
The legal concept of agricultural cooperatives

Summary

The aim of the dissertation is to attempt to create a legal concept of agricultural cooperatives, which required analysing their structure and the way they operate, with their complexity and diversified nature also taken into account. Thus, it was crucial to:

- indicate the way agricultural cooperatives develop and enumerate the legal acts regulating the structure and the functioning of a given type of a cooperative, reflected in its particular structure and relationships with other entities,
- indicate distinctive features of agricultural cooperatives in the context of other cooperative entities,
- make a legal assessment of the structure and the functioning of agricultural cooperatives in terms of: social and economic needs, the development of agriculture and the agricultural and food economy
- analyse and determine if it is possible and justified to distinguish agricultural cooperatives, propose their definition as well as a new model of their structure and the functioning

A new concept of agricultural cooperatives required a comprehensive analysis of numerous legal issues as well as of the issues relating to the economics of agriculture or finances. The framework of the dissertation resulted from its aims and methods used to achieve them.

The first chapter (introductory discussions) explains the title and assesses the research. It also justifies the dissertation topic, its goals and initial assumptions which served as the basis for its concept and construction. Additionally, it outlines the method of work.

The second chapter presents the evolution of cooperative principles and, in particular, ideological aspects of cooperativeness. In order to fulfil the purpose of the dissertation, it was necessary to refer to the EU policies and law.

The third chapter discusses the agricultural cooperatives in selected member states of the European Union. First of all, it outlines the distinctive features of agricultural cooperatives, enumerates their types and the object of activity and presents their evolution. Further, it analyzes the process of passing the laws regulating cooperatives and main legal aspects of the structure and the functioning of agricultural cooperatives in selected member

states of the European Union. Particular attention was given to the Italian and French cooperatives due to some unique elements of their structure and the functioning. These conclusions are critical to assess the legal nature of agricultural cooperatives and put forward *de lege ferenda* conclusions concerning a new model of agricultural cooperatives in Poland.

The fourth chapter gives an insight into agricultural cooperatives in Poland. Firstly, it presents the process of adopting regulations on cooperatives on the Polish lands in the period of Partitions and the interwar period. Then, it focuses on cooperative legislation after the World War II. The issues raised in that chapter are necessary to determine the development tendency of agricultural cooperatives.

The fifth chapter starts with the definition of a cooperative, its object of activity and characteristic features. Further, it defines both an agricultural activity and an agricultural product as starting points for the concept of agricultural cooperatives. These definitions helped to outline the distinctive features of agricultural cooperatives. The chapter covers the concept and the object of activity of cooperatives of agricultural production, social cooperatives which run an agricultural activity, association of agricultural cooperatives, cooperative groups of agricultural producers, initially acknowledged agricultural groups of fruit and vegetable producers, acknowledged cooperative organizations of fruit and vegetable producers, cooperative organizations of agricultural producers (mainly milk producers), cooperatives acting for the benefit of protected products and dairy cooperatives.

The sixth chapter offers a legal analysis of the structure and the functioning of cooperatives in Poland. It outlines, in particular, the establishment of the entity, its registration, bodies and structure. It discusses basic legal solutions under the Act on Cooperative Law and other regulations on agriculture which refer to agricultural cooperatives.

The seventh chapter raises legal aspects of the interactions between agricultural cooperatives and their economic and institutional surrounding. The chapter analyses some common agreements made by agricultural cooperatives, such as agreements of delivery of pre-contracted agricultural produce and lease agreements. It shows the mechanisms which make it easier for cooperatives of agricultural production to purchase lands such as the right of first refusal with respect to leased agricultural lands or contribution in land. Further, the chapter focuses on the issue of agricultural cooperatives as a taxpayer, emphasizing special solutions directed to them. It also mentions legal support from the public funds given to the structure and the functioning of agricultural cooperatives. The chapter finishes with a discussion on the supervision and control over the activity of agricultural cooperatives.

The dissertation includes an extensive summary with the conclusions drawn from the above-mentioned analyses. The conclusions refer to the evolution of agricultural cooperatives and their distinctive features in comparison with other cooperatives. They also evaluate the structure and the functioning of agricultural cooperatives. The author presents a new model of agricultural cooperatives which contributes to better protection of stability of running an activity by these entities and provides better development opportunities.

