

THE POLITICS OF PLATFORM COOPERA- TIVISM

A Report by

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About the Institute for Digital Cooperative Economy (ICDE)

The Institute for the Cooperative Digital Economy is dedicated to studying the cooperative digital economy.

Where, when, and how work is done is changing. Advances in artificial intelligence, automation, and data processing continue to shift responsibilities from workers to digital systems. These disruptions are often unpredictable and still unfolding.

To navigate these challenges, we need research that imagines, builds, and explores new visions of a fairer future of work. One starting point is the platform co-op model, which carries the cooperative principles into the digital economy. Platform cooperativism addresses the root causes of systemic inequality and presents a near-term solution for the problems plaguing our economy and democracy.

The cooperative digital economy is an under-researched area in the fields of anthropology, political science, sociology, history, and economics. This emerging field is closely linked with labor studies and cooperative studies. In business schools, this field of study is situated in the areas of finance, entrepreneurship, and organizational studies. In law schools, the pertinent areas are governance and corporate structure.

Acknowledging these research gaps, it is the purpose of the Institute to provide prospective and existing platform co-ops with applied and theoretical knowledge, education, and policy analysis. We are committed to realizing new visions for a fairer future of work grounded in relevant research, driven by imaginative proposals. Initial research questions focus on distributed governance, scaling, marketing, and start-up funding. The ICDE makes this knowledge accessible to diverse audiences in innovative formats.

Through this research, the Institute builds a body of knowledge that advances platform ownership and democratic governance for workers and Internet users alike.

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This report was cooperatively designed by [Keir M-Barnett](#) and [Co-operative News](#)

1.

INTRODUCTION

The Politics of Platform Cooperativism Understanding Political and Legislative Drivers and Obstacles For Platform Cooperativism In the United States, Germany, and France

Introduction

Governments worldwide increasingly employ legislation in order to shape transactions, interactions or employment relationships in the platform economy. In December 2017, the European Court of Justice classified Uber as a transport services company instead of an intermediary, thereby subjecting it to stricter regulation within the entire European Union (EU) (Bowcott 2017). Shortly after, New York City's mayor voted in favor of passing legislation that would cap the number of ride-hail vehicles on its roads (Marshall 2018). In France, the passing of the *Projet de loi d'orientation des mobilités* (Loi LOM) in 2019 ordered labor platforms such as Deliveroo or Uber to stipulate their social responsibilities through charters that would need to be signed by both the platform as well as their riders or drivers (Raffin 2019).¹

The reasons for why governments increasingly tighten their grip on platforms are manifold. In some cases, stronger regulations (or even bans) have emerged in tandem with concerted lobbying efforts of organized interest groups – such as taxi unions or hotel owners – that oppose the ‘platformization’ (Helmond 2015) of their respective industries (Wachsmuth and Weisler 2018; Pentzien 2019b). In other cases, federal governments have felt pressured into updating regulatory frameworks (and associated implementation rules) to counter claims that existing approaches would not adequately capture the platform-based business model, given its purported disruptive features (Katz 2015; Hill 2016). While the drivers behind governmental activity therefore vary, the sheer amount of platform-specific policies implemented in recent years illustrates that governments more and more feel the need to develop new responses to the various challenges associated with the emergence of digital *matchmakers* (Evans and Schmalensee 2016).

Democratically owned and governed platform alternatives such as, for example, platform cooperatives (platform co-ops) were initially seen as potential beneficiaries of such stronger governmental interventions (Scholz 2014; 2016a; 2016b; Scholz and Schneider 2016). In fact, proponents of democratization efforts in the platform economy have

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consistently argued that alternative platforms governed by their users “are unlikely to gain a foothold unless there are barriers in place to restrain better-capitalized competitors that lack the constraint of community accountability” (Schneider 2020). Yet, as of now, these hopes remain unfulfilled. In fact, despite increasing governmental regulations, platform co-ops are still fairly few in numbers – and those that do already operate tend to struggle economically (Schneider 2018b).² To restrain dominant platform incumbents alone, it seems, is therefore not enough to initiate momentum towards a more democratic platform economy.

In response, a variety of scholars have tried to make sense of the problems that platform co-ops face by focusing on inhibiting factors outside the political realm. While some have pointed towards problems inherent to the cooperative model (van Doorn 2017a; Mannan 2018), others have emphasized the decisive role that network and scale effects play in digital markets (Srnicek 2017) or have traced current problems to tensions and contradictions within the platform co-op movement itself (Sandoval 2019). In the process, politics has largely been abandoned as an explanatory factor for the *cul-de-sac* that the movement currently finds itself in. This turn away from politics, however, might have been premature. In fact, the (in-)ability of certain organizational forms to thrive strongly relates to the features of the larger political and institutional contexts that these organizations are embedded in, as many recent studies show. The U.S., for example, has always lacked a comprehensive national cooperative policy and enabling legislative framework, denying them access to public sector economic development tools (Spicer 2018). Germany’s political framework, in turn, has always privileged producer and consumer cooperatives, often at the expense of worker-owned models (Kramer 2003). In addition, studies on the digital economy have similarly shown that institutional path dependencies inhibit or encourage the emergence and proliferation of certain organizational forms, consumption habits, and market dynamics (Mazzucato 2015; Pentzien 2019b).

Platform cooperativism, however, has so far not been analyzed through this lens. To the contrary, the potential of the movement to thrive is primarily discussed through the lens of competition policy, i.e. in relation to the regulatory stance that policymakers take towards the shareholder-oriented platform incumbents. By primarily focusing on the idea of a level playing field, however, other, more structural political and legislative barriers that might inhibit platform cooperativism are by and large neglected. As a result, current attempts at devising policy for platform co-ops have largely tended to disregard institutional and political differences (Platform Cooperativism Consortium 2018; Schneider 2020), implying that beneficial frameworks would look similar no matter the context (Kagel et al. 2018).

To rectify this, context needs to be reinserted into our analyses. In fact, to better understand how democratically governed platform alternatives could thrive, we need

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to move beyond investigating platform cooperativism as a unified global whole, towards an analysis that also treats it as a product of its particular socio-political context. To achieve this, the political embeddedness of platform co-ops would need to be approached from two directions. In a first step, we would need to ask what kind of political obstacles platform co-ops in different contexts face, i.e. investigating policy through the lens of the platforms. In a second step, we would need to ask how states act in and shape the policy fields that platform co-ops are affected by, i.e. investigating policy through the lens of the policymakers. By comparing both platform perception and governmental activity across heterogeneous contexts, we are then able to identify commonalities and differences. This, in turn, would simultaneously allow us to take seriously the fact that platform co-ops face different obstacles in different political contexts, and to identify policy recommendations that transcend context and might therefore even be translated from one context into another.

In order to push forward such a research agenda, this study identifies political and legislative drivers and obstacles for platform co-ops (i.e. the politics of platform cooperativism) in three heterogeneous political contexts – the United States (U.S.), Germany, and France. Based on expert interviews and a comparative policy analysis, the study increases our understanding of the obstacles that democratically owned and governed platforms in these three countries face, as well as at sketching out possible ways for addressing them. As such, the study not only helps to enhance our understanding of co-op-specific state-market-relations in the platform economy, but also, from a transdisciplinary point of view, to gain a better understanding of the policies that work in order to strengthen the emergence of platform co-ops – and the ones that do not. Taken together, the following overarching research questions guide the investigation: *What are the political and legislative drivers and obstacles for platform cooperativism in the U.S., Germany, and France? Which governmental activities are more or less beneficial for the emergence and proliferation of platform cooperativism?*

These questions will be addressed in the following way: Section 2 delineates the analytical scope of the study and introduces a theoretical framework that allows for identifying the politics of platform cooperativism. Section 3 outlines the methods used throughout the data gathering process. Section 4 draws upon the theoretical framework developed in Section 2 to analyze and compare the politics of platform cooperativism in the U.S., Germany, and France. Sections 5 and 6 then discuss these results and conclude the study by outlining possible next steps for policymakers in order to improve the framework conditions for platform co-ops.

2.

THEORY &
RESEARCH
DESIGN: THE
POLITICS OF
PLATFORM
COOPERATIVISM

Theory & Research Design: the Politics of Platform Cooperativism

Platform cooperativism constitutes a rather recent phenomenon (Orsi 2012; Scholz 2014) for which so far very little academic research has been carried out. In addition, platform co-ops are not clearly defined legal entities subject to many direct governmental regulations. Scholars interested in the political embeddedness of platform cooperativism are therefore faced with analytical uncertainty concerning both the phenomenon's overall size and scope and its relationship to policy. To provide clarity regarding this, Section 2 develops a theoretical framework capable of analyzing the politics of platform cooperativism in a thorough fashion. To this end, the following sections discuss (2.1) the comparative design that is employed; (2.2) the policy fields that constitute the politics of platform cooperativism; and (2.3) the relevant legislation and governmental activity within these policy fields.

2.1. Comparative Design and Case Studies

Current research on governmental activity surrounding the platform economy has demonstrated that local, federal, and supra-national policymaking processes can still have a substantial impact on the shape and form the platform economy takes in a given territory (Thelen 2018; Pentzien 2019b; Schneider 2020). This has complicated the widely accepted notion that the capacity of governments to enforce legislation has diminished due to the rise of globally operating digital platforms (Pasquale 2018; Morozov and Bria 2018). By pointing towards the 'stickiness' of the state, these studies have pointed out that there is not one fully globalized platform economy, but rather a variety of interconnected platform economies that differ, for example, according to the level of platform-specific state intervention found in a given institutional context. Hence, 'politics' constitutes an important variable with which to explain different trajectories of 'platformization'.

To account for this importance of different trajectories, the study employs a 'most different systems case'-design (Collier 1993) that investigates the politics of platform cooperativism across heterogeneous political contexts. To focus on differences is advisable when one aims at understanding how comparable developments – in our case, the emergence of platform co-ops – unfold in heterogeneous contexts (Skocpol 1979). Institutional and political heterogeneity can express itself in different ways. For example, in the case of platform cooperativism, we would expect to see differences regarding

both the particular ways in which co-ops are set up (due to, for example, differences in incorporation legislation), as well as the horizons of possibility they face (due to, for example, differences in the kind of funding that these organizations have access to).

Concerning cases, our interest in how political-economic arrangements affect particular organizational forms prompts us to choose countries that vary in reference to how state and market relate to one another within a country's territorial borders. One theoretical framework that allows for this is the Varieties of Capitalism-approach (VoC) (Hall and Soskice 2001; Howell 2003), which typologizes variance across capitalist market economies. VoC postulates two main hypotheses: (a) that distinct types of market economies can be distinguished by the way in which firms coordinate with each other and other actors, such as the state; and (b) that specific state-market arrangements push companies toward particular kinds of corporate strategies. Within this framework, Germany is usually typologized as an example for a coordinated market economy (characterized by a *corporatist* logic), while the U.S. is typologized as an exemplary case for a liberal market economy (characterized by a *laissez-faire* logic). France, in turn, is oftentimes seen as its own third model: a so-called 'centralized market economy' characterized by a high level of state intervention (Fioretos 2011; Schmidt 2017). Due to these institutional differences, the U.S., Germany, and France constitute adequate cases for a 'most-different systems case'-research design.

Lastly, the countries in question need to have a sizable amount of platform co-ops that operate within their territories. This holds true for the U.S., Germany, and France: each of the countries has not only seen the emergence of a comparatively high number of platform co-ops,³ but also of a larger ecosystem that specifically aims at supporting the founding of and interactions between existing platform co-ops.⁴

In sum, using a 'most different systems cases'-design for comparing the politics of platform cooperativism in heterogeneous market economies with a sizable amount of active platform co-ops allows for two things: to identify drivers and barriers for platform co-ops in a context-specific fashion and – by looking for commonalities and differences –, to determine more or less beneficial policies and governmental activities for the emergence and proliferation of these particular organizations.

2.2. Policy Fields

In public policy studies, policy fields oftentimes tend to be equated with the areas of ministerial responsibility that exist in a given context (for an historical overview see Bergemann et al. 2016). Following this logic, digital policy, for example, becomes a policy field only in the moment that governments start to appoint digital ministers. Recent contributions have challenged this understanding, criticizing it as 'essentialist' (Loer,

Reiter, and Töller 2015; Haunss 2016). In order to develop a de-essentialized approach, scholars have focused more on the narratives based on which certain policy issues are framed, the co-constitutive practices (between, for example, consumers, policymakers and corporations) that delineate these issues as well as the (institutional) factors that ultimately serve to solidify them as fields. In this context, policy fields have been defined more broadly as “a specific long-term constellation of interrelated problems, actors, institutions and measures” (Böcher and Töller 2012).

In recent years, these insights have increasingly been applied to the context of the platform economy. Scholars from the field of legal studies in particular have analyzed the measures, i.e. the concrete policies, that governments implement to shape platform-based interactions and transactions, thereby distinguishing the emerging policy field of platform policy from related (but nevertheless at times overlapping) fields such as digital or internet policy (Lobel 2016; Cohen 2017; Davidson, Finck, and Infranca 2018; Pentzien 2019a). This study takes these valuable contributions on platform-specific policy measures as its starting point, expanding on them with a thorough analysis of the politics of platform cooperativism.

At the intersection of which policy fields then does platform cooperativism emerge? To provide answers, a deeper insight into the individual components that make up this new phenomenon is required. Following van Doorn, platform cooperativism can best be described as an economic movement that combines “an organizational structure with a storied tradition (the cooperative model) and a relatively novel computational architecture that doubles as a business model (the platform), which together promise to transform how value is produced and distributed in the digital economy” (2017b). Put differently, a platform co-op is simultaneously three things: a digital platform, a cooperative, and a novel category that derives from the specific *combination* of both of these elements. Thus, when reformulating van Doorn’s preliminary definition as a policy-oriented analytical heuristic, three separate but interlinked policy fields (some already solidified, others in the process of becoming) come into view:

The field of *cooperative policy*, which incorporates all governmental activity and legislation directed at the legal entity of the cooperative. This policy field is both well established and theorized. In addition, cooperative-specific policies are implemented in almost all countries across the globe.

The field of *platform policy*, which incorporates all governmental activity and legislation directed at the new business model of the digital platform. While this policy field is theorized more and more (see above), governments have only recently started to formulate policy in a platform-specific fashion.

The field of *platform co-op policy*, which incorporates all governmental activity and legislation that addresses the specific role of the cooperative model within the context of the digital platform economy. Contrary to the first two fields, this policy field is currently neither theorized nor codified in law. Nevertheless, given the increasing attention given to democratization processes in the platform economy, this could change in the future.

The sum of all identifiable legislation and governmental activity within these three policy fields then constitutes the study's research object. Everything located *outside* of these policy fields is outside of the scope of the analysis.

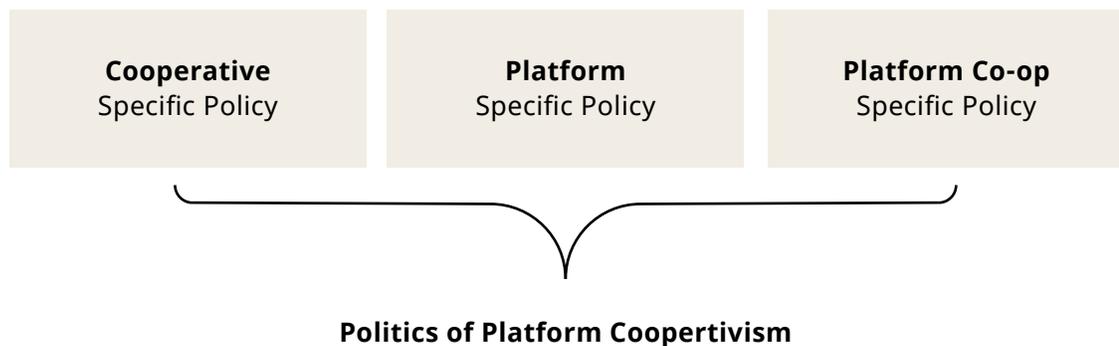


FIGURE 1

Policy Fields of the Politics of Platform Cooperativism

2.3. Legislation and Governmental Activity

Policy fields tend to vary in size, scope and associated institutions and actors. While some incorporate countless areas of law, others span only few legislations. What then is the legislation and governmental activity within these three policy fields relevant for platform cooperativism? Moreover, how can we separate relevant from irrelevant legislation? To provide answers, the study, in a first step, distinguishes two types of 'politics' that both hold relevance for understanding political and legislative obstacles. In a narrower sense, 'politics' is understood as the legally-binding activity of governing on the basis of 'hard law' (Schaffer and Pollack 2010), i.e. the specification, passing and enforcement of regulations or the setting of taxation rules (Dicken 2015; Mazzucato 2015; Vormann and Lammert 2019). While such legally binding and formalized activities constitute the

main interest of the study, it is nevertheless also important to take into account⁵ activities oftentimes considered as 'soft law', i.e. the writing of public loans guidelines, the use of procurement, or the specification of corporate governance codes. The expression 'political and legislative drivers and obstacles' is used throughout the study to indicate that both 'hard' and 'soft' forms of governmental activity are taken into account.

While hypothetically speaking all 'hard' and 'soft' forms of governmental activity within the three policy fields identified above (cooperative policy; platform policy; platform co-op policy) might affect platform co-ops, this is not a given. Hence, in a second step, it is important to – where possible – narrow down relevant legislation and governmental activity within the previously identified policy fields.

Cooperative-Specific Legislation and Governmental Activity

For Policy Field 1, relevant legislation and governmental activity relates to two areas of law: taxation law and cooperative law. The former is important because many countries provide tax incentives for organizations that incorporate as cooperatives. Consequently, researchers interested in the politics of platform cooperativism need to investigate the specifications made for cooperatives in a given country's (corporate) tax code. The latter, in turn, is important because cooperative-specific legal statutes (concerning, for example, incorporation rules) do exist in most countries. Hence, a country's cooperative code, if existent, would need to be analyzed regarding its possible impact on platform co-ops.

Cooperative-specific statutes, however, oftentimes recognize different types of cooperatives. In many countries, legislation is specified accordingly. Types of cooperatives can be differentiated according to the particular activities and interactions that these organizations facilitate. Producer cooperatives and consumer cooperatives, for example, aim at bringing together independent member economies (such as individual households, small businesses or even large enterprises) that then collectively pursue the goal of realizing certain services or activities (such as buying or selling) which they could not have realized the same way (or, for example, at the same price) had each member economy acted individually. Worker cooperatives, on the other hand, aim at facilitating a joint production and distribution of goods and services. Here, the cooperative primarily serves the purpose of creating a source of income for its members. Consequently, the cooperative's employees are simultaneously also the cooperative's members (USFWC – U.S. Federation of Worker Cooperatives 2019).

In theory, a platform co-op could facilitate exactly the same activities that non-platform cooperatives facilitate. As such, hypothetically, each policy addressing *any* of these activities would need to be taken into account. To narrow down relevant legislation directed at the legal form of the cooperative, the data gathered for the study has been subjected to a rough initial screening to get an idea of how existing platform co-ops incorporate. Through this, it became visible that most platform co-ops in the U.S.,

Germany, and France either operate (a) as *worker cooperatives* (that employ a digital platform as a tool with which to organize labor-related activities similar to those of an offline worker cooperative); or (b) as *multi-stakeholder cooperatives* (that employ a digital platform as a tool with which to facilitate interactions between heterogeneous member classes, such as investors, governments, or workers). Hence, where cooperative law distinguishes types of cooperatives (such as producer cooperatives, consumer cooperatives, or credit unions) and specifies regulations accordingly, the study focuses only on those governmental activities that directly affect worker cooperatives and multi-stakeholder cooperatives.⁶ In turn, where the law does not differentiate, cooperative law as a whole is taken into account.

