

# Measures taken by KRUS in the collection of outstanding contributions

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## Abstract

Participation in social insurance for farmers entails the inherent obligation of farmers to pay contributions, while farmers who do not comply with this obligation may face various actions undertaken by the Agricultural Social Insurance Fund (KRUS, Fund). Debt collection activities at the fund are performed by employees of the insurance department. Basic information activities include sending notices listing the outstanding amounts and repayment options under a relief scheme, as well as direct conversations with farmers while visiting their farms or during their visits to KRUS Local Branches. Before any measures are undertaken to enforce the recovery of amounts due, debtors are sent dunning notices calling them to pay any unpaid contributions. If the debtor fails to act and repay the debt, the Fund may initiate proceedings aimed at compulsory recovery of amounts due.

The article is based on legal provisions and internal regulations of the Fund concerning the recovery of amounts due from farmers. The author also offers her insight from more than a dozen years of experience in recovering contributions from debtors. The aim of the article is to present the available methods of recovering amounts due from farmers.

**Keywords:** debtor, compulsory mortgage, Agricultural Social Insurance Fund (KRUS, Fund), enforcement proceedings, farmer.

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## Introduction

The statute defines the persons entitled and obliged to be covered by social insurance of farmers, provided they meet specific criteria<sup>1</sup>. The main premise of compulsory insurance is conducting agricultural activities on an agricultural farm with an area exceeding 1 comparative fiscal hectare. Entitlement for insurance is also extended to persons conducting agricultural activities on a farm with an area of less than 1 comparative fiscal hectare. Such persons may be subject to insurance voluntarily, by filing an appropriate application with KRUS. Article 6 of the said act defines the terms “farmer”, “household member” and “helper”, all of whom are eligible to be covered by social insurance. After a decision to cover a farmer with social insurance is issued, the payer is obliged to pay contributions towards the insurance, and being covered by the social insurance of farmers is also tied to compulsory health insurance. To this end, it is necessary to file a respective form (KRUS UD-2Z). The health insurance contribution is paid for the entire month and cannot be split into individual days. The payer of health insurance contributions on behalf of the farmer, their spouse and household member(s) is determined based on the area of the agricultural farm. In the case of agricultural farms with an area of less than 6 comparative fiscal hectares, the contributions for the insured are paid from the state budget, while for farms with an area of 6 or more comparative fiscal hectares, the health insurance contributions are paid by the farmers themselves<sup>2</sup>. The contribution amount is PLN 1,00 per fiscal conversion hectare, and the payment date falls on the last day of the first month of each quarter.

Failure to pay social insurance contributions of farmers, as well as health insurance contributions, by the applicable deadline causes the principal amount to be increased by the interest for delay calculated daily, starting from the day following the payment deadline until and inclusive of the date of payment<sup>3</sup>. According to the announcement of the Minister of Finance of 10 October 2023, the new interest for delay rate, equal to 14.50% of the outstanding amount per annum<sup>4</sup>, applies since 5 October 2023.

While persons subject to voluntary insurance may at any time cancel their KRUS insurance and stop paying the contributions, there is no such possibility with compulsory insurance. Being subject to compulsory insurance, i.e. by law, ceases, for example,

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1. Ustawa z 20 grudnia 1990 r. o ubezpieczeniu społecznym rolników, Dz. U. 2024 poz. 90.

2. Ustawa z 27 sierpnia 2004 r. o świadczeniach opieki zdrowotnej finansowanych ze środków publicznych, Dz. U. 2024 poz. 146.

3. Art. 4 pkt 1 i art. 40 pkt 1 ustawy o ubezpieczeniu społecznym rolników.

4. Art. 56 d Ustawy z 29 sierpnia 1997 r. – Ordynacja podatkowa, Dz. U. 2023 poz. 2383 ze zm.

if the insured person becomes subject to another social insurance, is granted the right to age or disability benefits, or discontinues their agricultural activities. With respect to contribution payers who evade payments, KRUS employees undertake a number of actions (as per the Instructions) to enforce payment of the amounts due<sup>5</sup>.

### Activities preceding the initiation of compulsory recovery of amounts due

A part of those subject to social insurance of farmers have outstanding debts on account of social insurance itself, or health insurance. Indebtedness arises as a result of non-payment of contributions or as a result of a decision on retroactive coverage and the accrual of contributions to be settled with interest. The legislator imposes on the farmer a duty to notify the Fund, without prior request of the latter, of any circumstances that affect social insurance coverage, including persons working on the farmer's agricultural farm, within 14 days<sup>6</sup>. Should a farmer conduct agricultural activities and during this period meet the conditions to be covered by social insurance of farmers, but fail to notify the Fund of this fact within 14 days, they may be covered by social insurance of farmers by means of an appropriate decision that lists the outstanding contributions to be paid with interest. The same applies to the farmer's spouse and household members who performed regular work on their agricultural farm.

