119/2015 de 31 de agosto. Diário da República n.º 169/2015, Série I. Assembleia da República).

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