Platform-Specific Legislation and Governmental Activity

In recent years, platforms have increasingly become the subject of governmental activity (Lobel 2016; Cohen 2017; Davidson, Finck, and Infranca 2018). Yet, most of this activity has been of an indirect nature, i.e. it is based on the amendment or rewriting of already existing statutes. In fact, due to the widely accepted principle of ‘technology neutrality’ (Maxwell and Bourreau 2014), only few policies explicitly target the business model of the platform. The European Data Protection Regulation (GDPR), for example, targets all activities in the digital sphere, not the activities of platforms in particular. For scholars interested in platform law, it is therefore equally important to look for the *indirect* impact of existing legislation (such as, for example, labor law, consumer protection law or antitrust law) than it is to look for the impact of direct legislation. How to account for this? Most importantly, to identify the policies that affect a category that itself is not a *legal* category (the digital platform) presupposes its compartmentalization into subsets that can then be analyzed from the perspective of the law (Howlett and Cashore 2014). To this end, the study deduces governmental activity associated with platform law from three central functions that platforms exhibit (see also Pentzien 2019a)

- (1) Digital platforms are intermediary digital infrastructures (so-called matchmakers) that create value by coordinating interactions and transactions between two or more distinct groups of users (Evans and Schmalensee 2007; Kenney and Zysman 2016). As such, platforms not only create platform-internal markets, but also determine the rules of interaction within. Yet, they do not do so in a lawless environment. To the contrary, states increasingly try to influence how platforms specify these rules. The German Netzwerkdurchsetzungsgesetz (NetzDG), for example, determines platform liability concerning hate speech. The French Loi LOM orders labor platforms to stipulate their social responsibilities towards their users through mutually signed charters. Thus, to identify platform law, all state activity directed at platform-internal rule setting needs to be taken

into account. Labor law, intermediary liability law and consumer protection law constitute the primary areas of law which governments can mobilize to determine what platforms can and cannot do in regards to the internal relations they facilitate.

- (2) Digital platforms also exhibit external relations, given that they facilitate interactions in (and in competition with) specific markets. Airbnb, for example, is not only a marketplace itself, but also competes with other providers and platforms in the overnight accommodation sector. Due to platform-specific dynamics such as network, scale or lock-in effects, these industries/markets tend to be characterized by monopolization tendencies, potentially leading to decreased competition and associated negative effects on consumers (Srnicek 2017). Many states have tried to address these industry-wide impacts of platforms through policy. The 2020 update of German competition law statutes, for example, implements stricter guidelines to determine monopoly power in digital markets (BMW 2020). The French Digital Services Tax, in turn, lessens the tax disadvantages for non-platform-based companies. Thus, to identify platform law, all governmental activity directed at shaping platforms at the industry level is of relevance. Competition law, taxation law and labor law constitute the primary areas of law that governments mobilize to address the impact of platforms on the market or industry level.
- (3) Lastly, digital platforms are particularly suited to extracting data, as they position themselves between multiple information holders (Zuboff 2019). This data can be analyzed and sold as a commodity. As a result, platforms compete with functionally similar as well as with functionally different platforms in the market for data sourcing, refining, and selling. States increasingly try to structure this flow of data. The European General Data Protection Regulation (GDPR) constitutes an example for activity that aims at determining limits to what platforms can do with the data they accumulate. The planned novelization of the ePrivacy Directive will follow suit. Hence, all state activity directed at the flow of data needs to be taken into account as part of platform law. So far, data privacy law and taxation law have emerged as the primary areas that governments mobilize to address how platforms source, refine, and sell data.

Based on these considerations, platform policy (Policy Field 2) incorporates legislation and governmental activity relating to six areas of law: labor law, competition law, taxation law, intermediary liability law, consumer protection law, and data privacy law. Based on a first screening of the data gathered for this report, these six areas can be narrowed

down even further when focusing only on the politics of platform cooperativism. As intermediary liability law, consumer protection law and data privacy law do not (yet) appear to directly affect platform co-ops on the ground, these three areas of law are disregarded as part of this study.

Platform Co-op-Specific Legislation and Governmental Activity

Given that Policy Field 3 encompasses only the very legislation and governmental activity that is written and enacted *specifically* for platform co-ops, narrowing down relevant legislation and governmental activity within this field would be circular reasoning. Yet, based on an initial exploratory screening of the data gathered for the report, we see that

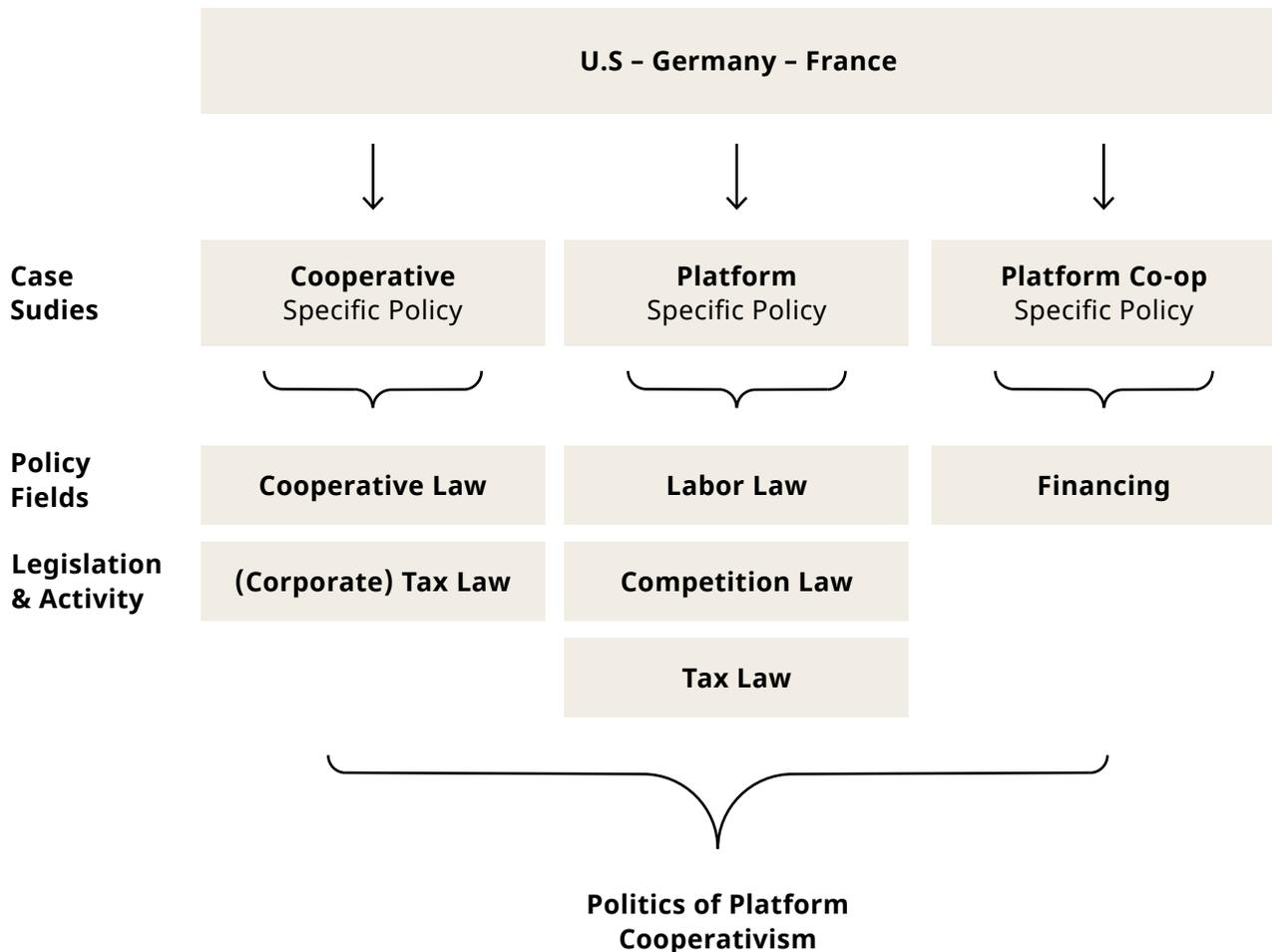


FIGURE 2

Theoretical Framework for Analyzing the Politics of Platform Cooperativism

2. THEORY & RESEARCH DESIGN: THE POLITICS OF PLATFORM COOPERATIVISM

the only governmental activity that directly affects platform co-ops are financing-related, for example public procurement or the establishment of platform-specific loan programs. No other legislation or governmental activity explicitly addressing platform cooperativism seems to have emerged in the three countries analyzed here so far.

When combining the relevant legislation and governmental activities within these three policy fields, five specific areas of law (with their associated sets of legislation and governmental activities) come into view: cooperative law (with a particular focus on the specificities of worker and multi-stakeholder cooperatives as well as on incorporation statutes), taxation law (with a specific focus on corporate taxation law and its specifications for cooperatives), labor law, competition law (with a specific focus on its provisions for cooperatives), and financing (with a specific focus on platform co-op specific procurement). Together, these five areas of law constitute the analytical boundaries of the politics of platform cooperativism. Figure 2 brings the three conceptual dimensions discussed here together, thereby illustrating the entirety of the theoretical framework for analyzing the politics of platform cooperativism.

The background is an abstract composition of three main color fields: a bright yellow field at the top, a vibrant red field at the top right, and a large, textured blue field at the bottom. The boundaries between these colors are irregular and organic, resembling torn paper or liquid splashes. The blue field has a fine, grid-like texture.

3.

METHODS

3. Methods

As outlined in Section 1, this study approaches the political embeddedness of platform cooperativism in two ways. First, by analyzing how platform co-ops in the U.S., Germany, and France *perceive* political and legislative drivers and obstacles. Perception is key, because platform cooperativism constitutes a rather recent phenomenon, for which it is difficult to identify relevant legislation and governmental activity in a purely deductive fashion. Concerning methods, qualitative interviews are well suited for taking an inductive approach to how certain actors or groups perceive their framework conditions. Second, by analyzing the actual tools that states employ to shape the policy fields that platform co-ops are affected by. To complement platform perception in this fashion is necessary because focusing on platform perception alone might obscure certain legal elements. In fact, there might be relevant policies that platform co-ops do not yet perceive. From a methods-perspective, a desk research-based policy analysis (as part of which *all* legislation and governmental activity, not only that mentioned by platform co-ops, relating to the five areas of law outlined in Section 2 is screened) is well suited for incorporating such an explicitly state-oriented perspective into the analysis.

Based on these considerations, data for this study has been gathered in a two-folded fashion. In a first step, experts were consulted based on semi-structured interviews. This allowed for asking those directly affected by governmental activity for the legislations that appear most relevant to them. As part of this approach, two groups of experts were differentiated: the first group consisted of founders, members and employees of platform co-ops – people with first-hand experience of either building a platform co-op from the ground up or with participating in a platform co-op as a member. The second group consisted of experts on and activists within the field of platform cooperativism – people that might *not* have first-hand experience in building a platform, but who would nevertheless have insights into the political context of platform cooperativism (for example due to their positioning in the movement).

In preparation for the interviews, two separate guidelines were developed, each addressing one of the two groups and each aiming at identifying the policies that the interviewee in question felt to be of particular importance. Relevant interview partners were then identified by browsing the 'data sources'-file of the PlatformCoop Directory (Internet of Ownership 2020). Sorting the data of the directory by country (excluding all those not located either in the U.S., Germany, or France), by organizational form (excluding all those not self-describing as platform co-ops), and by status (excluding all those that self-described/were described as 'closed', 'dormant' or 'concept') yielded 56 results. These results were screened once more manually for relevance. Of the 56

3. METHODS

identified platform co-ops, around 30 were contacted for interviews (excluding those that seemed furthest away from the concept of platform cooperativism as outlined above). In addition, two to three ecosystem experts or activists (depending on the country) were contacted per country in order to gain a bird's eye-perspective on the movement in the particular country. In contrast to the database query, these experts were either recommended through personal contacts or identified based on a web search. In total, around 35 individuals were contacted for an interview.⁷

Between April and October 2019, 15 in-depth interviews were conducted, each one lasting between 60 and 150 minutes. Of the 15 interviews, six interviews were conducted in the U.S. (five interviews with founders, one with an ecosystem activist), three interviews in France (two interviews with founders, one with an ecosystem activist) and six interviews in Germany (four interviews with founders, two with ecosystem activists). Transcripts of the results were synthesized based on a code system developed as part of the preparation of the guidelines. The data set was then screened twice: first in a rough fashion, in order to narrow down the relevant areas of law and associated legislation and governmental activity. Second in a more in-depth fashion, focusing on the drivers and obstacles that the platform co-ops perceived.

Subsequently, a literature-based policy analysis focusing on the political framework for platform cooperativism was conducted. Based on the theoretical framework developed in the previous section, a rough screening of *all* legislation and governmental activity in the five relevant areas of law (cooperative law, labor law, competition law, taxation law, financing) was conducted, with a view towards how these activities would affect platform co-ops. Primary source for identifying relevant policies and for understanding their possible impacts on platform cooperativism were the databases of the respective federal governments as well as news websites with a specific focus on the intersection of law and digital economy/platform cooperativism such as *netzpolitik.org* (for the German context), *droitdupartage.com* (for the French context) and *techpolicy.com* (for the U.S. context). Given that two of the countries analyzed here are member states of the European Union, the results were complemented with a rough screening of platform-specific regulation on the European level. In sum, taking such a bird's-eye perspective allowed a) to identify legislation that might impact platform co-ops at some point in time but has not yet done so; and b) to cross-check the respondents' claims. Approaching the research question in two different ways therefore allowed to make sure that all policies relevant to platform cooperativism were identified.

4.

ANALYSIS:
POLITICAL AND
LEGISLATIVE
DRIVERS
AND OBSTACLES

Analysis: Political and Legislative Drivers and Obstacles

In the following three subsections, political and legislative drivers and obstacles for platform cooperativism in the U.S., Germany, and France are discussed. Each subsection begins with a short overview on the country's cooperative ecosystem and then proceeds to discuss – where applicable – drivers and obstacles relating to cooperative law, labor law, competition law, taxation law and financing mechanisms, focusing on both 'hard' and 'soft' law. A table at the end of each section summarizes the main results.

4.1. U.S.

While there is a rich history of cooperativism in the U.S. spanning a multitude of sectors and organizational forms – among them electric cooperatives, farm cooperatives and credit unions (for an overview of the history of cooperativism, see also Schneider 2018a) –, most of the platform co-ops that have emerged in recent years locate themselves in debates around the so-called *gig economy*, primarily addressing the question of (platform) labor. *Up & Go*, for example, provides software for cleaning cooperatives in New York City, allowing them to jointly offer their services. *Obran* from Baltimore functions as a cooperative conglomerate corporation that acquires and holds small to medium size businesses and real estate on behalf of its worker-owners, incentivizing economic interactions between heterogeneous social groups. As such, worker cooperativism and worker ownership – concepts that can be traced back to the early labor movement and the 1880s, when the Knights of Labor helped organize hundreds of worker cooperatives (Michael 2018) – constitute the primary ideas around which the discourse on platform alternatives in the U.S. is structured.⁸ Contrary to Germany and France, only a few platform co-ops in the U.S. consider themselves *matchmakers* (Evans and Schmalensee 2016), i.e. digital marketplaces that allow each and everyone to offer their services (for a typology that differentiates worker cooperatives from cooperative digital infrastructures, see also Pentzien 2020). Based on the information provided by the Internet of Ownership-registry and the websites of the different platform co-ops in the U.S., only *Ampled* could be considered an example of a traditional matchmaker.

Throughout this section, the following regulatory obstacles and political drivers for platform co-ops are discussed: obstacles associated with (1) the particularities of cooperative law; (2) federal labor law, including particular protection rules; (3) federal competition law; (4) federal taxation-rules; and (5) a driver derived from a public loan program that incentivizes coop conversion.

Cooperative Law

In the U.S., statutes for cooperative corporations differ greatly from state to state.⁹ The State Cooperative Statute Library (USDA Rural Business Cooperative Service 2019) shows that out of the 50 states and the District of Columbia, 33 have implemented some form of code for cooperative corporations. Given the differences in these statutes concerning important aspects such as, for example, how the purpose of a cooperative is defined or what kind of membership classes are allowed in a cooperative corporation, it is difficult for platform co-ops to gather relevant information on how and especially *where* to incorporate in order so that their specific needs are being met. The varieties of cooperative statutes are simply confusing to founders.

»There definitely needs to be an easier way to just learn about this stuff. There's an information gap, for sure (...) I mean, there is so little information. You know, I found myself watching YouTube-videos with 4 views (...). And like, I feel like I'm at the bottom of the Internet and in some PDF about some front store coop. There's a big lack of information and, it's like, if you're trying to close an information gap, it's difficult to figure out where to go and where to do that.« (Interview 4, 01:02:30).¹⁰

The work of co-op incubators such as Start.Coop, however, seems to have brought more clarity to the debate in recent years. In fact, many of the recently incorporated platform co-ops – among them *Savvy* and *Obran* – have done so in Colorado, the purported “Delaware for Cooperative Law” (Wiener and Phillips 2018). The reason for why Colorado’s statutes are particularly appealing for platform co-ops can be traced to Article 58 of the state’s cooperative statutes, the *Uniform Limited Cooperative Association Act* (ULCAA). Implemented in 2012, the ULCAA allows for creating “unincorporated cooperative associations that seek to combine the traditional cooperative principles with more flexible capital structures, such as allowing for voting patronage membership stock in addition to voting investor membership stock” (Wiener and Phillips 2019). As part of this act, a new type of cooperative has been incorporated into the state’s statutes: the so-called *Limited Cooperative Association* (LCA). Contrary to an Article 55 or 56 non-LCA Colorado cooperative, this LCA-model allows for integrating multiple stakeholder classes into the cooperative, expanding the notions of who can claim cooperative ownership. For example, while previously non-members were prohibited from receiving voting rights, Article 58 Cooperatives are now able to grant voting rights to a separate group of so-called ‘investor-members’. In the eyes of Interview 2, this option of integrating an investor class into the cooperative makes it easier to bring in outside capital and, consequently, to operate “more like a start-up” (Interview 2, 32:06).

This turn towards more flexible capital structures marks a clear break with how cooperative corporations have traditionally operated, in Colorado and elsewhere.

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As such, it has also been controversially discussed within the co-op sector. Proponents, on one hand, see the ULCAA as a tool for broadening co-op ownership and enhancing the legal options available for addressing the so-called ‘capital conundrum’ – the question of how to access ‘coop-friendly capital’ without needing to resort to workarounds (such as, for example, founding secondary organizations that are allowed to take in capital) (Borkin 2019; Bibby 2014).

»So we gotten over the kind of [reason] why co-ops are [not] funded [and] it's because there's no upside to investors. (...) But now, we also have an investor class, or Class B. External investments. That Class B membership yields about 8 percent, a targeted dividend of 8 percent off of the purchase price of any stock.« (Interview 2, 21:49).

Opponents, on the other hand, have argued that, due to the coupling of voting rights to equity, this new legal structure might even stand in opposition to the fundamental cooperative principles as defined by the International Cooperative Alliance. Some of these critics have even gone as far as considering the act a type of “trojan horse” (Luschin 2010) that undermines the cooperative idea and facilitates ‘co-op washing,’ i.e. allowing organizations that do not actually operate as cooperatives to carry that name.¹¹

In practice, the LCA-based platform co-ops interviewed for this study have downplayed these dangers, arguing that the relation between investor-members and owner-members had so far not undermined decision-making in their boards.

»That Class B membership (...) [t]hey have two representatives on the board. These people [referring to the worker-members of the cooperative] have 7 representatives on the board. The board consists of 9 people total. So for us, (...) investors have a say and (...), like they have bonds, but they just don't have a majority or anything like that (...). So they cannot sell anything.« (Interview 2, 24:11).

To determine if the ULCAA encourages ‘co-op washing’ or not is outside of the scope of this study. What is important to note, however, is that the ULCAA seems to meet a variety of needs in the cooperative ecosystem, namely the need of platform co-ops to bring in outside capital and ensure multistakeholder flexibility as well as the need of potential investors to not only receive a return on investment, but to also have some sort of say in the decision-making process of the cooperative. As such, the ULCAA, on one hand, provides an adequate legal framework for cooperatives who want to foster stakeholder flexibility, while simultaneously making visible larger conflicts around the role that cooperatives can and should play in (digital) markets driven by venture capital, network effects, and a need for scaling. From a legislative point of view this conflictive situation could be addressed by clarifying de-minimum requirements that LCAs need to meet in order to guarantee that patrons remain in control of the board of directors. More concretely, policymakers in Colorado (and elsewhere) would do well to clarify further how

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patron control can be strengthened within the statutes of the ULCAA, while maintaining the benefits that the integration of ‘investor-members’ brings with it.

