Commencing agricultural activity within the meaning of Article 5a(2)(2) of the Act on Social Insurance for Farmers – origins, consequences and assessment of the regulation

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Abstract

This paper concerns the interpretation of the concept of "commencing non-agricultural activity" used in Article 5a(2)(2) of the Act on Social Insurance for Farmers (ASIfF), in the context of its consequences for the insurance status of farmers in the Agricultural Social Insurance Fund (Polish: *Kasa Rolniczego Ubezpieczenia Społecznego*, KRUS, Fund). The aim of the study is to determine the meaning of this concept, assess the rationality of this regulation, and indicate its normative and practical consequences, including the risks associated with the loss of insurance due to the failure to submit the required declarations.

Using the formal-dogmatic approach and analytical methods, the author points out that the current regulation is defectively drafted, and the main thesis of the article is a negative assessment of Article 5a(2)(2) of the Act on Social Insurance for Farmers. Unfortunately, this provision does not dispel interpretational doubts but rather exacerbates them (inter alia as regards the moment of commencing activity, the significance of changes in Polish Classification of Business Activities «PKD» codes for determining this moment, and the declaratory nature of this date indicated in the Central Register and Information on Business Activity «CEIDG»), disproportionately burdening the farmer with the sanction of the expiry of KRUS insurance under ambiguously defined conditions and time limits.

The author postulates de lege ferenda the repeal of Article 5a(2)(2) of the ASIfF as redundant, alongside the clarification of the moment of commencing non-agricultural activity, given that such provisions have far-reaching consequences, such as the loss of insurance cover.

Keywords: Article 5a of the ASIfF, KRUS, Polish Classification of Business Activities (PKD), commencing non-agricultural activity, preclusive time limits, social insurance for farmers, loss of insurance.

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Introduction

Article 5a of the Act on Social Insurance for Farmers[1], added by the 1996 amendment[2], stipulates in its current wording that a farmer (or their household member) who, being subject to social insurance for farmers in full by operation of law for a period specified by law, commences non-agricultural economic activity, shall remain subject to this insurance during the period of conducting the non-agricultural economic activity, whereby a change in the type or object of the activity carried out in accordance with the Polish Classification of Business Activities (PKD) shall also be deemed to constitute the commencement of such activity. This wording, introduced in 2005[3], specified the understanding of the term "commencing non-agricultural activity" within the meaning of the Act; however, due to its reference to the PKD, this provision may give rise to interpretational doubts.

Such wording may, firstly, raise doubts primarily as to whether any change in the type or object of economic activity will entail the necessity to submit the declarations referred to in Article 5a of the ASIfF under the penalty of losing the right to the farmer's social insurance. Secondly, a problem may arise regarding the determination of the commencement date of the non-agricultural economic activity, upon which the time limit for submitting the declarations referred to in the cited provision depends. Thirdly, the question may be posed as to whether, in order to consider a non-agricultural economic activity as commenced within the meaning of Article 5a(2)(2) of the ASIfF, its factual commencement or alteration is sufficient, or whether it is necessary (or sufficient) to notify this fact to the CEIDG. It should also not escape attention that the Polish Classification of Business Activities, introduced by a regulation of the Council of Ministers[4], is statistical in nature. Pursuant to its § 1, it was introduced for application in statistics, recording and documentation, and accounting, as well as in official registers and information systems of public administration. Furthermore, Article 1 of the Act on Official Statistics[5] (under which the PKD was introduced) delineates the material scope of this Act (and thus indirectly also of the secondary legislation issued

1. Ustawa z 20 grudnia 1990 r. o ubezpieczeniu społecznym rolników, t.j. Dz. U. 2025 poz. 197 ze zm., hereinafter: ASIfF.
2. Ustawa z 12 września 1996 r. o zmianie ustawy o ubezpieczeniu społecznym rolników, Dz. U. nr 155 poz. 771 ze zm.
3. Ustawa z 1 lipca 2005 r. o zmianie ustawy o systemie ubezpieczeń społecznych oraz niektórych innych ustaw, Dz. U. nr 150 poz. 1248.
4. Rozporządzenie Rady Ministrów z 18 grudnia 2024 r. w sprawie Polskiej Klasyfikacji Działalności (PKD), Dz. U. 2024 poz. 1936.
5. Ustawa z 29 czerwca 1995 r. o statystyce publicznej, t.j. Dz. U. 2024 poz. 1799.

on its basis), which includes establishing the principles and laying the foundations for the reliable, objective, professional, and independent conduct of statistical surveys. An additional question may therefore be posed: was it truly the legislator's intention to base consequences of such profound importance to the farmer on a classification of a statistical nature?

