

C.E.D.R.



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**XXV. Europäischer Agrarrechtskongress mit Kolloquium
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Kommission II

**National Report – Rapport national – Landesbericht
Poland**

**Legal forms for farm enterprises, taking into account traditional
and industrial farming – Les formes légales de l'exploitation
agricole, en tenant compte des entreprises traditionnelles et
industrielles – Rechtsformen des landwirtschaftlichen
Unternehmens, unter Berücksichtigung von traditionellen und
industriellen Betrieben**

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Commission II

Legal forms for farm enterprises, taking into account traditional
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Report for Poland

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Legal forms for farm enterprises, taking into account traditional and industrial farming

Question 1: Brief summary of the existing forms of cultivation with legal reference

Form	Legal references	Social object	Mainly used for..	The persons who are able to integrate the structure	Principal characteristics with reference to cultivation capital	Main duties for the cultivators
Individual Enterprise -	Article 23 of the Constitution of the Republic of Poland, the Act on the Shaping of Agricultural System of 11 April 2003 (Journal of laws DZ.U no. 64, item 592)	conducting an agricultural activity – the so-called production activity in agriculture as regards plant or animal production, including , horticulture, fruit and fish production	The most common form of organisation of Polish farms – used for conducting production activity on a small and medium-sized scale	Natural person, both adults and minors, single persons and married couples,	Numerous farms (approx. 1,800,000), usually small in terms of size, producing above all for self-supply, exceptionally for the market as well. Persons running farms live mostly on agricultural activity , non-agricultural activity, due to lack of capital and a relatively low level of education, is conducted by a few agricultural farms	<ul style="list-style-type: none"> - personal management of the farm - taking all decisions concerning the agricultural business activity - possessing agricultural qualifications - living in the municipality where one of the properties being a part of the agricultural farm is located
Civil partnerships	Article 860-875 of the Act of 23 April 1964 – the Civil Code	Attainment of a common economic objective by partners by acting in a specific manner and, in particular, by	An organisational form of agricultural farms occurring exceptionally rarely - originally it was intended for running family farms, small in size	Natural persons (adults and minors acting through statutory representatives) and legal	No legal capacity, joint and several personal liability of partners for partnership’s obligations. No requirements as to the capital amount, which in conditions of Polish agriculture makes it impossible to provide additional capital for the partnership. Partner’s	<ul style="list-style-type: none"> - obligation to manage affairs of the partnership: which is to be understood as activities of the material and production character (work on an agricultural farm) and of the decision-making and organisational character

		making contributions		persons as well as partnerships	work can be a contribution to the partnership. Low costs of incorporation.	<ul style="list-style-type: none"> - the right and obligation to represent the partnership - obligation of loyalty to the partnership - obligation to participate in losses
Partnerships	Act of 15 September 2000 the Code of Commercial Partnerships and Companies: art. 22-85 – registered partnership, art. 102 - 124 limited partnership	conducting an enterprise (business activity) under its own name	A legal form provided for larger agricultural farms operating as family enterprises and conducting not only production activity, but also non-agricultural activity: processing and commercial	Natural persons (adults and minors acting through statutory representatives) and legal persons as well as partnerships	No legal capacity. Possibilities of providing additional capital for the conducted activity by means of providing a share to partners contributing both a farm and work to the partnership as well as to partners contributing only capital, and the basic influence on the farm operations can be retained by the partners contributing the production unit into the partnership. Subsidiary liability of partners for partnership's obligations. Partner's work can be a contribution to the partnership. Relatively low costs of incorporation.	<ul style="list-style-type: none"> - obligation to make contributions - in the registered partnership an obligation to conduct affairs of the partnership, but a partnership deed may entrust one or several partners with conducting affairs of the partnership or several persons beyond the group of partners; in the limited partnership farmers do not have to conduct the affairs of the partnership at all - obligation of loyalty to the partnership - obligation to participate in the partnership's losses
Companies	Act of 15 September 2000 the Code of Commercial Partnerships and Companies: art. 151-300 – limited liability company, art. 301-490 – joint stock company	conducting business activity	A legal form used for the purpose of conducting traditional agricultural activity rarely – only large agricultural farms. Companies, in particular limited liability companies, are used in case of enterprises conducting processing and commercial activity.	As a rule all natural persons (adults and minors acting through statutory representatives) and legal persons as well as partnerships	They have legal capacity. Excluded personal liability of shareholders for company's obligations. Possibilities of acquiring additional capital used, however, by larger farms dealing with agricultural and food processing. Separation of owners' and management functions. Extended structure of authorities. Shareholder's work can be a contribution to the company. High	<ul style="list-style-type: none"> - obligation to make a contribution to cover shares - obligation to make additional payments and repeated non-financial performances - obligation to refrain from competitive activities Shareholders are not obliged to conduct the affairs of the company and represent it if they are not members of its authorities (management board)

					costs of incorporation.	
Agricultural production cooperatives	Act of 16 September 1982 – Cooperative Law	Conducting a common agricultural farm and activity in favour of all individual agricultural farms. Also other business activity.	A legal form of operating farms which is practically dead due to recollections from the previous system where cooperatives were used as a means of socialising rural relationships.	Members are natural persons - (they should be adult farmers who own or hold agricultural land) and legal persons	have legal capacity. Excluded personal liability of partners for cooperatives' obligations. Due to the fact that they gather mostly farmers running individual farms, there is a problem of providing appropriate capital for those entities. Separation of owners' and management functions. Relatively high costs of incorporation.	- obligation to make contributions (land, buildings, other) and shares - obligation to perform work for the cooperative for which the members get compensation
Association	Act of 7 April 1989 – Law on Associations	a voluntary, self-governed and lasting non-profit union of economic and social objectives	A legal form rarely used as an instrument of operating an agricultural enterprise in the form of a group of agricultural producers	Members are only natural persons – above all having a full legal capacity, in specific cases also minors with the consent from their legal guardians	As a rule they have legal capacity (except for the so-called ordinary associations). They can conduct an agricultural business activity, but the revenues from such business activity of the association are used to pursue statutory purposes and cannot be distributed among its members. Basically non-economic purposes of the association forejudge the poor chances to attract an appropriate capital.	- obligation to pay membership fees - community work obligation
Groups of agricultural producers	Act of 15 September 2000 on Agri-producer group and their unions and on changing other acts; Regulation of the Minister of	Adapting agricultural production to market purposes, improvement of management efficiency, production planning, supply	Preferred form of management aimed at improving effectiveness and productivity of production of a specific product listed in the Regulation of the Minister of Agriculture and Rural	Natural persons, organisational entities without legal capacity, legal persons – running an agricultural	Possess legal capacity. Possibilities of providing an additional capital conditioned upon the legal form of conducting activity selected by a given group of agricultural producers. On the other hand the producer groups take advantage of a substantial financial support, both	Obligations of group members as a rule depend on the legal form of conducting activity selected by a given producer group. Additional obligations are : - obligation to belong to one group in terms of a given product or product group,

	Agriculture of 4 July 2003 on the List of Products and Product Groups for which Producer Groups can be established ...	concentration, organisation of sale of agricultural products, protection of the natural environment	Development. However, in Poland its importance is practically non-existent.	farm or agricultural activity as regards special sections of agricultural production	from state funds and European funds (Agricultural Fund for Rural Development)	- obligation to sell by members of all products or product group through the intermediary of a group
Sole-shareholder company of the State Treasury or Companies of the Agricultural Property Agency	Act of 19 October 1991 on Managing Agricultural Properties Belonging to the State Treasury	Restructuring and privatisation of the State Treasury's property used for agricultural purposes	A legal form used to operate farms having special importance for the entire economy or for implementing biological progress as regards cultivable plant growing and farm animals.	Only the State Treasury or a state-owned legal person – the Agricultural Property Agency- can be a shareholder.	Sole-shareholder companies of the State Treasury are a special producer category which is the State Treasury conducting agricultural activity as a company. Companies of the Agricultural Property Agency can have both the personal and capital nature. The question of providing additional capital is specified in budget regulations and regulations concerning the exercise of the State Treasury's rights in relation to state-owned legal persons.	Obligations of farmers result from the contracts of employments signed with companies.

Question 2: Trends and numbers

Type of structures		2007	2002	1997
Individual cultivation (natural persons conducting economic activity)		57854	55794	n/a
Civil law partnerships		1451	1492	n/a
Partnerships	Registered partnership	158	68	10
	Limited partnership	13	4	3
Companies	Limited liability company	4108	3314	2511
	Joint stock company	72	65	51
Agricultural production cooperatives		3063	3352	3649
Associations		n/a	n/a	n/a
Groups of agricultural producers		424 ¹	n/a	n/a
Sole-shareholder companies of the State Treasury or Companies of the Agricultural Property Agency ²		41	37	34
State-owned enterprises		9	27	45

1 Data valid on 8.06.2009.

2 Sole-shareholder company of the State Treasury and companies of the Agricultural Property Agency are organised in the form of joint stock companies or limited liability companies.

The above data refers both to agriculture and hunting.

Source: *Statistical Yearbook of Poland 1997*, Central Statistical Office, 1997; *Statistical Yearbook of Poland 2002*, Central Statistical Office, 2002; *Statistical Yearbook of Poland 2007*, Central Statistical Office, 2007.