Before resorting to compulsory means of recovering amounts due, designated KRUS employees undertake activities to notify indebted farmers, both personally and in written form. Such activities should be recorded in an electronic or paper registry listing the form of the action, its date, and the first and last name of the employee undertaking the activity. The above matter is covered by a regulation<sup>7</sup>. The internal Fund document listing the forms of information activities (information website, SMS, e-mail, phone, fax) are the Instructions mentioned above<sup>8</sup>.

In order to enforce the amounts due, the employees visit the farms of indebted farmers, and conduct a site visit finalised by drafting a report that describes the

5. Technical and Administrative Instructions (Instrukcja techniczno-biurowa) concerning the performance of tasks related to being subject to social insurance of farmers and health insurance and settlements of contributions towards such insurance, constituting an attachment to Zarządzenie nr 17 Prezesa Kasy Rolniczego Ubezpieczenia Społecznego z 10 kwietnia 2019 r., as amended by Zarządzenie nr 23 Prezesa KRUS z 17 grudnia 2021 r. and Zarządzenie nr 16 Prezesa KRUS z 28 czerwca 2022 r.

6. Art. 37 ustawy o ubezpieczeniu społecznym rolników.

7. Rozporządzenie Ministra Finansów w sprawie postępowania wierzycieli należności pieniężnych z 23 lutego 2024 r., Dz. U. 2024 poz. 316.

8. Instrukcja techniczno-biurowa, op. cit., Dział V, rozdział 1.

financial status of the agricultural farm. Proposals to grant relief in repaying the debt are offered to the farmer, and may include splitting the debt into instalments or postponing the deadline for paying current contributions. The relief is granted as provided for by the legislator and solely on the request of the interested party<sup>9</sup>. Upon granting an instalment scheme, notice is taken of, among others, the payment challenges the applicant is experiencing and the financial condition of the Agricultural Social Insurance Fund or the National Health Fund. The financial status of the farmer is determined on the basis of documents confirming their farm and household income and expenditure, as well as documents confirming fortuitous events etc.<sup>10</sup> The payment of debt in instalments is beneficial for the debtor, since interest for delay ceases to accrue on the principal from the date of filing the request. In order to take advantage of such a repayment scheme, it is necessary to regularly settle the instalments in the amounts and by the deadlines stated in the decision granting the relief. The deferment of contribution payments is a relief that can be used by a farmer during the month in which the deadline for paying current contributions elapses. A condition for obtaining a positive decision of deferment of the payment deadline is documenting the payment difficulties of the applicant and naming a new payment deadline, which can not be longer than two quarters.

On agricultural farms that experienced losses as a result of disadvantageous weather conditions or, for example, the loss or sickness of animals, the insured farmers may apply to KURS to have their contributions remitted, among others as part of *de minimis* assistance and ongoing assistance programmes. Applications submitted by farmers and confirmed by a report made by the relevant commission appointed by the regional governor are processed without the need for KRUS employees to visit the farm. If the decision to remit the contribution is positive, the farmer is no longer obliged to pay it. A farmer whose application to remit the contribution has been rejected is offered an opportunity to repay the debt under an instalment scheme, while in matters concerning relief or remittance of outstanding contributions, each farmer's application needs to be examined individually. The most frequent reason for rejecting an application is insufficient documentation to confirm the sustained losses or payment difficulties experienced by the agricultural farm. Rejection can also be caused by using up the entire limit of *de minimis* assistance in agriculture or the individual limit for an agricultural producer in the amount of EUR 20,000 within three

9. Art. 41a ust. 1 pkt 1 ustawy o ubezpieczeniu społecznym rolników.

10. Zarządzenie nr 1 Prezesa KRUS z 4 stycznia 2024 r. w sprawie zasad umarzania, odpisywania oraz udzielania ulg w spłacie należności z tytułu składek na ubezpieczenie społeczne rolników i ubezpieczenie zdrowotne oraz zasad ustalania, dochodzenia, umarzania, odpisywania oraz udzielania ulg w spłacie nienależnie pobranych świadczeń.

fiscal years. Filing such a declaration together with the application for remittance is mandatory<sup>11</sup>, and in this case, even if the farmer meets the formal prerequisites for remittance, a decision rejecting the application as regards the retirement and disability fund contributions is issued, while a positive decision can possibly be made with respect to the accident, sickness and maternity fund contributions.

