

## Agricultural Producers Cooperatives in the years 1920–2022 – selected legal issues

Spółdzielnie producentów rolnych w latach 1920–2022 – wybrane zagadnienia prawne

Сельскохозяйственные производственные кооперативы в 1920–2022 годах –  
отдельные правовые вопросы

Сільськогосподарські виробничі кооперативи у 1920–2022 рр. –  
вибрані правові питання

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**Summary:** Firstly, this article aims to outline the development of cooperatives of agricultural producers from 1920 to 2022 and assess the factors that influenced it. Secondly, it seeks to determine whether and to what extent the legislation supported the development of agricultural cooperatives and consider potential directions of their development after 2022. The scope outlined for consideration is extensive; therefore, this article only addresses selected issues. The primary research method was the dogmatic analysis of normative texts. The article's topic also references the historical method and statistical data. In summary, the author shows that, among other things, cooperatives in the interwar period after 1920 developed on many levels, particularly in terms of legislation, research and publication, and practice. If it had not been for the socialist period, many cooperatives of agricultural producers from the interwar period would still be operating. For several years, the Polish legislator has been trying to revive cooperatives and encourage agricultural producers to establish them. Examples include the passing of the Act on farmers' cooperatives and legal regulations concerning energy cooperatives.

**Key words:** cooperative, agricultural producers, agricultural cooperative, cooperative movement, cooperative groups of agricultural producers, agricultural producer organisations, agricultural production cooperatives

**Streszczenie:** Celem artykułu jest po pierwsze próba określenia tendencji rozwoju spółdzielni producentów rolnych od 1920 do 2022 r. oraz oceny czynników wpływających na ten proces, po drugie zaś ustalenie, czy i na ile ustawodawstwo sprzyjało bądź sprzyja rozwojowi tych podmiotów oraz jakie mogą być kierunki ich działalności po 2022 r. Zakreślona tematyka jest szeroka, dlatego artykuł porusza jedynie wybrane kwestie. Podstawową metodą badawczą jest dogmatyczna analiza tekstów prawnych. Wykorzystano także metodę historyczną oraz posłużono się danymi statystycznymi. W podsumowaniu autorka stwierdziła m.in., że spółdzielczość w okresie międzywojennym po 1920 r. rozwinęła się na wielu płaszczyznach, zwłaszcza w aspekcie legislacji, doktryny, ale również w praktyce. Gdyby nie okres socjalizmu, wiele spółdzielni producentów rolnych z okresu międzywojennego nadal prowadziłoby działalność. Od kilku lat polski ustawodawca stara się zachęcać rolników do zakładania spółdzielni, poszerzając legislację z zakresu prawa spółdzielczego i zrzeszania się producentów rolnych. Przykładem jest uchwalenie ustawy o spółdzielniach rolników czy regulacji prawnych dotyczących spółdzielni energetycznych.

**Słowa kluczowe:** spółdzielnia, producenci rolni, spółdzielnia producentów rolnych, spółdzielczość, spółdzielcze grupy producentów rolnych, organizacje producentów rolnych

**Резюме:** Целью статьи является, во-первых, попытка определить тенденцию развития сельскохозяйственных производственных кооперативов с 1920 по 2022 год и оценить факторы, влияющие на этот процесс, а во-вторых, определить, способствовало ли и в какой степени законодательство развитию сельскохозяйственных производственных кооперативов и каковы могут быть направления их развития после 2022 года. Охват изложенного широк, поэтому в статье затронуты лишь отдельные вопросы. Основным методом исследования

является догматический анализ юридических текстов. Также использовался исторический метод и применялись статистические данные. В заключение автор, среди прочего, заявляет, что кооперация в межвоенный период после 1920 года развивалась на многих уровнях, особенно в плане законодательства и доктрины, но также и на практике. Если бы не период социализма, многие сельскохозяйственные производственные кооперативы межвоенного периода продолжали бы работать. В течение последних нескольких лет польский законодатель пытается поощрять земледельцев к созданию кооперативов, расширяя законодательство о кооперативном праве и ассоциациях сельскохозяйственных производителей. Примером может служить принятие закона о сельскохозяйственных кооперативах или нормативных актов об энергетических кооперативах.

**Ключевые слова:** кооператив, сельскохозяйственные производители, сельскохозяйственный производственный кооператив, кооперация, кооперативные группы сельскохозяйственных производителей, организации сельскохозяйственных производителей

**Резюме:** Метою статті є, по-перше, спроба визначити тенденції розвитку сільськогосподарських виробничих кооперативів з 1920 по 2022 рр. та оцінити чинники впливу на цей процес. По-друге, визначити, чи і в якій мірі законодавство сприяло та надалі сприяє розвитку сільськогосподарських виробничих кооперативів та які напрями можуть бути їх розвитку після 2022 р. Обсяг аналізу є досить широким, тому в статті розглядаються лише окремі питання. Основним методом дослідження є догматичний аналіз правових текстів. Також використовувався історичний метод і статистичні дані. У підсумку автор зазначив, між іншим, що кооперативний рух у міжвоєнний період після 1920 р. розвивався на багатьох рівнях, особливо в законодавчому та доктринальному плані, але також і на практиці. Якби не соціалістичний період, багато сільськогосподарських виробничих кооперативів міжвоєнного періоду продовжували б працювати. Польський законодавець уже кілька років намагається заохотити фермерів до створення кооперативів шляхом розширення законодавства у сфері кооперативного права та об'єднання сільгоспвиробників. Прикладом може бути прийняття закону про фермерські кооперативи або законодавчих актів щодо енергетичних кооперативів.

