

# Boletín de la Asociación Internacional de Derecho Cooperativo

International Association of Cooperative Law Journal

No. 62/2023

DOI: <http://dx.doi.org/10.18543/baidc622023>

---

## ARTICLES / ARTÍCULOS

### **Cooperatives as a way of participation in political decision-making processes: An Examination over the Turkish Forestry Cooperatives in constitutional terms**

Las cooperativas como forma de participación en los procesos de toma de decisiones políticas: un examen de las cooperativas forestales turcas en términos constitucionales

Anıl Güven Yüksel

doi: <https://doi.org/10.18543/baidc.2541>

Submission date: 29.07.2022 • Approval date: 27.04.2023 • E-published: July 2023

## **Derechos de autoría (©)**

El *Boletín de la Asociación Internacional de Derecho Cooperativo* es una revista de acceso abierto lo que significa que es de libre acceso en su integridad inmediatamente después de la publicación de cada número. Se permite su lectura, la búsqueda, descarga, distribución y reutilización legal en cualquier tipo de soporte sólo para fines no comerciales y según lo previsto por la ley; sin la previa autorización de la Editorial (Universidad de Deusto) o el autor, siempre que la obra original sea debidamente citada (número, año, páginas y DOI si procede) y cualquier cambio en el original esté claramente indicado.

## **Copyright (©)**

The *International Association of Cooperative Law Journal* is an Open Access journal which means that it is free for full and immediate access, reading, search, download, distribution, and lawful reuse in any medium only for non-commercial purposes, without prior permission from the Publisher or the author; provided the original work is properly cited and any changes to the original are clearly indicated.

# Cooperatives as a way of participation in political decision-making processes: An Examination over the Turkish Forestry Cooperatives in constitutional terms

(Las cooperativas como forma de participación en los procesos de toma de decisiones políticas: un examen de las cooperativas forestales turcas en términos constitucionales)

Anıl Güven Yüksel<sup>1</sup>  
Ankara Yıldırım Beyazıt University (Türkiye)

doi: <https://doi.org/10.18543/baidc.2541>

Submission date: 29.07.2022

Approval date: 27.04.2023

E-published: July 2023

---

**Summary:** I. Introduction. II. Decision-making Processes and Civil Society. III. Civil Society, Rural Development and the Cooperatives in the Forests. IV. Cooperatives for the Participation in Political Decision-Making in Practice: Turkish Forestry Cooperatives. IV.1. Forests, Forest Villagers and Cooperatives in Turkish Constitutional System. IV.2. Recent Cases of OR-KOOP in Relation with the Participation in Political Decision-making in Türkiye. V. Conclusion. VI. Bibliography.

**Sumario:** I. Introducción. II. Procesos de toma de decisiones y sociedad civil. III. Sociedad Civil, Desarrollo Rural y las Cooperativas en los Bosques. IV. Cooperativas para la participación en la toma de decisiones políticas en la práctica: cooperativas forestales turcas. IV.1. Bosques, habitantes de los bosques y cooperativas en el sistema constitucional turco. IV.2. Casos Recientes de OR-KOOP en Relación con la Participación en la Toma de Decisiones Políticas en Turquía. V. Conclusiones. VI. Bibliografía.

**Abstract:** In this article, cooperatives were examined on their distinctive structure, questioning whether they can be seen as a way of civil participation on political decision-making, by presenting some recent cases from Turkish Forestry Cooperatives. Firstly, the place of the civil society in participatory democracies and the importance of economic and social conditions in this perspective and consequently the role of the cooperatives in civil society were explained briefly. Afterwards, the cooperative's practical impact on political decision-making was analysed over the instance of OR-KOOP including core in-

---

<sup>1</sup> Email: [anilguvenyukse@gmail.com](mailto:anilguvenyukse@gmail.com)

formation on cooperatives and forest villagers in Turkey —representing a community with lower economic facilities— in the search of fundamental necessities for an expected participation in political decision-making processes. Finally, constitutional significance of the forests and the cooperatives were revealed with regard to the crossing concepts of participatory democracy, sustainable development and human rights.

**Keywords:** Decision-making processes; economic and social rights; political participation; social justice; sustainable rural development; Turkish Forestry Cooperatives.

**Resumen:** En este artículo, las cooperativas fueron examinadas en su estructura distintiva, cuestionando si pueden ser vistas como una forma de participación civil en la toma de decisiones políticas, presentando algunos casos recientes de Cooperativas Forestales Turcas. En primer lugar, se explicó brevemente el lugar de la sociedad civil en las democracias participativas y la importancia de las condiciones económicas y sociales en esta perspectiva; y en consecuencia se mencionó el papel de las cooperativas en la sociedad civil. Posteriormente, se analizó el impacto práctico de la cooperativa en la toma de decisiones políticas a través de la instancia de OR-KOOP, incluyendo información central sobre cooperativas y aldeanos forestales en Turquía, que representan una comunidad con menores facilidades económicas, en la búsqueda de necesidades fundamentales para una participación esperada en procesos de toma de decisiones políticas. Finalmente, se reveló la significación constitucional de los bosques y las cooperativas en relación con los conceptos transversales de democracia participativa, desarrollo sostenible y derechos humanos.

**Palabras clave:** Procesos de toma de decisiones; derechos económicos y sociales; participación política; justicia social; desarrollo rural sostenible; cooperativas forestales turcas.