The aim of this study is to construe the cited provision and determine whether, in drafting it, the legislator employed a kind of a mental shortcut, or rather there was a more or less deliberate intention to regulate a mechanism as part of which a technical act, such as notifying a change in business activity in accordance with the PKD, may bring about far-reaching consequences in the form of acknowledging the commencement of non-agricultural activity or, conversely, refusing to acknowledge the commencement of such activity.

This paper employs the formal-dogmatic approach, consisting in the exegesis of the texts of legal acts, and – to a limited extent – the analytical method, consisting in reference to the output of legal doctrine and jurisprudence. The limitation in this regard stems from the fact that the issue at hand has neither been widely discussed in academic literature nor been the subject of decisions by judicial bodies. On the one hand, this may indicate that the problem with interpreting the cited provision does not actually exist (or is not significant enough to cause practical problems in recognising a given person as conducting non-agricultural activity), whilst on the other hand, it may be caused by the exact opposite phenomenon, namely that this doubt has not been noticed previously, and therefore practical problems may arise in the future. In the latter case, this study will allow for the effective prevention of potential interpretational problems in the future.

Origins of the regulation, definition of the concept of "non-agricultural economic activity"

The origins of the provision's wording in its current shape are not clear. First and foremost, it should be noted that in the original wording of the draft act amending the ASIfF[6], there was no reference to the Polish Classification of Business Activities. Consequently, the provision of Article 5a(2)(2) of the ASIfF was not covered by the explanatory memorandum to the draft act. A proposal to clarify how the phrase "commencing economic activity" should be understood emerged on 2 June 2005

6. Government draft act amending the Act on the Social Insurance System and amending other acts, Sejm paper No. IV.3684, https://orka.sejm.gov.pl/Druki4ka.nsf/druk?OpenAgent&3684, accessed 22.11.2025.

during a sitting of the Social Policy and Family Committee and was not widely debated. The Chairwoman of the Committee confined herself to reporting on the work of the subcommittees and citing the drafted wording of Article 5a(2)(2) of the ASIfF. However, she did not explain in detail why a reference to the Polish Classification of Business Activities was made in the content of the drafted provision, and none of the MPs participating in the Committee's sitting asked for the grounds for such a decision. This resulted in the adoption of the proposed wording of the provision into the draft act published under Sejm paper No. IV.4095[7]. For this reason, when construing the discussed provision, one can primarily be guided by conjectures, as it is impossible to refer directly to the legislator's intentions beyond the general underlying rationale accompanying the enactment of Article 5a and its amendments. This, however, remains unrelated to the discussed reference to the PKD, since the legislator's aim in enacting the aforementioned amendment was, firstly, to re-include persons excluded from KRUS insurance (which was reflected in the content of Article 3 of the drafted amendment, introducing into the Act of 2 April 2004 amending the Act on Social Insurance for Farmers and amending certain other acts[8] the provision of Article 5a(1), which restored the right to KRUS insurance to those farmers who had been excluded from it as of 1 October 2004 under Article 5(2) of that Act), and secondly, to further regulate the issue of social insurance for farmers conducting dual – agricultural and non-agricultural – activity (in this regard, the amendment envisaged allowing them to remain insured within KRUS, rather than the Social Insurance Institution (ZUS), solely on the basis of an income criterion, irrespective of the form of taxation[9]). Thus, there should be no doubt that the legislator's objective could have been achieved without referring to the Polish Classification of Business Activities in Article 5a(2)(2) of the ASIfF.