**Ключові слова:** кооператив, сільськогосподарські товаровиробники, кооператив сільськогосподарських товаровиробників, кооперативи, кооперативні групи сільськогосподарських товаровиробників, організації сільськогосподарських товаровиробників

## Introduction

Cooperatives have a rich history on Polish soil, and the legal, economic and social forms of their organisation and operation have changed over the years. Cooperation is necessary at various stages of farming: purchase of means of production, use of agricultural machinery, sale of crops, consultancy and processing.<sup>1</sup> Cooperation reduces agricultural activity costs, allowing higher prices for agricultural products and increasing their competitiveness in the market.<sup>2</sup> The attribute that distinguishes a cooperative from other businesses is that it brings together financial

<sup>1</sup> For more, see e.g., A. Suchoń, *Prawna koncepcja spółdzielni rolniczych*, Poznań 2016, pp. 8 ff. and the literature cited therein.

<sup>2</sup> A. Nowak, T. Kijek, A. Krukowski, *Polskie rolnictwo wobec wyzwań współczesności*, vol. 1. *Wymiar ekonomiczno-strukturalny*, Lublin 2019, pp. 24 ff.; *Wielofunkcyjność rolnictwa. Kierunki badań, podstawy metodologiczne i implikacje praktyczne*, ed. J. Wilkin, Warszawa 2010, pp. 12 ff.

means (capital) and, above all, people.<sup>3</sup> Additionally, cooperatives have a long-term business perspective and a life span of generations, which is extremely important in agriculture.

Cooperatives of agricultural producers developed during the partitions of Poland and the interwar period. Their development was fostered by the Act of 29 October 1920 on cooperatives.<sup>4</sup> Agricultural cooperatives, popular at that time, provided seeds and fertilisers and organised sales of goods produced on the farms of their members, while grocery cooperatives furnished their members with staple products.<sup>5</sup> Diametrical changes in the running of farms and the development of agricultural cooperatives occurred after the Decree of the Polish Committee of National Liberation on implementing the agrarian reform of 6 September 1944 came into force.<sup>6</sup> A significant area of farmland was converted into state ownership by this law. In the following years, state farms and agricultural production cooperatives gained considerable importance. Though private farms were not popular in other countries of the Eastern Bloc, the activity of farms owned by agricultural producers who were natural persons should be assessed favourably in Poland. However, the chances for development were limited (such units could not exceed the area indicated in the regulations). The political transformation and Poland's accession to the European Union introduced new rules for agricultural activity and cooperatives created by agricultural producers.

Legislation on the establishment and operation of agricultural cooperatives has undergone significant changes over the years. It is worth mentioning the Act of 29 October 1920 on cooperatives, the Act of 17 February 1961 on cooperatives and their associations,<sup>7</sup> the Act of 16 September 1982 on cooperative law<sup>8</sup> and the Act of 4 October 2018 on farmers' cooperatives.<sup>9</sup> The situation is somewhat different in Germany, where the *Genossenschaftsgesetz Act*<sup>10</sup> has been in force since the end of

<sup>3</sup> M. Zuba, *Spółdzielnie mleczarskie trwają formą agrobiznesu*, *Zeszyty Naukowe WSEI. Seria Ekonomia* 2009, no. 1, pp. 167–175.

<sup>4</sup> *Journal of Laws [Dziennik Ustaw]* 1920 no. 111, item 733 as amended.

<sup>5</sup> See: P. Zakrzewski, *Cel spółdzielni*, *Kwartalnik Prawa Prywatnego* 2005, vol. 1, pp. 69 ff. and the literature cited therein, including a reference to the justification of the Act on cooperatives of 1920.

<sup>6</sup> *Journal of Laws* 1945 no. 3, item 13 as amended, hereinafter referred to as the PKWN (Polish Committee of National Liberation) decree of 6 September 1944. See: W. Góra, *Reforma rolna PKWN*, Warszawa 1969, pp. 15 ff.

<sup>7</sup> *Journal of Laws* 1961 no. 12, item 61.

<sup>8</sup> Consolidated text: *Journal of Law* 2021 item 648 as amended.

<sup>9</sup> *Journal of Laws* 2018 item 2073.

<sup>10</sup> *Gesetz betreffend die Erwerbs und Wirtschaftsgenossenschaften*, promulgated on 1 May 1889 (RGBl. S. 55 as amended), entered into force on 1 October 1889.

the 19th century, though amended several times. While in France, the Rural Code regulates agricultural cooperatives.<sup>11</sup>

The subject of agricultural cooperatives merits consideration for several reasons, but the main arguments are cognitive and practical.<sup>12</sup> In Poland, there are currently over 3,000 cooperatives in rural areas. Some have been operating for many years and are generally created by agricultural producers. A few can trace their origins to the turn of the 19th and 20th centuries, e.g. dairy or bank cooperatives.<sup>13</sup> The 100th anniversary of the passing of the 1920 Act on cooperatives makes it possible to look at cooperatives of agricultural producers as a socio-economic phenomenon and determine the evolution of these entities in terms of the development of agriculture and rural areas between 1920 and 2022. Such reflections may be useful in planning changes to legal regulations.<sup>14</sup> Cooperatives operate in agriculture, which has various functions. Social and economic changes, environmental degradation and civilisation development present new challenges for agriculture.