In conclusions the author states that, among other things, the development of cooperatives started from the cooperatives supporting agricultural farms in the period of Partitions and the interwar period – by means of taking over one or more stages of an agricultural and processing activity of their members – to the cooperatives running an agricultural activity after the World War II (which were of highest importance). After Poland's accession to the

European Union, agricultural cooperatives kept developing in these two directions. What has changed, however, is that now more importance is given to the cooperatives which support their members in their agricultural and agricultural-related activity, namely cooperatives which take over various stages of an agricultural activity of cooperative members. Some of them engage also in processing using the agricultural produce produced by cooperative members. Simultaneously, there are cooperatives running an agricultural processing activity which provide work for their members on agricultural lands but they are of much less significance than after the World War II.

The above-mentioned trends in the development of agricultural cooperatives influence the development of legislation. The current trend of the development of agricultural cooperatives is in line with the development of EU policies. It is connected with, e.g. the necessity to enhance competitiveness of agricultural producers, the protection of regional products, social economy, energy, environment protection and processing. All the amendments to the Common Agricultural Policy and EU policies make a cooperative a complex legal body and, simultaneously, a dynamic unit. The activity of agricultural cooperatives is more and more impacted by the regulations connected with the development of agricultural and food law.

Further on, the conclusions mention distinctive features of agricultural cooperatives in comparison with other cooperative entities in Poland (*de lege lata* conclusions). It should be stressed, however, that due to the complexity of agricultural cooperatives it is difficult to distinguish fully unified attributes. It is possible, nevertheless, to point out some common elements.

The basic feature of agricultural cooperatives is their activity, namely the actions they take in connection with an agricultural sector or, in other words, with various elements of the food chain. Some agricultural cooperatives run an agricultural processing activity, while others take over some of its stages (e.g. agro-technical services, the purchase of production means, sales, promoting agricultural produce, counselling) or processing. The type of activity a cooperative runs is a decisive factor whether or not it may be categorized as an agricultural cooperative. Consequently, its nature and the type of activity decide about the category a given cooperative falls into. A type of an activity is critical for the legislator to specify the features of members of agricultural cooperatives. The cooperatives associate, mainly, agricultural producers or entities whose jobs are connected with running an agricultural activity. Cooperative members have both economic ties with a cooperative (they provide legal products, work) and legal ones (acceptance of membership, membership agreement, employment agreement). The activity of agricultural cooperatives in the agricultural sector influences also the agricultural contracts made by cooperatives, especially agreements of delivery of pre-contracted agricultural produce and contracts for sales of agricultural produce. A distinctive feature of the functioning of agricultural cooperatives is the fact that they use a wide range of European funds addressed to enterprises from an agricultural sector. Agricultural cooperatives may act both as an agricultural producer (agricultural cooperatives, production cooperatives, social cooperatives, groups of agricultural producers) and a contracting party (e.g. a dairy cooperative)

The dissertation presents the conclusions drawn from the legal assessment of the structure and the functioning of agricultural cooperatives. The evolution of agricultural cooperatives from static units to more dynamic entities which extend their activity is part of the

multifunctional and sustainable development. The legal concept of agricultural cooperatives, therefore, comprises both modern solutions which meet current needs and those which constitute constraints. The author exemplifies that conclusion by referring to some legal solutions which provoke some doubts or do not exist in Polish legal system.

Taking into account the features of agricultural cooperatives and legal problems presented in the dissertation which result from, among other things, dispersed legal acts which regulate legal framework of running an activity by cooperatives, the author postulates to create a new model of agricultural cooperatives. She stresses that the new act on agricultural cooperatives should include two parts. A general part would comprise a definition of an agricultural cooperative as well as the provisions on its structure and the functioning (those which differ from the provisions included in a general Act on Cooperative Law; in the matters not regulated in the proposed act, the provisions of the Cooperative Law would apply). The second part, however, the specific one, would cover some selected branches, i.e. cooperatives of farmers, dairy cooperatives, agricultural production cooperatives or cooperatives of agricultural circles. The author also presents proposals of changes to some other legal acts, for instance relating to taxes, purchasing property by cooperatives using the right of first refusal, contribution in land or leased agricultural farms.