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Social Justice and Solidarity in Agricultural Law (on the Example of Rural Development Support)

Sprawiedliwość społeczna i solidarność w prawie rolnym (na przykładzie wspierania rozwoju obszarów wiejskich)

ABSTRACT

The aim of the article is to redefine the elements of the paradigm of agricultural law, as seen through the lens of the concepts of social justice and solidarity, as well as public goods and their role in agricultural law, using the example of laws that govern rural development support. These principles should be treated as an important determinant of a fair balancing of the general interest (common good) and the interests of the individual. It should be stated that Polish statutory regulations in the field of supporting rural areas and providing public goods by farmers, directly or indirectly, follow the axiological paradigm. The implementation of the idea of social justice and solidarity should also aim at the sustainable development of rural areas. Such an approach should be reflected in the rural development support system, which is based on the assumption that production support for farms should be accompanied by certain obligations imposed on entities managing agricultural land. It is also necessary to formulate a postulate that the law of rural development should stimulate pro-environmental and pro-social attitudes.

Keywords: social justice; solidarity; rural areas; rural development support

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INTRODUCTION

The subject of the article is an analysis of the normative factors and doctrinal concepts that determine the axiological foundation of selected statutory regulations that make up the agricultural law. Consequently, the aim of the deliberations is to reconstruct elements of the paradigm of agricultural law, as seen through the lens of the concepts of social justice and solidarity, as well as public goods and their role in agricultural law, using the example of laws that govern rural development support. The axiological paradigm of agricultural law is a set of terms and theoretical concepts that constitute the basis of agricultural law; it comprises a set of values that justify and determine the establishment, interpretation, and application of agricultural law; it influences agricultural law in a general, systemic sense; moreover, it is not unchangeable, since the content of the paradigm is determined by different, variable factors and, as a result, also the *communis opinio* of the doctrine of agricultural law on the subject of a model of values that shape the content and objectives of specific provisions of agricultural law is subject to change. The axiological paradigm of Polish agricultural law is influenced by three basic factors. The first is the unique spectrum of social and economic relations, and the rules and moral evaluations that exist in such a social system as the point of reference for the positive regulation, which shape the establishment, interpretation, and application of the norms of this branch of law. The second factor is the principles and values provided for in the Constitution of the Republic of Poland of 1997.[1] The third factor is the set of doctrinal views on the general nature and functions of agricultural law as a branch of law.

The European legal order ought not to be overlooked here, in particular the principles and values on which the European treaties are based. After all, European law has a significant impact on the functioning of the EU Member States and on social and economic relations within them. The principle of justice, including the principle of social justice, is a material component of the principle of the rule of law, i.e. the principle belonging to the so-called universal values considered to inspire European integration; these values are referred to in the Preamble of the Treaty on European Union (as well as in Articles 2 and 21). On the other hand, the Preamble to the Treaty on the Functioning of the European Union declares to strive to ensure economic and social progress of the Member States, the aim of which will be to improve the living and working conditions of nations – based on such values as "concerted action", "stability in development", and "balance and fairness in trade".

The principles and values of the Polish Constitution are the axiological foundation of the entire Polish legal system. Constitutional values are certain conditions

[1] Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws 1997, item 483, as amended), hereinafter: Polish Constitution. English translation of the Constitution at: www.sejm.gov.pl/prawo/konst/angielski/kon1.htm [access: 10.10.2021].

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of social life or their characteristics that have been identified by the legislator as desirable and subject to broadly defined legal protection; these are goods of great legal importance.[2] It should be noted that constitutional norms and values "radiate" into statutory law; thus, they serve to protect the individual against the state, express a general and universal order of values, and provide legislative and interpretive guidance.[3] In such a context, it must be stated that the overarching and comprehensive structure – filled with axiological elements – of the system of a democratic, law-abiding, and just state is formulated in Article 2 of the Polish Constitution.