## I. Introduction

Participation in political decision-making processes is considered as a key element for today's modern democracies with respect to the aim of removing the undesirable economic and social obstacles to being a real and active part of the society. Civil society is one of the fundamental concepts in this combat against social inequalities regarding its role on creating pressure mechanisms on the political authorities on one hand and its impact on the public awareness for such challenges, on the other. Besides individuals who wish for active participation in public debates, there are several other actors who gather, guide or canalise them for the traditional, as well as the alternative ways of civil participation in public life such as associations, trade unions, foundations, political parties etc. On the other hand, it can be said that the impact of the diverse and complex economic relations and so the importance of socio-economic conditions in the light of a sustainable development in contemporary World require to rethink the function and the actors of civil society regarding the economic and social rights, democratic participation and development together. In this sense, cooperatives may come into light as voluntarily founded economic unions, which are conducted and supervised democratically by the members in an equal sense. Although the cooperatives are private enterprises, their proper interest on the social and economic interest and the wellbeing of the members make significant to focus on the place of the cooperatives in civil society.

In this article, accordingly, cooperatives will be examined on their distinctive structure, questioning whether they can be seen as a way of civil participation on political decision-making, by presenting some recent cases from Turkish Forestry Cooperatives. In this direction, the significance of the civil society in participatory democracies and the importance of economic and social conditions in this perspective be explained briefly in the first place. Consequently the role of the cooperatives in civil society will be addressed with regard to the rural development and the rights and living conditions of rural community considering as well as the forests in this regard. Since the rural development is a conception about improving the socio-economic conditions and right to participation of the relevant communities caring both the economic needs of the people and the environmental future of the rural areas, this special focus will be useful in order for the theoretical interrelation of these fundamental concepts to be revealed. Afterwards, the cooperative's practical impact on political decision-making will be analysed over the instance of OR-KOOP including core infor-

mation on cooperatives and forest villagers in Türkiye in the search of fundamental necessities for an expected participation in political decision-making processes. Since the forest villagers, constituents of OR-KOOP, represent a community with lower economic facilities and limited sources within the whole society, examining the opportunities to be a part of the political decisions through the cases of forestry cooperatives is considered essential in order to reveal the relation between the participatory democracy, social justice and more importantly the inclusion of all parts of the society in political decisions. By this article, at the end, constitutional significance of the forests, both in its own sense and in relation with the cooperatives will be put forward with regard to the crossing concepts of participatory democracy, sustainable development and human rights.

## II. Decision-making Processes and Civil Society

Participation in political decisions, as a product of the transformation on the aspects of citizenship and democracy in modern societies, is a key concept in a strong relation with what is expected from a democracy in real terms, accordingly (Zittel 2007, 8). Democracy, coming from Ancient Greek and after having been faced with significant criticisms for its every developed and transformed practice such as direct or representative democracy etc., becomes lately known with the naming of participatory democracy in the search for a new conception with real social equality basing on the exact freedom and equality of all the people; and such a conception considering the pluralism and gradually the equal participation of the people as active citizens must include the direct or indirect participation in political decisions, freedom of association especially for the opponents and political education for all (Birch 1993, 37). Hence, what makes the civil participation a key concept for a modern democracy is peoples', as individuals or as social groups, ability to share the political power with the authorities in many divers manners in classic or alternative ways, by different grades in diverse levels (Meyer and Hinchman 2002, 14). In the search of these alternative ways, recent endeavours even reached to the concept of energy democracy reflecting to being a part of the decisions on the future of the planet and consequently, gathering within the scope of the renewable energy cooperatives is seen a possible participatory solution to the obstacles (Tarhan 2017, 1, 14). As a result, not only the role of energy cooperatives in democratic practices, but also the prospective contribution of the cooperatives in all sectors to both the political decision-

making and social justice is of a great significance for inclusive, democratic constitutional orders.

As it is seen, the changing perception of democracy in history, mostly effects the content and the forms of active civil participation in political life, firstly taking into consideration the ignored parts of society such as women, children etc. and gradually —minding to provide the economic and social equality— the workers, unemployed people, persons with disabilities etc; even the rules, today, does not consist of general political principles or civil rights in the same primary sense; all the decisions from the minimal level to the strong legally binding codes can be about many diverse issues of a people's or of a group of people's political, social, economic or cultural interest (Yüksel 2022 (a), 27). Therefore, a desired civil participation seeking to provide, collect and channel the views of people in their own interest by NGO's or by the representatives of civil society at-large must include the different forms such as provision of information, consultation, dialogue and active involvement while political decisions are taken (Council of Europe 2017, art. 5, 19).

### III. **Civil Society, Rural Development and the Cooperatives in the Forests**

Civil society, as a concept reflecting directly the political authority on one hand and public area besides the political power on the other in history, can be determined as the structures or relationships in which people who engage in economic, cultural or similar voluntary activities independent from the state interference in order to secure and enhance their individual existence by forming certain pressure on the political authority (Keane 1988, 14). The place of the cooperatives in such description of a civil society has always been problematic since one of the fundamental principles for the civil society organisations is generally accepted as having non-profit bases. It is obvious that the cooperatives are business enterprises operating in private sector, even though they perform as organised bodies for the equal protection of their voluntarily united members in many aspects. However, it is also obvious by the ILO Report (2001) on promotion of cooperatives that “cooperatives differ from commercial enterprises because of their service orientation and value base, which are similar to those shared by civil society organizations. Therefore cooperatives can be perceived as being closer to civil society than commercial business undertakings” (art. 2.4.2). In this direction internationally recognised definition of the cooperatives as “autonomous associations of

voluntarily united people to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise" (ICA) helps embracing them as not-to-profit organisations (ILO, art. 2.2.6). Accordingly, the cooperatives, even if not non-profit organisations, shall be seen as not to profit organisations, where the welfare and socio-economic conditions of the members stand in a more important place than the profit when the success of the association is in question (Smith, 2014, p. 19).