Labor Law & Protection Rules

As argued above, many of the platform co-ops that have emerged in the U.S. in recent years – such as *Obran*, *Up & Go* or *Loconomics* – consider themselves either to be worker cooperatives or to at least operate in this tradition. Labor law therefore plays an important role in defining the framework conditions under which all of these platforms operate, both as a driver *and* as an obstacle for the proliferation of platform cooperativism. Rather counter-intuitively, the very *absence* of labor regulations has encouraged the establishment of many platform co-ops. In fact, according to the interviewees, labor law in the U.S. has been ‘hollowed-out’ so substantially in recent decades that cooperativism, for many workers, has virtually come to constitute one of the only ways in which they can protect the value of their labor force in the context of the platform economy.

»Regulation, labor law isn't really the solution. Here [in the U.S.], there's this very fraud labor law as it is, but it's absolutely not enforced. And this comes from the Republicans who underfunded the Department of Labor so that it would take 200 years to (...) monitor the biggest American companies. It's strategically underfunded, so that they can't do that anymore.« (Interview 4, 14:03).

Put differently, many workers in the context of the digital economy (and beyond) have been pushed towards alternative ownership structures precisely due to the insufficiency of the country's labor law (see also Scholz 2016b). Some go even further, arguing that the ability for labor to organize in the U.S. has actively been undermined by the courts. Regarding this, the reversal of the Janus-decision has been brought up several times. In their *Janus v. American Federation of State, County, and Municipal Employees* decision, the U.S. Supreme Court ruled that union fees in the public sector would violate the right to free speech, therewith overturning the 1977 decision in *Abood v. Detroit Board of Education* that had previously allowed such fees (Rehmus and Kerner 1980). Through this, from one day to the other, the Supreme Court's decision made it impossible for unions to take fees from people who are not explicit members of the union, virtually cutting their income into half. Given that various founders and members interviewed for this study have argued that the reason for which they had decided to start a platform co-op in the first place lies in the weakened labor law and its ineffectiveness in the context of increasing ‘platformization,’ the emergence of platform cooperativism in the U.S. cannot be decoupled from such developments. Put differently, the ‘hollowed-out’ labor law has played an important role in creating the breeding ground on which platform co-ops emerge.

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Yet, labor law also acts as an *obstacle* for platform cooperativism. Many of the interviewees feel that current labor law regulations further solidify the unlevel playing field of the platform economy. If labor law was adapted to the context of the platform economy and enforced properly, these interviewees argue, platform co-ops (particularly those that focus on facilitating local interactions and transactions) would actually be able to economically compete with and maybe even provide a better alternative to the incumbent platforms. Because if incumbent platforms such as Handy, Uber, or Lyft not only had to re-classify and therewith fully employ their freelancers, it would be more difficult for them to continue their venture capital-backed 'race to the bottom'-strategy (Srnicek 2017). In the eyes of the founders and members of platform co-ops, enforcing labor law more strongly therefore constitutes one promising avenue for levelling the playing field in the platform economy.

In recent months, the implementation of Assembly Bill 5 (AB5) in California has brought a new dynamism to this debate. As a reaction to a ruling by the state's supreme court (known as the *Dynamex*-case), the state's senate passed a bill in early 2020 that mandated the use of a new test (the so-called ABC-test) for whether a worker should be considered an employee or not (Conger and Scheiber 2019). By introducing a stricter standard for proving that a person is *not* to be considered an employee – which goes well beyond the standard of proof codified in federal law –, the bill is expected to have far-reaching implications for employment relations in the gig economy. Because if applied state-wide, many of the so-called 'gig workers' in California might need to be re-classified as employees, which would, ultimately, entitle them to benefits like health care, minimum wage and paid time off. As such, the bill constitutes one of the most substantial attempts worldwide at directly addressing so-called gig economy-platforms and their impact on working conditions.

As a response, some of the state's largest gig platforms – among them Uber, Lyft, Doordash and Instacart – announced the creation of a \$90 million-dollar fund (a fund which almost doubled throughout 2020) aimed at passing a ballot initiative which would essentially exempt these platforms from the law (Conger 2019). More concretely, this initiative – also called California Proposition 22 or the *App-Based Drivers as Contractors and Labor Policies Initiative* – proposes an entirely different classification system, which would, on one hand, guarantee gig workers a higher minimum wage and access to health insurance schemes, while, on the other hand, solidifying their independent contractor status. This strong opposition to AB5 from the major gig platforms hardly comes as a surprise: as California is both one of the largest states in size and in terms of the economy, the passing of the bill might come to influence legislation in other states. In fact, the bill could set a new bar for worker protections and force business owners to rethink their reliance on contractors, thereby constituting a substantial threat to the entire business model of gig economy platforms. From a platform co-op perspective, the application of the ABC-test – and the subsequent re-classification of gig workers in California – could therefore constitute an important step towards

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a level playing field, potentially even opening up entirely new possibilities for worker ownership.

Beyond classification, the specification of protection rules – such as worker’s compensation – for workers and independent contractors constitutes another important labor law-related obstacle for platform cooperativism. In most U.S. states, worker’s compensation, an insurance that provides wage replacement and medical benefits to employees injured in the course of employment, is mandatory for members of worker cooperatives, given that members are simultaneously also classified as employees/workers. While this is positive in the sense that it leaves the workers of a cooperative more protected in the case of an accident, it can nevertheless also create problems for small and medium sized cooperatives that do not have the economic means to provide this type of compensation.

»Workman's [sic] compensation for [us] is a terrible problem. Because in our country, workmen's compensation is mandatory for membership, for workers. If not, if somebody gets hurts on the job, I get sued, personally, through the sole membership in the holding. So the workmen's compensation problem is like a real problem. [And] that's a state law (...).« (Interview 2, 50:46).

In other words, the particularities of the legal form of the cooperative create difficulties for small cooperative corporations to adequately adhere to the worker’s compensation statutes. This problem has become particularly apparent in recent years in the State of California. In 2016, the state passed law Assembly Bill 2883, which required the insurance policies of all worker cooperatives to also cover working members – many of whom were previously excluded from coverage. While these exemptions remained in place for Limited Liability Companies (LLCs) and other types of partnerships, AB 2883 did not preserve this rule for cooperative corporations. As a result, many cooperative corporations had to adapt their business model and financing structures to accommodate for these new regulations.

Recent developments, however, appear to have addressed this particular problem. In 2018, California passed an amendment to the law (SB 189) that includes a provision allowing cooperative corporations to claim exemption from workers’ compensation requirements under certain conditions (Jergler 2018). In 2015, a similar law was passed in the state of New York, which similarly exempts members, directors, and executive officers of worker cooperatives from the provisions of Section 54 of the worker’s compensation law – unless they explicitly elect to be covered. Hence, these new laws allow for cooperative ‘owners’ to act more as small businesses. While the situation in California and New York State has thus improved, similar exemptions do not exist in all states. And where they do not exist, they can pose a problem for those platform co-ops that have chosen to incorporate as worker cooperatives. As such, it is important that labor law

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statutes in the 33 states and districts that have a cooperative code are amended in a way that worker cooperatives are not disadvantaged.

One way in which platform co-ops have addressed these issues related to worker's compensation statutes is by building cooperatively owned and democratically-governed platforms within the legal structure of the LLC. While doing so provides more leeway for being exempt from worker's compensation standards, it can nevertheless also create problems of its own. In fact, incorporating as an LLC to get around the issue of worker's compensation also means that worker-owners are left virtually unprotected – thereby undermining some of the more beneficial aspects of labor law from the perspective of workers. Given that much of the discourse surrounding platform cooperativism focuses precisely on the question of labor conditions and how they could be improved upon, demanding exemptions for worker cooperatives from existing statutes that are actually to the *benefit* of workers or choosing alternative legal entities in order to avoid these statutes all together can seem contradictory.¹²

The protection rules currently in place thus put platform co-ops in a difficult situation: either they burden themselves financially by incorporating as a cooperative and thereby choose to provide protection through worker's compensation. Or, alternatively, they choose to incorporate as an LLC, which allows them more leeway, but at the same time leaves their worker-members unprotected. Of course, there are no easy answers to this Catch-22. The demands for exemptions outlined above simply reflect the contradictory reality that platform co-ops face, where worker-oriented platform co-ops with limited economic resources are rather counterintuitively incentivized to do 'cost saving' when it comes to worker's protection. Hence, most importantly, legislative measures need to be taken to create a legal environment in which platform co-ops are not forced into taking such an either/or-decision.

Competition Law

In recent years, the question of how competition law can (and should) address the various labor, - consumption, - and democracy-related problems associated with the platform economy has become one of the most controversially discussed issues in the U.S. and beyond. For example, at the fourth debate amongst potential nominees for the Democrat's presidential candidate in 2019, Elizabeth Warren (one of the then-frontrunners for the democratic nomination) prominently repeated her campaign promise that her "administration will make big, structural changes to the tech sector to promote more competition (...), including breaking up Amazon, Facebook, and Google" (Warren 2019). By strengthening antitrust law and enforcement, Warren argued, one could ultimately restore competition in the tech sector and thereby improve consumer welfare. This line of thinking was echoed by most of the other candidates on stage, many

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of them agreeing that competition law would constitute one of the most promising instruments in order to reign in the competition-limiting activities of the so-called ‘tech giants.’

While the potentials of using competition law to restructure the tech sector have therefore received widespread attention (Haucap and Stühmeier 2015; Hylton 2019; Khan 2017), much less attention has been given to possible adverse effects that a more strongly enforced competition law might have on horizontally structured organizations such as platform co-ops. What does this mean concretely? Following Vaheesan/Schneider (2019), the legal instruments of competition law and antitrust in the U.S. have historically been used by large corporations in order to counter (and sometimes even directly attack) cooperative organizations. The reasons for this lie in the very *raison d’être* of cooperativism: while the cooperative model aims at bringing together independent member economies in a horizontal fashion (so that they can *collectively* pursue the goal of realizing certain services or activities), the very intention behind antitrust and competition law is to regulate horizontal collusion between independent member economies in order to counter non-competitive processes (such as, for example, price-fixing).

*»If Up & Go would grow, they could easily be seen as, what they are doing would be violating competition law, they could be seen as price fixing, because there’s several organizations under one roof talking to each other and negotiating a price (...) So there is an exemption in the law for unions for that, for these reasons. But not for co-ops.«
(Interview 4, 01:09:06).*

While Interviewee 4 is correct in assuming that there are exemptions in competition law for unions (Costello 2018), they are not entirely correct when arguing that such exemptions do not exist for co-ops. To the contrary, the history of competition law-enforcement in the U.S. is full of examples in which the state intervened in markets in order to protect cooperatives from antitrust-related persecution. One of the most famous examples – also strikingly described by Vaheesan/Schneider (2019) – is the Copper-Volstead Act from 1922. This act, devised as a response to challenges made against cooperatives by larger corporations, gave all farm cooperatives immunity from antitrust law in order to strengthen their bargaining power in a situation in which agricultural prices had dropped to an historic low after World War I.

While the scenario of *Up & Go* as a price-fixing quasi-monopoly might appear outlandish in light of the diminished importance of worker cooperatives in the U.S. economy of the 21st century, it is nevertheless important to anticipate possible tensions between antitrust and platform cooperativism in order to avoid that tools, which were historically developed to increase competition, are not employed today in order to weaken precisely those organizations that aim at providing alternatives. As such, serious thought should

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be given to the idea of exempting cooperatives in the tech sector from antitrust-related persecution (Vaheesan and Schneider 2019). Most importantly, this would require policymakers to redraft competition law in a way that it is capable of differentiating between what Vaheesan/Schneider call “cooperation between the powerless and collusion between the powerful” (ibid.) – so that the former would be incentivized and the latter prohibited.¹³

Taxation

Taxation rules play an important role in creating and solidifying the unlevel playing field in the platform economy. While clearly not the only factor that serves to explain the dominance of incumbent digital platforms, it nevertheless constitutes one important building block of their economic power. What does that mean in practice? While the U.S. hypothetically imposes a 21% tax rate on corporations, the actual amount that major corporations have been paying in recent years has been far lower. Large platform enterprises such as Amazon or Netflix in particular have benefitted from the current tax system. One way in which large platform corporations manage to avoid paying taxes is by simply relocating their headquarters to countries where tax rates are low, thereby also effectively lowering their overall income.¹⁴

A second option lies in government-sanctioned tax breaks. The *Tax Cuts and Jobs Act*, for example, implemented in 2017 by the Republican Party, increased the possibilities for large tech companies to claim tax rebates to a level not seen previously. Amazon, for example, had earned over \$10 billion in income in 2018, according to tax filings published by the Securities and Exchange Commission in 2019. However, in practice the company was not only able to zero out its income taxes, but on top also earned a rebate of \$129 million by taking advantage of various tax credits (SEC – United States Securities and Exchange Commission 2018). While this particular phenomenon – states lowering corporate income taxes for large corporations in order to attract outside investments – is of course not exclusively to the U.S. (Gravelle 2014), recent years have seen a particular noteworthy spike in what interviewee 13 calls ‘pro-platform politics’. Frustration over these developments has also expressed itself in the interviews:

»These companies just have so much power and they just have this incredible arrogance and so much money. I mean, it’s fairly unchecked. And they don’t pay taxes. And then this in combination with the fact that basically we use these services every day and there is no way of influencing of what happens on them (...) And I feel people get sort of disheartened by that.« (Interview 4, 08:36).

In addition, some of the founders and members expressed frustration with the current taxations rules, which they feel force them to make decisions in the early stages of the

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founding process that they might later come to regret. This became particularly relevant in relation to the question of how to incorporate. In fact, some platform co-ops have claimed that they feel trapped between needing to have immediate access to capital or to become profitable as soon as possible in order to be able to compete in highly capital-driven markets, while simultaneously trying to transform the profit logic itself. Interviewee 3, for example, argued that “it’s challenging because a 501©(3), which is the organizational structure for a non-profit here, they (...) get certain tax cuts and other sorts of things that make that a favorable model in some regards. But there’s nothing like that for a coop, so it’s kind of like an ‘all or nothing:’ you are either a non-profit or a for-profit.” (Interview 3, 08:18). This frustration is enhanced by the fact that certain types of cooperatives in the U.S., such as credit unions and electric co-ops, are indeed treated to essentially the same tax advantages as 501©(3)-nonprofits, or receive tax advantages in how they handle member capital. This, however, is neither the case for worker cooperatives or LCA-based multi-stakeholder cooperatives. As such, platform co-ops are by and large exempted from these benefits associated with the legal form of the cooperative.

Taken together, these examples illustrate that taxation rules play an important part in creating and solidifying the unlevel playing field of the platform economy. While most of the founders and members of platforms interviewed for this study perceive the current taxation rules primarily through the lens of how they are affected personally, they are nevertheless also very much aware of the larger tax-related inequalities that increasingly structure the digital economy.

Financing

Due to their unique ownership structure, cooperatives often find it difficult to acquire seed funding. Next to internal equity (provided by members) and outside equity (provided by investors), loans have traditionally played an important role in providing funding in the early stages of cooperative business. Rather surprisingly, creating new funding opportunities for cooperatives and worker ownership has been one of the very few policy initiatives that enjoyed bipartisan support in the U.S.-American capital in recent years. The reason for this is due to the the imminent generational shift, which will see thousands of small businesses owners across the U.S. retiring without direct successors in place. To respond to this challenge, politicians on both sides of the aisle have pushed for new financing mechanisms for co-ops in recent years, hoping to create new mechanisms with which to ensure that the jobs associated with these small business can be secured. The transfer of ownership to employees in particular has increasingly been seen as a viable option for securing the continuation of these businesses, leading to a variety of new legislative initiatives. The *Main Street Employee Ownership Act* (MSEOA) in particular, implemented in 2018, constitutes an important milestone this regarding.

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It amends the Small Business Act (SBA) in a way so that two types of employee-owned businesses – employee stock ownership plans and worker cooperatives – become eligible for loans for the first time. Through this, the MSEOA substantially enhances the funds that co-ops have access to. In addition, it fast-tracks loan dispersal to help companies finance conversion to employee ownership (Lechtleitner 2018), urging the SBA to:

“(1) provide outreach and educational materials to licensed small business investment companies to increase investment in transitions to employee-owned businesses, and (2) establish a Small Business Employee Ownership and Cooperative Promotion Program to offer technical assistance and training on the transition to employee ownership through cooperatives and qualified employee trusts” (U.S. Congress 2018).

While the act constitutes the very first federal-level bipartisan legislation to spotlight worker cooperatives (and might therefore constitute a potential driver for the emergence of small worker co-ops in the field of platform cooperativism), it is nevertheless important to note that no additional or new public funds have been allocated to the SBA as part of the act. In addition, the MSEOA does not provide for financing mechanisms that in any shape or form approach the risk-tolerance or scalability of the venture capital-model of Silicon Valley tech startups. It can therefore only constitute a first step for increasing the visibility and viability of worker-owned enterprises throughout the country. In addition, more radical financing sources or business models that do not depend on the same kinds of financing need to be developed. Nevertheless, the potential of coop conversion as a tool with which to foster platform co-ops that operate as local worker cooperatives should not be disregarded entirely.

In sum, this section has shown (1) that the heterogeneity of cooperative statutes in the U.S. creates uncertainty and potentially disincentivizes the founding of cooperatives; (2) (5) (6) that labor law and taxation rules primarily benefit the platform incumbents; (3) that the lack of exemptions for platform co-ops from worker’s compensation statutes can create additional economic burdens; (4) that the uncertain relationship between competition law and cooperativism might create scaling-related problems in the future; and (7) that a lack of public loan options for cooperatives disincentivizes their emergence. Yet, there are also a variety of drivers that might come to benefit platform co-ops. On one hand, (8) the UCLAA provides an adequate framework for co-ops that want to operate more like a ‘start-up’. On the other hand, (9) the *Main Street Employee Ownership Act* creates economic support for coop conversion. While some of the obstacles outlined here presuppose substantial policy change, others could be realized almost in an instance (such as, for example, the provision of exemptions for cooperatives from worker’s compensation statutes in the various states). Section Six develops these ideas further.

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U.S.	
Obstacles	Heterogeneity of Cooperative Statutes
	Hollowed-Out Labor Law
	Lack of Exemptions from Worker’s Compensation
	Uncertain Relation Between Competition Law and Cooperativism
	Lowered Corporation Income Tax
	Tax Cuts Exclusively Provided for Non-Profits
	Lack of Public Loan Options for Cooperatives
Drivers	ULCAA
	Co-op Conversion Through Main Street Ownership Employee Act

TABLE 1:

Political and Legislative Drivers and Obstacles for Platform Co-ops in the U.S.

4.2 Germany

In 2019, Germany’s 7,800 registered cooperative enterprises counted more than 22 million members, making it the organizational form with the most members in the country (Wille 2019). While these numbers seem rather enormous on first sight, most of these members belong to so-called *Förderungsgenossenschaften* (including producer

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and consumer cooperatives), among them many of the traditional German housing cooperatives and credit unions. Even though technically one in four Germans is member of a cooperative, most are not aware of this fact. Contrary to the U.S., worker cooperatives (the so-called *Produktivgenossenschaften*) factor less prominently. This has historical reasons: on one hand, the emergence of cooperativism in German was strongly influenced by the ideas and actions of Friedrich Wilhelm Raiffeisen, who developed the first cooperative lending bank in the late 19th century in order to support rural farmers in collective bargaining. Up until today, his idea of *Förderungsgenossenschaften* has had a strong imprint on how the cooperative sector in general is perceived in the country. On the other hand, the term worker cooperative still reminds many Germans of the former German Democratic Republic, where a large part of the economic system – particularly in the agricultural sector – had been re-organized in a cooperative fashion by force (Dellheim 2005).

Today, surprisingly few data on the amount of worker cooperatives active in the country is available. This can be attributed to two reasons: on one hand, the similarity of worker and producer cooperatives makes it difficult to determine how many individuals exactly are members of the former. On the other hand, many worker cooperatives operate outside the legal form of the cooperative corporation (*eingetragene Genossenschaft*, eG), instead resorting to other forms such as, the association (*eingetragener Verein*, e.V.). Nevertheless, worker cooperatives have experienced some sort of ‘comeback’ in recent years: since around 2010 (most likely as a response to the Financial Crisis), many new cooperatives have been founded, especially in the fields of renewable energy production (Lautermann 2018) as well as in the form of *Dorfläden* (small shops in rural areas) (see also Blome-Drees, Degens, and Schimmele 2017).¹⁵

When zooming in on the platform co-op-sector in Germany, stark differences in comparison with the platform co-op-sector in the U.S. become visible. Most importantly, there are only very few platform co-ops in Germany that explicitly identify as worker cooperatives. Most of the platform co-ops in Germany – among them *Fairmondo*, *WECHANGE*, *Resonate*, or *Hostsharing* – see themselves as providers of digital infrastructures rather than organizations that aim at improving working conditions for gig workers. Only very few platform co-ops – such as *SMart* – touch upon the question of labor at all. Consequently, contrary to the U.S., labor law has played almost no role in the process of data gathering.¹⁶

In the following, four political and legislative obstacles for platform co-ops are discussed: obstacles associated with (1) the mandatory association membership; (2) further specifications of the country’s Federal Cooperative Law; obstacles related to (3) the specifics of German Competition Law; and (4) the question of what kind of access platform co-ops have to public loans.

