

**THE PRINCIPLES OF THE ORGANIZATION
AND OPERATION OF SOCIAL COOPERATIVES
FOR RURAL DEVELOPMENT IN THE LIGHT
OF THE LEGAL REGULATIONS IN POLAND***

Aneta Suchoń

Poznań University of Life Sciences

Abstract. The purpose of this article is, first of all, to evaluate legal regulations concerning the establishment and development of social cooperatives in rural areas. The first part of the paper focuses on the issues relating to a social economy. Since cooperatives do not operate for their own profit but for the benefit of their members, they contribute to carrying out the tasks of a social economy. Next, the article analyzes the Act of 27 April 2006 on social cooperatives, drawing attention to the problems connected with obtaining the status of the unemployed by an owner of farming lands, their spouse or a household member [Ustawa... 2006 b]. Additionally, the paper discusses the sources of financial aid addressed to the entities in question. In conclusions, the Author recommends that the regulations governing the operation of social cooperatives should be changed.

Key words: social cooperative, social economy, cooperative principles, European funds, unemployed

INTRODUCTION

Rural areas are an important part of the European Union. More than 56 percent of the population of 27 Member States live in rural areas [Polityka..., access: March 2013].

*The publication was prepared as part of the author's research project "Cooperatives in agriculture and in the rural areas in Poland and in given European countries legislature". The project was financed by the National Science Centre (Narodowe Centrum Nauki) from Kraków.

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Corresponding author – Adres do korespondencji: dr Aneta Suchoń, Katedra Zarządzania i Prawa, Uniwersytet Przyrodniczy w Poznaniu, ul. Wojska Polskiego 28, 60-637 Poznań, Poland, e-mail: asuchon@up.poznan.pl

But only some of them are involved in agriculture, running a farm as an owner or a possessor or being a household member or a contractual employee¹. More and more country inhabitants, however, do not connect their professional work with an agricultural activity. There are, therefore, no doubts about the importance of the concepts of both multifunctionality of villages and sustainable development of rural areas. These concepts aim at supporting a diverse business activity on these areas, creating new workplaces, improving the living conditions, and providing the residents and businesses with access to a wide range of services or modern infrastructure. They also help to ensure the development of social and cultural functions of the village, which will make rural areas to be perceived as a more attractive place to live and work [Adamowicz and Zwolińska-Ligaj 2009]. It is also worth mentioning the help provided to the excluded and the disabled since rural areas offer them fewer opportunities to develop than the urban areas. Generally, it can be stated that as far as sustainable development of agriculture and rural areas is concerned, the economic, social and environmental (ecological) problems are equally important and treated by the economic policy [Baum 2003].

One of the tools used in the development of rural areas are social cooperatives. The main characteristic of these entities is that they do not operate for their own profit but for the benefit of their members. On 20-22 September 1995, the General Assembly of the International Cooperative Alliance in Manchester adopted the Statement on the Cooperative Entity, which states that “a cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise” [Deklaracja... 1995].

There are more than 3.5 thousand cooperatives operating in rural areas in Poland. They include, above all, milk cooperatives, cooperatives associating agricultural producers, supply and sales cooperatives such as “Samopomoc Chłopska” (Peasants’ Self-Help), and social cooperatives. In recent years, social cooperatives have become more and more popular. They are a new type of economic entity operating under the Act of 27 April 2006 on social cooperatives [Ustawa... 2006], more and more popular not only in cities but also in rural areas. These entities often deal with services, a manufacturing or building activity. Some of them also run an agricultural activity connected with breeding or plant growing, often specializing in ecological agriculture. Currently, there are more than 500 registered cooperatives of this type in Poland [Deklaracja... 1995]². They are a form of a social enterprise which consists mainly of people at risk of exclusion who, due to unemployment or disability, find it difficult to find a job. These people are employed by social cooperatives, which helps them to become socially and vocationally more active, to reintegrate, and broaden their qualifications³. An additional factor making social cooperatives more popular relates to financial aid that can be used either by the cooperatives themselves or by their members.

