

Normas jurídicas para el inicio de la actividad agrícola en Polonia por personas físicas y jurídicas, y su posterior inscripción en los registros voluntarios

Legal rules for starting agricultural activity in Poland by natural and legal persons, and then entry into the voluntary registers

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Resumen: El objetivo del artículo es evaluar la normativa relativa al inicio y desarrollo de la actividad agraria en Polonia, en cuanto a las inscripciones en los registros relacionados con la agricultura y otras obligaciones de información, e indicar los problemas legales. El artículo aborda la cuestión de la exclusión de las actividades agrícolas realizadas por personas físicas de la obligación de inscribirse en el Registro Central Nacional y la información SOBRE la actividad económica en Polonia, de conformidad con la Ley de 6 de marzo de 2018 - la Ley de Emprendedores y las actividades relacionadas, por ejemplo, el agroturismo, ..., y se centran en la discusión de si la actividad agrícola es una actividad económica. Además, se abordan las cuestiones relacionadas con la obtención de un número de identificación y la inscripción en el sistema nacional de registros de productores, así como los registros de las explotaciones agrícolas y los registros de las solicitudes de pago que lleva la Agencia para la Reestructuración y Modernización de la Agricultura. También se plantea el problema de si los cónyuges que dirigen explotaciones agrícolas por separado pueden obtener números de identificación distintos y registrar sus explotaciones. Para recibir los pagos directos y otros fondos de la UE es necesario obtener un número separado. El artículo también se refiere a otros registros, por ejemplo, el Registro de animales y otros registros relacionados con la agricultura, la inscripción en el Fondo de la Seguridad Social de los Agricultores, el Sistema de Registro de Ayudas Públicas de las ayudas

de minimis en la agricultura, el Registro de explotaciones agrícolas ecológicas, el Registro de beneficiarios de la PAC, y el Registro de tierras e hipotecas, el registro de agrupaciones de productores agrícolas, organizaciones de productores reconocidas y sus asociaciones, y organizaciones de productores transnacionales y sus asociaciones, en el mercado de frutas y hortalizas; Registros de organizaciones de productores y asociaciones de organizaciones de productores. Por último, el artículo trata del registro de las Asociaciones de Mujeres Rurales, que son populares en Polonia desde hace mucho tiempo. Al final, el autor constata que hay un número creciente de registros en Polonia. La mayoría de los registros están relacionados con la pertenencia de Polonia a la Unión Europea y el funcionamiento de las instituciones comunitarias o las soluciones jurídicas. La forma electrónica de los registros debería facilitar las cosas, ya que se ahorra el tiempo y el dinero que supondría desplazarse a las instituciones que se ocupan del registro, y se reduce el papeleo para rellenar las solicitudes. También se ahorran costes administrativos para los registradores. Sin embargo, en la práctica pueden surgir problemas. Por ejemplo, en cuanto al acceso a Internet, el almacenamiento de datos y los problemas de funcionamiento de un determinado sitio web o registro.

Palabras clave: actividad agrícola, registros relacionados con la agricultura, sistema de registros de productores, y registros de explotaciones agrícolas y registros de solicitudes de pago, Registro de Animales, Agencia para la Reestructuración y Modernización de la Agricultura.

Abstract: The aim of the article is to assess the regulations concerning the commencement and conduct of agricultural activity in Poland, in terms of entries in the registers related to agriculture and other information obligations, and to indicate legal problems. The article deals with the issue of excluding agricultural activities conducted by natural persons from the obligation to register in the National Central Register and Information on Economic Activity in Poland, pursuant to the Act of March 6, 2018 – the Entrepreneurs' Law and related activities e.g. agritourism, the processing and concentrate on discussion whether agricultural activity is an economic activity. Further, issues associated with obtaining an identification number and entry into the national system of producer records, and records of agricultural holdings and records of payment applications kept by the Agency for Restructuring and Modernization of Agriculture are addressed. The problem of whether spouses who run separate farms can obtain separate identification numbers and register their farms is also considered. In order to receive direct payments and other EU funds, it is necessary to obtaining a separate number. The article also refers to other registers, e.g. the Animal Registry and Other Registers related to agriculture, Registration in the Farmers' Social Insurance Fund, the Public Aid Registration System of De minimis aid in agriculture, the Register of organic farms, the Register of beneficiaries of the CAP, and the Land and Mortgage register, register of agricultural producer groups, recognized producer organizations and their associations, and transnational producer organizations and their associations, in the fruit and vegetable market; Records of producer organizations, associations of producer organizations. Finally, the article covers the registration of Associations of Rural Women, which have been popular in Poland for a very long time. At the end, the author states that there is a growing number of registers in Poland. Most registers are related to Poland's membership in the European Union and the functioning of EU institutions or legal solutions. The electronic form of registers should make matters easier, as it saves the time and money that would be required to travel to the institutions dealing with the register, and less paperwork is involved in completing applications. There are also savings in administrative costs for registrars. However, in practice problems can arise. For example, in terms of Internet access, saving data, and problems with the functioning of a given website or register.