Engaging in a discussion on the possible directions in which agricultural cooperatives may develop seems justified also due to the entry into force on 1 January 2023 of new regulations concerning the Common Agricultural Policy, i.e. Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD).<sup>15</sup> These new regulations, combined

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<sup>11</sup> Decree Nos. 55–667 of the Rural Code of 20 May 1955 unified the regulations relating to agricultural cooperatives. This Code has been modified and supplemented, inter alia, by Decrees Nos. 59–286 of 4 February 1959 and Nos. 61–867 of 5 August 1961 relating to the legal status of agricultural cooperatives. See more: A. Suchoń, *Prawna koncepcja spółdzielni...*, pp. 82 ff.

<sup>12</sup> A. Suchoń, *Spółdzielnie jako podmioty istotne dla społeczeństwa oraz gospodarki – aspekty prawne i ekonomiczne*, in: *Przedsiębiorstwo, gospodarka i społeczeństwo w kręgu zainteresowania ekonomistów*, ed. R. Kamiński, Poznań 2020.

<sup>13</sup> Some dairy cooperatives are over 100 years old, or were established in the inter-war period. For more see: A. Piechowski, *Spółdzielcze stulatki. Rzecz o wiekowych polskich spółdzielniach*, Bydgoszcz 2008, pp. 3–4; A. Domagalski, *Wyzwania stojące przed spółdzielczością w III RP*, in: *Spółdzielczość w budowie społeczeństwa obywatelskiego – historia i współczesność*, ed. T. Skoczek, Warszawa 2013, pp. 23 ff.

<sup>14</sup> Following the decision of the Minister of Agriculture and Rural Development, on 16 December 2021, the Team for the development of legal regulations concerning incentives for agricultural cooperatives was appointed. The tasks of the Team include: preparation of proposals for legislative changes aimed at facilitating the functioning of agricultural cooperatives on the market – Official Journal the Ministry of Agriculture and Rural Development 2021 item 98.

<sup>15</sup> OJL 435, 6.12.2021, pp. 1–186.

with the European Green Deal,<sup>16</sup> create new challenges for agricultural producers. Their implementation is often easier when agricultural producers work together in cooperatives. There are also provisions concerning cooperatives in the Polish Deal (Polski Ład). This programme states, among other things, that “a system of incentives will be created for agricultural cooperatives in various areas – from environmental protection, through building law, to further tax incentives.”<sup>17</sup>

Firstly, this article aims to outline the development of agricultural cooperatives from 1920 to 2022 and assess the factors that influenced it. Secondly, it seeks to determine whether and to what extent the legislation supported the development of agricultural cooperatives and consider potential directions of their development after 2022. The scope outlined for consideration is extensive; therefore, the article will only address selected issues.

## 1. Agricultural cooperatives in the interwar period

The precursor of the cooperative movement on Polish soil was Stanisław Staszic, who founded the Hrubieszów Farmers’ Mutual Aid Society (Towarzystwo Rolniczego Ratowania się Wspólnie w Nieszczęściach) in 1816.<sup>18</sup> Members of the Society, peasants who cultivated their land individually, paid rent and a fixed fee for the Society’s common goals. It was mainly involved in providing mutual assistance to those in need (e.g. the reconstruction of a building or household after a fire, helping and caring for the victims of natural disasters, the elderly, the disabled or orphans).

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<sup>16</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM/2019/640 final, Brussels, 11.12.2019, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52019DC0640> [access: 2.09.2022]; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Farm to Fork Strategy for a Fair, Healthy and Environmentally-Friendly Food System, COM/2020/381 final, Brussels, 20.5.2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0381> [access: 2.09.2022]; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘Fit for 55’: Delivering the EU’s 2030 Climate Target on the Way to Climate Neutrality, COM/2021/550 final, Brussels, 14.07.2021, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0550> [access: 2.09.2022].

<sup>17</sup> *Polska – nasza ziemia*, <https://www.gov.pl/web/polski-lad/polska-nasza-ziemia> [access: 2.09.2022].

<sup>18</sup> *Krajowa Rada Spółdzielcza*, [http://krs.org.pl/index.php?option=com\\_content&view=article&id=27&Itemid=283](http://krs.org.pl/index.php?option=com_content&view=article&id=27&Itemid=283) [access: 2.09.2022]; S. Staszic, *Przestrogi dla Polski*, Warszawa 1960, pp. 25 ff.

The Society operated for many years but was dissolved by the communist authorities in 1952 when its assets were nationalised.<sup>19</sup>

The cooperative movement, popular in Poland during the partitions, performed various functions. Among other things, it was a form of association and an education provider for peasants, also benefiting the landowners. Furthermore, it allowed the horizontal consolidation of agricultural production, giving rise to producer associations and improved local supply by creating simple agricultural processing and craftsmanship.<sup>20</sup> In the Poznań Province and Pomerania, the first cooperatives appeared between 1861 and 1865. They were organised within farming circles, which then played an important role in spreading agricultural education in rural areas, teaching peasants rational land cultivation and farming. At the same time, they initiated the creation of agricultural and commercial cooperatives.<sup>21</sup> Apart from people's banks and cooperatives created by agricultural producers like 'Rolnik' (Farmer), parcel cooperatives operating in some rural areas of the Poznań Province and Pomerania played an important role.

Just before the First World War outbreak, there were about 3,400 cooperatives of different kinds in all partitioned Polish territories, with almost 1.2 million members. In Galicia, there were 1,670 cooperatives of various types, bringing together nearly 700,000 members (however, this number included 1,400 Stefczyk's credit unions, with a total of 320,000 members). In the Kingdom of Poland (Russian Partition), there were more than 1,400 cooperatives with almost 400,000 members; in the Prussian Partition, there were more than 300 cooperatives with almost 200,000 members.<sup>22</sup>

Poland was strongly polarised in the agrarian structure on the threshold of independence. The process of land concentration led to a situation where manors with an area greater than 50 hectares covered 47,3% of the land area. However, there were only 30,000 such estates for a total of 3,262,000 farms. At the same time, there were over 2,111,000 farms with an area not exceeding 5 hectares.<sup>23</sup> With such

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<sup>19</sup> Ibidem. See also: A. Suchoń, *Legal Aspects of the Organization and Operation of Agricultural Co-Operatives in Poland*, Poznań 2019, pp. 7 ff.