All tasks related to granting relief are performed in compliance with internal Order no. 1 of the President of KRUS of 4 January 2024 on the rules of remitting, writing off and granting relief related to payment of amounts due on social insurance of farmers and health insurance contributions, and the rules of determining, recovering, remitting, writing off and granting relief related to repayment of unduly collected benefits.

Outstanding contributions can also be recovered, as per the entitlements found in the Social Insurance of Farmers Act, by deducting the amount from the pecuniary social insurance benefits due to the farmer (sickness allowances, one-time compensation, retirement and disability pensions)<sup>12</sup>. Such deductions can be made solely from benefits due to the farmer or their spouse.

When dealing with farmers, it is very important to comply with the KRUS Employee Code of Ethics, which lists the following principles by which the conduct of employees should be guided: lawfulness, objectivity, honesty and integrity, responsibility, politeness and good manners, partnership, professionalism, and openness<sup>13</sup>. To achieve these objectives, employees should always abide by these principles and handle matters related to indebted farmers in such a manner as to achieve a consensus or reach a common position. Employees assigned to handle the matters of debtors should regularly monitor their situation.

Another activity related to recovering contributions from farmers is sending them notices that list outstanding amounts due under the social insurance of farmers or health insurance. Such debt reminders are sent once per quarter together with a money order form that can be used to pay the next contribution. The balance of the farmer's account is also checked during visits to KRUS, where employees can talk to the debtor directly and discuss options to repay the debt, for example by granting a relief.

When a farmer is in arrears with regard to settling outstanding amounts, the Fund generates a dunning notice containing a call for payment. The notice is sent by return receipt, and following service, the farmer is obliged to settle the obligation within 7 days. Effective service of the letter also entails charging the debtor with

11. Kasa Rolniczego Ubezpieczenia Społecznego, <https://www.gov.pl/web/krus/formularze>, access 15.07.2024.

12. Art. 50 ustawy o ubezpieczeniu społecznym rolników.

13. Zarządzenie nr 33 Prezesa KRUS z 18 grudnia 2014 r. w sprawie wprowadzenia Kodeksu etyki pracowników Kasy Rolniczego Ubezpieczenia Społecznego.

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costs of the reminder, as set out in the regulation, which since 13 October 2021 are equal to PLN 16.00<sup>14</sup>. The costs of the reminder are not due should the debtor pay the outstanding amount prior to receiving the dunning notice<sup>15</sup>.

The dunning notice should contain the information listed in Article 15 § 1a and § 1b of the Enforcement Proceedings in Administration Act<sup>16</sup>:

- employee signature and official position of the person authorised to act on behalf of the creditor;
- information instructing the obliged party about the obligation to notify the creditor, and if enforcement is initiated, also the enforcement authorities, about any change of address of residence;
- information instructing the debtor about the obligation to notify the creditor about any change of address of service; in case of presumption of service, the obliged party will be unable to challenge the effectiveness of serving the dunning notice<sup>17</sup>;
- instructions that the costs of the dunning notice are charged to the obliged party and collected on behalf of the creditor.

Article 15 of the said Act contains provisions on the statute of limitations for costs of a dunning notice<sup>18</sup>.

This clause shall not apply to KRUS, since issues related to the statute of limitations of obligations (including costs of dunning notices) are regulated in the Social Insurance of Farmers Act. Accordingly, costs of dunning notices are subject to a 5-year statute of limitations<sup>19</sup>.

The act introduced changes entitling creditors (including KRUS) to call upon the obliged party to submit a declaration concerning owned assets and sources of income, together with a statement that the declaration is true and complete, within 7 days from the date of service<sup>20</sup>.

The regulation of the Ministry of Finance lists the information that should appear in the call and declaration concerning owned assets and sources of income<sup>21</sup>. For the

14. Rozporządzenie Ministra Finansów, Funduszy i Polityki Regionalnej z 5 stycznia 2021 r. w sprawie wysokości kosztów upomnienia doręczanego zobowiązanemu przed wszczęciem egzekucji administracyjnej, Dz. U. 2021 poz. 67.

