

Description of the criteria governing the areas of overlap between the competence of KRUS and ZUS in respect of farmers who are subject to social insurance

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Abstract

The Social Insurance Institution (PL: *Zakład Ubezpieczeń Społecznych*, ZUS) and the Agricultural Social Insurance Fund (PL: *Kasa Rolniczego Ubezpieczenia Społecznego*, KRUS) are among the constituent parts of the social security system in Poland. In principle, both institutions function in such a way that there is no overlap between the areas of their competence, but there are certain forms of professional activity which, when carried out by an insured farmer or his/her household member, result in an overlap between the social insurance titles. These include in particular a non-agricultural business activity, an agency contract, a contract of mandate or other contract for the provision of services to which the provisions on the mandate apply and serving on a supervisory board.

The main aim of the article is to analyse the ways to deal with and mechanisms which govern cases when the competence of KRUS and ZUS overlaps for certain farmers subject to social insurance and to present the normative acts containing regulations in this area.

Keywords: serving on a supervisory board, non-agricultural business activity, social insurance, agency contract, contract of mandate.

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Introduction

The social security system was created in response to the need to guarantee at least a minimum standard of living in the event of risks such as old age, illness and unemployment. It is a guarantee from the state that the means of subsistence will be provided even if the insured person is unable to provide them themselves for fortuitous reasons¹.

In Poland, the existence of a social security system is guaranteed in the country's constitution² and the tasks arising from the insurance cover are performed by, among others:

- Social Insurance Institution,
- Agricultural Social Insurance Fund,
- Ministry of Family and Social Policy,
- National Health Fund³.

For the purposes of this paper, the relevant bodies are ZUS and KRUS. In a sense, these institutions are mirror images of each other. They provide services to insured persons in relation to insurance cover and the granting and payment of benefits. ZUS is a universal system that applies to employees and sole proprietors, among others, while KRUS was separated from the general insurance system by the Act of 20 December 1990 on the social insurance of farmers⁴ in order to meet the needs of persons working on farms and their families.

Since the establishment of the Agricultural Social Insurance Fund under the above-mentioned Act, ZUS and KRUS have provided social insurance cover separately and have not influenced each other in any way. Therefore, it was not necessary to introduce rules determining their operation in common areas, as there were no such areas. This changed in 1996 when an amendment to the Act of 20 December 1990 on the social insurance of farmers was enacted⁵. Article 5a was added to the act, which allows farmers with the status of sole proprietor to choose between agricultural and general social insurance⁶. This amendment meant that the possibility of “overlapping

1. K. Lechowicz, M. Łuszczczyk, *Kierunek zmian systemu zabezpieczenia społecznego w Polsce – wybrane aspekty*, “Studia Ekonomiczne. Uniwersytet Ekonomiczny w Katowicach” 2014, nr 179, p. 188.

2. Konstytucja Rzeczypospolitej Polskiej z 2 kwietnia 1997 roku, Dz. U. 1997 nr 78 poz. 483.

3. K. Lechowicz, M. Łuszczczyk, op. cit., p. 13.

4. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

5. Ustawa z 12 września 1996 roku o zmianie ustawy o ubezpieczeniu społecznym rolników, Dz. U. 1996 nr 124 poz. 585.

6. D. Puślecki, *Ubezpieczenie rolników wykonujących umowy cywilno-prawne i prowadzących działalność gospodarczą w Kasie Rolniczego Ubezpieczenia Społecznego*, “Stowarzyszenie Ekonomistów Rolnictwa i Agrobiznesu, Roczniki Naukowe” 2015, t. XVII, z. 2, p. 202.

social insurance titles⁷ was allowed in a situation where a farmer was engaged in an agricultural activity and simultaneously took up a non-agricultural business activity or collaborated in the pursuit of such an activity.

Subsequent amendments were introduced by the Act of 23 October 2014 amending the Act on the social insurance system and certain other acts⁸. According to Article 5b⁹, a farmer or a member of the household who met certain conditions could extend their professional activity, inter alia, on the basis of a contract of mandate (PL: *umowa zlecenie*) or other contract for the provision of services governed by the Civil Code provisions on a mandate¹⁰, an agency contract or appointment to a supervisory board and continue to be covered by social insurance for farmers.