<sup>20</sup> *Krajowa Rada Spółdzielcza*, <http://krs.org.pl> [access: 2.09.2022].

<sup>21</sup> See: J. Mroczek, *Początki rozwoju spółdzielczości w Polsce*, Przegląd Prawniczy, Ekonomiczny i Społeczny 2012, no. 1, pp. 29–40.

<sup>22</sup> A. Piechowski, *Historyczny kontekst uchwalenia ustawy z 29 października 1920 r.*, in: *Biuletyn Instytutu Stefczyka, 90 lat prawa spółdzielczego. Materiały pokonferencyjne*, Warszawa 2010, pp. 17 ff.

<sup>23</sup> Cf. M. Mieszczankowski, *Struktura agrarna Polski międzywojennej*, Warszawa 1960, pp. 17 ff.; see also: Instytut Ekonomiki Rolnej, *Wieś w liczbach w Polsce kapitalistycznej i w Polsce Ludowej*, Warszawa 1952, pp. 7–9.

a dispersed agrarian structure, it was essential for agricultural producers to work together in cooperatives.

Immediately after the re-establishment of Polish statehood following the end of the First World War, work began to prepare legislation on cooperatives. Even if cooperatives functioned well in the partitioned Polish territories, they operated under different legal frameworks.<sup>24</sup> Finally, on 29 October 1920, the Act on cooperatives<sup>25</sup> was passed – at the time, a very modern and progressive law. It created a kind of cooperative constitution in Poland, as is rightly emphasised in the literature “since it was based on a wealth of historical experience drawn from various legal systems (especially the Austrian and German ones, where the conditions for the development of this form of activity were favourable).”<sup>26</sup>

From 1919 to 1920, Stanisław Wojciechowski (one of the founders of ‘Społem’ – a consumers’ cooperative of grocery shops) was Minister of the Interior of reborn Poland and later President of the Republic of Poland (1922–1926).<sup>27</sup> It is worth emphasising that Wojciechowski was very much involved in developing cooperatives in the period under consideration. He researched cooperatives and was also the author of many books on this issue. It is worth mentioning some of the titles, as they are indicative: *Spółdzielnie rolnicze. Jakie być mogą i powinny w Polsce według wzorów zagranicznych* [Agricultural Cooperatives. What they Can and Should be in Poland According to Foreign Models], Poznań 1936; *Historia spółdzielczości polskiej do 1914 roku* [History of Polish Cooperatives until 1914], Warszawa 1939; *Kooperacja w rozwoju historycznym* [Cooperation – its Historical Development], Warszawa 1923; *Ruch spółdzielczy w Anglii* [The Cooperative Movement in England], Warszawa 1918.

The Act of 1920 contained only a general framework and did not regulate particular types of cooperatives, allowing the free creation of their different types.<sup>28</sup> Article 1 expressed the principle of an open door. Membership was open to all, and in addition to economic activities, the cooperative was also to carry out educational activities, i.e. improving the cultural level of its members. Such principles favoured the establishment of agricultural cooperatives. The founders had to be at least ten

<sup>24</sup> A. Jedliński, *Ustawa z 1920 r. na tle ówczesnych regulacji europejskich*, in: *Biuletyn Instytutu Stefczyka, 90 lat prawa spółdzielczego. Materiały pokonferencyjne Krajowej Rady Spółdzielczej*, Warszawa 2010, pp. 21 ff.

<sup>25</sup> *Journal of Laws* 1920 no. 111, item. 733 as amended.

<sup>26</sup> See: A. Piechowski, *Historyczny kontekst...*, pp. 17 ff.

<sup>27</sup> Stanisław Wojciechowski was the second President of independent Poland from 1922 to 1926.

<sup>28</sup> Cf. A. Piechowski, *Historyczny kontekst...*, pp. 17 ff.

natural persons or three legal entities. In turn, the democratic system principle (1 member, 1 vote) was contained in Article 45 (3) of the 1920 Act.<sup>29</sup>

As already noted, the 1920 Act contained no separate regulations concerning cooperatives of agricultural producers. Hence in the interwar period, these cooperatives continued to develop (e.g. dairy cooperatives, agricultural services cooperatives, purchasing and marketing of agricultural products, purchasing and marketing of cattle and pigs, egg cooperatives, poultry cooperatives, sales of farming tools, grazing cooperatives, grain purification cooperatives and processing cooperatives, such as distilleries, bakeries, sugar factories, etc.).<sup>30</sup> Milk producers were often members of dairy cooperatives. In 1938, there were 1,475 dairy cooperatives in Poland, with approximately 700,000 members.<sup>31</sup> The activities of cooperatives were influenced by legal regulations related to agriculture. For example, laws on agrarian reform influenced the enlargement and creation of agricultural holdings. Agricultural producers with medium-sized farms were often members of cooperatives.