15. Pismo z Centrali KRUS – Biura Ubezpieczeń z 26 lipca 2016 r., nr 0000-UB.401.2.11.2016.

16. Ustawa z 17 czerwca 1966 r. o postępowaniu egzekucyjnym w administracji, Dz. U. 2023 poz. 2505.

17. Pismo Prezesa KRUS z 31 lipca 2020 r., nr 0000-UB.400.5.2020, p. 5.

18. Art. 15 pkt 3c–3e ustawy o postępowaniu egzekucyjnym w administracji.

19. Art. 41 b i art. 6 pkt 13 b ustawy o ubezpieczeniu społecznym rolników.

20. Art. 37b § 1–4 ustawy o postępowaniu egzekucyjnym w administracji.

21. Rozporządzenie Ministra Finansów z 28 lutego 2024 r. w sprawie oświadczenia zobowiązanego o posiadanych majątku i źródłach dochodu oraz prawdziwości i zupełności tego oświadczenia oraz wezwania do jego złożenia.

above documents, KRUS employees use forms designed by the Insurance Bureau of the KRUS Head Office<sup>22</sup>.

Within 7 days of receiving the dunning notice, the debtor may apply to KRUS for granting a relief, for example in the form of an instalment scheme. This application is then examined and a suitable decision granting or refusing the relief is issued.

### Activities initiating proceedings for compulsory recovery of amounts due

Should a farmer show no inclination or possibility to repay the debt despite previous calls, administrative enforcement shall commence, with the Fund sending the information it has obtained on the debtor's assets and sources of income, together with a writ of execution, to the competent fiscal office.

The activities of employees in this respect are regulated in Chapter 2 of the afore-said internal Order of the President of KRUS<sup>23</sup>. Article 51 of the Social Insurance of Farmers Act refers to the Enforcement Proceedings in Administration Act, which states that upon the initiation of enforcement proceedings, it is crucial to state the date of initiation, that is the date on which the dunning notice was served to the farmer. Before sending each writ of execution to the enforcement authority, it should be checked whether the debtor has settled their debt and filed an application to grant the previously mentioned relief, and also whether or not they filed a request to determine the right to benefits from which a deduction could be made. Once the writ of execution is sent to the enforcement authority or forwarded to the court bailiff, farmers are charged with additional costs related to conducting administrative or court enforcement.

The aim of compulsory recovery of amounts due from farmers is preserving financial balance and allowing all other benefits, especially benefits due under accident, sickness and maternity insurance, to be paid to insured farmers. External regulations that bind KRUS employees during compulsory enforcement of amounts due include: The Enforcement Proceedings in Administration Act and the Code of Administrative Proceedings<sup>24</sup>. Each writ of execution passed to the enforcement authority is recorded in a registry (a list of enforcement orders to which a writ of execution has been appended,

22. Pismo z Centrali KRUS z 9 października 2020 r., nr 0000-UB.412.388.2020 and pismo Prezesa KRUS z 2 lipca 2024 r., nr 0000-UB.400.5.2023.

23. Instrukcja techniczno-biurowa, op. cit.

24. Ustawa z 17 czerwca 1966 r. o postępowaniu egzekucyjnym w administracji, Dz. U. 2023 poz. 2505; Ustawa z 14 czerwca 1960 r. Kodeks postępowania administracyjnego, Dz. U. 2024 poz. 572.

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maintained separately for each enforcement authority). KRUS, as the creditor, and the enforcement authority should cooperate as provided for in the regulation<sup>25</sup>.

The fiscal office, as the enforcement authority, applies measures for the enforcement of pecuniary debts, including:

- of money;
- from remuneration for work;
- from retirement, social insurance and social pension benefits;
- from bank accounts<sup>26</sup>.

The work of KRUS is largely facilitated by changes that took place in connection with the electronic forwarding of enforcement applications and writs<sup>27</sup>, making the process of forwarding the application to the enforcement authority much faster, and, accordingly, the recovery of liabilities much swifter. The author noted that occasionally enforcement proceedings may be as short as 5 days (from sending the application to the fiscal office to receiving the amount on the Fund's account).

Pursuant to the provisions of the Code of Administrative Proceedings, letters in electronic form are signed with a qualified electronic signature, trusted or personal signature, or qualified electronic seal of the public administration authority, stating the name of the person affixing the seal in the contents of the letter. Lack of the required and correct signature forms an obstacle to handling the forwarded applications. The internal KRUS system, nSIU, is integrated with the Central System of Electronic Writs of Execution (eTW)<sup>28</sup>.

Following configuration of the system to handle eNotices (eZW), KRUS employees shall as a representative of the creditor be able to immediately:

- notify the execution authority about events affecting the proceedings (a change in or expiration of the amount due);
- apply for suspending, discontinuing or resuming suspended proceedings.