¹ Employed under a e.g. civil law contract (contract of mandate, contract of specific task) or an employment contract.

² According to the data from the National Auditing Association of Social Cooperatives as of 12 September 2011, there were 373 social cooperatives registered in the National Court Register, 89 of which were located in rural and semi-urban communes. Some of them deal with an agricultural activity [Błażejowska 2011].

³ <http://orka2.sejm.gov.pl/IZ6.nsf/main/19D0D2BE> [access: March 2013].

The European Union has long been supporting both the development of rural areas and a social policy whose aim is to eliminate differences and improve the living and working conditions of the citizens. Many authorities on the subject emphasize that one of the most important trends in European programmes of a social policy is based on replacing a passive redistribution model⁴ by social and professional participation [Sienicka and van den Bogaert 2009]. These are often social cooperatives that provide opportunities of employment in rural areas. As it has been indicated before, they can use not only Polish but also the European funds, including the ones connected with agriculture. New possibilities have been created by the so-called second pillar of the common agricultural policy, which relates to the development of rural areas. It aims at improving competitiveness of the agriculture and forestry sector, at strengthening a connection between agricultural activity and the natural environment, at promoting the diversity of the economy in rural communes, at improving quality of life and at diversifying activities in these areas. There are, however, different situations which need to be carefully considered, starting from distant rural areas that are becoming deserted and suburban rural areas being under bigger and bigger pressure of urban centres [Rozporządzenie Rady... 2005].

The purpose of this paper is to make an attempt to determine whether legal regulations facilitate or hinder the setting up and development of an activity by social cooperatives. The article also aims at assessing the influence of the operation of social cooperatives as social economy entities on the development of rural areas.

SOCIAL COOPERATIVES SOCIAL ECONOMY ENTITIES IN RURAL AREAS

The concept of social economy is very broad and refers to many aspects of social life. The main rule, however, says that the actions for the benefit of members are more important than generating high profits. It means that for social economy units, social actions, including preventing social exclusion, are of much bigger importance than economic benefits⁵. Social economy entities include, among others, work cooperatives, social cooperatives, the disabled and blind cooperatives as well as foundations, associations, friendly societies, and non-governmental organizations. The most significant characteristics of these entities include their activities in private and public sectors as well as the fact that they are situated between the state and market. Additionally, it is important to mention their social and economic mission, a priority of work over capital, a limited and equal division of profits, a democratic decision-making process, work for the benefit of local communities, meeting the needs of their members if the state or market cannot do that, a high quality and stability of internal relationships, and acquiring resources from various sources, not only from the market⁶.

⁴ We can observe the transition from the welfare state to the welfare community, which places a great emphasis on creating workplaces and the economic development. This process entails changes of the duties of the state towards its citizens [Sienicka and van den Bogaert 2009].

⁵ <http://ngo.pl/x/83813> [access: March 2013].

⁶ <http://woes.pl/pes,14> [access: March 2013].

Cooperatives, as entities which in principle act not for their own benefit but for the benefit of their members, are perfectly suitable to carry out the principles of social economy. As Charles Gide, French economist, observed “A cooperative is business, but if it is only business it is a bad deal”⁷. Cooperatives follow cooperative principles, including the principle of voluntary and open membership, democratic membership control, joint responsibility of the members, autonomy and independence, training, education and information, and concern for local community. Cooperatives use the values of self-help, self-responsibility, democracy, equality, justice and solidarity as the basis for their activity. According to the traditions of the founders of a cooperative movement, the cooperative members promote the following ethical values: honesty, openness, social responsibility, and concern for others [Karta etyki... 2003].

A social cooperative is a social economy entity offering support for the people at risk of social exclusion or who already are socially excluded. The operation of these entities and the concept of social economy are part of the EU actions. The European Lisbon Strategy, for instance, puts great emphasis on creating new workplaces and on economic development. These goals can be achieved by means of promoting employment, improving social care policies based on money transfers, supporting adaptive abilities of the employees, and ensuring flexibility of labour markets. A key factor in the process of achieving these goals is the development of a civic society [Sienicka and van den Bogaert 2009].