The area of Poland is 31267,9 thousand ha, of which agricultural land covers 19025 thousand ha (60,8 %). Quality of agricultural land by soil valuation classes (in thous. ha) is represented in the following table:

Soil valuation classes					
I	II	III	IV	V	VI
67,8 (0,36%)	536,4 (2,89%)	4201,9 (22,69%)	7402,9 (39,98%)	4197,2 (22,67%)	2114,9 (11,41%)

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

Farm by area groups of agricultural land (2007):

Total	With agricultural land area in ha									
	0-1	1-2	2-3	3-5	5-10	10-15	15-20	20-30	30-50	50 and more
In absolute numbers										
2579178	771134	422610	273779	340485	400152	166595	77597	65351	37372	24104
In percent										
100	29,9	16,4	10,6	13,2	15,5	6,5	3	2,5	1,5	0,9

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

Organic farms (2007):

Organic farms	
with certificate	in the period of transformation
6618	5252
137890,8 ha	149637,8 ha

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

The supply on agricultural land market is to some extent shaped by the fact that a limited number of agricultural property is state-owned. This land is fund in the resources of the State Treasury Agricultural Property, which is administered by the Agricultural Property Agency. Its activity includes incorporation of agricultural land into the resources of the State Treasury, as well as its redistribution. According to 2007 data, 2476 thousand ha are within

the resources, of which 1839 thousand ha are leased. In 2007, 5 thousand ha were incorporated, while 164 thousand ha – distributed: 104 thousand ha have been sold, and 60 thousand - ha transferred free of charge.

Question 3: Structure and activity or project of enterprise

Legal regulations concerning particular sectors of the Polish agricultural economy only to a small degree relate to organisational forms of entities operating as part of those sectors. This is caused by the decisive predominance in the structure of Polish agriculture of individual family farms operated by farmers - natural persons - as well as by the still traditional i.e. production character of those farms, only in exceptional cases directed at a modern model of farming activity assuming its multifunctionality and diversification of revenues. From that reason differentiation of entities operating as part of various sectors of agricultural economy finds its basis not in legal regulations, but in factual economic conditions. Some forms of the modernly understood agricultural activity require accumulation of appropriate capital. This applies, in particular, to processing of agricultural products and foodstuff, specialised trade of such products, export of traditional products and products of appropriate quality as well as ecological farming. Acquisition of a sufficient capital and creation of appropriate organisational conditions for conducting business activity in the aforementioned scope are provided only by various forms of cooperation between farmers, such as companies and partnerships, including those operating as groups of agricultural producer groups. On the other hand the off ground cultivation, of an experimental or specialised character, due to interests of the national economy, very often remains reserved for farms operated by companies owned by the State Treasury or other state-owned legal persons. Nevertheless, such specialised activity still remains on the margin of Polish agriculture.

On the other hand, some legal regulations indirectly encourage to conduct a given type of activity in a specific legal form. This is the case, for example, with agrotourism which, when conducted by farmers who are natural persons takes advantage of many cumbersome public law obligations resulting from the Act on the Freedom of Business Activity of 2 July 2004 and is exempted from income tax. While legal regulations concerning direct sales, though do not objectively differentiate their addressees, yet they require them to conduct business activity (enterprise), and this *ex definitione* is conducted by legal persons and commercial law companies operating in agriculture; in case of farmers –natural persons the

character of their activity will depend on circumstances of a specific case, because in the Polish conditions the activity often serves only to satisfy the farmer's and his family's needs.

Question 4: Structure and financing of the agricultural cultivation

Legal form		Social capital	Investments	Special rules of financing	Special rules of guarantee
Individual cultivation		Lack of initial capital or assets requirement.	Lack of legal restrictions as regards investments.	Agricultural producers may obtain subsidies directed in particular for investments in farms or reestablishment of agricultural production. There are three forms of financial aid: subsidies to bank credit with interest (investment or natural disaster loans); partial repayment of capital of the investment credit obtained from a bank; guarantees and securities for investment credits or natural disaster loans obtained from a bank. Credits can be obtained from resources of banks which signed adequate agreements with the Agency of Restructurisation and Modernisation of Agriculture (ARiMR).	Forms of financial aid for agricultural producers are: guarantees and securities for investment credits or natural disaster loans obtained from a bank. In case of investment credits guarantees and securities may be given for up to 80% (guarantee) or 60% (security) of the sum used from the obtained credit, but no more than 1 million PLN. As regards natural disaster loans, the limit is 80% of the sum used from the obtained credit, but no more than 100.000 PLN.
Civil law partnership		Partners are obliged to contribute; contribution may consist in either ownership of property (or other right in property) or services performed by the partner. Each partner thus acquires a share in the partnership's property (assets), however they are banned from disposing of his or her share in the entire property, as well as their respective shares in each single asset.			
Partnerships	Registered partnership	The partner's contribution may consist in the transfer of, or charge on, property (its ownership or other title), as well as charge thereon. It may also consist in work done or service performed for the partnership by its partner.	The partnership's assets encompass all property contributed initially Or acquired during the partnership's life.	As regards subsidies, the credit beneficiary pays half of the interest (not less than 2%), while ARiMR repays the remaining sum (although there are numerous exceptions). The total sum of financial aid in the form of subsidies and repayments for investment purposes, as a rule amounts to no more than 40% of the credit/loan granted, however in some cases the aid may suffice to discharge the entire debt.	Interest, bank provisions and other costs, including the cost of settling the debt with the bank may not be covered by guarantees and securities. Guarantees and securities are given for a stated period, i.e. for the term of the credit agreement extended by 30 days.
	Limited partnership	Partners are obliged to contribute, however the partner whose liability is limited (<i>komandytariusz</i>) can be freed of this duty.			
Companies	Limited liability company	Social capital must amount to 5.000 PLN or more; it is divided into equal or unequal shares of nominal value not less than 50 PLN. Work done or services performed MAY NOT constitute the object of contribution. Contributions covering full social capital are necessary for the company to come into existence.	The main investment restrictions are those forbidding acquisition of own shares.	Financial aid for reestablishment of agricultural production is dependent on the approval of the minister of Agriculture and Rural Development. Agricultural producers who possess the status of SME (small and medium enterprises) may apply for aid according to Appendix I to Commission Regulation 800/2006 of 6 August 2008.	Securities are awarded conditionally, i.e. the bank may advance a claim against ARiMR only after it hasn't been satisfied from the debtors assets or other
	Joint stock company	Social capital must equal or supersede 100.000 PLN; it is divided into shares of equal nominal value (not less than 0,01 PLN). Work done or services performed MAY NOT constitute the object of contribution.			

Agricultural production cooperative	<p>The cooperative statute may establish a duty to contribute land (if its member is a landowner) or to contribute financially. Contributed land is leased (<i>użytkowanie</i>) by the cooperative for a fee. A member who withdraws her or his land contribution receives the same parcel she or he had contributed, unless it would contravene the requirements of common farming.</p> <p>As down payment of the financial contribution the cooperative may accept production resources (such as livestock, fodder, technical appliances, machinery).</p>	<p>The cooperative's aim is collective farming and acting for the benefit of its members' individual farms. The cooperative may also conduct other economic activity, therefore investments are governed by general rules.</p>	<p>The main sources of cooperatives' property: shares paid for by cooperatives members, allocation of general income to members' shares, entrance fees, part of general income, assets obtained free of charge.</p> <p>Yearly income is divided by way of resolution passed at the general meeting.</p>	sureties.
Association	<p>The financial factor plays an important, though secondary role in the functioning of associations – that is why there are no statutory rules on minimal capital required for an association to come into existence.</p>	<p>The basic purpose of an association is to attain aims stated in its statute. Economic activity is not one of the aims, but makes possible the attainment thereof. Economic activity is not restricted by any specific rules, it is governed by general rules.</p>	<p>Members' fees, donations, inheritance, income from economic activity or association's assets or public charity.</p> <p>Associations may conduct economic activity, however the income may only serve purpose stated in the association's statute (it may not be divided among members).</p> <p>Associations may receive endowments, in particular from the state budget or local self-government entity budget.</p>	
Group of agricultural producers	<p>Rules applied are those applicable to the legal form in which a particular group of producers is organised.</p>		<p>Group of agricultural producers may enjoy special financial aid aimed at the market of fruit and vegetables.</p>	
Sole-shareholder company of the State Treasury or Company of the Agricultural Property Agency	<p>Rules applicable to capital companies are also applied here .</p>			

Investment credits with subsidies from Agency for Restructuring and Modernisation of Agriculture