The Fund is also obliged to obtain from the enforcement authority information on the course of pending enforcement proceedings. In addition, under the provisions of the Code of Administrative Proceedings, the Fund is entitled to make notes from or copies of enforcement proceeding files. Following the forwarding of issued writs of execution to the enforcement authority (fiscal office), and upon unsuccessful

25. Rozporządzenie Ministra Finansów z 4 lipca 2024 r. w sprawie współpracy wierzyciela, organu egzekucyjnego i dłużnika zajętej wierzytelności w postępowaniu egzekucyjnym należności pieniężnych, Dz. U. 2024 poz. 1023.

26. Art. 1a pkt 12 a ustawy o postępowaniu egzekucyjnym w administracji.

27. Ibidem, art. 26 aa oraz Rozporządzenie Ministra Finansów z 21 marca 2024 r. w sprawie przekazywania tytułu wykonawczego i innych dokumentów do organu egzekucyjnego, Dz. U. 2024 poz. 432.

28. Ministerstwo Finansów, Centralny System Elektronicznych Tytułów Wykonawczych, <http://etw.mf.gov.pl>, access 15.07.2024.



enforcement, the enforcement authority should be contacted about the status of the proceedings every six months. Should information be obtained regarding the debtor's sources of income, the enforcement authority shall be notified of them immediately.

Should there be no possibility of recovering the amount due, the enforcement authority may issue a decision to discontinue enforcement proceedings, stating the reason, or encumber the President of KRUS with accrued costs of enforcement. The creditor is entitled to a complaint against such a decision and encumbrance. Based on a court judgement, it was decided that the President of KRUS is obliged to bear the accrued costs of enforcement in conducted proceedings to enforce the due amounts of contributions, both for the social insurance of farmers and for health insurance<sup>29</sup>. KRUS may, however, challenge the amount of costs of enforcement to be paid<sup>30</sup>. If enforcement proceedings are discontinued by the enforcement authority due to a lack of possibility to recover amounts due in excess of the costs of execution, the proceedings may be resumed on request of the creditor should new assets or sources of income of the debtor that exceed the amount of enforcement costs be revealed<sup>31</sup>.

Another activity of KRUS employees related to securing the due contributions for the social insurance of farmers and health insurance is entering a compulsory mortgage into the land and mortgage register of the debtor. The Social Insurance of Farmers Act does not regulate all relevant issues, which is why the legislator refers to other legal instruments<sup>32</sup>, detailed guidelines of which can be found in division 5, chapter 4 of the Technical and Administrative Instructions. Securing debts by means of a compulsory mortgage is used when other KRUS actions to recover the amount due prove ineffective, with the key task being to determine whether a particular item of real estate has a land and mortgage register assigned, and its number.

If the land and mortgage register number is known, the accuracy of data needs to be verified to make sure that the amount of collateral does not exceed the value of the real estate. The Land and Mortgage Register Act<sup>33</sup> and the possibility to browse land and mortgage registers in electronic form<sup>34</sup> allow KRUS employees, without undue delay, to formulate a decision preceding the entry of a compulsory mortgage, to be issued and signed by a person authorised by the President of KRUS. The decision is always sent by return of receipt and entered into the relevant register that forms appendix no. 1 to the aforementioned Technical and Administrative Instructions.