The principles and values provided for in Article 2 of the Polish Constitution express the factors that axiologically and praxeologically bind the Polish state and legal system. They also provide a rationale for the functional and purposive interpretation of the laws within that system.[4] The doctrine emphasizes that the Preamble of the Polish Constitution also expresses the so-called axiological foundation, which "legitimizes" the Constitution in normative terms, as well as in terms of the culture in which the Polish legal system and the Polish social order function.[5] The constitutional principle of social justice must therefore be combined and reconstructed in connection with the values expressed in the Preamble and in connection with the principle of the common good (see Article 1 of the Polish Constitution).[6] It can be concluded that the wording of the Preamble, as well as of Article 1 (common good principle), Article 2 (social justice principle), and Article 20 (social solidarity principle, among others), results in a so-called opening of the Polish Constitution and the whole system of Polish positive law to external values and the external axiological order. This implies the need to interpret positive law, including agricultural law, in such a way that its application translates into "pursuing justice" and "achieving the common good" in the spirit of "social solidarity".[7]

The performance of the contemporary functions of agricultural law is also justified by the doctrinal concept of public goods, the identification of which, in the absence of a legal definition, is sought not only in the sphere of law, but also in the spheres of philosophy and economics. A search for the mutual relations between

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[2] See M. Piechowiak, [in:] *Konstytucja RP*, vol. 1: *Komentarz do art. 1–86*, eds. M. Safjan, L. Bosek, Warszawa 2016, Preamble, side number (hereinafter: Nb.) 37–38.

[3] See J. Limbach, *„Promieniowanie" konstytucji na prawo prywatne*, "Kwartalnik Prawa Prywatnego" 1999, vol. 3, p. 405.

[4] See *Podstawowe problemy stosowania Konstytucji Rzeczypospolitej Polskiej. Raport końcowy z badań*, ed. K. Działocha, Warszawa 2006, p. 19; M. Wyrzykowski, *Zasada demokratycznego państwa prawnego*, [in:] *Zasady podstawowe polskiej Konstytucji*, ed. W. Sokolewicz, Warszawa 1998, pp. 66 ff.

[5] See M. Piechowiak, *Aksjologiczne podstawy polskiego prawa*, [in:] *Synteza prawa polskiego od 1989 roku*, eds. T. Guz, J. Głuchowski, M. R. Pałubska, Warszawa 2013, p. 39 ff.

[6] See P. Tuleja, [in:] *Konstytucja RP…*, commenatry on Article 2, Nb. 85.

[7] See W. Dziedziak, *Słuszność jako wartość prawa*, "Studia Iuridica Lublinensia" 2011, vol. 15, p. 76; idem, *Kilka uwag o prawie słusznym*, "Studia Iuridica Lublinensia" 2016, vol. 25(3), p. 281.

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social justice and solidarity on the one hand, and the common good on the other hand, also requires reference to Article 1 of the Polish Constitution, which contains a reference to the category of "common good" defined as the sum of those "conditions of social life through which individuals, families, and associations can more fully and easily achieve their own perfection. It consists in respecting the inherent rights and obligations of humans".[8] An attempt to define the concept of public good in economic terms is a starting point for answering the question of understanding of the meaning of this concept in legal terms. In the field of economic sciences, the concept of public good was first introduced in the 1950s by P.A. Samuelson in his article entitled *The Pure Theory of Public Expenditure*.[9] The author defined public goods by indicating their two characteristics: non-competitiveness in consumption, which means that the use of a good by a certain entity does not exclude such possibility for other entities; and the impossibility of excluding them from consumption – if a good is available to one person, other entities cannot be deprived of the benefits of this good.[10] This view of public goods means that there is no economic incentive to pay for their use and some form of public intervention is necessary. This corresponds to the view expressed by the legal doctrine that a public good (public interest) consists in satisfaction of certain collective needs considered indispensable in a given society and at a given time, which cannot be satisfied spontaneously by purely voluntary action of individuals or groups. Such an approach to public goods is a part of the multifunctional dimension of agriculture, and the implementation of the social and environmental function, defined as the provision of public goods, provides justification of, and produces the need for, support from public funds for entities that perform this function.

CONCEPTS OF SOCIAL JUSTICE AND SOCIAL SOLIDARITY

The links between the principles provided for in Article 2 of the Polish Constitution translate into their complementarity; this means that in a democratic state, legalism, defined formally, is extended by a material element – the principle of

[8] Cf. M. Piechowiak, *Dobro wspólne jako fundament polskiego porządku konstytucyjnego*, Warszawa 2012, p. 147 ff.; idem, *Solidarność – w poszukiwaniu ideowej tradycji interpretacji tej kategorii konstytucyjnej*, [in:] *Idea solidaryzmu we współczesnej filozofii prawa i polityki*, ed. A. Łabno, Warszawa 2012, p. 145 ff.

[9] P.A. Samuelson, *The Pure Theory of Public Expenditure*, "Reviev of Economics and Statistics" 1954, vol. 36(4), p. 387.