This article distinguishes, analyses and evaluates the criteria governing the area of overlap between the competence of KRUS and ZUS in respect of farmers who are subject to social insurance and provides an overview of legal acts introducing the relevant regulations. Attention should be drawn to a certain conditionality of eligibility for the KRUS social insurance cover for persons conducting a business activity and simultaneously taking up additional employment on the basis of an agency contract, contract of mandate or other contract for the provision of services to which the provisions on mandate apply and serving on a supervisory board. Not all farmers who are insured under the KRUS social insurance scheme can choose whether they want to belong to the agricultural or the general social insurance system. Criteria have been introduced to divide farmers into those who can remain in KRUS despite taking up an additional professional activity and those who are excluded from the farmers' social insurance scheme after taking up such an activity.

Criteria governing the areas of overlap between the competence of KRUS and ZUS in social insurance

Among the criteria governing the areas of overlap between the tasks of KRUS and ZUS, the following can be distinguished:

- the size of the agricultural holding,
- participation in the special types of agricultural production,

7. Ibidem, p. 202.

8. Ustawa z 23 października 2014 roku o zmianie ustawy o systemie ubezpieczeń społecznych oraz niektórych ustaw, Dz. U. 2014 poz. 1831.

9. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

10. Ustawa z 23 kwietnia 1964 roku – Kodeks cywilny, Dz. U. 2023 poz. 1610.

- the duration of cover under the social insurance scheme for farmers,
- the amount associated with income, i.e. the revenue limit or the “annual limit amount”,
- the intention to maintain KRUS insurance,
- the work in the agricultural holding,
- the type of business activity performed and the method of settlement with the tax office.

Farmers and household members who carry out a business activity but have opted to remain insured with the KRUS are subject to social insurance only under the Agricultural Social Insurance Fund if they fulfil certain criteria. For this reason, they are obliged to pay a pension insurance contribution in double the amount as stipulated in Article 17 (2) of the Act on the social insurance of farmers¹¹. They can remain in the farmers’ social insurance system and exercise the right of persons insured in the general system in another situation, namely if they perform an agency contract, contract of mandate or other contract for the provision of services to which the provisions on mandate apply and if they serve on a supervisory board. The commencement of these activities gives rise to the obligation to be subject to social insurance in the Social Insurance Institution in accordance with the Act of 13 October 1998 on the social insurance system¹², however a farmer or a household member is also a person working in an agricultural holding. They must therefore continue to pay contributions to the Agricultural Social Insurance Fund because they are insured under the farmers’ social insurance scheme.

The size of the agricultural holding

Only persons who fulfil certain conditions can become “dual-profession farmers”¹³ and, so to speak, enter the area in between the two insurance systems, general and agricultural. The first relevant criterion is the size of the agricultural holding, which constitutes the basis for being covered by the farmers’ social insurance scheme.

11. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

12. Ustawa z 13 października 1998 roku o systemie ubezpieczeń społecznych, Dz. U. 2023 poz. 1230.

13. The term “dual-profession farmer” (PL: *rolnik-dwuzawodowiec*) was coined by Damian Puślecki, who used it in his article on the Agricultural Social Insurance Fund coverage for farmers performing civil law contracts and pursuing a business activity (PL: *Ubezpieczenie rolników wykonujących umowy cywilno-prawne i prowadzących działalność gospodarczą w Kasie Rolniczego Ubezpieczenia Społecznego*, op. cit., p. 201) to describe a farmer and the farmer’s household member who, apart from agricultural activity, commences to perform an additional professional activity on the basis of an agency contract, a contract of mandate or other contract for the provision of services to which the provisions on mandate apply or who commences to serve on a supervisory board or conduct a non-agricultural business activity or collaborates in the performance of such activity.

Article 5a and Article 5b of the Act on the social insurance of farmers¹⁴ lay down the same requirement that must be met by those wishing to become “dual-profession farmers”, namely the fact that they enjoy full insurance cover under the Act. Article 7 of the aforementioned Act indicates who may be covered by accident, sickness and maternity insurance under the Act, while Article 16 governs the pension insurance cover under the Act. To summarize, a farmer whose agricultural holding includes the area of agricultural land above 1 conversion hectare or a special type of agricultural production, as well as a household member who works on the farm together with the farmer and meets the requirements contained in Article 6 (2)¹⁵ is eligible for accident, sickness, maternity and pension insurance under the Act provided that they are not members of another social insurance scheme and do not have an established right to a pension or social insurance benefits.