Credit line	Number of credits				Amount of credits in thous. PLN			
	2004	2005	2006	2007	2004	2005	2006	2007
For implementation of investment projects in agriculture, agrifood processing and services for agriculture by the agricultural producer groups established on the basis of the Act of 15 IX 2000 on groups of agricultural producers and associations thereof, and amending other acts (GP)	10	7	5	5	3668,6	5070,5	3167	1382,1
For purchase of agricultural estate properties designated for setting up and equipment of family farms under the Act of 11 IV 2003 on the shaping of	398	469	501	455	38681	53363,5	74955,2	85821,6

agricultural system (GR)								
For implementation of investment projects in agriculture, agricultural processing and services for agriculture (IP)	4814	4598	5173	4248	355819,4	319376,3	455869,9	474186,3
For restarting of production in farms and special sectors of agricultural production in areas affected by: drought, hailstorm, excessive precipitations, flood, hurricane, fire, plague of rodent or landslides (KL)	35	21	103	167	792,2	1112,8	1871	3298,2
For purchase of agricultural land (KZ)	6077	6267	6377	5227	254397,2	332452,4	460060,8	497499,5
For investment projects creating new permanent jobs in the non-agricultural activities sectors and guaranteeing employment of rural population in rural and urban-rural comuns, and in towns with population of up to 20 thous. inhabitants	85	n/a	n/a	n/a	7616,2	n/a	n/a	n/a
For setting up and equipment of agricultural holdings by persons below 40 years of age (MR)	7659	8365	9933	10616	883347	1064760,4	1421152,9	1625844,3
For implementation of investment projects introducing new production technologies in agriculture, including production of raw-materials for bioethanol and biocomponents, and aimed at ensuring high quality of product or adjustment of animal production to the sanitary requirements, environmental protection and animal welfare standards (NT)	336	635	1149	1861	109373,4	185998,5	320232	489808,4
Under the "Sectoral programme for shared use of agricultural machines and equipment" (BR/10)	74	56	63	24	17271,5	19624,9	20421,1	13014,3
For implementation of investment projects under the "Sectoral programme for fisheries development in Poland 2000—2006" (BR/12)	5	n/a	n/a	n/a	1022,7	n/a	n/a	n/a
Under the "Sectoral programme for restructuring of the production of potatoes for starch" (BR/13)	3	n/a	n/a	n/a	9587	n/a	n/a	n/a
Under the "Programme of support for restructuring and modernisation of the meat and egg processing industry in Poland" (BR/14)	144	48	53	24	128475,9	37391,5	44768,7	23776,4
Under the "Sectoral dairy programme" (BR/15)	807	619	437	244	98047,3	95633,7	106231,1	47754,1
Under the "Sectoral programme of support for restructuring and modernisation of the waste treatment and disposal industry in Poland" (BR/16)	n/a	1	2	1	n/a	644,1	380	5100
For setting up and equipment of agricultural holdings under the programme for agricultural settlement on land owned by the State Treasury, as accepted by the Minister of Agriculture and Food Economy and the Minister of Finance (OR)	n/a	n/a	2	1	n/a	n/a	1336,5	337

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

Question 5: Structure and management of enterprise

According to article 6.2 of the Act on the Shaping of Agricultural System of 11 April 2003 an individual farmer running a family farm should take all decisions concerning business activity conducted on that farm. In this way, according to the legislator's will, management and control functions are merged in the person conducting an individual farm, which is demonstrated by the fact that the individual farmer should individually decide about all matters important for that farm. Thus, despite the declared will to given individual farms in Poland a family character, a regulation was introduced formally preventing members of the farmer's family from having an influence on operation of such farms.

In agricultural farms conducted by civil partnerships and partnerships, according to the provisions of the Code of Commercial Partnerships and Companies, as a rule, all farmers have the right and obligation to conduct the affairs of the partnership and represent it. This regulation, therefore, offers the partners a real influence on the partnership's affairs by offering possibilities of taking specific decisions concerning its activities and managing it. A partnership deed can, however, modify the rights by differentiating specific rights of specific partners, including exclusion of some partners from conducting the affairs of the partnership or representing it, or even entrusting persons outside the partnership with those rights. The situation is a bit different only in the case of limited partnerships where, by virtue of law, the affairs of the partnership are conducted and interests represented by general partners, usually with passive behaviour of the other category of partners i.e. limited partners.

The essence of companies is structural separation of capital and current management which, as a consequence, should lead to the impossibility of authoritative influence of shareholders on current management. The latter exercise their control rights as part of shareholders' meetings or general assemblies. Nevertheless, the provisions of the Code of Commercial Partnerships and Companies do not prevent the shareholders from being members of company's management boards and such a situation exists in companies operating agricultural farms, where the active participation of shareholders both in management and in works on the farm should be a rule.

The principle according to which the number of shares held by a given shareholder decides about his property and corporate rights, including, above all, the power of his vote at shareholders' meetings finds application to companies running farms. There is an exception to this rule in the case of companies operating as groups of agricultural producers in relation to which the principle is binding that none of members of the group is allowed to hold more than 20% of votes at a shareholders' meeting. The cited rule has no exception in the case of sole-

shareholder companies of the State Treasury or Companies of the Agricultural Property Agency, where all decisions have been reserved for the aforementioned public law entities – as the sole shareholders of those companies. Management usually has a professional nature, while persons working on the farm directly in agricultural production are employed on the basis of contracts of employment.

The rule of equality of votes is regulated by the Cooperative Law in relation to the agricultural production cooperative, where all members, regardless of the number of shares held, have one vote at the cooperative general meeting being its supreme body. However, the operations of the cooperative are managed by the management board whose members can also come from outside the group of cooperative members, therefore persons not directly working on the farm, but professionally performing managerial functions.

Question 6: Form and responsibility

Legal form	Civil liability	Criminal responsibility
Individual cultivation	Individual farmer's liability extends to his or her entire property.	N/a
Civil law partnership	Civil law partnership has no legal personality, therefore all partners bear joint liability for breach of obligations of the partnership.	N/a
Partnerships	As a rule, the partnership is liable for breach of its obligations jointly with the partners with their entire property, however partners' liability is subsidiary, i.e. only after the creditor could not be satisfied from the partnership's poverty (execution was unsuccessful). One exception refers to a person whose liability is limited (<i>commanditary, komandytariusz</i>) in limited partnerships and whose liability is limited to the amount of the commandite sum; the commanditary is relieved from this liability if his paid contribution amounts to, or exceeds, the commandite sum.	Members of the management board, supervisory board, revision commission or the liquidator who act at partnership's detriment are subject to up to 5 years of imprisonment and a fine. Criminal responsibility threatens also – among others – for omission to file a liquidation motion.
Companies	Only the company is liable for breach of its obligations; shareholders are not liable. However, should execution against the company prove ineffective, members of the management board are jointly liable. Members of the management board, supervisory board, revision commission or the liquidator are liable towards the company for damage caused by action against the law or company's articles of association (statute). Furthermore, members of the management board are generally jointly liable with their entire property for tax arrears if execution from the company's assets is ineffective.	
Agricultural production cooperative	Cooperative's liability extends to its entire property.	Members of the management board, supervisory board, revision commission or the liquidator who act at cooperative's detriment are subject to up to 5 years of imprisonment and a fine.
Association	Being a moral person, association assumes obligations in its own name and on its own account and is liable for breach of its obligations with all assets. Associations are supervised by prefects of districts (<i>starosta</i>), who can demand clarifications and certified	N/a

	copies of general meeting's resolutions. If association's activity is illegal or against its statute (e.g. as regards fundraising), the prefect may even ask the court to dissolve the association.	
Group of agricultural producers	Statutory law provides that groups of agricultural producers conduct activity as an entrepreneur being a moral person, such a group does not constitute an autonomous legal form. It means that its founders should chose a legal form for the group they are creating, from the following forms: limited liability company, joint stock company, association, union (Act of 8 October 1982 r. on socio-professional farmers' organisations) or cooperative. In consequence, the rules and limits on liability depend on the chosen legal form. There is, however, a general rule of civil liability of the group for breach of its obligations.	
Sole-shareholder companies of the State Treasury or Companies of the Agricultural Property Agency	These companies operate in the form of capital companies, therefore respective rules governing them are applied. They are liable with all their assets, however from economic point of view the liability is borne by the State Treasury.	

An exception from the principle of personal liability provided for in the civil code refers to transfer of a farm. The buyer is in this case liable jointly with the seller for obligations related to managing that farm. The purchaser may, however, free him or herself of this liability by demonstrating that, at the moment of purchase, he or she did not know of existing obligations despite his or her due diligence. The buyer's liability extends to all his personal property, i.e. creditors may discharge the debt from all his or her assets, including the farm itself or its components. The limit, however, is established by the value of the acquired farm (*pro viribus patrimonii*); which is determined according to the state of the farm on the day of acquisition and prices on the day of debt settlement.

A specific solution refers to contracts for supply of agricultural products (*kontraktacja*). Rights and obligations arising from this contract are transferred onto a person who acquired possession of the farm. Thus, the new possessor is liable for obligations arising from the abovementioned contract, not the previous one.

Apart from cases shown in the table, criminal responsibility is assumed by all persons who are obliged to administer financial matters or economic activity of a physical or moral person and who inflicts significant economic damage through abuse of rights or non-compliance with duties (e.g. the offence of abuse of trust). This will apply in particular to legal agents (*pełnomocnik*), authorised agents (*prokurent*), trustee (*kurator*), liquidator, bankruptcy trustee (*syndyk*).

Question 7: Form and taxation

- **Agricultural tax**

The basic tax encumbering Polish agriculture is an agricultural tax regulated by the provisions of the Act on Agricultural Tax of 15 November 1984. The tax obligation concerning this tax rests upon natural persons, legal persons and organisational entities without legal capacity which are owners or autonomous possessors of lands classified in the register of lands and buildings as agricultural land or tree-covered land and tree-covered agricultural land. Thus the legal character of the entity holding agricultural land has no impact on the amount of the agricultural tax burdens, which results in the fact that the situation of a farmer running an individual farm is identical to the agricultural farm organised as a partnership/company or run by another organisational entity.

- **Income tax**

In Poland revenues of natural persons and members (partners) of organisational entities without legal capacity (e.g. partnerships) are subject to natural person income tax regulated by the Act of 26 July 1991. While the corporate income tax, regulated by the Act of 15 February 1992, encumbers the revenues of legal persons. The both mentioned normative acts exclude, however, from taxation revenues of natural persons and legal persons generated from agricultural activity, whose definition is included in art. 2.2 of both Acts. Thereby, revenues generated from conducting agricultural activity are not subject to income tax in Poland regardless of the legal form in which this activity is conducted. On the other hand taxable by income tax are revenues obtained from the so-called special sections of agricultural production and non-agricultural activity e.g. processing or commercial activity. In this respect the Act on Corporate Income Tax introduces a significant exception, under certain circumstances, exempting from this tax revenues of legal persons from non-agricultural activity in the part used for agricultural activity. Such a regulation is, however, missing in the Act on Personal Income Tax. The latter act, however, covers by the definition of agricultural activity also sales of plant and animal products coming from own cultivation and growing and thereby it exempts from taxation revenues obtained by individual farmers.