Mandatory Association Membership

In Germany, cooperative corporations are regulated based on the *Genossenschaftsgesetz* (Cooperative Code), first implemented in 1889 (BMJV/BfJ – Bundesministerium für Justiz und Verbraucherschutz/Bundesamt für Justiz 2020c). Obstacles for platform co-ops primarily relate to the various ‘duties’ stipulated therein. The first of these duties, the duty of the *Pflichtmitgliedschaft* (mandatory membership), determines that every cooperative has to become member of a so-called *Prüfverband* (auditing association). While these *Prüfverbände* are not governmental entities, their role and purpose is defined in the cooperative law. The purpose of this mandatory membership becomes clearer when considering the second duty, the *Pflichtprüfung* (mandatory audit). The German law specifies that each cooperative needs to subject itself to a regular audit to be carried out by one of the *Prüfverbände*, which are meant to stabilize the cooperative and provide guidance. Lastly, the founding of each cooperative corporation also needs to be audited as part of the *Gründungsprüfung* (mandatory founding-audit).

What precisely are the obstacles associated with these duties? Most importantly, the founders and members of the platform co-ops interviewed for this report struggle with the financial costs that incur due to the mandatory membership – especially in the context of the biennially auditing process. In recent studies, Blome-Drees et al. (2015; 2017) have taken this frustration – which is similarly expressed by small and medium-sized cooperatives outside of the platform economy – as their starting point, investigating the extent to which the current cooperative law indeed inhibits the growth of the cooperative ecosystem. Throughout these studies, they have come to the conclusion that the costs associated with the mandatory auditing process can indeed serve as an explanatory factor for why founders decide against the cooperative as the legal form for their business. Politically, this issue had primarily been addressed in recent years by removing obligations for small and medium-sized co-ops from the *Genossenschaftsgesetz* (for example in the context of a thorough novelization of the law in 2006 and another smaller one in 2017, see also BMJV/BfJ – Bundesministerium für Justiz und Verbraucherschutz/Bundesamt für Justiz 2020c).¹⁷ Yet, the data gathered for this report implies that these simplifications might not have gone far enough for platform co-ops. Interviewee 8, for example, argued that while these changes had indeed gone in the right direction, further simplifications would not happen as “it is a very good business for the auditing associations, so they fight hard, so to speak. They always say to us ‘why don’t you start an association then?’” (Interview 8, 01:19:19).

Yet, this frustration constitutes only one side of the coin. The literature review conducted for this study shows that there are indeed also supporters of the ‘duties’ stipulated in the German cooperative code. These defenders point towards the fact that cooperatives in Germany almost never go bankrupt, which, they argue, is primarily due to the extensive

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auditing process (DGRV - Deutscher Genossenschafts- und Raiffeisenverbund 2006). In addition, current studies on the cooperative ecosystem in Germany have also revealed a general satisfaction with the role of the *Prüfverbände* (Blome-Drees, Degens, and Schimmele 2017). How to square this issue then? How could the situation for platform co-ops 'on the ground' be improved, without 'hollowing out' the country's (historically grown) co-op ecosystem? One way forward could be in lowering the financial burden for small cooperatives even further. This, however, is sure to trigger great tension in the ecosystem. In fact, recent amendments to the cooperative code in 2017 – which had come with a lowering of the financial burden – already instigated a heated debate on how much further these burdens could be lowered before amendments of the law would lose the overall support of the *Prüfverbände* (who depend on the income generated by the auditing processes).

Not enough data exists to conclusively determine if further financial concessions to small and medium-sized cooperatives would indeed put the survival of the *Prüfverbände* in jeopardy. There are, however, indications that fears over a 'race to the bottom'-dynamic – which would ultimately lead to a withering away of the *Prüfverbände* – are unfounded. For example, the aforementioned study by Blome-Drees et al. (2017) shows that many cooperatives are highly sensitized to the benefits of an external audit. In fact, the study provides evidence that a variety of cooperatives had continued to contract the auditing associations on a *voluntary* level, even when they were legally exempted from needing to do so. Based on these insights, one could assume that if the *Prüfverbände* would actively offer their work as an advocacy and advisory body to the emerging platform co-op-scene, a comparable dynamic would unfold.

Beyond the question of financing, a lot of irritation also stems from the cooperative *culture* that the interviewees see as being promoted by the *Prüfverbände*. In order to understand the cultural divide, it is important to note that many of the founders and members of platform co-ops have a background in 'tech' or have accumulated work experience in the 'start-up'-environment – fields, that have traditionally not seen strong representation in the context of the German cooperative ecosystem. Hence, the platform co-op subset of the German coop-scene tends to communicate in a different way than, for example, credit unions or housing cooperatives. Yet, what has also become clear in the interviews is that this cultural divide is not only one of habitus and a lack of shared reference points, but one that also expresses itself in a perceived mistreatment of platform co-ops at the hand of the *Prüfverbände*.¹⁸

»[D]igital cooperatives [are] not in the focus of the auditing associations and cooperative associations. They have their proven business models where they know their stuff. These are generally always cooperatives that are located somewhere regionally (...) If you have a housing cooperative, then they assemble things on site. If you have an energy cooperative, they run three wind turbines in the community XY or something like that.

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And we have a problem in the associations that they have the importance of being able to work digitally and virtually and not just regionally, they have not yet noticed. And that is a Sisyphian task within the association scene to advance this« (Interview 9, 45:02).

In addition to the financial and cultural aspects, platform co-ops have also expressed the fear that institutional path dependencies might make a shift in the German coop-sector impossible. Concretely, some of the founders and members have argued that the *Prüfverbände* are in fact unwilling to modernize the cooperative sector because such a modernization would weaken their own position within the cooperative ecosystem.

»Because, like so many things, unfortunately it is an absolute swamp with us. From people who are permanently installed. From auditing associations that take advantage of people's ignorance and there is simply an infinite food chain of experts sitting in there. If you look at which instances you have to go through in order to successfully conclude the founding of a cooperative, there are really quite a few (...) [And] the auditing associations will not change until they are forced to do so by a change in the law. It can't be their interest, because they earn money from it.« (Interview 1, 00:17:05-4).

In sum, the fundamental tension that becomes apparent in this debate surrounding the country's cooperative code is that many of the platform co-ops are unsatisfied with the mandatory membership system in general, irrespective of the specifications of how and what would need to be audited. This dissatisfaction can be attributed primarily to the cultural divide between the traditional cooperative idea and the platform-driven reinvention of the cooperative form. At least in Germany, platform co-ops and other cooperatively organized tech start-ups see themselves as far removed from the traditional cooperative sector. Yet, this is not necessarily the case for smaller co-ops beyond the platform economy. According to Blome-Drees et al. (2015), most cooperative corporations support a further reduction of costs associated with the mandatory audit process. Yet, there is no widespread support for even more radical changes within the cooperative ecosystem. As such, no straightforward solutions to the problem of mandatory membership lie on the table that would satisfy all concerned stakeholders.

Cooperative Law

Two further obstacles associated with the *Genossenschaftsgesetz* need to be differentiated here: the first concerns the (im-)possibility for individuals to become member of a cooperative online. The second relates to a lack of clarity surrounding the question of how to take collective decisions in online assemblies.

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Concerning the (im-)possibility of becoming member of a cooperative online, Article 15 of country's cooperative law code clearly specifies that a "written and unconditional declaration of accession" constitutes a formal requirement for membership (BMJV/Bfj – Bundesministerium für Justiz und Verbraucherschutz/Bundesamt für Justiz 2020b). Put differently, the law stipulates that anyone interested in becoming member of a German platform co-op has to manually sign a form, print it and send it via post to the cooperative's office. According to the interviewees, this legally enforced media discontinuity makes it difficult for platform co-ops to attract members, especially those that reside outside of Germany. Throughout almost all of the interviews conducted for this study, this requirement was framed as an important impediment to the growth of platform cooperativism.

»What has always been the major pain point for us is that you cannot sign up for online memberships, but that you always need a handwritten declaration of membership. That (...) is a huge barrier. Imagine how we did this crowdfunding campaign. Theoretically, 800 people became members at one go. We had that over, there was the crowdfunding platform then our trustee, they collected all these letters. And then we had a huge mess. Because then they have the letters, they haven't evaluated them at all. We only had the email address of the people who sent the money directly. And then we just got all these letters, so you couldn't read some of them. Then they were partially incomplete. It was a huge bureaucratic bickering to find out who was actually a member and who we just had money from.« (Interview 7, 43:35).

The reason for why the cooperative code prohibits alternatives to the written letter is to prevent abuse of the system. Given that becoming member of a cooperative presupposes the purchase of cooperative shares, such caution is, of course, warranted. A cooperative's reputation could easily be ruined, for example, if it became known that people had been signed up unwillingly. Hence, these possible downsides need to be considered when thinking about alternatives. At the same time, however, similar to how digital signatures have become more and more widespread in recent years, it is entirely possible to switch to technological solutions that guarantee security while simultaneously allowing people to sign-up online. As such, from a pragmatic point of view, it appears necessary to first identify the particular security tools that are used in other contexts in order to facilitate online membership and to then, second, adapt the existing statutes in a way that digital membership is facilitated.

This issue of digital membership, however, points beyond a mere regulatory problem, towards the differences in institutional embeddedness of platform cooperativism in the three countries analyzed here. In fact, the data gathered for this study shows that the issue of digital membership pertains exclusively to platform co-ops in Germany. While almost all interviewees in Germany had mentioned it as one of the primary obstacles that they face, the issue has not come up at all in conversations with platform co-ops

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from either the U.S. or from France. This stark difference can only be understood when contextualizing the respective platform cooperativism-movements in their particular cooperative ecosystems. What does that mean concretely? As argued earlier, the majority of platform co-ops in Germany do not operate as worker cooperatives, but rather as digital infrastructures. In other words, their primary aim is to build collectively owned infrastructures that allow all user groups operating on and with these infrastructures to participate in the decision-making. Contrary to worker-oriented platform co-ops (that most often operate in a very specific place and with a particular set of people), digital infrastructures such as Twitter, Facebook, as well as cooperatively-owned marketplaces such as Fairmondo depend strongly on having a large amount of users/members in order to be able to survive or compete in markets characterized by both network and scale effects. The question of digital membership is therefore of greater importance to infrastructure platforms, given that their business model depends on their capacity to take on thousands of members.

»At a GmbH you have to run to the notary to have someone registered. This is easier with a cooperative. A written declaration of accession is sufficient. But that this formal act [of sending a letter in] happens then is simply expected. But with platform co-ops, with modern cooperatives, where hundreds of thousands of members should become [members] in a short time, the hurdle should be much lower.« (Interview 7, 44:37).

In sum, the discussion of the impossibility of digital membership in Germany has produced two insights: First, that the idea of platform co-ops as digital infrastructure is of much higher importance in Germany than in both the U.S. and France.¹⁹ Second, that Germany's legal framework is not set up to accommodate the idea of a platform co-ops as digital infrastructures well. Legislative changes are therefore needed in order to accommodate the particular interests of German platform co-ops.

The second problem relating to the federal cooperative code is the question of online voting. Article 43(7) of the country's cooperative code specifies that online voting is indeed possible, as long it is incorporated into the cooperative's bylaws. Concretely, the code clarifies that:

»Decisions of the members [can] be made in writing or in electronic form; the statute has to regulate the details. Furthermore, the statute may provide that, in certain cases, members of the Supervisory Board may take part in the general meeting by means of video and audio transmission and that the general meeting may be broadcast in picture and sound.« (BMJV/Bfj – Bundesministerium für Justiz und Verbraucherschutz/ Bundesamt für Justiz 2020a).

The data gathered for this report shows that a variety of platform co-ops already employ such tools and have made good experiences in using them.

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»[W]e have arranged this in such a way that we have agreed that we will vote openly in principle. And we vote by e-mail. This means that the e-mails are archived on our own servers. In addition, of course, the members also have a backup when they vote in their own e-mail computers. This is therefore very easy to understand. And then there are always two people who look at the voting results again in the four-eyes principle (...) "what I don't think works is some kind of live voting within an hour or so. There I am, there I believe, the legal situation is also somewhat spongy.« (Interview 7, 43:04).

However, many founders and members of platform co-ops do not seem to be aware of this.

»How is that supposed to work, if I am not allowed to do an electronic vote, in a cooperative based in Germany? How is that supposed to work? If I have 100,000 members, should they all vote by absentee ballot? Written resolutions work, but imagine that in practice. Yes. And you also can't order deputies for all those overseas or elsewhere. So there are a lot of practical problems that are completely crazy.« (Interview 1, 18:51).

One reason for why many founders seem to be unsure about what is and is not possible can be attributed to the fact that the *Prüfverbände* do not seem to be sure about these questions themselves.

»[W]e have changed both our association and our auditing association after the foundation, because we have seen [that] both the associations and the auditing associations are not so aware that it is quite possible to hold general meetings online.« (Interview 8, 42:04).

Taken together, while the law provides ample room to move for the cooperatives, more knowledge on how to incorporate online voting in a cooperative's bylaws as well as how to implement online voting in practice is needed, particularly within the *Prüfverbände*. In recent years, more and more third-party companies providing tools for cooperatives to organize online voting (such as, for example, POLYAS or Simply Voting) have emerged. Furthermore, many of the platform co-ops interviewed for this study already have functioning voting systems in place. As such, the problem does not seem to be with an overall lack of knowledge, but with making the existing knowledge available in a way so that all those interested in finding solutions have direct access to it.

Competition Law

In recent years, Germany has seen an intensifying debate surrounding the role of competition law in the context of (digital) economies of scale (see for example Piétron and Wiggerthale 2019). Two announcements of the government have driven this

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dynamic: on one hand, the current coalition intends to clarify the compatibility of the country's competition law with the legal form of the cooperative. On the other hand, it aims at redrafting the *Gesetz gegen Wettbewerbsbeschränkungen* (Competition Act) in order to address the particularities of online economies. Hence, given that far-reaching changes to the country's approach to competition law are on the horizon, it appears fruitful to also interrogate the law's current configuration from a platform co-op perspective.

Despite structural differences, the current situation in Germany is in many ways comparable with that in the U.S.. For example, German competition law is similarly incapable of distinguishing between hybrid organizational structures (that incorporate elements of both integrated as well as specialized structures, such as cooperatives) and fully integrated companies (see also Theurl 2019). This creates uncertainty about the extent to which collaboration between cooperatives that offer services in different markets could be seen as a violation of competition law. This uncertainty has particularly far-reaching implications in the context of the data-driven platform economy. Because while member organizations of a platform co-op in Germany, for example, are hypothetically allowed to collectively advertise or offer their services, they are prohibited from sharing data on the quality and price of their services amongst one another (ibid.). Given the fact that access to data constitutes a primary source of market power in the platform economy (Zuboff 2019), platform co-ops are disadvantaged compared to the resources that large integrated platform competitors have access to (Srnicsek 2017). In addition, given that German platform co-ops primarily operate as digital infrastructures (and therefore more strongly incorporate data-driven business models), this problem might even hold larger importance there than in the U.S. (where worker cooperatives tend to dominate).

The debate on how to assess cooperation between different member economies within cooperatives through the lens of competition law also unfolds in a similar fashion in Germany and the U.S.. Theurl, for example, argues that "jointly organized services [within a platform co-op] are simply an extension of the value chain of the various cooperation partners" (2019), which leads her to argue that the structure of cooperatives should not be likened to a free market (where member groups act as competitors), but to a long-term shared ecosystem which is built on mutual trust (and modeled after the value chains of integrated companies). Mirroring arguments made by Vaheesan/Schneider (2019), Theurl ultimately arrives at the conclusion that "competition law should not be applicable to the interior structures of a cooperative as it is not market-structured, includes no market transaction but rather a long-term cooperation between partners within secured legal boundaries" (Theurl 2019).

In sum, given the ample similarities between the U.S. and the German context, both platform co-ops as well as policymakers interested in clarifying the role of cooperatives

would be wise to develop a shared (legal) perspective on the conditions under which platform co-ops could be exempted from certain aspects of competition law.

Financing

Throughout the interviews, public funding opportunities in Germany have been framed as a major impediment to the growth of platform cooperativism. Particular criticism has been expressed towards the funding-guidelines of the country's state-owned development bank.²⁰

In fact, most of the founders of platform co-ops in Germany seem to have experienced problems when trying to access to loans provided by the KfW – the country's state-owned development bank, which provides assistance to German small and medium enterprises, including individual entrepreneurs and start-ups. While these problems extend to agencies beyond the KfW, the KfW has received particular attention because of the so-called *Existenzgründerkredit* (founding grant) it provides, one of the most popular loan program for small and medium enterprises in the country. While access to this grant is intended to be simple and uncomplicated, many co-ops nevertheless feel excluded from it.

»[[As] founder of a cooperative, you don't get the [start-up loan] at all (...) Classically it is like this, you have to be able to influence entrepreneurial majority decisions, to influence entrepreneurially. In other words, if you say veto, then the veto must also apply. With a cooperative, you don't decide alone, that is, you are not the power that has the veto (...) The start-up subsidy [presupposes] that you can exert entrepreneurial influence. You can [admittedly] theoretically become self-employed as a freelancer and found the cooperative on the side and go around things. But actually, from the DNA of this law, you have to do it on your own, make the decisions and not collaborate with others in decision-making.« (Interview 10, 56:11).

»So of course there are quite a few for business promotion. And our experience has somehow always been that we fall through the raster. So we [don't] fit, we don't have the right legal form or are just a strange form of start-up, don't have the right investment inventory. We also have the rule that we don't work with big investors. But we also talked to social venture investors and just didn't suit them.« (Interview 7, 45:40).

This purported discrimination of the cooperative form, however, is not necessarily deliberate (Blome-Drees et al. 2015; Blome-Drees, Degens, and Schimmele 2017). To the contrary, co-ops are explicitly mentioned in many of the bank's loan programs. Yet, because particular importance is ascribed to the role of the (individual) entrepreneurial personality – which, as outlined above, does not exist in the same fashion in a platform

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co-op as in an integrated company with a vertical management structure – platform co-ops (and co-ops in general) are simply kept from being able to apply to a large number of these programs for formal reasons.

Beyond the wording of these KfW-guidelines, founders or members of platform co-ops in Germany have also expressed dissatisfaction with the overall lack of federal loan programs that aim at fostering social innovation. While a variety of states have recently begun to initiate projects that aim at fostering and strengthening the so-called 'solidarity economy' (such as, for example, the "Social Innovation Capital Berlin" project of the capital's local government), little has happened so far on the federal level that specifically aims at social innovation or social impact. In short, there is simply no overarching federal framework oriented towards alternative economic structures in which such funding activities could be embedded adequately.

*»So I would really like to see a programme to promote social innovation, because that does not yet exist nationwide, right. There is such a thing [at state level already] in Brandenburg (...) They actually have a support programme "Social Innovation".«
(Interview 9, 59:14).*

In sum, the problems outlined here could be addressed in two ways. On one hand, the guidelines for the KfW-loans (and those provided by other federal agencies) could be redrafted in a way that funding opportunities are not only extended to natural persons, but also to cooperatives. On the other hand, loan programs that focus on social innovation (in addition to programs that focus on technological innovation) and that define social impact funding in a way that alternative organizational structures or even platform co-ops are explicitly taken into account could be implemented on the federal level. Already existing loan programs on the Länderebene could be taken as a starting point for drafting such loan programs.