In accordance with the Act of 15 July 1920 on the implementation of agrarian reform,<sup>32</sup> the principles of this implementation concerned, inter alia, the compulsory purchase of large-scale land with an area below a certain statutory maximum.<sup>33</sup> The owner of an estate or estates subject to compulsory purchase was entitled to retain only one manor on which he or his family operated a farm. Land acquired by the state from large landowners was then sold. In turn, Article 1 of the subsequent Act of 28 December 1925 on the implementation of agrarian reform<sup>34</sup> indicated that the agricultural system of the Republic of Poland would be based on strong and healthy privately owned farms capable of efficient production and different types and sizes. The introduction of the new system involved, inter alia, the creation of independent farms, the enlargement of existing mini-farms to the size of independent economic units and the formation of small farms for horticultural and vegetable production.

<sup>29</sup> See: R. Cioch, *Zasady rocdzelskie i ich realizacja w praktyce*, Teka Komisji Prawniczej – Oddział PAN w Lublinie 2009, vol. 2, pp. 33 ff.

<sup>30</sup> *Spółdzielczość wiejska jako jedna z głównych form wspólnego gospodarczego działania ludzi*, ed. W. Boguta, Warszawa 2011, p. 28; M. Brodziński, *Oblicza polskiej spółdzielczości wiejskiej. Geneza, rozwój, przyszłość*, Warszawa 2014, pp. 53 ff.

<sup>31</sup> *Spółdzielczość przetrwała próbę czasu*, <https://finanse.wp.pl/spoldzielczosc-przetrwala-probe-czasu-6114271812368513a> [access: 2.09.2022].

<sup>32</sup> Journal of Laws 1920 no. 70, item 462 as amended.

<sup>33</sup> Cf. M. Stanulewicz, *Reforma rolna jako próba regulacji stosunków agrarnych w Polsce. Koncepcje i próby ich realizacji w latach 1918–1944*, in: *Reformy rolne w Polsce międzywojennej i powojennej. Prawo, realizacja, skutki, problemy reprivatyzacyjne*, eds. E. Borkowska-Bagieńska, W. Szafrński, Poznań 2008, pp. 11 ff.

<sup>34</sup> Journal of Laws 1926 no. 1, item 1 as amended.



## 2. Agricultural cooperatives after the Second World War, until European Union Membership

During the socialist period, cooperatives developed mainly in the countryside, but group interests were subordinated to the general interest of the socialist country. On 20 December 1949, the Act of 29 October 1920 on cooperatives was amended.<sup>35</sup> As P. Zakrzewski rightly points out, the fundamental change was that a cooperative functioning within the central economy was to conduct its activity not only in the interest of its members but also in the state's interest.<sup>36</sup> On 17 February 1961, the Act on cooperatives and their associations was adopted.<sup>37</sup> From the 1950s onwards, agricultural production cooperatives became increasingly popular. Article 95 stipulated that the objective of their agricultural economic activity was to run a joint agricultural holding based on the personal work of their members. In addition to its primary activity, such a cooperative could operate processing and service plants. As regards the establishment or expansion of a production unit, i.e. an agricultural holding, the articles of association of a agricultural production cooperatives had to stipulate that a member in possession of the land was obliged to contribute it to the cooperative.

This obligation could apply to all the land owned by members or to a specific part of it. In turn, Article 98 of the Act stated that it could be stipulated that members were entitled to retain part of the land for their personal holdings as allotments. Thus, agricultural production cooperatives were formed by producers who contributed farmland to the cooperative as land contributions. The problem was that only some took such a decision freely. There were many cases where agricultural producers were forced to join cooperatives and make land contributions.

The next piece of legislation pertaining to cooperatives was the Act of 16 September 1982 on the law on cooperatives. Despite many amendments, it is still in force. The 1982 legislation paid more attention to agricultural production cooperatives. For many years, specialised cooperatives operated in the Polish legal system. According to Article 173 of the Act, their objective was to run a collective agricultural holding engaged in a specific type of production in connection with the individual agricultural holdings of their members and cooperation in developing specialised agricultural production on these holdings. The member was obliged to make a monetary contribution in the amount established in the statutes. In addition, the latter could stipulate the member's obligation to contribute part of

<sup>35</sup> The consolidated text was promulgated by the announcement of the Chairman of the State Economic Planning Commission on 20 May 1950, Journal of Laws 1950 no. 25, item 232.

<sup>36</sup> P. Zakrzewski, *Cel spółdzielni...*, p. 74.

<sup>37</sup> Journal of Laws 1961 no. 12, item 61.

his/her land that would be useful for the collective agricultural holding. It was also supposed to lay down rules on the interaction between the farm collective and the individual farms of the members.

After 1989, i.e. after the political transformation, many cooperatives were abolished, and their role in rural areas and agriculture was weakened. Farmers viewed the cooperative movement as a relic of the previous era. Moreover, the Act of 20 January 1990 on changes in the organisation and operation of cooperatives had a very negative impact on the development of cooperatives.<sup>38</sup> However, dairy cooperatives and 'Samopomoc Chłopska' cooperatives continued to operate.

At the same time, special provisions of cooperative law specify the requirements to be met by members of agricultural production cooperatives. These may be farmers who are owners or natural holders of agricultural land, tenants, users or other dependent holders of agricultural land and may also include other persons with qualifications helpful in working in a cooperative.

### 3. Agricultural cooperatives after Poland's accession to the European Union

Poland's accession to the European Union marked a new stage in the development of cooperatives. First of all, we can observe the emergence of agricultural producer groups organised in cooperatives.<sup>39</sup> On 25 July 2008, the amendment to the Act of 16 September 1982 on cooperative law entered into force,<sup>40</sup> and cooperative agricultural producers' groups could be established by a minimum of five entities (agricultural producers). A cooperative member intending to form an agricultural producer group could be any entity running an agricultural holding within the meaning of the provisions on agricultural tax or performing agricultural activities within the scope of special divisions of agricultural production. In the first stage, the producers must select a legal form with a legal personality. The Act of 15 September 2000 on agricultural producer groups and their associations and amendments to other acts also enables forming such producer groups based on already existing cooperatives. Article 3a of the Act stipulates that a cooperative may also operate as a group if it comprises at least five producers of a single product or group of products that meet the requirements set out in Article 2 and elsewhere in the Act

<sup>38</sup> Journal of Laws 1990 no. 6, item 36 as amended.