Rural development, on the other hand, as an arising concept from a transforming relation between the technological growth and agricultural activity (Wiskerke *et al.* 2003, 9), must correspondingly be handled in relation with the concept of the agriculture, which is often the fundamental source of the rural families (Oakley and Garforth 1985). Therefore rural development can be understood as a multi-faceted process in which many farm-related interconnected practices occur in national and local level in one hand, and also as a complex environment with the existence of different actors all of whose social and economic interests must be considered for social cohesion (van der Ploeg *et al.* 2000, 393-395). Although the term "rural" has different aspects as in European Union's view for instance, referring to the geographical, physical or social characteristics (Gallardo-Cobos 2010, 1,2,7), the rural development should be mentioned as a mixture of all these characteristics in a balance between the environment and the livelihood of the rural communities (UN 1999-2000, 8), and furtherly highlighting the economic, social and environmental links between the rural and urban areas, as well as in international stage with regard to the aim of a sustainable development (UN 2015). In this direction, forests come into light as natural sources to be approached in the same sense (Whiteman 2000), for being as well as the fundamental source of income of the rural community living within and around them. Although the importance of the forests for a sustainable economic and social development was already mentioned in so-called Forest Principles (1992), the vital role of a sustainable forest management in order to maintain their economic, social and environmental value for today's and future's communities is emphasized in the UN Forest Instrument, as well (2008). The living conditions of the forest dependent people, on the other hand, are not only determined as a global objective in the UN Forest Instrument, but also they are mentioned in several sessions of the Commission on Sustainable Development (CSD). The Commission highlights the necessity of the integration of the traditional knowledge into the development-related policies for sustainable usage of the forests (UN ECOSOC 2009/10), while it mentions some specific provisions that in-

dicating incentives to the rural people for sustainable management of the forests, afterwards (UN ECOSOC 2009/16). When the role of the community in sustainable rural development is discussed, the cooperatives come into light as being jointly-owned and democratically-controlled enterprises protecting the economic interests of their members. Cooperatives help to create job opportunities for the community and so to end the poverty in rural areas on one hand, and contribute to sustain the safe and healthy existence of the livelihoods on the other (Karthikeyan and Karunakara 2018). Bearing in mind the CSD's emphasis for the value of the cooperatives in order for the rural community to act collectively in production, marketing and advocacy for the common interest within a sustainable development (UN 2009/16) it should be stated that a sustainable rural development in the forests refers to special protections both for the forest dependent community and the forests themselves as natural sources. Hence, as indicated at the beginning of the study, the role and the efficacy of these kind of protections can be best examined focusing on the legal texts as they refer to the fundamental rights of the rural community.

In line with a contextual evaluation, together with the concepts of civil society, democracy as well as human rights, it should be stated that the cooperatives are essential parts of civil society in protection of economic and social rights and equality of the social groups and they accordingly have a key role and responsibility in economic and social development for their members and additionally for their entire community as the generally recognised cooperative principles indicate clearly (Yüksel 2022 (b)). ILO Recommendation (2002) mentions these principles as compulsory guides in order for the state parties to prepare and revise the cooperative-related legislations properly on one hand and additionally refers to the requirement of consulting cooperative organisations for the governments «in the formulation and revision of legislation, policies and regulations applicable to them» (art.10). Therefore, including cooperatives within the political decision-making processes regarding their role on sustainable development emerges as an international obligation apart from its natural necessity for establishing a modern participatory democracy.

#### **IV. Cooperatives for the Participation in Political Decision-Making in Practice: Turkish Forestry Cooperatives**

It should be stated that a sustainable development and management within the forests are clearly related to the social inclusion and



the participation of the community who lives in or around the forestlands. This strong social and economic relation between the people and the land, the forest-dependent livelihood in other words, brings a possible constitutional interest into the question. While the number of the specific provisions on the cooperatives can be found only in nearly one third of the World constitutions (Douvitsa 2022, 62), including the positive instances as in the constitutions of Brazil (1988), Cuba (2018), Nepal (2015), Spain (1978, *cooperative societies*) etc., it is even harder to find a mention to the forests with their proper communities as well, apart from the forestland-related specific provisions in the constitutions of Kenya (2010), Bhutan (2008) etc. and the constitution of Greece (1975), which has detailed provisions on forests regarding also the sustainable development (Constitutes 2022). The constitution of the Republic of Türkiye, in this regard, has a remarkable approach having diverse interrelated provisions on the cooperatives, forests and forest villagers and therefore deserve a special examination.