The Communication from the Commission Europe 2020: a strategy for smart, sustainable and inclusive growth⁸ stresses that Europe 2020 Strategy should be based on three priorities;

- 1) smart development – development of the economy based on knowledge and innovation,
- 2) sustainable development – supporting the economy that is more environmentally friendly and more competitive as well as uses the resources more effectively,
- 3) the development promoting social inclusion – supporting the economy characterized by a high employment rate and ensuring economic and social consistency.

The document indicates that the development promoting social inclusion means strengthening the situation of citizens by means of ensuring a high employment rate, investing in qualifications, fighting poverty and improving labour markets, systems of trainings and social care. All these assumptions aim at helping people to predict and deal with changes as well as at building a coherent society. It is also important to make sure that the benefits of economic growth are equal in all regions of the European Union, including the most distant ones, which will result in increased territorial cohesion⁹. The fundamental concept of the European social model says that an individual should not be left alone, relying only on the market to satisfy their needs, especially when they are not able to work due to such reasons as sickness, disability, accident, unemployment or ageing [Jarre 2007].

A significant role of cooperatives in an economic, social and cultural life has been highlighted, for instance, in the EU consultation document “Cooperatives in Enterprise Europe”. The document stresses that in most member states new, small cooperatives

⁷ <http://krs.org.pl> [access: May 2012].

⁸ http://ec.europa.eu/eu2020/pdf/1_PL_ACT_part1_v1.pdf [access: March 2013].

⁹ http://ec.europa.eu/eu2020/pdf/1_PL_ACT_part1_v1.pdf [access: March 2013].

have been set up especially in a social sector, health care system, services, local and regional development. These cooperatives serve as a source of work in declining industrial and rural areas, rarely-populated regions and for people at risk of social exclusion [Biała Księga... 2001].

It is also worth mentioning the Recommendation No. 193 of the International Health Organization on promoting cooperatives. The recommendation indicates the importance of cooperatives and recommends that cooperatives should be treated in a similar way as other economic entities. It emphasizes the role of the government in promoting cooperatives, especially by establishing proper political, legal and institutional frameworks for the cooperatives, providing special means of support if the cooperatives, except for their own economic activity, carry out important social and public policy tasks [Promowanie... 2002].

Cooperatives constitute an integrated part of local development by means of applying the rule of sustainable development of rural areas. It is worth indicating that the 7th cooperative principle adopted during the 31st Congress of International Cooperative Alliance in Manchester in 1995 is based on the concern for local community. The cooperatives take actions for the benefit of the development of local communities where they operate by carrying out the policy approved by their members¹⁰. There are many different connections between cooperatives and the development of rural areas. These connections are connected to the fact that the cooperatives operate in villages, often far away from the cities, they have better access to customers and smaller transportation problems. They also know the needs and problems of a given region and its inhabitants. These entities are often very important and have stable employers, and thanks to the membership in cooperatives the agricultural producers can increase their income. At the same time, by carrying out broad public and social goals, such as development of investments, human capital, environment protection or renewable energy, cooperatives contribute to the economic and social development of a given region. The cooperatives often participate in some programmes and actions helping to promote the region they operate in [Bijman et al. 2012].

THE FORMATION AND STRUCTURE OF SOCIAL COOPERATIVES

The regulations on social cooperatives were introduced into the Polish legal system in 2003 under the Act of 13 June 2003 on social employment [Ustawa... 2011 c], changing the Act of 16 September 1982 on cooperative law [Ustawa... 2003]. That was followed by the Act of 27 April 2006 on social cooperatives [Ustawa... 2006 b]. In all the matters relating to the entities in question not regulated by that act the provisions of the Act of 16 September 1982 on cooperative law apply.

The object of activity of a social cooperative is to run a joint enterprise based on individual work of its members. The operation of a cooperative is usually connected with the region where the cooperative runs its activity. Under Article 2(2) of the Act [Ustawa... 2006 b], a social cooperative acts for the benefit of social reintegration of its members, which involves taking actions the aim of which is to rebuild and maintain the

¹⁰ <http://krs.org.pl; www.spoldzielczosc.pl> [access: March 2013].

ability to participate in the life of a local community and to perform social roles at work or at home.