Keywords: Agricultural activity, registers connected with agricultural, system of producer records, and records of agricultural holdings and records of payment applications, Animal Registry, Agency for Restructuring and Modernization of Agriculture

FOREWORD

Agriculture is an important branch of the Polish economy, next to industry and services. Its primary goal is to produce food¹. Both agricultural, plant and animal production is developing in Poland. Conducting agricultural activity depends on many factors, e.g. environmental (relief, soil quality and climate) and legal regulations. As a country that has been a member of the European Union since 2004, both EU and national legislation is important for Poland.

According to statistical data, there were 1.3 million agricultural holdings in Poland in 2020, and when compared to 2010 their number decreased by 192,000 (by 12.7%)². The average size of agricultural land in an agricultural holding in Poland in 2022 is 11.32 ha³. Poland is dominated by farms run by individuals, which generally have the status of a family farm. There are a few agricultural holding companies and about 700 agricultural cooperatives. Family farms are the basis of the agricultural system, and the legislator has supported and will continue to support such entities in the future. Despite the fact that the number of farms in Poland is decreasing, the issue of starting agricultural activity is still important. There is a generation change in agriculture, many young people start agricultural activity.

The aim of the article is to assess the regulations concerning the commencement and conduct of agricultural activity in Poland, in terms of entries in the registers related to agriculture and other information obligations, and to indicate legal problems.

¹ *Czynniki rozwoju rolnictwa Polski*, <https://zpe.gov.pl/a/czynniki-rozwoju-rolnictwa-polski/DPi0GMfIE> (access 02.11.2022).

² Ministerstwo Rolnictwa i Rozwoju Wsi, *Plan Strategiczny dla Wspólnej Polityki Rolnej na lata 2023-2027*, <https://www.gov.pl/web/wprpo2020/zatwierdzony-przez-komisje-europejska-plan-strategiczny-dla-wspolnej-polityki-rolnej-na-lata-2023-2027>(access 15.11.2022).

³ Annex to the announcement of the President of the Agency for Restructuring and Modernization of Agriculture of September 15, 2022, <https://www.gov.pl/web/arimr/srednia-powierzchnia-gruntow-rolnych-w-gospodarstwie-w-2022-roku> (access 15.11.2022).

1. TAKING UP ACTIVITY BY AGRICULTURAL PRODUCERS AND ENTRIES IN THE REGISTERS RELATED TO THE CAP

It should be noted that an agricultural producer, a natural person undertaking agricultural activity, does not register in the Central Register and Information on Economic Activity in Poland. According to the Act of March 6, 2018, the Entrepreneurs' Law⁴, the provisions of the act do not apply, inter alia, to production activities in agriculture in the field of agricultural crops and animal husbandry and breeding, horticulture, vegetable growing, forestry and inland fishing; renting rooms by farmers, selling home meals and providing other services on farms related to the stay of tourists; farmers' sales activities referred to in Art. 20 paragraph 1c of the Act of July 26, 1991 on personal income tax (it concerns the sale of processed products by farmers up to the amount of PLN 100 thousand per year).

Processing activity of a farmer meeting the requirements set out in the regulations up to the income of 100 thousand. PLN does not require an entry in the Central Register and Information on Economic Activity to start it. If all the requirements are not met or the income exceeds PLN 100,000 the farmer is obliged to register in Central Register and Information on Economic Activity. Then the Entrepreneurs' Law is applicable. As a rule, in the case of processing, a notification or registration with the Sanitary Inspection is required. The register in the State Sanitary Inspection (SSI) is related to food law as well as inspections and supervision of food activity. It should be emphasized that, of course, legal persons or companies without legal personality must ensure they are entered in the National Court Register in order to start running an agricultural business (e.g. limited liability company or cooperative).

In Poland, starting an agricultural activity is not difficult or complicated. The agricultural land needed for the organization of the farm may be sometime a problem. Because, according to the Act on shaping the agricultural system⁵, the purchaser of agricultural real estate may, as a rule, be an individual farmer. Pursuant to Article 23 of the Constitution of the

⁴ Journal of Law 2021, item 162. P. Tracz [in:] *Prawo przedsiębiorców. Komentarz*, ed. A. Pietrzak, Warszawa 2019, art. 6.; E. Komierzyńska-Orlińska [in:] L. Bielecki, J. Gola, K. Horubski, K. Kokocińska, A. Żywicka, E. Komierzyńska-Orlińska, *Komentarz do ustawy - Prawo przedsiębiorców [w:] Konstytucja biznesu. Komentarz*, Warszawa 2019, art. 6.