Operation of an agricultural farm in the form of entities having legal capacity (e.g. companies) is unfavourable in Poland so far as that although the company conducting agricultural activity itself is not a payer of income tax, its shareholders' revenues from the company are taxed. The situation is a bit different in the event of agricultural production

cooperatives whose members do not pay income tax on revenues generated from agricultural activity.

- **Goods and Services Tax (VAT)**

The Act on Goods and Services Tax of 8 January 1993 which introduced the tax in Poland did not cover farmers, while sale of agricultural products was exempted from tax. At the moment the binding Act on Goods and Services Tax of 11 March 2004 divides entities conducting agricultural activity into two groups:

- 1) the so-called lump-sum tax farmers who are not VAT payers and exempted from many obligations such as issuance of invoices documenting sales, keeping records of purchases and sales of goods, filing tax returns, submitting registration forms for the VAT purposes, which farmers are however entitled to a lump-sum return of tax on acquisition of production assets for agriculture taxed with VAT. This form of taxation, however, can be used only by farmers operating individual farms and partners of civil partnerships and partnerships who do not exceed the revenue limits which impose, according to the accounting regulations, an obligation to keep complete books (Euro 800,000.00).
- 2) farmers paying VAT tax on general rules, who are registered payers of the tax, therefore possessing additional accounting and book keeping obligations. This group includes legal persons operating agricultural farms, companies above all, and partners of partnerships exceeding the aforementioned revenue threshold imposing an obligation to keep books.

- **Tax on Civil Law Transactions and Tax on Inheritance and Donations**

These taxes are regulated respectively by the Act on Tax on Inheritance and Donations of 28 July 1983 and the Act on Tax on Civil Law Transactions of 9 September 2000. The both listed acts contain significant regulations making it possible to accept that trade of properties being parts of agricultural property, both *inter vivos* and *mortis causa*, against payment and gratuitously, was in a considerable scope exempted from tax law obligations in the Polish tax law system.

Article 4.1 of the Act on Inheritance and Donations exempts from that tax the acquisition of the ownership right or perpetual usufruct right of a real property or a part thereof with components thereof providing, according to the agricultural tax provisions, at the moment of acquisition the property was an agricultural farm or a part thereof or will be a part of an agricultural farm owned by the buyer and that agricultural farm will be operated by the buyer for a period of at least 5 years following the acquisition day.

While according to article 9.2 of the Act on Tax on Civil Law Transactions exempted from that tax are the transfer of ownership of properties or parts thereof together with component parts thereof, except for residential buildings and parts thereof located within cities by means of the following contracts: sale, annuity, division of the estate, dissolution of co-ownership, donation, exchange, providing that in the meaning of the agricultural tax provisions the moment of the transaction the acquired lands constituted an agricultural farm or will create a farm or will be a part of an agricultural farm owned by the buyer.

In the both aforementioned legal acts the Polish legislator provides for specific exemptions and reliefs for the entire agricultural sector, does not give them, however, the objective character, which results in the fact that selection of a specific legal form of operating an agricultural farm will have no significance for being taxed with those taxes. On the other hand, however, commencing agricultural activity in the form of a partnership/company is connected with the necessity of paying additional costs due to the fact that also the company deed is taxed with the tax on civil law transactions, the taxation base being the value of contributions made to the partnership' assets or the value of share capital (in case of companies) while the tax rate is 0.5% of the tax base.

Question 8: Form and social protection

As regards social insurance regulations one can clearly see the impact of the form in which agricultural activity is conducted on social welfare the farmers can take advantage of. The rule is that farmers in Poland are subject to social insurance on the basis of the Act on Social Insurance for Farmers of 20 December 2000, creating a separate system of agricultural insurance. However, the said legal act defines a "farmer" only as an adult natural person, residing and conducting agricultural activity personally and on own account in the territory of the Republic of Poland on the agricultural farm held in their possession. Additionally, the scope of the agricultural insurance covers also "family members" of the farmer, i.e. relatives of the farmer, who are over 16 years of age, live together with the farmer in the common household, or live on the premises of their agricultural farm and permanently work on the farm and are not bound with an employment relationship. The same agricultural social insurance covers in Poland farmers-natural persons operating individual farms on own account and members of the farmer's family having the household member status, i.e. those who are not bound by the employment relationship. Partners of partnerships and shareholders of companies as well as all persons employed on farms on the basis of employment contracts are subject to general employees' insurance provided for in the Act on the Social Insurance

System of 13 October 1998. Compared to the general employees' insurance, agricultural insurance is many times lower due to the fact that it is independent of the revenues generated by the insured, while in the case of employees' insurance its amount depends directly on received remuneration. Considerably lower is also the amount of contributions for agricultural pension, accident and sickness insurance. Finally, allowances received as part of the employees' insurance are subject to natural persons' income tax on general rules.

Question 9: Forms and structures

Polish law does not foresee a legal structure, which combines different legal forms of enterprises. Companies and partnerships are designed for different economic activities under one firm/in one establishment, however it is also possible for physical persons or e.g. cooperatives.

As regards strictly transmission of agricultural cultivations, the institution of a farm is designed for it. A farm is understood as an agricultural area, including forest land, buildings or their parts, equipment and stock if they constitute or may constitute an organised economic unit as well as rights related to/connected with running the farm. From the above definition it follows that transfer of a farm consists in transfer of assets which constitute the farm, but the aim remains that the buyer finds him or herself in the legal position of the seller, i.e. that he or she can continue with the same kind of agricultural activity. Transfer of a farm/ agricultural cultivations can be performed through contracts for sale, exchange, donation, lease etc.

From an economic point of view, transfer of agricultural cultivations conducted by a commercial company happen through its acquisition, taking over or merger. In that case, from a legal point of view it is not the activity but the shares which are subject to transfer.

According to statistical data the majority of farms are organized in the form of individual cultivation (ok. 86%), whereas following most frequent legal form of this type of activity are limited liability company (ok. 6%) and agricultural production cooperative (ok. 4,5%). From among these legal forms it is a limited liability company which constitutes an interesting tool for farmers who want to extend and develop their activity. The main advantages of that company are: availability, i.e. relatively low sum of initial capital required; minimum risk of failure since the shareholder's risk is limited to their respective contributions (which may encourage to increase engagement of capital); significant influence of

shareholders on company functioning; the possibility to restrict transfer of shares; compliance with insolvency law which offers further safety for creditors (in comparison with individual cultivation); uncomplicated procedure of admitting new shareholders.

Rural tourism in Poland remains particularly a domain of individual farmer' activity. Over $\frac{3}{4}$ of rural tourism farms are those of small area (up to 10 ha), whereas touristic activity is always an addition to agricultural activity. For reasons stated above, the legal form of a limited liability company would be an optimal solution for those farms offering rural tourism which generate more income (100 ESU and more).

Number of rural tourism farms according to area groups of agricultural land

Total	Area groups of agricultural land in ha										
	0-1	1-2	2-3	3-5	5-10	10-15	15-20	20-30	30-50	50-100	100 and more
10182	1701	1806	912	1653	1756	777	465	428	354	194	134

Source: Characteristics of agricultural holdings in 2007. Central Statistical Office, 2008.

Number of rural tourism farms according to economic size classes

Total	Economic size classes in ESU									
	0-2	2-4	4-6	6-8	8-12	12-16	16-40	40-100	100-250	250 and more
10182	6768	1476	588	253	450	203	288	104	26	25

Source: Characteristics of agricultural holdings in 2007. Central Statistical Office, 2008.

Summary

Individual cultivation is the predominant form of agricultural activity in Poland. Such state of matters results from significant disintegration of land, as more than 85,6% of farms don't exceed the area of 10 ha each. In the nearest future there are no perspectives of correction of Poland's areal structure, because the Act on the Shaping of Agricultural System only to a small extent diminishes the shortcomings of the system in this respect.

Two legal forms are dedicated for strictly agricultural activity: the agricultural production co-operative and the group of agricultural producers. The interest in the former continually drops: at the end of 2008 in the sector of agriculture, forestry and hunting 2829 were active which means a decrease by 236 in comparison with the former year; whereas a number of members of agricultural production co-operatives dropped from 23,2 thousand in

2000 r. to 13,9 thousand in 2007. The reasons for unwillingness to organize in cooperatives lies within historical experiences, on the one hand, and the risk of loss of the contributed land, on the other.

Current hopes for development of cooperatives in agriculture are placed in groups of agricultural producers. This form of agricultural activity was introduced into the Polish legal system in 2000, however its popularity seems relatively high as in 2008 the number of such groups doubled. Financial preferences are the impulse for creation of agricultural producers' groups – the are entitled to financial aid from the national budget. Impulsem do powstawania kolejnych grup są preferencje finansowe, gdyż grupy mogą liczyć na zyczną pomoc z budżetu państwa. The effectiveness of using public funds is evident from the fact that agricultural producers' groups have benefitted from 90,6% of the total limit of funds within the Rural Development Plan 2004-2006.

The remaining legal forms, i.e. partnerships, companies and associations are applicable to all forms of economic activity, not only agricultural. Bearing in mind that from the legal point of view groups of agricultural producers operate as cooperatives, limited liability companies or associations, the sole organized form of cooperation designed for farmers is the agricultural production co-operative (being itself a kind of cooperative). This fact points at an urgent need to introduce modern legal solutions for agriculture which would enable farmers, especially small and medium ones, to participate in the market and, at the same time, simplify procedures and minimize formalities.