However, to get a complete picture of the situation, the definitions in Article 6 of the Act on the social insurance of farmers must also be analysed. They indicate further conditions that must be met. The farmer is obliged to carry out an agricultural activity in an agricultural holding, which, according to the law, is to be equated with any farm or farmstead used for carrying out an agricultural activity. Further analysis shows that the farm that serves as the basis for the insurance does not have to be owned by the farmer, it is sufficient if it is in his possession and he carries out agricultural activities on the land. To be insured under the Act, the person concerned must therefore work on a farm but does not need to be the owner. It is important to note that the farmer does not have to prove that they carry out such activity. As Jerzy Bieluk notes: “The Act does not introduce (...) any mechanism to check whether agricultural production is actually taking place or whether the land has been set aside”¹⁶. In addition, Article 38 of the Act on the social insurance of farmers allows it to be assumed that the owner of land classified as agricultural land or the tenant of such land is carrying out an agricultural activity on this land.

To summarise, a farmer who wishes to obtain the “dual-profession” status must be insured with the Agricultural Social Insurance Fund. In order for a decision confirming insurance cover under the farmers’ social insurance scheme to be issued, the farmer must be the owner or tenant of agricultural land with an area of more than 1 conversion hectare or to be holder or user of such land. In addition, the farmer cannot be covered by other social insurance scheme, cannot receive allowances after the termination of such insurance and any social insurance benefits.

14. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208

15. Ibidem.

16. J. Bieluk, *Działy specjalne produkcji rolnej. Problemy prawne* [in:] *Ubezpieczenie społeczne i zdrowotne osób prowadzących działy specjalne produkcji rolnej*, Białystok, Temida 2, 2013, p. 318.

Similar rules apply to the farmer's household member described above, with the exception of the requirements related to the ownership, use or lease of the agricultural land. Instead, both the farmer and the household member must submit a unanimous declaration confirming that they are working on the farm. This is yet another example of the presumption arising from Article 38 (4) of the Act on the social insurance of farmers that a farmer's relative who fulfils the conditions set out in Article 6 (2) (a) and (b) of that Act works in the agricultural holding on a permanent basis and is not in an employment relationship with the farmer. The presumption is based on a joint declaration by the farmer and the person concerned¹⁷.

Participation in special types of agricultural production

The basis for insurance with the Agricultural Social Insurance Fund by law is not only the specific area of land owned, leased or used, but also the participation in special types of agricultural production. The special types of agricultural production that form the basis for entitlement to agricultural social insurance are defined as the types of business activity that are classified as a separate category in accordance with the Annex to the Act of 20 December 1990 on the social insurance of farmers¹⁸. Accordingly, these are the following special types of cultivation and production: cultivation of plants in greenhouses and heated foil tunnels, cultivation of mushrooms and their mycelium, breeding of poultry for slaughter and laying, poultry hatcheries, breeding of fur animals, keeping of beehives, breeding and rearing of pigs¹⁹. Participation in special types of agricultural production entails the same privileges and rights as owning, leasing or using an agricultural holding of more than 1 conversion hectare. It is important to note that participation in the special types of agricultural production is an independent basis for entitlement to farmers' social insurance and does not have to coincide with the use or ownership of land.

The duration of cover under the social insurance scheme for farmers

The possibility of retaining insurance cover under the farmers' social insurance scheme for a person who engages or collaborates in a non-agricultural business activity also depends on how long the person has been insured under the KRUS

17. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

18. Ibidem.

19. Załącznik do Ustawy z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników.

social insurance scheme. A farmer or household member who takes up a non-agricultural business activity may retain their insurance cover under the farmers' social insurance scheme if they have been fully insured under the law for at least 3 consecutive years²⁰.

The Act of 12 September 1996 amending the Act on the social insurance of farmers gave people with the dual status of farmers and sole proprietors the option of choosing between agricultural and general social insurance²¹. Under the regulations introduced, a farmer or household member who has been subject to statutory social insurance for farmers for at least one year and has taken up (or collaborates in) a non-agricultural business activity may retain insurance cover under the KRUS system²². Sole proprietors who were insured under the general insurance system on 1 January 1997 due to their business activity, but who met the conditions for compulsory social insurance under the KRUS system on 31 December 1996, were exempted from fulfilling the above condition, i.e. having to be subject to compulsory insurance for farmers for one year beforehand²³. Changes in this respect were brought by the Act of 2 April 2004 amending the Act on the social insurance of farmers and amending certain acts²⁴. At that time, the required period of insurance in KRUS immediately prior to the commencement of a non-agricultural business activity by farmers or household members was extended from one year to three years.