Article 5a(10) of the ASIfF defines non-agricultural economic activity for the purposes of applying the Act on Social Insurance for Farmers and, according to it, non-agricultural economic activity is deemed to be non-agricultural economic activity conducted within the territory of the Republic of Poland by natural persons on the basis of the provisions of the Entrepreneurs' Law[10], excluding partners in commercial companies and persons conducting activity in the scope of a liberal profession: (1) within

7. Report of the Social Policy and Family Committee on the government draft act amending the Act on the Social Insurance System and amending other acts, druk nr 3684, https://orka.sejm.gov.pl/Druki4ka.nsf/druk?OpenAgent&4095, accessed 22.11.2025.
8. Dz.U. nr 91 poz. 873.
9. See the explanatory memorandum to the government draft act amending the Act on the Social Insurance System and amending other acts, druk sejmowy nr IV.3684, https://orka.sejm.gov.pl/Druki4ka.nsf/druk?OpenAgent&3684, accessed 22.11.2025, p. 6.
10. Ustawa z 6 marca 2018 r. – Prawo przedsiębiorców, t.j. Dz. U. 2025 poz. 1480.

the meaning of the provisions on flat-rate income tax on certain revenues generated by natural persons; (2) the revenues from which constitute revenues from economic activity within the meaning of the provisions on personal income tax.

Leaving aside the logical fallacy of idem per idem committed in this provision ("non-agricultural economic activity is deemed to be non-agricultural economic activity «...»"), juxtaposing this provision with Article 6(3) of the ASIfF, which defines the concept of agricultural activity, should be sufficient to establish that – within the meaning of the ASIfF – a person conducting non-agricultural economic activity is:

1) a natural person who
2) conducts within the territory of the Republic of Poland;
3) sole proprietorship on the basis of the provisions of the Entrepreneurs' Law;
4) is neither a partner in a commercial company nor conducts activity as part of a liberal profession[11] (regardless of whether it is taxed in the form of a lump sum on registered revenues, a tax card, or on the basis of the Act on Personal Income Tax[12]), and
5) the scope of this activity does not encompass activity in the field of crop or animal production, including horticulture, orcharding, apiculture, and fisheries.

The reference to the Polish Classification of Business Activities is therefore also unnecessary regarding the scope of the commenced non-agricultural activity for the purposes of Article 5a(2) – as this can be determined on the basis of the above provisions.

Interpretational doubts and potential consequences

Finding an answer to the question of what objective guided the legislator when enacting the provision of Article 5a(2)(2) of the ASIfF may be of crucial importance from the perspective of a farmer commencing economic activity who would like to remain insured within the Agricultural Social Insurance Fund. However, primarily, attention should be drawn to the main premises for applying Article 5a of the ASIfF.

11. This refers to the activity of translators, advocates, notaries, legal advisors, statutory auditors, accountants, insurance agents, agents offering supplementary insurance, reinsurance brokers, insurance brokers, tax advisors, restructuring advisors, securities brokers, investment advisors, investment firm agents, and patent attorneys, provided that they do not employ, under employment contracts, mandate contracts, contracts for specific work, and other contracts of a similar nature, persons who perform activities related to the essence of the profession in question – art. 4 ust. 1 pkt 11 ustawy z 20 listopada 1998 r. o zryczałtowanym podatku dochodowym od niektórych przychodów osiąganych przez osoby fizyczne, t.j. Dz. U. 2025 poz. 843.
12. Ustawa z 26 lipca 1991 r. o podatku dochodowym od osób fizycznych, t.j. Dz. U. 2025 poz. 163 ze zm.

The most fundamental of these is the chronological order of the activity, i.e. the fact that it is the farmer who must commence economic activity, and not otherwise. This means that the provision of Article 5a of the ASIfF does not authorise covering with agricultural social insurance a person conducting economic activity who became a farmer whilst conducting that activity[13]. Although it might seem that this provision is fairly unambiguous in this regard, the fact that the matter was submitted for examination before the Supreme Court indicates that interpretational doubts existed in this area. It is also necessary to maintain a continuous three-year insurance record in KRUS. Jurisprudence unambiguously points out that the expiry of agricultural insurance also entails that, to return to KRUS insurance, it will be necessary to re-accumulate the three-year insurance record[14], and also that this three-year record must immediately precede the date of commencing the non-agricultural activity[15].