In sum, this section on the politics of platform cooperativism in Germany has shown (1) that the country's mandatory association membership system has the tendency to disincentivize the foundation of platform co-ops; (2) that the legally-specified media discontinuity concerning member integration disadvantages platform co-ops that want to operate as digital infrastructures; (3) that there is a lack of knowledge concerning platform co-op-specific issues such as online assemblies within the Prüfverbände, which increases uncertainty; (4) and that the particular vision of cooperativism in Germany makes it impossible to found multi-stakeholder cooperatives which explicitly orient themselves towards the public interest. Similar to the U.S., (5) the relationship between competition law and cooperativism is uncertain; and (6) tax cuts are exclusively provided for non-profit organizations. In addition, (7) loan programs are oftentimes written in a way so that they are incompatible with the cooperative form. While resolving some of the issues here might presuppose a longer process (such as overcoming the cultural gap

Germany	
Obstacles	Compulsory Membership System
	Legally-Specified Media Discontinuity
	Lack of Cooperative-Specific Knowledge with Prüfverbände
	Lack of Explicit Multi-Stakeholder Option
	Uncertain Relations Between Competition Law and Cooperativism
	Tax Cuts Exclusively Provided for Non-Profits
	Loan Programs Incompatible with Cooperative-Structure

TABLE 2:

Political and Legislative Drivers and Obstacles for Platform Co-ops in Germany

between the traditional coop-sector and the emerging platform co-op-scene), others could be realized almost in an instance (such as, for example, redrafting the funding-related guidelines of the country’s development bank or specifying the possibilities that exist for individuals to become members of a platform co-op online within the law). These ideas are further developed in Section Six.

4.3. France

France has one of the most well-developed cooperative networks in the world. As of 2015, the country’s 23,000 cooperatives counted around 26 million members, which together realized an annual turnover of more than 300 billion euros in sales (Quintana-

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Cocolina 2016). In addition, Naett (2015) estimates that cooperatives in France are responsible for the employment of over one million individuals. While these numbers appear enormous on first sight, one has to take into account that these figures for both annual turnover as well as membership are somewhat 'inflated,' given that the country's 92 cooperative banking enterprises – including three of the country's largest banks, the cooperatively organized *Groupe Crédit Agricole*, *Groupe BPCE*, and *Groupe Crédit Mutel* – collectively account for roughly a quarter of this turnover and more than 24 million members (ibid.). Of the roughly 23,000 cooperatives registered in 2015, nearly 2,000 were structured as worker cooperatives, providing around 41,000 jobs (ibid.). Compared to the U.S. and Germany, France's worker cooperatives are therefore both more numerous and provide more jobs. When zooming in on the country's platform co-op-sector, we see that the French ecosystem incorporates both worker cooperatives as well as digital infrastructures. *CoopCycle* or *Alpha Taxis* constitute examples of the former, while *Les Oiseaux de Passage* or *FranceBarter* are representative of the latter.

To be able to analyze the politics of platform cooperativism in France, it is indispensable to first take a closer look at how the cooperative idea is embedded socio-politically. On a general level, cooperatives are considered part of the *économie sociale et solidaire* (SSE) – the so-called 'third sector' of the French economy, characterized by organizations seeking to reconcile economic activity with social equity.²¹ To understand the socio-economic tensions that the SSE mediates, its two central components, the *économie sociale* on one hand and the *économie solidaire* on the other, have to be distinguished. While the former is defined around legal entity – any association, cooperative, mutual, or foundation is automatically considered part of the *économie sociale* (Darrigrand and Vidor 2017) –, the latter focuses more specifically on the purpose of the activities that a certain organization provides, as well as on the governance that is employed in order to facilitate these activities. Even though the term *économie sociale* historically predates that of the *économie solidaire*, both are nowadays seen as two sides of the same coin.²² As a result, SSE organizations can be characterized according to both economic principles (such as limited or non-profitability) as well as notions of democratic ownership and participatory governance.

Given the strong linkages between cooperativism and the SSE, which itself is inextricably linked to notions of solidarity and social utility (Noguès 2003; Seeberger 2014), cooperative organizations are generally perceived as organizations that are inherently non-profit and that somehow carry an explicit social mission. Debates surrounding concepts such as 'social entrepreneurship' still figure less prominently in France, compared to both the U.S. and Germany (Fraisie et al. 2016). Even though more and more entrepreneurial initiatives have emerged in recent years that actively lobby for the concept of the SSE to gradually be opened towards social enterprises with a (limited) profitability motive, the association of the SSE with 'non-profit' remains strong in the public eye. As a result, the terms 'social business' (the more common denominator for social entrepreneurship in France) and SSE tend to be characterized as *competing*

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logics (ibid.). The implications of this tension are described rather provocatively by Lemaître (2019):

“Libertarians have understood that if the SSE is an alternative to the capitalist system, it can also, paradoxically, become its new means of accumulation. It is enough to pervert it with a communication that will polish this reversal while giving it the appearance of an empathy that will arouse the enthusiasm of the masses. It is obviously no longer SSE: it is social business which, in addition to turning the “poor” into a market, aims to capture the redistributions of the public person. This cannot be done without the legislator. In France, it managed to gain ground under François Hollande with certain aspects of the Hamon law, but since 2017, Emmanuel Macron’s Start-up nation has opened up new opportunities for it.”

These tensions surrounding the SSE have also expressed themselves in the data gathered for the study. While some founders and members of platform co-ops openly embrace a more market-oriented framework for the SSE, others emphasize the need for platform cooperativism to strictly remain non-profit and civil society-oriented. Debates around platform alternatives and collective ownership structures in the digital economy in France therefore clearly mirror larger debates surrounding the role of ‘third sector’ organizations in the country’s economy.

In the following, one obstacle and three drivers for platform co-ops in France are discussed. Concerning obstacles, the discussion touches upon 1) labor law and the purported ‘pro-platform politics’ of the Macron presidency. Concerning drivers, the discussion touches upon 2) the cooperative code and the particularities of the SCIC-model; 3) taxation rules and the implementation of the ESUS label; as well as 4) public procurement and visibility strategies promoted by local authorities.

Labor Law

One of the most pressing obstacle to platform cooperativism concerns the role of the French state in creating beneficial conditions for the incumbent platform organizations (such as Uber, Facebook, or Amazon) through labor regulations. Most of the founders and members of platform co-ops in France point towards the unlevel playing field of the platform economy as the primary impediment to their growth. The existence of this unlevel playing field, however, is not only traced to the persistence of network and scale effects differences in funding structures and other structural economic elements, but also to what Interviewee 13 calls ‘pro-platform-politics: the active market intervention of the federal government with the aim of creating or solidifying beneficial conditions for incumbent platforms.

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Two dimensions of these ‘pro-platform-politics’ can be differentiated. On a *discursive* level, there is a strong gap between how the government addresses and frames the incumbent digital platforms (and their associated social impact) and how those who promote platform cooperativism perceive them. Much frustration on the co-op-side stems from the rather provocative positions that government officials have taken towards the social implications of platform-based business models in recent years. President Macron, for example, has rather famously argued that “I am not going to ban Uber (...), it would be sending them [the drivers] back to sell drugs in Stains [a suburb just north of Paris]” (Mitra-Nomadeblues 2018). Contrary to the German case, politicians in France – primarily those of the ruling party *Republique En Marche* (LRM) – have taken a much more embracing tone towards the market entrance of centralized labor platforms, creating frustration within the platform co-op scene:

»Come on. That's the only choice? Like, so (...) you either drive an Uber, or you sell drugs? [So, you see] in France, the state, the government is really pro platforms. So Macron is like, he's like pro platform. He doesn't care about having a vision (...). [And]Marcon, (...) he can do what he wants. And the LRM, (...) they are fairly a block. So in France, it's a complicated situation, because there is one party that has all the power.« (Interview 13, 01:13:38).

The *legislative* impact of these ‘pro-platform politics’ on platform cooperativism, in turn, can best be illustrated by taking a closer look at the Loi LOM.²³ Implemented by the French parliament in November 2019, this new law had been presented as a thorough way of addressing and clarifying many issues surrounding labor in the mobility sector. From a platform co-op-perspective, Article 44 is of particular interest, whose stated aim was to improve the (social) dialogue between platform and platform workers. To this end, the article introduced the idea that labor platforms in the mobility sector, such as Deliveroo or Uber, could develop a charter in which the platform would outline its social responsibilities towards its workers (MTes – Ministère de la Transition écologique et solidaire 2019). Both platform and workers would then sign these charters, thereby – following the government’s logic – increasing transparency and improving relationships between both sides. However, as is often the case, the proposal came with a catch. In fact, Article 44 was designed to be of a purely voluntary nature, i.e. if a platform *wants* to establish a charter outlining its social responsibility, it can do so – but doing so is not made obligatory. When countered with the argument that an article with a purely voluntary nature could quickly turn into an ‘empty shell’, LRM and parliament member Couillard argued that the government believed this voluntary nature to be sufficient because it would foster inter-platform competition:

»We did not want to make it mandatory because we want the actors to take ownership of it. We let them decide what will be in this charter. In addition, “leading” platforms, such as Uber, are already very interested in setting it up. The other actors will therefore have to follow the movement to get up to speed and attract drivers or couriers. We are

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entering a model of competition between platforms and it is the self-employed who will take over. There is very little risk that this charter will be an empty shell: we can include benefits in terms of mutual insurance, maternity leave, death insurance, etc. And this document will have to be approved by the Ministry of Labour. If the charter is too light, it will not be validated.» (Raffin 2019).

Instead of encouraging riders of platforms to unionize and to participate in collective bargaining, the government thus argues that working conditions in the platform economy would ultimately improve because of platforms being put in competition with one another over the rights they give to riders. Yet, this competition-oriented argument disregards the fact that platform-based markets in the delivery sector are increasingly *less* characterized by competition. In Germany, for example, the sudden exit of Deliveroo in August 2019 left TakeAway.com as the *de facto* monopolist, now able to determine labor relations almost solitary (Sullivan 2019). As such, the hope that market-based incentives alone would end up regulating labor relations in the French mobility sector appears empirically unsubstantiated. The idea of a social dialogue based upon voluntary declarations of intent therefore constitutes a prime example for how ‘pro-platform politics’ can serve to create and solidify an unlevelled playing field in the platform economy that makes it more difficult for platform co-ops such as *CoopCycle* – a network of bike delivery co-ops active in many regions of France – to compete.

In addition, a variety of institutions – among them the *French National Digital Council* (CNUM) – have expressed the fear that Article 44 could potentially even make it possible for platforms to incorporate clauses into these charters that are to the *detriment* of the workers, for example by outright defining them as freelancers. Given that Article 44 foresees the ‘offer of employment’ of a platform to be made contingent on the fact that the worker also signs the charter developed by the platform, workers could be put in a position in which they would have to legally agree to be classified as freelancers in order to be given access to the platform. As such, it is hypothetically possible that Article 44 not only *not* improves current working conditions, but actually *worsens* them, given that it could create the chance for incumbent platforms to protect themselves against the reclassification of workers as employees:

»[T]here was a deputy from La République En Marche, so Macron’s party. He wanted to make something so that platform workers could be [re-]qualified as employees. Like, but [what he did] was actually so much advantaging the platform. So, the platforms now just have to make a charter, (...) it’s just like writing a paper which says ‘maybe we will do this’ [for example establishing social rights]. So, like, for example, [such a paper] could authorize riders to make unions (...). But in exchange for that, if a rider wants to go to the [court] to say ‘Hey, I’m an actual employee’, he can’t, because (...) they have signed this charter [in which they agreed to consider themselves to be freelancers]« (Interview 13, 01:39:06).

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Yet, a ruling of the Conseil Constitutionnel (the French Supreme Court) in December 2019 censored parts of Article 44, outright stating that no private corporation is able to determine if the nature of a labor relation is salaried or not. Yet, in the absence of legal precedent, gig platforms might nevertheless try to imply certain employment relationships solitary based on these charters. Despite these recent developments, the implementation of the Loi LOM and the debate around Article 44 illustrate well the role that the French government plays in the process of shaping the conditions under which platform co-ops compete with incumbent platforms. Even in its censored form, Article 44 of the Loi LOM can be expected to further intensify the already apparent monopolization tendencies in the French mobility sector (Blaquière 2019), making it more difficult for mobility-oriented platform co-ops to compete.

Cooperative Law

Contrary to Germany, the particularities of French cooperative law have by and large been framed by the founders and members of platform co-ops as a *driver* for the emergence and proliferation of platform cooperativism. To understand why, we first have to gain a better understanding of the two distinct legal entities that the French code recognizes within the field of producer/worker cooperatives:²⁴ the *Société cooperative et participative* (SCOP), which is designed specifically for worker cooperatives,²⁵ and the so-called *Société cooperative d'intérêt collectif* (SCIC), a recent addition designed specifically for multi-stakeholder cooperatives.²⁶ The SCIC, in particular, has become an important pillar of the platform co-op ecosystem in France in recent years. Its appeal to platform co-ops can primarily be traced to its explicit orientation towards the *collective interest*. In fact, when the SCIC was implemented in 2001, the government characterized it as a tool with which to reorient both the productive as well as the organizational sphere towards a logic of *social utility*. Social utility, in this context, was understood as a dynamic of bringing together heterogenous stakeholders within a single organization, allowing them to collectively orient themselves towards the public interest. Because of this focus on the public interest, the SCIC is also oftentimes referred to as a type of 'social cooperative,' one that commits itself not (only) to the interest of its members (as is, for example, the legally ensured purpose of a cooperative in Germany), but to social welfare in general.²⁷

The reason for why this idea of a socially oriented multi-stakeholder cooperative had become so attractive to French policymakers at the tail end of the 20th century can only be understood when contextualizing the emergence of the SCIC with two socio-economic tensions, that had increasingly come to structure the French 'third sector' at that time and which this model was expected to mediate. The first of these tensions related to the question of labor: civil society-related work had increasingly been devalued over decades, essentially turning it into unpaid voluntary work. To address this, the legal entity of the SCIC was designed in a way so that it could make sure that such work

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would not only be appreciated, but also compensated adequately. The second tension related to the cooperative form: cooperatives at that time had increasingly been criticized for not providing any positive impact on social welfare at large, given that they – qua their *raison d'être* – orient themselves exclusively towards the benefit of their members. To address this, the legal entity of the SCIC was designed in a way so that it could reorient cooperatively organized interactions and transactions in a 'social' fashion.²⁸

In sum, the SCIC was initially framed as a type of 'silver bullet' able to simultaneously create new funding opportunities within the SSE (by making it easier for certain stakeholders, such as public authorities or private funds, to invest and participate in socially-oriented cooperatives) and to reorient the cooperative towards the common good, thereby improving its overall standing within the SSE (and potentially creating new employment opportunities).²⁹ In the eyes of policymakers, the creation of this type of *hybrid* organization (Borzaga and Mittone 1997), which integrated elements of both the legal form of the association and the cooperative corporation, therefore came with the promise of solving "[p]roblems of exclusion, unemployment and provision of social, medical and other services better than conventional organizations" (Münkner 2004).

But what explains today's popularity of the SCIC in the platform co-op ecosystem? To understand this, it is important to note that the social utility of a SCIC is defined not by the nature of the good or service that is provided, but by the *process* in which a service is provided. As argued above, social utility is inextricably linked to social *inclusion*. To assure inclusion, a SCIC is legally obliged to incorporate at least three different categories of members/stakeholders: 'employees' (or an equivalent group such as, for example, producers or farmers); 'users/beneficiaries'; and a third group to be chosen freely. Given that this third group – which could, for example, include public institutions, investors, or even volunteers – is legally allowed to hold up to 50% of the overall capital of the organization, the SCIC – similar to the ULCAA in Colorado – not only provides new ways for cooperatives to increase stakeholder flexibility, but also to access outside capital. From a platform co-op perspective, this possibility of including public authorities as a member class is seen as the SCIC's main benefits for a variety of reasons. On one hand, founders and members of platform co-ops in France have expressed hope that this inclusion of public authorities would allow platform co-ops to either benefit more directly from the knowledge that the authorities possess or to receive access to new sources of public funding. Incorporating public institutions (or other third groups) into the platform is therefore seen as a promising way to lessen the 'capital conundrum' that platform co-ops currently face.

On the other hand, the SCIC is also expected to provide room for socio-economic activity beyond the highly concentrated markets of the platform economy. In fact, founders and members of platform co-ops interviewed for this study have argued that, on their own, they would not 'stand a chance' to compete with the incumbent platforms. As such, the

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SCIC is seen as a way of creating resilient networks of heterogenous stakeholder groups that each bring different strengths to the table. In the eyes of its proponents, this could even help to mediate some of the social conflicts that the emergence of digital platforms has brought with it. The platform co-op *Fairbnb*, for example, which aims at providing a socially sustainable alternative to market incumbent Airbnb in cities such as Paris and Amsterdam, has chosen a multi-stakeholder approach because they assume that a successful and sustainable short-term rental market can only be realized if all relevant stakeholders (including hosts, renters, city councils, neighbors, hotels) have a say in the platform's decisionmaking. In this sense, the SCIC promises to strengthen links between public institutions and platform co-ops, which is seen as one of the primary ways of how to build 'counter-power' to the dominant incumbent platforms.

Beyond financing, stakeholder flexibility and public accountability, the SCIC model also appeals to platform co-ops because it unmistakably positions the platform on the side of 'non-profit' in the dichotomy between 'social business' and 'non-profit' that currently polarizes the SSE. As argued earlier, platform co-ops in France have different perspectives on their embeddedness in the SSE. While some openly embrace the transformation of the SSE towards a more market-oriented concept, others emphasize the need for platform cooperativism to strictly remain non-profit and explicitly civil society-oriented. For the latter group, the SCIC provides a legal form that, at least on paper, unmistakably defines the organizations' intentions and capabilities right from the start. Such clarity can provide relief to founders and members:

»Once you have paid the employees the costs, most of the money that is left, you have to put it in the bank, and it's blocked. Like, it allows to accumulate a lot of money. And maybe like because, if you want to have €1 million, you need to have like €0.5 million in the bank. And when you go to the bank, you say: 'Hey, I already have this amount of money'. And they will say 'Okay, no problem'. So the SCIC, it makes sure that the structure is really not seeking profits, because you can't. You just can't« (Interview 13, 01:36:16).

Taken together, the SCIC can be characterized as a rather successful attempt³⁰ at (a) more strongly incorporating a social welfare logic into the cooperative model; and at (b) creating new partnerships and funding mechanisms in order to strengthen cooperatives economically. Both of these elements hold relevance for platform co-ops. While the emergence of the SCIC is therefore inextricably linked to both the increasing market-orientation of the SSE as well as an increasing retreat of the state from the 'third sector', the particularities of this organizational form, on the other hand, also constitute it as a promising legal form for platform co-ops that explicitly aim at incorporating heterogenous stakeholders into their organization. As such, employing a SCIC-model allows platform co-ops to combine the idea of shared ownership with stakeholder flexibility and an explicit social mission. Through this, it helps to rethink in a substantial way what it means to operate precisely on the demarcation line between the public and the private.

Taxation

The ‘large shadow’ of the SSE has also become visible when looking at French taxation rules.

The 2014 law on the SSE in particular has created taxation-related incentives for organizations to reorient their businesses around the question of social utility and for investors to orient their activities towards the SSE, creating possible benefits for platform co-ops in the process. Most strikingly, the 2014 law not only created a new label for SSE companies, the *entreprise solidaire d'utilité sociale* (i.e. the ESUS label), but also determined that both the more broad classification of companies as belonging to the SSE as well as this more specific ESUS company label would from that point onwards be open to *any* legal entity in France – including for-profit companies that before operated outside of the strict boundaries of the SSE. This change substantially amended the list of possible recipients of this legal accreditation, providing possible tax benefits to companies that were previously excluded. While ‘traditional’ legal entities associated with the SSE (such as cooperatives, foundations, or associations) are automatically classified as SSE companies due to their legal entity, for-profit companies are now able to apply for reclassification under the condition that they:

“(1) Pursue an on-going production, distribution or exchange of goods and services activity; (2) Pursue a primary social purpose or ‘social utility’; (3) Govern the company with the principles of a democratic governance the expression of which is not solely linked to capital contribution; and (4) Manage the company in a way that is consistent with the limited distribution of profits and assets.” (ESELA 2017).

In addition, any organization classified as an SSE company has the ability to also apply for the more extensive ESUS company status created as part of the 2014 SSE law. To be awarded the ESUS label, the organization in question needs to go beyond the above-mentioned criteria by also implementing a cap on compensation for directors and employees and by proving that the organization’s orientation towards social utility has a direct (negative) impact on the company’s income or expenses (ibid.). In broadening the possible recipients this way, the French government intended to create and foster an enabling environment for the development of social enterprises.