#### IV.1. *Forests, Forest Villagers and Cooperatives in Turkish Constitutional System*

Even though the cooperative movements date back until the 19th century for Turkish practice, gaining more importance during the period of early-republic between 1920-1938 (Okan and Okan 2003, 8-13), the forestry cooperatives, has been continued to get special attention for being regarded as agricultural development cooperatives at the same time and representing the people who face with more severe conditions of economic inequality even within all the rural community (Atmiş, Günşen and Özden 2009). Cooperatives, defined as «associations established in order to meet the livelihood and related economic interests of its members by means of assistance, solidarity and suretyship» in Turkish Cooperatives Law (No 1163), have also a specific constitutional protection as the article 171 of the Constitution of the Republic of Türkiye (1982) titled “Developing Cooperativism” indicating that “the State shall take measures, in keeping with national economic interests, to ensure the development of cooperativism (...)”. Right before the article on the cooperatives, the Constitution (1982) includes two particular norms under a main heading of *forests and forest villagers*. The article 169 on *protection and development of the forests* indicates clearly that “the State forests shall be managed and exploited by the State in accordance with the law”, while the article 170 on *the protection of forest villagers* expresses a positive obligation on the state

such as “measures shall be introduced by law to secure cooperation between the State and the inhabitants of villages located in or near forests in the supervision and exploitation of forests for the purpose of ensuring conservation of forests and their integrity, and improving the living conditions of these inhabitants...” (Constitution 1982). These constitutional norms, formed in consecutive order, prove a strong relation between the possible economic developments expected from cooperativism (Mülayim 1998, 14) and the forest villagers in Türkiye whose living standards are substantially low comparing to the national average (Özden and Mendeş 2005, 36-41). Within this constitutional framework, some priorities and privileges were given to forest cooperatives, by the *Forest Law (N. 6831)*, in terms of purchasing woods (art. 34), performing works for non-wood forest products (art. 37) and afforestation works (art. 40). These incentives, recognized by laws and as well as by the secondary legislations, include in detail *placing orders for wood without tender; priority on jobs as production at forest nurseries, forestation, maintenance of forests, and building forest roads; right to buy some percentage of the firewood produced in Türkiye a cost below usual market price* etc. (Atmiş, Günşen and Özden 2009, 3-4). Even though these relevant norms of the *Forest Law* has been changed many times during the time both in positive and negative ways for the forest villagers (Çağlar 2014, 23), and accordingly the socio-economic problems that the forest villagers have continue to exist within the tension between the public and private aspects, the Turkish forestry cooperatives can operate in cooperation with the public bodies by advocating the rights of their members not only in small scale cooperatives, but also in units and by a union. As ORKOOP —Central Union of the Turkish Forestry Cooperatives— reports, apart from the forestry productions and works, forest villagers by their cooperatives plays the most important role for the protection of the forests by carrying out approximately 70% of the afforestation activities in Türkiye (ORKOOP 2022). As a result, the forest villagers have more voice on the future and current activity of their living spaces, not only protecting and reconstructing them, but also contributing to the sustainable use and management of these sources directly and participating to the forest-related decisions by their cooperatives.

Cooperatives in Türkiye, as the other components of the civil society, are considered as one of the consultant bodies whose opinions or suggestions should be presented within the 30 days by notification during the framing processes of policy-making (Regulation on Rules and Procedures for Preparing Legislations, art. 7). Although the effectiveness of this rule and complexities in practice especially for the sec-

ondary legislations such as regulations and recommendations are questionable (Turkish Cooperatives Strategy and Action Plan, 2012), it can be said that the problems on and obstacles to exercising the right to participation in decision-making processes may be overcome by forming unions in regional or national levels for cooperative units. In the same direction, as Turkish law allows and explains clearly that cooperatives can establish unions, central unions and a unique National Cooperative Union in order to protect their own interests, to develop the cooperativism and training activities or to give advice on the issues related to cooperativism etc. among other aims and purposes (Cooperatives Law, art. 70).

With all these rules and legislations at national stage, the Republic of Türkiye has also some international obligations as a consequence of being a party to very important instruments of international law such as UN Covenants on Political and Civil Rights and on Economic, Social and Cultural Rights, European Convention on Human Rights and ILO specific instruments—and the decisions, reports and recommendations of their supervisory mechanisms—in most of which the cooperatives are considered under the protection of freedom of association, assembly or also the freedom of expression.

#### *IV.2. Recent Cases of OR-KOOP in Relation with the Participation in Political Decision-making in Türkiye*

Central Union of Turkish Forestry Cooperatives (OR-KOOP), founded in 1997 by 7 cooperative unions, reached to 28 members of cooperative unions as of 2022 representing over 300.000 families of villagers most of whom are mainly interested in forestry (OR-KOOP, 2021). OR-KOOP intends to solve all kinds of legal obstacles and governmental interferences at the corporate or ministerial level, by leading the small-scale cooperatives under its supervision (Atmış, Günşen and Özden 2009, 7). Its endeavours include not only developing the socio-economic standards and welfare of the rural communities but also preserving already-recognised rights and privileges for encouraging and empowering the forestry villagers and cooperative associations accordingly.

The necessity of the participation of the civil society organisations, mentioned in previous subtitle of this study, even regulated formally, may sometimes be bypassed during the drafting processes for the secondary legislations (Bakırcı 2015, 32). Although these secondary legislations are subject to the supervision of Turkish Council of State, the

processes to taking action against them and administrative steps prior to the court proceedings require special attention, time and expertise (Erdönmez and Aydın Coşkun 2003). The power and effectiveness of a high-level association emerges right here, as in the instance of OR-KOOP, since the individuals or even the small-scale cooperatives and other similar organisations may have lack of opportunity to monitor all the changes or legal provisions on their interests (Turkish Cooperatives Strategy and Action Plan 2012).