⁵ Uniform text: Journal of Law of 2022, item 461, 1846.

Republic of Poland, the agricultural regime in our country is grounded in family holdings, and this constitutional principle is respected in contracts of the purchase of agricultural real estate. The basic title for organizing and running agricultural holdings is ownership, whereas lease takes up a complementary function only. However, the role of lease has significantly increase in recent years, following the adoption of the Act of 19 October 1991 on the management of agricultural land owned by the State Treasury⁶. Thus today, when the sale of agricultural land from the Agricultural Property Stock of the State Treasury has been suspended, it is the lease that is the basic form of managing agricultural land from the Stock. Thus, a person who would like to start running a farm may, for example, sign a lease agreement for agricultural land. In Poland, donation or life annuity agreements are popular, on the basis of which parents transfer a farm to their successors. According to the aforementioned act on shaping the agricultural system, the buyer, a person close to the seller, does not have to have the status of an individual farmer. In the event of the intention to conclude a sales contract with a stranger by a farmer who does not have an individual status, it is necessary to obtain the consent of the Director of the National Agricultural Support Center⁷.

The question arises whether, since the agricultural producer does not have to perform registration activities, whether the agricultural activity is an economic activity. The basic characteristics of such activity are that it is organized profit-gaining activity conducted in one's own name and in an uninterrupted manner. It should be stressed, however, that the legislator does not specify what is meant by gainful activity. The Supreme Court in the justification to the judgment of 4 November 2014⁸ stated that "in judicial decisions and in literature, an activity is considered to be gainful if it is carried out with the aim of generating income (profit), understood as a surplus of income over costs incurred." The Court also stressed that the commercial nature of the activity is linked to participation in economic turnover. This requirement is met if the economic activity is carried out by means of (equivalent to) consideration-based mutual services provided in the course of economic transactions.⁹

⁶ Uniform text: Journal of Law of 2018, item 91, 1162 as amended.

⁷ See more A. Suchoń, *The Lease and Sale of Agricultural Real Estate in Poland — Legal and Economic Aspects*, "EU agrarian Law" The Journal of Slovak University of Agriculture in Nitra" 2017, no 6.

⁸ I UK 103/14, LEX No 1544222.

⁹ I UK 103/14, LEX No 1544222.

What is important is the subjective conviction of a given entity that the performance of a certain activity results in a gain.¹⁰ What is also of significance is that when losses are generated (temporarily or over prolonged periods) this does not deprive the entity of the status of a (going concern) business.¹¹ The characteristics of an economic activity must be clearly distinguished from its profitability.¹² As a rule, it can be considered that an agricultural activity is an economic activity when the conditions of the Entrepreneurs' Law are met.

The Supreme Administrative Court (NSA) in Warsaw ruled on 29 August 2007¹³ that "manufacturing activity in agriculture (running an agricultural holding) is an economic activity within the meaning of Article 2 of the Act of 2 July 2004 on freedom of business activity, however, other provisions of the Act do not apply to this activity. The exclusion of the application of the Act applies primarily to farmers running an agricultural holding." In the rationale for the above decision, the Supreme Court stressed that this provision characterises economic activity as paid and performed in an organised and continuous manner. These are characteristics that are inherent in the running of an agricultural holding. The Court stressed that the exclusion provided for in Article 3 of that Act could not therefore lead to the conclusion that the manufacturing activity in agriculture was not an economic activity as referred to in Article 2 of that Act, but only that this activity was not subject to the regime of the Act on the freedom of economic activity.

Agricultural activity therefore consists of several stages, from the preparation of land for cultivation, to the provision of various agri-technical services, sowing, the purchase of means of production, animal husbandry and breeding, the conclusion of contracts, including cultivation,

¹⁰ A. Rzetecka-Gil, *Ustawa o ograniczeniu prowadzenia działalności gospodarczej przez osoby pełniące funkcje bliczne*, Warszawa 2009, p. 80; M. Sieradzka, M. Zdyb, *Komentarz do art. 2 ustawy o swobodzie działalności gospodarczej*, SIP LEX 2013, also see M. Etel, *Pojęcie przedsiębiorcy w prawie polskim i prawie Unii Europejskiej oraz orzecznictwie sądowym*, Warszawa 2012, p. 179 et seq.

¹¹ See resolution of the Supreme Court of 30 November 1992, III CZP 134/92, OSNC 1993, No 5, item 79.

¹² A. Wasilewski, *Pojęcie działalności gospodarczej na gruncie prawa polskiego. Dylemat interpretacyjny*, in: *Gospodarka – Administracja – Samorząd terytorialny. Praca poświęcona 45-leciu pracy twórczej Profesor Teresy Rabskiej*, eds. H. Olszewski, B. Popowska, Poznań 1997, p. 543.