The date of commencing non-agricultural activity is therefore of key importance, since the time limit for submitting the aforementioned declaration begins to run from it. Jurisprudence indicates that this time limit is a preclusive time limit of substantive law, and the failure to observe it results in the cessation of insurance as of the day by which the farmer or household member was obliged to submit the certificate[16]. These, in principle, are not subject to restoration; however, in the case of a declaration submitted pursuant to Article 5a(1) of the ASIfF, the legislator opted to permit such an action by virtue of a specific provision (Article 5a(7) of the ASIfF). This provision constitutes a specific solution not only vis-à-vis other acts, which do not provide for the possibility of restoring a preclusive time limit, but also due to its profound significance in adjudicatory practice, which will be discussed below.

The legislator did not decide to regulate the issue of designating the date of commencing non-agricultural activity in a specific manner within the framework of the ASIfF. Therefore, it will be necessary to refer to general regulations pertaining to the conduct of economic activity. The problem is that therein too, this issue has not been regulated unambiguously and consistently – pursuant to Article 17(1) of the Entrepreneurs' Law, economic activity may be undertaken (and therefore commenced, in accordance with the linguistic understanding of the concept of "commencing"[17]) as early as the day of submitting an application for entry in the CEIDG; yet this

13. Wyrok SN z 18.10.2005 r., II UK 41/05, OSNP 2006, nr 15–16, poz. 250.
14. Wyrok SA w Białymstoku z 21.08.2013 r., III AUa 190/13, LEX nr 1356476; Wyrok SA w Gdańsku z 21.09.2016 r., III AUa 635/16, LEX nr 2149634.
15. Wyrok SA w Białymstoku z 6.02.2001 r., III AUa 935/00, OSA 2001, nr 9, poz. 33; Wyrok SN z 28.05.2008 r., II UK 304/07, LEX nr 818834.
16. Wyrok SA w Białymstoku z 18.06.2014 r., III AUa 55/14, LEX nr 1493730.
17. See Słownik języka polskiego PWN, *Rozpoczęcie – znaczenie, definicja*, https://sjp.pwn.pl/slowniki/rozpocz%C4%99cie.html, accessed 6.12.2025.

provision neither resolves the issue of conducting unregistered activity (Article 5 of the Entrepreneurs' Law) nor does it mandate commencement – it merely establishes the possibility of commencing economic activity on the date of submitting the application, not an obligation.

In turn, pursuant to Article 7(1) of the Act on flat-rate income tax, the date of commencing activity is the date of obtaining the first income, although this provision should be examined from the perspective of consequences in the sphere of tax law.

Conversely, Article 6(2) in conjunction with Article 5(2)(1) of the Act on CEIDG[18], stipulates that one of the informational data items disclosed in the Register is the commencement date of economic activity and that it is one of the data items entered by the entrepreneur in the application for entry in the CEIDG. Jurisprudence indicates that the notification and entry in the register of economic activity constitute merely the basis for commencing economic activity in the sense of its legalisation and are neither an event nor an action equated with undertaking such activity[19], which means that the date indicated by the entrepreneur in the application for entry in the Register is of a declaratory nature. Importantly, and concurrently emphasising the declaratory nature of this date, it may be specified in the application itself as subsequent to the moment of submitting the application[20]. Consequently, reliance by KRUS solely on the date declared by the farmer submitting the application for entry in the Register – when deciding whether agricultural insurance has expired – may also be insufficient, despite being convenient in many respects; it must be concluded that since it is the applicant farmer themselves who declares the date on which they will commence conducting non-agricultural economic activity, they should ensure, in accordance with the principles of due diligence, that they submit the declaration referred to in Article 5a(1) of the ASIfF within the appropriate time limit. Crucially, upon any potential failure to fulfil this obligation, they would be rather unable to use the argument that they were unaware of the day the time limit began to run, given that they declared it themselves in the application for entry in the CEIDG.