According to the first cooperative principle, cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, political, or religious discrimination. [Deklaracja... 1995]. As for social cooperatives which, on the one hand, are social economy entities designed to perform particular social goals and which, on the other, use numerous facilities, including financial ones, it is however justified to introduce some legal restrictions to the above-mentioned principle. A social cooperative can be set up by at least five natural persons or two legal persons. In principle, however, there cannot be more than 50 members. The social cooperative transformed from the disabled workers cooperative or the blind cooperative is an exception and then it is allowed to have more than 50 members.

The Act [Ustawa... 2006 b] provides for, at the same time, the list of main founders of a cooperative. They include 1) the unemployed, in the meaning of Article 2(1)(2) of the Act of 20 April 2004 on promoting employment and job market institutions [Ustawa... 2013]; 2) persons referred to in Article 1(2)(1-4, 6 and 7) of the Act of 13 June 2003 on social employment, among others, homeless people who are participating in an individual scheme for getting out of homelessness; alcohol addicts after completing a psychotherapy in a therapeutic scheme in an addiction recovery institute; persons released from penitentiaries who have integration difficulties, refugees who are participating in an individual scheme for integration [Ustawa 2011 c]; 3) disabled persons in the meaning of the Act of 27 August 1997 on professional and social rehabilitation and employing disabled persons [Ustawa... 2011 b].

The village inhabitants are often connected with a farm as its owners, possessors, farmer's spouses or household members. This raises a question if these persons can obtain the status of the unemployed and, consequently, if they can act as the founders of social cooperatives. In order to answer this question it is necessary to refer to the Act of 20 April 2004 on promoting employment and job market institutions [Ustawa... 2013]. Under the act, the unemployed person is a person who is not employed and does not perform paid work, while being able and ready to undertake full-time employment for a given profession or service, or to undertake paid work; or is a disabled person able and ready to undertake at least half-time employment, registered in the district job centre appropriate for the temporary or permanent residential address and seeking employment or any other paid job if, among other things, the person is not an owner or an autonomous possessor of an agricultural property in the meaning of the Act of 23 April 1964 – the Civil Code [Ustawa... 1964], with the arable land area exceeding 2 calculation hectares, or is not subject to pension or disability pension insurance on account of permanent employment on a farm and is not a spouse of the farm owner or a household member in such a farm with the arable land area exceeding 2 calculation hectares.

The farmers who are admittedly insured in the Farmers' Social Security Fund (KRUS) but their agricultural property does not exceed 2 calculation hectares can qualify as the unemployed and, thus, they can set up a social cooperative. The principles for calculating calculation hectares are included in the Act of 15 November 1984 on agricultural tax [Ustawa... 2006 a], while a definition of agricultural property is provided by

Article 46¹ of the Civil Code. A household member¹¹ can set up a social cooperative only if a farm owned by the farmer the household member works for does not exceed 2 calculation hectares. It should be indicated that if in an agricultural land use plan agricultural lands are changed into building areas but are still referred to in the Land and Property Register as agricultural lands, it means that pursuant to the Civil Code¹², these lands qualify as agricultural property. Only when these lands are excluded from agricultural production pursuant to the Act of 3 February 1995 on the protection of agricultural and forest lands [Ustawa... 2004], the owner does not include them into the mentioned 2 hectares principles.

It is a common situation that agricultural lands are owned by many people. Such situation raises a question if the 2 hectares principle refers to a share into the property or to the whole surface of the property. We should agree with the opinion of the Supreme Administrative Court of 6 December 2006¹³ that “A status of the unemployed cannot be granted to the co-owner whose share in joint ownership in agricultural property will correspond to a part of property with a surface of at least 2 calculation hectares” (it has to be clarified, however, that under the current definition the surface has to exceed 2 calculation hectares) [Góral 2011].