¹³ II OSK 1618/06, LEX No 364703.

storage and transport, and the sale of agricultural products¹⁴. The set of activities constituting the agricultural activity results from the very definition of "activity" contained in the Polish Language Dictionary. It is therefore "a set of activities, actions, undertaken for some purpose, scope, active participation in something, action, work."¹⁵ There are many different activities involved.

An agricultural activity is an economic activity if it is oriented towards sales, i.e. towards profit-making purposes. However, there are still cases where agricultural products obtained from plant breeding or animal husbandry (resulting from agricultural activity) are not sold on but used for personal and family purposes. Then agricultural activity is not an economic activity. Therefore, as rightly emphasised by Roman Budzinowski, it will be justified to state that conducting an agricultural activity may be recognised as a certain specific type of economic activity and the agricultural holding itself may be treated as a specific type of enterprise.¹⁶ Also in the view expressed by M. Waligórski,¹⁷ an agricultural activity may be classified as an economic activity if it is a gainful activity. It is also a manufacturing activity which, according to M. Waligórski, is performed by its very nature in an organised and continuous manner (by its very nature).

It should be emphasized that the thesis that agricultural activity is economic activity is rather predominant in the literature and jurisprudence, due to the provisions of Art. 3 of the Entrepreneurs' Law. It is recognized that for manufacturing activities in agriculture and others listed in the Act in Art. 6 (related to it), the provisions of the Entrepreneurs' Law Act shall not apply. In addition, according to art. 43¹ of the Civil Code, an entrepreneur is a natural person or a legal person conducting business or professional activity on its own behalf. The Civil Code does not contain a definition of economic activity.

¹⁴ A. Suchoń, *Legal aspects of the organisation and operation of agricultural co-operatives in Poland*, Poznań 2019, p. 59 and next.

¹⁵ *Słownik języka polskiego*, ed. M. Szymczak, Warszawa 1988, p. 982.

¹⁶ R. Budzinowski, *Gospodarstwo rolne i przedsiębiorstwo rolne*, in: *Prawo rolne*, ed. P. Czechowski, Warszawa 2022, pp. 110-111; idem, *Problemy ogólne prawa rolnego, Przemiany podstaw legislacyjnych i koncepcji doktrynalnych*, Poznań 2008, p. 22 and next.

¹⁷ See M.A. Waligórski, *Działalność gospodarcza w ujęciu prawa administracyjnego*, Poznań 2006.

Nevertheless, the problem arose in the light of the Act of March 2, 2020 on special solutions related to the prevention, counteraction and combating of COVID-19, other infectious diseases and crisis situations caused by them. In the judgment of 1 April 2022, I GSK 202/22, the Supreme Administrative Court ruled, inter alia, that *“Since the provisions of the Law on Entrepreneurs do not apply to the activities listed in Art. 6 sec. 1 of the Act on special solutions related to the protection of jobs, a person who breeds animals is not an entrepreneur within the meaning of Art. 4 sec. 1 Rights of entrepreneurs. Therefore, such a person is not the recipient of assistance in the form of payment of benefits for the protection of jobs from the Guaranteed Employee Benefits Fund to co-finance the remuneration of employees affected by economic downtime or reduced working hours as a result of COVID-19.*

The court emphasized that separate aid was provided for farmers to mitigate the negative effects of the COVID-19 pandemic. This is about financial aid for the operation "Aid for farmers particularly affected by the COVID-19 crisis", which is provided for in the Regulation of the Minister of Agriculture and Rural Development of August 24, 2020 on the detailed conditions and procedure for granting and payment of financial aid for operations such as Aid for farmers particularly affected by the COVID-19 crisis" under the "Exceptional temporary support for farmers, micro-enterprises and small and medium-sized enterprises particularly affected by the COVID-19 crisis" under the Rural Development Program for 2014-2020.

This judgment, on the other hand, concerned specific assistance provided in the context of COVID-19.

The Court of Appeal in Szczecin - 1st Civil Division, in the judgment of April 20, 2021, rightly ruled that there is no single standard universally defining the status of a farmer as an entrepreneur; this issue is subject to individual resolution, taking into account the specific circumstances of a given case, among which the following are important: the scope of agricultural activity, its model and organizational level¹⁸.