It cannot be excluded, however, that the farmer will attempt to demonstrate that, despite declaring a specific date for commencing non-agricultural economic activity in the application, they did not in fact undertake it on that day, but with a certain delay, which should trigger the commencement of the 14-day time limit referred

18. Ustawa z 6 marca 2018 r. o Centralnej Ewidencji i Informacji o Działalności Gospodarczej i Punkcie Informacji dla Przedsiębiorcy, t.j. Dz. U. 2022 poz. 541 ze zm.
19. Wyrok SN z 5.03.2010 r., IV CSK 371/09, LEX nr 811872.
20. See also A. Żywicka [in:] E. Komierzyńska-Orlińska, A. Żywicka, *Komentarz do ustawy o Centralnej Ewidencji i Informacji o Działalności Gospodarczej i Punktach Informacji dla Przedsiębiorcy* [in:] *Konstytucja biznesu. Komentarz*, red. M. Wierzbowski, Warszawa 2019, p. 272.

to in Article 5a(1) of the ASIfF. Due to the fact that the concept of "commencing economic activity" has not been explicitly regulated in the provisions of the ASIfF, and the mutatis mutandis application of the provisions of other acts regulating this issue does not yield an unambiguous interpretational result, it cannot be ruled out, in the opinion of the author of this study, that a farmer could successfully demonstrate this circumstance, and consequently – that it could be recognised that the time limit for submitting the declaration ran from a date other than the one indicated in the application for entry in the CEIDG.

The farmer should be able to demonstrate this fact in this regard using all available means of evidence, and the role of the ordinary court should be to hear the case in a manner that considers not only the principle of the free evaluation of evidence, but also the obligation to exercise due diligence by such a farmer. This should be manifested, in particular, by their submission to the Register of an application updating the date of commencing economic activity in a situation where they knew they would fail to observe the declared date of its commencement. This may potentially place such a person in a rather difficult procedural position; nevertheless, one cannot per se rule out an action by the farmer aimed at demonstrating the actual date of commencing economic activity – other than the one disclosed or declared in the CEIDG. Bearing in mind the specific jurisprudential tendency, which will be discussed below, the effectiveness of such measures cannot be ruled out either.

Moving on to the content of Article 5a(2) of the ASIfF, it should be pointed out that it provides for two special cases of "commencing" non-agricultural activity: the first is the resumption of activity the performance of which was temporarily suspended (point 1), and the second – a change in the type or object of activity within the meaning of the PKD (point 2). The first situation does not seem to present fundamental interpretational difficulties beyond those mentioned above regarding the date of this event. Here, it should logically be acknowledged that the date of resuming activity should be the date declared by the entrepreneur in the application for the resumption of activity, but this should not preclude the possibility of demonstrating that this occurred, in reality, on a different day.

A greater problem may be engendered by the issue of a change in the "type or object" of the performed activity within the meaning of the PKD. The fundamental questions that must be raised when interpreting this provision are: (1) how should the concept of a "change" in the conducted activity be understood, and (2) must every change in the object or type of activity be notified to KRUS alongside the declaration referred to in Article 5a(1) of the ASIfF?

Regarding the first of the aforementioned questions, attention may firstly be drawn to the fact that the provision of Article 5a(2)(2) of the ASIfF speaks of a "change in

the type or object of the performed activity", and not – a change of the entry in the CEIDG. This issue could be of crucial importance, as the concept of a "change of entry" is broader in scope and will concern any change in the scope of, inter alia, the object of the conducted activity, and therefore – both its expansion (adding PKD codes in the scope of the performed activity) and its restriction (deleting certain PKD codes). One might wonder, conversely, whether a "change in the object or type of activity" should not be considered merely as the replacement of certain PKD codes with others? However, referring to the dictionary meaning of the word "change", according to which it means, inter alia, "the fact that something becomes different from before" or "replacing something with something"[21], there should be no doubt that both of the above situations ought to be understood as a "change" referred to in Article 5a(2)(2) of the ASIfF. Theoretically, therefore, according to the literal wording of the cited provision, every expansion, restriction, or any change sensu stricto should be treated as the commencement of economic activity and trigger the obligation to submit a declaration of intent to remain insured within the Fund each time, within the time limit prescribed by the provisions. This time limit – similarly to the previously discussed cases – would run from the date declared by the entrepreneur, with the simultaneous possibility of demonstrating by any means of evidence that the change in the object or type of the conducted activity occurred on a date other than the declared one.