Commission II

Legal forms for farm enterprises, taking into account traditional and industrial farming

Question 1: Brief summary of the existing forms of cultivation with legal reference

Form	Legal references	Social object	Mainly used for..	The persons who are able to integrate the structure	Principal characteristics with reference to cultivation capital	Main duties for the cultivators
Individual Enterprise -	Article 23 of the Constitution of the Republic of Poland, the Act on the Shaping of Agricultural System of 11 April 2003 (Journal of laws DZ.U no. 64, item 592)	conducting an agricultural activity – the so-called production activity in agriculture as regards plant or animal production, including , horticulture, fruit and fish production	The most common form of organisation of Polish farms – used for conducting production activity on a small and medium-sized scale	Natural person, both adults and minors, single persons and married couples,	Numerous farms (approx. 1,800,000), usually small in terms of size, producing above all for self-supply, exceptionally for the market as well. Persons running farms live mostly on agricultural activity , non-agricultural activity, due to lack of capital and a relatively low level of education, is conducted by a few agricultural farms	<ul style="list-style-type: none"> - personal management of the farm - taking all decisions concerning the agricultural business activity - possessing agricultural qualifications - living in the municipality where one of the properties being a part of the agricultural farm is located
Civil partnerships	Article 860-875 of the Act of 23 April 1964 – the Civil Code	Attainment of a common economic objective by partners by acting in a specific manner and, in particular, by	An organisational form of agricultural farms occurring exceptionally rarely - originally it was intended for running family farms, small in size	Natural persons (adults and minors acting through statutory representatives) and legal	No legal capacity, joint and several personal liability of partners for partnership’s obligations. No requirements as to the capital amount, which in conditions of Polish agriculture makes it impossible to provide additional capital for the partnership. Partner’s	<ul style="list-style-type: none"> - obligation to manage affairs of the partnership: which is to be understood as activities of the material and production character (work on an agricultural farm) and of the decision-making and organisational character

		making contributions		persons as well as partnerships	work can be a contribution to the partnership. Low costs of incorporation.	<ul style="list-style-type: none"> - the right and obligation to represent the partnership - obligation of loyalty to the partnership - obligation to participate in losses
Partnerships	Act of 15 September 2000 the Code of Commercial Partnerships and Companies: art. 22-85 – registered partnership, art. 102 - 124 limited partnership	conducting an enterprise (business activity) under its own name	A legal form provided for larger agricultural farms operating as family enterprises and conducting not only production activity, but also non-agricultural activity: processing and commercial	Natural persons (adults and minors acting through statutory representatives) and legal persons as well as partnerships	No legal capacity. Possibilities of providing additional capital for the conducted activity by means of providing a share to partners contributing both a farm and work to the partnership as well as to partners contributing only capital, and the basic influence on the farm operations can be retained by the partners contributing the production unit into the partnership. Subsidiary liability of partners for partnership's obligations. Partner's work can be a contribution to the partnership. Relatively low costs of incorporation.	<ul style="list-style-type: none"> - obligation to make contributions - in the registered partnership an obligation to conduct affairs of the partnership, but a partnership deed may entrust one or several partners with conducting affairs of the partnership or several persons beyond the group of partners; in the limited partnership farmers do not have to conduct the affairs of the partnership at all - obligation of loyalty to the partnership - obligation to participate in the partnership's losses
Companies	Act of 15 September 2000 the Code of Commercial Partnerships and Companies: art. 151-300 – limited liability company, art. 301-490 – joint stock company	conducting business activity	A legal form used for the purpose of conducting traditional agricultural activity rarely – only large agricultural farms. Companies, in particular limited liability companies, are used in case of enterprises conducting processing and commercial activity.	As a rule all natural persons (adults and minors acting through statutory representatives) and legal persons as well as partnerships	They have legal capacity. Excluded personal liability of shareholders for company's obligations. Possibilities of acquiring additional capital used, however, by larger farms dealing with agricultural and food processing. Separation of owners' and management functions. Extended structure of authorities. Shareholder's work can be a contribution to the company. High	<ul style="list-style-type: none"> - obligation to make a contribution to cover shares - obligation to make additional payments and repeated non-financial performances - obligation to refrain from competitive activities Shareholders are not obliged to conduct the affairs of the company and represent it if they are not members of its authorities (management board)

					costs of incorporation.	
Agricultural production cooperatives	Act of 16 September 1982 – Cooperative Law	Conducting a common agricultural farm and activity in favour of all individual agricultural farms. Also other business activity.	A legal form of operating farms which is practically dead due to recollections from the previous system where cooperatives were used as a means of socialising rural relationships.	Members are natural persons - (they should be adult farmers who own or hold agricultural land) and legal persons	have legal capacity. Excluded personal liability of partners for cooperatives' obligations. Due to the fact that they gather mostly farmers running individual farms, there is a problem of providing appropriate capital for those entities. Separation of owners' and management functions. Relatively high costs of incorporation.	- obligation to make contributions (land, buildings, other) and shares - obligation to perform work for the cooperative for which the members get compensation
Association	Act of 7 April 1989 – Law on Associations	a voluntary, self-governed and lasting non-profit union of economic and social objectives	A legal form rarely used as an instrument of operating an agricultural enterprise in the form of a group of agricultural producers	Members are only natural persons – above all having a full legal capacity, in specific cases also minors with the consent from their legal guardians	As a rule they have legal capacity (except for the so-called ordinary associations). They can conduct an agricultural business activity, but the revenues from such business activity of the association are used to pursue statutory purposes and cannot be distributed among its members. Basically non-economic purposes of the association forejudge the poor chances to attract an appropriate capital.	- obligation to pay membership fees - community work obligation
Groups of agricultural producers	Act of 15 September 2000 on Agri-producer group and their unions and on changing other acts; Regulation of the Minister of	Adapting agricultural production to market purposes, improvement of management efficiency, production planning, supply	Preferred form of management aimed at improving effectiveness and productivity of production of a specific product listed in the Regulation of the Minister of Agriculture and Rural	Natural persons, organisational entities without legal capacity, legal persons – running an agricultural	Possess legal capacity. Possibilities of providing an additional capital conditioned upon the legal form of conducting activity selected by a given group of agricultural producers. On the other hand the producer groups take advantage of a substantial financial support, both	Obligations of group members as a rule depend on the legal form of conducting activity selected by a given producer group. Additional obligations are : - obligation to belong to one group in terms of a given product or product group,

	Agriculture of 4 July 2003 on the List of Products and Product Groups for which Producer Groups can be established ...	concentration, organisation of sale of agricultural products, protection of the natural environment	Development. However, in Poland its importance is practically non-existent.	farm or agricultural activity as regards special sections of agricultural production	from state funds and European funds (Agricultural Fund for Rural Development)	- obligation to sell by members of all products or product group through the intermediary of a group
Sole-shareholder company of the State Treasury or Companies of the Agricultural Property Agency	Act of 19 October 1991 on Managing Agricultural Properties Belonging to the State Treasury	Restructuring and privatisation of the State Treasury's property used for agricultural purposes	A legal form used to operate farms having special importance for the entire economy or for implementing biological progress as regards cultivable plant growing and farm animals.	Only the State Treasury or a state-owned legal person – the Agricultural Property Agency- can be a shareholder.	Sole-shareholder companies of the State Treasury are a special producer category which is the State Treasury conducting agricultural activity as a company. Companies of the Agricultural Property Agency can have both the personal and capital nature. The question of providing additional capital is specified in budget regulations and regulations concerning the exercise of the State Treasury's rights in relation to state-owned legal persons.	Obligations of farmers result from the contracts of employments signed with companies.

Question 2: Trends and numbers

Type of structures		2007	2002	1997
Individual cultivation (natural persons conducting economic activity)		57854	55794	n/a
Civil law partnerships		1451	1492	n/a
Partnerships	Registered partnership	158	68	10
	Limited partnership	13	4	3
Companies	Limited liability company	4108	3314	2511
	Joint stock company	72	65	51
Agricultural production cooperatives		3063	3352	3649
Associations		n/a	n/a	n/a
Groups of agricultural producers		424 ¹	n/a	n/a
Sole-shareholder companies of the State Treasury or Companies of the Agricultural Property Agency ²		41	37	34
State-owned enterprises		9	27	45

1 Data valid on 8.06.2009.

2 Sole-shareholder company of the State Treasury and companies of the Agricultural Property Agency are organised in the form of joint stock companies or limited liability companies.

The above data refers both to agriculture and hunting.

Source: *Statistical Yearbook of Poland 1997*, Central Statistical Office, 1997; *Statistical Yearbook of Poland 2002*, Central Statistical Office, 2002; *Statistical Yearbook of Poland 2007*, Central Statistical Office, 2007.