It has to be clearly indicated that the provision does not mention running an agricultural activity on these lands but only being an owner or a possessor. In practice, there are varied interpretations of the regulation in question, including literal interpretations, saying that leasing the lands or granting the right of rent-free usufruct does not constitute grounds for obtaining the status of the unemployed if the farmer still owns more than 2 calculation hectares [Góral 2011]. Such a solution makes it more difficult to obtain the status of the unemployed and to be one of the main founders if the owner of agricultural lands lets the lands for dependent possession.

The farmer’s spouse also may have the status of the unemployed unless they are not subject to pension or disability pension insurance on account of permanent employment as a spouse. Pursuant to Article 5, the provisions of the Act on social insurance of farmers [Ustawa... 2008] concerning the farmer’s insurance and benefits apply also to a farmer’s spouse, except for the situation where the farmer’s spouse does not work on the farm or in the household directly connected with the farm. Therefore, if a spouse is not covered by KRUS insurance and meets other requirements to qualify as an unemployed person, they can set up a social cooperative. On 18 May 1995, the Appeal Court¹⁴ decided that: “1. A farmer’s spouse who does not work and does not run, together with a farmer, an agricultural farm or the household directly connected with the agricultural farm, is not subject to statutory social insurance of farmers under Article 4 and 5 of the Act of 20 December 1990 on social insurance of farmers. 2. The term “farmer’s spouse who works on a farm” refers to contributing to the proper operation of the farm by taking the actions on the farm without which the functions of farm cannot be carried out” [Góral 2011].

¹¹ The concept of a household member refers to a person close to a farmer who: is above 16 years old, is a member of the same household or lives on his farm or in close proximity, performs permanent work on the farm and has no employment relationship with a farmer.

¹² A different definition of an agricultural property in the Act of 11 April 2003 on Agricultural System [Ustawa... 2012].

¹³ I OSK 692/06, ONSA WSA 2007, No. 4, Item 104.

¹⁴ Lex/el.

A farmer's spouse can become a member of a social cooperative, admittedly insured in KRUS, out if the spouse is not subject to social insurance on account of permanent employment in a farm with the arable land area exceeding 2 calculation hectares. It is worth referring at this point to court rulings. On 29 July 2011¹⁵, the Supreme Administrative Court in Warsaw in its judgment concerning permanent work performed by a household member said the "permanent work", "job seniority", "employees' entitlements" indicate that: "while calculating the seniority, only periods of performing tasks in the way at least similar to employee way of performing work should be included. Permanent work on a farm does not always involve performing agricultural activities on a daily basis since, for example, because of the type of production, sometimes it is not essential to carry out agricultural actions. Permanent work needs to be, however, of a systematic character and should at least involve readiness to do agricultural job if it is indispensable to a farmer who runs a farm. Permanent work on a farm also requires a specific mindset based on being attached to the farm for a given period of time" (Judgment of the Supreme Court of Appeal in Rzeszów given on 28 June 1994, case reference number III Aur 206/94) [Góral 2011].

Act of 20 April 2004 on promoting employment and job market institutions prescribes that the status of the unemployed can also be granted to a person who does not receive revenue liable to income tax on special branches of agricultural production, unless the income from special branches of agricultural production, calculated to determine personal income tax, does not exceed the amount of average income from individual farms of 2 calculation hectares established by the president of the Central Statistical Office based on the regulations on agricultural tax, or is not liable to pension and disability insurance on account of permanent employment as a spouse or a household member on such a farm [Ustawa... 2013]. This means that as for people running a business activity connected with special branches of agricultural production, it is not the surface of an agricultural property that is a key factor but the amount of revenue liable to personal income tax [Góral 2011].

At the same time it has to be clearly emphasized that a social cooperative can also be set up by other persons than those specified above (Article 4(1) of the Act) unless the number of such persons is not bigger than 50% of the total number of founders; non-governmental organizations within the meaning of the regulations on public benefit activity and voluntary or local authorities; the church legal persons. It is important that also other persons than those provided for in Article 4(1 and 2) can become members of a social cooperative if their job for the benefit of the social cooperative requires special qualifications that other members do not have. The number of these members, however, cannot be higher than 50% of a total number of members of a social cooperative.