It is difficult to talk about a duration in relation to previous coverage by social insurance for farmers as a condition of eligibility to retain the right to continue insurance in the Agricultural Social Insurance Fund, despite being covered by social insurance in the Social Insurance Institution due to taking up a contract of mandate, an agency contract or an appointment to a supervisory board. It is important that a farmer or household member is subject to full statutory social insurance for farmers at the time of enrolment in the general statutory insurance scheme with the Social Insurance Institution, as prescribed in Article 5b of the Act on the social insurance of farmers²⁵.

20. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

21. Ustawa z 12 września 1996 roku o zmianie ustawy o ubezpieczeniu społecznym rolników, Dz. U. 1996 nr 124 poz. 585.

22. W. Jagła, *Problemy ubezpieczenia społecznego rolników*, chapter entitled *Funkcja wspierania drobnej przedsiębiorczości*, Instytut Ekonomiki Rolnictwa i Gospodarki Żywnościowej – Państwowy Instytut Badawczy, Warszawa 2014, p. 96.

23. Ibidem, p. 96.

24. Ustawa z 2 kwietnia 2004 roku o zmianie ustawy o systemie ubezpieczeń społecznych oraz o zmianie niektórych ustaw, Dz. U. 2004 nr 91 poz. 873.

25. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

*The amount associated with income,
i.e. the revenue limit and the “annual limit amount”*

Another important criterion for the cases where farmers and their household members can be simultaneously covered by general and agricultural social insurance is the amount related to their income. A person who is subject to agricultural social insurance and at the same time carries out, or collaborates in, a non-agricultural business activity may remain subject to agricultural social insurance provided that the amount of income tax due for the previous tax year on the income from the non-agricultural business activity does not exceed the specified “limit amount”²⁶. The above amount is subject to annual indexation with the price index for goods and services²⁷ and, pursuant to Article 5a (9) of the Act on the social insurance of farmers²⁸, is officially announced by the minister responsible for rural development in Monitor Polski, the official gazette of the Republic of Poland. A farmer or household member who is also a sole proprietor is obliged to submit an annual certificate to the head of the competent tax office or a statement on the amount of income tax due for the previous tax year on the income from the non-agricultural business activity.

A certain financial requirement has also been introduced for farmers and household members who are insured under the Agricultural Social Insurance Fund scheme and at the same time carry out an additional activity on the basis of a contract of mandate, an agency contract or an appointment to a supervisory board. As provided for in Article 5b of the Act on the social insurance of farmers²⁹ persons insured under the law may maintain their social insurance cover provided that their monthly income from the fulfilment of the above-mentioned contracts does not exceed the amount corresponding to the statutory minimum wage. If the specified amount is exceeded, the person concerned is no longer entitled to farmers’ social insurance, but only for the number of months in which the threshold is exceeded. The insured persons themselves are obliged to inform the Fund of the concluded contracts of mandate or other contracts of a similar nature, as specified in Article 5b, and to submit bills of account or certificates with details of their income on an ongoing basis.

Thresholds related to income from taking up a non-agricultural business activity or work on the basis of an agency contract, a contract of mandate or another contract for the provision of services to which the provisions on mandate apply and from the appointment to a supervisory board are a clear signal that the legislator perceives the agricultural

26. Ibidem.

27. Ibidem.

28. Ibidem.

29. Ibidem.

activity as the core one, and that the additional professional activity is to constitute only a minor form of support for the farmer's or household member's general income.

Maintaining KRUS insurance

The contract of mandate, the agency contract, the appointment to a supervisory board and the non-agricultural business activity constitute an independent, compulsory title to be covered by social insurance with ZUS. The choice is crucial in this respect, because it is the farmer or household member who decides whether to remain in the farmers' social insurance scheme, despite carrying out activities that give rise to a title to coverage under the general social insurance system, or whether to opt out of the KRUS scheme and join the insurance system maintained by ZUS.