For platform co-ops, the particularities of this approach are interesting for three reasons: First, the ESUS label has created economic incentives for private investors to invest in social enterprises through so-called solidarity-based saving funds (for more detail see Fourrier 2019). Concretely, investors who channel their funds towards ESUS companies receive a 25 percent reduction on income tax and a 50 percent reduction on property tax (ESELA 2017). The provision of such tax rebates is associated with the hope that

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overall more money is funneled into the SSE, which could potentially open up new funding opportunities for platform co-ops. Second, the laws address governance as a key component to the structure of an SSE and ESUS company. As stipulated in the law, an ESUS company must employ democratic governance mechanisms and define these as part of their corporate documents. Hence, the law couples access to new funding opportunities to democratic governance. Doing so might lead to a strengthening of the overall cooperative ecosystem, which could also strengthen the position of platform co-ops.

Lastly, when compared with the situation in the U.S. and Germany, the law constitutes the only instance in which the provision of tax rebates is *not* made contingent on the question of profitability. While the legal entity of the 501(c)(3) (in the U.S.) and the *Gemeinnützigkeits*-label (in Germany) are exclusively given to non-profits, the 2014 law hypothetically also allows profit-oriented platform co-ops that employ democratic ownership and decision-making to benefit from the SSE-specific tax rebates. In broadening the criteria this way, the law constitutes a novel approach for rethinking how to support democratically structured organizations that operate in highly capital-driven contexts such as the platform economy. Thus, the main advantage of this approach is that it manages to do two important things at the same time: expand the options available to founders concerning legal forms in the early stages of platform development (given that they are not forced anymore into immediately positioning themselves in regards to the for-profit/non-profit-choice), while simultaneously avoiding to ‘hollow out’ entirely the orientation of the SSE towards the common good.³¹

Financing

Similar to the situation in the U.S. and Germany, financing mechanisms constitute one of the primary obstacles that platform co-ops in France grapple with. In fact, there are few direct loan programs in the country. In addition, its rather lively tech ecosystem is almost exclusively oriented towards the so-called ‘French Champions’, as a recent €5 billion pledge by President Macron to develop shareholder-owned French tech startups illustrates (Pelé 2019). Furthermore, the Caisse des Dépôts – a sort of Sovereign Fund that has traditionally funded local authorities, social housing programs and projects with a particular territorial impact – has switched from a long-term approach, as part of which no specific returns on investment were stipulated, to a venture capital-style approach, in which profitability advanced investment evaluations play an important role. Taken together, these developments have created a situation in which organizations such as platform co-ops find it much harder to gain access to seed funding.

Nevertheless, contrary to the U.S. and Germany, the particular features of the country’s SSE have also opened up more substantial funding structures. In fact, the discussions surrounding the SCIC and the ESUS company label have made visible two ways in which

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governmental activity has incentivized the emergence and proliferation of platform co-ops in an *indirect* fashion, i.e. by improving the framework conditions under which these democratically governed platforms operate. The gathered data, however, has also revealed a variety of *direct* ways in which local authorities provide financial support for platform co-ops. In the following, two of these ways – contracting co-ops through public procurement and raising their public visibility, for example, through prizes – are briefly discussed.

The term public procurement describes the process of acquiring works, supplies and services by public bodies. It can range from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects (OECD 2020). In many countries (including France), public procurement constitutes a highly relevant economic activity, through which public institutions actively influence and shape markets (Agbodzakey and Upshaw 2018).

»One way for the politics to help us [is through public procurement] (...) For example, in Bordeaux [our co-op] had a contract with the mairie [city hall]. And they delivered the newspaper of the mairie [city hall] (...) It's a way to help, like, public markets« (Interview 13, 01:17:30).

Public procurement could potentially be seen as a relevant means of getting smaller platform co-ops – in particular those with a localized business model – off the ground. Given that public-private partnerships (for example through SCIC cooperatives) become an increasingly relevant approach to reorganizing civil society-related work, platform co-ops using the SCIC-model are already at an advantage here because of their capacity to integrate both public institutions as well as local organizations into their organization.

»We are trying to go to local staff and tell them: 'look, we are partnering with people in your territory (...) Give money to us and we will do something. So because, for example, in [city in France] it's where unemployment is the highest. So if you go to the mairie [city hall] and [tell them] we can create one job, they are 'Okay, where do I sign?'« (Interview 13, 01:26:03).

The second direct option that governments have at their disposal in order to support platform co-ops is to publicly refer to platform co-ops and platform cooperativism. While it is not possible for politicians to actively recommend the use of certain platforms or service providers directly (because doing so would constitute a violation against competition law), they do have other means of creating visibility at their disposal. One of these possibilities is to award platform co-ops with prize money and publicly communicate this process:

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»There are also money prizes (...) Our plan also was to be able to benefit from like free advertising, like: 'speak about us in your (...) newspaper'. So there's this guy [politician] (...) and he really likes us, and he really helps us a lot. And he was really frank with us. He told us: 'Look, we can't advertise you. It's against the law of competition (...) But if we offer you a prize, after that (...) [we can say] 'we gave a prize to these guys.' (...) That's one of the several ways in which politics can help« (Interview 13, 01:18:29).

In France, the SSE already provides an adequate framework within which platform co-ops could be supported further. For example, there is an annual budget which can be given to social enterprises with a particularly innovative approach in the form of a public prize.

»[There's] the prize of the social and solidarity economy (...) Each year, they have an envelope of (...), maybe €2 million to give to [social enterprises]. [We received 30,000] and that's really cool for us. It was like, when we had this money, we're like 'What?' (...) In any case, I (...) discovered all of this with doing [this work]. From what I know now, most of the nonprofit organization activists have people dedicated to finding [such] money« (Interview 13, 01:22:19).

While the direct forms of support sketched out here might therefore still appear limited from an economic point of view, they nevertheless do demonstrate that governments have a variety of tools at their disposal in order to support platform cooperativism that should be considered more strongly by both platform co-ops as well as by public institutions.

In sum, the analysis of political and legislative drivers and obstacles for platform co-ops in France has shown (3) that the SCIC model allows platform co-ops to benefit from new funding opportunities as well as to organize a public interest-oriented stakeholder integration; (4) that tax cuts are not only coupled to the question of profitability, but to the governance model that is employed; (5) that the newly implemented ESUS company label creates incentives for investors to fund platform co-ops; (6) that the 2014 SSE law creates incentives for coop conversion; and, lastly, that (7) some local governments in France have started to explicitly contract platform co-ops through public procurement. Nevertheless, the French case – and the discussion of Article 44 of the Loi LOM in particular – has also shown that providing support for platform cooperativism on one hand and solidifying an unlevelled playing field in the platform economy through legislation do not constitute contradictory approaches. (1) (2) Labor Law and competition law, in particular, benefit primarily the incumbent platforms. In addition, the analysis has brought to light some of the tensions within the SSE relating to the question of profitability that might come to negatively affect platform co-ops in the future. To what extent the French drivers outlined here could be 'exported' to other contexts will be discussed more in detail in Section Six.

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France	
Obstacles	Article 20 of Loi LOM
	Uncertain Relation Between Competition Law and Cooperativism
Drivers	SCIC
	Tax Cuts Coupled to Governance Model
	ESUS Company Label
	Co-op Conversion Through 2014 ESS Law
	Public Procurement and Visibility Strategies

TABLE 3:

Political and Legislative Drivers and Obstacles for Platform Co-ops in France

5.

DISCUSSION

5. Discussion

What are the political and legislative drivers and obstacles for platform cooperativism in the U.S., Germany, and France? Moreover, can we identify more or less beneficial policies and governmental activities for the emergence and proliferation of these organizations by comparing the politics of platform cooperativism across political contexts? Those were the central research questions raised at the outset of this study. To provide answers, the results of the three case studies are now synthesized and discussed in tandem. This discussion is divided into two parts, each of which opens up a specific comparative lens. First, a *descriptive* comparative perspective is taken in order to demonstrate differences and commonalities. In a second step, an *analytical* comparative approach is taken in order to contextualize these differences and commonalities with the theoretical insights developed in Section 2. In addition, the ensuing Section 6 will take a *transdisciplinary* comparative perspective in order to gain an understanding of what policymakers could do next and what kind of policies could potentially be translated from one institutional context into another.

Cooperative Law

Legislation and governmental activity directed at the legal entity of the cooperative (Policy Field 1 in Figure 2) has proven to be of high importance for the emergence and proliferation of platform co-ops in all three countries. While the legal framework for cooperatives in the U.S. and Germany has predominantly been framed as an obstacle by founders and members of platform co-ops, the framework in France was perceived in a rather positive fashion. Both the obstacles and drivers that platform co-ops face tend to reflect the particularities of the legal framework they operate in. In the U.S., the overall legal framework for cooperatives is characterized by a high level of decentralization. Cooperative statutes are specified solitary by each state, creating a widely heterogeneous body of legislative frameworks. This creates confusion on the part of possible founders, making it more difficult for them to gather relevant information on where to incorporate. The resulting uncertainty about legal pitfalls and benefits of specific statutes constitutes one of the primary issues that inhibits the emergence of more platform co-ops in the country.³²

In Germany, cooperatives of all types are governed by the same statute, irregardless of the particular services and interactions they facilitate. As a result, the importance of an organization's bylaws – in which its particular governance-related choices are outlined – is heightened. The country's mandatory membership system – which legally obliges each

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cooperative to become a member of a *Prüfverband* and to subject itself to a regularly mandatory audit- had been established precisely to provide support for cooperatives in the founding process. Yet, platform co-ops in Germany tend to perceive this mandatory membership both as an economic burden, as well as an obligation that does not benefit their activities. Limited knowledge on the particular needs of platform co-ops within the *Prüfverbände* – e.g. on how to organize online assemblies and set up digital voting procedures – have accentuated this dissatisfaction. In addition, platform co-ops in Germany see themselves more as providers of digital infrastructures rather than worker cooperatives. Given that the success of cooperatively-owned infrastructures depends on their ability to incorporate members easily and abundantly, frustration has been voiced over the fact that it is legally prohibited to have individuals sign up to become members of a cooperative online. In the eyes of the interviewees, this legal specification unnecessarily complicates the possibilities for incorporating individuals from outside the country into the organization.

Concerning drivers, the analysis has shown that the multi-stakeholder model constitutes a particularly promising legal entity with which to foster platform cooperativism. Both France and the U.S. have seen the emergence of legal forms oriented towards stakeholder flexibility in recent years. However, the reasons for the emergence of these models (and what kind of problems they are expected to solve) could not be any more different: in the U.S., platform co-ops primarily turn towards the ULCAA because it grants them the ability to admit outside investors as voting members into the cooperative and to assure them participation in the organization's financial gains. As such, the ULCAA's appeal stems from the fact that it allows platform co-ops to operate more like classical 'start-ups'. In turn, the French SCIC allows for the integration of investor members in a similar fashion, but contrarily, the cooperative is obliged to orient itself towards the *public interest*. The SCIC model could therefore even be interpreted as an antithesis to the ULCAA: While the latter's appeal lies in the fact that it allows for more entrepreneurial-driven cooperatives to emerge, the SCIC's attraction stems from doing the *exact opposite*: providing an adequate frame for those co-ops not wanting to operate like a start-up at all – of which there are many in France.

Labor Law

In France and the U.S., the idea of platform cooperativism is inextricably connected to the question of labor and how to re-organize platform-mediated work in the 21st century in a more sustainable fashion. Consequently, founders and members of platform co-ops in the U.S. and France have framed many of their legislative obstacles through the lens of labor law. In the U.S., labor law was characterized as having been 'hollowed out' entirely, which is seen as having created the breeding ground on which platform cooperativism flourishes today. In France, less focus was put on the overall situation of labor in the

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country and more on the particular impact that platform-specific governmental activity might have on labor relations (Policy Field 2 in Figure 2). In this context, the discussion of possible negative consequences of Article 44 of the Loi LOM on riders and drivers in the last-mile-delivery-industry demonstrated the active role that the French government takes in order to shape employment relations between platforms and platform workers – to the detriment of platform co-ops. Because the large majority of platform co-ops in Germany see themselves as providers of digital infrastructures rather than as organizations of workers (which is in concordance with the country’s already uncertain position towards worker cooperativism), the question of labor law has played almost no role.

Competition Law

In the U.S., Germany, and France, the relationship between competition law and platform cooperativism is similarly characterized by uncertainty. Given that the conditions under which competition law would apply to cooperativism in general remains unresolved in all three countries, it is also not clear under which conditions competition law would hypothetically apply to *platform* cooperativism. In all three countries, competition law is expected to be redrafted in the coming years to adapt it to the economic context of the platform economy. Regarding this, the analysis made visible various ways in which competition law could be redrafted in order to (a) clarify its relationship to platform cooperativism, and (b) account for the elements of platform economics that currently seem to primarily benefit the incumbent platforms (such as network and scale effects). On one hand, governments could take inspiration from the *U.S.-American Capper-Volstead Act* from 1922 and provide exemptions for (platform) cooperatives from antitrust-related persecution in the tech sector. On the other hand, governments could follow up on an idea developed by Vaheesan/Schneider (2019), who propose a so-called ‘power principle’ that would allow regulators to differentiate between ‘collaboration of the powerless’ and ‘collusion of the powerful’, respectively differentiating between platform co-ops and platform incumbents that engage in anti-competitive practices. Doing so could provide one step towards levelling the playing field in the platform economy.

Taxation

The question of how corporations (of all types) are taxed by the government (Policy Field 2 in Figure 2) has played an important role in the U.S., but less so in Germany and France. In the U.S., taxation rules (particularly those relating to the federal corporate income tax) are primarily seen as having created (and then later solidified) today’s unlevelled playing field of the platform economy. Concretely, recent developments such as the *2017 Tax Cuts and Jobs Act* are seen as particular forms of ‘pro-platform-politics’ that disadvantage

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smaller platforms trying to compete in the markets of the platform economy. In comparison, the question of taxation has played a comparably smaller role in Germany and France. Yet, it is important to note that France has recently moved to implement a so-called digital service tax, which intends to oblige platforms to pay corporate tax not only in the countries where they are headquartered, but also where they do their actual business. Even though the chances of successfully enforcing such a tax on a national level are slim (Govindarajan et al. 2019), implementing it could nevertheless increase pressure on the EU to adopt similar steps that could ultimately initiate a tax-related levelling of the playing field for the platform economy.

Of particular relevance in all three countries has been the question of what kind of tax cuts (concerning, for example, federal income taxes) cooperatives can benefit from. In the U.S., tax cuts related to an organization's mission statement are primarily reserved for legally incorporated non-profit organizations (such as those employing the legal form of the 501(c)(3)) and special types of cooperatives, such as credit unions. Platform co-ops that have incorporated as a for-profit legal entity are therefore not able to benefit from such tax cuts at all (irregarding the activities they facilitate). In Germany, organizations – independently of the particular legal form that they have chosen – can receive tax cuts concerning federal income taxes under the condition of having been awarded the so-called *gemeinnützig*-label. Similarly to the U.S., however, receiving this label is made contingent almost exclusively on the profit/non-profit-question. In comparison, France constitutes the only country studied here in which the tax cut-question is *not* coupled with the profit-orientation of the company in question, but – among other factors – to the particular *governance model* that is employed. Hence, cooperatives that operate with a (low) profit-motive could hypothetically also benefit from tax cuts associated with both the SSE and the ESUS company label – given that they are able to demonstrate that their governance model is in accordance with the idea of social utility as defined in the 2014 SSE law.

Financing

The possibilities for platform co-ops to access publicly provided funds are rather limited in all three cases. In the U.S., there is an almost total lack of public loan options for cooperatives. Because of this, most platform co-ops do not orient themselves towards the government for funding at all, but rather towards private institutions (such as, for example, the MacArthur Foundation or the Robin Hood Foundation), larger networks/ecosystems that focus on supporting worker cooperatives (such as the U.S. Federation of Worker Cooperatives or the International Cooperative Association), or even towards their platform competitors (such as Google or Amazon). In Germany, the situation is rather different: contrary to the U.S., platform co-ops explicitly express their grievances towards the state, framing it as the primary actor responsible for providing

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a funding infrastructure for the platform co-op-ecosystem. So far, however, these appeals and lobbying efforts have proven to be futile. Only very few loan programs tailored specifically towards social enterprises exist. In addition, the guidelines of these programs are most often written in a way so that they are inherently incompatible with the cooperative structure. In France, the situation appears more supportive, given the particularities of the country's third sector. The implementation of the ESUS label in particular has created taxation-related incentives for private investors to actively fund organizations such as platform co-ops through so-called solidarity-based saving funds (under the condition that they operate in accordance with the SSE-related definition of 'social utility'). In addition, France is the only case in which *direct* platform co-op-specific governmental activity (Policy Field 3 in Figure 2) had been observable. One French platform co-op in particular was able to secure assignments with a local government through public procurement as well as securing prize money stemming from the overall SSE framework.

One other possible financing-related driver for the emergence of platform co-ops lies in the provision of public funds for coop conversion. The imminent generational shift, which is likely to put the future of countless small businesses in jeopardy, has rendered coop conversion a relevant topic for governments. In this context, the U.S. and France have both adapted funding structures in a way so that workers are incentivized to convert their businesses into worker cooperatives in case that the previous owners would retire. In the U.S., the *Main Street Ownership Employee Act* has given cooperatives access to funds that could simplify coop conversion and in France, the country's 2014 SSE Law actively incentivizes employee ownership. Yet, to what extent platform co-ops can benefit from these incentives is undetermined so far. *Figure 3* illustrates these results in a synthesized fashion.

What do these results teach us? From an *analytical* point of view, they make us understand that *context matters*. Put simply, what platform cooperativism means to those who promote it, what strategies are employed to get platform co-ops off the ground, how these platforms are embedded in and influenced by politics, and what their possibilities for scaling are is determined very strongly by the socio-political context in which they emerge and proliferate. In other words, the cross-country-differences concerning state-market-relations that were outlined in Section 2 have indeed translated themselves into differences concerning how governments shape the framework conditions for platform cooperativism. As such, the study gives credence to the notion that institutional path dependencies extend – albeit in a modified form – to the context of the platform economy in general and platform cooperativism in particular.

What does that mean concretely? In the U.S., the politics of platform cooperativism can by and large be characterized by two dynamics: the decentralized political system on one hand and the business-oriented budgetary and fiscal politics of the federal government

		U.S.	Germany	France
Obstacles	Cooperative Law	Heterogeneity of Cooperative Statutes	Compulsory Membership System Legally-Specified Media Discontinuity Lack of Cooperative-Specific Knowledge Within Prüfverbände Lack of Explicit Multi-Stakeholder Option	
	Labour Law	Hollowed-Out Labor Law Lack of Exemptions from Worker's Compensation		Article 20 of Loi LOM
	Competition Law	Uncertain Relation Between Competition Law and Cooperativism		
	Taxation	Lowered Corporation Income Tax Tax Cuts Exclusively Provided for Non-Profits	Tax Cuts Exclusively Provided for Non-Profits	
	Financing	Lack of Public Loan Options for Cooperatives	Loan Programs Incompatible With Cooperative-Structures	
	Cooperative Law	ULCAA		SCIC
Drivers	Taxation			Tac Cuts Coupled to Governance Model ESUS Company Label
	Financing	Co-op Conversion Through Main Street Ownership Employee Act		Co-op Conversion Through 2014 ESS Law Public Procurement and Visibility Strategies

FIGURE 3: Summary of Political and Legislative Drivers and Obstacles for Platform Co-ops in a Comparative Perspective

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on the other. Concerning decentralization, the fact that states increasingly ‘compete’ with one another concerning how to adapt labor law to the specific context of the platform economy (see the example from California in Section 4.1) and that cooperative statutes are specified by the states constitute two aspects that directly affect platform co-ops on the ground. Concerning budgetary and fiscal politics, it is the country’s taxation rules (that tend to benefit platform incumbents) as well as the pronounced lack of governmental loan programs for cooperatives that limit the horizon of possibilities for platform co-ops – and make them depend most strongly on resources provided by the market. Taken together, the study shows that the U.S. politics of platform cooperativism follow a rent-oriented logic which serves to solidify an already unlevelled playing field, thereby creating further distance between the coop-movement and the state.