Every cooperative, in order to function, needs a statute. The statute is signed during a constituent meeting. It needs to include, among other things, the object of activity, rights and obligations of its members, principles for accepting, dismissing, excluding the members, principles for and mode of appointing and dismissing the members of the bodies of cooperatives. The next formation step is to register a social cooperative in the National Court Register. Some simplifications have been introduced concerning the operation of social cooperatives, namely if there are no more than 15 members, the su-

¹⁵ Lex/el.

pervisory board is not appointed unless the statute provides otherwise. If such is the case, it is the general meeting that acts instead of the board.

For the members of social cooperatives, usually looking for a job, it is important that employment relationship between a social cooperative and its member is formed based on a cooperative employment contract and under Article 201 of the Act of 16 September 1982 – Cooperative Law [Ustawa... 2003]. Under that regulation the statute can ensure that all or some family members can be employed not under cooperative employment contract, but based on a contract on home based work, mandate contract or a contract for specific work if justified by the type of activity a cooperative runs. Due to the fact that there is a high unemployment rate in the village, a credit should be given to a regulation stating that a social cooperative can employ workers who are not its members but a total number of people mentioned in Article 4(1) of the Act (namely the unemployed, disabled) cannot be smaller than 50% compared with a total number of members of cooperatives and people employed in a social cooperative. If a social cooperative is set up by non-governmental or church organizations, legal persons or local government units, they are obliged to employ in the cooperative at least 5 people mentioned in Article 4(1) of the Act within 6 months from the date of entering the social cooperative in the National Court Register.

FINANCIAL RESOURCES FOR SOCIAL COOPERATIVES

Social cooperatives, being social economy entities, can use both Polish and European funds as well as some other facilities. A social cooperative, for instance, does not pay a court fee while applying to be entered into the National Court Register and does not pay any fee for publishing an announcement in the Court and Commercial Gazette (*Monitor Sądowy i Gospodarczy*). Simultaneously, under Article 17(1)(43) of the Act of 15 February 1992 on corporate income tax [Ustawa... 2011 a], income of a social cooperative spent in a tax year on the purposes provided for in Article 2(2) of the Act on social cooperatives, in compliance with this Act, in the part not qualified as deductible costs, are exempted from income tax [Ustawa... 2006 b].

Under the regulation of the Minister of Labour and Social Policy of 23 April 2012 on granting funds for starting a business according to the principles established for a social cooperative, an unemployed person, a graduate of the Social Information Centre¹⁶ or of the Social Information Club¹⁷, intending to set up or join a social cooperative can apply to a starost, having jurisdiction over the place of residence or stay or over the registered office of a social cooperative, for a one-time fund to cover the costs of the formation of a social cooperative or the costs of joining one, including the costs of legal assistance and consultancy regarding starting a business [Rozporządzenie Ministra... 2012]. The agreement for granting the one-time fund from the Labour Fund for the formation of a social cooperative or joining one has to be made in writing under the pain of invalidity and has to include, in particular, the obligation of a beneficiary to spend the funds within a time limit prescribed in the agreement, for the intended purpose, and the

¹⁶ A graduate of a social integration centre mentioned in Article 2(1a) of the Act of 13 June 2003 on social employment [Ustawa... 2011 c].

¹⁷ A graduate of a social integration club mentioned in Article 2(1b) [Ustawa... 2011 c].

obligation to present the settlements of the payments. At the same time, it has to be emphasized that granting the above-mentioned funds to the persons listed in the Act qualifies as *de minimis* help in view of the EU regulations.