Republic of Türkiye's Ministry of Agriculture and Forestry prepared and promulgated two diverse amendments on *Regulation on the Principles and Procedures of Selling Forest Products (6377)* in 2015 and 2016 respectively. Both amendments included similar provisions, among others, authorising the General Directorate of Forestry (OGM) for sales of "planted trees" directly to the private factories for "long terms" in the former and for "long terms until 10 years" for the latter. According to OR-KOOP, these diverse provisions on nearly the same issue, by the phrase "planted trees", clearly meant that the priority given to the forest villagers' development cooperatives—and to forest villagers accordingly—in the provision of forestry works by the article 40 of the Forest Law (No. 6831) is eliminated. As the lawyers claimed, they also create a violation of the constitution's mandatory provision that "state forests should be operated by the state itself" and it causes an implicit privatization of forests on the contrary to the constitutional principle on the issue. Although both regulations are alleged as inconsistent with the law, the administrative bodies continued to the process of drafting them without asking the consultancy of the relevant cooperatives/unions and these amendments after entering into force generated a very serious threat to subsistence of the forestry villagers whose only source of income is forestry labours around their home villages. Under these circumstances, it would be impossible to expect the individual action of villagers—even perhaps of the small cooperative units, as living at the least economic conditions—against governmental institutions, preparing all the legal documents, dedicating their time to the procedural issues etc. What OR-KOOP did in the first place on this issue is using its power, originated from its united members and canalise its economic and substantial opportunities to activate the legal remedies—until the Council of State—as being an effective part of the civil society in a government under the principle of rule of law.

The following impact of these cases proceeded by OR-KOOP is even more related with the participation in decision-making processes. Because for the first claim of annulment, 8th Chamber of the Council of State (2019) decided that the OR-KOOP's objections on behalf of its

members are rightful, emphasizing the uncertainty produced by the expression of “long term” which is definitely unacceptable regarding the rule of law. Additionally, the Council indicates that there were no legal basis to be able to authorize the OGM for such sales of “planted trees” in the time of promulgation of the regulatory amendment on the issue (2015). The Council’s highlighting of the promulgation date is significant; because another amendment but this time directly to the Forest Law (No. 6831) entered into force on 28 April 2018, adding the expression of “including planted trees” to the selling procedures of forest products in the market, during the Council’s review of legality on the 2015’s amendment on the Regulation. This amendment on the Forest Law was brought to the Turkish Constitutional Court —by one of the majority parties in the Parliament as the Constitution of the Republic of Türkiye (1982) requires (art. 150)— claiming unconstitutionality of the amendment on Forest Law in the face of earlier mentioned constitutional norms of “developing cooperativism” (art. 171) and «the protection of forest villagers» (art. 170).

While the review of the constitutionality was still in progress, the second claim of annulment for the 2016’s amendment on Regulation (6377) —even concluded by the 8th Chamber of the Council of State (2018) earlier than the first application— its finalization has taken time through a few judicial steps, first of which was executed by the Council’s Plenary Session of Administrative Law Division (2019) after OR-KOOP’s appeal to the Chamber’s decision on partly annulment of the amendment. Actually, the 8th Chamber (2018) had already indicated that even a 10-year restriction was added to the expression of “long term”, the rule remained uncertain and more importantly these latter provisions clearly served to make court decisions inapplicable and thus had annulled the provision directly. On the other hand, although the Chamber (2018) did not see necessary to annul the expression of “planted trees” (2018/1116), Council’s Plenary Session of Administrative Law Division (2019) followed the Chamber’s decision of 2019/6084 for the former amendment (2015) and sent the case back to the Chamber to review the part of “planted trees” once more (2019/3699). Chamber’s decision on the first amendment (2019/6084) is finalised in 2021 by the approval of the Plenary Session’s in response to the Ministry’s request of appeal (2021/724). In the same direction the Chamber established a new judgment for the reversed part of its decision (2018/1116) by the Plenary Session (2019/3699) and this time annulled also the provision on “planted trees”, stating the risks of privatisation-like practices and elimination of constitutional priorities as well as mentioning the lack of legal basis at the time of the Reg-

ulation's entry into force (2021/1884). This decision is finalised in the same year by the approval of the Plenary Session following the appeal of the Ministry and the Plenary Session found the Chamber's decision in compliance with the law and the procedure (2021/3220).

As mentioned before, this widely mentioned lack of legal basis was intended to be removed by an amendment on Forest Law (No. 6831) in 2018, which was brought before the Constitutional Court for annulment together with some other provisions on many diverse themes. The amended provision subjected to the constitutional review in our case was on the article 30 of the Forest Law and it added «including planted trees» for the procedure of market sale of forest products in the first paragraph. Additionally in its last paragraph, it was clearly stated that “in accordance with the management plan data, the sales of forest products, including the planted tree, can also be made over the years, not to exceed the five-year period”. The 126 members of the parliament who started the action of annulment claimed that “the way to privately operate the forests has been paved by making the sales of the planted trees possible for up to 5 years”; “selling the planted trees five years in advance will cause this forest to be operated by the purchaser for five years (...) and state enterprises that act for the purpose of protecting forests cannot compete economically against private enterprises that seek only profit will ultimately lead to the destruction of forests”; “all forestry works to be done in state forests should primarily be done by forest villagers as states constitutionally, but the amendment would cause the forests to be operated by contractors and the forest villagers, who should be the owners of natural resources, will turn into workers; (...) it means the transfer of the operation of that forest to the private sector” and thus the mentioned amendments were conflicting with the constitutional provisions of 2 (characteristic of the republic / rule of law), 169 (protection and development of the forests), 170 (protection of forest villagers) and 171 (developing cooperativism) (Turkish Constitutional Court 2020, para. 111).