When an agricultural producer applies for EU funds, it is necessary for them to be entered in the register of agricultural producers. It should be

¹⁸ I ACa 470/20, LEX nr 3120991. P. Bielski, *Status prawny osoby fizycznej prowadzącej działalność wytwórczą w dziedzinie rolnictwa na gruncie prawa prywatnego. Głosa do wyroku Sądu Najwyższego – Izba Kontroli Nadzwyczajnej i Spraw Publicznych z dnia 17 lutego 2021 r.*, I NSNc 152/20, OSP 2022, no 9, p. 72.

noted that even before Poland joined the EU, the IACS Integrated Administration and Control System was introduced - a system administered by the Agency for Restructuring and Modernization of Agriculture¹⁹. In 2001 and 2002, many laws were passed to adapt our legislation to the requirements of the Common Agricultural Policy. One of such legal acts is the Act of July 25, 2001 on the national farm and livestock registration system and amending certain acts. It regulates the issues of proper management and control of direct payments directed to agricultural producers on the basis of separate acts. However, Poland was faced with the task of building a management and control system (IACS) compliant with the regulations contained in the legal acts of the European Union, i.e. in Council Regulation No. 3508/92 / EEC of November 27, 1992 and Council Regulation No. 3887/92 / EEC of December 23, 1992. Based on the analysis of the Act of July 25, 2001, it should be stated that the regulation contained in the aforementioned legal act corresponds to the provisions of Community law in the field of IACS. Incidentally, it is also worth adding that the name IACS was used more often in the media than the national system for keeping records of farms and livestock before Poland joined the EU.

Poland's accession to the European Union on May 1, 2004 changed the legal principles of agricultural activity in our country. First of all, agricultural producers became able to use the EU direct payment systems or apply for funds from the second Pillar of the CAP programs included in the Rural Development Plan. During the 18 years of our country's membership in the European Union, legal regulations concerning agriculture have changed, and this has affected the activities of agricultural producers in the Member States. Each producer who possesses agricultural land or animals or is interested in participating in non-financed, co-financed or financed mechanisms supported by the European Union and administered by the Agency for Restructuring and Modernization of Agriculture (ARMA), or the National Center for Agricultural Support (KOWR), is required to obtain an identification number and entry into the national system of producer records, records of agricultural holdings and records of payment applications.

¹⁹ Zob. B. Jeżyńska, *Funkcje ewidencji i rejestrów przedsiębiorców rolnych*, St.Iur.Lubl. no 11, 2008, pp. 41-50.

The system consists of: 1) records of producers; 2) records of agricultural holdings; 3) records of applications for payment; 3a) agricultural parcel identification system referred to in Art. 70 of Regulation No. 1306/2013; 4) documentation related to keeping records and the system referred to in points 1-3a. According to the Act of 18 December 2003 on the national system of producer records, farm records and records of applications for payment (Article 11), the producer is entered into the records of producers, by way of an administrative decision, at his request submitted to the head of the locally competent ARMA poviát office, on the form created and made available by ARMA. Article 12 of the Act stipulates that in the decision, the manufacturer is assigned an identification number. It is unique and does not pass to a legal successor. An applicant who is entered in the producer register on the basis of several titles shall be assigned one identification number.

Since Poland's accession to the European Union, for several years there has been a problem in practice as to whether spouses who run separate farms can obtain separate identification numbers and register their farms. There have been various decisions of administrative courts in this respect over the past few years.

For example, in the judgment of 30 September 2010, the Supreme Administrative Court, II GSK 802/09²⁰, ruled that the provision of Art. 12 sec. 4 of the Act of 2003 on the national system of producer records, farm records and records of payment applications obliges that an identification number is to be assigned to one of the spouses, regardless of the property regime applicable to the spouses. Even if the agricultural producer's spouse owns a separate farm, is entered in the register of agricultural producers and has an identification number, this does not entitle the spouse who owns a separate farm, as his separate property, to make an independent entry in the producer register and be assigned a separate farm from the other the spouse's identification number.

The difficult situation of such spouses and the change in regulations will be affected by the judgment of the Constitutional Tribunal of 3 December 2013, P 40/12²¹, *in which the court ruled that Art. 12 sec. 4 of the Act of 18 December 2003 on the national system of producer records, farm records and records of payment applications, to the extent that it does not provide for the admissibility of assigning separate identification*

²⁰ Number Legalis 553942.

²¹ Number Legalis 742115.

numbers to each from the spouses, in a situation where there is property separation between them and they have separate farms: a) is not inconsistent with those resulting from Art. 2 of the Constitution of the Republic of Poland, the principles of trust in the state and the law it enacts as well as correct legislation, b) is inconsistent with Art. 32 sec. 1 in connection with Art. 18 of the Constitution. II The provision listed in Part I, to the extent indicated therein, shall cease to apply after 18 (eighteen) months from the date of publication of the judgment in the Journal of Laws of the Republic of Poland.

This verdict was the basis for Act of 23 October 2014 amending the Act on the National System of Recording Producers, Records of Farms and Records of Payment Applications²². On its basis, it is possible that spouses can obtain two separate identification numbers. According to art. 12 the Act of 2003 on the national system of producer records, farm records and records of payment applications in the case of spouses and entities that are co-owners of a farm, the following is granted: one identification number to the spouse or co-owner for which the spouse or co-owner has consented in writing. It is also possible to assign a separate identification number when the applicant is an agricultural producer and runs a separate farm on his own, constituting an organized economic unit. In the case of spouses and entities that are co-owners of a farm, the following shall be assigned: 1) one identification number to that of the spouses or co-owners for which the spouse or co-holder has given their consent in writing; 2) a separate identification number from the number referred to in point 1, if the applicant: a) is an agricultural producer and runs a separate farm independently, constituting an organized economic unit, or b) intends to participate in mechanisms other than those mentioned in paragraph 4b, or c) is the owner of animals.