Some social cooperatives, running an activity connected with ecological agriculture, use the European funds from the Rural Development Programme (RDP) 2007-2013 in compliance with the conditions established mainly by the regulation of the Minister of Agriculture and Rural Development of 13 March 2013 on detailed conditions and mode of granting financial aid for the measure "Agri-environmental programme" included in the RDP 2007-2013 [Rozporządzenie Ministra... 2013]. Package No. 2 (including 12 options¹⁸) determined in this secondary legislation refers to Ecological Agriculture. Ecological agriculture is granted financial aid for usable agricultural lands, such as, for example, usable arable lands, permanent pasture, orchards, where the trees and bushes mentioned in attachment No. 4 to the regulation are planted. The running of social cooperatives dealing with an ecological activity is part of a multifunctional European agriculture model. The model is based, on one hand, on the application of sustainable development principle which protects the environment and biodiversity of rural areas as well as the values of cultural landscape and, on the other, on keeping a proper level of income ensuring decent living for rural inhabitants and the development of rural communities [Maciejczak and Pezold 2003, Baum 2004].

Social cooperatives and their members can also count on some other sources of aid, for example, from the State Fund for Rehabilitation of People with Disabilities, Labour Fund (it is possible to apply for financing the social insurance contributions of some members at the beginning of running a business activity); support from local government units, using the EU funds¹⁹ as well as Operational Programme Civic Initiatives Funds (PO FIO)²⁰.

Numerous initiatives supporting the development of social cooperatives have been established in the last few years. It is worth mentioning, for example, Associations for Social Cooperatives, which has been operating since 2003²¹. Its key task is to set up new and support existing social economy entities. For a decade, it has been taking actions to support a process of creating friendly conditions to operate. In 2009 and 2010, owing to the funds from the Civic Initiatives Fund, All-Poland Forums of Social Cooperativeness were held. The purpose of the meetings was to promote the idea of social cooperativeness, broaden the knowledge in that field, and make it possible to exchange experiences and to present good practices in cooperativeness²².

Next, the Centre for Developing Social Cooperativeness in the region of Wielkopolska, has been co-funded with the funds of the Ministry of Labour and Social Policy. It aimed at supporting the groups initiating the setting up of social cooperatives as well as supporting already existing social cooperatives²³. It is also worth mentioning the project

¹⁸ E.g.: crops (with certificate of compliance), permanent grassland (in the time of conversion), vegetables (with certificate of compliance), herbal crops (in the time of conversion), fruit farming (in the time of conversion).

¹⁹ It refers mainly to the funds from the European Social Fund, especially Priority 6 "Labour market open for everyone", Priority 7 "Promotion of social integration".

²⁰ <http://krs.org.pl> [access: April 2012].

²¹ <http://spoldzielnie.org/cat,2> [access: April 2012].

²² <http://spoldzielnie.org/cat,2> [access: April 2012].

²³ <http://spoldzielnie.org/project,17> [access: April 2012].

“Social cooperativeness for the village – the village for social cooperativeness”, co-funded with the funds coming from Civic Initiatives Fund PO FIO 2010, Priority 4 – “Social enterprise development, support area – Social enterprise”. It focused on promoting new solutions in social cooperativeness in rural areas²⁴.

CONCLUSIONS

The discussion presented above has confirmed that social cooperatives have been functioning in our legal system for a relatively short time but they are becoming more and more popular. It is confirmed by more than 500 social cooperatives and their more or less equal development in particular parts of Poland. Most people working in these entities, among whom are many people with disabilities, are employed under cooperative employment agreements²⁵. It can be said, therefore, that social cooperatives are more and more effective tools of social economy. They are especially needed in the village, where an unemployment rate is very high and the ways of supporting the excluded and disabled people, compared with cities, are limited. Credit should be given to the programmes providing people with relevant knowledge on how to set up and run social cooperatives, also in rural areas. Currently, however, it is more important to allocate more financial resources to facilitate and extend the scope of activity of already existing cooperatives. It is obvious that the legislator makes an effort to introduce some improvements relating to the setting up and running of activities by social cooperatives, which has been confirmed by some amendments to the Act of 7 May 2009 on amending Social Cooperatives [Ustawa... 2009]. It is, however, recommended that further simplifications should be put in place. Due to the fact that to the matters not regulated in the Act on social cooperatives the provisions of the Act of 16 September 1982 on Cooperative Law still apply [Ustawa... 2003], the attempt to adopt a new legal act should be acknowledged as a positive action. In the last few months, a few bills have been prepared concerning cooperative law, which resulted in the establishment of the Extraordinary Committee on January 2013 to decide on the bills.