29. Wyrok Wojewódzkiego Sądu Administracyjnego w Olsztynie z 14 października 2021 r., sygn. Akt: I SA/O/ 605/21.

30. Pismo Prezesa KRUS z 31 marca 2022 r., nr 0000-UB.400.1.4.2022.

31. Art. 59 § 2 ustawy o postępowaniu egzekucyjnym w administracji.

32. Art. 52 ustawy o ubezpieczeniu społecznym rolników.

33. Art. 251 ustawy o księgach wieczystych i hipotece, Dz. U. 2023 poz. 1984.

34. Ministerstwo Sprawiedliwości, Elektroniczne Księgi Wieczyste, <https://ekw.ms.gov.pl>, access 16.07.2024.

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Within 14 days of servicing the decision, the addressee (debtor) is obliged to settle the amounts due listed therein. The decision also notifies the debtor that proceedings for providing debt security by entering a compulsory mortgage to the relevant land and mortgage register will be initiated should the amount due not be paid. Should no payment from the debtor be recorded by the deadline stated in the decision, the employee shall draft a document addressed to the district court having jurisdiction according to the location of the real estate. The document is an application for entering a mortgage in the land and mortgage register, containing the attachments required by the court and signed by persons authorised by the President of KRUS, for example the regional division director. The contents of the entry should be free from doubt and state the type of mortgage (e.g. compulsory), the mortgage creditor and the title and amount of the debt (or amount due in the case of KRUS) secured by the mortgage. In accordance with the provisions, in order to calculate the sum of the mortgage entered against the debtor's real estate, the amount of all claims needs to be determined, that is the principal and interest for delay (accrued until the date of payment or, if no payment was made, according to the statute of limitation)<sup>35</sup>. The sum of the mortgage stated in the application to enter a compulsory mortgage cannot therefore exceed 150% of the amount of debt and accessory considerations<sup>36</sup>.

Once the court has entered the mortgage into the land and mortgage register, KRUS receives a mortgage security order and records it accordingly. Entering a mortgage into Division IV of the land and mortgage register guarantees the recovery of due contributions together with future interest. The course of action when making an entry into the land and mortgage register is regulated, among others, by Article 626<sup>2</sup> of the Code of Civil Proceedings<sup>37</sup>.

Farmers who for various reasons did not settle their obligations towards KRUS and have had a mortgage security established, can apply to KRUS to settle the outstanding amounts and the entries in Division IV encumbering their farm cleared. In such cases, KRUS employees calculate the debt amount covered by the mortgage entry, taking into account due contributions together with interest on the day of payment. Upon payment, the debt is deemed discharged. On written request of the farmer asking for a non-default statement, a KRUS employee shall draw the relevant certificate clearing the mortgage from the land and mortgage register, and submit it to be signed by authorised supervisors.

35. Art. 69 i art. 110 ustawy o księgach wieczystych i hipotece.

36. Pismo – wyjaśnienie Zastępcy Prezesa KRUS z 26 czerwca 2013 r., nr UB 400/1/20/12.

37. Ustawa z 17 listopada 1964 r. Kodeks postępowania cywilnego, Dz. U. 2023 poz. 1550 ze zm.

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Recovery of amounts due to KRUS may also include enforcement from real estate conducted by the enforcement authority, which is regulated in Article 1a, point 12 of the Enforcement Proceedings in Administration Act<sup>38</sup>. Prior to 30 November 2001, such means were limited solely to cases of court enforcement. The Fund may take advantage of enforcement from real estate if such enforcement proceedings have been initiated by another creditor, in which case KRUS should advance its claims. In addition, when the Fund has established a mortgage security, the enforcement authority shall notify all other creditors, including KRUS, about initiating an auction of the real estate.

The above suggests that KRUS does not initiate an auction of the farm, but only secures the amounts due from farmers on contributions together with interest, in light of recovering them in the future.

The provisions of the Social Insurance Farmers Act, including Article 52, refer to the aforesaid Enforcement Proceedings in Administration Act and to the Tax Ordinance Act that defines the rules for transferring the responsibility for debts arising from contributions to social insurance of farmers and health insurance to third parties and heirs<sup>39</sup>. This is another option by which amounts due can be compulsorily recovered by KRUS employees responsible for dealing with debtors.

The responsibility of heirs for outstanding amounts due to KRUS from the deceased depends on their decision on whether to accept or reject inheritance. If an heir rejects the inheritance, they are not liable for the debts of the deceased, but should the inheritance is accepted, they are liable for such obligations under the benefit of inventory. Under Article 100 of the Tax Ordinance Act, liability for tax obligations arises regardless of whether a decision (confirmation of acquiring inheritance or deed of succession certificate) was issued. "An inheritance is acquired when it is opened, and this occurs upon the death of the testator" (Articles 924 and 925 of the Civil Code)<sup>40</sup>.

Another issue related to the liability of third parties involves outstanding contributions to the social insurance of farmers and health insurance of a living debtor, in which case, in addition to issuing a decision addressed directly to the debtor, it is possible to extend the group of persons or entities against whom the payment of obligations can be enforced, which is based on a decision on the liability of third parties. In such circumstances, the provisions of Article 107–118 of the Tax Ordinance Act can be applied.

38. Ustawa z 17 czerwca 1966 r. o postępowaniu egzekucyjnym w administracji, Dz. U. 2023 poz. 2505.

39. Training materials: *Przenoszenie odpowiedzialności za zaległości z tytułu składek na ubezpieczenie społeczne rolników i ubezpieczenie zdrowotne na osoby trzecie i spadkobierców*, Marcin Jagodziński, attorney-at-law, Wrocław 2018, p. 1.