[10] See European Network for Rural Development, *Dobra publiczne i publiczny system interwencji. Raport analityczny*, 2010.

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justice (of a just state),[11] and social justice is the goal that a democratic law-abiding state is supposed to pursue. A state is fully democratic and law-abiding when it pursues the idea of justice defined as striving to maintain balance in social relations and refraining from creating privileges for selected groups of citizens that are unjustified and unsupported by objective requirements and criteria.[12] Therefore, if certain categories of entities (e.g., farmers) receive a special treatment, criteria must be found that justify such an approach, which will be discussed later.

The fact that in Article 2 of the Polish Constitution the concept of justice is provided with the adjective "social" determines that this constitutional principle refers to the relations between social groups and to the relations between them and the state; moreover, it is not about the subjective sense of justice but about justice as a social category.[13] The principle of social justice should be understood as a factor leading to a just (equitable) balance between the interest of the public (common good) and the interests of individuals,[14] which is of particular importance in legal and agricultural relations.

The constitutional principle of social justice contains a conglomerate of justice formulas[15] and its basis is the Aristotelian approach, according to which justice is the totality of human virtues with the basic imperative to respect the rights due to others and not to reap benefits at the expense of others.[16] The obligation to implement justice in a system of law is considered as a necessary condition of a law-abiding state.[17] The principle of social justice, together with the principle of equality, is treated in the jurisprudence of the Constitutional Tribunal not only as a programmatic norm, but also as a binding constitutional principle that determines the way public authorities operate.[18]

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[11] See W. Sokolewicz, [in:] *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, ed. L. Garlicki, vol. 5, Warszawa 2007, commentary on Article 2, p. 11; P. Tuleja, *op. cit.*, commentary on Article 2, Nb. 1.

[12] See judgement of the Constitutional Tribunal of 12 April 2000, K 8/98, OTK 2000, no. 3, item 87; judgement of the Constitutional Tribunal of 17 June 2003, P 24/02, OTK-A 2003, no. 6, item 55. Cf. P. Sut, *Uwagi o sprawiedliwości społecznej jako realizowalnym prawnie celu państwa demokratycznego*, "Gdańskie Studia Prawnicze" 2016, vol. 35, p. 399 ff.

[13] See B. Banaszak, *Konstytucja Rzeczypospolitej Polskiej. Komentarz*, Warszawa 2012, commentary on Article 2, Nb. 12.

[14] See P. Tuleja, *op. cit.*, commentary on Article 2, Nb. 87.

[15] See Z. Ziembiński, *O pojmowaniu sprawiedliwości*, Lublin 1992, p. 131 ff.; idem, *Sprawiedliwość społeczna jako pojęcie prawne*, Warszawa 1996, p. 11 ff.

[16] See Aristotle, *Etyka nikomachejska*, transl. D. Gromska, Warszawa 2000, p. 171. See also W. Sadurski, *Teoria sprawiedliwości. Podstawowe zagadnienia*, Warszawa 1988, p. 15. Cf. R.A. Tokarczyk, *Sprawiedliwość: próba syntetycznej systematyzacji zagadnień*, "Gdańskie Studia Prawnicze 2016, vol. 35, p. 46 ff.

[17] See P. Tuleja, *op. cit.*, commentary on Article 2, Nb. 72.

[18] See judgement of the Constitutional Tribunal of 11 February 1992, K 14/91, OTK 1992, no. 1, item 7.

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The Polish legal doctrine assumes[19] that the primary object of social justice is the social structure and a way in which major social institutions distribute essential rights and responsibilities, and determine the benefits of social cooperation.[20] Social justice has been attributed significant importance to the substantive concept of the rule of law and for the entire system of law in force.[21] However, the importance of the principle of justice in the legal system and in state activity is manifested in its three basic types: distributive, procedural, and retributive justice. In its rulings, the Constitutional Tribunal most often refers to the formula of distributive justice;[22] distributive justice concerns the principles and procedures of distribution of goods, benefits, or privileges. According to such an approach, social justice requires balancing of the interests and expectations of potential recipients of social benefits with the interests of those who ultimately finance such benefits by paying taxes. One must also not forget that redistribution of national income through the state budget entails certain costs to the entire society. Therefore, an assessment of the ways in which the principle of social justice is implemented in specific circumstances requires particular caution.[23] Social justice implying equal participation of individuals in social life, including access to goods, can be fully implemented when obstacles are removed that prevent or hinder equal access to goods such as, first, lack of negative treatment of individuals or groups, manifested in established stereotypes and discriminatory practices, and second, lack of adequate resources that prevents equal participation of an individual or a group in social life.[24] One must also take into account the need to find a balance for the payment for implementation of social goods.