Turkish Constitutional Court declared and released its judgment in 2020, shortly before the finalisation of the judgments of Council of State on the regulatory amendments. Constitutional Court, although found irrelevant the claim on the article 171 (developing cooperativism), examined the claims of unconstitutionality regarding the articles 169 and 170 together with and in the light of the principle of rule of law (art. 2) as required (2020/39, para. 119). However, the Court rejected the claims of annulment for both arguments on “planted trees” and “until 5 years period” on the grounds that they did not pose any conflict on the relevant constitutional guarantees for the for-

ests and the forests villagers. The Court firstly stated that “the aim was to sell the forest products as planted trees and to deliver them fresh to the customers, to prevent the value losses and negativities caused by keeping these products waiting, and to reduce the costs arising from transportation, stacking and storage since the production and transportation works belong to the buyer” (para. 116) and in this sense the Court interpreted that it was still possible “to continue to sell the planted trees in favour of forest villagers” (para. 117). On the other hand, the Court did not see the 5-year periods as unconstitutional “resulting in the transfer of the special operating rights of these areas”; to the contrary it is like a time limit meaning that “the customers complete the necessary transactions in the areas subject to sale within the specified period” in the Court’s view. Thus, although the constitutional court rejected the action of unconstitutionality on these issues, it is clearly indicated once again that the forest related policies must be generated and formed regarding the rights of forest villagers and they should be prescribed by the law, namely by the codes through parliament, while a certain restriction or reform effecting the living and working conditions of the forest villagers. And as a result, all the reforms or amendments will be reviewed on their own terms considering all the points such as rights, freedoms, time period, location and the other relevant constitutional guarantees.

After the decisions of the Council of State, and a long-term period full of legal and constitutional debates, OR-KOOP and the institutions of the Ministry agreed to work together not only for the possible amendments on existing or future-produced secondary legislations, but also for the possible revisions on the Forest Law. This cooperation is meaningful for an effective participation in decision-making processes—a right and an opportunity gained through the pressure mechanisms by using the legal and constitutional ways—in the interest of OR-KOOP and its members, while being a solution-oriented manner for the Ministry in processing administrative services more appropriately in a respectable democratic government considering the inclusion of all parts of the society coming from different economic and social conditions.

## V. Conclusion

The basic conclusion from these examinations bases upon the legally established relation between the cooperatives, forests and forest villagers in Turkish law and their operation in a sustainable rural devel-

opment in a mutual sense both for the forests as natural sources and for the forest villagers as a vulnerable social community. Although the Turkish Constitution's protection of forests is generally considered as an example for the constitutional provisions which are normally not included in the natural or historical context of the constitutions (in other words, not necessarily constitutional), as it is seen not only by the internationally emerging importance of the environmental protection but also its relation with the rights and economic and social development of forest villagers makes it an undeniable constitutional debate with regard to economic and social rights and the domestic and international obligations of the governments. Therefore, this example of the constitutional provisions in Turkish law helps examine and subsequently determine the role of the cooperatives on sustainable rural development globally revealing the necessity, the effectiveness and the efficiency of the constitutional protection, not only for the cooperatives but also for any vulnerable community in question. By this study, secondly, it become visible that the cooperatives can better contribute to the sustainable development goals of the United Nations both for the fundamental aims of the economic and social inclusion and a peaceful environment and for the specific targets of a peaceful society and cities without poverty and a workplace under the principle of decent work if certain constitutional provisions exist providing incentives and priorities to be operated for the rural communities.

On the other hand, it is revealed that participation in political decision-making processes is a key element in modern democracies since the political decisions must be taken considering the economic, social and cultural interests of the whole society in order to provide equal opportunities and minimum living conditions for all the individuals and the communities. When people's economic or social interests come into question, the civil society organisations appear as the most important actors by their possible impacts and pressure on the governmental institutions, namely on the state authority. Cooperatives, as earlier mentioned points show, are substantive parts of the civil society thanks to their not-to-profit nature and their role on contributing to economic development. Therefore, it is certain that cooperatives should be included in the processes of political decision-making in their own interests by legally determining them as consultant bodies to be applied obligatorily and furthermore by adopting specific legislations in the light of the global principles, values and aims of the cooperatives as international instruments clearly state.

As it is evident by the instance of OR-KOOP and Türkiye, even though the cooperatives are legally included in the policy-making pro-



cess, this kind of vague and weak requirements may be somehow bypassed during the drafting periods. In this case, having strong, clear constitutional and legal basis for a cooperative association appears as an essential necessity to be able to find alternative ways of influencing, reversing or convincing the political power. OR-KOOP might not be consulted or its opinions on the regulations might not be paid attention; but the other constitutional principles and related legislations on the protection of forestry villagers and their economic conditions helped OR-KOOP to apply to the administrative and legal remedies. As a higher-level central union of cooperatives, OR-KOOP owes this potential to being a voluntarily organised union of the members, as well as to the state's negative and positive obligations on the promotion of cooperatives derived from national and international levels, indeed. As a conclusion, not only the legislations on the structures of cooperatives regarding the international principles, but also the other relative norms considering economic and social conditions of the communities, which the cooperatives may operate for, must exist together in order to guarantee the desirable participation of cooperatives in political decision-making processes.