40. Wyrok WSA w Poznaniu z 23 maja 2018 r., I SA/Po 1215/17.

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As stipulated in Article 112 § 1 of the Tax Ordinance Act: “the purchaser of an enterprise or organised part of an enterprise is jointly and severally liable with all their assets together with the taxpayer for outstanding tax obligations related to the conducted economic activities that arose until the date of acquisition, unless the purchaser could not have been aware of such outstanding obligations while observing due diligence”.

On the other hand, under Article 112 § 6 and Article 306g, tax authorities issue a certificate showing the outstanding tax obligations of the seller:

- on request of the seller, or;
- on request of the purchaser with consent of the seller.

Such a certificate is not, however, equivalent to an extract from the land and mortgage register<sup>41</sup>. In practice, this means that when all or part of a farm is sold, the farmer (seller) and the purchaser should appear at KRUS. The farmer should apply for a non-default certificate regarding contributions to the social insurance of farmers and health contributions. Upon receiving this certificate, the farmer presents it to the seller. If the farmer's balance has any outstanding amounts, the certificate will show the debt amount together with interest calculated as of the date of issuing the document.

Occasionally, it may also occur that a farmer planning to sell some or all of their land does not submit a request to issue the certificate despite outstanding contributions to the social insurance of farmers recorded on their balance. In such cases, KRUS may apply the previously discussed statutory provisions and issue a decision holding the purchaser of the farm liable for the arrears. This can occur only within a strictly limited time frame, since according to the provision: “A decision on the tax liability of a third party cannot be issued if 5 years have elapsed since the end of the calendar year in which the outstanding tax obligation arose”<sup>42</sup>.

Decisions concerning liability for contributions to the social insurance of farmers or health insurance are issued by KRUS in exceptional cases, for example after staging explanatory proceedings and determining that the heirs had accepted the inheritance under the benefit of inventory. KRUS may not, however, issue such a decision when an agricultural farm is acquired through expropriation, usucaption or enforcement<sup>43</sup>.

41. Wyrok SA w Rzeszowie z 20 października 2015 r., III AUa 495/15.

42. Art. 118 ustawy Ordynacja podatkowa.

43. A. Grudzień, *Odpowiedzialność nabywcy gospodarstwa rolnego za długi związane z prowadzeniem tego gospodarstwa na tle art. 112 ustawy Ordynacja Podatkowa – wybrane problemy prawne*, “Ubezpieczenia w Rolnictwie. Materiały i Studia” 2012, nr 43, p. 118.

## KRUS activities supporting the recovery of amounts due

The methods of recovering amounts due from farmers presented in the article are grounded in various legal instruments, such as statutes, regulations, orders, instructions etc. Despite the regular “shifts” in payer balances due to issuing decisions on covering farmers with social or health insurance, the cessation of such insurance, and the corresponding accruals and writing off of contributions, KRUS employees are expected to achieve a recovery ratio of due contributions on the level of at least 95%. This ratio (the so-called basic ratio) is calculated based on a formula specified in Fund documents<sup>44</sup>, and the activities of employees should be aimed at reducing the number of farmers in debt. As mentioned above, every quarter a farmer is obliged to settle contributions due for every related insured person on their farm. Accordingly, the Fund sends quarterly money orders stating the amounts to be settled, with the deadlines for paying contributions falling on the last day of the first month of each quarter, that is 31 January, 30 April, 31 July and 31 October. Following these deadlines, insurance employees undertake activities to enforce current due contributions to prevent the accumulation of arrears.

According to the author of the article, it is crucial to conduct a systematic analysis of accounts and files of farmers in debt, both regarding contributions to the social insurance of farmers and health insurance. Farmers with significant outstanding amounts due are often unwilling to cooperate with KRUS employees, therefore a major role of the latter is handling proceedings so as to determine, among others, whether the farmer is in fact subject to social insurance in KRUS. To this end, external systems are used, including:

- the CEIDG (Central Register and Information on Economic Activities)<sup>45</sup>;
- the ARiMR (Agency for Restructuring and Modernisation of Agriculture) portal;
- the EESSI RINA (Electronic Exchange of Social Security Information) system, which can be used to confirm that the debtor is employed abroad;
- Electronic Land and Mortgage Registers<sup>46</sup>.

In addition, KRUS employees file applications for sharing personal data with:

44. Księga procesów Zintegrowanego Systemu Zarządzania KRUS z 27 września 2023 r., II Procesy główne, 1. Ubezpieczanie i prowadzenie rozliczeń z płatnikami składek, 1.3 Mierniki procesu.