Anyone who takes up a non-agricultural business activity or starts working with such a business and at the same time is subject to social insurance with the Agricultural Social Insurance Fund must choose between the agricultural and general social insurance schemes. Pursuant to Article 5a (1) (1) of the Act on the social insurance of farmers³⁰ such a person may maintain their insurance with KRUS provided that they declare their wish to do so, no later than within 14 days of taking up their non-agricultural business activity or starting working with such a business.

The willingness to maintain coverage is also one of the prerequisites for persons who undertake to perform a contract of mandate, an agency contract or are appointed to supervisory boards to remain insured with KRUS. Pursuant to Article 5b of the Act on the social insurance of farmers³¹ it is assumed, though not explicitly stated, that the farmer or household member who is subject to agricultural insurance under the Act wishes to continue insurance with the Agricultural Social Insurance Fund. At the same time, they have the right to withdraw from the KRUS insurance scheme after submitting an opt out statement, whereby the time of exclusion from the insurance may not be before the time of submission of the statement³².

Working in the agricultural holding

Farmers and household members may be subject to farmers' social insurance, even if they carry out a non-agricultural business activity or perform an agency contract, a contract of mandate or other contract for the provision of services to which the

30. Ibidem.

31. Ibidem.

32. Ibidem.

provisions on mandate apply or who have been appointed to supervisory boards, provided that they continue to carry out the agricultural activity. In the case of non-agricultural business activity, this requirement results directly from Article 5a (1) (2) of the Act on the social insurance of farmers³³. It is possible to maintain agricultural social insurance, if a person simultaneously continues carrying out an agricultural activity or working permanently in an agricultural holding with an area of more than 1 conversion hectare or in a special type of agricultural production. However, KRUS does not have any instruments to check farmers and household members who become dual-profession farmers in this respect.

The requirement to continue carrying out an agricultural activity or working in an agricultural holding must also be maintained during the contract of mandate, agency contract, appointment to the supervisory board, but it does not arise directly from Article 5b, the only Article in the entire Act on the social insurance of farmers³⁴ that deals with this form of additional professional activity. It is stipulated in the said Article that farmers and household members who are fully covered by agricultural insurance under the Act continue to have the right to be insured with KRUS, even if they opt for the ZUS social security scheme. The definition of a farmer as laid down in Article 6 of the Act on the social insurance of farmers³⁵ reads as follows: a farmer is a person who carries out an agricultural activity in an agricultural holding in their possession, while a household member is the farmer's relative who works permanently in an agricultural holding. Cessation of an agricultural activity would make the use of the terms "farmer" and "household member" unjustified for these persons, as would being subject to insurance in KRUS. In this case, however, the requirement to continue working in an agricultural holding is difficult to verify, but possible.

*The type of business activity performed
and the method of settlement with the tax office*

Every natural person who takes up a non-agricultural business activity must choose a form of taxation for that activity. Farmers who also become sole proprietors have to make a decision in this regard as well. This is an even more important decision for those who want to take up a business activity and pursue the so-called liberal profession, as it can have consequences in the form of exclusion from agricultural social insurance. The mere fact of commencing a business activity in connection

33. Ibidem.

34. Ibidem.

35. Ibidem.

with a liberal profession does not determine the need to opt out of agricultural social insurance. Only in connection with the choice of tax on registered income without deductible costs as a form of taxation does it constitute a reason for terminating insurance with the Agricultural Social Insurance Fund. Information on the business activity carried out should be provided in the application for registration in the Central Register and Information on Economic Activity (CEIDG). What is important here is the PKD (Polish Classification of Activities) number, under which a specific business profile is hidden.

For persons pursuing liberal professions, a further condition is laid down in Article 5a (10) (2).

Evaluation of solutions regulating the area under the simultaneous influence of the general and agricultural social insurance schemes

The Act of 12 September 1996 amending the Act on the social insurance of farmers³⁶ provided farmers and their household members with the opportunity to pursue a non-agricultural business activity or to work for such businesses. Wojciech Jagła noted that: “It [the Act] has extended the existing functions of the system to include the possibility of supporting small businesses run by farmers and household members who are insured in KRUS (...). The introduction of such a change has been a boon for farmers, especially those who run small agricultural holdings, as cheaper insurance has increased their income”³⁷. In order to maintain agricultural insurance despite taking up such an additional activity, farmers and household members must continue to work in an agricultural holding. Since this requirement is difficult to verify, the most important criterion becomes ownership of an agricultural holding with an area of more than 1 conversion hectare. However, the fulfilment of this criterion is not synonymous with the continuation of an agricultural activity.