The area of Poland is 31267,9 thousand ha, of which agricultural land covers 19025 thousand ha (60,8 %). Quality of agricultural land by soil valuation classes (in thous. ha) is represented in the following table:

Soil valuation classes					
I	II	III	IV	V	VI
67,8 (0,36%)	536,4 (2,89%)	4201,9 (22,69%)	7402,9 (39,98%)	4197,2 (22,67%)	2114,9 (11,41%)

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

Farm by area groups of agricultural land (2007):

Total	With agricultural land area in ha									
	0-1	1-2	2-3	3-5	5-10	10-15	15-20	20-30	30-50	50 and more
In absolute numbers										
2579178	771134	422610	273779	340485	400152	166595	77597	65351	37372	24104
In percent										
100	29,9	16,4	10,6	13,2	15,5	6,5	3	2,5	1,5	0,9

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

Organic farms (2007):

Organic farms	
with certificate	in the period of transformation
6618	5252
137890,8 ha	149637,8 ha

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

The supply on agricultural land market is to some extent shaped by the fact that a limited number of agricultural property is state-owned. This land is fund in the resources of the State Treasury Agricultural Property, which is administered by the Agricultural Property Agency. Its activity includes incorporation of agricultural land into the resources of the State Treasury, as well as its redistribution. According to 2007 data, 2476 thousand ha are within

the resources, of which 1839 thousand ha are leased. In 2007, 5 thousand ha were incorporated, while 164 thousand ha – distributed: 104 thousand ha have been sold, and 60 thousand - ha transferred free of charge.

Question 3: Structure and activity or project of enterprise

Legal regulations concerning particular sectors of the Polish agricultural economy only to a small degree relate to organisational forms of entities operating as part of those sectors. This is caused by the decisive predominance in the structure of Polish agriculture of individual family farms operated by farmers - natural persons - as well as by the still traditional i.e. production character of those farms, only in exceptional cases directed at a modern model of farming activity assuming its multifunctionality and diversification of revenues. From that reason differentiation of entities operating as part of various sectors of agricultural economy finds its basis not in legal regulations, but in factual economic conditions. Some forms of the modernly understood agricultural activity require accumulation of appropriate capital. This applies, in particular, to processing of agricultural products and foodstuff, specialised trade of such products, export of traditional products and products of appropriate quality as well as ecological farming. Acquisition of a sufficient capital and creation of appropriate organisational conditions for conducting business activity in the aforementioned scope are provided only by various forms of cooperation between farmers, such as companies and partnerships, including those operating as groups of agricultural producer groups. On the other hand the off ground cultivation, of an experimental or specialised character, due to interests of the national economy, very often remains reserved for farms operated by companies owned by the State Treasury or other state-owned legal persons. Nevertheless, such specialised activity still remains on the margin of Polish agriculture.

On the other hand, some legal regulations indirectly encourage to conduct a given type of activity in a specific legal form. This is the case, for example, with agrotourism which, when conducted by farmers who are natural persons takes advantage of many cumbersome public law obligations resulting from the Act on the Freedom of Business Activity of 2 July 2004 and is exempted from income tax. While legal regulations concerning direct sales, though do not objectively differentiate their addressees, yet they require them to conduct business activity (enterprise), and this *ex definitione* is conducted by legal persons and commercial law companies operating in agriculture; in case of farmers –natural persons the

character of their activity will depend on circumstances of a specific case, because in the Polish conditions the activity often serves only to satisfy the farmer's and his family's needs.

Question 4: Structure and financing of the agricultural cultivation

Legal form		Social capital	Investments	Special rules of financing	Special rules of guarantee
Individual cultivation		Lack of initial capital or assets requirement.	Lack of legal restrictions as regards investments.	Agricultural producers may obtain subsidies directed in particular for investments in farms or reestablishment of agricultural production. There are three forms of financial aid: subsidies to bank credit with interest (investment or natural disaster loans); partial repayment of capital of the investment credit obtained from a bank; guarantees and securities for investment credits or natural disaster loans obtained from a bank. Credits can be obtained from resources of banks which signed adequate agreements with the Agency of Restructurisation and Modernisation of Agriculture (ARiMR).	Forms of financial aid for agricultural producers are: guarantees and securities for investment credits or natural disaster loans obtained from a bank. In case of investment credits guarantees and securities may be given for up to 80% (guarantee) or 60% (security) of the sum used from the obtained credit, but no more than 1 million PLN. As regards natural disaster loans, the limit is 80% of the sum used from the obtained credit, but no more than 100.000 PLN.
Civil law partnership		Partners are obliged to contribute; contribution may consist in either ownership of property (or other right in property) or services performed by the partner. Each partner thus acquires a share in the partnership's property (assets), however they are banned from disposing of his or her share in the entire property, as well as their respective shares in each single asset.			
Partnerships	Registered partnership	The partner's contribution may consist in the transfer of, or charge on, property (its ownership or other title), as well as charge thereon. It may also consist in work done or service performed for the partnership by its partner.	The partnership's assets encompass all property contributed initially Or acquired Turing the partnership's life.	As regards subsidies, the credittee pays half of the interest (not less than 2%), while ARiMR repays the remaining sum (although there are numerous exceptions). The total sum of financial aid in the form of subsidies and repayments for investment purposes, as a rule amounts to no more than 40% of the credit/loan granted, however in some cases the aid may suffice to discharge the entire debt.	Interest, bank provisions and other costs, including the cost of settling the debt with the bank may not be covered by guarantees and securities. Guarantees and securities are given for a stated period, i.e. for the term of the credit agreement extended by 30 days.
	Limited partnership	Partners are obliged to contribute, however the partner whose liability is limited (<i>komandytariusz</i>) can be freed of this duty.			
Companies	Limited liability company	Social capital must amount to 5.000 PLN or more; its divided into equal or unequal shares of nominal value not less than 50 PLN. Work done or services performed MAY NOT constitute the object of contribution. Contributions covering full social capital are necessary for the company to come into existence.	The main investment restrictions are those forbidding acquisition of own shares.	Financial aid for reestablishment of agricultural production is dependent on the approval of the minister of Agriculture and Rural Development. Agricultural producers who possess the status of SME (small and medium enterprises) may apply for aid according to Appendix I to Commission Regulation 800/2006 of 6 August 2008.	Securities are awarded conditionally, i.e. the bank may advance a claim against ARiMR only after it hasn't been satisfied from the debtors assets or other
	Joint stock company	Social capital must equal or supersede 100.000 PLN; it is divided into shares of equal nominal value (not less than 0,01 PLN). Work done or services performed MAY NOT constitute the object of contribution.			

Agricultural production cooperative	<p>The cooperative statute may establish a duty to contribute land (if its member is a landowner) or to contribute financially. Contributed land is leased (<i>użytkowanie</i>) by the cooperative for a fee. A member who withdraws her or his land contribution receives the same parcel she or he had contributed, unless it would contravene the requirements of common farming.</p> <p>As down payment of the financial contribution the cooperative may accept production resources (such as livestock, fodder, technical appliances, machinery).</p>	<p>The cooperative's aim is collective farming and acting for the benefit of its members' individual farms. The cooperative may also conduct other economic activity, therefore investments are governed by general rules.</p>	<p>The main sources of cooperatives' property: shares paid for by cooperatives members, allocation of general income to members' shares, entrance fees, part of general income, assets obtained free of charge.</p> <p>Yearly income is divided by way of resolution passed at the general meeting.</p>	<p>sureties.</p>
Association	<p>The financial factor plays an important, though secondary role in the functioning of associations – that is why there are no statutory rules on minimal capital required for an association to come into existence.</p>	<p>The basic purpose of an association is to attain aims stated in its statute. Economic activity is not one of the aims, but makes possible the attainment thereof. Economic activity is not restricted by any specific rules, it is governed by general rules.</p>	<p>Members' fees, donations, inheritance, income from economic activity or association's assets or public charity.</p> <p>Associations may conduct economic activity, however the income may only serve purpose stated in the association's statute (it may not be divided among members).</p> <p>Associations may receive endowments, in particular from the state budget or local self-government entity budget.</p>	
Group of agricultural producers	<p>Rules applied are those applicable to the legal form in which a particular group of producers is organised.</p>		<p>Group of agricultural producers may enjoy special financial aid aimed at the market of fruit and vegetables.</p>	
Sole-shareholder company of the State Treasury or Company of the Agricultural Property Agency	<p>Rules applicable to capital companies are also applied here .</p>			

Investment credits with subsidies from Agency for Restructuring and Modernisation of Agriculture

Credit line	Number of credits				Amount of credits in thous. PLN			
	2004	2005	2006	2007	2004	2005	2006	2007
For implementation of investment projects in agriculture, agrifood processing and services for agriculture by the agricultural producer groups established on the basis of the Act of 15 IX 2000 on groups of agricultural producers and associations thereof, and amending other acts (GP)	10	7	5	5	3668,6	5070,5	3167	1382,1
For purchase of agricultural estate properties designated for setting up and equipment of family farms under the Act of 11 IV 2003 on the shaping of	398	469	501	455	38681	53363,5	74955,2	85821,6

agricultural system (GR)								
For implementation of investment projects in agriculture, agricultural processing and services for agriculture (IP)	4814	4598	5173	4248	355819,4	319376,3	455869,9	474186,3
For restarting of production in farms and special sectors of agricultural production in areas affected by: drought, hailstorm, excessive precipitations, flood, hurricane, fire, plague of rodent or landslides (KL)	35	21	103	167	792,2	1112,8	1871	3298,2
For purchase of agricultural land (KZ)	6077	6267	6377	5227	254397,2	332452,4	460060,8	497499,5
For investment projects creating new permanent jobs in the non-agricultural activities sectors and guaranteeing employment of rural population in rural and urban-rural comuns, and in towns with population of up to 20 thous. inhabitants	85	n/a	n/a	n/a	7616,2	n/a	n/a	n/a
For setting up and equipment of agricultural holdings by persons below 40 years of age (MR)	7659	8365	9933	10616	883347	1064760,4	1421152,9	1625844,3
For implementation of investment projects introducing new production technologies in agriculture, including production of raw-materials for bioethanol and biocomponents, and aimed at ensuring high quality of product or adjustment of animal production to the sanitary requirements, environmental protection and animal welfare standards (NT)	336	635	1149	1861	109373,4	185998,5	320232	489808,4
Under the "Sectoral programme for shared use of agricultural machines and equipment" (BR/10)	74	56	63	24	17271,5	19624,9	20421,1	13014,3
For implementation of investment projects under the "Sectoral programme for fisheries development in Poland 2000—2006" (BR/12)	5	n/a	n/a	n/a	1022,7	n/a	n/a	n/a
Under the "Sectoral programme for restructuring of the production of potatoes for starch" (BR/13)	3	n/a	n/a	n/a	9587	n/a	n/a	n/a
Under the "Programme of support for restructuring and modernisation of the meat and egg processing industry in Poland" (BR/14)	144	48	53	24	128475,9	37391,5	44768,7	23776,4
Under the "Sectoral dairy programme" (BR/15)	807	619	437	244	98047,3	95633,7	106231,1	47754,1
Under the "Sectoral programme of support for restructuring and modernisation of the waste treatment and disposal industry in Poland" (BR/16)	n/a	1	2	1	n/a	644,1	380	5100
For setting up and equipment of agricultural holdings under the programme for agricultural settlement on land owned by the State Treasury, as accepted by the Minister of Agriculture and Food Economy and the Minister of Finance (OR)	n/a	n/a	2	1	n/a	n/a	1336,5	337