In Germany, the politics of platform cooperativism are characterized by the corporatist (and legally codified) integration and institutionalization of the *Prüfverbände* on one hand, and an institutionalized incubating strategy that disincentivizes the foundation of democratically structured organizations on the other. Concerning the *Prüfverbände*, their legally codified ‘gatekeeper’ function has been particularly criticized by the interviewees, who decried a purported unwillingness on the part of the state to experiment with alternative models. Concerning the country’s incubation strategy, mechanisms such as the *Existenzgründerkredit*, which are explicitly tailored towards individual entrepreneurial personalities, have incentivized the emergence of vertically organized organizations in recent years. Taken together, the analysis shows that the German politics of platform cooperativism are embedded in a larger logic of ‘restraint’ that aims at maintaining the existing corporatist power balance, in which private associations such as the *Prüfverbände* play an essential role. As such, new organizational forms inspired by developments and debates in other institutional contexts – such as platform co-ops – find it difficult to position themselves in this nexus.

In France, the politics of platform cooperativism are characterized by a comparably higher level of state intervention. Similarly to the other two countries, this tends to corroborate the expectations derived from the VoC literature in Section 2. Concretely, the French state influences the framework for platform cooperativism in two ways: on one hand, it actively promotes the rise and proliferation of the platform incumbents through its ‘pro-platform-politics,’ predominantly the Loi LOM. That platform co-ops in the mobility sector find it more difficult to compete economically is also a direct result of this law. On the other hand, however, the state also provides both direct and indirect incentives for the emergence of platform co-ops (and similar organizations). In fact, the state has shown a strong interest in reorienting the SSE towards a market-logic – a process, in which cooperatives are ascribed an important role. It comes as no surprise then that platform co-ops in France actively try to build relationships with governmental agencies in the hope of this being beneficial to their further development. We therefore observe a two-folded situation: on one hand, alternative economic organizations such as cooperatives seem to be actively ‘contained’ within the boundaries of the SSE. On the

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other hand, these organizations are simultaneously strengthened economically within the SSE, given the hope of policymakers that such democratically governed businesses could facilitate the provision of social services at a lower cost than the state could. In other words, the politics of platform cooperativism in France can be seen as following a logic of 'role distribution': while platform co-ops are seen as a purely 'social' project that has no place outside of the limits of the SSE, they are simultaneously strengthened as an entrepreneurial-driven organizational model that promises to reorient the country's 'third sector' towards the market.

These different logics are congruent with how platform co-ops perceive *themselves*. In the U.S., platform co-ops seem to most strongly orient themselves towards the 'start up'-culture (that also dominates the country's overall platform economy). Given that platform co-ops in the U.S. find themselves in a 'sink or swim'-environment in which an organization's survival is most strongly linked to its capacity to secure seed funding, it is perfectly logical that these organizations primarily ask for more flexibilized funding structures in their country's cooperative ecosystem. The particular appeal of the 'start-up'-oriented ULCAA must be understood with this context in mind. In addition, based on the data gathered for this study, there is much less historically determined cultural opposition towards the idea that platform co-ops could also turn a profit that would then be distributed amongst all its stakeholders. This is different in Germany and France. In Germany, platform cooperatives most closely associate themselves around the discourse of 'social entrepreneurship'. Given the agnosticism that this discourse holds towards the profit/non-profit-divide, platform co-ops are less 'boxed in' in regards to how they need to present or position themselves concerning their (social) mission. This is reflected in the fact that some of the platform co-ops do not really see themselves as enacting a social mission (that would extend beyond their members and organization) at all, but rather as providers of a platform or infrastructure that enables *others* to realize a larger social mission. Only very few platform co-ops have explicitly argued that they would aim at facilitating or participating in a larger societal transformation. In France, platform co-ops align themselves much more strongly with the explicitly non-profit sector of the economy than in both the U.S. and Germany. In fact, platform cooperativism seems to operate more within the logic of the 'classical' (pre-2014) understanding of the SSE, and less in the market-oriented version of the country's 'third sector' that is increasingly orienting itself towards the notion of 'social businesses'.

In addition, these differences also express themselves in relation to how the cooperative platforms perceive and address the state. In the U.S., government was almost only perceived and referenced in its *absence* or as entirely irrelevant to the activities of the platform. One interviewee, for example, argued that: "I do not even concern myself with what the government is doing. It is influencing the market on a meta-level that is primarily outside of my control. What I can control is how I exist in the market" (Interview

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2, 01:16:48-9). In Germany, most of the interviewees expressed their grievances towards the state, but – when pressed – most of them were not able (or willing) to make explicit what precisely they would expect from the state. While an implicit understanding seems to exist among the platform co-ops that the state *should* provide some sort of infrastructure, it has not become entirely clear what that infrastructure should or could look like in practice. Lastly, in France, the state-co-op-relationship appears to be much less abstract. More specifically, the members and founders of platform co-ops interviewed for the French case of this study are actively trying to build relationships with local authorities and are mostly aware of what the state can (and cannot) provide for them.

Taken together, the study has shown that the state clearly plays an important role in determining the framework conditions for platform co-ops in all three institutional and political contexts – even if it is not necessarily perceived as such in the same way ‘on the ground’. This difference in perception requires an explanation. This regarding, two hypotheses appear sensible: On one hand, we need to consider the possibility that the importance that has been ascribed to politics throughout this study is overstated – that other framework conditions, such as the economic drivers of the platform economy (especially network and scale effects) or individual preferences of users in the platform economy might indeed better serve to explain the successes or failures of platform cooperativism. On the other hand, we might be able to explain differences in perception by considering the ‘submerged state’-hypothesis. Following Mettler (2011), governmental activity in markets has been rendered so ‘invisible’ in most sectors of society that it is difficult – for researchers as well as for citizens – to even perceive the many ways in which the two are intertwined. This could of course also hold true for the context of the platform economy.

While it is outside the scope of this study to give resounding answers to both hypotheses, neither should be written off without due consideration. Because yes, it *is* indeed highly likely that the politics of platform cooperativism constitutes one factor amongst many that can serve to make us understand the obstacles that new organizational forms such as platform co-ops face in the context of the digital economy. Hence, the results of this study need to be contextualized with studies that focus on other elements that make up the framework conditions for platform co-ops (such as, for example, the particularities of platform economics or even the inner contradictions of the cooperative as a form). Yet, this study *did* show that not all political frameworks are equally beneficial (or detrimental) to the proliferation of platform cooperativism. Hence, investigating political framework conditions should remain part of any substantial engagement with the potentials and pitfalls of platform cooperativism. In addition, the ‘submerged state’-hypothesis provides an equally interesting challenge to the results outlined in this study, given that governmental activity in the platform economy in general and platform cooperativism in

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particular – as shown throughout the study – is indeed of a primarily *indirect* nature. Yet, it is precisely *because* of this ‘invisibility’ of governmental activity that further studies are needed that bring these particular governmental activities to the fore. As such, it appears unlikely that either hypothesis would fully refute the results developed here. To the contrary, engaging these possible interventions further could provide the starting point for a fruitful subsequent research project.

CONCLUSION
&
POLICY
RECOMMENDATIONS

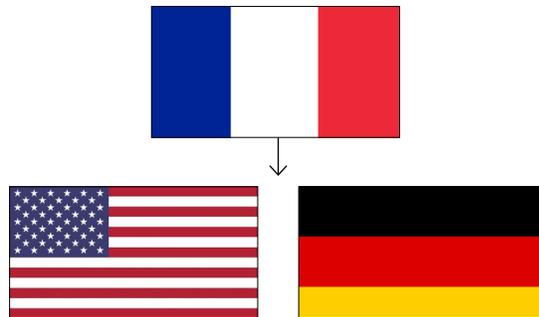
Conclusion & Policy Recommendations

Context matters – that is the primary conclusion we can derive from comparing the politics of platform cooperativism in the heterogeneous institutional and political settings of the U.S., Germany, and France. In fact, the study has shown that the possibilities for platform co-ops to proliferate are strongly framed by the particular political context in which these platforms emerge and act. Hence, states do play an important role in structuring the framework conditions that allow cooperatives to thrive – or that keep them from doing so. By having analyzed the role policymakers play in the field of platform cooperativism today, we are now better equipped to develop a perspective on what they could do concretely in order to support democratically governed platforms. As such, this study allows for a first answer to the most difficult of questions: *what is to be done?*

The conclusion approaches this question in two ways. In a first step, four concrete suggestions for how policymakers in the U.S., Germany, and France could learn from one another are made. The aim here is to make visible how and under which conditions certain political and legislative drivers could be ‘exported’ to other contexts. In a second and final step, recommendations for action are outlined in a more generalized fashion. The aim here is to formulate policy recommendations in a way so that they can be taken up by any policymaker interested in fostering platform cooperativism in their jurisdiction. To this end, the recommendations are framed as the starting point of a *101 of Supporting Platform Cooperativism* – to be expanded, naturally, by further research projects. In order to provide additional guidance to policymakers on how to proceed concretely, these recommendations are sorted according to how difficult their implementation would be.

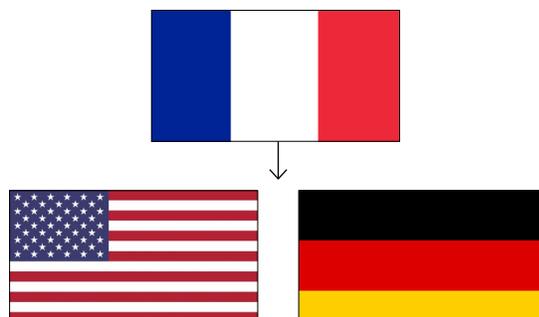
While context does matter, it is nevertheless important to show that it is not *unchangeable*. Political ideas, regulatory approaches, and legal forms have always travelled in an increasingly globalized world and will continue to do so. The global spread of similarly worded Airbnb-specific legislation constitutes a prime example for how this unfolds in the context of the platform economy (Pentzien 2019b; Van Doorn 2019). Yet, translating ideas or concepts from one political context into another also constitutes an incredibly challenging undertaking, given that cultural, economic, and social differences can and should not be neglected. Put simply, societies are not model kits. As such, when one identifies political approaches whose translation into other contexts would make a difference, it is of utmost importance that these differences in context are kept in mind. Four particularly promising activities that could – under specific conditions – also work in other contexts are now briefly discussed.

A Common Good Beyond the Profit/Non-Profit Divide



Platform co-ops in the U.S., Germany, and France appear to be trapped between a rock and a hard place: on one hand, they are required to become profitable as soon as possible in order to be able to compete in highly capital-driven markets. On the other hand, many of them explicitly aim at transforming or subverting the profit logic itself. In the U.S. and Germany, this already difficult situation is aggravated by the fact that only non-profit organizations are legally seen as working towards the 'common good'. This expresses itself in particular in relation to the various taxation rules. In the U.S. and Germany, 501©(3) and *gemeinnützige* non-profits respectively can benefit from a lowered income tax. In France, however, one of the most important criteria according to which the social utility of an organization is measured is *democratic governance*. As such, the French political framework rethinks the relationship between the 'common good' and profit-oriented business models in a way that could strengthen the notion of cooperativism. Germany and the U.S. could take note of this.

A Public Procurement for Platform Co-ops

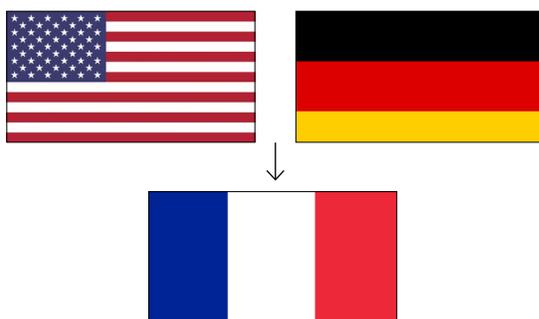


Public procurement constitutes a highly relevant economic activity with which public institutions can influence markets. The example of France has shown that it could even

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be a relevant tool for getting smaller platform co-ops – in particular those that thrive on local network effects (Tucker 2018) – off the ground. Two strategies to strengthen public procurement for platform co-ops in France and to initiate it in the U.S. and Germany can be envisioned here, one for governments and one for platform co-ops. On the government-side, public institutions have to follow certain guidelines (concerning, for example, what quality a service provider has to uphold) in the procurement process. In all three countries, these guidelines could be adapted in a way so that the question of ownership is explicitly taken into account. Doing so would give platform co-ops a head start. On the platform-side, it is important that connections with local authorities are built and actively maintained. To do so, platform co-ops need to frame their activities in a way so that public institutions are incentivized to turn towards them instead of more traditional service providers. Orienting their business models towards local communities is a promising way of realizing this. Ultimately, if both governments *and* platform co-ops moved towards one another, a public procurement based on the ‘social utility’ of organizations could be in the realm of possibility.

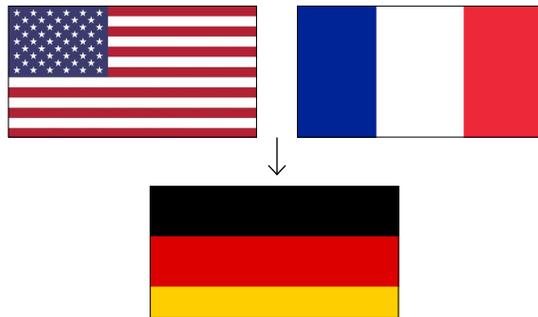
A Generational Shift of Co-op Conversions



The U.S., Germany, and France all find themselves in the midst of an enormous generational shift which leaves the future of many small and medium enterprises in doubt. In this context, the idea of employee ownership has enjoyed a comeback. In France, the 2014 SSE law has granted employees the right to create transitional cooperatives that could take over a company even if employees do *not* own the majority of capital. Concretely, the law specifies that while external investors could own over 50 percent of the cooperatives’ capital for up to seven years, employees would nevertheless still retain the majority in terms of decision-making. Employees are thus granted eight years for turning into majority stakeholders of their cooperative. While not as far-reaching as the French law, the U.S. *Main Street Employee Ownership Act* has similarly created economic incentives for co-op conversions. Concretely, the bill enables the SBA to help pay for the transaction costs that occur during the process of conversion, thereby lowering one of the main deterrents that have kept workers from engaging the option

of employee ownership so far. Implementing a comparable legal framework in Germany would strengthen the idea of worker cooperativism and could provide new impulses for a cooperativism adapted to the economic realities of the 21st century.

A Multi-Stakeholder Cooperative for Germany



Multi-stakeholder models are of particular appeal to platform co-ops (a) because they facilitate public accountability and are thereby able to address many of the social issues surrounding the platform economy; and (b) because they facilitate new revenue streams that allow platform co-ops to better compete with incumbent, non-democratically governed platforms. The fact that platform co-ops in the U.S. and France increasingly revert to multi-stakeholder models could cause Germany to take a fresh look at its cooperative framework, which – on paper – does not explicitly recognize cooperatives that orient themselves towards something other than their own member’s interests. While it is unlikely for the country’s approach to cooperativism to change quickly (for example by expanding the notion of ‘self-help’), Germany would nevertheless do well to consider how organizations could be created that allow for incorporating all stakeholders affected by the emerging platform economy and its concomitant problems. The example of the short-term-rental market and the platform coop Fairbnb provides an excellent case for studying how public accountability within platform could be conceptualized.

What can policymakers worldwide do now to create beneficial conditions for platform cooperatives beyond these four specific proposals? Put differently, what is the *101 of beneficial politics of platform cooperativism*? This study has shown that policymakers have two ways at their disposal through which they can support platform cooperativism. The first option is to provide *direct* support to platform cooperatives, either by removing central obstacles that inhibit their emergence and proliferation (such as rewriting the KfW-guidelines in Germany or by removing Article 44 from the Loi LOM) or by employing mechanisms that would instantly boost them (such as facilitating collaboration through public procurement or by providing access to coop-specific seed funding). The second option available to governments is to *indirectly* address platform cooperativism by

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improving their framework conditions. This follows Theurl's line of thinking, who has rather strikingly argued that "the greatest strengthening of the cooperative form comes from removing the sources of its discrimination" (2019). To do so, policymakers need to level the playing field of the platform economy within their territorial boundaries. This could be done, for example, by rewriting taxation rules, providing exemptions for cooperatives from antitrust law, or – as has become visible in the case of the U.S. – by trying out new classification rules for determining labor relations – one of the more striking problems in the platform economy.

What has also become obvious throughout this study is that these policies for fostering platform cooperativism come with different levels of difficulty: while removing some of the obstacles identified here might require years in order for them to be addressed in a substantial fashion, others could be realized almost in an instant. To do this disparity justice, *Figure 4* sorts the substantial policy recommendations that could be derived from this study according to their level of difficulty, ranging from so-called 'low-hanging fruit' to 'high-hanging fruit.'

In sum, this study has shown that many of the political and legislative obstacles that platform co-ops face worldwide are of comparable character – and can therefore be addressed in a similar fashion across different institutional contexts.³³ What is therefore needed is a *global* narrative that not only points out the ways in which platform cooperativism could help democratize the platform economy, but one that also makes us understand what policymakers in different countries could do to assist in or even actively promote this shift. Yet, the study has also shown that the institutional and political contexts in which platform cooperativism emerge still strongly frame the horizon of possibilities that these organizations face. Put differently, most of the drivers and obstacles that platform co-ops find themselves confronted with reflect the larger political framework they are embedded in. The focus on the global picture, therefore, needs to be complemented with *context-specific* narratives that explicitly address drivers and obstacles for this nascent phenomenon on both the national and local level. Doing so is indispensable to give policymakers the tools to address the specific problems that platform co-ops face in their respective jurisdictions.

To have laid out the first tracks for this larger project – thinking through the direct and indirect effects governmental activity has on emerging organizational forms in the shifting economic, political, and social context of the platform economy – is the most important contribution that this study was able to make. By having applied a newly developed framework for analyzing the politics of platform cooperativism to the heterogenous contexts of the U.S., Germany, and France, the study not only allowed for pointing towards context-specific obstacles, but also for improving our understanding of *what already works* – and what could therefore potentially be translated from one context into another. Nevertheless, this study only constitutes a first step. For there to be more

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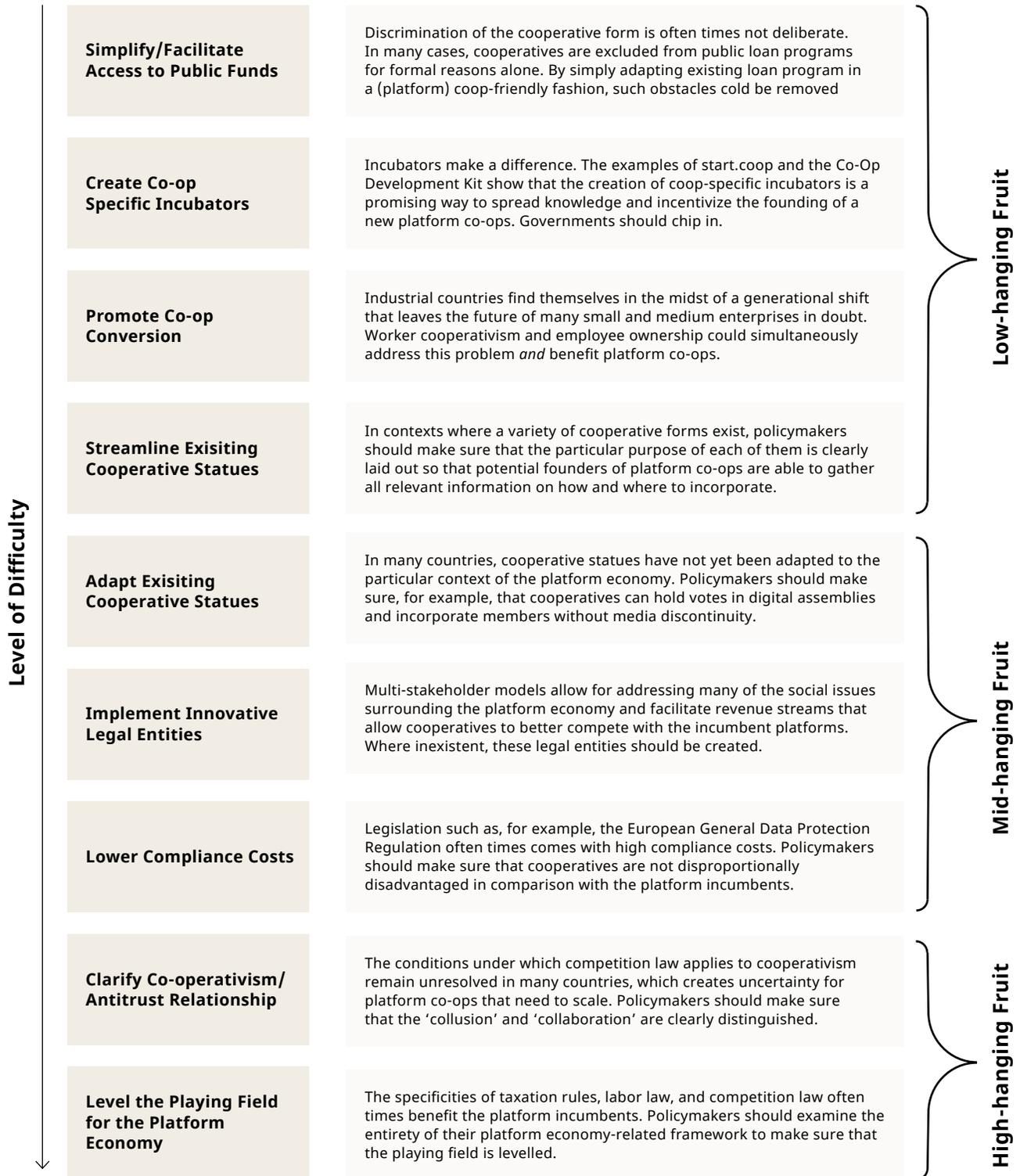


FIGURE 4:

Policy Recommendations for Beneficial Politics of Platform Cooperativism

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beneficial political frameworks for platform cooperativism worldwide, the threads spun here need to be taken up in different institutional and societal contexts: by scholars who are interested in the state-market relations of the platform economy; by platform co-ops that are interested in understanding the larger socio-political framework they are embedded in; and certainly also by policymakers who are interested in creating beneficial framework conditions for democratically governed and collectively owned digital platforms.