It should be noted that an entry in the register is confirming, not constitutive decision. It only confirms that the person meets the requirements of an agricultural producer. In Judgment of the Supreme Administrative Court of February 12, 2009, II GSK 788/08, the court ruled that: *In the light of the provisions of the Act of 18 December 2003 on the national system of producer records, farm records and records of payment applications, entry in the register of producers has no constitutive significance. It is not because the farmer is an agricultural producer that*

²² Journal of Law 2014, item 1872.

he has been entered in the register, but because he meets the conditions set out in the provisions of substantive law cited earlier. Making an entry in the register described in the Act is a material and technical act and does not cause such effects as administrative decisions. (...) The decision to refuse the entry has only the meaning that, in accordance with the documents submitted by the applicant, there are no grounds for making the entry.

The Act on the national system of producer records, farm records and records of payment applications is widely used. The system is used in the following areas: 1) granting and making payments; 2) supervising compliance with the provisions on payments made by the Agency; 3) proceedings for the reimbursement of unduly paid payments; 4) proceedings on the imposition of fines or the application of other sanctions; and 5) the identification of producers.

The records of producers, records of farms, records of applications for payment and the system for identifying agricultural parcels are kept by the Agency for Restructuring and Modernization of Agriculture in electronic form, ensuring protection and protection of data against loss and unauthorized access (Article 6). The Act in question was recently amended on the basis of the Act of 26 May 2022 amending the Act on the National System of Recording Producers, Records of Farms and Records of Applications for Payments and some other acts. Currently, the application is submitted only in paper version. Article 7 of the Act stipulates that the record of producers includes: name and surname or name of the producer, specification of his place of residence and address, or designation of the registered office and address, and in the case of a natural person also the registration number of the universal electronic population registration system (PESEL), identification number in the national official register of entities of the national economy (REGON), if such a number has been assigned; tax identification number (NIP); the producer's bank account number or the producer's account number kept at the cooperative savings and credit union. In the case of a married producer and in the case of a producer who is a co-owner of a farm, the record of producers also includes: name and surname and registration number of the universal electronic population registration system (PESEL) of the producer's spouse,

Art. 8 of the Act on the national system of recording producers, records of farms and records of applications for payments stipulates that the records of agricultural holdings shall contain for example the

identification number referred to in Art. 12; identification number in the national official register of entities of the national economy (REGON); data on the area of the agricultural holding, specifying the identifiers and the area of its registration parcels on which the agricultural parcels are located; data enabling the identification of agricultural parcels included in a farm, concerning in particular: a) the area of agricultural parcels shown in hectares, with accuracy to the second decimal place, (c) the use of agricultural parcels.

To run the system, the following are used in particular: 1) digital orthophotomaps prepared in accordance with the provisions of the Geodetic and Cartographic Law; 2) data from the register of land and buildings kept on the basis of the provisions of the geodetic and cartographic law; 3) data from applications for payment; and 4) the results of the on-site inspections referred to in Regulation No. 640/2014 and the Commission Implementing Regulation (EU) No. 809/2014 of 17 July 2014.

2. ANIMAL REGISTRY

Other registers should also be mentioned. For example, the Act of April 2, 2004 on the animal identification and registration system²³, which defines the rules for the identification and registration of animals, including the procedure for assigning herd seat numbers and animal identification numbers. The register of tagged livestock collects data on suppliers and: 1) for cattle and pigs, data on: (a) livestock keepers, (b) livestock, (c) herd locations; 2) for sheep and goats - the data specified in Art. 7 sec. 2 of Regulation No 21/2004; and 3) the carcasses of farm animals and processing plants or incinerators.

The Agency for Restructuring and Modernization of Agriculture maintains a register of tagged farm animals (i.e. cattle, sheep, goats and pigs) based on notifications submitted by animal owners. The Animal Identification and Registration System (IRZ) is used to determine the whereabouts and movements of animals. According to the database, as of September 30, 2022, the following were registered in the IRZ system:

²³ Journal of Law 2021, item 1542.

6,462,452 cattle, 60,967 goats, 273,680 sheep. In addition, 59,270 locations of herds with pigs were registered in the IRZ system²⁴.

The main goal of the Animal Identification and Registration System is to support food safety in accordance with the requirements of the European Union, and thus to enable full access to the market of animal products from other EU Member States. The IRZ System consists of the following elements; a register of tagged livestock and herd locations; means of identification: ear tags (cattle, sheep, goats and pigs) or a tattoo (pigs), cattle passports; registration books kept by the holder at the herd's premises separately for individual animal species; and transport documentation (in the case of sheep and goats).