Due to the importance of the economic aspect of the agricultural-law relations, the role of the principle of social solidarity in shaping the axiological paradigm of agricultural law should be emphasized. In the light of Article 20 of the Polish Constitution, solidarity, dialogue, and cooperation have been recognized as pillars of the social market economy, which, also based on the freedom of economic activity and private property, constitutes the basis of Poland's economic system. The legal sciences and case law define the role of individual elements of the social market economy, including the element of (social) solidarity, as having significant importance for adjudication of specific cases. It is emphasized that the state, when implementing the principle of a social market economy, must pay attention to the principle of social justice and the principle of inviolability of human dignity (Arti-

[19] See P. Tuleja, *op. cit.*, commentary on Article 2, Nb. 82.

[20] See J. Rawls, *Teoria sprawiedliwości*, Warszawa 1994, p. 16.

[21] See Z. Ziembiński, *O pojmowaniu sprawiedliwości*..., p. 133.

[22] See W. Sadurski, *op. cit.*, p. 46.

[23] See judgement of the Constitutional Tribunal of 25 February 1997, K 21/95, OTK ZU 1997, no. 1, item 7.

[24] See P. Tuleja, *op. cit.*, commentary on Article 2, Nb. 89.

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cles 2 and 30 of the Polish Constitution). The state should ensure that social justice is observed in the course of economic development and should steer economic processes accordingly, so that social objectives set by the state can be achieved. The notions of solidarity, dialogue, and cooperation of social partners used in Article 20 of the Polish Constitution appear, on the one hand, as a platform for joint elaboration and making of decisions that have an effect in relation to these entities, and, on the other hand, as an obligation to enable these entities to actively participate in the process of shaping of the rules of operation of the market economy, as well as to ensure a preference for solving of social disputes by way of negotiation.[25]

The doctrine indicates that the definition of the concepts of solidarity, dialogue, and cooperation should be looked for in social philosophy, in the theories of social solidarity.[26] The concept of social solidarity assumes that "social life is based on interdependence and shared responsibility of all its participants", which implies "the need to respect such values as responsibility for the common good and community of interests".[27]

THE ROLE OF SOCIAL JUSTICE AND SOLIDARITY IN AGRICULTURAL LAW (A SHIFT IN THE AGRICULTURAL LAW PARADIGM)

The principles of social justice and solidarity are reflected in agricultural law and, in particular, in rural development support policies; they are also closely linked to a shift in the agricultural law paradigm.[28] This is because the scope of the socio-economic relations, which are governed by agricultural law, has expanded, and the values, having moral (ethical) norms as their source, which are the basis for the evaluation of the aims of agricultural laws, have changed.

Traditionally, agricultural law has been seen as a branch that regulated primarily social relations related to agricultural production carried out using farmland. As a distinctive feature of agricultural activity, the presence of the so-called additional risk was also indicated; apart from the economic risk, which is borne by every business, agricultural activity is burdened with biological and natural risk. The quantity and quality of agricultural production also depend on the potential inherent in the plants or animals grown or bred. Man can only influence the agricultural

[25] See B. Banaszak, *op. cit.*, commentary on Article 20.

[26] See A. Domańska, *Konstytucyjne podstawy ustroju gospodarczego Polski*, Warszawa 2001, p. 127 ff.; K. Strzyczkowski, *Konstytucyjna zasada społecznej gospodarki rynkowej jako podstawa tworzenia i stosowania prawa*, [in:] *Zasady ustroju społecznego i gospodarczego w procesie stosowania Konstytucji*, ed. C. Kosikowski, Warszawa 2005, p. 32.

[27] See A. Domańska, *op. cit.*, p. 129.

[28] See J. Bieluk, *Zmiana paradygmatu prawa rolnego*, "Studia Iuridica Agraria" 2015, vol. 13, p. 65 ff.