<sup>39</sup> A. Suchoń, *Wpływ polityki i prawa Unii Europejskiej na rozwój spółdzielni rolniczych w wybranych krajach członkowskich*, Przegląd Prawa Rolnego 2015, no. 1, pp. 95–120.

<sup>40</sup> Journal of Laws 1982 no. 163, item 1014.

on agricultural producer groups. The provision's wording allowed agricultural cooperatives or 'Samopomoc Chłopska' cooperatives to establish groups.

Cooperatives forming agricultural producer groups can be compared to the agricultural cooperatives that operated in the interwar period. The objective of cooperative agricultural producer groups is closely linked to the farming activities of their members. These are activities of a farming nature (types of activity); in other words, they are considered agricultural because of the connection with the farming activity conducted by the cooperative members.

We should also mention cooperatives of producers of agricultural products registered as Protected Designations of Origin, Protected Geographical Indications and Traditional Specialities Guaranteed, in which agricultural producers have a predominant share. As defined in the Regulation (EU) no. 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs,<sup>41</sup> a 'group' denotes any association, regardless of its legal form, bringing together predominantly food producers or food processors whose activity is connected with the same product. These groups play a key role in the application process for the registration of designations of origin and geographical indications, as well as traditional specialities guaranteed and in amendments to specifications and requests for revocation of the registration.<sup>42</sup>

Agricultural producer organisations operate on similar principles to groups. In the light of EU Common Agricultural Policy legislation, producer organisations are to contribute to the empowerment of farmers in the food supply chain, farm development and agricultural markets.<sup>43</sup> Section 131 of the Preamble of Regulation (EU) no. 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) no. 922/72, (EEC) no. 234/79, (EC) no. 1037/2001 and (EC) no. 1234/2007<sup>44</sup> stipulates that: "Producer organisations and their associations can play useful roles in concentrating supply, in improving the marketing, planning and adjusting of production to demand, optimising production costs and stabilising producer prices, carrying out research, promoting best

<sup>41</sup> OJ L 343, 14.12.2012, pp. 1–29.

<sup>42</sup> A. Suchoń, A. Kapała, *Z prawnej problematyki oznaczeń geograficznych produktów rolnych oraz środków spożywczych w Polsce i we Włoszech*, in: *Wybrane problemy prawa materialnego i procesowego. Teoria i praktyka*, vol. 4, eds. K. Knopek, J. Mucha, Poznań 2016, pp. 20 ff.

<sup>43</sup> European Commission, *Study of the Best Ways for Producer Organisations to be Formed, Carry out Their Activities and be Supported*, 2019, [http://real.mtak.hu/105490/1/report-producer-organisations-study\\_en.pdf](http://real.mtak.hu/105490/1/report-producer-organisations-study_en.pdf) [access: 2.09.2022].

<sup>44</sup> OJ L 347, 20.12.2013, pp. 671–854 as amended, hereinafter referred to as Regulation (EU) no. 1308/2013 of the European Parliament and of the Council of 17 December 2013.

practices and providing technical assistance, managing by-products and risk management tools available to their members, thereby contributing to strengthening the position of producers in the food chain.”

The Polish legislator intends to encourage the creation of organisations, which is why regulations have been amended and issued in recent years. For example, on 20 May 2020, the Regulation of the Minister of Agriculture and Rural Development of 27 April 2020 took effect, amending the Regulation concerning the detailed conditions and procedure of granting, disbursement and return of financial aid as part of the activity entitled “Establishment of groups of producers and producer organisations” covered by the Programme of Rural Areas Development for the years 2014–2020.<sup>45</sup>

In some countries, the dynamic growth of agricultural producer organisations can be observed. For example, in early 2020, France had a total of 633 producer organisations and 25 associations of recognized producer organisations in all sectors.<sup>46</sup> In Germany there were already 904 agricultural producer organisations in 2012.<sup>47</sup> In turn, across the European Union, by mid-2017, there were 3434 agricultural producer organisations and 71 associations, 50% of which were co-operatives.<sup>48</sup> When discussing the evolution of legal regulations regarding cooperatives established by agricultural producers, reference should be made to the Act of 4 October 2018 on farmers’ cooperatives. Article 4 provides that a farmers’ cooperative is a voluntary association of natural or legal persons who: 1) run an agricultural farm within the meaning of agricultural tax regulations or conduct an agricultural activity referring to special branches of agricultural production, which are the producers of agricultural products or of groups of these products or which breed fish, 2) are not farmers and conduct an activity related to storing, sorting, packing or processing agricultural products or groups of these products or fish produced by the farmers referred to in point 1, or provide services supporting agriculture, including those referred to in point 1, services using machines, tools or devices for the production of agricultural products by these farmers or groups of these products or fish.<sup>49</sup> The persons

<sup>45</sup> Journal of Laws 2020 item 799.

<sup>46</sup> C. Del Cont, A. Macé, *Les organisations de producteurs en France: état des lieux et réflexions*, in: *The Legal and Economic Aspect of the Association of Agricultural Producers in Selected Countries of the World*, ed. A. Suchoń, Poznań 2020, pp. 45–60; A. Suchoń, *Introductory Remarks*, in: *The Legal and Economic Aspect...*, pp. 17–19.