On November 4, 2022, the Act on the animal identification and registration system was passed. As indicated in the draft of this act, it is to "allow the adaptation of the IT system of the Agency for Restructuring and Modernization of Agriculture (ARMA) to new tasks, including ensuring effective interoperability, integration and compatibility elements of a computer database with the systems referred to in Art. 108 sec. 4 lit. d of Regulation 2016/429 (e.g. the TRACES system), and with other IT systems related to the protection of animal health, taking into account the need to ensure proper protection of personal data.

The computer database is a public register within the meaning of Art. 3 point 5 of the Act of 17 February 2005 on the computerization of the activities of entities performing public tasks. The Act introduces the obligation to register a poultry plant in a computer database. It will apply to anyone keeping birds of the following species: hen (*Gallus gallus*), duck (*Anas platyrhynchos*), Muscovy duck (*Cairina moschata*), goose (*Anser anser*), garbonose goose (*Anser cygnoides*), turkey (*Meleagris gallopavo*), quail, Japanese guinea fowl (*Coturnix japonica*), guinea fowl (*Numida meleagris*) and ostrich (*Struthio camelus*), irrespective of the number of birds kept. The registration of all establishments keeping poultry will enable the Veterinary Inspection to supervise more effectively, in particular in the fight against avian influenza. The Act enters into force 14 days after its announcement. At the time of submitting the article for publication, the act had not yet been signed by the President of Poland. It

²⁴ ARiMR, *System Identyfikacji i Rejestracji Zwierząt*, <https://www.gov.pl/web/arimr/system-identyfikacji-i-rejestracji-zwierzat> (access 15.11.2022).

will be published in the Official Journal of Laws only after it is signed by the President of Poland.

3. OTHER REGISTERS ARE RELATED TO AGRICULTURE, INCLUDING THE COMMON POLICY

When starting a farming business, as a rule, a farmer should apply for Registration in the Farmers' Social Insurance Fund. By virtue of the Act, pension and disability insurance is covered by a farmer whose farm covers an area of agricultural land above 1 conversion hectare or a special department and a farmer's household member. The insurance is subject to the law or upon application. If the act provides for insurance coverage on request, the application for insurance coverage may be submitted by the person concerned or the farmer on whose account that person works. All economic activities are related to the entry into the National Official Business Register (REGON). It is held by the President of Statistics Poland. Registrations are FREE of charge. It is worth mentioning that the Public Aid Registration System De minis aid in agriculture, the Register of organic farms, the Register of beneficiaries of the CAP, and the Land and Mortgage register are all kept by the Courts.

The Agency for Restructuring and Modernization of Agriculture also manages other registers, e.g. the Register of agricultural producer groups, recognized producer organizations and their associations, and transnational producer organizations and their associations, in the fruit and vegetable market; Register of associations of agricultural producer groups; Records of producer organizations, associations of producer organizations, and interbranch organizations in markets other than the markets for milk and milk products and other products²⁵.

Particularly noteworthy is the register of agricultural producer groups. There are currently 700 such entities operating in Poland. Pursuant to the Act of 15 September 2000 on agricultural producer groups and their associations and amending other acts, the register of groups is kept by the director of the regional branch of the Agency for Restructuring and Modernization of Agriculture (ARMA) competent for the seat of the group. The group list includes the name and seat of the group; the date of issuing the administrative decision on the recognition of the agricultural

²⁵ <https://www.gov.pl/web/arimr/rejstry-prowadzone-przez-arimr3> (access 15.11.2022).

producer group; the name of the product or group of products for which the group received the decision; the number of group members; information on the date of the decision to withdraw a given recognition group and remove it from the register of groups, and the decision to declare the recognition decision invalid or the decision revoking the decision on recognition of the group - if such a decision has been issued.

The register is public. The group is obliged to inform in writing the director of the Agency's regional branch of any change to the data contained in the register, within one month from the date of the change. If the group fails to fulfill the obligation, the director of the regional branch of the Agency calls on the group to fulfill this obligation within 14 days from the date of receipt of the request by the group. The director of the regional branch of the Agency shall inform the minister responsible for agricultural markets and the Agency's President of any change to the data contained in the register, within 7 days from the date of the change in this register.