It seems, however, that such an interpretation of this provision is excessively formalistic and unsuited to reality, and does not even reflect the legislator's intention (despite the fact that it was not explicitly articulated in the explanatory memorandum to the draft act). Since remaining insured under agricultural insurance depends on the fulfilment of the statutory premises enumerated in Article 5a(1)(1)–(5) of the ASIfF, from KRUS's perspective it appears entirely secondary whether the farmer made changes regarding the object or type of their additional, non-agricultural activity (assuming, naturally, that this change does not consist in becoming a partner in a commercial company or commencing activity as part of a liberal profession), provided that the income from this activity does not result in exceeding the amount of tax due on this account beyond the limit established in Article 5a(1)(5) of the ASIfF, and they reliably and timely document this fact with a declaration or certificate referred to in Article 5a(3) or (4) of the ASIfF. In other words, if a farmer conducts additional activity of a non-agricultural nature and does so continuously, the issue of changes to its object or type does not affect the remaining criteria for staying insured with KRUS.

21. Słownik języka polskiego PWN, *Zmiana – znaczenie, definicja*, https://sjp.pwn.pl/slowniki/zmiana.html, accessed 6.12.2025.

This seems logical also from the perspective of the fact that the legislator, as part of the fundamental criterion consisting in the obligation to submit the declaration referred to in Article 5a(1)(1) of the ASIfF, employed the concept of "commencing", and thus – something new that did not occur previously, in the context of economic activity as such. If, conversely, the activity is conducted uninterruptedly, and merely its object or type changes, the expectation that the farmer submit a declaration of intent to remain insured with KRUS may seem in accordance with the provision, but contrary to logic and common sense.

Unfortunately, this issue can have very profound legal consequences. Pursuant to Article 5a(5) of the ASIfF, the failure to observe the time limit for submitting the declaration referred to in paragraph 1, point 1, is tantamount to the cessation of insurance within KRUS, and this effect takes place on the day of commencing the non-agricultural activity. It is therefore easy to see the potential risk for a farmer, who may unwittingly neglect their obligation, e.g. in a situation where they make a change concerning the non-agricultural activity they conduct, yet they conduct it uninterruptedly and are not even aware of the materialisation of the notification obligation, or when they have failed to actually commence non-agricultural activity within the time limit declared in the application for entry, and subsequently submitted a declaration within the time limit calculated from the actual commencement of this activity.

In this case, the jurisprudence of the ordinary courts and the Supreme Court will be of key importance. Fortunately, the judicature recognises the potential problem and, above all, the disproportionality of the sanction in relation to the infringement. These judgments are handed down primarily against the background of the interpretation and application of Article 5a(7) of the ASIfF, according to which the time limits – (1) for submitting the declaration on continuing insurance with KRUS (paragraph 1, point 1), and (2) of 31 May of the tax year for submitting a declaration or certificate on not exceeding the amount of income tax (paragraph 4) – may be restored upon the application of the interested farmer or household member, if that farmer or household member proves that the failure to observe the time limit occurred due to fortuitous events. As mentioned earlier, this is an exception to the rule whereby time limits of substantive law are not subject to restoration; nevertheless, it is dictated by profound considerations. As is stated in the judicature, this provision constitutes the expression of consent – due to the disproportionality of the cause to the effect – to the reassessment of the decision declaring exclusion from agricultural insurance by demonstrating a state of affairs justifying the existence of premises for remaining in agricultural insurance[22]. The judicature has pronounced itself numerous

22. Wyrok SN z 6.03.2012 r., I UK 330/11, OSNP 2013, nr 3–4, poz. 42.

times in subsequent years on the subject of the disproportionality of the sanction in the form of extinguishing the farmer's social insurance due to the failure to submit a declaration[23], and the main conclusion of the analysis of this jurisprudence mandates the assumption that the automatic, unreflective extinguishment of this insurance as a result of the farmer's failure to submit the appropriate declarations – despite this effect being couched explicitly in the content of the provision – may well be regarded as disproportionate, and thereby contrary to the rules of equity and proportionality.

Assessment of the regulation and conclusions

In the light of the above considerations, the regulation of Article 5a(2)(2) of the ASIfF must be assessed negatively – the provision does not clarify interpretational doubts. On the contrary, it engenders further problems associated with the interpretation of the concept of "commencing" non-agricultural economic activity and, additionally, causes confusion in the context of changing the object or type of this activity. Neither do these provisions clarify the issue of understanding the date from which the activity is to be considered undertaken (commenced). This issue, in turn, has significant implications due to the deadline for submitting declarations; failure to meet this deadline results in the farmer's insurance in KRUS lapsing.