The background features a large, irregular shape in a vibrant blue color with a fine halftone dot pattern. This shape is set against a solid yellow background in the upper left and a solid pink background in the lower left. The word "NOTES" is centered within the blue area.

NOTES

Notes

- 1 The author wishes to thank Trebor Scholz, Nathan Schneider, Morshed Mannan, Guillaume Compain, Damion Bunders, Rahel Busch, Dominik Piétron, all of whom have enriched this research greatly with their thoughtful comments on earlier drafts.
- 2 In January 2019, the Internet of Ownership's platform co-op registry – the primary place where platform co-op-specific data is gathered – counted 111 organizations worldwide that explicitly identify as platform co-ops. Given the registry's crowd-sourced nature, this figure might miss certain organizations and/or include initiatives that are by now defunct.
- 3 Of the 111 platform co-ops mentioned in the Internet of Ownership's platform co-op registry (see Footnote 2), 29 have incorporated in the U.S., four in Germany, and nine in France. Platform co-ops in these three countries therefore make up more than a third of the global ecosystem. It is important to note that not all platform co-ops are registered in the database. For Germany, the author is aware of four other platform co-ops. For France, there are at least three other organizations that publicly identify as platform co-ops.
- 4 In the U.S., the NYC-based Platform Cooperativism Consortium was founded as a hub that “promotes research, community building, and advocacy for cooperatives that make the digital transition” (Platform Cooperativism Consortium 2020). In Germany, the Berlin-based cooperative Platform Cooperatives Germany runs regular cooperative-specific meet-ups and aims at enhancing the country's coop-ecosystem through concerted lobbying. Moreover, in France, La Coops des Communs connects politicians and platforms and organizes outreach events.
- 5 This study does not focus on informal types of governmental activity. For example, the question of how platform cooperativism is problematized discursively – as Jessop (Jessop 2016) would call it – is outside of the scope of this study. ‘Politics’ here is taken literally, as something that refers exclusively to the political sphere understood in a narrow sense. This, of course, only captures a particular element of what is usually understood when speaking about the ‘political’ (Laclau and Mouffe 2001). A follow-up study would need to put a stronger focus on such informal political approaches to platform cooperativism and compare the extent to which that type of activity mirrors the more formalized engagements analyzed here.
- 6 These two types of cooperatives are not mutually exclusive. To the contrary, they can (and do) overlap. In practice, many platform co-ops simultaneously classify as a multi-stakeholder and a worker cooperative. From a purely legal point, however, the worker cooperative and the multi-stakeholder cooperative are often affected by different regulations. It is therefore important to make this analytical distinction here in order to be able to take into account legislation for both types.
- 7 Each interview ended with a question asking the interviewee for other people that might hold relevance to the research question. Through this, three more platform co-ops were identified that subsequently were also contacted for an interview. After a dozen interviews, a saturation point seemed to have been reached, i.e. no previously unheard-of platforms or individuals were mentioned.

END NOTES

- 8 While never the most prominent subsector in the cooperative ecosystem in the U.S., there are currently still around 400 worker-owned cooperatives operating in a diverse range of industries. In 2017, roughly 7,000 people were employed by U.S. worker cooperatives. The gross revenue of these worker cooperatives amounted to 467,420,871 U.S. Dollars (Democracy Collaborative 2019). For an overview on the history of worker cooperatives in the U.S., see also John Curl's *For All the People* (2009). It is also important to note that cooperative ideas have influenced the U.S. economy far beyond the legal form of the incorporated cooperative. According to Vaheesan/Schneider (2019), currently around 14 million workers participate in some type of employee stock-ownership plans.
- 9 Cooperatives do not necessarily need to incorporate as a cooperative corporation in order to function as worker-owned and democratically governed business. To the contrary, a business could form as any type of for-profit legal entity and still decide to operate as a cooperative. This is reflected in the data gathered for this study: while the cooperative corporation is the most common entity type that platform co-ops in the U.S. use as their organizational form, there is nevertheless also a small amount of platform co-ops that uses the legal entity of a limited liability company (LLC). There are, however, some benefits for platform co-ops to incorporate: cooperative corporation entities, for example, receive preferential tax status under Subchapter T from the federal government. Furthermore, their cooperative practices are preserved by state laws. Given that the majority of the platform co-ops interviewed for this study have incorporated, primary focus is put on the cooperative as a corporation – and not as a LLC. Nevertheless, some obstacles specific to platform co-ops using the legal entity of the LLC are incorporated into the analysis. For more information on the distinction between the cooperative corporation and the cooperative-structured LLC, see Stephens (2016) as well as recent work of the Columbia Law Clinic.
- 10 In order for easier understanding, the statements and citations in this study are, if needed, carefully translated into English.
- 11 On a legal level, these critics primarily point towards Sec. 512(a)(3) of the act, which determines that members can receive voting rights 'on the basis of equity'. This implies that Article 58 Cooperatives can grant investors not only economic entitlements, but also ownership status and governance rights. Critics argue that this coupling of voting rights to equity stands in opposition with the three fundamental cooperative principles (as specified by the International Co-operative Alliance) of 'user-owned', 'user-controlled', and 'user-beneficial.' As such, they fear that the act runs danger of undermining the traditional one-member-one-vote-principle the cooperative idea has been built upon, replacing it with a system that would hypothetically allow investors to take control over patrons in relation to board-decisions (Luschin 2010).
- 12 This problem becomes more relevant when taking into account the type of platform co-ops that have been incentivized to take this route: in recent years, it was primarily platform co-ops working with undocumented migrants that chose to operate as LLCs instead of operating as cooperative corporations. In order to become member of a cooperative corporation, immigrant members may be required to complete I-9s that show that they are authorized to work in the U.S.. If a platform co-op fails to provide documentation that proves that its worker-members are treating themselves as employees under employment law and immigration law, they might suffer fines and penalties. Given that a worker on payroll who receives a W-2 from a corporation is more likely to be classified as 'employed' by the coop than an LLC member who pays self-employment tax, many platform co-ops working with migrants abstain from incorporating as a cooperative corporation in order to avoid fines.
- 13 This tension between competition law and platform cooperativism is not one that currently seems to

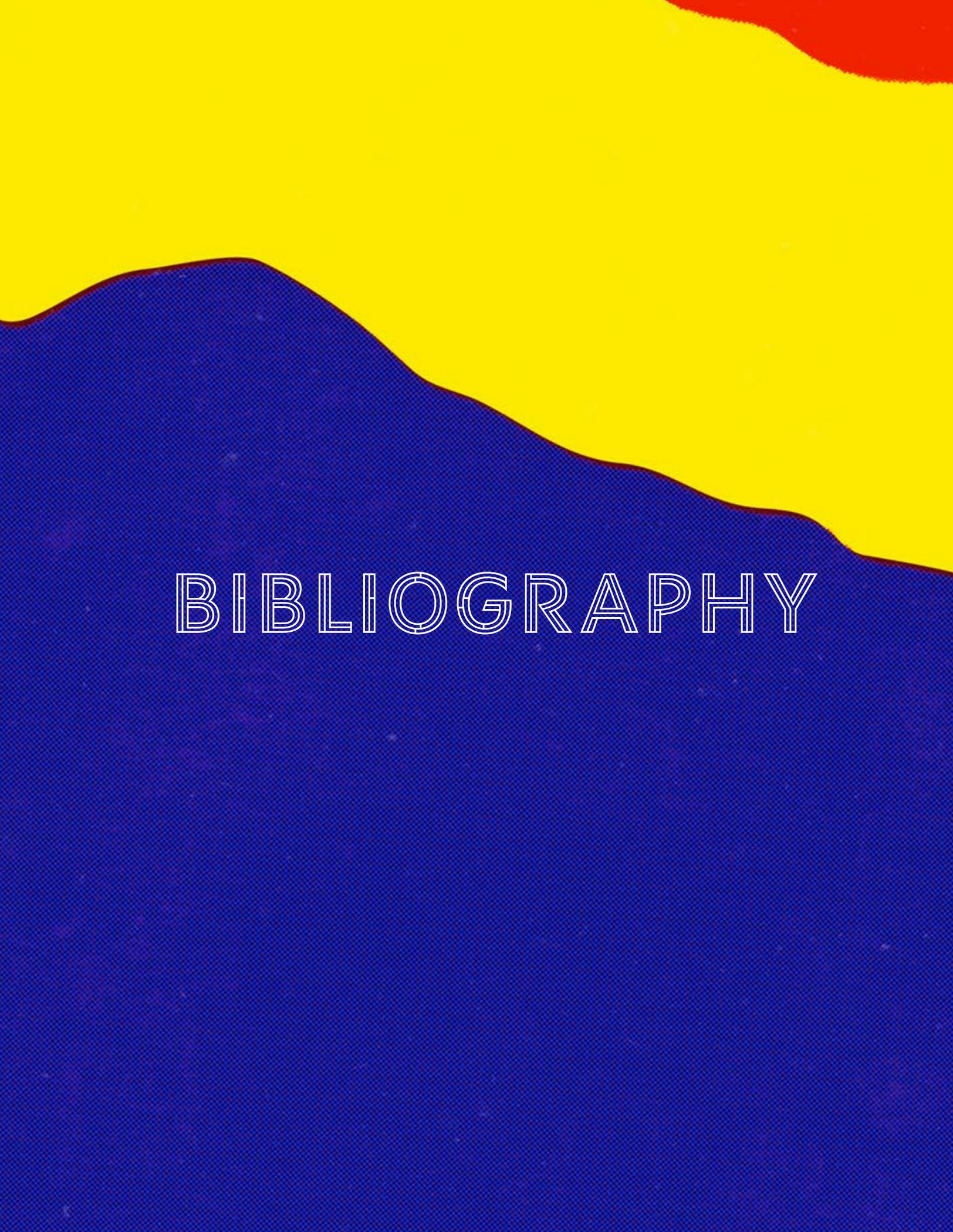
- affect platform co-ops on the ground. Rather, the ecosystem activists interviewed for this study have referenced this uncertain relationship. However, when confronted with this hypothetical possibility that their activities could be considered price-fixing, one of the platform co-ops argued that even if faced with such an accusation, there would be good arguments against viewing their practice as an example of horizontal collusion. This regarding, Interviewee 6 argued that [adapted in order to ensure anonymity]: »at the end of the day every single [transaction] is different. And every worker is different. And the state of the [task that is mediated] is different. So there's a lot of variables that will always dictate the price. So we can't. I mean, the whole thing (...) wouldn't stand because (...) the price for each [transaction] is different.« (Interview 6, 45:45).
- 14 Of course, there are many ways in which large U.S. enterprises in general and platforms in particular have tried (and continue to try) to shield foreign profit from taxation. Google and LinkedIn (Microsoft), for example, have exploited the Single Malt tax loophole for years, which itself constituted an evolution from the earlier Double Irish tax structure. Until its eventual closure in early 2020, the Double Irish tax structure constituted the main tool by which US multinationals shielded foreign profits from taxation, allowing them to build up untaxed offshore reserves of up to US\$1 trillion (Schiffer 2019).
- 15 The obstacles that platform co-ops in Germany face are very comparable to the obstacles that smaller cooperatives outside of the platform economy have faced in the country for years. As such, many of the insights gained through the conducted interviews are mirrored in recent literature on the question (see for example studies by Blome-Drees, Degens, and Schimmele 2017; Blome-Drees et al. 2015).
- 16 This, of course, does not mean that no labor law-specific issues might arise if a platform co-op would focus on the question of platform labor in the German context, nor that there are no labor law-related issues in Germany in general. To be very clear: labor law does play an enormous role in the discussions surrounding the overall politics of the platform economy. However, as of now, no platform co-op-specific obstacles have come to light. Hence, the issue has not been addressed as part of the study.
- 17 Since these amendments, a cooperative can be founded by only three individuals, while previously seven founders were mandated by law. In addition, cooperatives can now abstain from implementing and running a supervisory board entirely, while previously they were forced to do so. Furthermore, for a cooperative with less than 21 members, the cooperative's board can now consist of a single individual. Lastly, it was specified that only those cooperatives whose total assets exceeded one million euros and whose sales exceeded two million euros would need to be audited at all. In sum, a variety of legal measures have been taken in order to increase the attraction of this organization form (Zgaga 2017).
- 18 This suspicion, however, is mutual: while platform co-ops seemingly feel 'left out' and deemed as irrelevant by the established coop-scene, the Prüfverbände similarly remain skeptical when it comes to addressing the newly emerging platform co-ops. Having participated in a variety of meetings which aimed at bringing these two groups together throughout the writing process of this study, it became clear to me that a lot of this skepticism can be attributed to a fear on the side of the Prüfverbände that a certain form of 'coop-washing' promoted by platform co-ops might ultimately come to undermine their own position. While testing this hypothesis is out of the scope of this study, doing so could provide a fruitful starting point for a potential next investigation.
- 19 Following Interviewee 4, one hypothesis for why this is case could lie in the differences between the two country's respective labor laws. Further research is needed to understand if this is indeed true

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- 20 We have to consider the possibility that baseline expectations towards the state might be higher in Germany. While platform co-ops in the U.S. might be positively surprised that something is happening at all, German platform co-ops might think that not enough is happening. As such, the fact that public loans have been portrayed in a more positive light in the U.S. needs to be taken with a grain of salt.
- 21 From a comparative perspective, the French concept of the SSE can be likened to the voluntary or civic sector in the U.S. as well as to the gemeinnütziger Sektor in Germany. Yet, as the section will show, the SSE is much more politically-driven than the 'third sectors' in both the U.S. and Germany.
- 22 Historically, the emergence and proliferation of the *économie solidaire* can be traced back to a (social) movement in the 1990s that had aimed at transforming the traditional French *économie sociale*, which it perceived to be rather rigid and outdated (Borzaga et al. 2020).
- 23 It is important to note that France's legislative approach to digital platforms has unfolded rather differently than, for example, Germany's. While politicians in Germany have largely drafted entirely new legal frameworks, the French governments of the past decade have opted for an approach in which platform-specific clauses are inserted in many of the already existing general laws.
- 24 Recently, there has been another addition to the French cooperative code with the so-called *Société coopérative européenne* (SCE). This new organizational form has been created in order to facilitate communal activities within and across multiple states of the EU. Apart from The Mobility Factory SCE, which incorporates some German and French car-sharing cooperatives, however, the SCE does not yet seem to play an important role in the field of platform cooperativism.
- 25 A SCOP is a cooperative corporation in which employees hold the majority of the company's share capital. Just as in other worker cooperatives, employees elect the management team, actively participate in decision-making, manage the company, and share its profits in accordance with the democratic economic principles of cooperatives. Most importantly, the SCOP adheres to the traditional one-person-one-vote-principle.
- 26 In a legal sense, both the SCOP and the SCIC can incorporate either as public limited companies (SA), as simplified joint stock companies (SAS) or as a limited liability companies (SARL) and, just like any other regular company, they are beholden to the country's general commercial code (with certain modifications that are derived from the cooperative code). As such, both the SCOP and the SCIC are simultaneously traditional enterprises as well as cooperatives.
- 27 This very idea - explicitly reorienting the organizational model of the cooperative towards the common good - had already blossomed in many other European countries (such as Italy, Sweden and Belgium) beforehand. In implementing the SCIC, France 'imported' these discussions and ideas, adapting them to the specificities of the country's cooperative ecosystem.
- 28 For more information on the controversies surrounding multi-stakeholder cooperatives, see also Dellheim (2005)
- 29 The rise of the multi-stakeholder approach is of course also reflective of an overall withdrawal of the state from the 'third sector'. In other words, the emergence of the SCIC can also be interpreted as a governmental attempt at lowering the pressure on public institutions to provide certain services - by way of encouraging the founding of cooperatives that could then take over the provision of these very social services. Put simply, it might be cheaper for a local government to be a member of cooperative that provides a certain social service, rather than to organize this directly. Hence, one of the primary

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- ideas of the SCIC in France – the integration of public institutions as members into cooperatives with a social mission – needs to be seen in its two-sided nature: on one hand, it allows cooperatives to nurture close relationships with local authorities, which might even lead to new streams of funding. On the other hand, however, it also constitutes a form of further privatizing public services.
- 30 Today, there are 868 registered SCICs in France, which collectively generate roughly 7,700 jobs within the SSE (Les SCIC 2019).
- 31 Nevertheless, it is important to note that the 2014 law has further increased the already existing tensions within the SSE outlined earlier. Concretely, in the run-up to the implementation of the law many 'traditional' SSE organizations expressed dissatisfaction with the fact that explicitly profit-oriented companies can now also lay claim to the ESUS status. Because of this, the OECD/European Union (OECD and European Commission 2017) have argued that “ancient cleavages between an altruistically driven economy and co-operative enterprises that have leading positions in competitive markets are reaffirming themselves” in the context of the law.
- 32 In addition, given that statutes in certain states are more appealing than others (such as the Colorado ULCAA), many platform co-ops do not conduct their business in the same place as where they have incorporated. This adds another layer of uncertainty concerning the particular legal obligations (for example in relation to taxation) that a platform co-op has towards the state in which it operates.
- 33 It is important to keep in mind that this study has focused exclusively on the framework conditions for platform cooperativism in countries of the global north. Cooperativism, however, has a rich, storied history in countries all over the world. In the global south in particular, the idea of worker cooperativism has constituted an important instrument of self-empowerment and mutual self-help for over a century (see for example Bing-Pappoe 2015). In order to understand how to support platform cooperativism worldwide, it is therefore indispensable that we expand our horizons beyond the political frameworks we find in the global north. In this context, Mikwa’s study on the potentials of platform cooperativism in Kenya (2020) provides an important contribution that allows us to think through the emergence of platform cooperativism in countries of the global south.



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List of Abbreviations

CNNUm: French National Digital Council

eG: eingetragene Genossenschaft

SSE: Economie sociale et solidaire

ESUS: Entreprise Solidaire d'Utilité Sociale

EU: European Union

e.V.: eingetragener Verein

GDPR: General Data Protection Regulation

ICDE: Institute for the Cooperative Digital Economy

BIBLIOGRAPHY

IÖW: Institute for Ecological Economy Research

LCA: Limited Cooperation Association

LLC: Limited Liability Company

Loi LOM: Projet de loi d'orientation des mobilités

LRM: La Republique En Marche

NetzDG: Netzwerkdurchsetzungsgesetz

NYC: New York City

SA: Public Limited Company

SARL: Limited Liability Company

SAS: Simplified Joint Stock Company

SBA: Small Business Administration

SCIC: Société cooperative d'intérêt collectif

SCOP: Société cooperative et participative

SME: Small and Medium Enterprises

ULCAA: Uniform Limited Cooperative Association Act

U.S.: United States

VoC: Varieties of Capitalism



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