Finally, it is worth mentioning that the Associations of Rural Women have been popular in Poland for a very long time. For many years, the legal regulations concerning women's associations were laid down in the Act of 8 October 1982 on social-professional farmers' organisations. Currently they are governed by the Act of 9 November 2018 on Associations of Rural Women²⁶. Pursuant to this act, an association of rural women is a voluntary, self-governing social organisation of rural residents, independent of government administration and local government units, supporting the development of entrepreneurship in the countryside and actively working for the benefit of rural communities. According to the Act of 9 November 2018 on Associations of Rural Women, the head of the poviats office of the Agency for Restructuring and Modernization of Agriculture makes, by way of a decision, an entry of the association of rural housewives into the register after confirming that the statute of the association is compliant with the law, that the founders of the circle meet the requirements set out in in the act and in the register, and that no other association has been registered in the office in the same village. The head of the poviats office of the Agency for Restructuring and Modernization of Agriculture, after making the entry, issues a certificate of entering the association into the register. Changes to the data indicated in the application for the entry of a farmer's housewives' association into the

²⁶ Journal of Law 2021, item 2256.

register, as well as changes to the statute of this association and the list of its members, are subject to mandatory entry in the register. The application for entry of changes in the register shall be submitted within 30 days from the date of occurrence of these changes. In the event that the head of the poviát office of the Agency for the Restructuring and Modernization of Agriculture finds that the statute of the farmer's housewives' association or its amendments do not meet the requirements set out in the regulations, the head of the poviát office of the Agency for Restructuring and Modernization of Agriculture will set a deadline for this association to make appropriate corrections, within not less than 14 days, under pain of refusal of entry in the register.

Registers are also maintained by the National Agricultural Support Center. For example Pursuant to Art. 13 sec. 2 of the Act of August 25, 2006 on biocomponents and liquid biofuels, the body responsible for keeping the register of farmers is the General Director of the National Agricultural Support Center. Economic activity in the production of agricultural biogas in renewable energy installations other than agricultural biogas micro-installations, and electricity from agricultural biogas in installations other than micro-installations, constitutes a regulated activity within the meaning of the Act of 6 March 2018 - Entrepreneurs' Law, and requires an entry in the register of agricultural biogas producers kept by the Director General of the National Agricultural Support Center.

The Director General of National Agricultural Support Center, pursuant to the Act of September 28, 2022 amending the Act on the production of spirits and on the registration and protection of geographical indications of spirits and certain other acts, as of October 30 this year, takes over the duties of the register keeping authority from the Ministry of Agriculture and Rural Development. In accordance with the Act, KOWR will keep three registers:

- 1) activities related to the production or bottling of spirit drinks;
- 2) entities operating in the field of production and processing of ethyl alcohol;
- 3) manufacturers of tobacco products.

It is also worth mentioning other registers, e.g. the Register of plant protection products admitted to trading with the permit of the Minister of Agriculture and Rural Development; the National List of Protected Geographical Indications for Spirit Drinks, Records of applications for the

entry of spirit drinks on the national list of geographical indications of spirit drinks²⁷.

SUMMARY

It is very simple for natural persons to take up agricultural activity in Poland if they have access to agricultural real estate. No registration activities are required. If an agricultural producer intends to use EU funds, in particular direct payments and funds from the 2nd pillar of the Common Agricultural Policy, he must register in the national system of producer records, farm records and records of payment applications. The legislator, being aware of the increasingly common use of digitization and computerization in agriculture, recently amended the provisions of regulation. All the entities authorized to be entered in the producers' register may submit an application for entry in the above-mentioned register not only in paper form, but also in electronic form, which is available on the website of the Agency for Restructuring and Modernization of Agriculture.

In Poland, a large number of registers should be distinguished that are not obligatory, but that are related to the conducted activity, e.g. the register of tagged farm animals, registers manufacturers of tobacco products, the register of agricultural producer groups, the register of association of rural housewives, register related to renewable energy sources, register non-agricultural economic activity. Most registers are related to Poland's membership in the European Union and the functioning of EU institutions or legal solutions. There is a growing number of registers. On the one hand, an agricultural producer does not have an obligation to make an entry in such registers, on the other hand, in practice, he conducts agricultural activity and in order to use EU instruments must make an entry in the register, and remember to complete and update it. There are particular problems with the animal register.

The electronic form of registers should make matters easier. It saves the time and money that would be required to travel to the institutions dealing with the register, and less paperwork is involved in completing applications. There are also savings in administrative costs for registrars. However, in practice problems can arise. For example, in terms of Internet

²⁷ <https://www.gov.pl/web/rolnictwo/rejestr> (access 05.11.2022).

access, saving data, problems with the functioning of a given website or register. There are also evidentiary problems when the agricultural producer enters the data, but due to technical reasons it has not been preserved or has not reached the central systems. There is also the problem of protecting the data contained in the registers, since security breaches are possible. Easy and uncontrolled access to information also entails the risk that personal data can be lost or become inaccessible. Digitization is inevitable, but at the same time it is necessary to anticipate and solve the problems that may occur due to such a process. In Poland, registers related to agriculture are primarily kept by Agency for Restructuring and Modernization of Agriculture, the National Support Center for Agriculture and the Ministry of Agriculture and Rural Development.

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