45. Centralna Ewidencja i Informacja o Działalności Gospodarczej, <https://aplikacja.ceidg.gov.pl>, access 16.07.2024.

46. Ministerstwo Sprawiedliwości, Elektroniczne Księgi Wieczyste, <https://ekw.ms.gov.pl>, access 16.07.2024.

### Measures taken by KRUS in the collection of outstanding contributions

- the Social Security Institution (ZUS) in order to obtain information concerning periods of social security and the collection of benefits;
- The Commune/Municipal Social Welfare Centre (GOPS/MOPS) to determine the debtor's financial status.

Another important activity that more often than not influences the issue of indebtedness is the verification of the size of an agricultural farm, and checking the size of the indebted agricultural farm is a priority task for Fund employees. In order to correctly determine the size of a farm, the following steps should be taken:

- file an application for sharing personal data to the municipality office, department of agricultural taxes;
- in some cases, also file an application for making available an extract from the land register with the county office;
- check the land and mortgage register in the IT system, provided that the land and mortgage register number is known<sup>47</sup>.

Correctly reading data from the land and mortgage register allows for quickly determining the current size of a farm and checking which plots have been disposed of or acquired, and under what title, as well as to which register were they transferred. Joint owners can also be determined, and mortgage entries disclosed by other entities in division IV can be checked.

Farmers who do not ensure that their farm size in KRUS is up to date often mistakenly assume that upon drafting a notarial deed, a notarial office will send this document to other entities, including KRUS. However, KRUS does not receive such deeds directly from a notary. Likewise, farmers often do not apply to the Fund to issue suitable certificates required when visiting a notary, and only upon analysing entries in land and mortgage registers do KRUS insurance department employees learn about sale agreements entered into them. Entries in a “newly established” or “already existing” land and mortgage register help disclose the new owner of the whole or part of an agricultural farm. Obtaining such a notarial deed is not difficult, provided that the new owner is subject to the social insurance of farmers and submits suitable documents to the Fund. As a last resort, a decision holding third parties responsible can be issued.

KRUS employees who recover amounts due from debtors should demonstrate knowledge of numerous provisions mentioned in the article. Before they decide to use compulsory means of recovery, they should review all land and mortgage registers of the debtor, a task that is greatly facilitated by direct access to the central land and mortgage registers database.

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47. Art. 364 ust. 6 ustawy o księgach wieczystych i hipotece.

The use of external systems by KRUS employees, such as the Agency for Restructuring and Modernisation of Agriculture portal, is very helpful when verifying whether a debtor is subject to social insurance of farmers and operates an agricultural farm. The ARMiR system can also be used to obtain information about beneficiaries of direct subsidies, plots subject to subsidies, and the account number to which the means are transferred. Farmers often enter into unregistered lease agreements with each other, both personally and in writing, without informing KRUS about them. Such agreements significantly impact whether a farmer is subject to the social insurance of farmers and the correct calculation of contribution amounts. The information obtained from the ARiMR system also guides employees in their conversations with debtors.

The CZDO application and access to the PESEL database also enable KRUS employees to obtain a lot of valuable information, such as addresses, which facilitates conducting proceedings against debtors.

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## Conclusions

Matters related to social and health insurance contributions unpaid by farmers are complex, and KRUS employees are in each case obliged to determine the current status of an agricultural farm. Assistance in this respect may be obtained from state institutions to which an inquiry may be directed, as well as from information resources available to KRUS. Before strict means of compulsory recovery are applied, it is worth holding talks with the indebted farmers to agree on the manner of paying the outstanding amounts. A lot actually depends on the indebted farmers themselves, but the skilful management of conversations by employees significantly affects the decision to repay the debt. KRUS employees who are aware of the financial status of debtors often present more realistic schemes that allow the obligations to be repaid in a shorter or longer term. Applying compulsory means of recovery is reasonable with respect to farmers who default on their obligation to comply with a granted relief. The sources of income and assets of the debtor are determined on an ongoing basis, with the information obtained forwarded to the enforcement authority. Establishing a mortgage on an agricultural farm enables the recovery of all amounts due from current debtors or their future heirs.

As suggested in the article, KRUS employees should approach each case individually and comply with all applicable provisions, both external and internal regulations. The objective set by the author of the article has been achieved.

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## Measures taken by KRUS in the collection of outstanding contributions

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**Ustawa** z 14 czerwca 1960 r. Kodeks postępowania administracyjnego, Dz. U. 2024 poz. 572.

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