<sup>47</sup> Ch. Busse, *Quo vadis Agrarorganisationenrecht? – Eine kurze Betrachtung in sechs Kapiteln*, in: *The Legal and Economic Aspect...*, pp. 81–105.

<sup>48</sup> European Commission, *Study of the Best...*

<sup>49</sup> For more about the Act on farmers’ cooperatives, see e.g., A. Suchoń, *Nowa ustawa o spółdzielniach rolników – wybrane zagadnienia*, *Studia Prawnicze KUL* 2020, no. 3, pp. 261–290; idem, *Legal Aspects...*, pp. 7 ff.

indicated above who are farmers may be establishers of farmers' cooperatives. Thus, the cooperative must have at least ten members who are farmers unless the statute calls for a different number. It is worth noting that members, but not establishers, of the cooperative may also be persons who are not agricultural producers.

This Act provides that the subject of activity of a farmers' cooperative is running a business activity for the benefit of its members is wide, relating to such matters as planning by the farmers their production of products or groups of products and adjusting it to market conditions, especially considering their quantity and quality; concentration of supply and handling the sales of products or groups of products produced by the farmers; concentration of demand and handling the purchase of necessary means for the production of products or groups of products.

The farmers' cooperative, in addition to the above activity, can also run a business relating to, for example: storing, packaging and standardising the products or groups of products produced by the farmers; processing the products or groups of products produced by the farmers and the marketing of those processed products; providing services for the benefit of the farmers connected with the production of products or group of products by the farmers; selling the products or groups of products produced by the farmers; promoting among its members environmentally friendly cropping techniques, production technology or waste management methods.

Discussing the evolution and new development opportunities for cooperatives of agricultural producers, it is worth referring to energy cooperatives. Under the Act of 20 February 2015 on renewable energy sources<sup>50</sup> (amended in 2019), an energy cooperative is a cooperative within the meaning of the Act of 16 September 1982 on cooperatives or the Act of 4 October 2018 on farmers' cooperatives, the object of which is the production of electricity or biogas or heat in renewable energy source installations and balancing the demand for electricity or biogas or heat, exclusively for own needs of the energy cooperative and its members, connected to an area-defined electricity distribution network with a nominal voltage lower than 110 kV or a gas distribution network or a district heating network (Article 2 [33a]).

The energy cooperative must meet all of the following conditions: 1) operate in the area of a rural or urban-rural commune within the meaning of the regulations on public statistics or in an area of no more than three such communes directly neighbouring each other; 2) the number of its members has to be less than 1000; 3) if the object of its activity is the production of: a) electricity, then the total installed electric power of all installations of a renewable energy source must cover at least 70% of

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<sup>50</sup> Journal of Laws 2015 item 478 as amended.

the annual own energy needs of the cooperative and its members and cannot exceed 10 MW, b) heat, then the total available thermal capacity cannot exceed 30 MW, c) biogas, then the annual capacity of all installations cannot exceed 40 million cubic metres (Article 38e Act of 20 February 2015 on renewable energy sources).

#### **4. Agricultural cooperatives facing the challenges of the European Green Deal and the New EU Regulations of December 2021**

Within the framework of these deliberations, it is worth referring to the European Green Deal, Regulation (EU) 2021/2115 of December 2021 on strategic plans and Regulation (EU) 2021/2117 establishing a common organisation of the markets in agricultural products.<sup>51</sup> On the one hand, the challenges arising from the EU regulations and the indicated documents of the European Green Deal will influence the directions in which the agricultural producer cooperatives and rural areas will develop, and, on the other hand, how cooperatives can contribute to meeting the challenges within the framework of their current activities. This issue is broad and will be presented in a separate study; here, it will suffice to highlight a few key points.

In the European Green Deal, for example, the activities concerning the circular economy are important. The ‘farm to fork’ strategy for a fair, healthy and environmentally friendly food system<sup>52</sup> rightly points out that the circular economy still qualifies as an untapped potential for farmers and their cooperatives. It is easier for an association of agricultural producers, including cooperatives acting as single legal entities, to build and run biorefineries producing biofertilisers, protein feedstocks, bioenergy and biochemicals than for a single farmer. Such activities are associated with high costs. Joint investments also have the potential to create new jobs. Such actions could be undertaken by farmer cooperatives or cooperative

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<sup>51</sup> Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union, OJ L 435, 6.12.2021, pp. 262–314.

<sup>52</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Farm to Fork Strategy for a Fair, Healthy and Environmentally-Friendly Food System, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0381> [access: 2.09.2022].

agricultural producer groups. Such entities could also engage in the development of organic farming.

One of the challenges arising from the European Green Deal is the need to increase the share of organic farming to 25% by 2030. It is worth mentioning that in Poland, the share of organic agriculture is only a little over 3,7%, even though the opportunities related to this type of farming were already introduced in 2001. The actions resulting from the European Green Deal are in line with the new legal solutions contained in Regulation (EU) 2018/848 on organic production and labelling of organic products.<sup>53</sup> In Article 36, it indicates that each operator group is to be composed exclusively of members who are farmers or operators producing algae or aquaculture animals. Groups of agricultural producers may operate in different legal forms, including cooperatives.

The 2021 EU regulations stipulate that the organisation of agricultural producers (often run in the form of cooperatives) is one of the key instruments for developing agricultural markets and rural areas. It was stressed that the activity of agricultural producer associations allows for joint planning of production, use of appropriate seeds and plant protection products and planning of the production and supply of food in appropriate quantities and quality.