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production process, but it is not possible to completely eliminate the biological or natural risks associated with external weather phenomena, such as precipitation, drought, and temperature changes.[29] Originally, it was precisely this additional risk to agricultural activity that justified public support for agriculture and was an expression of social justice in distributive terms. Farmers have been and still are assigned a special role: that of guarantors of food security and food safety.[30] This means that farmers have been seen primarily as providers of sufficient quantities of good-quality food. In order to meet this expectation, it was necessary to guarantee not only profitability of agricultural production, but also its competitiveness on the EU market. This goal was achieved through legal and financial instruments of influence on the common market, which were strongly protectionist.[31]

When analyzing the issue from this perspective, it should be noted that since 2000 there has been a shift in the regulatory "center of gravity" toward the rural development law, which constitutes the second pillar of the Common Agricultural Policy.[32] This has resulted in changes in the way agriculture is financed and in the decoupling of agricultural support from production volumes. Support has been granted for modernization and increase of efficiency of farms, improvement of agrarian structures and starting additional business operations (diversification of activities) in rural areas. Equalization of production opportunities in mountainous areas and areas of unfavorable conditions was ensured, and instruments for environmental protection were adopted. According to this approach, agriculture has a multifunctional dimension, i.e. apart from production, it also performs environmental and social functions. The change has led to a new perception of farmers; from now on, they are the ones who take care of the environment, landscape, climate, and the economic develop-

[29] This position is based on the concept of distinguishing an agricultural production unit based on biological risk, which is unknown to other economic activities. Cf. R. Budzinowski, *Problemy ogólne prawa rolnego. Przemiany podstaw legislacyjnych i koncepcji doktrynalnych*, Poznań 2008, p. 42 ff.; idem, *Czynniki rozwoju prawa rolnego*, [in:] *Prawo rolne u progu Unii Europejskiej*, ed. S. Prutis, Białystok 1998, p. 33 ff. R. Budzinowski cites, among others, A. Carrozza (*Lezioni di diritto agrario. I. Elementi di tearia generale*, Milano 1988, p. 19 ff.; *La problematica giuridica del rischio in agricultura*, RDA 1984, vol. 3, p. 285 ff.). A similar idea determines the distinction of production units in agriculture based on the agro-biological cycle, defined as the biological production cycle. See R. Budzinowski, *Koncepcja gospodarstwa rolnego w prawie rolnym*, Poznań 1992, p. 26. Similarly judgement of the Supreme Administrative Court of 8 February 2007, II OSK 1555/06, LEX no. 338885.

[30] Cf. K. Leśkiewicz, *Bezpieczeństwo żywnościowe i bezpieczeństwo żywności – aspekty prawne*, "Przegląd Prawa Rolnego" 2012, no. 10, p. 179 ff.

[31] These included a common system for agricultural crop prices and market mechanisms ensuring that products from member states were given priority on the EU market. For more on Common Agricultural Policy mechanisms, see A. Jurcewicz, B. Kozłowska, E. Tomkiewicz, *Wspólna Polityka Rolna*, Warszawa 2004, passim.

[32] At that time, Agenda 2000 (so-called the Jacques Santer Package) was adopted, which is a strategy for strengthening and enlarging the EU, including in relation to the Common Agricultural Policy.

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ment of rural areas (the so-called vitality of rural areas). This aspect is particularly important from the point of view of justification of the Common Agricultural Policy and, in particular, the system of support for agriculture with EU funds. This results in a need for even stronger legitimacy, in the opinion of the general public, of the financial support for agriculture. Agricultural production in Europe is not profitable without external support. However, the argument for justifying the Common Agricultural Policy should not be sought in the need to ensure competitiveness of European agriculture or to maintain farmers' incomes at an appropriate level. It is necessary to take into account the paradigm shift and adopt a new approach to agriculture. In particular, it is necessary to move away from a model of agriculture that performs only production functions to a model of multifunctional agriculture that fulfils many new non-productive functions, such as environmental protection, preservation of the natural landscape, maintenance of traditional values and cultural heritage, and increase in the economic vitality of rural areas. Implementation of these new functions refers to the concepts of social justice and social solidarity. This is in line with the statements of the representatives of the doctrine, which link these concepts to the principles of equality, justice, and reciprocity, as well as to the functioning of the community and the fulfilment of certain obligations for its benefits.[33] Performance of non-productive functions in rural areas by farmers (rural inhabitants) for the benefit of the rest of the society is remunerated by EU funds; this constitutes a payment conforming to the principles of justice and solidarity.