It seems also justified to recommend that other legal regulations governing the setting up and functioning of social cooperatives, except for the acts on cooperatives, should be amended. For instance, it seems necessary to modify the definition of an unemployed person. The definition should cover a person possessing up to, for example, 4 calculation hectares (currently 2 calculation hectares), a farmer's spouse or a household member. Such a solution would eliminate all the interpretation problems. It is necessary to amend the regulations so that all the relevant entities can use the simplifications addressed to them in a more effective way.

Although a lot of social cooperatives have been set up in recent years, it appears that many of them struggle to find work especially by means of public procurement contracts. It cannot be denied that their competitiveness, compared with other entities, especially with companies, is not satisfactory. That is why it is justified to suggest that the social clause mentioned in the Act of 29 January 2004 on Public Procurement [Usta-

²⁴ <http://sdw.ozrss.pl/> [access: March 2013].

²⁵ Information about the operation of Social Integration Centres and Clubs for the Sejm and Senat of the Republic of Poland” (Issue No. 679), www.sejm.gov.pl [access: March 2013].

wa... 2010] should be extended and bigger preferences for social cooperatives as one of the main social economic entities should be introduced. Currently, there are two social clauses. The first one relates to preferences connected with employing people excluded from the job market – the disabled, unemployed, homeless, people released from penitentiaries, alcohol addicts after completing a psychotherapy in a therapeutic scheme in an addiction recovery institute, and refugees – to complete commissioned work. The second one relates to some facilities for those contractors whose disabled employees constitute more than 50% of all employees. According to data collected by the Public Procurement Office only 2,7 percent of public procurement²⁶ used social clauses in 2010. That number is, undoubtedly, too low.

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²⁶ The example is a social cooperative “Bydgoszczanka”, which managed to use a social clause in public procurement. The cooperative was set up by Bydgoszcz district and city for the people who were made redundant from Zakład Robót Publicznych, <http://prawo.rp.pl/artukul/811346.html> [access: March 2013].

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ZASADY ORGANIZACJI I FUNKCJONOWANIA SPÓŁDZIELNI SOCJALNYCH NA RZECZ ROZWOJU OBSZARÓW WIEJSKICH W ŚWIETLE REGULACJI PRAWNYCH W POLSCE²⁷

Streszczenie. Celem artykułu była przede wszystkim ocena przepisów prawnych dotyczących zakładania spółdzielni socjalnych i rozwijania ich działalności na wsi. W pierwszej kolejności zaprezentowano zagadnienia związane z pojęciem ekonomii społecznej.

²⁷ Artykuł został przygotowany w ramach własnego projektu badawczego „Spółdzielczość w rolnictwie i na terenach wiejskich w ustawodawstwie polskim oraz wybranych państwach europejskich”. Projekt został sfinansowany ze środków Narodowego Centrum Nauki.

Spółdzielnie bowiem jako podmioty, które co do zasady działają nie dla zysku własnego, lecz członków, świetnie wpisują się w realizację założeń własnie ekonomii społecznej. Następnie dokonano analizy Ustawy z dnia 27 kwietnia 2006 r. o spółdzielniach socjalnych, zwracając szczególną uwagę na problemy związane z uzyskaniem statusu bezrobotnego przez właściciela gruntów rolnych, jego małżonka czy domownika [Ustawa... 2006 b]. W dalszej kolejności rozważania skupiały się na środkach pomocy finansowej dla omawianych podmiotów. W podsumowaniu autorka postuluje zmiany przepisów dotyczących funkcjonowania spółdzielni socjalnych.

Słowa kluczowe: spółdzielnia socjalna, ekonomia społeczna, zasady spółdzielcze, środki unijne, bezrobotny.

Zaakceptowano do druku – Accepted for print: 2.07.2013

Do cytowania – For citation: Suchoń A., 2013. The principles of the organization and operation of social cooperatives for rural development in the light of the legal regulations in Poland. J. Agribus. Rural Dev. 3(29), 179-192.