The discussed provision deserves a negative assessment, firstly and above all, due to the aforementioned consequence – since the legislator opted for such severe consequences for the failure to submit the declarations referred to in Article 5a(1)(1) and (4) of the ASIfF, one should expect, from the perspective of the assumption of a rational legislator, that the provision regulating the conditions which must be fulfilled to retain the entitlement to farmers' social insurance would be unambiguous and would not give rise to interpretational doubts. This assessment is not affected by the possibility of reinstating the time limit pursuant to Article 5(7) of the ASIfF, which primarily applies after the time limit has already been exceeded, and therefore most often after a decision to terminate a farmer's insurance with KRUS has been issued and served on the farmer. This action is therefore ex post in nature and aims to rectify the farmer's resultant legal situation. Neither is this assessment affected by the possibility of lodging a claim with an ordinary court by way of an appeal against the decision, because in this case too, it is an ex post action, whereas the legitimate expectation

23. See, inter alia, Wyrok SA w Gdańsku z 11.07.2017 r., III AUa 255/17, LEX nr 2383389; Wyrok SA w Białymstoku z 11.04.2018 r., III AUa 60/18, LEX nr 2546161 oraz Wyrok SA w Białymstoku z 11.03.2020 r., III AUa 461/19, LEX nr 2956639.

of persons covered by social insurance for farmers dictates the assumption that the legal situation of these persons will be transparent and stable, including in the event of commencing non-agricultural economic activity. Furthermore, the jurisprudential tendencies indicated above signal a clear problem with the disproportionality of the sanction, i.e. the extinguishment of insurance in KRUS due to an omission committed, i.e. the failure to submit a declaration as to the intent to remain insured in the Fund, or the failure to submit a declaration or certificate concerning the amount of income tax due for the previous year. It should be noted here that the starting point for the time limit for submitting the first of the aforementioned declarations may be unclear.

Secondly, given the ratio legis of the discussed provision of Article 5a of the ASIfF, i.e. enabling a farmer who additionally conducts non-agricultural economic activity (upon their fulfilment of certain conditions) to remain insured within KRUS, the aforementioned provision of Article 5a(2)(2) of the ASIfF appears redundant. Examining the matter in the light of this objective, there is no justification for treating a change in the object or type of the additional, non-agricultural activity conducted by the farmer as the commencement of this activity, which entails the necessity for them to submit additional declarations. If the farmer conducts the additional activity uninterruptedly, it should be absolutely of secondary importance whether they conduct activity in one scope or another, provided that the remaining conditions set out in Article 5a(1)(2)–(5) of the ASIfF are met, i.e. the farmer simultaneously continues to conduct agricultural activity or continuously works on an agricultural holding comprising an area of agricultural land exceeding 1 conversion hectare or in a special branch, is not an employee and does not remain in an employment relationship of a public-service nature, does not have an established right to an old-age or disability pension or to social insurance benefits, and the amount of income tax due for the previous tax year on revenues from non-agricultural economic activity does not exceed the amount specified by the provisions.

The discussed problem requires de lege ferenda amendments to eliminate the above doubts. The legislator's intervention should, in the first place, aim to repeal Article 5a(2)(2) of the ASIfF as redundant, and subsequently – to specify from when non-agricultural economic activity should be considered commenced. Admittedly, the current regulation affords certain interpretational possibilities also to pension organs, which may carry out an interpretation in favour of the insured and, in case of doubt, consider the time limit for submission to have been observed if this submission occurred within the prescribed 14-day time limit from the actual commencement of non-agricultural activity. First of all, however, this circumstance would require the farmer to demonstrate that the date of the actual commencement of activity differs from the declared one, which would entail additional actions, and secondly,

one should nevertheless expect the greatest possible unambiguity of provisions of universally binding law, particularly those on which legally relevant consequences depend, which undoubtedly include the extinguishment of social insurance in KRUS. Hence, an amendment should be postulated in this regard as well.

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