Implementation of the ideas of social justice and solidarity in the provisions that govern the support for rural development is manifested in Regulation (EU) no. 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) no. 1698/2005,[34] and the national Act of 20 February 2015 on supporting the development of rural areas with the participation of the European Agricultural Fund for Rural Development under the Rural Development Program for 2014–2020,[35] whose operation was extended by the EU legislator with some modifications for two consecutive years. Thus, with regard to the Common Agricultural Policy, the transitional period started, which is defined in Article 1 of the Regulation (EU) 2020/2220 of the European Parliament and of the Council of 23 December 2020 laying down certain transitional provisions for support from the European Agricultural Fund for Rural Development (EAFRD) and from the European Agricultural Guarantee Fund (EAGF) in

[33] Among others, such an approach to solidarity is presented by É. Durkheim and by J.S. Mill. Cf. A. Czarnota, *Prawo a współczesne odmiany solidaryzmu społecznego*, [in:] *Idea solidaryzmu…*, p. 58 ff.

[34] OJ EU L 347/487, 20.12.2013.

[35] Consolidated text, Journal of Laws 2021, item 182, as amended.

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the years 2021 and 2022 and amending Regulations (EU) no. 1305/2013, (EU) no. 1306/2013 and (EU) no. 1307/2013 as regards resources and application in the years 2021 and 2022 and Regulation (EU) no. 1308/2013 as regards resources and the distribution of such support in respect of the years 2021 and 2022.[36] The Rural Development Program (RDP) for 2014–2020 also remained in force in a slightly modified form.[37] The European Commission, by Executive Decision C(2021) 1568 of 4 March 2021,[38] approved the RDP for 2014–2020, which includes a package of amendments previously adopted and approved by the Council of Ministers on 12 November 2020. These changes relate, among other things, to the alignment of the RDP for 2014–2020 with the transitional provisions.

The terms "social justice", "solidarity", and "public good" are not used in the aforementioned acts. However, it should be noted that many of the measures of the national program document, i.e. the Rural Development Program for 2014–2020, directly or indirectly perform the indicated functions through the provision of public goods by farmers. An analysis of the RDP measures enables identification of basic public goods of environmental and social nature, which include rural landscapes with high natural values, biodiversity, water quality and availability, soil functionality, climate stability, air quality, resilience to flooding and fire, and vitality of rural areas.[39] Funding from the EAFRD for the production, environmental, and social functions is closely linked to the fulfilment of certain obligations by agricultural producers.[40] The purpose of the legal instruments provided for in the RDP is to improve the area structure of farms, to modernize farms, and possibly to make them economically viable;[41] therefore, these instruments serve specific beneficiaries instead of implementing general goods, although a relation between the development of the production functions of farms and an increase of incomes of the rural population and

[36] OJ EU L 437/1, 28.12.2020.

[37] More on the legal nature of the Rural Development Program, see P. Litwiniuk, *Program Rozwoju Obszarów Wiejskich jako dokument programowy i źródło prawa rolnego*, Warszawa 2018.

[38] Communication of the Ministry of Agriculture and Rural Development of 16 March 2021 on approval by the European Commission of amendments to the Rural Development Program for 2014–2020 (Polish Monitor 2021, item 288).

[39] See European Network for Rural Development, *op. cit.*; D. Łobos-Kotowska, *Umowa przyznawania pomocy z Europejskiego Funduszu Rolnego na rzecz Rozwoju Obszarów Wiejskich*, Warszawa 2013, p. 48 ff.; eadem, *Solidaryzm w polityce wspierania rozwoju obszarów wiejskich*, [in:] *Państwo solidarne*, ed. A. Łabno, Warszawa 2018018, pp. 234 ff.

[40] Cf. information on the beneficiaries of the support provided by the EAFRD: P. Blajer, *Beneficjenci „Programu Rozwoju Obszarów Wiejskich"*, "Przegląd Prawa Rolnego" 2010, vol. 1(6), pp. 13–34.

[41] The measures that support the production aspect are: knowledge transfer and information activities; advisory services, farm management services and farm replacement services; quality systems for agricultural products and foodstuffs; investments in fixed assets; farm and business development (some sub-measures); setting up of producer groups and producer organizations.

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a development of rural areas can be noticed also in relation to these measures. The implementation of the idea of social justice and solidarity is particularly evident in relation to small farms. Such farms, thanks to the EAFRD funds, have the possibility of restructuring, which allows them to increase the economic size of the farm or to undertake the non-agricultural economic activity. Income support from direct payments under the system for small farms is also important, although in this case financing is provided from the European Agricultural Guarantee Fund.[42]