## VI. Bibliography

- AKBARI DOLATABAD, Mohammad, Mohammad SADEGH EBRAHIMI, and Amir MOZAFAR AMINI. 2022. "Pathology of Rural Production Cooperatives-Evidence from Iran". *International Association of Cooperative Law Journal*, no. 61 (December), 167-84. <https://doi.org/10.18543/baidc.2298>.
- ATMIŞ, Erdoğan, H. Batuhan Günşen and Sezgin Özden. 2009. "Forest cooperatives and its importance in rural poverty reduction in Turkey". *XIII World Forestry Congress*, Buenos Aires, Argentina, 18-23 October 2009.
- BAKIRCI, Fahri. 2015. "Yasama Sürecinin Hızlandırılması ve Sakıncaları". In *Kanun Yapma Tekniği*, Turkish Bar Association, Ankara. <http://tbbyayinlari.barobirlik.org.tr/TBBBooks/545.pdf>
- BIRCH, Anthony H. 1993. *The Concepts and Theories of Modern Democracy*. London: Routledge.
- COUNCIL OF EUROPE COMMITTEE OF MINISTERS. 2017. *Guidelines for Civil Participation in Political Decision making*. Council of Europe CM Documents, CM(2017)83-final.
- CONSTITUTE. The World's Constitutions to Read, Search, and Compare. Accessed July 2022. <https://www.constituteproject.org/>.
- ÇAĞLAR, Yücel. 2014. *Hukuksal Kısaçtaki Ormanlar Ve Ormançılık (Seçme Tartışmalar)*. Ankara: TBB Yayınları. <http://tbbyayinlari.barobirlik.org.tr/TBBBooks/488.pdf>.

- DOUVITSA, Ifigeneia. 2022. "National Constitutions and Cooperatives: An Overview". In *Perspectives on Cooperative Law-Festschrift In Honour of Professor Hagen Henrÿ*, edited by Willy Tadjudje and Ifigeneia Douvitsa, 57-62, Singapore: Springer.
- EBRAHIMI, Mohammad Sadegh, and Mojtaba Ghaediyani. 2021. "Corporate Social Responsibility and Organizational Commitment in Agricultural Cooperatives: Evidence from Iran". *International Association of Cooperative Law Journal*, no. 59 (December), 263-83. <https://doi.org/10.18543/baidc-59-2021pp263-283>.
- ERDÖNMEZ CİHAN AND AYNUR AYDIN COŞKUN A. 2003. "Sustainability in Turkish Forest Legislation and Administration". *XII. World Forestry Congress*, Quebec, Kanada. <http://www.fao.org/3/XII/0072-C1.htm>.
- FOREST PRINCIPLES-REPORT OF THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT, Rio de Janeiro, 3-14 June 1992, Annex III, *Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests*. Accessed July 2022. <https://wrm.org.uy/other-relevant-information/forest-principles-report-of-the-united-nations-conference-on-environment-and-development/>
- GALLARDO-COBOS, Rosa. 2010. "Rural development in the European Union: the concept and the policy". *Agron. colomb.* vol. 28 no. 3, Bogotá Sept./ Dec. 2010.
- INTERNATIONAL CO-OPERATIVE ALLIANCE (ICA). Accessed July 2022. <https://www.ica.coop/en/cooperatives/cooperative-identity>.
- ILO. 2002. Promotion of Cooperatives Recommendation (No: 193). Accessed July 2022. [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100\\_ILO\\_CODE:R193:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:R193:NO).
- ILO. 2001. *Report V (1) (on) Promotion of cooperatives (Decision to revise the Cooperatives (Developing Countries) Recommendation, 1966 (No. 127)*. Accessed July 2022. <https://www.ilo.org/public/english/standards/relm/ilc/ilc89/rep-v-1.htm>.
- KARTHIKEYAN, Muthumariappan and R. Karunakaran. 2018. "Cooperatives as Hybrid Approach to pull off Sustainable Development and Livelihoods: An Analytical Review" (January 25, 2018). Accessed July 2022. <http://dx.doi.org/10.2139/ssrn.3109324>
- KEANE, John. 1988. *Democracy and Civil Society*. London: Verso.
- MEYER, Thomas, and Lewis P. Hinchman. 2002. *Media Democracy: How the Media Colonize Politics*. Cambridge: Polity Press.
- MÜLAYIM, Ziya Gökalp. 1998. "The Fundamental Problems of Turkish Co-operatives and Proposals for Their Solution". *MEDIT*, 4/98, 14-21.
- OAKLEY, Pete and Christopher Garforth. 1985. *Guide to Extension Training: Food And Agriculture Organization of the United Nations*, Rome. <http://www.fao.org/3/t0060e/T0060E00.htm#Contents>
- OKAN, Necret Durukan and Cüneyt Okan. 2003. "An Overview of Cooperatives in Turkey". FAO Regional Office for Europe and Central Asia Policy Studies on Rural Transition No. 2013-3. <http://www.fao.org/3/ar427e/ar427e.pdf>.