In Jerzy Bieluk's opinion, the area threshold that triggers the legal obligation to be insured under the agricultural social insurance scheme should be higher. Another possibility is to make compulsory agricultural social insurance dependent on the amount of agricultural income earned. The above solutions would guarantee that only those who really work in an agricultural holding can benefit from preferential social

36. Ustawa z 12 września 1996 roku o zmianie ustawy o ubezpieczeniu społecznym rolników, Dz. U. 1996 nr 124 poz. 585.

37. W. Jagła, op. cit., p. 96.

insurance³⁸. Despite taking up a non-agricultural business activity, the continuation of the agricultural activity should not give rise to any doubts. After all, such a person is still a farmer, only equipped with the possibility of earning an additional income. The requirement to continue working in an agricultural holding – while taking up a business activity – cannot be verified by KRUS units, and keeping the inventory of the land owned does not bring the facts any closer.

The farmers' social insurance scheme is designed to support insured persons. Agricultural activity requires special protection due to its special nature. It differs from other forms of professional activity in its cyclical nature, its seasonality, the risks associated with natural conditions, the lack of mobility with regard to the place of production, and the mixing of agricultural and domestic operations. Pursuing an agricultural activity is therefore associated with a considerable risk. Those who nevertheless want to continue this activity are looking for other forms of financial security. As Daniela Zabielska observes: "The declining importance of agriculture, as an area that provides material livelihood for the rural population encourages the search for new sources of income (...). Farmers who are dissatisfied with their income begin to look for other sources of income that go beyond the scope of their current activity"³⁹. Given the continuous decline in the number of people insured in KRUS who are engaged in agricultural activity, solutions to slow down this process – including by creating a space where farmers and household members will be able to obtain additional means of subsistence while bearing low social insurance costs – appear to be urgently needed.

Under current laws only those farmers and household members whose tax due on their business activity in the previous tax year did not exceed the "annual limit amount" can maintain insurance. So, there is a clear rule here that says that this activity has a form of income supplementation – a form of support. For Puślecki, such a structure is very appropriate. In his opinion, those persons whose membership of a group in question is beyond doubt should be insured in KRUS, even if they take up an additional professional activity (business activity). The "limit amount", on the other hand, ensures that this additional activity does not become the leading one⁴⁰.

However, there is no shortage of voices saying that restrictions on the amount of income tax on non-agricultural business income are stifling the entrepreneurship of farmers and homemakers. According to Wojciech Jagła, farmers are unable to expand "for fear of losing the right to be insured in KRUS as a result of exceeding the

38. J. Bieluk, op. cit., p. 332.

39. D. Zabielska, *Wybór formy opodatkowania dochodów rolników rozpoczynających pozarolniczą działalność gospodarczą*, "Zeszyty Naukowe SGGW – Ekonomia i Organizacja Gospodarki Żywnościowej" 2011, nr 92, p. 129.

40. D. Puślecki, *Rolnik-przedsiębiorca ...*, op. cit., p. 437.

income threshold”⁴¹. As he goes on to explain, the system “does not allow this activity to be expanded, which limits the farmer’s initiative and the prospect of continuing this activity successfully”⁴². Bożena Kłos expresses a similar opinion, stating that if farmers and household members “do not want to lose the right to insurance in KRUS – must limit their non-agricultural activities to an income that slightly exceeds the net minimum wage. With such an income, there is little chance of acquiring skills in or outside agriculture that would enable a farmer or his family to make the profits necessary for a decent living”⁴³.

In our opinion, the existence of thresholds for income from non-agricultural business activity is nevertheless a valid concept. It is not compatible with the principle of social justice to allow farmers and household members to earn an unlimited additional income while paying social insurance contributions on preferential terms. The costs associated with insurance for a non-agricultural business activity are much lower in KRUS than in ZUS. However, the possibility of paying preferential social insurance contributions for farmers and household members is a form of compensation for the risks associated with the activity and must be an incentive for those who wish to stay in agriculture for the sake of the country’s food security. However, this protective umbrella against higher contributions should only be stretched over those who contribute to this security, i.e. agricultural producers. Under the laws currently in force, it is not possible to check who is working in an agricultural holding. In order to solve this problem, additional measures would be required to oblige insured persons in the KRUS system who additionally carry out a non-agricultural business activity or collaborate in such an activity to provide evidence confirming their work in an agricultural holding.