The constitutional principles of social justice and solidarity and the concern for the common good are implemented in the performance by farmers of obligations imposed on them by law in the field of environmental protection. The legislator made fulfilment of these obligations a condition for obtaining benefits in the form of support from the EAFRD. The link between the environmental obligations and the financial benefits also includes the aspect of social cohesion, where social bonding and integration are based on interdependence. This clearly indicates that the condition of the climate and the environment is not an indifferent issue from the point of view of rural development, and the claim that gradual improvement of the condition of the environment stimulates comprehensive development of a given area is justified. Support under the RDP is therefore intended to contribute to preservation and improvement of the environment in rural areas, including natural habitats and species sanctuaries. This objective will be achieved through the RDP measures related to appropriate farming practices within farms, such as promoting sustainable farming practices, appropriate soil use, and water conservation. Support was also provided for farming in difficult areas: land of poorer quality, located on slopes and in sub-mountain and mountain ranges. Farming on such land involves inevitable additional costs and more work, and to compensate for these, payments have been introduced.[43] The amounts of the payments received by farmers depend on their compliance with the principle of cross-compliance, which consists of standards relating to keeping the land within farms in Good Agricultural and Environmental Condition (GAEC) and Statutory Management Requirements (SMR), as set out in Annex II to Regulation (EU) no. 1306/2013 of the European Parliament and of the Council. It is also necessary to meet the specific requirements set out in national regulations specifying the prerequisites for obtaining support under individual measures of the RDP for 2014–2020.

[42] The legal basis for the granting and payment of payments under the small farm scheme is the Regulation (EU) no. 1307/2013 of the European Parliament and of the Council of 17 December 2013 laying down rules on direct payments to farmers under support schemes under the common agricultural policy and repealing Council Regulation (EC) no. 637/2008 and Council Regulation (EC) no. 73/2009 (OJ EU L 347/608, 20.12.2013). See also D. Łobos-Kotowska, J. Bieluk, *Płatności bezpośrednie*, [in:] *Prawo rolne*, ed. P. Czechowski, Warszawa 2019, p. 547 ff.

[43] Environmental support is provided, among others, by the following measures of the RDP for 2014–2020: agricultural-environmental-climate measure; organic farming; payments for areas with natural or other specific constraints.

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The improvement of the environment and the sustainable use of woodland in rural areas are also a manifestation of the principle of social solidarity and are pursued through instruments that contribute to an increase in the forest cover.[44]

The constitutional principles of social justice and solidarity are also reflected in the support from the RDP for 2014–2020 granted for implementation of the social function, defined as general vitality of rural areas. In this case, the support is not granted for agricultural production, but for the start-up of non-agricultural business activity by private entities, as well as for implementation by public law entities of projects consisting in development of technical infrastructure in rural areas, improvement of cultural and natural heritage, and improvement of attractiveness of rural areas to tourists.

Under the RDP measures, investments are made to support individual economic and social development of the beneficiaries, but also ones with a broader social dimension. Both types of actions can be seen to deliver public goods that consist in increasing the "vitality of rural areas". As part of the first group, investments are made that directly support the rural population; they achieve an increase in incomes and thus influence the general improvement of the living standards in rural areas. These are investments made by beneficiaries who do not engage in agricultural activity but live or are established in rural areas, as well as by farmers and their household members for whom non-agricultural business activity may constitute an additional source of income.[45] Support thus provided contributes to a diversification of business activity, defined as diversification of the agricultural production structures and the use of land, capital, and labor resources in rural areas for non-agricultural activities.[46] The aim of so-defined diversification is more effective use of farm resources – not only for agricultural activity, but also for non-agricultural activity. This approach to diversification leads to an increase in the competitiveness of these areas and to a development of entrepreneurship and the labor market.[47] The second group of activities affects the vitality of rural areas in a more society-wide way. They involve directing a stream of funds towards investments aimed to improve the living conditions and the business activity in rural areas.[48] These activities are aimed at implementation of investments

[44] Crucial to improving the forest cover in rural areas is the measure identified as investment in woodland development and improvement of forest vitality.

[45] Examples of such measures of the RDP for 2014–2020 include investment in fixed assets, as well as farm and business development.

[46] Cf. I. Paluszek, *Dywersyfikacja wykorzystania zasobów ziemi w gospodarstwach rolnych w Polsce*, "Roczniki Naukowe Stowarzyszenia Ekonomistów Rolnictwa i Agrobiznesu" 2008, vol. 10, p. 2 ff.

[47] There is no legal definition of diversification in the Polish legal system. An attempt to classify diversification in legal terms should be appropriate for the economic approach. In the science of agricultural law, this problem was studied by M. Stańko (*Problemy prawne dywersyfikacji gospodarstw rolnych w Polsce*, "Studia Iuridica Agraria" 2009, vol. 7).