Source: Statistical Yearbook of Agriculture and Rural Areas 2008, Central Statistical Office, 2008

Question 5: Structure and management of enterprise

According to article 6.2 of the Act on the Shaping of Agricultural System of 11 April 2003 an individual farmer running a family farm should take all decisions concerning business activity conducted on that farm. In this way, according to the legislator's will, management and control functions are merged in the person conducting an individual farm, which is demonstrated by the fact that the individual farmer should individually decide about all matters important for that farm. Thus, despite the declared will to give individual farms in Poland a family character, a regulation was introduced formally preventing members of the farmer's family from having an influence on operation of such farms.

In agricultural farms conducted by civil partnerships and partnerships, according to the provisions of the Code of Commercial Partnerships and Companies, as a rule, all farmers have the right and obligation to conduct the affairs of the partnership and represent it. This regulation, therefore, offers the partners a real influence on the partnership's affairs by offering possibilities of taking specific decisions concerning its activities and managing it. A partnership deed can, however, modify the rights by differentiating specific rights of specific partners, including exclusion of some partners from conducting the affairs of the partnership or representing it, or even entrusting persons outside the partnership with those rights. The situation is a bit different only in the case of limited partnerships where, by virtue of law, the affairs of the partnership are conducted and interests represented by general partners, usually with passive behaviour of the other category of partners i.e. limited partners.

The essence of companies is structural separation of capital and current management which, as a consequence, should lead to the impossibility of authoritative influence of shareholders on current management. The latter exercise their control rights as part of shareholders' meetings or general assemblies. Nevertheless, the provisions of the Code of Commercial Partnerships and Companies do not prevent the shareholders from being members of company's management boards and such a situation exists in companies operating agricultural farms, where the active participation of shareholders both in management and in works on the farm should be a rule.

The principle according to which the number of shares held by a given shareholder decides about his property and corporate rights, including, above all, the power of his vote at shareholders' meetings finds application to companies running farms. There is an exception to this rule in the case of companies operating as groups of agricultural producers in relation to which the principle is binding that none of members of the group is allowed to hold more than 20% of votes at a shareholders' meeting. The cited rule has no exception in the case of sole-

shareholder companies of the State Treasury or Companies of the Agricultural Property Agency, where all decisions have been reserved for the aforementioned public law entities – as the sole shareholders of those companies. Management usually has a professional nature, while persons working on the farm directly in agricultural production are employed on the basis of contracts of employment.

The rule of equality of votes is regulated by the Cooperative Law in relation to the agricultural production cooperative, where all members, regardless of the number of shares held, have one vote at the cooperative general meeting being its supreme body. However, the operations of the cooperative are managed by the management board whose members can also come from outside the group of cooperative members, therefore persons not directly working on the farm, but professionally performing managerial functions.

Question 6: Form and responsibility

Legal form	Civil liability	Criminal responsibility
Individual cultivation	Individual farmer's liability extends to his or her entire property.	N/a
Civil law partnership	Civil law partnership has no legal personality, therefore all partners bear joint liability for breach of obligations of the partnership.	N/a
Partnerships	As a rule, the partnership is liable for breach of its obligations jointly with the partners with their entire property, however partners' liability is subsidiary, i.e. only after the creditor could not be satisfied from the partnership's poverty (execution was unsuccessful). One exception refers to a person whose liability is limited (<i>commanditary, komandytariusz</i>) in limited partnerships and whose liability is limited to the amount of the commandite sum; the commanditary is relieved from this liability if his paid contribution amounts to, or exceeds, the commandite sum.	Members of the management board, supervisory board, revision commission or the liquidator who act at partnership's detriment are subject to up to 5 years of imprisonment and a fine. Criminal responsibility threatens also – among others – for omission to file a liquidation motion.
Companies	Only the company is liable for breach of its obligations; shareholders are not liable. However, should execution against the company prove ineffective, members of the management board are jointly liable. Members of the management board, supervisory board, revision commission or the liquidator are liable towards the company for damage caused by action against the law or company's articles of association (statute). Furthermore, members of the management board are generally jointly liable with their entire property for tax arrears if execution from the company's assets is ineffective.	
Agricultural production cooperative	Cooperative's liability extends to its entire property.	Members of the management board, supervisory board, revision commission or the liquidator who act at cooperative's detriment are subject to up to 5 years of imprisonment and a fine.
Association	Being a moral person, association assumes obligations in its own name and on its own account and is liable for breach of its obligations with all assets. Associations are supervised by prefects of districts (<i>starosta</i>), who can demand clarifications and certified	N/a

	copies of general meeting's resolutions. If association's activity is illegal or against its statute (e.g. as regards fundraising), the prefect may even ask the court to dissolve the association.	
Group of agricultural producers	Statutory law provides that groups of agricultural producers conduct activity as an entrepreneur being a moral person, such a group does not constitute an autonomous legal form. It means that its founders should chose a legal form for the group they are creating, from the following forms: limited liability company, joint stock company, association, union (Act of 8 October 1982 r. on socio-professional farmers' organisations) or cooperative. In consequence, the rules and limits on liability depend on the chosen legal form. There is, however, a general rule of civil liability of the group for breach of its obligations.	
Sole-shareholder companies of the State Treasury or Companies of the Agricultural Property Agency	These companies operate in the form of capital companies, therefore respective rules governing them are applied. They are liable with all their assets, however from economic point of view the liability is borne by the State Treasury.	

An exception from the principle of personal liability provided for in the civil code refers to transfer of a farm. The buyer is in this case liable jointly with the seller for obligations related to managing that farm. The purchaser may, however, free him or herself of this liability by demonstrating that, at the moment of purchase, he or she did not know of existing obligations despite his or her due diligence. The buyer's liability extends to all his personal property, i.e. creditors may discharge the debt from all his or her assets, including the farm itself or its components. The limit, however, is established by the value of the acquired farm (*pro viribus patrimonii*); which is determined according to the state of the farm on the day of acquisition and prices on the day of debt settlement.

A specific solution refers to contracts for supply of agricultural products (*kontraktacja*). Rights and obligations arising from this contract are transferred onto a person who acquired possession of the farm. Thus, the new possessor is liable for obligations arising from the abovementioned contract, not the previous one.

Apart from cases shown in the table, criminal responsibility is assumed by all persons who are obliged to administer financial matters or economic activity of a physical or moral person and who inflicts significant economic damage through abuse of rights or non-compliance with duties (e.g. the offence of abuse of trust). This will apply in particular to legal agents (*pełnomocnik*), authorised agents (*prokurent*), trustee (*kurator*), liquidator, bankruptcy trustee (*syndyk*).

Question 7: Form and taxation

- **Agricultural tax**

The basic tax encumbering Polish agriculture is an agricultural tax regulated by the provisions of the Act on Agricultural Tax of 15 November 1984. The tax obligation concerning this tax rests upon natural persons, legal persons and organisational entities without legal capacity which are owners or autonomous possessors of lands classified in the register of lands and buildings as agricultural land or tree-covered land and tree-covered agricultural land. Thus the legal character of the entity holding agricultural land has no impact on the amount of the agricultural tax burdens, which results in the fact that the situation of a farmer running an individual farm is identical to the agricultural farm organised as a partnership/company or run by another organisational entity.

- **Income tax**

In Poland revenues of natural persons and members (partners) of organisational entities without legal capacity (e.g. partnerships) are subject to natural person income tax regulated by the Act of 26 July 1991. While the corporate income tax, regulated by the Act of 15 February 1992, encumbers the revenues of legal persons. The both mentioned normative acts exclude, however, from taxation revenues of natural persons and legal persons generated from agricultural activity, whose definition is included in art. 2.2 of both Acts. Thereby, revenues generated from conducting agricultural activity are not subject to income tax in Poland regardless of the legal form in which this activity is conducted. On the other hand taxable by income tax are revenues obtained from the so-called special sections of agricultural production and non-agricultural activity e.g. processing or commercial activity. In this respect the Act on Corporate Income Tax introduces a significant exception, under certain circumstances, exempting from this tax revenues of legal persons from non-agricultural activity in the part used for agricultural activity. Such a regulation is, however, missing in the Act on Personal Income Tax. The latter act, however, covers by the definition of agricultural activity also sales of plant and animal products coming from own cultivation and growing and thereby it exempts from taxation revenues obtained by individual farmers.