To conclude the discussion on the performance of additional professional activities by those insured under the KRUS system, let us recall the words of Damian Puślecki: “A farmer/sole proprietor and a farmer who enters into a civil contract are still persons who pass the legal test to define a ‘farmer’ and merely supplement their income with proceeds from an additional (and marginal) professional activity. This is the only construction that is permitted in agricultural social insurance. Nowadays, this arrangement is a certain kind of privilege, an instrument of support for those actors (...). The possibility of maintaining insurance cover under the KRUS system has always been an important tool to support farmers”⁴⁴.

41. W. Jagła, op. cit., p. 8.

42. Ibidem, p. 8.

43. B. Kłos, *Ubezpieczenia społeczne rolników a rozwój obszarów wiejskich*, “Studia BAS” 2010, nr 4(24), p. 133.

44. D. Puślecki, *Ubezpieczenie rolników...*, op. cit., p. 206.

Summary

The Social Insurance Institution and the Agricultural Social Insurance Fund perform tasks in connection with the granting of social insurance cover and the granting and payment of the corresponding benefits. They are mirror-image organisations, but each is responsible for a different social group. As a rule, they work separately, independently and without collision. Accordingly, the area created by the Act of 12 September 1996 amending the Act on the social insurance system and certain other acts is to be regarded as an exception⁴⁵. This area was subsequently extended in accordance with the provisions of the Act of 23 October 2014 amending the Act on the social insurance system and certain other acts⁴⁶ where farmers and their household members can take advantage of certain options reserved for those insured under the general insurance system.

The exhaustive list of non-agricultural professional activities that a farmer or a household may carry out in order to continue to be insured under the Agricultural Social Insurance Fund is set out in Articles 5a and 5b of the Act on the social insurance of farmers⁴⁷. These activities include the exercise of a non-agricultural business activity or collaboration in the exercise of such an activity and the commencement of the performance of the contract referred to in Article 6(1)(4) of the Act of 13 October 1998 on the social insurance system⁴⁸ or an appointment to a supervisory board. The pursuit of the above-mentioned activities leads to compulsory insurance in the general social insurance system, and only in the area where the responsibilities of the two insurance institutions overlap can farmers and household members pursue these activities – under certain conditions, of course – without running the risk of being excluded from the agricultural social insurance scheme.

The main purpose of this article was to analyse how and through which normative acts the area of KRUS and ZUS overlapping responsibilities regarding compulsory social insurance are regulated and how these regulations affect the way farmers and household members operate. The analysis in the paper has made it possible to distinguish between the criteria that regulate the area in which the title to general and agricultural social insurance overlaps. These include: (1) the size of the agricultural

45. Ustawa z 12 września 1996 roku o zmianie ustawy o ubezpieczeniu społecznym rolników, Dz. U. 1996 nr 124 poz. 585.

46. Ustawa z 23 października 2014 roku o zmianie ustawy o systemie ubezpieczeń społecznych oraz niektórych ustaw, Dz. U. 2014 poz. 1831.

47. Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208.

48. Ustawa z 13 października 1998 roku o systemie ubezpieczeń społecznych, Dz. U. 2023 poz. 1230.

holding, (2) participation in the special types of agricultural production, (3) the duration of cover under farmers' social insurance scheme, (4) the amount associated with the income, i.e. the revenue limit or the annual limit amount, (5) the intention to maintain KRUS insurance, (6) the work in the agricultural holding, and (7) the type of business activity performed, (8) the method of settlement with the tax office. The above criteria serve to identify a group that can function in the area of interaction between two insurance systems. This possibility is a form of support for farmers and household members, providing them with an additional source of income, which in turn makes the risk of agricultural production less burdensome, and it should not be forgotten that the state of the Polish countryside has a direct impact on the country's food security.

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Description of the criteria governing the areas of overlap between the competence of KRUS and ZUS

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- Ustawa** z 2 kwietnia 2004 roku o zmianie ustawy o systemie ubezpieczeń społecznych oraz o zmianie niektórych ustaw, Dz. U. 2004 nr 91 poz. 873.
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received: 27.09.2023
accepted: 19.10.2023