[48] The measures that implement social support include basic services and village renewal in rural areas.

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for recreational, sports, social, and cultural purposes, and pro-environmental investments, including investments in renewable energy and energy efficiency, and also at improving the development and maintenance of public space, as well as restoring and improving the cultural and natural heritage of villages, rural landscape, and places of high natural value. The social results of the measures in this group are very similar to those of the measures that support diversification, although the direction of the impact is different; these measures enhance the vitality of rural areas, thus making them more attractive places to live and work. Indirectly, this may also contribute to an increase in the incomes of rural residents.

With regard to the principles of social justice and solidarity in rural areas, one must not overlook the LEADER initiative, which contributes to an increase in the ability of local communities to initiate projects in order to satisfy their needs and to promote cooperation and sharing of best practices. This initiative consists in entrusting grass-root Local Action Groups (LAG) with the preparation and direct implementation of Local Development Strategies.[49] This leads to strengthening of self-governance and formulation of needs and development objectives by referring to local conditions and entrusting LAGs with the implementation of the strategies. This approach clearly promotes solidarity and contributes to vitality of rural areas.

CONCLUSIONS

The constitutional principles and values discussed herein, due to their functions in the areas of making, interpreting, and applying statutory law ("pursuit of justice" and "implementation of the common good" in the spirit of "social solidarity"), have an impact on the shift of the agricultural law paradigm. Also the concept of public goods, being a part of the modern multifunctional dimension of agriculture, influences the understanding of the regulatory objectives of the agricultural law and, in connection with the special role in the agricultural-law relations of the principle of social justice, this concept should be treated as an important determinant of the fair balance between the general interest (common good) and the interests of an individual. Although in the aforementioned legal acts the legislator does not expressly use the terms "social justice", "solidarity", or "public good", it should be concluded that the Polish statutory provisions concerning support for rural areas and provision of public goods by farmers directly or indirectly follow the axiological paradigm discussed herein.

This general conclusion allows some specific comments to be made. One should keep in mind that implementation of social justice and solidarity should also aim at durable and sustainable development of rural areas. This approach should be

[49] See Act of 20 February 2015 on local development with the participation of the local community (Journal of Laws 2019, item 1167).

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reflected in a system for rural development support that is based on the premise that productive support for farms should be accompanied by certain obligations imposed on farmers. Moreover, it is necessary to formulate a proposition that the rural development law should stimulate pro-environmental and pro-social attitudes. To meet the emerging new challenges, it is necessary to look for solutions in which economic instruments will be reflected in a stable legal system, including in the constitution. This multifunctional dimension of agriculture can be seen as an expression of social solidarity on two levels. Of key importance seems to be the pro-environmental level where agricultural activity, carried out taking into account statutory requirements and limitations, is compensated with financial support. The second level, in which funds are granted to beneficiaries for social development and diversification of activities in rural areas, and for public investment, is also an expression of social justice and solidarity.

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ABSTRAKT

Celem artykułu jest redefinicja elementów paradygmatu prawa rolnego, przez pryzmat pojęć sprawiedliwości i solidarności społecznej oraz dóbr publicznych i ich roli w prawie rolnym, na przykładzie regulacji prawnej wspierania rozwoju obszarów wiejskich. Zasady te powinny być traktowane jako istotny wyznacznik sprawiedliwego wyważania interesu ogółu (dobra wspólnego) i interesów jednostki. Należy stwierdzić, że polskie regulacje ustawowe w zakresie wspierania obszarów wiejskich i dostarczania przez rolników dóbr publicznych w sposób bezpośredni lub pośredni kierują się paradygmatem aksjologicznym. Urzeczywistnienie idei sprawiedliwości społecznej i solidaryzmu powinno zmierzać do trwałego i zrównoważonego rozwoju obszarów wiejskich. Takie podejście powinno mieć odzwierciedlenie w systemie wspierania rozwoju obszarów wiejskich, który opiera się na założeniu, że wsparciu produkcyjnemu gospodarstw rolnych powinny towarzyszyć pewne obowiązki nakładane na podmioty gospodarujące na gruntach rolnych. Konieczne jest również sformułowanie postulatu, że prawo rozwoju obszarów wiejskich powinno stymulować postawy prośrodowiskowe i prospołeczne.

Słowa kluczowe: sprawiedliwość społeczna; solidarność; obszary wiejskie; rozwój obszarów wiejskich