The EU regulation of 2 December 2021, containing provisions for the support of strategic plans, provides financial support for cooperation between agricultural producers (Article 77 – Cooperation programme). Accordingly, Member States may grant support for cooperation under the conditions laid down in this Article and further specified in their CAP strategic plans to support producer groups, producer organisations and inter-branch organisations.

## Conclusions

In the interwar period after 1918, cooperatives developed on many levels, particularly in legislation, research, book publications and practice. Legal regulations, a favourable approach to cooperatives and the tradition of cooperatives in the interwar period contributed to the emergence of many well-functioning agricultural cooperatives. Undoubtedly, the fact that Poland regained independence and subsequently adopted the Act on cooperatives in 1920 contributed to the development of the cooperative movement and cooperatives. Cooperatives started to enjoy a period

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<sup>53</sup> OJ L 150, 14.06.2018, pp. 1–92.

of prosperity, which extended to include cooperatives that brought together agricultural producers.<sup>54</sup> Legal regulations concerning agriculture also influenced their operations. Agrarian reforms influenced the enlargement of farms interested in becoming members of cooperatives.

The outbreak of the Second World War and then the entry into force of the Decree of the Polish Committee of National Liberation resulted in the liquidation of most cooperatives of agricultural producers. The vast majority of agricultural land became the property of the state. As a result, a large number of farms were liquidated. In the period after the Second World War, the most significant development was seen in cooperatives conducting the agricultural activity, i.e. cooperatives of agricultural producers. The popularity of such entities resulted from the fact that at that time, Poland was a socialist state described by the collectivisation of agriculture. Agricultural producers created these entities, but farmers were often forced to become their members. Cooperative principles were not, in fact, respected in the cooperatives. For these reasons, there is still a negative attitude towards cooperatives in Poland and the former post-socialist countries. During the socialist period, individual farmers could create specialist cooperatives, but they were not popular. After the political transformation, many cooperatives were dissolved. Nevertheless, agricultural cooperatives still functioned, of course in a reduced number. New challenges and opportunities for developing agricultural cooperatives came with Poland's accession to the European Union, although some normative changes had occurred earlier. Therefore the author of this paper assumes that by agricultural cooperatives is meant cooperative entities engaged in agricultural production (agricultural holdings) and other entities operating in the agricultural sector, which take on at least one stage of such activities, or, operating more broadly in this sector. The members of such a co-operative are mainly agricultural producers.<sup>55</sup>

Undoubtedly, if it had not been for the socialist period, many cooperatives of agricultural producers from the interwar period would still be operating. Currently, dairy cooperatives and cooperative banks can, as a rule, demonstrate the continuity of their activities. Some are over 100 years old. For several years, the Polish legislator has been trying to revive cooperatives and encourage agricultural producers to establish them. An example is the passing of the Act on farmers' cooperatives or regulations concerning energy cooperatives. The provisions relating to establishing agricultural producer organisations have also been amended. However, legislative changes have not led to the development of such entities. There are many reasons

<sup>54</sup> *Spółdzielczość wiejska...*, p. 28; M. Brodziński, *Oblicza polskiej spółdzielczości...*, pp. 53 ff.

<sup>55</sup> See: A. Suchoń, *Prawna koncepcja spółdzielni...*, p. 8 ff.; idem, *Legal Aspects...*, pp. 6 ff.



for this, but first and foremost, many people have a negative attitude towards the cooperative movement, and entities lack interest or willingness to cooperate.

There is no doubt that Poland's accession to the European Union contributed to forming cooperative groups of agricultural producers, social cooperatives and the development of some processing cooperatives. The fundamental feature of cooperative groups of agricultural producers is the link between the activity of the enterprise termed a 'cooperative' and the economic activity of its members, which is very clear. The cooperative has been given an auxiliary shape, as it is supposed to support its members directly.<sup>56</sup> Financial assistance is one of the instruments encouraging the formation of cooperative groups of agricultural producers or social cooperatives. This is connected with the necessity to fulfil legal requirements and sometimes complicated regulations concerning state aid. Both the development of agricultural cooperatives and the legislation regulating the form of their organisation and operation were strongly influenced by political and historical factors as well as socio-economic needs. A cooperative is a complex legal entity and simultaneously a dynamic entity in the context of taking into account changes in CAP and EU policies. The growing impact of regulations related to the development of agricultural law and food law on the activities of agricultural cooperatives should be noted.<sup>57</sup>

Joint operations of agricultural producers are very much needed nowadays. They may contribute to achieving the objectives of the European Green Deal and the Common Agricultural Policy after 2022. Therefore, in the author's opinion, further legislative measures are necessary to simplify the establishment and functioning of agricultural cooperatives, with the promotional action encouraging the establishment of cooperatives. Undoubtedly, the cooperatives of agricultural producers established in the interwar period are a good model (mainly dairy cooperatives). The best development direction, especially after 2022, would be farmers' cooperatives, which would then be established agricultural producer organisations and energy cooperatives.

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<sup>56</sup> P. Zakrzewski, *Cel spółdzielni...*, pp. 69 and 72.

<sup>57</sup> For more on the expansion of agricultural law, see R. Budzinowski, *Współczesne tendencje rozwoju prawa rolnego*, *Studia Iuridica Agraria* 2009, vol. 7, pp. 17 ff; P. Czechowski, A. Niewiadomski, *Tendencje rozwoju polskiego prawa rolnego w związku z uzyskaniem członkostwa Polski w Unii Europejskiej*, *Studia Iuridica Agraria* 2009, vol. 7, pp. 30 ff.

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