- OR-KOOP (Central Union of the Turkish Forestry Cooperatives). Accessed July 2022. <http://www.orkoop.org.tr/kurulus3.html>.
- ÖZDEN, Sezgin and Mehmet Mendeş. 2005. "The usage of multiple correspondence analysis in rural migration analysis". *NEW MEDIT*, 4, 36-41.
- REPUBLIC OF TURKEY CONSTITUTIONAL COURT. TURKISH CONSTITUTIONAL COURT JUDGEMENT (Application N. 2018/104), Decision No 2020/39, 16 July 2020. <https://www.resmigazete.gov.tr/eskiler/2020/11/20201127-7.pdf>.
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE. 8th Chamber (App. N. 2016/14666), Decision No 2018/1116, 28 February 2018.
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE, 8th Chamber (App. N. 2015/4565), Decision No 2019/6084, 26 June 2019.
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE, 8th Chamber (App. N. 2020/6497), Decision No 2021/1884, 30 March 2021.
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE, Plenary Session of Administrative Law Division, (Stay App. No 2016/126), 11 April 2016. (Stay of Execution).
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE, Plenary Session of Administrative Law Division, (App. N. 2018/1893), Decision No 2019/3699, 12 September 2019.
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE, Plenary Session of Administrative Law Division, (App. N. 2019/3415), Decision No 2021/724, 7 April 2021.
- REPUBLIC OF TÜRKİYE COUNCIL OF STATE, Plenary Session of Administrative Law Division, (App. N. 2021/2807), Decision No 2021/3210, 20 December 2021.
- REPUBLIC OF TÜRKİYE. *Cooperatives Law (N. 1163)*. (Turkish original) Accessed July 2022. <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.1163.pdf>.
- REPUBLIC OF TÜRKİYE. *Forest Law (N. 6831)*. (Turkish original) Accessed July 2022. <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.6831.pdf>.
- REPUBLIC OF TÜRKİYE MINISTRY OF CUSTOMS AND TRADE DIRECTORATE GENERAL OF COOPERATIVES. (2012). *Turkish Cooperatives Strategy and Action Plan 2012-2016*. Accessed July 2022. <https://social.un.org/coop-year/documents/Turkish-cooperatives-action-plan2012.pdf>.
- REPUBLIC OF TÜRKİYE. *Regulation on Rules and Procedures for Preparing Legislations (4821)*. Accessed July 2022. <https://www.mevzuat.gov.tr/MevzuatMetin/3.5.20059986.pdf>.
- REPUBLIC OF TÜRKİYE. *Regulation on the Principles and Procedures of Selling Forest Products (6377)*. (Turkish original) Accessed July 2022. <https://www.mevzuat.gov.tr/MevzuatMetin/3.5.20157255.pdf>.
- REPUBLIC OF TÜRKİYE. *The Constitution of the Republic Of Turkey*. Accessed July 2022. [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf).
- SMITH, Stirling. 2014. *Promoting cooperatives: An information guide to ILO Recommendation No.193*. Geneva: Prodoc.
- TARHAN, Mümtaz Derya. 2017. "Renewable Energy Co-operatives and Energy Democracy: A Critical Perspective". *Canadian Association for Studies in Co-operation*, 1-26.

- UNITED NATIONS COMMISSION ON SUSTAINABLE DEVELOPMENT REPORT. ON THE EIGHTH SESSION (30 April 1999 and 24 April-5 May 2000), Economic and Social Council Official Records, 2000 Supplement No. 9.
- UN ECOSOC COMMISSION ON SUSTAINABLE DEVELOPMENT. 2009. "Major groups priorities for action in agriculture, rural development, land, drought, desertification and Africa". Seventeenth session 4-15 May 2009 (E/CN.17/2009/10).
- UN ECOSOC COMMISSION ON SUSTAINABLE DEVELOPMENT. 2009. "Report on the Capacity Development Workshop for Improving Agricultural Productivity, Water-use Efficiency and Rural Livelihoods". Seventeenth session 4-15 May 2009 (E/CN.17/2009/16).
- UN RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY ON 25 SEPTEMBER 2015, "Transforming our world: the 2030 Agenda for Sustainable Development". Accessed July 2022. <https://sdgs.un.org/2030agenda>
- UN FOREST INSTRUMENT. 2008. Non-legally binding instrument on all types of forests: resolution / adopted by the General Assembly A/RES/70/199. Accessed July 2022. <https://www.un.org/esa/forests/documents/un-forest-instrument/index.html>
- VAN DER PLOEG, Jan Douwe, Henk Renting, Gianluca Brunori, Karlheinz Knickel, Joe Mannion and Terry Marsden. (2000). Rural Development : From Practices and Policies towards Theory. *Sociologia Ruralis*, 40(4), 391-408. <https://doi.org/10.1111/1467-9523.00156>
- WHITEMAN, Adrian. 2000. "Promoting rural development through forestry policy: some experiences from developing countries". Presentation to the seminar: *The role of forests and forestry in rural development-implications for forest policy: a contribution to the Work of the Ministerial Conference on the Protection of Forests in Europe*, 5-7 July 2000, Vienna. Accessed July 2022. <http://www.fao.org/3/af302e/af302e.pdf>.
- YÜKSEL, Anıl Güven. 2022 (a). *Toplumsal Yaşama Katılma Hakkı*. İstanbul: On İki Levha Yayıncılık.
- YÜKSEL, Anıl Güven. 2022 (b). "Cooperatives' Role on the Socio-Economic Integration of Forcibly Displaced People". In *Las cooperativas como instrumento de política de empleo ante los nuevos retos del mundo del trabajo*, edited by Francesco J. Arrieta Idiákez, Madrid: Dykinson (ISBN: 978-84-1122-801-5 ).
- WISKERKE, J.S.C., B. B. Bock, M. Stuijver and H. Renting. 2003. "Environmental co-operatives as a new mode of rural governance". *NJAS*, 51-1/2.
- ZITTEL, Thomas. 2007. "Participatory Democracy and Political Participation". In *Participatory Democracy and Political Participation*, edited by Thomas Zittel and Dieter Fuchs, 9-28, Oxon: Routledge.