Operation of an agricultural farm in the form of entities having legal capacity (e.g. companies) is unfavourable in Poland so far as that although the company conducting agricultural activity itself is not a payer of income tax, its shareholders' revenues from the company are taxed. The situation is a bit different in the event of agricultural production

cooperatives whose members do not pay income tax on revenues generated from agricultural activity.

- **Goods and Services Tax (VAT)**

The Act on Goods and Services Tax of 8 January 1993 which introduced the tax in Poland did not cover farmers, while sale of agricultural products was exempted from tax. At the moment the binding Act on Goods and Services Tax of 11 March 2004 divides entities conducting agricultural activity into two groups:

- 1) the so-called lump-sum tax farmers who are not VAT payers and exempted from many obligations such as issuance of invoices documenting sales, keeping records of purchases and sales of goods, filing tax returns, submitting registration forms for the VAT purposes, which farmers are however entitled to a lump-sum return of tax on acquisition of production assets for agriculture taxed with VAT. This form of taxation, however, can be used only by farmers operating individual farms and partners of civil partnerships and partnerships who do not exceed the revenue limits which impose, according to the accounting regulations, an obligation to keep complete books (Euro 800,000.00).
- 2) farmers paying VAT tax on general rules, who are registered payers of the tax, therefore possessing additional accounting and book keeping obligations. This group includes legal persons operating agricultural farms, companies above all, and partners of partnerships exceeding the aforementioned revenue threshold imposing an obligation to keep books.

- **Tax on Civil Law Transactions and Tax on Inheritance and Donations**

These taxes are regulated respectively by the Act on Tax on Inheritance and Donations of 28 July 1983 and the Act on Tax on Civil Law Transactions of 9 September 2000. The both listed acts contain significant regulations making it possible to accept that trade of properties being parts of agricultural property, both *inter vivos* and *mortis causa*, against payment and gratuitously, was in a considerable scope exempted from tax law obligations in the Polish tax law system.

Article 4.1 of the Act on Inheritance and Donations exempts from that tax the acquisition of the ownership right or perpetual usufruct right of a real property or a part thereof with components thereof providing, according to the agricultural tax provisions, at the moment of acquisition the property was an agricultural farm or a part thereof or will be a part of an agricultural farm owned by the buyer and that agricultural farm will be operated by the buyer for a period of at least 5 years following the acquisition day.

While according to article 9.2 of the Act on Tax on Civil Law Transactions exempted from that tax are the transfer of ownership of properties or parts thereof together with component parts thereof, except for residential buildings and parts thereof located within cities by means of the following contracts: sale, annuity, division of the estate, dissolution of co-ownership, donation, exchange, providing that in the meaning of the agricultural tax provisions the moment of the transaction the acquired lands constituted an agricultural farm or will create a farm or will be a part of an agricultural farm owned by the buyer.

In the both aforementioned legal acts the Polish legislator provides for specific exemptions and reliefs for the entire agricultural sector, does not give them, however, the objective character, which results in the fact that selection of a specific legal form of operating an agricultural farm will have no significance for being taxed with those taxes. On the other hand, however, commencing agricultural activity in the form of a partnership/company is connected with the necessity of paying additional costs due to the fact that also the company deed is taxed with the tax on civil law transactions, the taxation base being the value of contributions made to the partnership' assets or the value of share capital (in case of companies) while the tax rate is 0.5% of the tax base.

Question 8: Form and social protection

As regards social insurance regulations one can clearly see the impact of the form in which agricultural activity is conducted on social welfare the farmers can take advantage of. The rule is that farmers in Poland are subject to social insurance on the basis of the Act on Social Insurance for Farmers of 20 December 2000, creating a separate system of agricultural insurance. However, the said legal act defines a "farmer" only as an adult natural person, residing and conducting agricultural activity personally and on own account in the territory of the Republic of Poland on the agricultural farm held in their possession. Additionally, the scope of the agricultural insurance covers also "family members" of the farmer, i.e. relatives of the farmer, who are over 16 years of age, live together with the farmer in the common household, or live on the premises of their agricultural farm and permanently work on the farm and are not bound with an employment relationship. The same agricultural social insurance covers in Poland farmers-natural persons operating individual farms on own account and members of the farmer's family having the household member status, i.e. those who are not bound by the employment relationship. Partners of partnerships and shareholders of companies as well as all persons employed on farms on the basis of employment contracts are subject to general employees' insurance provided for in the Act on the Social Insurance

System of 13 October 1998. Compared to the general employees' insurance, agricultural insurance is many times lower due to the fact that it is independent of the revenues generated by the insured, while in the case of employees' insurance its amount depends directly on received remuneration. Considerably lower is also the amount of contributions for agricultural pension, accident and sickness insurance. Finally, allowances received as part of the employees' insurance are subject to natural persons' income tax on general rules.

Question 9: Forms and structures

Polish law does not foresee a legal structure, which combines different legal forms of enterprises. Companies and partnerships are designed for different economic activities under one firm/in one establishment, however it is also possible for physical persons or e.g. cooperatives.

As regards strictly transmission of agricultural cultivations, the institution of a farm is designed for it. A farm is understood as an agricultural area, including forest land, buildings or their parts, equipment and stock if they constitute or may constitute an organised economic unit as well as rights related to/connected with running the farm. From the above definition it follows that transfer of a farm consists in transfer of assets which constitute the farm, but the aim remains that the buyer finds him or herself in the legal position of the seller, i.e. that he or she can continue with the same kind of agricultural activity. Transfer of a farm/ agricultural cultivations can be performed through contracts for sale, exchange, donation, lease etc.

From an economic point of view, transfer of agricultural cultivations conducted by a commercial company happen through its acquisition, taking over or merger. In that case, from a legal point of view it is not the activity but the shares which are subject to transfer.

According to statistical data the majority of farms are organized in the form of individual cultivation (ok. 86%), whereas following most frequent legal form of this type of activity are limited liability company (ok. 6%) and agricultural production cooperative (ok. 4,5%). From among these legal forms it is a limited liability company which constitutes an interesting tool for farmers who want to extend and develop their activity. The main advantages of that company are: availability, i.e. relatively low sum of initial capital required; minimum risk of failure since the shareholder's risk is limited to their respective contributions (which may encourage to increase engagement of capital); significant influence of

shareholders on company functioning; the possibility to restrict transfer of shares; compliance with insolvency law which offers further safety for creditors (in comparison with individual cultivation); uncomplicated procedure of admitting new shareholders.

Rural tourism in Poland remains particularly a domain of individual farmer' activity. Over $\frac{3}{4}$ of rural tourism farms are those of small area (up to 10 ha), whereas touristic activity is always an addition to agricultural activity. For reasons stated above, the legal form of a limited liability company would be an optimal solution for those farms offering rural tourism which generate more income (100 ESU and more).

Number of rural tourism farms according to area groups of agricultural land

Total	Area groups of agricultural land in ha										
	0-1	1-2	2-3	3-5	5-10	10-15	15-20	20-30	30-50	50-100	100 and more
10182	1701	1806	912	1653	1756	777	465	428	354	194	134

Source: Characteristics of agricultural holdings in 2007. Central Statistical Office, 2008.

Number of rural tourism farms according to economic size classes

Total	Economic size classes in ESU									
	0-2	2-4	4-6	6-8	8-12	12-16	16-40	40-100	100-250	250 and more
10182	6768	1476	588	253	450	203	288	104	26	25

Source: Characteristics of agricultural holdings in 2007. Central Statistical Office, 2008.

Summary

Individual cultivation is the predominant form of agricultural activity in Poland. Such state of matters results from significant disintegration of land, as more than 85,6% of farms don't exceed the area of 10 ha each. In the nearest future there are no perspectives of correction of Poland's areal structure, because the Act on the Shaping of Agricultural System only to a small extent diminishes the shortcomings of the system in this respect.

Two legal forms are dedicated for strictly agricultural activity: the agricultural production co-operative and the group of agricultural producers. The interest in the former continually drops: at the end of 2008 in the sector of agriculture, forestry and hunting 2829 were active which means a decrease by 236 in comparison with the former year; whereas a number of members of agricultural production co-operatives dropped from 23,2 thousand in

2000 r. to 13,9 thousand in 2007. The reasons for unwillingness to organize in cooperatives lies within historical experiences, on the one hand, and the risk of loss of the contributed land, on the other.

Current hopes for development of cooperatives in agriculture are placed in groups of agricultural producers. This form of agricultural activity was introduced into the Polish legal system in 2000, however its popularity seems relatively high as in 2008 the number of such groups doubled. Financial preferences are the impulse for creation of agricultural producers' groups – the are entitled to financial aid from the national budget. Impulsem do powstawania kolejnych grup są preferencje finansowe, gdyż grupy mogą liczyć na zyczną pomoc z budżetu państwa. The effectiveness of using public funds is evident from the fact that agricultural producers' groups have benefitted from 90,6% of the total limit of funds within the Rural Development Plan 2004-2006.

The remaining legal forms, i.e. partnerships, companies and associations are applicable to all forms of economic activity, not only agricultural. Bearing in mind that from the legal point of view groups of agricultural producers operate as cooperatives, limited liability companies or associations, the sole organized form of cooperation designed for farmers is the agricultural production co-operative (being itself a kind of cooperative). This fact points at an urgent need to introduce modern legal solutions for agriculture which would enable farmers, especially small and medium ones, to participate in the market and, at the same time, simplify procedures and minimize formalities.